Laws

of the

State of Maryland

At the Session of the General Assembly Begun and Held in the
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VOLUME II

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Chapter 77

(Senate Bill 484)

AN ACT concerning

State Board of Nursing – Nurse Practitioners – Certification Requirements and Authority to Practice

FOR the purpose of altering certain requirements for certification as a nurse practitioner; requiring the State Board of Nursing to waive certain education requirements under certain circumstances; authorizing the State Board of Nursing to establish continuing education or competency requirements for the renewal of a certificate to practice as a nurse practitioner; authorizing the State Board of Nursing to waive certain requirements for applicants who are licensed or certified to practice as a nurse practitioner in another state or country; prohibiting the use of certain titles, descriptions, and abbreviations except under certain circumstances; authorizing a nurse practitioner who is certified in another state to practice in this State under certain circumstances; providing that a temporary practice letter issued to an individual authorized to practice as a certified nurse practitioner in another state authorizes the holder to practice in this State while the letter is effective; repealing language that prohibits the State Board of Nursing from issuing a temporary practice license unless it received a certain written agreement; repealing a requirement that the State Board of Physicians approve the scope of practice of a certified nurse practitioner issued a temporary practice letter; ~~altering certain requirements for the standards of quality of care that a health maintenance organization is required to provide to its members~~ repealing certain language that authorizes a member of a health maintenance organization to select a certified nurse practitioner under specified circumstances; defining certain terms; altering certain definitions; requiring the Department of Health and Mental Hygiene to repeal certain regulations by a certain date; requiring the State Board of Nursing, in consultation with the State Board of Physicians, to develop a certain plan; and generally relating to the certification and the scope of practice of nurse practitioners in the State.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 8–101, 8–302, 8–315, and 8–508
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–705.1
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health Occupations

8–101.

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

(b) "Board" means the State Board of Nursing.

(c) "License" means, unless the context requires otherwise, a license issued by the Board to practice:

(1) Registered nursing; or

(2) Licensed practical nursing.

(d) "Licensed practical nurse" means, unless the context requires otherwise, an individual who is licensed by the Board to practice licensed practical nursing.

(E) "NURSE PRACTITIONER" MEANS AN INDIVIDUAL WHO:

(1) IS LICENSED BY THE BOARD TO PRACTICE REGISTERED NURSING; AND

(2) IS CERTIFIED BY THE BOARD TO PRACTICE AS A NURSE PRACTITIONER.

(F) "PRACTICE AS A NURSE PRACTITIONER" MEANS TO INDEPENDENTLY:

(1) PERFORM AN ACT UNDER SUBSECTION (H) OF THIS SECTION;

(2) CONDUCT A COMPREHENSIVE PHYSICAL ASSESSMENT OF AN INDIVIDUAL;

(3) ESTABLISH A MEDICAL DIAGNOSIS FOR COMMON CHRONIC STABLE~~,~~ <u>OR</u> SHORT–TERM~~, OR ACUTE~~ HEALTH PROBLEMS;

(4) ORDER, PERFORM, AND INTERPRET LABORATORY TESTS;

(5) PRESCRIBE DRUGS AS PROVIDED UNDER § 8–508 OF THIS TITLE;

(6) PERFORM DIAGNOSTIC, THERAPEUTIC, OR CORRECTIVE MEASURES;

(7) REFER AN INDIVIDUAL TO AN APPROPRIATE LICENSED PHYSICIAN OR OTHER HEALTH CARE PROVIDER; AND

(8) PROVIDE EMERGENCY CARE~~; AND~~

~~(9) ADMIT AN INDIVIDUAL TO A HOSPITAL OR NURSING FACILITY~~.

[(e)**] (G)** "Practice licensed practical nursing" means to perform in a team relationship an act that requires specialized knowledge, judgment, and skill based on principles of biological, physiological, behavioral, or sociological science to:

(1) Administer treatment or medication to an individual;

(2) Aid in the rehabilitation of an individual;

(3) Promote preventive measures in community health;

(4) Give counsel to an individual;

(5) Safeguard life and health;

(6) Teach or supervise; or

(7) Perform any additional acts authorized by the Board under § 8–205 of this title.

[(f)**] (H)** (1) "Practice registered nursing" means the performance of acts requiring substantial specialized knowledge, judgment, and skill based on the biological, physiological, behavioral, or sociological sciences as the basis for assessment, nursing diagnosis, planning, implementation, and evaluation of the practice of nursing in order to:

(i) Maintain health;

(ii) Prevent illness; or

(iii) Care for or rehabilitate the ill, injured, or infirm.

(2) For these purposes, "practice registered nursing" includes:

(i) Administration;

(ii) Teaching;

(iii) Counseling;

(iv) Supervision, delegation and evaluation of nursing practice;

(v) Execution of therapeutic regimen, including the administration of medication and treatment;

(vi) Independent nursing functions and delegated medical functions; and

(vii) Performance of additional acts authorized by the Board under § 8–205 of this title.

[(g)**] (I)** "Registered nurse" means, unless the context requires otherwise, an individual who is licensed by the Board to practice registered nursing.

8–302.

(a) Except as otherwise provided in this title, to qualify for a license or certification, an applicant shall be an individual who submits to a criminal history records check in accordance with § 8–303 of this subtitle and meets the requirements of this section.

(b) **(1)** An applicant for certification as a certified nurse practitioner shall:

[(1)**] (I)** Be a registered nurse;

[(2)**] (II)** Complete a nurse practitioner program approved by the Board; **[**and**]**

[(3)**] (III) SUBMIT TO THE BOARD:**

1. A COMPLETED APPLICATION FOR CERTIFICATION AS A NURSE PRACTITIONER FOR EACH AREA IN WHICH CERTIFICATION IS SOUGHT;

2. DOCUMENTATION OF AN ACTIVE LICENSE IN GOOD STANDING AS A REGISTERED NURSE IN THE STATE;

3. DOCUMENTATION THAT THE APPLICANT HAS GRADUATED FROM AN ACCREDITED PROGRAM FOR NURSE PRACTITIONERS; AND

4. DOCUMENTATION OF CERTIFICATION AS A NURSE PRACTITIONER BY A NATIONALLY RECOGNIZED CERTIFYING BODY APPROVED BY THE BOARD; AND

(IV) Meet **[**the**]** **ANY** other requirements that the Board sets.

(2) AN INDIVIDUAL CERTIFIED BY A NATIONAL CERTIFYING BODY PRIOR TO OCTOBER 1, 2010 WHO IS CERTIFIED BY THE BOARD AND IN GOOD STANDING SHALL BE DEEMED TO MEET THE EDUCATION REQUIREMENTS UNDER PARAGRAPH (1)(III)3 OF THIS SUBSECTION.

(3) IN ADDITION TO THE REQUIREMENTS FOR RENEWAL OF A LICENSE UNDER § 8–312 OF THIS SUBTITLE, THE BOARD MAY ESTABLISH CONTINUING EDUCATION OR COMPETENCY REQUIREMENTS FOR THE RENEWAL OF A CERTIFICATE UNDER THIS SUBSECTION.

(4) (I) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE BOARD MAY WAIVE ANY REQUIREMENT OF THIS SUBSECTION FOR AN APPLICANT WHO IS LICENSED OR CERTIFIED TO PRACTICE AS A NURSE PRACTITIONER IN ANY OTHER STATE OR COUNTRY.

(II) THE BOARD MAY GRANT A WAIVER UNDER THIS PARAGRAPH ONLY IF THE APPLICANT:

1. PAYS THE APPLICATION FEE REQUIRED BY THE BOARD UNDER § 8–304 OF THIS SUBTITLE;

2. BECAME LICENSED OR CERTIFIED IN THE OTHER STATE OR COUNTRY UNDER REQUIREMENTS SUBSTANTIALLY EQUIVALENT TO THE CERTIFICATION REQUIREMENTS OF THIS TITLE; AND

3. MEETS ANY OTHER QUALIFICATIONS ESTABLISHED BY THE BOARD.

(5) (I) A CERTIFIED NURSE PRACTITIONER MAY NOT PRACTICE IN THE STATE UNLESS THE NURSE PRACTITIONER HAS AN APPROVED ATTESTATION THAT:

1. THE NURSE PRACTITIONER HAS AN AGREEMENT FOR COLLABORATION AND CONSULTING WITH A PHYSICIAN LICENSED UNDER TITLE 14 OF THIS ARTICLE AND WILL REFER TO AND CONSULT WITH PHYSICIANS AND OTHER HEALTH CARE PROVIDERS AS NEEDED; AND

2. THE NURSE PRACTITIONER WILL PRACTICE IN ACCORDANCE WITH THE STANDARDS OF PRACTICE OF THE AMERICAN ACADEMY OF NURSE PRACTITIONERS OR ANY OTHER NATIONAL CERTIFYING BODY RECOGNIZED BY THE BOARD.

(II) THE BOARD SHALL:

1. MAINTAIN AN APPROVED ATTESTATION; AND

2. MAKE THE APPROVED ATTESTATION AVAILABLE TO THE STATE BOARD OF PHYSICIANS ON THE REQUEST OF THE STATE BOARD OF PHYSICIANS.

~~(5)~~ (6) UNLESS AUTHORIZED TO PRACTICE AS A NURSE PRACTITIONER UNDER THIS TITLE, A PERSON MAY NOT:

(I) REPRESENT TO THE PUBLIC BY TITLE OR BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE PERSON IS AUTHORIZED TO PRACTICE AS A NURSE PRACTITIONER IN THIS STATE;

(II) USE AS A TITLE OR DESCRIBE THE SERVICES THE PERSON PROVIDES BY USE OF THE WORDS "NURSE PRACTITIONER" OR "CERTIFIED REGISTERED NURSE PRACTITIONER"; OR

(III) USE THE ABBREVIATION "N.P.", "C.R.N.P.", OR ANY OTHER WORDS, LETTERS, OR SYMBOLS WITH THE INTENT TO REPRESENT THAT THE PERSON PRACTICES AS A NURSE PRACTITIONER.

(c) An applicant for a license to practice registered nursing shall complete satisfactorily and meet all requirements for a diploma or degree from:

(1) A registered nursing education program approved by the Board; or

(2) An education program in registered nursing in any other state or country that the Board finds substantially equivalent to the program in this State.

(d) An applicant for a license to practice licensed practical nursing shall:

(1) Meet all requirements for a high school diploma or its equivalent; and

(2) Complete satisfactorily and meet all requirements for a diploma from:

(i) A licensed practical nursing education program or its equivalent approved by the Board; or

(ii) An education program in licensed practical nursing in any other state or country that the Board finds substantially equivalent to the program in this State.

(e) Except as otherwise provided in this title, the applicant shall pass an examination approved by the Board.

(f) (1) Except as otherwise provided in this subsection, the Board shall require as part of its examination or licensing procedures that an applicant for a license to practice registered nursing or licensed practical nursing demonstrate an oral competency in the English language.

(2) Graduation from a recognized English–speaking undergraduate school after at least 3 years of enrollment, or from a recognized English–speaking professional school is acceptable as proof of proficiency in the oral communication of the English language under this section.

(3) By regulation, the Board shall develop a procedure for testing individuals who because of their speech impairment are unable to complete satisfactorily a Board approved standardized test of oral competency.

(4) If any disciplinary charge or action that involves a problem with the oral communication of the English language is brought against a licensee under this title, the Board shall require the licensee to take and pass a Board approved standardized test of oral competency.

(5) The Board may not require that an applicant for a license to practice registered nursing or licensed practical nursing who was previously licensed in any other state to practice registered nursing or licensed practical nursing to demonstrate an oral competency in the English language as part of its examination or licensing procedures if the other state has a similar oral competency component as part of its examination or licensing procedures.

(6) (i) The Board may issue a temporary license to any applicant for a license to practice registered nursing or licensed practical nursing who was previously licensed in any other state to practice registered nursing or licensed practical nursing and who, except for the oral competency in the English language component, is otherwise qualified for a license.

(ii) A temporary license issued under this subsection is valid only until the date when the next test to demonstrate oral competency in the English language is given.

(g) An applicant for a license or certification under this section shall be of good moral character.

8–315.

(a) The Board may issue a temporary license to any applicant who:

(1) Submits to a criminal history records check in accordance with § 8–303 of this subtitle;

(2) Is licensed by any other state;

(3) Submits to the Board:

(i) An application on the form required by the Board;

(ii) Written, verified evidence that the requirement of item (1) of this subsection is being met; and

(iii) Any other document required by the Board; and

(4) Pays the fee required by the Board.

(b) (1) A temporary license issued to an individual who is authorized to practice registered nursing in another state authorizes the holder to practice registered nursing in this State while the temporary license is effective.

(2) A temporary license issued to an individual who is authorized to practice licensed practical nursing in another state authorizes the holder to practice licensed practical nursing in this State while the temporary license is effective.

(c) (1) The Board may issue a temporary practice letter to a certified nurse practitioner or certified nurse–midwife who:

(i) Has been issued a temporary license under this subsection **[**and has submitted a written agreement to the Board for formal approval**]**; **AND**

(ii) Is authorized to practice as a registered nurse **[**and has submitted an initial written agreement to the Board for formal approval; or

(iii) 1. Has had a written agreement approved by the Board;

2. Is changing practices or locations; and

3. Has submitted to the Board for formal approval a new written agreement for the new practice or location**]**.

(2) A TEMPORARY PRACTICE LETTER ISSUED TO AN INDIVIDUAL WHO IS AUTHORIZED TO PRACTICE AS A CERTIFIED NURSE PRACTITIONER IN ANOTHER STATE AUTHORIZES THE HOLDER TO PRACTICE AS A CERTIFIED NURSE PRACTITIONER IN THIS STATE WHILE THE TEMPORARY PRACTICE LETTER IS EFFECTIVE.

[(2) The Board may not issue a temporary practice letter to a certified nurse practitioner or certified nurse–midwife under paragraph (1) of this subsection unless:

(i) The State Board of Physicians has received a written agreement submitted to the Board for formal approval of the scope of practice for which the temporary practice letter is requested; and

(ii) The State Board of Physicians has approved the issuance of the temporary practice letter.

(3) A temporary practice letter does not:

(i) Create any interest, right, or entitlement for the certified nurse practitioner, certified nurse–midwife, or collaborating physician that extends beyond the ending date of the practice letter;

(ii) Abrogate any procedures required by statute or regulation for approval of collaboration agreements; or

(iii) Establish any fact or any presumption concerning the final approval of a collaboration agreement.**]**

(d) (1) Except as provided in this subtitle, a temporary license and temporary practice letter may not be renewed.

(2) Unless the Board suspends or revokes a temporary license or temporary practice letter, each temporary license or temporary practice letter expires 90 days after the date of issue.

(3) A temporary license may be extended up to an additional 90 days if the applicant is awaiting the completion of criminal history record information.

(4) A temporary license or temporary practice letter may be extended every 90 days, provided that the total length of renewal does not exceed 12 months from the date the original temporary license or temporary practice letter was issued, if the applicant does not meet the practice requirement as provided for in regulation.

(e) The Board shall revoke a temporary license or temporary certificate if the criminal history record information forwarded to the Board in accordance with § 8–303

of this subtitle reveals that the applicant, certificate holder, or licensee has been convicted or pled guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

8–508.

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

(2) "Nurse practitioner" means a registered nurse who is:

(i) Certified as a nurse practitioner; and

(ii) Authorized to prescribe drugs under regulations **[**jointly**]** adopted by the State Board of Nursing **[**and the State Board of Physicians**]**.

(3) "Starter dosage" means an amount of drug sufficient to begin therapy:

(i) Of short duration of 72 hours or less; or

(ii) Prior to obtaining a larger quantity of the drug to complete therapy.

(4) "Personally prepare and dispense" means that a nurse practitioner:

(i) Is physically present on the premises where the prescription is filled; and

(ii) Performs a final check of the prescription before it is provided to the patient.

(b) A nurse practitioner may personally prepare and dispense a starter dosage of any drug the nurse practitioner is authorized to prescribe to a patient of the nurse practitioner if:

(1) The starter dosage complies with the labeling requirements of § **[**12–509**]** **12–505** of this article;

(2) No charge is made for the starter dosage; and

(3) The nurse practitioner enters an appropriate record in the patient's medical record.

(c) In accordance with the provisions of subsection (d) of this section, a nurse practitioner may personally prepare and dispense any drug that a nurse practitioner may prescribe to the extent permitted by law in the course of treating a patient at:

(1) A medical facility or clinic that specializes in the treatment of medical cases reimbursable through workers' compensation insurance;

(2) A medical facility or clinic that is operated on a nonprofit basis;

(3) A health center that operates on a campus of an institution of higher education;

(4) A public health facility, a medical facility under contract with a State or local health department, or a facility funded with public funds; or

(5) A nonprofit hospital or a nonprofit hospital outpatient facility as authorized under the policies established by the hospital.

(d) A nurse practitioner who personally prepares and dispenses a drug in the course of treating a patient as authorized under subsection (c) of this section shall:

(1) Comply with the labeling requirements of § **[**12–509**] 12–505** of this article;

(2) Record the dispensing of the prescription drug on the patient's chart;

(3) Allow the Division of Drug Control to enter and inspect the nurse practitioner's office at all reasonable hours; and

(4) Except for starter dosages or samples dispensed without charge, provide the patient with a written prescription, maintain prescription files, and maintain a separate file for Schedule II prescriptions for a period of at least 5 years.

Article – Health – General

19–705.1.

(a) The Secretary shall adopt regulations that set out reasonable standards of quality of care that a health maintenance organization shall provide to its members.

(b) The standards of quality of care shall include:

(1) (i) A requirement that a health maintenance organization shall provide for regular hours during which a member may receive services, including providing for services to a member in a timely manner that takes into account the immediacy of need for services; and

(ii) Provisions for assuring that all covered services, including any services for which the health maintenance organization has contracted, are

accessible to the enrollee with reasonable safeguards with respect to geographic locations;

(2) A requirement that a health maintenance organization shall have a system for providing a member with 24–hour access to a physician ~~OR NURSE PRACTITIONER~~ in cases where there is an immediate need for medical services, and for promoting timely access to and continuity of health care services for members, including:

(i) Providing 24–hour access by telephone to a person who is able to appropriately respond to calls from members and providers concerning after–hours care; and

(ii) Providing a 24–hour toll free telephone access system for use in hospital emergency departments in accordance with § 19–705.7 of this subtitle;

(3) A requirement that any nonparticipating provider shall submit to the health maintenance organization the appropriate documentation of the medical complaint of the member and the services rendered;

(4) A requirement that a health maintenance organization shall have a physician ~~OR NURSE PRACTITIONER~~ available at all times to provide diagnostic and treatment services;

(5) A requirement that a health maintenance organization shall assure that:

(i) Each member who is seen for a medical complaint is evaluated under the direction of a physician ~~OR NURSE PRACTITIONER~~; and

(ii) Each member who receives diagnostic evaluation or treatment is under the medical management of a health maintenance organization physician ~~OR NURSE PRACTITIONER~~ who provides continuing medical management;

(6) A requirement that each member shall have an opportunity to select a primary physician or a certified nurse practitioner from among those available to the health maintenance organization; and

(7) A requirement that a health maintenance organization print, in any directory of participating providers or hospitals, in a conspicuous manner, the address, telephone number, and facsimile number of the State agency that members, enrollees, and insureds may call to discuss quality of care issues, life and health insurance complaints, and assistance in resolving billing and payment disputes with the health plan or health care provider, as follows:

(i) For quality of care issues and life and health care insurance complaints, the Maryland Insurance Administration; and

(ii) For assistance in resolving a billing or payment dispute with the health plan or a health care provider, the Health Education and Advocacy Unit of the Consumer Protection Division of the Office of the Attorney General.

[(c) (1) A member may select a certified nurse practitioner as the member's primary care provider if:

(i) The certified nurse practitioner provides services at the same location as the certified nurse practitioner's collaborating physician; and

(ii) The collaborating physician provides the continuing medical management required under subsection (b)(5) of this section.

(2) A member who selects a certified nurse practitioner as a primary care provider shall be provided the name and contact information of the certified nurse practitioner's collaborating physician.**]**

[(3)**] (8)** This subsection may not be construed to require that a health maintenance organization include certified nurse practitioners on the health maintenance organization's provider panel as primary care providers.

[(d)**] (C)** (1) The health maintenance organization shall make available and encourage appropriate history and baseline examinations for each member within a reasonable time of enrollment set by it.

(2) Medical problems that are a potential hazard to the person's health shall be identified and a course of action to alleviate these problems outlined.

(3) Progress notes indicating success or failure of the course of action shall be recorded.

(4) The health maintenance organization shall:

(i) Offer or arrange for preventive services that include health education and counseling, early disease detection, immunization, and hearing loss screening of newborns provided by a hospital before discharge;

(ii) Develop or arrange for periodic health education on subjects which impact on the health status of a member population; and

(iii) Notify every member in writing of the availability of these and other preventive services.

(5) The health maintenance organization shall offer services to prevent a disease if:

(i) The disease produces death or disability and exists in the member population;

(ii) The etiology of the disease is known or the disease can be detected at an early stage; and

(iii) Any elimination of factors leading to the disease or immunization has been proven to prevent its occurrence, or early disease detection followed by behavior modification, environmental modification, or medical intervention has been proven to prevent death or disability.

[(e)**] (D)** (1) To implement these standards of quality of care, a health maintenance organization shall have a written plan that is updated and reviewed at least every 3 years.

(2) The plan shall include the following information:

(i) Statistics on age, sex, and other general demographic data used to determine the health care needs of its population;

(ii) Identification of the major health problems in the member population;

(iii) Identification of any special groups of members that have unique health problems, such as the poor, the elderly, the mentally ill, and educationally disadvantaged; and

(iv) A description of community health resources and how they will be used.

(3) The health maintenance organization shall state its priorities and objectives in writing, describing how the priorities and objectives relating to the health problems and needs of the member population will be provided for.

(4) (i) The health maintenance organization shall provide at the time membership is solicited a general description of the benefits and services available to its members, including benefit limitations and exclusions, location of facilities or providers, and procedures to obtain medical services.

(ii) The health maintenance organization shall place the following statement, in bold print, on every enrollment card or application: "If you have any questions concerning the benefits and services that are provided by or excluded under this agreement, please contact a membership services representative before signing this application or card".

(5) The plan shall contain evidence that:

(i) The programs and services offered are based on the health problems of and the community health services available to its member population;

(ii) There is an active program for preventing illness, disability, and hospitalization among its members; and

(iii) The services designed to prevent the major health problems identified among child and adult members and to improve their general health are provided by the health maintenance organization.

[(f)**] (E)** (1) The health maintenance organization shall have an internal peer review system that will evaluate the utilizational services and the quality of health care provided to its members.

(2) The review system shall:

(i) Provide for review by appropriate health professionals of the process followed in the provision of health services;

(ii) Use systematic data collection of performances and patient results;

(iii) Provide interpretation of this data to the practitioners;

(iv) Review and update continuing education programs for health professionals providing services to its members;

(v) Identify needed change and proposed modifications to implement the change; and

(vi) Maintain written records of the internal peer review process.

[(g)**] (F)** (1) Except as provided in paragraph (5) of this subsection, the Department shall conduct an annual external review of the quality of the health services of the health maintenance organization in a manner that the Department considers to be appropriate.

(2) The external review shall be conducted by:

(i) A panel of physicians and other health professionals that consists of persons who:

1. Have been approved by the Department;

2. Have substantial experience in the delivery of health care in a health maintenance organization setting, but who are not members of the health maintenance organization staff or performing professional services for the health maintenance organization; and

3. Reside outside the area serviced by the health maintenance organization;

(ii) The Department; or

(iii) A federally approved professional standards review organization.

(3) The final decision on the type of external review that is to be employed rests solely with the Secretary.

(4) The external review shall consist of a review and evaluation of:

(i) An internal peer review system and reports;

(ii) The program plan of the health maintenance organization to determine if it is adequate and being followed;

(iii) The professional standards and practices of the health maintenance organization in every area of services provided;

(iv) The grievances relating specifically to the delivery of medical care, including their final disposition;

(v) The physical facilities and equipment; and

(vi) A statistically representative sample of member records.

SECTION 2. AND BE IT FURTHER ENACTED, That the ~~Department of Health and Mental Hygiene shall repeal the provisions of Title 10, Subtitle 27 of the Code of Maryland Regulations requiring the implementation of a written agreement between a certified nurse practitioner and a licensed physician and establishing the Joint Committee on Nurse Practitioners on or before December 31, 2012~~ State Board of Nursing, in consultation with the State Board of Physicians, shall develop a plan for implementing the provisions of this Act. The plan shall provide for the repeal of obsolete regulations and include a requirement that attestations made by nurse practitioners concerning agreements for collaboration and consulting with a physician identify the collaborating physician.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 78

(House Bill 319)

AN ACT concerning

State Board of Nursing – Nurse Practitioners – Certification Requirements and Authority to Practice

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(8) PROVIDE EMERGENCY CARE~~; AND~~

~~(9) ADMIT AN INDIVIDUAL TO A HOSPITAL OR NURSING FACILITY~~.

[(e)**] (G)** "Practice licensed practical nursing" means to perform in a team relationship an act that requires specialized knowledge, judgment, and skill based on principles of biological, physiological, behavioral, or sociological science to:

(1) Administer treatment or medication to an individual;

(2) Aid in the rehabilitation of an individual;

(3) Promote preventive measures in community health;

(4) Give counsel to an individual;

(5) Safeguard life and health;

(6) Teach or supervise; or

(7) Perform any additional acts authorized by the Board under § 8–205 of this title.

[(f)**] (H)** (1) "Practice registered nursing" means the performance of acts requiring substantial specialized knowledge, judgment, and skill based on the biological, physiological, behavioral, or sociological sciences as the basis for assessment, nursing diagnosis, planning, implementation, and evaluation of the practice of nursing in order to:

(i) Maintain health;

(ii) Prevent illness; or

(iii) Care for or rehabilitate the ill, injured, or infirm.

(2) For these purposes, "practice registered nursing" includes:

(i) Administration;

(ii) Teaching;

(iii) Counseling;

(iv) Supervision, delegation and evaluation of nursing practice;

(v) Execution of therapeutic regimen, including the administration of medication and treatment;

(vi) Independent nursing functions and delegated medical functions; and

(vii) Performance of additional acts authorized by the Board under § 8–205 of this title.

[(g)**] (I)** "Registered nurse" means, unless the context requires otherwise, an individual who is licensed by the Board to practice registered nursing.

8–302.

(a) Except as otherwise provided in this title, to qualify for a license or certification, an applicant shall be an individual who submits to a criminal history records check in accordance with § 8–303 of this subtitle and meets the requirements of this section.

(b) **(1)** An applicant for certification as a certified nurse practitioner shall:

[(1)**] (I)** Be a registered nurse;

[(2)**] (II)** Complete a nurse practitioner program approved by the Board; **[**and**]**

[(3)**] (III) SUBMIT TO THE BOARD:**

1. A COMPLETED APPLICATION FOR CERTIFICATION AS A NURSE PRACTIONER FOR EACH AREA IN WHICH CERTIFICATION IS SOUGHT;

2. DOCUMENTATION OF AN ACTIVE LICENSE IN GOOD STANDING AS A REGISTERED NURSE IN THE STATE;

3. DOCUMENTATION THAT THE APPLICANT HAS GRADUATED FROM AN ACCREDITED PROGRAM FOR NURSE PRACTITIONERS; AND

4. DOCUMENTATION OF CERTIFICATION AS A NURSE PRACTITIONER BY A NATIONALLY RECOGNIZED CERTIFYING BODY APPROVED BY THE BOARD; AND

(IV) Meet **[**the**]** **ANY** other requirements that the Board sets.

(2) AN INDIVIDUAL CERTIFIED BY A NATIONAL CERTIFYING BODY PRIOR TO OCTOBER 1, 2010 WHO IS CERTIFIED BY THE BOARD AND IN GOOD STANDING SHALL BE DEEMED TO MEET THE EDUCATION REQUIREMENTS UNDER SUBSECTION (B)(1)(III)3 OF THIS SECTION.

(3) IN ADDITION TO THE REQUIREMENTS FOR RENEWAL OF A LICENSE UNDER § 8–312 OF THIS SUBTITLE, THE BOARD MAY ESTABLISH CONTINUING EDUCATION OR COMPETENCY REQUIREMENTS FOR THE RENEWAL OF A CERTIFICATE UNDER THIS SUBSECTION.

(4) (I) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE BOARD MAY WAIVE ANY REQUIREMENT OF THIS SUBSECTION FOR AN APPLICANT WHO IS LICENSED OR CERTIFIED TO PRACTICE AS A NURSE PRACTITIONER IN ANY OTHER STATE OR COUNTRY.

(II) THE BOARD MAY GRANT A WAIVER UNDER THIS PARAGRAPH ONLY IF THE APPLICANT:

1. PAYS THE APPLICATION FEE REQUIRED BY THE BOARD UNDER § 8–304 OF THIS SUBTITLE;

2. BECAME LICENSED OR CERTIFIED IN THE OTHER STATE OR COUNTRY UNDER REQUIREMENTS SUBSTANTIALLY EQUIVALENT TO THE CERTIFICATION REQUIREMENTS OF THIS TITLE; AND

3. MEETS ANY OTHER QUALIFICATIONS ESTABLISHED BY THE BOARD.

(5) (I) A CERTIFIED NURSE PRACTITIONER MAY NOT PRACTICE IN THE STATE UNLESS THE NURSE PRACTITIONER HAS AN APPROVED ATTESTATION THAT:

1. THE NURSE PRACTITIONER HAS AN AGREEMENT FOR COLLABORATION AND CONSULTING WITH A PHYSICIAN LICENSED UNDER TITLE 14 OF THIS ARTICLE AND WILL REFER TO AND CONSULT WITH PHYSICIANS AND OTHER HEALTH CARE PROVIDERS AS NEEDED; AND

2. THE NURSE PRACTITIONER WILL PRACTICE IN ACCORDANCE WITH THE STANDARDS OF PRACTICE OF THE AMERICAN ACADEMY OF NURSE PRACTITIONERS OR ANY OTHER NATIONAL CERTIFYING BODY RECOGNIZED BY THE BOARD.

(II) THE BOARD SHALL:

1. MAINTAIN AN APPROVED ATTESTATION; AND

2. MAKE THE APPROVED ATTESTATION AVAILABLE TO THE STATE BOARD OF PHYSICIANS ON THE REQUEST OF THE STATE BOARD OF PHYSICIANS.

~~(5)~~ (6) UNLESS AUTHORIZED TO PRACTICE AS A NURSE PRACTITIONER UNDER THIS TITLE, A PERSON MAY NOT:

(I) REPRESENT TO THE PUBLIC BY TITLE OR BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE PERSON IS AUTHORIZED TO PRACTICE AS A NURSE PRACTITIONER IN THIS STATE;

(II) USE AS A TITLE OR DESCRIBE THE SERVICES THE PERSON PROVIDES BY USE OF THE WORDS "NURSE PRACTITIONER" OR "CERTIFIED REGISTERED NURSE PRACTITIONER"; OR

(III) USE THE ABBREVIATION "N.P.", "C.R.N.P.", OR ANY OTHER WORDS, LETTERS, OR SYMBOLS WITH THE INTENT TO REPRESENT THAT THE PERSON PRACTICES AS A NURSE PRACTITIONER.

(c) An applicant for a license to practice registered nursing shall complete satisfactorily and meet all requirements for a diploma or degree from:

(1) A registered nursing education program approved by the Board; or

(2) An education program in registered nursing in any other state or country that the Board finds substantially equivalent to the program in this State.

(d) An applicant for a license to practice licensed practical nursing shall:

(1) Meet all requirements for a high school diploma or its equivalent; and

(2) Complete satisfactorily and meet all requirements for a diploma from:

(i) A licensed practical nursing education program or its equivalent approved by the Board; or

(ii) An education program in licensed practical nursing in any other state or country that the Board finds substantially equivalent to the program in this State.

(e) Except as otherwise provided in this title, the applicant shall pass an examination approved by the Board.

(f) (1) Except as otherwise provided in this subsection, the Board shall require as part of its examination or licensing procedures that an applicant for a license to practice registered nursing or licensed practical nursing demonstrate an oral competency in the English language.

(2) Graduation from a recognized English–speaking undergraduate school after at least 3 years of enrollment, or from a recognized English–speaking professional school is acceptable as proof of proficiency in the oral communication of the English language under this section.

(3) By regulation, the Board shall develop a procedure for testing individuals who because of their speech impairment are unable to complete satisfactorily a Board approved standardized test of oral competency.

(4) If any disciplinary charge or action that involves a problem with the oral communication of the English language is brought against a licensee under this title, the Board shall require the licensee to take and pass a Board approved standardized test of oral competency.

(5) The Board may not require that an applicant for a license to practice registered nursing or licensed practical nursing who was previously licensed in any other state to practice registered nursing or licensed practical nursing to demonstrate an oral competency in the English language as part of its examination or licensing procedures if the other state has a similar oral competency component as part of its examination or licensing procedures.

(6) (i) The Board may issue a temporary license to any applicant for a license to practice registered nursing or licensed practical nursing who was previously licensed in any other state to practice registered nursing or licensed practical nursing and who, except for the oral competency in the English language component, is otherwise qualified for a license.

(ii) A temporary license issued under this subsection is valid only until the date when the next test to demonstrate oral competency in the English language is given.

(g) An applicant for a license or certification under this section shall be of good moral character.

8–315.

(a) The Board may issue a temporary license to any applicant who:

(1) Submits to a criminal history records check in accordance with § 8–303 of this subtitle;

(2) Is licensed by any other state;

(3) Submits to the Board:

(i) An application on the form required by the Board;

(ii) Written, verified evidence that the requirement of item (1) of this subsection is being met; and

(iii) Any other document required by the Board; and

(4) Pays the fee required by the Board.

(b) (1) A temporary license issued to an individual who is authorized to practice registered nursing in another state authorizes the holder to practice registered nursing in this State while the temporary license is effective.

(2) A temporary license issued to an individual who is authorized to practice licensed practical nursing in another state authorizes the holder to practice licensed practical nursing in this State while the temporary license is effective.

(c) (1) The Board may issue a temporary practice letter to a certified nurse practitioner or certified nurse–midwife who:

(i) Has been issued a temporary license under this subsection **[**and has submitted a written agreement to the Board for formal approval**]**; **AND**

(ii) Is authorized to practice as a registered nurse **[**and has submitted an initial written agreement to the Board for formal approval; or

(iii) 1. Has had a written agreement approved by the Board;

2. Is changing practices or locations; and

3. Has submitted to the Board for formal approval a new written agreement for the new practice or location**]**.

(2) A TEMPORARY PRACTICE LETTER ISSUED TO AN INDIVIDUAL WHO IS AUTHORIZED TO PRACTICE AS A CERTIFIED NURSE PRACTITIONER IN ANOTHER STATE AUTHORIZES THE HOLDER TO PRACTICE AS A CERTIFIED NURSE PRACTITIONER IN THIS STATE WHILE THE TEMPORARY PRACTICE LETTER IS EFFECTIVE.

[(2) The Board may not issue a temporary practice letter to a certified nurse practitioner or certified nurse–midwife under paragraph (1) of this subsection unless:

(i) The State Board of Physicians has received a written agreement submitted to the Board for formal approval of the scope of practice for which the temporary practice letter is requested; and

(ii) The State Board of Physicians has approved the issuance of the temporary practice letter.

(3) A temporary practice letter does not:

(i) Create any interest, right, or entitlement for the certified nurse practitioner, certified nurse–midwife, or collaborating physician that extends beyond the ending date of the practice letter;

(ii) Abrogate any procedures required by statute or regulation for approval of collaboration agreements; or

(iii) Establish any fact or any presumption concerning the final approval of a collaboration agreement.**]**

(d) (1) Except as provided in this subtitle, a temporary license and temporary practice letter may not be renewed.

(2) Unless the Board suspends or revokes a temporary license or temporary practice letter, each temporary license or temporary practice letter expires 90 days after the date of issue.

(3) A temporary license may be extended up to an additional 90 days if the applicant is awaiting the completion of criminal history record information.

(4) A temporary license or temporary practice letter may be extended every 90 days, provided that the total length of renewal does not exceed 12 months from the date the original temporary license or temporary practice letter was issued, if the applicant does not meet the practice requirement as provided for in regulation.

(e) The Board shall revoke a temporary license or temporary certificate if the criminal history record information forwarded to the Board in accordance with § 8–303

of this subtitle reveals that the applicant, certificate holder, or licensee has been convicted or pled guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

8–508.

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

(2) "Nurse practitioner" means a registered nurse who is:

(i) Certified as a nurse practitioner; and

(ii) Authorized to prescribe drugs under regulations **[**jointly**]** adopted by the State Board of Nursing **[**and the State Board of Physicians**]**.

(3) "Starter dosage" means an amount of drug sufficient to begin therapy:

(i) Of short duration of 72 hours or less; or

(ii) Prior to obtaining a larger quantity of the drug to complete therapy.

(4) "Personally prepare and dispense" means that a nurse practitioner:

(i) Is physically present on the premises where the prescription is filled; and

(ii) Performs a final check of the prescription before it is provided to the patient.

(b) A nurse practitioner may personally prepare and dispense a starter dosage of any drug the nurse practitioner is authorized to prescribe to a patient of the nurse practitioner if:

(1) The starter dosage complies with the labeling requirements of § **[**12–509**]** **12–505** of this article;

(2) No charge is made for the starter dosage; and

(3) The nurse practitioner enters an appropriate record in the patient's medical record.

(c) In accordance with the provisions of subsection (d) of this section, a nurse practitioner may personally prepare and dispense any drug that a nurse practitioner may prescribe to the extent permitted by law in the course of treating a patient at:

(1) A medical facility or clinic that specializes in the treatment of medical cases reimbursable through workers' compensation insurance;

(2) A medical facility or clinic that is operated on a nonprofit basis;

(3) A health center that operates on a campus of an institution of higher education;

(4) A public health facility, a medical facility under contract with a State or local health department, or a facility funded with public funds; or

(5) A nonprofit hospital or a nonprofit hospital outpatient facility as authorized under the policies established by the hospital.

(d) A nurse practitioner who personally prepares and dispenses a drug in the course of treating a patient as authorized under subsection (c) of this section shall:

(1) Comply with the labeling requirements of § **[**12–509**] 12–505** of this article;

(2) Record the dispensing of the prescription drug on the patient's chart;

(3) Allow the Division of Drug Control to enter and inspect the nurse practitioner's office at all reasonable hours; and

(4) Except for starter dosages or samples dispensed without charge, provide the patient with a written prescription, maintain prescription files, and maintain a separate file for Schedule II prescriptions for a period of at least 5 years.

Article – Health – General

19–705.1.

(a) The Secretary shall adopt regulations that set out reasonable standards of quality of care that a health maintenance organization shall provide to its members.

(b) The standards of quality of care shall include:

(1) (i) A requirement that a health maintenance organization shall provide for regular hours during which a member may receive services, including providing for services to a member in a timely manner that takes into account the immediacy of need for services; and

(ii) Provisions for assuring that all covered services, including any services for which the health maintenance organization has contracted, are

accessible to the enrollee with reasonable safeguards with respect to geographic locations;

(2) A requirement that a health maintenance organization shall have a system for providing a member with 24–hour access to a physician ~~OR NURSE PRACTITIONER~~ in cases where there is an immediate need for medical services, and for promoting timely access to and continuity of health care services for members, including:

(i) Providing 24–hour access by telephone to a person who is able to appropriately respond to calls from members and providers concerning after–hours care; and

(ii) Providing a 24–hour toll free telephone access system for use in hospital emergency departments in accordance with § 19–705.7 of this subtitle;

(3) A requirement that any nonparticipating provider shall submit to the health maintenance organization the appropriate documentation of the medical complaint of the member and the services rendered;

(4) A requirement that a health maintenance organization shall have a physician ~~OR NURSE PRACTITIONER~~ available at all times to provide diagnostic and treatment services;

(5) A requirement that a health maintenance organization shall assure that:

(i) Each member who is seen for a medical complaint is evaluated under the direction of a physician ~~OR NURSE PRACTITIONER~~; and

(ii) Each member who receives diagnostic evaluation or treatment is under the medical management of a health maintenance organization physician ~~OR NURSE PRACTITIONER~~ who provides continuing medical management;

(6) A requirement that each member shall have an opportunity to select a primary physician or a certified nurse practitioner from among those available to the health maintenance organization; and

(7) A requirement that a health maintenance organization print, in any directory of participating providers or hospitals, in a conspicuous manner, the address, telephone number, and facsimile number of the State agency that members, enrollees, and insureds may call to discuss quality of care issues, life and health insurance complaints, and assistance in resolving billing and payment disputes with the health plan or health care provider, as follows:

(i) For quality of care issues and life and health care insurance complaints, the Maryland Insurance Administration; and

(ii) For assistance in resolving a billing or payment dispute with the health plan or a health care provider, the Health Education and Advocacy Unit of the Consumer Protection Division of the Office of the Attorney General.

[(c) (1) A member may select a certified nurse practitioner as the member's primary care provider if:

(i) The certified nurse practitioner provides services at the same location as the certified nurse practitioner's collaborating physician; and

(ii) The collaborating physician provides the continuing medical management required under subsection (b)(5) of this section.

(2) A member who selects a certified nurse practitioner as a primary care provider shall be provided the name and contact information of the certified nurse practitioner's collaborating physician.**]**

[(3)**] (8)** This subsection may not be construed to require that a health maintenance organization include certified nurse practitioners on the health maintenance organization's provider panel as primary care providers.

[(d)**] (C)** (1) The health maintenance organization shall make available and encourage appropriate history and baseline examinations for each member within a reasonable time of enrollment set by it.

(2) Medical problems that are a potential hazard to the person's health shall be identified and a course of action to alleviate these problems outlined.

(3) Progress notes indicating success or failure of the course of action shall be recorded.

(4) The health maintenance organization shall:

(i) Offer or arrange for preventive services that include health education and counseling, early disease detection, immunization, and hearing loss screening of newborns provided by a hospital before discharge;

(ii) Develop or arrange for periodic health education on subjects which impact on the health status of a member population; and

(iii) Notify every member in writing of the availability of these and other preventive services.

(5) The health maintenance organization shall offer services to prevent a disease if:

(i) The disease produces death or disability and exists in the member population;

(ii) The etiology of the disease is known or the disease can be detected at an early stage; and

(iii) Any elimination of factors leading to the disease or immunization has been proven to prevent its occurrence, or early disease detection followed by behavior modification, environmental modification, or medical intervention has been proven to prevent death or disability.

[(e)**] (D)** (1) To implement these standards of quality of care, a health maintenance organization shall have a written plan that is updated and reviewed at least every 3 years.

(2) The plan shall include the following information:

(i) Statistics on age, sex, and other general demographic data used to determine the health care needs of its population;

(ii) Identification of the major health problems in the member population;

(iii) Identification of any special groups of members that have unique health problems, such as the poor, the elderly, the mentally ill, and educationally disadvantaged; and

(iv) A description of community health resources and how they will be used.

(3) The health maintenance organization shall state its priorities and objectives in writing, describing how the priorities and objectives relating to the health problems and needs of the member population will be provided for.

(4) (i) The health maintenance organization shall provide at the time membership is solicited a general description of the benefits and services available to its members, including benefit limitations and exclusions, location of facilities or providers, and procedures to obtain medical services.

(ii) The health maintenance organization shall place the following statement, in bold print, on every enrollment card or application: "If you have any questions concerning the benefits and services that are provided by or excluded under this agreement, please contact a membership services representative before signing this application or card".

(5) The plan shall contain evidence that:

(i) The programs and services offered are based on the health problems of and the community health services available to its member population;

(ii) There is an active program for preventing illness, disability, and hospitalization among its members; and

(iii) The services designed to prevent the major health problems identified among child and adult members and to improve their general health are provided by the health maintenance organization.

[(f)**] (E)** (1) The health maintenance organization shall have an internal peer review system that will evaluate the utilizational services and the quality of health care provided to its members.

(2) The review system shall:

(i) Provide for review by appropriate health professionals of the process followed in the provision of health services;

(ii) Use systematic data collection of performances and patient results;

(iii) Provide interpretation of this data to the practitioners;

(iv) Review and update continuing education programs for health professionals providing services to its members;

(v) Identify needed change and proposed modifications to implement the change; and

(vi) Maintain written records of the internal peer review process.

[(g)**] (F)** (1) Except as provided in paragraph (5) of this subsection, the Department shall conduct an annual external review of the quality of the health services of the health maintenance organization in a manner that the Department considers to be appropriate.

(2) The external review shall be conducted by:

(i) A panel of physicians and other health professionals that consists of persons who:

1. Have been approved by the Department;

2. Have substantial experience in the delivery of health care in a health maintenance organization setting, but who are not members of the health maintenance organization staff or performing professional services for the health maintenance organization; and

3. Reside outside the area serviced by the health maintenance organization;

(ii) The Department; or

(iii) A federally approved professional standards review organization.

(3) The final decision on the type of external review that is to be employed rests solely with the Secretary.

(4) The external review shall consist of a review and evaluation of:

(i) An internal peer review system and reports;

(ii) The program plan of the health maintenance organization to determine if it is adequate and being followed;

(iii) The professional standards and practices of the health maintenance organization in every area of services provided;

(iv) The grievances relating specifically to the delivery of medical care, including their final disposition;

(v) The physical facilities and equipment; and

(vi) A statistically representative sample of member records.

SECTION 2. AND BE IT FURTHER ENACTED, That the ~~Department of Health and Mental Hygiene shall repeal the provisions of Title 10, Subtitle 27 of the Code of Maryland Regulations requiring the implementation of a written agreement between a certified nurse practitioner and a licensed physician and establishing the Joint Committee on Nurse Practitioners on or before December 31, 2012~~ State Board of Nursing, in consultation with the State Board of Physicians, shall develop a plan for implementing the provisions of this Act. The plan shall provide for the repeal of obsolete regulations and include a requirement that attestations made by nurse practitioners concerning agreements for collaboration and consulting with a physician identify the collaborating physician.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 79

(Senate Bill 501)

AN ACT concerning

Real Estate Investment Trusts – Miscellaneous Provisions

FOR the purpose of clarifying that a real estate investment trust may provide by its declaration of trust that holders of one or more classes or series of shares have exclusive voting rights on an amendment that would alter only the contract rights of those shareholders; providing that, without action by the shareholders, the majority of the entire board of trustees may amend the declaration of trust in any respect in which the charter of a corporation may be amended, unless prohibited in the declaration of trust in a certain manner; authorizing the board of trustees of certain real estate investment trusts to amend the declaration of trust, without shareholder action, to effect a certain reverse share split, unless prohibited in the declaration of trust in a certain manner; requiring a certain real estate investment trust to give certain notice of a certain reverse share split to certain shareholders within a certain time after the effective date of the reverse share split; authorizing a real estate investment trust to file a certain certificate of notice for record with the State Department of Assessments and Taxation; providing that a trustee of a real estate investment trust is not required to authorize or direct the filing of a certificate of notice; providing that a real estate investment trust is not required to file a certificate of notice; providing that a certificate of notice shall be executed in a certain manner; defining certain terms and altering a certain definition; and generally relating to real estate investment trusts.

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 8–101, 8–203(a) and (c), and 8–501
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY adding to
Article – Corporations and Associations
Section 8–503
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Corporations and Associations

8–101.

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

(B) "DECLARATION OF TRUST" MEANS THE DECLARATION OF TRUST FILED WITH THE DEPARTMENT FOR THE PURPOSE OF FORMING A REAL ESTATE INVESTMENT TRUST, AS SPECIFIED IN § 8–202 OF THIS TITLE, EITHER AS ORIGINALLY ACCEPTED FOR RECORD OR AS AMENDED, CORRECTED, OR SUPPLEMENTED BY ARTICLES OF AMENDMENT, ARTICLES OF AMENDMENT AND RESTATEMENT, ARTICLES SUPPLEMENTARY, ARTICLES OF MERGER, OR A CERTIFICATE OF CORRECTION.

[(b)**] (C)** "Real estate investment trust" means an unincorporated business trust or association formed under this title in which property is acquired, held, managed, administered, controlled, invested, or disposed of for the benefit and profit of any person who may become a shareholder.

[(c)**] (D)** "Share" means a transferable unit of beneficial interest in a real estate investment trust.

8–203.

(a) A real estate investment trust may provide by its declaration of trust:

(1) That any specified class of shares is preferred over another class as to its distributive share of the assets on voluntary or involuntary liquidation of the real estate investment trust and the amount of the preference;

(2) That any specified class of shares may be redeemed at the option of the real estate investment trust or of the holders of the shares and the terms and conditions of redemption, including the time and price of redemption;

(3) That any specified class of shares is convertible into shares of one or more other classes and the terms and conditions of conversion;

(4) That the holders of any specified securities issued or to be issued by the real estate investment trust have any voting or other rights which, by law, are or may be conferred on shareholders;

(5) THAT THE HOLDERS OF ONE OR MORE CLASSES OR SERIES OF SHARES HAVE EXCLUSIVE VOTING RIGHTS ON AN AMENDMENT TO THE DECLARATION OF TRUST THAT WOULD ALTER ONLY THE CONTRACT RIGHTS, AS

EXPRESSLY SET FORTH IN THE DECLARATION OF TRUST, OF THE SPECIFIED CLASS OR SERIES OF SHARES;

[(5)**] (6)** For any other preferences, rights, restrictions, including restrictions on transferability or ownership designed to permit the real estate investment trust to qualify under the Internal Revenue Code or regulations adopted under the Code or for any other purpose, and qualifications not inconsistent with law;

[(6)**] (7)** That the board of trustees may classify or reclassify any unissued shares from time to time by setting or changing the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or distributions, qualifications, or terms or conditions of redemption of the shares; and

[(7)**] (8)** That the board of trustees may amend the declaration of trust to increase or decrease the aggregate number of shares or the number of shares of any class that the trust has authority to issue.

(c) (1) In this subsection, "facts **ASCERTAINABLE OUTSIDE THE DECLARATION OF TRUST**" includes:

(i) **[**The occurrence of any event, including a determination or action by any person or body, including the real estate investment trust; and**] AN ACTION OR DETERMINATION BY ANY PERSON, INCLUDING THE REAL ESTATE INVESTMENT TRUST, THE BOARD OF TRUSTEES OF THE REAL ESTATE INVESTMENT TRUST, AN OFFICER OR AGENT OF THE REAL ESTATE INVESTMENT TRUST, OR ANY OTHER PERSON AFFILIATED WITH THE REAL ESTATE INVESTMENT TRUST;**

(ii) The contents of any agreement to which the real estate investment trust is a party or any other document**; AND**

(III) ANY OTHER EVENT.

(2) Any of the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or distributions, qualifications, or terms or conditions of redemption of any class or series of shares may be made dependent upon facts ascertainable outside the declaration of trust and may vary among holders of the shares, provided that the manner in which such facts or variations will operate upon the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or distributions, qualifications, or terms or conditions of redemption of such class or series of shares is clearly and expressly set forth in the declaration of trust.

8–501.

(a) Except as provided in § 8–202(c) or § 8–203(a)(7) of this title, a declaration of trust may be amended only as provided in this section.

(b) The board of trustees of a real estate investment trust proposing an amendment to its declaration of trust shall:

(1) Adopt a resolution which sets forth the proposed amendment and declares that it is advisable; and

(2) Direct that the proposed amendment be submitted for consideration by the shareholders.

(c) (1) If the proposed amendment is to be considered at a meeting of the shareholders, notice which states that a purpose of the meeting will be to act upon the proposed amendment shall be given by the real estate investment trust in the manner required by its declaration of trust or bylaws to:

(i) Each shareholder entitled to vote on the proposed amendment; and

(ii) Each shareholder not entitled to vote on the proposed amendment if the contract rights of the shareholder's shares, as expressly set forth in the declaration of trust, would be altered by the amendment.

(2) The notice shall include a copy of the amendment or a summary of the changes it will affect.

(d) The proposed amendment shall be approved by the shareholders of the real estate investment trust by the affirmative vote or written consent of two thirds of all the votes entitled to be cast on the matter.

(e) **(1)** A declaration of trust may **[**permit:

(1) The**]** **PERMIT THE** board of trustees, with the approval of two thirds of its members, and without action by the shareholders, to amend the declaration of trust from time to time to qualify as a real estate investment trust under the Internal Revenue Code or under this title**[**; and**]**.

(2) **[**A**]** **NOTWITHSTANDING SUBSECTIONS (B) AND (D) OF THIS SECTION, UNLESS PROHIBITED IN THE DECLARATION OF TRUST BY REFERENCE TO THIS SUBSECTION OR TO THE SUBJECT MATTER OF THIS SUBSECTION, A** majority of the entire board of trustees, without action by the shareholders, **[**to**]** **MAY** amend the declaration of trust in any respect in which the charter of a corporation may be amended in accordance with § 2–605 of this article.

(F) (1) IN THIS SUBSECTION, "REVERSE SHARE SPLIT" MEANS A COMBINATION OF OUTSTANDING SHARES OF BENEFICIAL INTEREST OF A REAL ESTATE INVESTMENT TRUST INTO A LESSER NUMBER OF SHARES OF BENEFICIAL INTEREST OF THE SAME CLASS WITHOUT ANY CHANGE TO THE AGGREGATE PAR VALUE OF THE OUTSTANDING SHARES.

(2) THIS SUBSECTION APPLIES TO A REAL ESTATE INVESTMENT TRUST WITH A CLASS OF EQUITY SECURITIES REGISTERED UNDER THE SECURITIES EXCHANGE ACT OF 1934.

(3) UNLESS PROHIBITED IN THE DECLARATION OF TRUST BY REFERENCE TO THIS SUBSECTION OR TO THE SUBJECT MATTER OF THIS SUBSECTION, THE BOARD OF TRUSTEES OF A REAL ESTATE INVESTMENT TRUST MAY AMEND THE DECLARATION OF TRUST, WITH THE APPROVAL OF A MAJORITY OF THE BOARD OF TRUSTEES AND WITHOUT SHAREHOLDER ACTION, TO EFFECT A REVERSE SHARE SPLIT THAT RESULTS IN A COMBINATION OF SHARES OF BENEFICIAL INTEREST AT A RATIO OF NOT MORE THAN 10 SHARES INTO 1 SHARE IN ANY 12–MONTH PERIOD.

(4) WITHIN 20 DAYS AFTER THE EFFECTIVE DATE OF A REVERSE SHARE SPLIT AUTHORIZED UNDER THIS SUBSECTION, THE REAL ESTATE INVESTMENT TRUST SHALL GIVE WRITTEN NOTICE OF THE REVERSE SHARE SPLIT TO EACH HOLDER OF RECORD OF THE COMBINED SHARES OF BENEFICIAL INTEREST AS OF THE EFFECTIVE DATE.

[(f)**] (G)** Articles of amendment shall be executed for the real estate investment trust in the manner required by § 1–301 of this article and filed for record with the Department.

8–503.

(A) A REAL ESTATE INVESTMENT TRUST MAY FILE A CERTIFICATE OF NOTICE FOR RECORD WITH THE DEPARTMENT.

(B) A CERTIFICATE OF NOTICE MAY DESCRIBE:

(1) AN ACTION BY THE REAL ESTATE INVESTMENT TRUST, ITS BOARD OF TRUSTEES, OR ITS SHAREHOLDERS;

(2) THE OCCURRENCE OF OR CHANGE TO FACTS ASCERTAINABLE OUTSIDE OF THE DECLARATION OF TRUST, AS DEFINED IN § 8–203(C) OF THIS TITLE; OR

(3) ANY OTHER INFORMATION THAT THE REAL ESTATE INVESTMENT TRUST DETERMINES SHOULD BE DISCLOSED.

(C) A CERTIFICATE OF NOTICE MAY NOT:

(1) AMEND, SUPPLEMENT, OR CORRECT THE DECLARATION OF TRUST OF THE REAL ESTATE INVESTMENT TRUST IN ANY MANNER; OR

(2) AFFECT ANY RIGHTS OR LIABILITIES OF SHAREHOLDERS, WHETHER OR NOT ACCRUED OR INCURRED BEFORE THE CERTIFICATE OF NOTICE IS FILED.

(D) A CERTIFICATE OF NOTICE IS NOT A PART OF THE DECLARATION OF TRUST OF A REAL ESTATE INVESTMENT TRUST.

(E) A TRUSTEE OF A REAL ESTATE INVESTMENT TRUST IS NOT REQUIRED TO AUTHORIZE OR DIRECT THE FILING OF A CERTIFICATE OF NOTICE.

(F) A REAL ESTATE INVESTMENT TRUST IS NOT REQUIRED TO FILE A CERTIFICATE OF NOTICE FOR ANY PURPOSE, INCLUDING TO INDICATE THAT THERE HAS BEEN A CHANGE TO THE FACTS OR INFORMATION CONTAINED IN A PREVIOUSLY FILED CERTIFICATE OF NOTICE.

(G) A CERTIFICATE OF NOTICE SHALL BE EXECUTED IN THE MANNER REQUIRED FOR CHARTER DOCUMENTS BY § 1–301 OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 80

(House Bill 412)

AN ACT concerning

Real Estate Investment Trusts – Miscellaneous Provisions

FOR the purpose of clarifying that a real estate investment trust may provide by its declaration of trust that holders of one or more classes or series of shares have exclusive voting rights on an amendment that would alter only the contract

rights of those shareholders; providing that, without action by the shareholders, the majority of the entire board of trustees may amend the declaration of trust in any respect in which the charter of a corporation may be amended, unless prohibited in the declaration of trust in a certain manner; authorizing the board of trustees of certain real estate investment trusts to amend the declaration of trust, without shareholder action, to effect a certain reverse share split, unless prohibited in the declaration of trust in a certain manner; requiring a certain real estate investment trust to give certain notice of a certain reverse share split to certain shareholders within a certain time after the effective date of the reverse share split; authorizing a real estate investment trust to file a certain certificate of notice for record with the State Department of Assessments and Taxation; providing that a trustee of a real estate investment trust is not required to authorize or direct the filing of a certificate of notice; providing that a real estate investment trust is not required to file a certificate of notice; providing that a certificate of notice shall be executed in a certain manner; defining certain terms and altering a certain definition; and generally relating to real estate investment trusts.

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 8–101, 8–203(a) and (c), and 8–501
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY adding to
Article – Corporations and Associations
Section 8–503
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Corporations and Associations

8–101.

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

(B) "DECLARATION OF TRUST" MEANS THE DECLARATION OF TRUST FILED WITH THE DEPARTMENT FOR THE PURPOSE OF FORMING A REAL ESTATE INVESTMENT TRUST, AS SPECIFIED IN § 8–202 OF THIS TITLE, EITHER AS ORIGINALLY ACCEPTED FOR RECORD OR AS AMENDED, CORRECTED, OR SUPPLEMENTED BY ARTICLES OF AMENDMENT, ARTICLES OF AMENDMENT AND RESTATEMENT, ARTICLES SUPPLEMENTARY, ARTICLES OF MERGER, OR A CERTIFICATE OF CORRECTION.

[(b)**] (C)** "Real estate investment trust" means an unincorporated business trust or association formed under this title in which property is acquired, held, managed, administered, controlled, invested, or disposed of for the benefit and profit of any person who may become a shareholder.

[(c)**] (D)** "Share" means a transferable unit of beneficial interest in a real estate investment trust.

8–203.

(a) A real estate investment trust may provide by its declaration of trust:

(1) That any specified class of shares is preferred over another class as to its distributive share of the assets on voluntary or involuntary liquidation of the real estate investment trust and the amount of the preference;

(2) That any specified class of shares may be redeemed at the option of the real estate investment trust or of the holders of the shares and the terms and conditions of redemption, including the time and price of redemption;

(3) That any specified class of shares is convertible into shares of one or more other classes and the terms and conditions of conversion;

(4) That the holders of any specified securities issued or to be issued by the real estate investment trust have any voting or other rights which, by law, are or may be conferred on shareholders;

(5) THAT THE HOLDERS OF ONE OR MORE CLASSES OR SERIES OF SHARES HAVE EXCLUSIVE VOTING RIGHTS ON AN AMENDMENT TO THE DECLARATION OF TRUST THAT WOULD ALTER ONLY THE CONTRACT RIGHTS, AS EXPRESSLY SET FORTH IN THE DECLARATION OF TRUST, OF THE SPECIFIED CLASS OR SERIES OF SHARES;

[(5)**] (6)** For any other preferences, rights, restrictions, including restrictions on transferability or ownership designed to permit the real estate investment trust to qualify under the Internal Revenue Code or regulations adopted under the Code or for any other purpose, and qualifications not inconsistent with law;

[(6)**] (7)** That the board of trustees may classify or reclassify any unissued shares from time to time by setting or changing the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or distributions, qualifications, or terms or conditions of redemption of the shares; and

[(7)**] (8)** That the board of trustees may amend the declaration of trust to increase or decrease the aggregate number of shares or the number of shares of any class that the trust has authority to issue.

(c) (1) In this subsection, "facts **ASCERTAINABLE OUTSIDE THE DECLARATION OF TRUST**" includes:

(i) **[**The occurrence of any event, including a determination or action by any person or body, including the real estate investment trust; and**] AN ACTION OR DETERMINATION BY ANY PERSON, INCLUDING THE REAL ESTATE INVESTMENT TRUST, THE BOARD OF TRUSTEES OF THE REAL ESTATE INVESTMENT TRUST, AN OFFICER OR AGENT OF THE REAL ESTATE INVESTMENT TRUST, OR ANY OTHER PERSON AFFILIATED WITH THE REAL ESTATE INVESTMENT TRUST;**

(ii) The contents of any agreement to which the real estate investment trust is a party or any other document**; AND**

(III) ANY OTHER EVENT.

(2) Any of the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or distributions, qualifications, or terms or conditions of redemption of any class or series of shares may be made dependent upon facts ascertainable outside the declaration of trust and may vary among holders of the shares, provided that the manner in which such facts or variations will operate upon the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or distributions, qualifications, or terms or conditions of redemption of such class or series of shares is clearly and expressly set forth in the declaration of trust.

8–501.

(a) Except as provided in § 8–202(c) or § 8–203(a)(7) of this title, a declaration of trust may be amended only as provided in this section.

(b) The board of trustees of a real estate investment trust proposing an amendment to its declaration of trust shall:

(1) Adopt a resolution which sets forth the proposed amendment and declares that it is advisable; and

(2) Direct that the proposed amendment be submitted for consideration by the shareholders.

(c) (1) If the proposed amendment is to be considered at a meeting of the shareholders, notice which states that a purpose of the meeting will be to act upon the

proposed amendment shall be given by the real estate investment trust in the manner required by its declaration of trust or bylaws to:

(i) Each shareholder entitled to vote on the proposed amendment; and

(ii) Each shareholder not entitled to vote on the proposed amendment if the contract rights of the shareholder's shares, as expressly set forth in the declaration of trust, would be altered by the amendment.

(2) The notice shall include a copy of the amendment or a summary of the changes it will affect.

(d) The proposed amendment shall be approved by the shareholders of the real estate investment trust by the affirmative vote or written consent of two thirds of all the votes entitled to be cast on the matter.

(e) **(1)** A declaration of trust may **[**permit:

(1) The**]** **PERMIT THE** board of trustees, with the approval of two thirds of its members, and without action by the shareholders, to amend the declaration of trust from time to time to qualify as a real estate investment trust under the Internal Revenue Code or under this title**[**; and**]**.

(2) **[**A**]** **NOTWITHSTANDING SUBSECTIONS (B) AND (D) OF THIS SECTION, UNLESS PROHIBITED IN THE DECLARATION OF TRUST BY REFERENCE TO THIS SUBSECTION OR TO THE SUBJECT MATTER OF THIS SUBSECTION, A** majority of the entire board of trustees, without action by the shareholders, **[**to**]** **MAY** amend the declaration of trust in any respect in which the charter of a corporation may be amended in accordance with § 2–605 of this article.

(F) (1) IN THIS SUBSECTION, "REVERSE SHARE SPLIT" MEANS A COMBINATION OF OUTSTANDING SHARES OF BENEFICIAL INTEREST OF A REAL ESTATE INVESTMENT TRUST INTO A LESSER NUMBER OF SHARES OF BENEFICIAL INTEREST OF THE SAME CLASS WITHOUT ANY CHANGE TO THE AGGREGATE PAR VALUE OF THE OUTSTANDING SHARES.

(2) THIS SUBSECTION APPLIES TO A REAL ESTATE INVESTMENT TRUST WITH A CLASS OF EQUITY SECURITIES REGISTERED UNDER THE SECURITIES EXCHANGE ACT OF 1934.

(3) UNLESS PROHIBITED IN THE DECLARATION OF TRUST BY REFERENCE TO THIS SUBSECTION OR TO THE SUBJECT MATTER OF THIS SUBSECTION, THE BOARD OF TRUSTEES OF A REAL ESTATE INVESTMENT TRUST MAY AMEND THE DECLARATION OF TRUST, WITH THE APPROVAL OF A MAJORITY

OF THE BOARD OF TRUSTEES AND WITHOUT SHAREHOLDER ACTION, TO EFFECT A REVERSE SHARE SPLIT THAT RESULTS IN A COMBINATION OF SHARES OF BENEFICIAL INTEREST AT A RATIO OF NOT MORE THAN 10 SHARES INTO 1 SHARE IN ANY 12–MONTH PERIOD.

(4) WITHIN 20 DAYS AFTER THE EFFECTIVE DATE OF A REVERSE SHARE SPLIT AUTHORIZED UNDER THIS SUBSECTION, THE REAL ESTATE INVESTMENT TRUST SHALL GIVE WRITTEN NOTICE OF THE REVERSE SHARE SPLIT TO EACH HOLDER OF RECORD OF THE COMBINED SHARES OF BENEFICIAL INTEREST AS OF THE EFFECTIVE DATE.

[(f)**] (G)** Articles of amendment shall be executed for the real estate investment trust in the manner required by § 1–301 of this article and filed for record with the Department.

8–503.

(A) A REAL ESTATE INVESTMENT TRUST MAY FILE A CERTIFICATE OF NOTICE FOR RECORD WITH THE DEPARTMENT.

(B) A CERTIFICATE OF NOTICE MAY DESCRIBE:

(1) AN ACTION BY THE REAL ESTATE INVESTMENT TRUST, ITS BOARD OF TRUSTEES, OR ITS SHAREHOLDERS;

(2) THE OCCURRENCE OF OR CHANGE TO FACTS ASCERTAINABLE OUTSIDE OF THE DECLARATION OF TRUST, AS DEFINED IN § 8–203(C) OF THIS TITLE; OR

(3) ANY OTHER INFORMATION THAT THE REAL ESTATE INVESTMENT TRUST DETERMINES SHOULD BE DISCLOSED.

(C) A CERTIFICATE OF NOTICE MAY NOT:

(1) AMEND, SUPPLEMENT, OR CORRECT THE DECLARATION OF TRUST OF THE REAL ESTATE INVESTMENT TRUST IN ANY MANNER; OR

(2) AFFECT ANY RIGHTS OR LIABILITIES OF SHAREHOLDERS, WHETHER OR NOT ACCRUED OR INCURRED BEFORE THE CERTIFICATE OF NOTICE IS FILED.

(D) A CERTIFICATE OF NOTICE IS NOT A PART OF THE DECLARATION OF TRUST OF A REAL ESTATE INVESTMENT TRUST.

(E) A TRUSTEE OF A REAL ESTATE INVESTMENT TRUST IS NOT REQUIRED TO AUTHORIZE OR DIRECT THE FILING OF A CERTIFICATE OF NOTICE.

(F) A REAL ESTATE INVESTMENT TRUST IS NOT REQUIRED TO FILE A CERTIFICATE OF NOTICE FOR ANY PURPOSE, INCLUDING TO INDICATE THAT THERE HAS BEEN A CHANGE TO THE FACTS OR INFORMATION CONTAINED IN A PREVIOUSLY FILED CERTIFICATE OF NOTICE.

(G) A CERTIFICATE OF NOTICE SHALL BE EXECUTED IN THE MANNER REQUIRED FOR CHARTER DOCUMENTS BY § 1–301 OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 81

(Senate Bill 512)

AN ACT concerning

Maryland Locksmiths Act – Revisions – Definitions and Records Inspection

FOR the purpose of altering the definition of "fixed business address" as it relates to the Maryland Locksmiths Act to include a business location outside Maryland where a licensed locksmith conducts a business and is available at certain times; altering the definition of "local law enforcement unit" as it relates to the Maryland Locksmiths Act to include only in–State police departments and sheriffs that are designated by certain entities based on the address of a licensed locksmith for certain purposes; requiring licensed locksmiths to make certain records available for inspection by the Department of Labor, Licensing, and Regulation under certain circumstances; and generally relating to the revision of definitions and records requirements of the Maryland Locksmiths Act.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 12.5–101 and 12.5–302
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Regulation

12.5–101.

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

(b) "Business" means a commercial entity that provides locksmith services.

(c) "Employee" means an individual employed by a licensed locksmith to provide locksmith services on behalf of the licensed locksmith.

(d) "Fixed business address" means a single physical location **[**in the State**]** where a licensee **[**regularly**]** conducts business and at which the licensee or an employee of the licensee is **[**physically present**] AVAILABLE**:

(1) during normal business hours; or

(2) other hours as provided in the application for the license.

(e) "License" means a license issued by the Secretary to provide locksmith services.

(f) "Licensed locksmith" means, unless the context requires otherwise, a business that is licensed by the Secretary to provide locksmith services.

(g) "Local law enforcement unit" means the Department of State Police, a police department **IN THE STATE**, or sheriff **IN THE STATE[**,**]:**

(1) [as**]** designated by the county or municipal governing body **FOR A LICENSEE WITH AN IN–STATE FIXED BUSINESS ADDRESS; OR**

(2) DESIGNATED BY THE SECRETARY FOR A LICENSEE WITH AN OUT–OF–STATE FIXED BUSINESS ADDRESS.

(h) "Provide locksmith services" means to engage professionally and for compensation in:

(1) repairing, rebuilding, rekeying, repinning, recombinating, adjusting, or installing mechanical, electrical, or electromechanical locking devices, safes, vaults, or safe deposit boxes; or

(2) operating a mechanical, electrical, or electromechanical locking device or opening safes, vaults, or safe deposit boxes by a means other than that intended by the manufacturer of such locking devices.

12.5–302.

Unless otherwise authorized by the Secretary, a licensed locksmith shall keep a copy of each invoice or receipt for services required by this subtitle, at the fixed business address provided by the licensee to the Secretary, for 3 years after the date of the service call **AND, ON REASONABLE NOTICE FROM THE DEPARTMENT, MAKE REQUIRED RECORDS AVAILABLE FOR INSPECTION BY THE DEPARTMENT**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 82

(House Bill 291)

AN ACT concerning

Maryland Locksmiths Act – Revisions – Definitions and Records Inspection

FOR the purpose of altering the definition of "fixed business address" as it relates to the Maryland Locksmiths Act to include a business location outside Maryland where a licensed locksmith conducts a business and is available at certain times; altering the definition of "local law enforcement unit" as it relates to the Maryland Locksmiths Act to include only in–State police departments and sheriffs that are designated by certain entities based on the address of a licensed locksmith for certain purposes; requiring licensed locksmiths to make certain records available for inspection by the Department of Labor, Licensing, and Regulation under certain circumstances; and generally relating to the revision of definitions and records requirements of the Maryland Locksmiths Act.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 12.5–101 and 12.5–302
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Regulation

12.5–101.

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

(b) "Business" means a commercial entity that provides locksmith services.

(c) "Employee" means an individual employed by a licensed locksmith to provide locksmith services on behalf of the licensed locksmith.

(d) "Fixed business address" means a single physical location **[**in the State**]** where a licensee **[**regularly**]** conducts business and at which the licensee or an employee of the licensee is **[**physically present**] AVAILABLE**:

(1) during normal business hours; or

(2) other hours as provided in the application for the license.

(e) "License" means a license issued by the Secretary to provide locksmith services.

(f) "Licensed locksmith" means, unless the context requires otherwise, a business that is licensed by the Secretary to provide locksmith services.

(g) "Local law enforcement unit" means the Department of State Police, a police department **IN THE STATE**, or sheriff **IN THE STATE[**,**]:**

(1) [as**]** designated by the county or municipal governing body **FOR A LICENSEE WITH AN IN–STATE FIXED BUSINESS ADDRESS; OR**

(2) DESIGNATED BY THE SECRETARY FOR A LICENSEE WITH AN OUT–OF–STATE FIXED BUSINESS ADDRESS.

(h) "Provide locksmith services" means to engage professionally and for compensation in:

(1) repairing, rebuilding, rekeying, repinning, recombinating, adjusting, or installing mechanical, electrical, or electromechanical locking devices, safes, vaults, or safe deposit boxes; or

(2) operating a mechanical, electrical, or electromechanical locking device or opening safes, vaults, or safe deposit boxes by a means other than that intended by the manufacturer of such locking devices.

12.5–302.

Unless otherwise authorized by the Secretary, a licensed locksmith shall keep a copy of each invoice or receipt for services required by this subtitle, at the fixed business address provided by the licensee to the Secretary, for 3 years after the date of the service call **AND, ON REASONABLE NOTICE FROM THE DEPARTMENT, MAKE REQUIRED RECORDS AVAILABLE FOR INSPECTION BY THE DEPARTMENT**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 83

(Senate Bill 547)

AN ACT concerning

Insurance – Domestic Reinsurers

FOR the purpose of specifying a certain assessment fee payable by certain domestic reinsurers to the Maryland Insurance Commissioner; exempting certain domestic reinsurers from a certain requirement to have an office in the State; requiring certain domestic reinsurers to keep certain assets in the State; authorizing certain domestic reinsurers to keep certain records outside the State under certain circumstances; defining a certain term; and generally relating to domestic reinsurers.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 2–502 and 4–115
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

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

Article – Insurance

2–502.

(a) The Commissioner shall collect an annual assessment fee from each insurer as provided in subsection (b) of this section.

(b) The assessment fee shall be calculated as follows:

(1) for each health insurer, the assessment fee is the product of the fraction obtained by dividing the gross direct premium written by the health insurer in the prior calendar year by the total amount of gross direct premium written by all health insurers in the prior calendar year, multiplied by the health insurer assessment portion;

(2) for each life insurer, the assessment fee is the product of the fraction obtained by dividing the gross direct premium written by the life insurer in the prior calendar year by the total amount of gross direct premium written by all life insurers in the prior calendar year, multiplied by the life insurer assessment portion; **[**and**]**

(3) for each property and casualty insurer, the assessment fee is the product of the fraction obtained by dividing the gross direct premium written by the property and casualty insurer in the prior calendar year by the total amount of gross direct premiums written by all property and casualty insurers in the prior calendar year, multiplied by the property and casualty insurer assessment portion**; AND**

(4) FOR EACH DOMESTIC REINSURER SUBJECT TO § 4–115(B)(2)(II) AND (C)(3) OF THIS ARTICLE, THE ASSESSMENT FEE IS THE AVERAGE OF THE ASSESSMENT FEE PAID BY THE 100 PROPERTY AND CASUALTY INSURERS WITH THE HIGHEST GROSS DIRECT WRITTEN PREMIUM IN THE PRIOR CALENDAR YEAR.

(c) For the purpose of calculating the assessment fee in subsection (b) of this section, a multiple type insurer shall be considered either a health insurer, a life insurer, or a property and casualty insurer based on the majority of premium type written.

(d) Notwithstanding any other provision of this subtitle, the minimum assessment shall be $300 for each authorized insurer.

4–115.

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

(2) "DOMESTIC REINSURER" MEANS AN AUTHORIZED INSURER THAT:

(I) OPERATES SOLELY AS A REINSURER, AS DEFINED IN § 5–901 OF THIS ARTICLE;

(II) DOES NOT HAVE ANY GROSS <u>DIRECT</u> WRITTEN PREMIUM; AND

(III) IS DOMICILED IN THE STATE.

[(2)**] (3)** "Financial guaranty reinsurance company" means an insurer that derives at least 90% of its gross written premium from the business of financial guaranty reinsurance.

[(3)**] (4)** "Financial guaranty insurance company" means an insurer that derives at least 90% of its gross written premium from the business of financial guaranty insurance and financial guaranty reinsurance.

(b) (1) Except as provided in paragraph (2) of this subsection, a domestic insurer may not move its home or executive office out of the State without notice to and approval by the Commissioner.

(2) **(I)** A financial guaranty reinsurance company or financial guaranty insurance company that became domiciled in the State on or before December 31, 1993, is not required to have an office in the State.

(II) A DOMESTIC REINSURER THAT BECAME DOMICILED IN THE STATE ON OR BEFORE DECEMBER 31, 1995, IS NOT REQUIRED TO HAVE AN OFFICE IN THE STATE.

(c) (1) A domestic insurer, including a reciprocal insurer, fraternal benefit society, or nonprofit health service plan, with its home or executive office in the State shall keep in the State:

(i) its general ledger accounting records; and

(ii) all of its assets except:

1. real property lawfully owned by the insurer and located outside of the State, personal property appurtenant to the real property, or mortgages on the real property;

2. property of the insurer that is customary and necessary to the operation of the insurer's branch offices outside of the State;

3. securities deposited in a jurisdiction outside of the State as a condition of authority to transact business in that jurisdiction or securities deposited in connection with obtaining surety bonds;

4. securities held either by the insurer or in compliance with regulations adopted by the Commissioner; and

5. transactions or securities involved in transactions authorized by § 5–511(n) and (o) of this article or any other transactions or securities involved in transactions exempted by the Commissioner from this paragraph.

(2) A financial guaranty reinsurance company or financial guaranty insurance company that became domiciled in the State on or before December 31, 1993, and that does not have its home or executive office in the State:

(i) shall keep in the State its entire assets as required by paragraph (1)(ii) of this subsection; and

(ii) may keep its general ledger accounting records outside the State if it makes those records available in the State to the Commissioner within 2 business days after being requested to do so by the Commissioner.

(3) A DOMESTIC REINSURER THAT BECAME DOMICILED IN THE STATE ON OR BEFORE DECEMBER 31, 1995, AND THAT DOES NOT HAVE ITS HOME OR EXECUTIVE OFFICE IN THE STATE:

(I) SHALL KEEP IN THE STATE ITS ENTIRE ASSETS AS REQUIRED BY PARAGRAPH (1)(II) OF THIS SUBSECTION; AND

(II) MAY KEEP ITS GENERAL LEDGER ACCOUNTING RECORDS OUTSIDE THE STATE IF IT MAKES THOSE RECORDS AVAILABLE IN THE STATE TO THE COMMISSIONER WITHIN 2 BUSINESS DAYS AFTER BEING REQUESTED TO DO SO BY THE COMMISSIONER.

(d) This section does not prohibit the holding of funds or transmission of securities outside of the State to:

(1) secure or record title to the securities; or

(2) sell, lend, buy, redeem, or exchange the securities or alter the provisions of the securities.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 84

(House Bill 305)

AN ACT concerning

Insurance – Domestic Reinsurers

FOR the purpose of specifying a certain assessment fee payable by certain domestic reinsurers to the Maryland Insurance Commissioner; exempting certain domestic reinsurers from a certain requirement to have an office in the State; requiring certain domestic reinsurers to keep certain assets in the State; authorizing certain domestic reinsurers to keep certain records outside the State under certain circumstances; defining a certain term; and generally relating to domestic reinsurers.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 2–502 and 4–115
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

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

Article – Insurance

2–502.

(a) The Commissioner shall collect an annual assessment fee from each insurer as provided in subsection (b) of this section.

(b) The assessment fee shall be calculated as follows:

(1) for each health insurer, the assessment fee is the product of the fraction obtained by dividing the gross direct premium written by the health insurer in the prior calendar year by the total amount of gross direct premium written by all health insurers in the prior calendar year, multiplied by the health insurer assessment portion;

(2) for each life insurer, the assessment fee is the product of the fraction obtained by dividing the gross direct premium written by the life insurer in the prior calendar year by the total amount of gross direct premium written by all life insurers in the prior calendar year, multiplied by the life insurer assessment portion; **[**and**]**

(3) for each property and casualty insurer, the assessment fee is the product of the fraction obtained by dividing the gross direct premium written by the property and casualty insurer in the prior calendar year by the total amount of gross direct premiums written by all property and casualty insurers in the prior calendar year, multiplied by the property and casualty insurer assessment portion**; AND**

(4) FOR EACH DOMESTIC REINSURER SUBJECT TO § 4–115(B)(2)(II) AND (C)(3) OF THIS ARTICLE, THE ASSESSMENT FEE IS THE AVERAGE OF THE ASSESSMENT FEE PAID BY THE 100 PROPERTY AND CASUALTY INSURERS WITH THE HIGHEST GROSS DIRECT WRITTEN PREMIUM IN THE PRIOR CALENDAR YEAR.

(c) For the purpose of calculating the assessment fee in subsection (b) of this section, a multiple type insurer shall be considered either a health insurer, a life insurer, or a property and casualty insurer based on the majority of premium type written.

(d) Notwithstanding any other provision of this subtitle, the minimum assessment shall be $300 for each authorized insurer.

4–115.

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

(2) "DOMESTIC REINSURER" MEANS AN AUTHORIZED INSURER THAT:

(I) OPERATES SOLELY AS A REINSURER, AS DEFINED IN § 5–901 OF THIS ARTICLE;

(II) DOES NOT HAVE ANY GROSS <u>DIRECT</u> WRITTEN PREMIUM; AND

(III) IS DOMICILED IN THE STATE.

[(2)**] (3)** "Financial guaranty reinsurance company" means an insurer that derives at least 90% of its gross written premium from the business of financial guaranty reinsurance.

[(3)**] (4)** "Financial guaranty insurance company" means an insurer that derives at least 90% of its gross written premium from the business of financial guaranty insurance and financial guaranty reinsurance.

(b) (1) Except as provided in paragraph (2) of this subsection, a domestic insurer may not move its home or executive office out of the State without notice to and approval by the Commissioner.

(2) **(I)** A financial guaranty reinsurance company or financial guaranty insurance company that became domiciled in the State on or before December 31, 1993, is not required to have an office in the State.

(II) A DOMESTIC REINSURER THAT BECAME DOMICILED IN THE STATE ON OR BEFORE DECEMBER 31, 1995, IS NOT REQUIRED TO HAVE AN OFFICE IN THE STATE.

(c) (1) A domestic insurer, including a reciprocal insurer, fraternal benefit society, or nonprofit health service plan, with its home or executive office in the State shall keep in the State:

(i) its general ledger accounting records; and

(ii) all of its assets except:

1. real property lawfully owned by the insurer and located outside of the State, personal property appurtenant to the real property, or mortgages on the real property;

2. property of the insurer that is customary and necessary to the operation of the insurer's branch offices outside of the State;

3. securities deposited in a jurisdiction outside of the State as a condition of authority to transact business in that jurisdiction or securities deposited in connection with obtaining surety bonds;

4. securities held either by the insurer or in compliance with regulations adopted by the Commissioner; and

5. transactions or securities involved in transactions authorized by § 5–511(n) and (o) of this article or any other transactions or securities involved in transactions exempted by the Commissioner from this paragraph.

(2) A financial guaranty reinsurance company or financial guaranty insurance company that became domiciled in the State on or before December 31, 1993, and that does not have its home or executive office in the State:

(i) shall keep in the State its entire assets as required by paragraph (1)(ii) of this subsection; and

(ii) may keep its general ledger accounting records outside the State if it makes those records available in the State to the Commissioner within 2 business days after being requested to do so by the Commissioner.

(3) A DOMESTIC REINSURER THAT BECAME DOMICILED IN THE STATE ON OR BEFORE DECEMBER 31, 1995, AND THAT DOES NOT HAVE ITS HOME OR EXECUTIVE OFFICE IN THE STATE:

(I) SHALL KEEP IN THE STATE ITS ENTIRE ASSETS AS REQUIRED BY PARAGRAPH (1)(II) OF THIS SUBSECTION; AND

(II) MAY KEEP ITS GENERAL LEDGER ACCOUNTING RECORDS OUTSIDE THE STATE IF IT MAKES THOSE RECORDS AVAILABLE IN THE STATE TO THE COMMISSIONER WITHIN 2 BUSINESS DAYS AFTER BEING REQUESTED TO DO SO BY THE COMMISSIONER.

(d) This section does not prohibit the holding of funds or transmission of securities outside of the State to:

(1) secure or record title to the securities; or

(2) sell, lend, buy, redeem, or exchange the securities or alter the provisions of the securities.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 85

(Senate Bill 555)

AN ACT concerning

Business Occupations and Professions – Individual Tax Preparers – ~~Registration~~ Examination Requirements

FOR the purpose of ~~requiring a person applying for a registration to provide individual tax preparation services, if required by regulations adopted by the State Board of Individual Tax Preparers, to complete successfully a certain tax preparation program; requiring the Board to prepare, in consultation with the Department of Labor, Licensing, and Regulation and representatives of the tax preparation industry, a certain examination;~~ repealing certain requirements relating to the examination to be given by the ~~Board~~ State Board of Individual Tax Preparers to an applicant for registration to provide individual tax preparation services; and generally relating to ~~registration~~ examination requirements for individual tax preparers.

~~BY repealing and reenacting, without amendments,~~
~~Article – Business Occupations and Professions~~
~~Section 21–301 and 21–303~~

~~Annotated Code of Maryland~~
~~(2004 Replacement Volume and 2009 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section ~~21–302 and~~ 21–304(d)
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Occupations and Professions

~~21–301.~~

~~An individual shall be registered by the Board before the individual may provide individual tax preparation services in the State.~~

~~21–302.~~

~~(a) To qualify for a registration, the applicant shall be an individual who meets the requirements of this section.~~

~~(b) The applicant shall be of good character and reputation.~~

~~(c) The applicant shall be at least 18 years old.~~

~~(d) The applicant shall possess a high school diploma or have passed an equivalency examination.~~

~~(e) Except as otherwise provided in this subtitle, the applicant shall:~~

~~**(1)** pass an examination given by the Board under this subtitle~~**~~; AND~~**

~~**(2)** IF REQUIRED BY REGULATIONS ADOPTED BY THE BOARD, SUCCESSFULLY COMPLETE A TAX PREPARATION PROGRAM THAT IS APPROVED BY THE MARYLAND HIGHER EDUCATION COMMISSION.~~

~~21–303.~~

~~An applicant for a registration shall:~~

~~(1) submit to the Board an application on the form that the Board provides; and~~

~~(2) pay to the Board or the Board's designee an examination fee set by the Board in an amount not to exceed the cost of the required examination.~~

~~21–304.~~

~~(a) An applicant who otherwise qualifies for a registration is entitled to be examined as provided in this section.~~

~~**(B) THE BOARD SHALL PREPARE, IN CONSULTATION WITH THE DEPARTMENT AND REPRESENTATIVES OF THE TAX PREPARATION INDUSTRY, AN EXAMINATION THAT MEASURES THE APPLICANT'S KNOWLEDGE OF MARYLAND AND FEDERAL INCOME TAX LAW THEORY AND PRACTICE.**~~

~~**[**(b)**] (C)** The Board shall give examinations to applicants at least twice a year, at the times and places that the Board determines.~~

~~**[**(c)**] (D)** The Board shall give each qualified applicant notice of the time and place of examination.~~

21–304.

[(d) ~~(1)~~ The Board shall give the examination prepared by the Internal Revenue Service or an equivalent examination by an independent national or state regulatory authority as determined by the Board.

~~(2) The examination given under paragraph (1) of this subsection may not be less stringent than the Individuals section of the Special Enrollment Examination for enrolled agents.~~**]**

~~(e) The Board shall adopt regulations that establish the passing score for an examination.~~

~~(f) (1) The Board shall notify each applicant of the applicant's examination score.~~

~~(2) Any applicant who requests an appointment within 60 days after the date on which notification is sent may review the applicant's answers to the examination.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 86

(House Bill 873)

AN ACT concerning

Business Occupations and Professions – Individual Tax Preparers – ~~Registration~~ Examination Requirements

FOR the purpose of ~~requiring a person applying for a registration to provide individual tax preparation services, if required by regulations adopted by the State Board of Individual Tax Preparers, to complete successfully a certain tax preparation program; requiring the Board to prepare, in consultation with the Department of Labor, Licensing, and Regulation and representatives of the tax preparation industry, a certain examination;~~ repealing certain requirements relating to the examination to be given by the ~~Board~~ State Board of Individual Tax Preparers to an applicant for registration to provide individual tax preparation services; and generally relating to ~~registration~~ examination requirements for individual tax preparers.

~~BY repealing and reenacting, without amendments,~~
~~Article – Business Occupations and Professions~~
~~Section 21–301 and 21–303~~
~~Annotated Code of Maryland~~
~~(2004 Replacement Volume and 2009 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section ~~21–302 and~~ 21–304(d)
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Occupations and Professions

~~21–301.~~

~~An individual shall be registered by the Board before the individual may provide individual tax preparation services in the State.~~

~~21–302.~~

~~(a) To qualify for a registration, the applicant shall be an individual who meets the requirements of this section.~~

~~(b) The applicant shall be of good character and reputation.~~

~~(c) The applicant shall be at least 18 years old.~~

~~(d) The applicant shall possess a high school diploma or have passed an equivalency examination.~~

~~(e) Except as otherwise provided in this subtitle, the applicant shall:~~

~~**(1)** pass an examination given by the Board under this subtitle~~**~~; AND~~**

~~**(2) IF REQUIRED BY REGULATIONS ADOPTED BY THE BOARD, SUCCESSFULLY COMPLETE A TAX PREPARATION PROGRAM THAT IS APPROVED BY THE MARYLAND HIGHER EDUCATION COMMISSION.**~~

~~21–303.~~

~~An applicant for a registration shall:~~

~~(1) submit to the Board an application on the form that the Board provides; and~~

~~(2) pay to the Board or the Board's designee an examination fee set by the Board in an amount not to exceed the cost of the required examination.~~

~~21–304.~~

~~(a) An applicant who otherwise qualifies for a registration is entitled to be examined as provided in this section.~~

~~**(B) THE BOARD SHALL PREPARE, IN CONSULTATION WITH THE DEPARTMENT AND REPRESENTATIVES OF THE TAX PREPARATION INDUSTRY, AN EXAMINATION THAT MEASURES THE APPLICANT'S KNOWLEDGE OF MARYLAND AND FEDERAL INCOME TAX LAW THEORY AND PRACTICE.**~~

~~**[**(b)**] (C)** The Board shall give examinations to applicants at least twice a year, at the times and places that the Board determines.~~

~~**[**(c)**] (D)** The Board shall give each qualified applicant notice of the time and place of examination.~~

21–304.

[(d) ~~(1)~~ The Board shall give the examination prepared by the Internal Revenue Service or an equivalent examination by an independent national or state regulatory authority as determined by the Board.

~~(2) The examination given under paragraph (1) of this subsection may not be less stringent than the Individuals section of the Special Enrollment Examination for enrolled agents.]~~

~~(e) The Board shall adopt regulations that establish the passing score for an examination.~~

~~(f) (1) The Board shall notify each applicant of the applicant's examination score.~~

~~(2) Any applicant who requests an appointment within 60 days after the date on which notification is sent may review the applicant's answers to the examination.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 87

(Senate Bill 629)

AN ACT concerning

Law Enforcement Officers – Unsubstantiated Complaints – Admissibility

FOR the purpose of providing that evidence of a certain complaint against a law enforcement officer is not admissible in a certain proceeding if the complaint resulted in a certain outcome; and generally relating to the admissibility of evidence relating to a law enforcement officer.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 3–110
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

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

Article – Public Safety

3–110.

(A) On written request, a law enforcement officer may have expunged from any file the record of a formal complaint made against the law enforcement officer if:

(1) (i) the law enforcement agency that investigated the complaint:

1. exonerated the law enforcement officer of all charges in the complaint; or

2. determined that the charges were unsustained or unfounded; or

(ii) a hearing board acquitted the law enforcement officer, dismissed the action, or made a finding of not guilty; and

(2) at least 3 years have passed since the final disposition by the law enforcement agency or hearing board.

(B) EVIDENCE OF A FORMAL COMPLAINT AGAINST A LAW ENFORCEMENT OFFICER IS NOT ADMISSIBLE IN AN ADMINISTRATIVE OR JUDICIAL PROCEEDING IF THE COMPLAINT RESULTED IN AN OUTCOME LISTED IN SUBSECTION (A)(1) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 88

(House Bill 120)

AN ACT concerning

Law Enforcement Officers – Unsubstantiated Complaints – Admissibility

FOR the purpose of providing that evidence of a certain complaint against a law enforcement officer is not admissible in a certain proceeding if the complaint resulted in a certain outcome; and generally relating to the admissibility of evidence relating to a law enforcement officer.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 3–110

Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

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

Article – Public Safety

3–110.

(A) On written request, a law enforcement officer may have expunged from any file the record of a formal complaint made against the law enforcement officer if:

(1) (i) the law enforcement agency that investigated the complaint:

1. exonerated the law enforcement officer of all charges in the complaint; or

2. determined that the charges were unsustained or unfounded; or

(ii) a hearing board acquitted the law enforcement officer, dismissed the action, or made a finding of not guilty; and

(2) at least 3 years have passed since the final disposition by the law enforcement agency or hearing board.

(B) EVIDENCE OF A FORMAL COMPLAINT AGAINST A LAW ENFORCEMENT OFFICER IS NOT ADMISSIBLE IN AN ADMINISTRATIVE OR JUDICIAL PROCEEDING IF THE COMPLAINT RESULTED IN AN OUTCOME LISTED IN SUBSECTION (A)(1) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 89

(Senate Bill 643)

AN ACT concerning

Telephone ~~Companies and Resellers~~ Bills – Third–Party Vendor Billing

FOR the purpose of prohibiting a ~~telephone company or reseller from engaging in certain third–party vendor billing~~ third–party vendor or billing agent from submitting charges to a certain telephone company or reseller for third–party vendor billing without certain express authorization from ~~a~~ an ordering customer; requiring the authorization to be separate from certain other documents and to include certain information; requiring a ~~telephone company or reseller~~ third–party vendor or billing agent to retain a certain copy of the express authorization for a certain period of time; ~~requiring a telephone company or reseller to offer customers a certain blocking option under certain circumstances at no charge; requiring a telephone company or reseller to provide customers with certain notice concerning third–party vendor billing; prohibiting disconnection of a customer's telephone service or imposition of certain additional fees or interest charges for nonpayment of certain charges; authorizing the Public Service Commission to adopt certain regulations; providing that a telephone company or reseller subject to this Act is liable to a customer for certain charges; authorizing the Commission to assess a certain administrative penalty on a telephone company or reseller under certain circumstances;~~ providing that a certain customer is not liable for third–party vendor billing charges unless certain notice has been given to the customer and the customer is provided access to certain information; providing that unless a third–party vendor or billing agent provides a copy of a certain authorization to a certain customer and a certain telephone company or reseller, the customer is not liable for third–party vendor billing charges to the customer, if the customer, in good faith and in a reasonably timely manner, disputes that the charges were authorized; providing that a certain agreement for third–party vendor billing is void and unenforceable under certain circumstances; providing that a certain violation is an unfair or deceptive trade practice under the Maryland Consumer Protection Act and is subject to certain enforcement and penalty provisions; defining certain terms; and generally relating to third–party vendor billing.

~~BY adding to~~
~~Article – Public Utility Companies~~
~~Section 8–701 through 8–708 to be under the new subtitle "Subtitle 7. Third–Party Vendor Billing"~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume and 2009 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 13–301(14)(xxiii)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY adding to
Article – Commercial Law

Section 14–1322
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

~~**Article – Public Utility Companies**~~

~~**SUBTITLE 7. THIRD–PARTY VENDOR BILLING.**~~

~~**8–701.**~~

Article – Commercial Law

13–301.

Unfair or deceptive trade practices include any:

(14) Violation of a provision of:

(xxiii) Section **[**14–1319 or**] 14–1319,** § 14–1320**, OR § 14–1322** of this article;

14–1322.

(A) (1) IN THIS ~~SUBTITLE~~ SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "BILLING AGENT" MEANS A PERSON THAT SUBMITS CHARGES FOR PRODUCTS OR SERVICES TO A TELEPHONE COMPANY OR RESELLER ON BEHALF OF THE PERSON SUBMITTING THE CHARGES OR ON BEHALF OF A THIRD–PARTY VENDOR.

~~(B)~~ (3) "CUSTOMER" MEANS A CUSTOMER OF A TELEPHONE COMPANY OR RESELLER.

~~(C)~~ (4) "EXPRESS AUTHORIZATION" MEANS AN EXPRESS, AFFIRMATIVE ACT BY ~~A~~ AN ORDERING CUSTOMER IN THE FORM OF:

~~(1)~~ (I) ~~A~~ A WRITTEN AUTHORIZATION;

~~(2)~~ (II) ~~AN~~ AN ORAL AUTHORIZATION VERIFIED AND RECORDED BY AN INDEPENDENT PARTY; OR

~~(3)~~ (III) ~~A~~ A RECORDED ELECTRONIC AUTHORIZATION.

~~(D) "RESELLER" HAS THE MEANING STATED IN § 8–401 OF THIS TITLE.~~

(5) "ORDERING CUSTOMER" MEANS A CUSTOMER OR ANOTHER PERSON ORDERING SERVICES THAT WILL APPEAR ON THE CUSTOMER'S TELEPHONE BILL.

(6) "RESELLER" MEANS A PERSON THAT PROVIDES WIRELINE TELEPHONE VOICE SERVICE BY USING THE TRANSMISSION FACILITIES OF ANOTHER PERSON.

(7) "TELEPHONE COMPANY" MEANS A PERSON THAT PROVIDES WIRELINE TELEPHONE VOICE SERVICES.

~~(E)~~ (8) "THIRD–PARTY VENDOR" MEANS AN ENTITY ~~SEPARATE FROM~~ NOT AFFILIATED WITH A TELEPHONE COMPANY OR RESELLER THAT:

~~(1)~~ (I) ~~PROVIDES~~ PROVIDES PRODUCTS OR SERVICES TO A CUSTOMER; AND

~~(2)~~ (II) ~~SEEKS~~ SEEKS TO CHARGE THE CUSTOMER THROUGH THIRD–PARTY VENDOR BILLING.

~~(F)~~ (9) (I) "THIRD–PARTY VENDOR BILLING" MEANS THE USE OF A TELEPHONE ~~COMPANY~~ COMPANY'S OR RESELLER'S BILLING SYSTEM, EITHER DIRECTLY OR THROUGH A BILLING AGENT, TO CHARGE A CUSTOMER FOR PRODUCTS OR SERVICES PROVIDED BY A THIRD–PARTY VENDOR.

(II) "THIRD–PARTY VENDOR BILLING" DOES NOT INCLUDE BILLING FOR:

1. PRODUCTS OR SERVICES OFFERED BY, OR BUNDLED WITH THE PRODUCTS OR SERVICES OF, A TELEPHONE COMPANY, A RESELLER, OR AN AFFILIATE OF A TELEPHONE COMPANY OR RESELLER;

2. LONG DISTANCE SERVICES THAT A CUSTOMER INITIATES BY DIALING 1+, 0+, 0–, OR 1010XXX; OR

3. COMMERCIAL MOBILE RADIO SERVICES.

~~8–702.~~

~~(A) A TELEPHONE COMPANY OR RESELLER MAY NOT ALLOW THIRD–PARTY VENDOR BILLING WITHOUT A CUSTOMER'S EXPRESS AUTHORIZATION.~~

(B) UNLESS THE THIRD–PARTY VENDOR OR BILLING AGENT FIRST OBTAINS AN ORDERING CUSTOMER'S EXPRESS AUTHORIZATION, A THIRD–PARTY VENDOR OR BILLING AGENT MAY NOT SUBMIT CHARGES TO A TELEPHONE COMPANY OR RESELLER.

~~(B)~~ (C) THE EXPRESS AUTHORIZATION REQUIRED UNDER SUBSECTION ~~(A)~~ (B) OF THIS SECTION SHALL:

(1) ~~BE~~ BE SEPARATE FROM ANY SOLICITATION MATERIAL OR ENTRY FORMS FOR SWEEPSTAKES OR CONTESTS; AND

(2) ~~INCLUDE~~ INCLUDE:

(I) ~~THE~~ THE NAME AND TELEPHONE NUMBER OF THE ORDERING CUSTOMER;

(II) ~~THE~~ THE DATE OF AUTHORIZATION;

(III) ~~AN~~ AN EXPLANATION OF:

1. ~~THE~~ THE PRODUCT OR SERVICE OFFERED; AND

2. ~~ALL~~ ALL APPLICABLE CHARGES; AND

(IV) ~~AN~~ AN AFFIRMATION BY THE ORDERING CUSTOMER THAT:

1. ~~THE~~ THE ORDERING CUSTOMER IS AT LEAST 18 YEARS OF AGE AND ~~QUALIFIED TO AUTHORIZE THIRD–PARTY VENDOR BILLING~~ AUTHORIZED TO ORDER SERVICES THAT WILL APPEAR ON THE CUSTOMER'S TELEPHONE BILL; AND

2. THIRD–PARTY VENDOR BILLING CHARGES MAY BE BILLED USING THE CUSTOMER'S TELEPHONE BILL.

~~(C)~~ (D) ~~A TELEPHONE COMPANY OR RESELLER~~ A THIRD–PARTY VENDOR OR BILLING AGENT SHALL RETAIN A COPY OF THE EXPRESS AUTHORIZATION REQUIRED UNDER SUBSECTION ~~(A)~~ (B) OF THIS SECTION FOR 2 YEARS AFTER THE DATE OF AUTHORIZATION.

~~8–703.~~

~~A TELEPHONE COMPANY OR RESELLER THAT ALLOWS THIRD–PARTY VENDOR BILLING SHALL PROVIDE THE CUSTOMER WITH THE OPTION TO BLOCK THIRD–PARTY VENDOR BILLING AT NO CHARGE.~~

~~8–704.~~

~~(A) A TELEPHONE COMPANY OR RESELLER THAT ALLOWS THIRD–PARTY VENDOR BILLING SHALL PROVIDE QUARTERLY NOTICE ON OR WITH A CUSTOMER'S BILL:~~

~~(1) THAT THE TELEPHONE COMPANY OR RESELLER ALLOWS THIRD–PARTY VENDOR BILLING; AND~~

~~(2) THAT THE CUSTOMER MAY BLOCK THIRD–PARTY VENDOR BILLING AT NO CHARGE.~~

~~(B) (1) IN ADDITION TO THE NOTICE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, ON EACH BILL FOR WHICH THIRD–PARTY VENDOR CHARGES APPEAR, A TELEPHONE COMPANY OR RESELLER SHALL GIVE A CUSTOMER CONSPICUOUS NOTICE OF THE CHARGES IN A PORTION OF THE CUSTOMER'S BILL THAT IS IDENTIFIED AS UNRELATED TO LOCAL OR LONG DISTANCE TELEPHONE CHARGES.~~

~~(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:~~

~~(I) A CLEAR DESCRIPTION OF EACH THIRD–PARTY VENDOR PRODUCT OR SERVICE FOR WHICH THE CUSTOMER IS CHARGED;~~

~~(II) THE CHARGE FOR EACH THIRD–PARTY VENDOR PRODUCT OR SERVICE, INCLUDING TAXES;~~

~~(III) THE TELEPHONE NUMBER THE CUSTOMER DIALED, IF ANY, TO OBTAIN THE THIRD–PARTY VENDOR PRODUCT OR SERVICE WHICH RESULTED IN A CHARGE APPEARING ON THE CUSTOMER'S BILL;~~

~~(IV)~~ (E) ~~THE~~ A CUSTOMER IS NOT LIABLE FOR THIRD–PARTY VENDOR BILLING CHARGES UNLESS:

(1) THE CUSTOMER HAS BEEN GIVEN NOTICE THAT THE TELEPHONE COMPANY OR RESELLER MAY ALLOW THIRD–PARTY VENDOR

BILLING AND THAT FREE BLOCKING OF CERTAIN THIRD–PARTY VENDOR BILLING MAY BE AVAILABLE TO THE CUSTOMER; AND

(2) THE CUSTOMER IS PROVIDED ACCESS TO:

(I) AN ITEMIZATION OF THE THIRD–PARTY VENDOR BILLING CHARGES IDENTIFYING THEM SEPARATELY FROM OTHER CHARGES; AND

(II) THE NAME AND TELEPHONE NUMBER OF THE THIRD–PARTY VENDOR~~; AND~~ OR ITS BILLING AGENT.

~~(V) INFORMATION ABOUT HOW TO RESOLVE ANY DISPUTE ABOUT A CHARGE FROM THE THIRD–PARTY VENDOR, INCLUDING:~~

~~1. THE NAME AND TELEPHONE NUMBER OF ANY BILLING AGGREGATOR OR CLEARINGHOUSE WITH THE AUTHORITY TO RESOLVE A DISPUTE; AND~~

~~2. A LOCAL OR TOLL–FREE TELEPHONE NUMBER FOR INQUIRIES AND COMPLAINTS TO THE TELEPHONE COMPANY OR RESELLER.~~

~~8–705.~~

~~A TELEPHONE COMPANY OR RESELLER MAY NOT DISCONNECT A CUSTOMER'S TELEPHONE SERVICE OR IMPOSE ADDITIONAL FEES OR INTEREST CHARGES FOR NONPAYMENT OF CHARGES FROM A THIRD–PARTY VENDOR.~~

~~8–706.~~

~~TO IMPLEMENT THIS SUBTITLE THE COMMISSION MAY ADOPT REGULATIONS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE THAT ARE CONSISTENT WITH FEDERAL LAW.~~

~~8–707.~~

~~A TELEPHONE COMPANY OR RESELLER THAT IS SUBJECT TO THIS SUBTITLE IS LIABLE TO A CUSTOMER FOR ALL UNAUTHORIZED THIRD–PARTY VENDOR BILLING CHARGES.~~

~~8–708.~~

~~(A) IN ADDITION TO ANY OTHER AVAILABLE PENALTY, THE COMMISSION MAY ASSESS DIRECTLY, AFTER AN OPPORTUNITY FOR HEARING,~~

~~AN ADMINISTRATIVE PENALTY ON A TELEPHONE COMPANY OR RESELLER THAT VIOLATES:~~

~~(1) THIS SUBTITLE;~~

~~(2) A REGULATION ADOPTED UNDER THIS SUBTITLE; OR~~

~~(3) A FEDERAL LAW OR REGULATION ON UNAUTHORIZED THIRD–PARTY VENDOR BILLING.~~

~~(B) THE ADMINISTRATIVE PENALTY ASSESSED UNDER THIS SECTION MAY NOT EXCEED $1,000 FOR EACH VIOLATION ASSOCIATED WITH A SPECIFIC TELEPHONE ACCESS LINE IN THE STATE.~~

~~(C) AN ADMINISTRATIVE PENALTY COLLECTED UNDER THIS SECTION SHALL BE PAID INTO THE GENERAL FUND OF THE STATE.~~

(F) UNLESS THE THIRD–PARTY VENDOR OR BILLING AGENT PROVIDES A COPY OF THE AUTHORIZATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION TO THE CUSTOMER AND TO THE TELEPHONE COMPANY OR RESELLER, A CUSTOMER IS NOT LIABLE FOR THIRD–PARTY VENDOR BILLING CHARGES IF THE CUSTOMER, IN GOOD FAITH AND IN A REASONABLY TIMELY MANNER, BUT NOT OUTSIDE THE TIME PERIOD SPECIFIED IN SUBSECTION (D) OF THIS SECTION, DISPUTES THAT THE CHARGES WERE AUTHORIZED.

(G) AN AGREEMENT FOR THIRD–PARTY VENDOR BILLING ENTERED INTO BY A TELEPHONE COMPANY OR RESELLER AND A THIRD–PARTY VENDOR OR BILLING AGENT ON OR AFTER OCTOBER 1, 2010, IS VOID AND UNENFORCEABLE TO THE EXTENT THAT IT DOES NOT REQUIRE THE THIRD–PARTY VENDOR TO COMPLY WITH SUBSECTION (B) OF THIS SECTION.

(H) A VIOLATION OF THIS SECTION BY A THIRD–PARTY VENDOR OR BILLING AGENT:

(1) IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE UNDER TITLE 13 OF THIS ARTICLE; AND

(2) EXCEPT FOR THE PROVISIONS OF § 13–411 OF THIS ARTICLE, IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 90

(House Bill 880)

AN ACT concerning

Telephone ~~Companies and Resellers~~ Bills – Third–Party Vendor Billing

FOR the purpose of prohibiting a ~~telephone company or reseller from engaging in certain third–party vendor billing~~ third–party vendor or billing agent from submitting charges to a certain telephone company or reseller for third–party vendor billing without certain express authorization from ~~a~~ an ordering customer; requiring the authorization to be separate from certain other documents and to include certain information; requiring a ~~telephone company or reseller~~ third–party vendor or billing agent to retain a certain copy of the express authorization for a certain period of time; ~~requiring a telephone company or reseller to offer customers a certain blocking option under certain circumstances at no charge; requiring a telephone company or reseller to provide customers with certain notice concerning third–party vendor billing; prohibiting disconnection of a customer's telephone service or imposition of certain additional fees or interest charges for nonpayment of certain charges; authorizing the Public Service Commission to adopt certain regulations; providing that a telephone company or reseller subject to this Act is liable to a customer for certain charges; authorizing the Commission to assess a certain administrative penalty on a telephone company or reseller under certain circumstances;~~ providing that a certain customer is not liable for third–party vendor billing charges unless certain notice has been given to the customer and the customer is provided access to certain information; providing that unless a third–party vendor or billing agent provides a copy of a certain authorization to a certain customer and a certain telephone company or reseller, the customer is not liable for third–party vendor billing charges to the customer, if the customer, in good faith and in a reasonably timely manner, disputes that the charges were authorized; providing that a certain agreement for third–party vendor billing is void and unenforceable under certain circumstances; providing that a certain violation is an unfair or deceptive trade practice under the Maryland Consumer Protection Act and is subject to certain enforcement and penalty provisions; defining certain terms; and generally relating to third–party vendor billing.

~~BY adding to~~

~~Article – Public Utility Companies~~

~~Section 8–701 through 8–708 to be under the new subtitle "Subtitle 7. Third–Party Vendor Billing"~~

~~Annotated Code of Maryland~~
~~(2008 Replacement Volume and 2009 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 13–301(14)(xxiii)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY adding to
Article – Commercial Law
Section 14–1322
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

~~**Article – Public Utility Companies**~~

~~**SUBTITLE 7. THIRD–PARTY VENDOR BILLING.**~~

~~**8–701.**~~

Article – Commercial Law

13–301.

Unfair or deceptive trade practices include any:

(14) Violation of a provision of:

(xxiii) Section **[**14–1319 or**] 14–1319,** § 14–1320**, OR § 14–1322** of this article;

14–1322.

(A) (1) IN THIS ~~SUBTITLE~~ SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "BILLING AGENT" MEANS A PERSON THAT SUBMITS CHARGES FOR PRODUCTS OR SERVICES TO A TELEPHONE COMPANY OR RESELLER ON BEHALF OF THE PERSON SUBMITTING THE CHARGES OR ON BEHALF OF A THIRD–PARTY VENDOR.

~~(B)~~ (3) "CUSTOMER" MEANS A CUSTOMER OF A TELEPHONE COMPANY OR RESELLER.

~~(C)~~ (4) "EXPRESS AUTHORIZATION" MEANS AN EXPRESS, AFFIRMATIVE ACT BY ~~A~~ AN ORDERING CUSTOMER IN THE FORM OF:

~~(1)~~ (I) ~~A~~ A WRITTEN AUTHORIZATION;

~~(2)~~ (II) ~~AN~~ AN ORAL AUTHORIZATION VERIFIED AND RECORDED BY AN INDEPENDENT PARTY; OR

~~(3)~~ (III) ~~A~~ A RECORDED ELECTRONIC AUTHORIZATION.

~~(D) "RESELLER" HAS THE MEANING STATED IN § 8–401 OF THIS TITLE.~~

(5) "ORDERING CUSTOMER" MEANS A CUSTOMER OR ANOTHER PERSON ORDERING SERVICES THAT WILL APPEAR ON THE CUSTOMER'S TELEPHONE BILL.

(6) "RESELLER" MEANS A PERSON THAT PROVIDES WIRELINE TELEPHONE VOICE SERVICE BY USING THE TRANSMISSION FACILITIES OF ANOTHER PERSON.

(7) "TELEPHONE COMPANY" MEANS A PERSON THAT PROVIDES WIRELINE TELEPHONE VOICE SERVICES.

~~(E)~~ (8) "THIRD–PARTY VENDOR" MEANS AN ENTITY ~~SEPARATE FROM~~ NOT AFFILIATED WITH A TELEPHONE COMPANY OR RESELLER THAT:

~~(1)~~ (I) ~~PROVIDES~~ PROVIDES PRODUCTS OR SERVICES TO A CUSTOMER; AND

~~(2)~~ (II) ~~SEEKS~~ SEEKS TO CHARGE THE CUSTOMER THROUGH THIRD–PARTY VENDOR BILLING.

~~(F)~~ (9) (I) "THIRD–PARTY VENDOR BILLING" MEANS THE USE OF A TELEPHONE ~~COMPANY~~ COMPANY'S OR RESELLER'S BILLING SYSTEM, EITHER DIRECTLY OR THROUGH A BILLING AGENT, TO CHARGE A CUSTOMER FOR PRODUCTS OR SERVICES PROVIDED BY A THIRD–PARTY VENDOR.

(II) "THIRD–PARTY VENDOR BILLING" DOES NOT INCLUDE BILLING FOR:

1. PRODUCTS OR SERVICES OFFERED BY, OR BUNDLED WITH THE PRODUCTS OR SERVICES OF, A TELEPHONE COMPANY, A RESELLER, OR AN AFFILIATE OF A TELEPHONE COMPANY OR RESELLER;

2. LONG DISTANCE SERVICES THAT A CUSTOMER INITIATES BY DIALING 1+, 0+, 0–, OR 1010XXX; OR

3. COMMERCIAL MOBILE RADIO SERVICES.

~~8–702.~~

~~(A) A TELEPHONE COMPANY OR RESELLER MAY NOT ALLOW THIRD–PARTY VENDOR BILLING WITHOUT A CUSTOMER'S EXPRESS AUTHORIZATION.~~

(B) UNLESS THE THIRD–PARTY VENDOR OR BILLING AGENT FIRST OBTAINS AN ORDERING CUSTOMER'S EXPRESS AUTHORIZATION, A THIRD–PARTY VENDOR OR BILLING AGENT MAY NOT SUBMIT CHARGES TO A TELEPHONE COMPANY OR RESELLER.

~~(B)~~ (C) THE EXPRESS AUTHORIZATION REQUIRED UNDER SUBSECTION ~~(A)~~ (B) OF THIS SECTION SHALL:

(1) ~~BE~~ BE SEPARATE FROM ANY SOLICITATION MATERIAL OR ENTRY FORMS FOR SWEEPSTAKES OR CONTESTS; AND

(2) ~~INCLUDE~~ INCLUDE:

(I) ~~THE~~ THE NAME AND TELEPHONE NUMBER OF THE ORDERING CUSTOMER;

(II) ~~THE~~ THE DATE OF AUTHORIZATION;

(III) ~~AN~~ AN EXPLANATION OF:

1. ~~THE~~ THE PRODUCT OR SERVICE OFFERED; AND

2. ~~ALL~~ ALL APPLICABLE CHARGES; AND

(IV) ~~AN~~ AN AFFIRMATION BY THE ORDERING CUSTOMER THAT:

1. ~~THE~~ THE ORDERING CUSTOMER IS AT LEAST 18 YEARS OF AGE AND ~~QUALIFIED TO AUTHORIZE THIRD–PARTY VENDOR BILLING~~

AUTHORIZED TO ORDER SERVICES THAT WILL APPEAR ON THE CUSTOMER'S TELEPHONE BILL; AND

2. THIRD–PARTY VENDOR BILLING CHARGES MAY BE BILLED USING THE CUSTOMER'S TELEPHONE BILL.

~~(C)~~ (D) ~~A TELEPHONE COMPANY OR RESELLER~~ A THIRD–PARTY VENDOR OR BILLING AGENT SHALL RETAIN A COPY OF THE EXPRESS AUTHORIZATION REQUIRED UNDER SUBSECTION ~~(A)~~ (B) OF THIS SECTION FOR 2 YEARS AFTER THE DATE OF AUTHORIZATION.

~~8–703.~~

~~A TELEPHONE COMPANY OR RESELLER THAT ALLOWS THIRD–PARTY VENDOR BILLING SHALL PROVIDE THE CUSTOMER WITH THE OPTION TO BLOCK THIRD–PARTY VENDOR BILLING AT NO CHARGE.~~

~~8–704.~~

~~(A) A TELEPHONE COMPANY OR RESELLER THAT ALLOWS THIRD–PARTY VENDOR BILLING SHALL PROVIDE QUARTERLY NOTICE ON OR WITH A CUSTOMER'S BILL:~~

~~(1) THAT THE TELEPHONE COMPANY OR RESELLER ALLOWS THIRD–PARTY VENDOR BILLING; AND~~

~~(2) THAT THE CUSTOMER MAY BLOCK THIRD–PARTY VENDOR BILLING AT NO CHARGE.~~

~~(B) (1) IN ADDITION TO THE NOTICE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, ON EACH BILL FOR WHICH THIRD–PARTY VENDOR CHARGES APPEAR, A TELEPHONE COMPANY OR RESELLER SHALL GIVE A CUSTOMER CONSPICUOUS NOTICE OF THE CHARGES IN A PORTION OF THE CUSTOMER'S BILL THAT IS IDENTIFIED AS UNRELATED TO LOCAL OR LONG DISTANCE TELEPHONE CHARGES.~~

~~(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:~~

~~(I) A CLEAR DESCRIPTION OF EACH THIRD–PARTY VENDOR PRODUCT OR SERVICE FOR WHICH THE CUSTOMER IS CHARGED;~~

~~(II) THE CHARGE FOR EACH THIRD–PARTY VENDOR PRODUCT OR SERVICE, INCLUDING TAXES;~~

~~(III) THE TELEPHONE NUMBER THE CUSTOMER DIALED, IF ANY, TO OBTAIN THE THIRD–PARTY VENDOR PRODUCT OR SERVICE WHICH RESULTED IN A CHARGE APPEARING ON THE CUSTOMER'S BILL;~~

~~(IV)~~ (E) ~~THE~~ A CUSTOMER IS NOT LIABLE FOR THIRD–PARTY VENDOR BILLING CHARGES UNLESS:

(1) THE CUSTOMER HAS BEEN GIVEN NOTICE THAT THE TELEPHONE COMPANY OR RESELLER MAY ALLOW THIRD–PARTY VENDOR BILLING AND THAT FREE BLOCKING OF CERTAIN THIRD–PARTY VENDOR BILLING MAY BE AVAILABLE TO THE CUSTOMER; AND

(2) THE CUSTOMER IS PROVIDED ACCESS TO:

(I) AN ITEMIZATION OF THE THIRD–PARTY VENDOR BILLING CHARGES IDENTIFYING THEM SEPARATELY FROM OTHER CHARGES; AND

(II) THE NAME AND TELEPHONE NUMBER OF THE THIRD–PARTY VENDOR~~; AND~~ OR ITS BILLING AGENT.

~~(V) INFORMATION ABOUT HOW TO RESOLVE ANY DISPUTE ABOUT A CHARGE FROM THE THIRD–PARTY VENDOR, INCLUDING:~~

~~1. THE NAME AND TELEPHONE NUMBER OF ANY BILLING AGGREGATOR OR CLEARINGHOUSE WITH THE AUTHORITY TO RESOLVE A DISPUTE; AND~~

~~2. A LOCAL OR TOLL–FREE TELEPHONE NUMBER FOR INQUIRIES AND COMPLAINTS TO THE TELEPHONE COMPANY OR RESELLER.~~

~~8–705.~~

~~A TELEPHONE COMPANY OR RESELLER MAY NOT DISCONNECT A CUSTOMER'S TELEPHONE SERVICE OR IMPOSE ADDITIONAL FEES OR INTEREST CHARGES FOR NONPAYMENT OF CHARGES FROM A THIRD–PARTY VENDOR.~~

~~8–706.~~

~~TO IMPLEMENT THIS SUBTITLE THE COMMISSION MAY ADOPT REGULATIONS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE THAT ARE CONSISTENT WITH FEDERAL LAW.~~

~~8–707.~~

~~A TELEPHONE COMPANY OR RESELLER THAT IS SUBJECT TO THIS SUBTITLE IS LIABLE TO A CUSTOMER FOR ALL UNAUTHORIZED THIRD–PARTY VENDOR BILLING CHARGES.~~

~~8–708.~~

~~(A) IN ADDITION TO ANY OTHER AVAILABLE PENALTY, THE COMMISSION MAY ASSESS DIRECTLY, AFTER AN OPPORTUNITY FOR HEARING, AN ADMINISTRATIVE PENALTY ON A TELEPHONE COMPANY OR RESELLER THAT VIOLATES:~~

~~(1) THIS SUBTITLE;~~

~~(2) A REGULATION ADOPTED UNDER THIS SUBTITLE; OR~~

~~(3) A FEDERAL LAW OR REGULATION ON UNAUTHORIZED THIRD–PARTY VENDOR BILLING.~~

~~(B) THE ADMINISTRATIVE PENALTY ASSESSED UNDER THIS SECTION MAY NOT EXCEED $1,000 FOR EACH VIOLATION ASSOCIATED WITH A SPECIFIC TELEPHONE ACCESS LINE IN THE STATE.~~

~~(C) AN ADMINISTRATIVE PENALTY COLLECTED UNDER THIS SECTION SHALL BE PAID INTO THE GENERAL FUND OF THE STATE.~~

(F) UNLESS THE THIRD–PARTY VENDOR OR BILLING AGENT PROVIDES A COPY OF THE AUTHORIZATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION TO THE CUSTOMER AND TO THE TELEPHONE COMPANY OR RESELLER, A CUSTOMER IS NOT LIABLE FOR THIRD–PARTY VENDOR BILLING CHARGES IF THE CUSTOMER, IN GOOD FAITH AND IN A REASONABLY TIMELY MANNER, BUT NOT OUTSIDE THE TIME PERIOD SPECIFIED IN SUBSECTION (D) OF THIS SECTION, DISPUTES THAT THE CHARGES WERE AUTHORIZED.

(G) AN AGREEMENT FOR THIRD–PARTY VENDOR BILLING ENTERED INTO BY A TELEPHONE COMPANY OR RESELLER AND A THIRD–PARTY VENDOR OR BILLING AGENT ON OR AFTER OCTOBER 1, 2010, IS VOID AND UNENFORCEABLE TO THE EXTENT THAT IT DOES NOT REQUIRE THE THIRD–PARTY VENDOR TO COMPLY WITH SUBSECTION (B) OF THIS SECTION.

(H) A VIOLATION OF THIS SECTION BY A THIRD–PARTY VENDOR OR BILLING AGENT:

(1) IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE UNDER TITLE 13 OF THIS ARTICLE; AND

(2) EXCEPT FOR THE PROVISIONS OF § 13–411 OF THIS ARTICLE, IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 91

(Senate Bill 647)

AN ACT concerning

Homeowner's, Farmowner's, and Dwelling Insurance Policies – Claims for Additional Payments

FOR the purpose of requiring each policy of homeowner's, farmowner's, or dwelling insurance issued, sold, or delivered in the State that provides certain coverage for a dwelling or personal property to contain a provision that allows an insured to file a claim for certain additional payments for ~~at least~~ not less than a certain period of time; authorizing a certain insurer to require a certain insured to notify the insurer of the intent to repair or replace certain property within a certain period of time; providing for the application of this Act; providing for a delayed effective date; and generally relating to policies of homeowner's, farmowner's, and dwelling insurance.

BY adding to
Article – Insurance
Section 19–213
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Insurance

19–213.

(A) EACH POLICY OF HOMEOWNER'S, FARMOWNER'S, OR DWELLING INSURANCE ISSUED, SOLD, OR DELIVERED IN THE STATE THAT PROVIDES PROPERTY COVERAGE FOR A DWELLING OR PERSONAL PROPERTY ON A REPLACEMENT COST BASIS SHALL CONTAIN A PROVISION THAT ALLOWS AN INSURED TO FILE A CLAIM FOR ~~ADDITIONAL PAYMENTS, ON A REPLACEMENT COST BASIS, FOR THE REPAIR OR REPLACEMENT OF THE DWELLING OR PERSONAL PROPERTY~~ THE DIFFERENCE BETWEEN THE ACTUAL CASH VALUE AND THE REPLACEMENT COST FOR THE COMPLETED REPAIRS OR REPLACEMENT FOR ~~AT LEAST~~ NOT LESS THAN 2 YEARS AFTER ~~PAYMENT OF ACTUAL CASH VALUE~~ THE DATE OF LOSS.

(B) AN INSURER MAY REQUIRE AN INSURED SEEKING ADDITIONAL PAYMENTS ON A REPLACEMENT COST BASIS TO NOTIFY THE INSURER, WITHIN 180 DAYS AFTER THE DATE OF LOSS, OF THE INSURED'S INTENT TO REPAIR OR REPLACE THE DWELLING OR PERSONAL PROPERTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all homeowner's, farmowner's, and dwelling insurance policies issued, sold, delivered, or renewed in the State on or after ~~October 1, 2010~~ January 1, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2010~~ January 1, 2011.

Approved by the Governor, April 13, 2010.

Chapter 92

(House Bill 854)

AN ACT concerning

Homeowner's, Farmowner's, and Dwelling Insurance Policies – Claims for Additional Payments

FOR the purpose of requiring each policy of homeowner's, farmowner's, or dwelling insurance issued, sold, or delivered in the State that provides certain coverage for a dwelling or personal property to contain a provision that allows an insured to file a claim for certain additional payments for ~~at least~~ not less than a certain period of time; authorizing a certain insurer to require a certain insured to notify the insurer of the intent to repair or replace certain property within a certain period of time; providing for the application of this Act; providing for a delayed effective date; and generally relating to policies of homeowner's, farmowner's, and dwelling insurance.

BY adding to
Article – Insurance
Section 19–213
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Insurance

19–213.

(A) EACH POLICY OF HOMEOWNER'S, FARMOWNER'S, OR DWELLING INSURANCE ISSUED, SOLD, OR DELIVERED IN THE STATE THAT PROVIDES PROPERTY COVERAGE FOR A DWELLING OR PERSONAL PROPERTY ON A REPLACEMENT COST BASIS SHALL CONTAIN A PROVISION THAT ALLOWS AN INSURED TO FILE A CLAIM FOR ~~ADDITIONAL PAYMENTS, ON A REPLACEMENT COST BASIS, FOR THE REPAIR OR REPLACEMENT OF THE DWELLING OR PERSONAL PROPERTY~~ THE DIFFERENCE BETWEEN THE ACTUAL CASH VALUE AND THE REPLACEMENT COST FOR THE COMPLETED REPAIRS OR REPLACEMENT FOR ~~AT LEAST~~ NOT LESS THAN 2 YEARS AFTER ~~PAYMENT OF ACTUAL CASH VALUE~~ THE DATE OF LOSS.

(B) AN INSURER MAY REQUIRE AN INSURED SEEKING ADDITIONAL PAYMENTS ON A REPLACEMENT COST BASIS TO NOTIFY THE INSURER, WITHIN 180 DAYS AFTER THE DATE OF LOSS, OF THE INSURED'S INTENT TO REPAIR OR REPLACE THE DWELLING OR PERSONAL PROPERTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all homeowner's, farmowner's, and dwelling insurance policies issued, sold, delivered, or renewed in the State on or after ~~June 1, 2010~~ January 1, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~June 1, 2010~~ January 1, 2011.

Approved by the Governor, April 13, 2010.

Chapter 93

(Senate Bill 655)

AN ACT concerning

Task Force to Study Financial Matters Relating to Long–Term Care Facilities – Extension

FOR the purpose of extending the termination date of the Task Force to Study Financial Matters Relating to Long–Term Care Facilities; altering certain dates by which certain reports are required to be submitted; and generally relating to the Task Force to Study Financial Matters Relating to Long–Term Care Facilities.

BY repealing and reenacting, with amendments,
Chapter 672 of the Acts of the General Assembly of 2008
Section 1 and 2

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

Chapter 672 of the Acts of 2008

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force to Study Financial Matters Relating to Long–Term Care Facilities.

(b) The Task Force consists of the following members:

(1) One member of the Senate of Maryland, appointed by the President of the Senate;

(2) One member of the House of Delegates, appointed by the Speaker of the House;

(3) The Attorney General, or the Attorney General's designee;

(4) The Secretary of Aging, or the Secretary's designee;

(5) The Secretary of Health and Mental Hygiene, or the Secretary's designee;

(6) The Secretary of Disabilities, or the Secretary's designee;

(7) The Executive Director of the Maryland Health Care Commission, or the Executive Director's designee; and

(8) The following members, appointed by the Governor:

(i) A practicing Maryland attorney who has expertise in health care and has represented nursing homes in Maryland;

(ii) One representative of each of the following providers:

1. Continuing care retirement community;

2. Independently owned nursing facility;

3. Nonprofit nursing facility;

4. Direct care nursing home workers; and

5. Entity that owns three or more nursing facilities; and

(iii) One representative of each of the following organizations:

1. Health Facilities Association of Maryland;

2. Mid–Atlantic Lifespan;

3. AARP;

4. Alzheimer's Association;

5. United Seniors of Maryland;

6. A financial institution that specializes in health care financing; and

7. Voices for Quality Care.

(c) The Senate member and the House of Delegates member shall serve as cochairs.

(d) The Department of Legislative Services shall provide staff for the Task Force.

(e) A member of the Task Force may not receive compensation for serving as a member of the Task Force but is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall study financial matters relating to long–term care facilities, including:

(1) Whether there are trends in ownership of long–term care facilities in Maryland in comparison to any national trends regarding long–term care facility ownership;

(2) Whether any trends in long–term care facility ownership impact the quality of care offered to residents of long–term care facilities;

(3) Whether the Department of Health and Mental Hygiene should assert limitations or restrictions on certain types of ownership of long–term care facilities;

(4) Whether current laws governing ownership of long–term care facilities should be amended;

(5) Whether long–term care facilities should be required to have liability insurance; and

(6) Funding mechanisms for implementing recommendations of the Task Force that would require a State agency or division to acquire specific resources or expertise to address issues raised by the Task Force.

(g) (1) On or before July 1, **[**2009**] 2011**, the Task Force shall submit an interim report of its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

(2) On or before June 1, **[**2010**] 2012**, the Task Force shall submit a final report of its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. It shall remain effective for a period of **[**2**] 4** years and, at the end of June 30, **[**2010**] 2012**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 94

(House Bill 384)

AN ACT concerning

Task Force to Study Financial Matters Relating to Long–Term Care Facilities – Extension

FOR the purpose of extending the termination date of the Task Force to Study Financial Matters Relating to Long–Term Care Facilities; altering certain dates by which certain reports are required to be submitted; and generally relating to the Task Force to Study Financial Matters Relating to Long–Term Care Facilities.

BY repealing and reenacting, with amendments,
Chapter 672 of the Acts of the General Assembly of 2008
Section 1 and 2

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

Chapter 672 of the Acts of 2008

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force to Study Financial Matters Relating to Long–Term Care Facilities.

(b) The Task Force consists of the following members:

(1) One member of the Senate of Maryland, appointed by the President of the Senate;

(2) One member of the House of Delegates, appointed by the Speaker of the House;

(3) The Attorney General, or the Attorney General's designee;

(4) The Secretary of Aging, or the Secretary's designee;

(5) The Secretary of Health and Mental Hygiene, or the Secretary's designee;

(6) The Secretary of Disabilities, or the Secretary's designee;

(7) The Executive Director of the Maryland Health Care Commission, or the Executive Director's designee; and

(8) The following members, appointed by the Governor:

(i) A practicing Maryland attorney who has expertise in health care and has represented nursing homes in Maryland;

(ii) One representative of each of the following providers:

1. Continuing care retirement community;

2. Independently owned nursing facility;

3. Nonprofit nursing facility;

4. Direct care nursing home workers; and

5. Entity that owns three or more nursing facilities; and

(iii) One representative of each of the following organizations:

1. Health Facilities Association of Maryland;

2. Mid–Atlantic Lifespan;

3. AARP;

4. Alzheimer's Association;

5. United Seniors of Maryland;

6. A financial institution that specializes in health care financing; and

7. Voices for Quality Care.

(c) The Senate member and the House of Delegates member shall serve as cochairs.

(d) The Department of Legislative Services shall provide staff for the Task Force.

(e) A member of the Task Force may not receive compensation for serving as a member of the Task Force but is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall study financial matters relating to long–term care facilities, including:

(1) Whether there are trends in ownership of long–term care facilities in Maryland in comparison to any national trends regarding long–term care facility ownership;

(2) Whether any trends in long–term care facility ownership impact the quality of care offered to residents of long–term care facilities;

(3) Whether the Department of Health and Mental Hygiene should assert limitations or restrictions on certain types of ownership of long–term care facilities;

(4) Whether current laws governing ownership of long–term care facilities should be amended;

(5) Whether long–term care facilities should be required to have liability insurance; and

(6) Funding mechanisms for implementing recommendations of the Task Force that would require a State agency or division to acquire specific resources or expertise to address issues raised by the Task Force.

(g) (1) On or before July 1, **[**2009**] 2011**, the Task Force shall submit an interim report of its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

(2) On or before June 1, **[**2010**] 2012**, the Task Force shall submit a final report of its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. It shall remain effective for a period of **[**2**] 4** years and, at the end of June 30, **[**2010**] 2012**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 95

(Senate Bill 688)

AN ACT concerning

Maryland General Corporation Law – Miscellaneous Provisions

FOR the purpose of altering the manner in which certain charter documents of certain business entities must be executed by authorizing certain officers, agents, and persons acting in a certain capacity to sign, acknowledge, witness, and attest the documents and to verify certain matters and facts; clarifying that a corporation may provide by its charter that holders of one or more classes or series of stock have certain voting rights under certain circumstances; clarifying that certain authority of a corporation to provide by its charter for classes of stock and certain rights, restrictions, and preferences of classes of stock applies to series of stock; altering the circumstances under which the board of directors of a corporation may effect a certain reverse stock split; expanding the authority of the board of directors of a corporation to delegate to certain committees powers of the board relating to the authorization of dividends on stock and other distributions; repealing certain unnecessary provisions of law relating to the time at which a stockholder of a corporation or a shareholder of a real estate investment trust who proposes a certain nominee or matter for consideration at a meeting of the stockholders or shareholders may be required to provide certain notice; altering the circumstances under which certain notice given by a corporation by a single notice to all stockholders who share an address is effective; providing that, prior to being convened, a meeting of stockholders may be postponed from time to time to a certain date; altering the contents of a certain notice of a proposed charter amendment that a corporation must give to certain stockholders; exempting corporations that have a class of securities registered under a certain federal law from the application of certain provisions of law relating to the dissolution of a corporation; clarifying that certain restrictions on voting rights apply to the holders of certain shares and not to the shares; making conforming and stylistic changes; and generally relating to corporations and other business entities.

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 1–301(a), 2–105(a), 2–309(d) and (e), 2–411(a), 2–504(f), 2–504.1, 2–511(d), 2–604, 3–413, and 3–702(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Corporations and Associations
Section 8–601.1
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Corporations and Associations

1–301.

(a) Articles supplementary and articles of amendment, restatement, **[**restatement and**]** amendment **AND RESTATEMENT**, consolidation, merger, share exchange, transfer, and extension and, except as provided in § 3–406(b) of this article, articles of dissolution shall be executed as follows:

(1) They shall be signed and acknowledged for each corporation, business trust, or real estate investment trust party to the articles, by its chairman or vice chairman of the board of directors or board of trustees, **BY** its chief executive officer, chief operating officer, **CHIEF FINANCIAL OFFICER, [**president**] PRESIDENT,** or one of its vice presidents**, OR, IF AUTHORIZED BY THE BYLAWS OR RESOLUTION OF THE BOARD OF DIRECTORS OR BOARD OF TRUSTEES AND THE ARTICLES SO STATE, BY ANY OTHER OFFICER OR AGENT OF THE CORPORATION, BUSINESS TRUST, OR REAL ESTATE INVESTMENT TRUST**;

(2) They shall be witnessed or attested by the secretary**, TREASURER, CHIEF FINANCIAL OFFICER, ASSISTANT TREASURER,** or **[**an**]** assistant secretary of each corporation, business trust, or real estate investment trust party to the articles, or, if authorized by the bylaws or resolution of the board of directors or board of trustees and the articles so state, by any other officer or agent of the corporation, business trust, or real estate investment trust;

(3) They shall be signed and acknowledged for each other entity party to the articles by a majority of the entire board of trustees or other governing body **OR BY A PERSON ACTING IN A SIMILAR CAPACITY FOR THE ENTITY AS AN OFFICER DESCRIBED IN ITEM (1) OF THIS SUBSECTION**; and

(4) Except as provided in subsection (b) of this section, the matters and facts set forth in the articles with respect to authorization and approval shall be verified under oath as follows:

(i) With respect to any Maryland corporation, business trust, or real estate investment trust party to the articles, by the chairman or the secretary of the meeting at which the articles or transaction were approved, **[**or**]** by the chairman or vice chairman of the board of directors or board of trustees, **BY THE** chief executive officer, chief operating officer, **CHIEF FINANCIAL OFFICER,** president, vice president, secretary, or assistant secretary of the corporation, business trust, or real estate investment trust**, OR, IF AUTHORIZED IN ACCORDANCE WITH ITEM (1) OF THIS SUBSECTION AND THE ARTICLES SO STATE, BY ANY OTHER OFFICER OR AGENT OF THE CORPORATION, BUSINESS TRUST, OR REAL ESTATE INVESTMENT TRUST**;

(ii) With respect to any foreign corporation party to articles of consolidation, merger, or share exchange, by the chief executive officer, chief operating

officer, president, vice president, secretary, or assistant secretary of the corporation; and

(iii) With respect to any other Maryland or foreign entity party to the articles, by the chief executive officer, chief operating officer, president, vice president, secretary, assistant secretary, managing trustee, or persons acting in a similar position for the entity.

2–105.

(a) A corporation may provide by its charter:

(1) For one or more classes **OR SERIES** of stock, the voting rights of each class **OR SERIES**, and any restriction on or denial of these rights;

(2) THAT THE HOLDERS OF ONE OR MORE CLASSES OR SERIES OF STOCK HAVE EXCLUSIVE VOTING RIGHTS ON A CHARTER AMENDMENT THAT WOULD ALTER ONLY THE CONTRACT RIGHTS, AS EXPRESSLY SET FORTH IN THE CHARTER, OF THE SPECIFIED CLASS OR SERIES OF STOCK;

[(2)**](3)** As to each class **OR SERIES** of stock, either the par value of the shares or that the shares are without par value;

[(3)**](4)** (i) That the corporation shall set apart dividends for or pay dividends to the holders of a specified class **OR SERIES** of stock before any dividends are set apart for or paid to the holders of another class **OR SERIES** of stock;

(ii) The rate, amount, and time of payment of the dividends; and

(iii) Whether the dividends are cumulative, cumulative to a limited extent, or noncumulative;

[(4)**](5)** That any specified class **OR SERIES** of stock is preferred over another class **OR SERIES** as to its distributive share of the assets on voluntary or involuntary liquidation of the corporation and the amount of the preference;

[(5)**](6)** That any specified class **OR SERIES** of stock may be redeemed at the option of the corporation or of the holders of the stock and the terms and conditions of redemption, including the time and price of redemption;

[(6)**](7)** That any specified class **OR SERIES** of stock is convertible into shares of stock of one or more other classes **OR SERIES** and the terms and conditions of conversion;

[(7)**](8)** That the holders of any specified securities issued or to be issued by the corporation have any voting or other rights which, by law, are or may be conferred on stockholders;

[(8)**](9)** For any other preferences, rights, restrictions, including restrictions on transferability, and qualifications not inconsistent with law;

[(9)**](10)** That the board of directors may classify or reclassify any unissued stock from time to time by setting or changing the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends, qualifications, or terms or conditions of redemption of the stock;

[(10)**](11)** (i) For any grant to the holders of the stock of the corporation, including a specified class or series of stock, of the preemptive right to subscribe to:

1. Any or all additional issues of the stock; or

2. Any securities of the corporation convertible into additional issues of stock; or

(ii) For any definition or limitation of the preemptive rights of stockholders to acquire additional stock or securities in the corporation;

[(11)**](12)** For restrictions on transferability or ownership for any purpose, including restrictions designed to permit a corporation to qualify as:

(i) A real estate investment trust under the Internal Revenue Code or regulations adopted under the Internal Revenue Code; or

(ii) An investment company under the Investment Company Act of 1940 or regulations adopted under the Investment Company Act of 1940; and

[(12)**](13)** That the board of directors, with the approval of a majority of the entire board, and without action by the stockholders, may amend the charter to increase or decrease the aggregate number of shares of stock of the corporation or the number of shares of stock of any class **OR SERIES** that the corporation has authority to issue.

2–309.

(d) If the board of directors of a corporation has given general authorization for a distribution and provides for or establishes a method or procedure for determining the maximum amount of the distribution, the board may delegate to **[**a committee of the board or**]** an officer of the corporation the power, in accordance with the general authorization, to fix the amount and other terms of the distribution.

(e) (1) This subsection applies to a corporation:

(i) With a class of equity securities registered under the Securities Exchange Act of 1934; or

(ii) Registered as an open–end investment company under the Investment Company Act of 1940.

(2) Unless **[**the charter of a corporation provides otherwise**]** **PROHIBITED BY THE CHARTER OF A CORPORATION BY REFERENCE TO THIS SUBSECTION OR THE SUBJECT MATTER OF THIS SUBSECTION**, the board of directors of the corporation may amend the charter, with the approval of a majority of the board of directors and without stockholder action, to effect a reverse stock split that results in a combination of shares of stock at a ratio of not more than 10 shares of stock into one share of stock in any 12–month period.

(3) Within 20 days after the effective date of the reverse stock split, the corporation shall give written notice of the reverse stock split to each holder of record of the combined shares of stock as of the effective date.

2–411.

(a) The board of directors of a corporation may:

(1) Appoint from among its members an executive committee and other committees composed of one or more directors; and

(2) Delegate to these committees any of the powers of the board of directors, except the power to:

(i) **[**Authorize dividends on stock, except as provided in § 2–309(d) of this title;

(ii)**]** Issue stock other than as provided in subsection (b) of this section;

[(iii)**]** **(II)** Recommend to the stockholders any action which requires stockholder approval, other than the election of directors;

[(iv)**]** **(III)** Amend the bylaws; or

[(v)**]** **(IV)** Approve any merger or share exchange which does not require stockholder approval.

2–504.

(f) The charter or bylaws may require any stockholder proposing a nominee for election as a director or any other matter for consideration at a meeting of the stockholders to provide advance notice of the nomination or proposal to the corporation **BEFORE A DATE OR WITHIN A PERIOD OF TIME [**of not more than:

(1) 90 days before the date of the meeting; or

(2) In the case of an annual meeting, 90 days before the first anniversary of:

(i) The mailing date of the notice of the preceding year's annual meeting; or

(ii) The preceding year's annual meeting; or

(3) Another time**]** specified in the charter or bylaws.

2–504.1.

(a) Subject to § 2–504(d) of this subtitle, any notice given by a corporation to a stockholder under this article or the charter or bylaws of the corporation is effective if given by a single notice, in writing or by electronic transmission, to all stockholders who share an address **UNLESS THE CORPORATION HAS RECEIVED A REQUEST FROM A STOCKHOLDER IN WRITING OR BY ELECTRONIC TRANSMISSION THAT A SINGLE NOTICE NOT BE GIVEN [**if:

(1) The corporation gives notice, in writing or by electronic transmission, to the stockholder of its intent to give a single notice; and

(2) The stockholder:

(i) Consents to receiving a single notice; or

(ii) Fails to object in writing within 60 days after the corporation gives notice to the stockholder of its intent to give a single notice.

(b) A stockholder may revoke consent given under subsection (a) of this section, whether affirmative or implied, by written notice to the corporation**]**.

[(c)**] (B)** This section does not limit the manner in which a corporation otherwise may give notice to stockholders.

2–511.

(d) **(1)** A meeting of stockholders convened on the date for which it was called may be adjourned from time to time without further notice to a date not more than 120 days after the original record date.

(2) PRIOR TO BEING CONVENED, A MEETING OF STOCKHOLDERS MAY BE POSTPONED FROM TIME TO TIME TO A DATE NOT MORE THAN 120 DAYS AFTER THE ORIGINAL RECORD DATE.

2–604.

(a) This section does not apply to a charter amendment by the board of directors in accordance with § **[**2–105(a)(12)**] 2–105(A)(13)** or § 2–309(e) of this title.

(b) If there is any stock outstanding or subscribed for and entitled to be voted on the charter amendment, it shall be approved as provided in this section.

(c) Except as provided in § 2–112 of this title, the board of directors of a corporation proposing a charter amendment shall:

(1) Adopt a resolution which sets forth the proposed amendment and declares that it is advisable; and

(2) Direct that the proposed amendment be submitted for consideration at either an annual or a special meeting of the stockholders.

(d) (1) Notice which states that a purpose of the meeting will be to act on the proposed amendment shall be given by the corporation in the manner required by Subtitle 5 of this title to:

(i) Each stockholder entitled to vote on the proposed amendment; and

(ii) Each stockholder not entitled to vote on the proposed amendment if the contract rights of his stock, as expressly set forth in the charter, would be altered by the amendment.

(2) The notice shall **[**include**]:**

(I) INCLUDE a copy of the amendment or a summary of the changes it will effect**; OR**

(II) 1. IDENTIFY A WEBSITE AT WHICH THE AMENDMENT OR A SUMMARY OF THE CHANGES IT WILL EFFECT MAY BE ACCESSED; AND

2. INCLUDE A TELEPHONE NUMBER OR AN ADDRESS WHERE THE STOCKHOLDER MAY REQUEST A PAPER COPY OF THE AMENDMENT OR SUMMARY WITHOUT CHARGE.

(e) The proposed amendment shall be approved by the stockholders of the corporation by the affirmative vote of two thirds of all the votes entitled to be cast on the matter.

3–413.

(a) **[**Stockholders**] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, STOCKHOLDERS** entitled to cast at least 25 percent of all the votes entitled to be cast in the election of directors of a corporation may petition a court of equity to dissolve the corporation on grounds that:

(1) The directors are so divided respecting the management of the corporation's affairs that the votes required for action by the board cannot be obtained; or

(2) The stockholders are so divided that directors cannot be elected.

(b) **[**Any**] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, ANY** stockholder entitled to vote in the election of directors of a corporation may petition a court of equity to dissolve the corporation on grounds that:

(1) The stockholders are so divided that they have failed, for a period which includes at least two consecutive annual meeting dates, to elect successors to directors whose terms would have expired on the election and qualification of their successors; or

(2) The acts of the directors or those in control of the corporation are illegal, oppressive, or fraudulent.

(c) Any stockholder or creditor of a corporation other than a railroad corporation may petition a court of equity to dissolve the corporation on grounds that it is unable to meet its debts as they mature in the ordinary course of its business.

(D) SUBSECTIONS (A)(2) AND (B)(1) OF THIS SECTION DO NOT APPLY TO ANY CORPORATION THAT HAS A CLASS OF EQUITY SECURITIES REGISTERED UNDER THE FEDERAL SECURITIES EXCHANGE ACT OF 1934.

3–702.

(a) (1) **[**Control**] HOLDERS OF CONTROL** shares of the corporation acquired in a control share acquisition have no voting rights **WITH RESPECT TO THE CONTROL SHARES** except to the extent approved by the stockholders at a meeting

held under § 3–704 of this subtitle by the affirmative vote of two–thirds of all the votes entitled to be cast on the matter, excluding all interested shares.

(2) A charter provision permitted by § 2–104(b)(5) of this article may not apply to the proportion of votes required by paragraph (1) of this subsection.

8–601.1.

Sections 2–201(c), 2–313, 2–405.1(d) through (g), 2–502(e), and 2–504(f) of this article shall apply to real estate investment trusts.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 96

(House Bill 972)

AN ACT concerning

Maryland General Corporation Law – Miscellaneous Provisions

FOR the purpose of altering the manner in which certain charter documents of certain business entities must be executed by authorizing certain officers, agents, and persons acting in a certain capacity to sign, acknowledge, witness, and attest the documents and to verify certain matters and facts; clarifying that a corporation may provide by its charter that holders of one or more classes or series of stock have certain voting rights under certain circumstances; clarifying that certain authority of a corporation to provide by its charter for classes of stock and certain rights, restrictions, and preferences of classes of stock applies to series of stock; altering the circumstances under which the board of directors of a corporation may effect a certain reverse stock split; expanding the authority of the board of directors of a corporation to delegate to certain committees powers of the board relating to the authorization of dividends on stock and other distributions; repealing certain unnecessary provisions of law relating to the time at which a stockholder of a corporation or a shareholder of a real estate investment trust who proposes a certain nominee or matter for consideration at a meeting of the stockholders or shareholders may be required to provide certain notice; altering the circumstances under which certain notice given by a corporation by a single notice to all stockholders who share an address is effective; providing that, prior to being convened, a meeting of stockholders may be postponed from time to time to a certain date; altering the contents of a certain notice of a proposed charter amendment that a corporation must give to

certain stockholders; exempting corporations that have a class of securities registered under a certain federal law from the application of certain provisions of law relating to the dissolution of a corporation; clarifying that certain restrictions on voting rights apply to the holders of certain shares and not to the shares; making conforming and stylistic changes; and generally relating to corporations and other business entities.

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 1–301(a), 2–105(a), 2–309(d) and (e), 2–411(a), 2–504(f), 2–504.1, 2–511(d), 2–604, 3–413, and 3–702(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Corporations and Associations
Section 8–601.1
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Corporations and Associations

1–301.

(a) Articles supplementary and articles of amendment, restatement, **[**restatement and**]** amendment **AND RESTATEMENT**, consolidation, merger, share exchange, transfer, and extension and, except as provided in § 3–406(b) of this article, articles of dissolution shall be executed as follows:

(1) They shall be signed and acknowledged for each corporation, business trust, or real estate investment trust party to the articles, by its chairman or vice chairman of the board of directors or board of trustees, **BY** its chief executive officer, chief operating officer, **CHIEF FINANCIAL OFFICER, [**president**] PRESIDENT,** or one of its vice presidents**, OR, IF AUTHORIZED BY THE BYLAWS OR RESOLUTION OF THE BOARD OF DIRECTORS OR BOARD OF TRUSTEES AND THE ARTICLES SO STATE, BY ANY OTHER OFFICER OR AGENT OF THE CORPORATION, BUSINESS TRUST, OR REAL ESTATE INVESTMENT TRUST**;

(2) They shall be witnessed or attested by the secretary**, TREASURER, CHIEF FINANCIAL OFFICER, ASSISTANT TREASURER,** or **[**an**]** assistant secretary of each corporation, business trust, or real estate investment trust party to the articles, or, if authorized by the bylaws or resolution of the board of directors or board of

trustees and the articles so state, by any other officer or agent of the corporation, business trust, or real estate investment trust;

(3) They shall be signed and acknowledged for each other entity party to the articles by a majority of the entire board of trustees or other governing body **OR BY A PERSON ACTING IN A SIMILAR CAPACITY FOR THE ENTITY AS AN OFFICER DESCRIBED IN ITEM (1) OF THIS SUBSECTION**; and

(4) Except as provided in subsection (b) of this section, the matters and facts set forth in the articles with respect to authorization and approval shall be verified under oath as follows:

(i) With respect to any Maryland corporation, business trust, or real estate investment trust party to the articles, by the chairman or the secretary of the meeting at which the articles or transaction were approved, **[**or**]** by the chairman or vice chairman of the board of directors or board of trustees, **BY THE** chief executive officer, chief operating officer, **CHIEF FINANCIAL OFFICER,** president, vice president, secretary, or assistant secretary of the corporation, business trust, or real estate investment trust**, OR, IF AUTHORIZED IN ACCORDANCE WITH ITEM (1) OF THIS SUBSECTION AND THE ARTICLES SO STATE, BY ANY OTHER OFFICER OR AGENT OF THE CORPORATION, BUSINESS TRUST, OR REAL ESTATE INVESTMENT TRUST**;

(ii) With respect to any foreign corporation party to articles of consolidation, merger, or share exchange, by the chief executive officer, chief operating officer, president, vice president, secretary, or assistant secretary of the corporation; and

(iii) With respect to any other Maryland or foreign entity party to the articles, by the chief executive officer, chief operating officer, president, vice president, secretary, assistant secretary, managing trustee, or persons acting in a similar position for the entity.

2–105.

(a) A corporation may provide by its charter:

(1) For one or more classes **OR SERIES** of stock, the voting rights of each class **OR SERIES**, and any restriction on or denial of these rights;

(2) THAT THE HOLDERS OF ONE OR MORE CLASSES OR SERIES OF STOCK HAVE EXCLUSIVE VOTING RIGHTS ON A CHARTER AMENDMENT THAT WOULD ALTER ONLY THE CONTRACT RIGHTS, AS EXPRESSLY SET FORTH IN THE CHARTER, OF THE SPECIFIED CLASS OR SERIES OF STOCK;

[(2)**] (3)** As to each class **OR SERIES** of stock, either the par value of the shares or that the shares are without par value;

[(3)**] (4)** (i) That the corporation shall set apart dividends for or pay dividends to the holders of a specified class **OR SERIES** of stock before any dividends are set apart for or paid to the holders of another class **OR SERIES** of stock;

(ii) The rate, amount, and time of payment of the dividends; and

(iii) Whether the dividends are cumulative, cumulative to a limited extent, or noncumulative;

[(4)**] (5)** That any specified class **OR SERIES** of stock is preferred over another class **OR SERIES** as to its distributive share of the assets on voluntary or involuntary liquidation of the corporation and the amount of the preference;

[(5)**] (6)** That any specified class **OR SERIES** of stock may be redeemed at the option of the corporation or of the holders of the stock and the terms and conditions of redemption, including the time and price of redemption;

[(6)**] (7)** That any specified class **OR SERIES** of stock is convertible into shares of stock of one or more other classes **OR SERIES** and the terms and conditions of conversion;

[(7)**] (8)** That the holders of any specified securities issued or to be issued by the corporation have any voting or other rights which, by law, are or may be conferred on stockholders;

[(8)**] (9)** For any other preferences, rights, restrictions, including restrictions on transferability, and qualifications not inconsistent with law;

[(9)**] (10)** That the board of directors may classify or reclassify any unissued stock from time to time by setting or changing the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends, qualifications, or terms or conditions of redemption of the stock;

[(10)**] (11)** (i) For any grant to the holders of the stock of the corporation, including a specified class or series of stock, of the preemptive right to subscribe to:

1. Any or all additional issues of the stock; or

2. Any securities of the corporation convertible into additional issues of stock; or

(ii) For any definition or limitation of the preemptive rights of stockholders to acquire additional stock or securities in the corporation;

[(11)**] (12)** For restrictions on transferability or ownership for any purpose, including restrictions designed to permit a corporation to qualify as:

(i) A real estate investment trust under the Internal Revenue Code or regulations adopted under the Internal Revenue Code; or

(ii) An investment company under the Investment Company Act of 1940 or regulations adopted under the Investment Company Act of 1940; and

[(12)**] (13)** That the board of directors, with the approval of a majority of the entire board, and without action by the stockholders, may amend the charter to increase or decrease the aggregate number of shares of stock of the corporation or the number of shares of stock of any class **OR SERIES** that the corporation has authority to issue.

2–309.

(d) If the board of directors of a corporation has given general authorization for a distribution and provides for or establishes a method or procedure for determining the maximum amount of the distribution, the board may delegate to **[**a committee of the board or**]** an officer of the corporation the power, in accordance with the general authorization, to fix the amount and other terms of the distribution.

(e) (1) This subsection applies to a corporation:

(i) With a class of equity securities registered under the Securities Exchange Act of 1934; or

(ii) Registered as an open–end investment company under the Investment Company Act of 1940.

(2) Unless **[**the charter of a corporation provides otherwise**] PROHIBITED BY THE CHARTER OF A CORPORATION BY REFERENCE TO THIS SUBSECTION OR THE SUBJECT MATTER OF THIS SUBSECTION**, the board of directors of the corporation may amend the charter, with the approval of a majority of the board of directors and without stockholder action, to effect a reverse stock split that results in a combination of shares of stock at a ratio of not more than 10 shares of stock into one share of stock in any 12–month period.

(3) Within 20 days after the effective date of the reverse stock split, the corporation shall give written notice of the reverse stock split to each holder of record of the combined shares of stock as of the effective date.

2–411.

(a) The board of directors of a corporation may:

(1) Appoint from among its members an executive committee and other committees composed of one or more directors; and

(2) Delegate to these committees any of the powers of the board of directors, except the power to:

(i) **[**Authorize dividends on stock, except as provided in § 2–309(d) of this title;

(ii)**]** Issue stock other than as provided in subsection (b) of this section;

[(iii)**] (II)** Recommend to the stockholders any action which requires stockholder approval, other than the election of directors;

[(iv)**] (III)** Amend the bylaws; or

[(v)**] (IV)** Approve any merger or share exchange which does not require stockholder approval.

2–504.

(f) The charter or bylaws may require any stockholder proposing a nominee for election as a director or any other matter for consideration at a meeting of the stockholders to provide advance notice of the nomination or proposal to the corporation **BEFORE A DATE OR WITHIN A PERIOD OF TIME [**of not more than:

(1) 90 days before the date of the meeting; or

(2) In the case of an annual meeting, 90 days before the first anniversary of:

(i) The mailing date of the notice of the preceding year's annual meeting; or

(ii) The preceding year's annual meeting; or

(3) Another time**]** specified in the charter or bylaws.

2–504.1.

(a) Subject to § 2–504(d) of this subtitle, any notice given by a corporation to a stockholder under this article or the charter or bylaws of the corporation is effective if given by a single notice, in writing or by electronic transmission, to all stockholders who share an address **UNLESS THE CORPORATION HAS RECEIVED A REQUEST**

FROM A STOCKHOLDER IN WRITING OR BY ELECTRONIC TRANSMISSION THAT A SINGLE NOTICE NOT BE GIVEN [if:

(1) The corporation gives notice, in writing or by electronic transmission, to the stockholder of its intent to give a single notice; and

(2) The stockholder:

(i) Consents to receiving a single notice; or

(ii) Fails to object in writing within 60 days after the corporation gives notice to the stockholder of its intent to give a single notice.

(b) A stockholder may revoke consent given under subsection (a) of this section, whether affirmative or implied, by written notice to the corporation**]**.

[(c)**] (B)** This section does not limit the manner in which a corporation otherwise may give notice to stockholders.

2–511.

(d) **(1)** A meeting of stockholders convened on the date for which it was called may be adjourned from time to time without further notice to a date not more than 120 days after the original record date.

(2) PRIOR TO BEING CONVENED, A MEETING OF STOCKHOLDERS MAY BE POSTPONED FROM TIME TO TIME TO A DATE NOT MORE THAN 120 DAYS AFTER THE ORIGINAL RECORD DATE.

2–604.

(a) This section does not apply to a charter amendment by the board of directors in accordance with § **[**2–105(a)(12)**] 2–105(A)(13)** or § 2–309(e) of this title.

(b) If there is any stock outstanding or subscribed for and entitled to be voted on the charter amendment, it shall be approved as provided in this section.

(c) Except as provided in § 2–112 of this title, the board of directors of a corporation proposing a charter amendment shall:

(1) Adopt a resolution which sets forth the proposed amendment and declares that it is advisable; and

(2) Direct that the proposed amendment be submitted for consideration at either an annual or a special meeting of the stockholders.

(d) (1) Notice which states that a purpose of the meeting will be to act on the proposed amendment shall be given by the corporation in the manner required by Subtitle 5 of this title to:

(i) Each stockholder entitled to vote on the proposed amendment; and

(ii) Each stockholder not entitled to vote on the proposed amendment if the contract rights of his stock, as expressly set forth in the charter, would be altered by the amendment.

(2) The notice shall **[**include**]:**

(I) INCLUDE a copy of the amendment or a summary of the changes it will effect**; OR**

(II) 1. IDENTIFY A WEBSITE AT WHICH THE AMENDMENT OR A SUMMARY OF THE CHANGES IT WILL EFFECT MAY BE ACCESSED; AND

2. INCLUDE A TELEPHONE NUMBER OR AN ADDRESS WHERE THE STOCKHOLDER MAY REQUEST A PAPER COPY OF THE AMENDMENT OR SUMMARY WITHOUT CHARGE.

(e) The proposed amendment shall be approved by the stockholders of the corporation by the affirmative vote of two thirds of all the votes entitled to be cast on the matter.

3–413.

(a) **[**Stockholders**] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, STOCKHOLDERS** entitled to cast at least 25 percent of all the votes entitled to be cast in the election of directors of a corporation may petition a court of equity to dissolve the corporation on grounds that:

(1) The directors are so divided respecting the management of the corporation's affairs that the votes required for action by the board cannot be obtained; or

(2) The stockholders are so divided that directors cannot be elected.

(b) **[**Any**] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, ANY** stockholder entitled to vote in the election of directors of a corporation may petition a court of equity to dissolve the corporation on grounds that:

(1) The stockholders are so divided that they have failed, for a period which includes at least two consecutive annual meeting dates, to elect successors to

directors whose terms would have expired on the election and qualification of their successors; or

(2) The acts of the directors or those in control of the corporation are illegal, oppressive, or fraudulent.

(c) Any stockholder or creditor of a corporation other than a railroad corporation may petition a court of equity to dissolve the corporation on grounds that it is unable to meet its debts as they mature in the ordinary course of its business.

(D) SUBSECTIONS (A)(2) AND (B)(1) OF THIS SECTION DO NOT APPLY TO ANY CORPORATION THAT HAS A CLASS OF EQUITY SECURITIES REGISTERED UNDER THE FEDERAL SECURITIES EXCHANGE ACT OF 1934.

3–702.

(a) (1) **[**Control**] HOLDERS OF CONTROL** shares of the corporation acquired in a control share acquisition have no voting rights **WITH RESPECT TO THE CONTROL SHARES** except to the extent approved by the stockholders at a meeting held under § 3–704 of this subtitle by the affirmative vote of two–thirds of all the votes entitled to be cast on the matter, excluding all interested shares.

(2) A charter provision permitted by § 2–104(b)(5) of this article may not apply to the proportion of votes required by paragraph (1) of this subsection.

8–601.1.

Sections 2–201(c), 2–313, 2–405.1(d) through (g), 2–502(e), and 2–504(f) of this article shall apply to real estate investment trusts.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 97

(Senate Bill 690)

AN ACT concerning

Corporations – ~~B (For–Benefit)~~ <u>Benefit</u> Corporation

FOR the purpose of authorizing a corporation to elect to be a certain ~~B (for–benefit)~~ benefit corporation by amending or including in the charter of the corporation a statement that the corporation is a ~~B~~ benefit corporation; providing for the application of this Act; requiring the election to be approved by the stockholders in a certain manner; authorizing a corporation to terminate status as a ~~B~~ benefit corporation in a certain manner; requiring that clear reference to the fact that a corporation is a ~~B~~ benefit corporation appear prominently in a certain charter document; establishing that every ~~B~~ benefit corporation shall have the purpose of creating a certain general public benefit; authorizing the charter of a benefit corporation to identify as one of the purposes of the benefit corporation the creation of certain specific public benefits; establishing that the creation of a certain public benefit as provided in this Act is in the best interests of the ~~B~~ benefit corporation; requiring a director of a ~~B~~ benefit corporation, in performing the duties of director, in determining what the director reasonably believes to be in the best interests of the ~~B~~ benefit corporation, to consider the effects of any action or decision not to act on certain factors; establishing that a certain director shall not have any duty to a certain person; providing that a certain director shall have a certain immunity from liability under certain circumstances; requiring a ~~B~~ benefit corporation to deliver to each stockholder a certain annual report; requiring a benefit corporation to post a certain report on its website or provide a copy of the report under certain circumstances; defining certain terms; and generally relating to ~~for–benefit~~ benefit corporations.

BY adding
Article – Corporations and Associations
Section 5–6C–01 through 5–6C–08 to be under the new subtitle "Subtitle 6C. ~~B (For–Benefit)~~ Benefit Corporations"
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Corporations and Associations

SUBTITLE 6C. ~~B (FOR–BENEFIT)~~ BENEFIT CORPORATIONS.

5–6C–01.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "~~B~~ BENEFIT CORPORATION" MEANS A MARYLAND CORPORATION THAT ELECTS TO BE A ~~FOR–BENEFIT~~ BENEFIT CORPORATION IN ACCORDANCE WITH § 5–6C–03 OF THIS SUBTITLE AND HAS NOT CEASED TO BE A ~~FOR–BENEFIT~~

BENEFIT CORPORATION THROUGH THE OPERATION OF § 5–6C–04 OF THIS SUBTITLE.

(C) "GENERAL PUBLIC BENEFIT" MEANS A MATERIAL, POSITIVE IMPACT ON SOCIETY AND THE ENVIRONMENT, AS MEASURED BY A THIRD–PARTY STANDARD, THROUGH ACTIVITIES THAT PROMOTE A COMBINATION OF SPECIFIC PUBLIC BENEFITS.

~~(C) "PUBLIC BENEFIT" MEANS:~~

(D) "SPECIFIC PUBLIC BENEFIT" INCLUDES:

(1) PROVIDING INDIVIDUALS OR COMMUNITIES WITH BENEFICIAL PRODUCTS OR SERVICES;

(2) PROMOTING ECONOMIC OPPORTUNITY FOR INDIVIDUALS OR COMMUNITIES BEYOND THE CREATION OF JOBS IN THE NORMAL COURSE OF BUSINESS;

(3) PRESERVING THE ENVIRONMENT;

(4) IMPROVING HUMAN HEALTH;

(5) PROMOTING THE ARTS, SCIENCES, OR ADVANCEMENT OF KNOWLEDGE; ~~OR~~

(6) INCREASING THE FLOW OF CAPITAL TO ENTITIES WITH A PUBLIC BENEFIT PURPOSE; OR

(7) THE ACCOMPLISHMENT OF ANY OTHER PARTICULAR BENEFIT FOR SOCIETY OR THE ENVIRONMENT.

(E) "THIRD–PARTY STANDARD" MEANS A STANDARD FOR DEFINING, REPORTING, AND ASSESSING BEST PRACTICES IN CORPORATE SOCIAL AND ENVIRONMENTAL PERFORMANCE THAT:

(1) IS DEVELOPED BY A PERSON OR ENTITY THAT IS INDEPENDENT OF THE BENEFIT CORPORATION; AND

(2) IS TRANSPARENT BECAUSE THE FOLLOWING INFORMATION ABOUT THE STANDARD IS PUBLICLY AVAILABLE OR ACCESSIBLE:

(I) THE FACTORS CONSIDERED WHEN MEASURING THE PERFORMANCE OF A BUSINESS;

(II) THE RELATIVE WEIGHTINGS OF THOSE FACTORS; AND

(III) THE IDENTITY OF THE PERSONS WHO DEVELOPED AND CONTROL CHANGES TO THE STANDARD AND THE PROCESS BY WHICH THOSE CHANGES WERE MADE.

5–6C–02.

(A) THE PROVISIONS OF THE MARYLAND GENERAL CORPORATION LAW APPLY TO ~~B~~ BENEFIT CORPORATIONS EXCEPT TO THE EXTENT THAT:

(1) THE CONTEXT OF A PROVISION CLEARLY REQUIRES OTHERWISE; OR

(2) A SPECIFIC PROVISION OF THIS SUBTITLE OR ANOTHER PROVISION OF LAW GOVERNING SPECIFIC CLASSES OF CORPORATIONS PROVIDES OTHERWISE.

(B) THIS SUBTITLE APPLIES ONLY TO ~~B~~ BENEFIT CORPORATIONS.

(C) (1) THE EXISTENCE OF A PROVISION OF THIS SUBTITLE DOES NOT OF ITSELF CREATE ANY IMPLICATION THAT A CONTRARY OR DIFFERENT RULE OF LAW IS OR WOULD BE APPLICABLE TO A CORPORATION THAT IS NOT A ~~B~~ BENEFIT CORPORATION.

(2) THIS SUBTITLE DOES NOT AFFECT ANY STATUTE OR RULE OF LAW AS IT APPLIES TO A CORPORATION THAT IS NOT A ~~B~~ BENEFIT CORPORATION.

(D) A PROVISION OF THE CHARTER OR BYLAWS OF A ~~B~~ BENEFIT CORPORATION MAY NOT BE INCONSISTENT WITH ANY PROVISION OF THIS SUBTITLE.

5–6C–03.

(A) A CORPORATION MAY ELECT TO BE A ~~B~~ BENEFIT CORPORATION UNDER THIS SUBTITLE BY AMENDING OR INCLUDING IN THE CHARTER OF THE CORPORATION A STATEMENT THAT THE CORPORATION IS A ~~B ("FOR–BENEFIT") CORPORATION~~ BENEFIT CORPORATION.

(B) AN ~~ELECTION~~ AMENDMENT DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL BE APPROVED ~~BY THE STOCKHOLDERS OF THE CORPORATION BY THE HIGHER OF:~~

~~(1) THE VOTE REQUIRED BY THE ARTICLES OF INCORPORATION OF THE CORPORATION; OR~~

~~(2) TWO-THIRDS OF THE VOTES ENTITLED TO BE CAST BY THE OUTSTANDING SHARES OF THE CORPORATION, PROVIDED THAT IF ANY CLASS OF SHARES IS ENTITLED TO VOTE AS A GROUP, APPROVAL SHALL ALSO REQUIRE THE AFFIRMATIVE VOTE OF THE HOLDERS OF AT LEAST TWO-THIRDS OF THE VOTES ENTITLED TO BE CAST BY THE OUTSTANDING SHARES OF EACH VOTING GROUP~~ IN ACCORDANCE WITH TITLE 2, SUBTITLE 6 OF THIS ARTICLE.

5–6C–04.

(A) A CORPORATION MAY TERMINATE STATUS AS A ~~B~~ BENEFIT CORPORATION AND CEASE TO BE SUBJECT TO THIS SUBTITLE BY AMENDING THE ~~ARTICLES OF INCORPORATION~~ CHARTER OF THE CORPORATION TO DELETE THE STATEMENT THAT THE CORPORATION IS A ~~B~~ BENEFIT CORPORATION.

(B) ~~THE TERMINATION OF~~ AN AMENDMENT TERMINATING A CORPORATION'S STATUS AS A ~~B~~ BENEFIT CORPORATION SHALL BE APPROVED BY THE STOCKHOLDERS OF THE CORPORATION ~~BY THE HIGHER OF:~~ IN ACCORDANCE WITH TITLE 2, SUBTITLE 6 OF THIS ARTICLE.

~~(1) THE VOTE REQUIRED BY THE ARTICLES OF INCORPORATION OF THE CORPORATION; OR~~

~~(2) TWO-THIRDS OF THE VOTES ENTITLED TO BE CAST BY THE OUTSTANDING SHARES OF THE CORPORATION, PROVIDED THAT IF ANY CLASS OF SHARES IS ENTITLED TO VOTE AS A GROUP, APPROVAL SHALL ALSO REQUIRE THE AFFIRMATIVE VOTE OF THE HOLDERS OF AT LEAST TWO-THIRDS OF THE VOTES ENTITLED TO BE CAST BY THE OUTSTANDING SHARES OF EACH VOTING GROUP.~~

5–6C–05.

CLEAR REFERENCE TO THE FACT THAT A CORPORATION IS A ~~B~~ BENEFIT CORPORATION SHALL APPEAR PROMINENTLY:

(1) AT THE HEAD OF THE CHARTER DOCUMENT IN WHICH THE ELECTION TO BE A ~~B~~ BENEFIT CORPORATION IS MADE;

(2) AT THE HEAD OF EACH SUBSEQUENT CHARTER DOCUMENT OF THE ~~B~~ BENEFIT CORPORATION; AND

(3) ON EACH CERTIFICATE REPRESENTING OUTSTANDING STOCK OF THE ~~B~~ BENEFIT CORPORATION.

5–6C–06.

(A) (1) EACH ~~B~~ BENEFIT CORPORATION SHALL HAVE THE PURPOSE OF CREATING A GENERAL PUBLIC BENEFIT.

(2) THE PURPOSE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION IS IN ADDITION TO, AND MAY BE A LIMITATION ON, THE PURPOSES OF THE CORPORATION UNDER § 2–101 OF THIS ARTICLE.

(B) (1) IN ADDITION TO ITS PURPOSES UNDER § 2–101 OF THIS ARTICLE AND SUBSECTION (A) OF THIS SECTION, THE CHARTER OF A BENEFIT CORPORATION MAY IDENTIFY AS ONE OF THE PURPOSES OF THE BENEFIT CORPORATION THE CREATION OF ONE OR MORE SPECIFIC PUBLIC BENEFITS.

(2) THE IDENTIFICATION IN ITS CHARTER OF A SPECIFIC PUBLIC BENEFIT PURPOSE UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT LIMIT THE OBLIGATION OF A BENEFIT CORPORATION TO CREATE A GENERAL PUBLIC BENEFIT.

~~(B)~~ (C) THE CREATION OF A GENERAL PUBLIC BENEFIT OR SPECIFIC PUBLIC BENEFIT AS PROVIDED IN ~~SUBSECTION (A)~~ SUBSECTIONS (A) AND (B) OF THIS SECTION IS IN THE BEST INTERESTS OF THE ~~B~~ BENEFIT CORPORATION.

5–6C–07.

(A) A DIRECTOR OF A ~~B~~ BENEFIT CORPORATION, IN PERFORMING THE DUTIES OF A DIRECTOR, INCLUDING THE DIRECTOR'S DUTIES AS A MEMBER OF A COMMITTEE AND IN ADDITION TO THE DUTIES DESCRIBED IN § 2–405.1 OF THIS ARTICLE:

(1) IN DETERMINING WHAT THE DIRECTOR REASONABLY BELIEVES TO BE IN THE BEST INTERESTS OF THE ~~B~~ BENEFIT CORPORATION, SHALL CONSIDER THE EFFECTS OF ANY ACTION OR DECISION NOT TO ACT ON:

(I) THE STOCKHOLDERS OF THE ~~B~~ BENEFIT CORPORATION;

(II) THE EMPLOYEES AND WORKFORCE OF THE ~~B~~ BENEFIT CORPORATION AND THE SUBSIDIARIES AND SUPPLIERS OF THE ~~B~~ BENEFIT CORPORATION;

(III) THE INTERESTS OF CUSTOMERS AS BENEFICIARIES OF THE GENERAL OR SPECIFIC PUBLIC BENEFIT PURPOSES OF THE ~~B~~ BENEFIT CORPORATION;

(IV) COMMUNITY AND SOCIETAL CONSIDERATIONS, INCLUDING THOSE OF ANY COMMUNITY IN WHICH OFFICES OR FACILITIES OF THE ~~B~~ BENEFIT CORPORATION OR THE SUBSIDIARIES OR SUPPLIERS OF THE ~~B~~ BENEFIT CORPORATION ARE LOCATED; AND

(V) THE LOCAL AND GLOBAL ENVIRONMENT; AND

(2) MAY CONSIDER ANY OTHER PERTINENT FACTORS OR THE INTERESTS OF ANY OTHER GROUP THAT THE DIRECTOR DETERMINES ARE APPROPRIATE TO CONSIDER ~~IN LIGHT OF THE PUBLIC BENEFIT DESCRIBED IN THE CHARTER OF THE B CORPORATION~~.

(B) A DIRECTOR OF A ~~B~~ BENEFIT CORPORATION, IN THE PERFORMANCE OF DUTIES IN THAT CAPACITY, DOES NOT HAVE ANY DUTY TO A PERSON THAT IS A BENEFICIARY OF THE PUBLIC BENEFIT PURPOSES OF THE ~~B~~ BENEFIT CORPORATION ~~DESCRIBED IN THE CHARTER OF THE B CORPORATION~~.

(C) A DIRECTOR OF A ~~B~~ BENEFIT CORPORATION, IN THE REASONABLE PERFORMANCE OF DUTIES IN ACCORDANCE WITH THE STANDARD PROVIDED IN THIS SUBTITLE, SHALL HAVE THE IMMUNITY FROM LIABILITY DESCRIBED IN § 5–417 OF THE COURTS ARTICLE.

5–6C–08.

(A) A ~~B~~ BENEFIT CORPORATION SHALL DELIVER TO EACH STOCKHOLDER AN ANNUAL ~~FOR–BENEFIT~~ BENEFIT REPORT INCLUDING:

(1) A DESCRIPTION OF:

(I) THE WAYS IN WHICH THE ~~B~~ BENEFIT CORPORATION ~~GENERALLY~~ PURSUED ~~THE~~ A GENERAL PUBLIC BENEFIT ~~DESCRIBED IN THE CHARTER~~ DURING THE YEAR AND THE EXTENT TO WHICH THE GENERAL PUBLIC BENEFIT WAS CREATED; ~~AND~~

(II) THE WAYS IN WHICH THE BENEFIT CORPORATION PURSUED ANY SPECIFIC PUBLIC BENEFIT THAT ITS CHARTER STATES IS THE PURPOSE OF THE BENEFIT CORPORATION TO CREATE AND THE EXTENT TO WHICH THAT SPECIFIC PUBLIC BENEFIT WAS CREATED; AND

~~(II)~~ (III) ANY CIRCUMSTANCES THAT HAVE HINDERED THE CREATION BY THE ~~B~~ BENEFIT CORPORATION OF THE PUBLIC BENEFIT; AND

(2) AN ASSESSMENT OF THE SOCIETAL AND ENVIRONMENTAL PERFORMANCE OF THE ~~B~~ BENEFIT CORPORATION PREPARED IN ACCORDANCE WITH ~~IDENTIFIED FACTORS THAT WERE CONSIDERED IN MEASURING THE PERFORMANCE OF THE B CORPORATION~~ A THIRD–PARTY STANDARD APPLIED CONSISTENTLY WITH THE PRIOR YEAR'S BENEFIT REPORT OR ACCOMPANIED BY AN EXPLANATION OF THE REASONS FOR ANY INCONSISTENT APPLICATION.

(B) THE ~~FOR BENEFIT~~ BENEFIT REPORT SHALL BE DELIVERED TO EACH STOCKHOLDER WITHIN 120 DAYS FOLLOWING THE END OF EACH FISCAL YEAR OF THE ~~B~~ BENEFIT CORPORATION.

(C) (1) A BENEFIT CORPORATION SHALL POST ITS MOST RECENT BENEFIT REPORT ON THE PUBLIC PORTION OF ITS WEBSITE, IF ANY.

(2) IF A BENEFIT CORPORATION DOES NOT HAVE A PUBLIC WEBSITE, THE BENEFIT CORPORATION SHALL PROVIDE A COPY OF ITS MOST RECENT BENEFIT REPORT ON DEMAND AND WITHOUT CHARGE TO ANY PERSON WHO REQUESTS A COPY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 98

(House Bill 1009)

AN ACT concerning

Corporations – ~~B (For–Benefit)~~ Benefit Corporation

FOR the purpose of authorizing a corporation to elect to be a certain ~~B (for–benefit)~~ benefit corporation by amending or including in the charter of the corporation a statement that the corporation is a ~~B~~ benefit corporation; providing for the application of this Act; requiring the election to be approved by the stockholders in a certain manner; authorizing a corporation to terminate status as a ~~B~~ benefit corporation in a certain manner; requiring that clear reference to the fact that a corporation is a ~~B~~ benefit corporation appear prominently in a certain charter document; establishing that every ~~B~~ benefit corporation shall

have the purpose of creating a certain general public benefit; authorizing the charter of a benefit corporation to identify as one of the purposes of the benefit corporation the creation of certain specific public benefits; establishing that the creation of a certain public benefit as provided in this Act is in the best interests of the ~~B~~ benefit corporation; requiring a director of a ~~B~~ benefit corporation, in performing the duties of director, in determining what the director reasonably believes to be in the best interests of the ~~B~~ benefit corporation, to consider the effects of any action or decision not to act on certain factors; establishing that a certain director shall not have any duty to a certain person; providing that a certain director shall have a certain immunity from liability under certain circumstances; requiring a ~~B~~ benefit corporation to deliver to each stockholder a certain annual report; requiring a benefit corporation to post a certain report on its website or provide a copy of the report under certain circumstances; defining certain terms; and generally relating to ~~for–benefit~~ benefit corporations.

BY adding to
Article – Corporations and Associations
Section 5–6C–01 through 5–6C–08 to be under the new subtitle "Subtitle 6C. ~~B (For–Benefit)~~ Benefit Corporations"
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Corporations and Associations

SUBTITLE 6C. ~~B (FOR–BENEFIT)~~ BENEFIT CORPORATIONS.

5–6C–01.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "~~B~~ BENEFIT CORPORATION" MEANS A MARYLAND CORPORATION THAT ELECTS TO BE A ~~FOR–BENEFIT~~ BENEFIT CORPORATION IN ACCORDANCE WITH § 5–6C–03 OF THIS SUBTITLE AND HAS NOT CEASED TO BE A ~~FOR–BENEFIT~~ BENEFIT CORPORATION THROUGH THE OPERATION OF § 5–6C–04 OF THIS SUBTITLE.

(C) "GENERAL PUBLIC BENEFIT" MEANS A MATERIAL, POSITIVE IMPACT ON SOCIETY AND THE ENVIRONMENT, AS MEASURED BY A THIRD–PARTY STANDARD, THROUGH ACTIVITIES THAT PROMOTE A COMBINATION OF SPECIFIC PUBLIC BENEFITS.

~~(C) "PUBLIC BENEFIT" MEANS:~~

(D) "SPECIFIC PUBLIC BENEFIT" INCLUDES:

(1) PROVIDING INDIVIDUALS OR COMMUNITIES WITH BENEFICIAL PRODUCTS OR SERVICES;

(2) PROMOTING ECONOMIC OPPORTUNITY FOR INDIVIDUALS OR COMMUNITIES BEYOND THE CREATION OF JOBS IN THE NORMAL COURSE OF BUSINESS;

(3) PRESERVING THE ENVIRONMENT;

(4) IMPROVING HUMAN HEALTH;

(5) PROMOTING THE ARTS, SCIENCES, OR ADVANCEMENT OF KNOWLEDGE; ~~OR~~

(6) INCREASING THE FLOW OF CAPITAL TO ENTITIES WITH A PUBLIC BENEFIT PURPOSE; OR

(7) THE ACCOMPLISHMENT OF ANY OTHER PARTICULAR BENEFIT FOR SOCIETY OR THE ENVIRONMENT.

(E) "THIRD–PARTY STANDARD" MEANS A STANDARD FOR DEFINING, REPORTING, AND ASSESSING BEST PRACTICES IN CORPORATE SOCIAL AND ENVIRONMENTAL PERFORMANCE THAT:

(1) IS DEVELOPED BY A PERSON OR ENTITY THAT IS INDEPENDENT OF THE BENEFIT CORPORATION; AND

(2) IS TRANSPARENT BECAUSE THE FOLLOWING INFORMATION ABOUT THE STANDARD IS PUBLICLY AVAILABLE OR ACCESSIBLE:

(I) THE FACTORS CONSIDERED WHEN MEASURING THE PERFORMANCE OF A BUSINESS;

(II) THE RELATIVE WEIGHTINGS OF THOSE FACTORS; AND

(III) THE IDENTITY OF THE PERSONS WHO DEVELOPED AND CONTROL CHANGES TO THE STANDARD AND THE PROCESS BY WHICH THOSE CHANGES WERE MADE.

5–6C–02.

(A) THE PROVISIONS OF THE MARYLAND GENERAL CORPORATION LAW APPLY TO ~~B~~ BENEFIT CORPORATIONS EXCEPT TO THE EXTENT THAT:

(1) THE CONTEXT OF A PROVISION CLEARLY REQUIRES OTHERWISE; OR

(2) A SPECIFIC PROVISION OF THIS SUBTITLE OR ANOTHER PROVISION OF LAW GOVERNING SPECIFIC CLASSES OF CORPORATIONS PROVIDES OTHERWISE.

(B) THIS SUBTITLE APPLIES ONLY TO ~~B~~ BENEFIT CORPORATIONS.

(C) (1) THE EXISTENCE OF A PROVISION OF THIS SUBTITLE DOES NOT OF ITSELF CREATE ANY IMPLICATION THAT A CONTRARY OR DIFFERENT RULE OF LAW IS OR WOULD BE APPLICABLE TO A CORPORATION THAT IS NOT A ~~B~~ BENEFIT CORPORATION.

(2) THIS SUBTITLE DOES NOT AFFECT ANY STATUTE OR RULE OF LAW AS IT APPLIES TO A CORPORATION THAT IS NOT A ~~B~~ BENEFIT CORPORATION.

(D) A PROVISION OF THE CHARTER OR BYLAWS OF A ~~B~~ BENEFIT CORPORATION MAY NOT BE INCONSISTENT WITH ANY PROVISION OF THIS SUBTITLE.

5–6C–03.

(A) A CORPORATION MAY ELECT TO BE A ~~B~~ BENEFIT CORPORATION UNDER THIS SUBTITLE BY AMENDING OR INCLUDING IN THE CHARTER OF THE CORPORATION A STATEMENT THAT THE CORPORATION IS A ~~B ("FOR BENEFIT") CORPORATION~~ BENEFIT CORPORATION.

(B) AN ~~ELECTION~~ AMENDMENT DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL BE APPROVED ~~BY THE STOCKHOLDERS OF THE CORPORATION BY THE HIGHER OF:~~

~~(1) THE VOTE REQUIRED BY THE ARTICLES OF INCORPORATION OF THE CORPORATION; OR~~

~~(2) TWO-THIRDS OF THE VOTES ENTITLED TO BE CAST BY THE OUTSTANDING SHARES OF THE CORPORATION, PROVIDED THAT IF ANY CLASS OF SHARES IS ENTITLED TO VOTE AS A GROUP, APPROVAL SHALL ALSO REQUIRE THE AFFIRMATIVE VOTE OF THE HOLDERS OF AT LEAST TWO-THIRDS OF THE~~

~~VOTES ENTITLED TO BE CAST BY THE OUTSTANDING SHARES OF EACH VOTING GROUP~~ IN ACCORDANCE WITH TITLE 2, SUBTITLE 6 OF THIS ARTICLE.

5–6C–04.

(A) A CORPORATION MAY TERMINATE STATUS AS A ~~B~~ BENEFIT CORPORATION AND CEASE TO BE SUBJECT TO THIS SUBTITLE BY AMENDING THE ~~ARTICLES OF INCORPORATION~~ CHARTER OF THE CORPORATION TO DELETE THE STATEMENT THAT THE CORPORATION IS A ~~B~~ BENEFIT CORPORATION.

(B) ~~THE TERMINATION OF~~ AN AMENDMENT TERMINATING A CORPORATION'S STATUS AS A ~~B~~ BENEFIT CORPORATION SHALL BE APPROVED BY THE STOCKHOLDERS OF THE CORPORATION ~~BY THE HIGHER OF:~~ IN ACCORDANCE WITH TITLE 2, SUBTITLE 6 OF THIS ARTICLE.

~~(1) THE VOTE REQUIRED BY THE ARTICLES OF INCORPORATION OF THE CORPORATION; OR~~

~~(2) TWO THIRDS OF THE VOTES ENTITLED TO BE CAST BY THE OUTSTANDING SHARES OF THE CORPORATION, PROVIDED THAT IF ANY CLASS OF SHARES IS ENTITLED TO VOTE AS A GROUP, APPROVAL SHALL ALSO REQUIRE THE AFFIRMATIVE VOTE OF THE HOLDERS OF AT LEAST TWO THIRDS OF THE VOTES ENTITLED TO BE CAST BY THE OUTSTANDING SHARES OF EACH VOTING GROUP.~~

5–6C–05.

CLEAR REFERENCE TO THE FACT THAT A CORPORATION IS A ~~B~~ BENEFIT CORPORATION SHALL APPEAR PROMINENTLY:

(1) AT THE HEAD OF THE CHARTER DOCUMENT IN WHICH THE ELECTION TO BE A ~~B~~ BENEFIT CORPORATION IS MADE;

(2) AT THE HEAD OF EACH SUBSEQUENT CHARTER DOCUMENT OF THE ~~B~~ BENEFIT CORPORATION; AND

(3) ON EACH CERTIFICATE REPRESENTING OUTSTANDING STOCK OF THE ~~B~~ BENEFIT CORPORATION.

5–6C–06.

(A) (1) EACH ~~B~~ BENEFIT CORPORATION SHALL HAVE THE PURPOSE OF CREATING A GENERAL PUBLIC BENEFIT.

(2) THE PURPOSE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION IS IN ADDITION TO, AND MAY BE A LIMITATION ON, THE PURPOSES OF THE CORPORATION UNDER § 2–101 OF THIS ARTICLE.

(B) (1) IN ADDITION TO ITS PURPOSES UNDER § 2–101 OF THIS ARTICLE AND SUBSECTION (A) OF THIS SECTION, THE CHARTER OF A BENEFIT CORPORATION MAY IDENTIFY AS ONE OF THE PURPOSES OF THE BENEFIT CORPORATION THE CREATION OF ONE OR MORE SPECIFIC PUBLIC BENEFITS.

(2) THE IDENTIFICATION IN ITS CHARTER OF A SPECIFIC PUBLIC BENEFIT PURPOSE UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT LIMIT THE OBLIGATION OF A BENEFIT CORPORATION TO CREATE A GENERAL PUBLIC BENEFIT.

~~(B)~~ (C) THE CREATION OF A GENERAL PUBLIC BENEFIT OR SPECIFIC PUBLIC BENEFIT AS PROVIDED IN ~~SUBSECTION (A)~~ SUBSECTIONS (A) AND (B) OF THIS SECTION IS IN THE BEST INTERESTS OF THE ~~B~~ BENEFIT CORPORATION.

5–6C–07.

(A) A DIRECTOR OF A ~~B~~ BENEFIT CORPORATION, IN PERFORMING THE DUTIES OF A DIRECTOR, INCLUDING THE DIRECTOR'S DUTIES AS A MEMBER OF A COMMITTEE AND IN ADDITION TO THE DUTIES DESCRIBED IN § 2–405.1 OF THIS ARTICLE:

(1) IN DETERMINING WHAT THE DIRECTOR REASONABLY BELIEVES TO BE IN THE BEST INTERESTS OF THE ~~B~~ BENEFIT CORPORATION, SHALL CONSIDER THE EFFECTS OF ANY ACTION OR DECISION NOT TO ACT ON:

(I) THE STOCKHOLDERS OF THE ~~B~~ BENEFIT CORPORATION;

(II) THE EMPLOYEES AND WORKFORCE OF THE ~~B~~ BENEFIT CORPORATION AND THE SUBSIDIARIES AND SUPPLIERS OF THE ~~B~~ BENEFIT CORPORATION;

(III) THE INTERESTS OF CUSTOMERS AS BENEFICIARIES OF THE GENERAL OR SPECIFIC PUBLIC BENEFIT PURPOSES OF THE ~~B~~ BENEFIT CORPORATION;

(IV) COMMUNITY AND SOCIETAL CONSIDERATIONS, INCLUDING THOSE OF ANY COMMUNITY IN WHICH OFFICES OR FACILITIES OF THE ~~B~~ BENEFIT CORPORATION OR THE SUBSIDIARIES OR SUPPLIERS OF THE ~~B~~ BENEFIT CORPORATION ARE LOCATED; AND

(V) THE LOCAL AND GLOBAL ENVIRONMENT; AND

(2) MAY CONSIDER ANY OTHER PERTINENT FACTORS OR THE INTERESTS OF ANY OTHER GROUP THAT THE DIRECTOR DETERMINES ARE APPROPRIATE TO CONSIDER ~~IN LIGHT OF THE PUBLIC BENEFIT DESCRIBED IN THE CHARTER OF THE B CORPORATION~~.

(B) A DIRECTOR OF A ~~B~~ BENEFIT CORPORATION, IN THE PERFORMANCE OF DUTIES IN THAT CAPACITY, DOES NOT HAVE ANY DUTY TO A PERSON THAT IS A BENEFICIARY OF THE PUBLIC BENEFIT PURPOSES OF THE ~~B~~ BENEFIT CORPORATION ~~DESCRIBED IN THE CHARTER OF THE B CORPORATION~~.

(C) A DIRECTOR OF A ~~B~~ BENEFIT CORPORATION, IN THE REASONABLE PERFORMANCE OF DUTIES IN ACCORDANCE WITH THE STANDARD PROVIDED IN THIS SUBTITLE, SHALL HAVE THE IMMUNITY FROM LIABILITY DESCRIBED IN § 5–417 OF THE COURTS ARTICLE.

5–6C–08.

(A) A ~~B~~ BENEFIT CORPORATION SHALL DELIVER TO EACH STOCKHOLDER AN ANNUAL ~~FOR–BENEFIT~~ BENEFIT REPORT INCLUDING:

(1) A DESCRIPTION OF:

(I) THE WAYS IN WHICH THE ~~B~~ BENEFIT CORPORATION ~~GENERALLY~~ PURSUED ~~THE~~ A GENERAL PUBLIC BENEFIT ~~DESCRIBED IN THE CHARTER~~ DURING THE YEAR AND THE EXTENT TO WHICH THE GENERAL PUBLIC BENEFIT WAS CREATED; ~~AND~~

(II) THE WAYS IN WHICH THE BENEFIT CORPORATION PURSUED ANY SPECIFIC PUBLIC BENEFIT THAT ITS CHARTER STATES IS THE PURPOSE OF THE BENEFIT CORPORATION TO CREATE AND THE EXTENT TO WHICH THAT SPECIFIC PUBLIC BENEFIT WAS CREATED; AND

~~(II)~~ (III) ANY CIRCUMSTANCES THAT HAVE HINDERED THE CREATION BY THE ~~B~~ BENEFIT CORPORATION OF THE PUBLIC BENEFIT; AND

(2) AN ASSESSMENT OF THE SOCIETAL AND ENVIRONMENTAL PERFORMANCE OF THE ~~B~~ BENEFIT CORPORATION PREPARED IN ACCORDANCE WITH ~~IDENTIFIED FACTORS THAT WERE CONSIDERED IN MEASURING THE PERFORMANCE OF THE B CORPORATION~~ A THIRD–PARTY STANDARD APPLIED CONSISTENTLY WITH THE PRIOR YEAR'S BENEFIT REPORT OR ACCOMPANIED BY AN EXPLANATION OF THE REASONS FOR ANY INCONSISTENT APPLICATION.

(B) THE ~~FOR–BENEFIT~~ BENEFIT REPORT SHALL BE DELIVERED TO EACH STOCKHOLDER WITHIN 120 DAYS FOLLOWING THE END OF EACH FISCAL YEAR OF THE ~~B~~ BENEFIT CORPORATION.

(C) (1) A BENEFIT CORPORATION SHALL POST ITS MOST RECENT BENEFIT REPORT ON THE PUBLIC PORTION OF ITS WEBSITE, IF ANY.

(2) IF A BENEFIT CORPORATION DOES NOT HAVE A PUBLIC WEBSITE, THE BENEFIT CORPORATION SHALL PROVIDE A COPY OF ITS MOST RECENT BENEFIT REPORT ON DEMAND AND WITHOUT CHARGE TO ANY PERSON WHO REQUESTS A COPY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 99

(Senate Bill 694)

AN ACT concerning

Labor and Employment – Wage Payment and Collection Law – Definition of Wage

FOR the purpose of clarifying that the definition of "wage" as used in the Wage Payment and Collection Law includes overtime wages; and generally relating to the Wage Payment and Collection Law.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 3–501(c)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Labor and Employment

3–501.

(c) (1) "Wage" means all compensation that is due to an employee for employment.

(2) "Wage" includes:

(i) a bonus;

(ii) a commission;

(iii) a fringe benefit; **[**or**]**

(iv) **OVERTIME WAGES; OR**

(V) any other remuneration promised for service.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 100

(House Bill 214)

AN ACT concerning

Labor and Employment – Wage Payment and Collection Law – Definition of Wage

FOR the purpose of clarifying that the definition of "wage" as used in the Wage Payment and Collection Law includes overtime wages; and generally relating to the Wage Payment and Collection Law.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 3–501(c)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Labor and Employment

3–501.

(c) (1) "Wage" means all compensation that is due to an employee for employment.

(2) "Wage" includes:

(i) a bonus;

(ii) a commission;

(iii) a fringe benefit; **[**or**]**

(iv) **OVERTIME WAGES; OR**

(V) any other remuneration promised for service.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 101

(Senate Bill 732)

AN ACT concerning

Cecil County – Public Facilities Bond Bill

FOR the purpose of authorizing and empowering the County Commissioners of Cecil County, from time to time, to borrow not more than $11,300,000 in order to finance the cost of the construction and improvement of certain public facilities in Cecil County and to effect that borrowing by the issuance and sale at public or private sale of its general obligation bonds in like amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds, and the interest thereon and any income derived therefrom, from all State, county, municipal, and other taxation in the State of Maryland; and relating generally to the issuance and sale of the bonds by Cecil County.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used in this Act, the term "County" means that body politic and corporate of the State of Maryland known as the County Commissioners of Cecil County; and the term "construction and improvement of public facilities" means the alteration, construction, reconstruction, enlargement, expansion, extension, improvement, replacement, rehabilitation, renovation, upgrading and repair, and related architectural, financial, legal, planning, designing, or engineering services, for public capital projects in Cecil County, including any finance charges or interest prior to or during such financing and any other costs or expenditures incurred by the County in connection with the projects.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the public facilities described in Section 1 of this Act, and to borrow money and incur indebtedness for that purpose, at one time or from time to time, in an amount not exceeding, in the aggregate, $11,300,000 and to evidence its borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued pursuant to a resolution of the County which shall describe generally the public facilities for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of Section 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be in the best interests of the County; the manner of executing the bonds, which may be by facsimile; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of and security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds.

In case any officer whose signature appears on any bond ceases to be such officer before delivery, the signature shall nevertheless be valid and sufficient for all purposes as if the officer had remained in office until delivery. The bonds and their issue and sale shall be exempt from the provisions of Sections 9, 10, and 11 of Article 31 of the Annotated Code of Maryland, as amended.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment shall be made to the Treasurer of Cecil County or such other official of the County as may be designated to receive payment in a resolution passed by the County Commissioners of Cecil County before delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the public facilities for which the bonds are sold.

If the net proceeds of the sale of any issue of bonds exceeds the amount needed to finance the public facilities described in the resolution, the excess funds shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County adopts a resolution allocating the excess funds to the construction, improvement, or development of other public facilities.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assume the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, if the proceeds from the taxes so levied in any fiscal year prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any deficiency. The County may apply to the payment of the principal of and interest on any bonds issued under this Act any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality of either, or from any other source. If such funds are granted for the

purpose of assisting the County in financing the construction, improvement, development, or renovation of the public facilities defined in this Act and, to the extent of any such funds received or receivable in any fiscal year, taxes that might otherwise be required to be levied under this Act may be reduced or need not be levied.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is hereby further authorized and empowered, at any time and from time to time, to issue its bonds in the manner hereinabove described for the purpose of refunding, upon purchase or redemption, any bonds issued under this Act. The validity of any refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations being refunded. The powers granted under this Act with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued under this Act, prior to their maturity, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds which are, by their terms, redeemable. The proceeds of the sale of any refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The County may, by appropriate resolution, provide for the replacement of any bonds issued under this Act which may have become mutilated or lost or destroyed upon whatever conditions and after receiving whatever indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued under this Act, their transfer, the interest payable on them, and any income derived from them from time to time (including any profit made in their sale) shall be and are hereby declared to be at all times exempt from State, county, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide additional, alternative, and supplemental authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and may not be regarded as in derogation of any power now existing; and all previously enacted laws authorizing the County to borrow money are hereby continued to the extent that the power contained in them is continuing or has not been exercised, unless any law is expressly repealed by this Act, and the validity of any bonds issued under previously enacted laws is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of the County, shall be liberally construed to effect its purposes. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of any inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 102

(Senate Bill 777)

AN ACT concerning

Local Government Funds – Redeposit into Insured Accounts

FOR the purpose of authorizing a local government to deposit unexpended or surplus money in any federally insured bank or savings and loan association without certain security under certain conditions; and generally relating to the deposit of local government funds.

BY repealing and reenacting, with amendments,
Article 95 – Treasurer
Section 22–O
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

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

Article 95 – Treasurer

22–O.

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

(2) "Depositor" means a local government or its authorized acknowledged agent making a deposit of unexpended or surplus money as provided in this section.

(3) "Local government" means:

(i) The governing body of a county or municipal corporation;

(ii) A county board of education;

(iii) The governing body of a road, drainage, improvement, construction, or soil conservation district or commission in the State;

(iv) The Upper Potomac River Commission; or

(v) Any other political subdivision or body politic of the State.

(4) "State financial institution" means any of the following institutions that have a branch in the State that takes deposits:

(i) Bank, trust company, or savings bank incorporated under the laws of the State;

(ii) Bank incorporated under federal law;

(iii) Bank incorporated under the laws of any other state; or

(iv) Savings and loan association incorporated under the laws of the State or of the United States.

(b) Notwithstanding the provisions of § 22 of this article, a local government may deposit unexpended or surplus money in any federally insured bank or savings and loan association without the security required in § 22(a) of this article if:

(1) The unexpended or surplus money is initially placed for deposit with a State financial institution selected by the depositor;

(2) The State financial institution selected by the depositor arranges for the further deposit of the money into one or more certificates of deposit, each in an amount of not more than the applicable Federal Deposit Insurance Corporation maximum insurance coverage limit, in one or more federally insured banks or savings and loan associations for the account of the depositor;

(3) At the same time the money is deposited and the certificates of deposit are issued for the benefit of the depositor by other banks or savings and loan associations, the State financial institution selected by the depositor receives an amount of deposits from customers of other banks or savings and loan associations equal to the amount of money initially deposited by the depositor;

(4) Each certificate of deposit issued for the depositor's account is insured by the Federal Deposit Insurance Corporation for 100% of the principal and accrued interest of the certificate of deposit; and

(5) The State financial institution selected by the depositor acts as custodian for the depositor with respect to the certificates of deposit issued for the depositor's account.

(C) NOTWITHSTANDING THE PROVISIONS OF § 22 OF THIS ARTICLE, A LOCAL GOVERNMENT MAY DEPOSIT UNEXPENDED OR SURPLUS MONEY IN ANY FEDERALLY INSURED BANK OR SAVINGS AND LOAN ASSOCIATION WITHOUT THE SECURITY REQUIRED IN § 22(A) OF THIS ARTICLE IF:

(1) THE UNEXPENDED OR SURPLUS MONEY IS INITIALLY PLACED FOR DEPOSIT WITH A STATE FINANCIAL INSTITUTION THAT IS SELECTED BY THE DEPOSITOR TO ARRANGE FOR THE REDEPOSIT OF THE MONEY THROUGH A DEPOSIT PLACEMENT PROGRAM THAT MEETS THE REQUIREMENTS UNDER THIS SUBSECTION;

(2) ON OR AFTER THE DATE THAT THE LOCAL GOVERNMENT MONEY IS RECEIVED, THE <u>STATE</u> FINANCIAL INSTITUTION SELECTED BY THE DEPOSITOR:

(I) ARRANGES FOR THE REDEPOSIT OF THE MONEY INTO ONE OR MORE DEPOSIT ACCOUNTS, EACH IN AN AMOUNT OF NOT MORE THAN THE APPLICABLE FEDERAL DEPOSIT INSURANCE CORPORATION MAXIMUM INSURANCE COVERAGE LIMIT, IN ONE OR MORE FEDERALLY INSURED BANKS OR SAVINGS AND LOAN ASSOCIATIONS FOR THE ACCOUNT OF THE DEPOSITOR; AND

(II) ~~SERVES~~ <u>ACTS</u> AS CUSTODIAN FOR THE DEPOSITOR WITH RESPECT TO THE MONEY DEPOSITED INTO THE ACCOUNTS;

(3) ANY LOCAL GOVERNMENT MONEY DEPOSITED INTO A STATE FINANCIAL INSTITUTION IN ACCORDANCE WITH THIS SUBSECTION AND HELD <u>BY THE STATE FINANCIAL INSTITUTION</u> AT THE CLOSE OF <u>A</u> BUSINESS <u>DAY</u> THAT IS IN EXCESS OF THE AMOUNT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION IS SECURED IN ACCORDANCE WITH THIS ARTICLE;

(4) THE FULL AMOUNT OF THE LOCAL GOVERNMENT MONEY REDEPOSITED BY THE STATE FINANCIAL INSTITUTION INTO DEPOSIT ACCOUNTS IN FEDERALLY INSURED BANKS OR SAVINGS AND LOAN ASSOCIATIONS UNDER THIS SUBSECTION IS INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION; AND

(5) ON THE SAME DATE THAT THE MONEY OF THE LOCAL GOVERNMENT IS REDEPOSITED UNDER THIS SUBSECTION, THE STATE FINANCIAL INSTITUTION SELECTED BY THE DEPOSITOR RECEIVES AN AMOUNT OF DEPOSITS FROM CUSTOMERS OF OTHER BANKS OR SAVINGS AND LOANS IN ACCORDANCE WITH THE DEPOSIT PLACEMENT PROGRAM THAT IS EQUAL TO THE AMOUNT OF THE LOCAL GOVERNMENT MONEY REDEPOSITED BY THE SELECTED STATE FINANCIAL INSTITUTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 103

(House Bill 844)

AN ACT concerning

Local Government Funds – Redeposit into Insured Accounts

FOR the purpose of authorizing a local government to deposit unexpended or surplus money in any federally insured bank or savings and loan association without certain security under certain conditions; and generally relating to the deposit of local government funds.

BY repealing and reenacting, with amendments,
Article 95 – Treasurer
Section 22–O
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

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

Article 95 – Treasurer

22–O.

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

(2) "Depositor" means a local government or its authorized acknowledged agent making a deposit of unexpended or surplus money as provided in this section.

(3) "Local government" means:

(i) The governing body of a county or municipal corporation;

(ii) A county board of education;

(iii) The governing body of a road, drainage, improvement, construction, or soil conservation district or commission in the State;

(iv) The Upper Potomac River Commission; or

(v) Any other political subdivision or body politic of the State.

(4) "State financial institution" means any of the following institutions that have a branch in the State that takes deposits:

(i) Bank, trust company, or savings bank incorporated under the laws of the State;

(ii) Bank incorporated under federal law;

(iii) Bank incorporated under the laws of any other state; or

(iv) Savings and loan association incorporated under the laws of the State or of the United States.

(b) Notwithstanding the provisions of § 22 of this article, a local government may deposit unexpended or surplus money in any federally insured bank or savings and loan association without the security required in § 22(a) of this article if:

(1) The unexpended or surplus money is initially placed for deposit with a State financial institution selected by the depositor;

(2) The State financial institution selected by the depositor arranges for the further deposit of the money into one or more certificates of deposit, each in an amount of not more than the applicable Federal Deposit Insurance Corporation maximum insurance coverage limit, in one or more federally insured banks or savings and loan associations for the account of the depositor;

(3) At the same time the money is deposited and the certificates of deposit are issued for the benefit of the depositor by other banks or savings and loan associations, the State financial institution selected by the depositor receives an amount of deposits from customers of other banks or savings and loan associations equal to the amount of money initially deposited by the depositor;

(4) Each certificate of deposit issued for the depositor's account is insured by the Federal Deposit Insurance Corporation for 100% of the principal and accrued interest of the certificate of deposit; and

(5) The State financial institution selected by the depositor acts as custodian for the depositor with respect to the certificates of deposit issued for the depositor's account.

(C) NOTWITHSTANDING THE PROVISIONS OF § 22 OF THIS ARTICLE, A LOCAL GOVERNMENT MAY DEPOSIT UNEXPENDED OR SURPLUS MONEY IN ANY

FEDERALLY INSURED BANK OR SAVINGS AND LOAN ASSOCIATION WITHOUT THE SECURITY REQUIRED IN § 22(A) OF THIS ARTICLE IF:

(1) THE UNEXPENDED OR SURPLUS MONEY IS INITIALLY PLACED FOR DEPOSIT WITH A STATE FINANCIAL INSTITUTION THAT IS SELECTED BY THE DEPOSITOR TO ARRANGE FOR THE REDEPOSIT OF THE MONEY THROUGH A DEPOSIT PLACEMENT PROGRAM THAT MEETS THE REQUIREMENTS UNDER THIS SUBSECTION;

(2) ON OR AFTER THE DATE THAT THE LOCAL GOVERNMENT MONEY IS RECEIVED, THE STATE FINANCIAL INSTITUTION SELECTED BY THE DEPOSITOR:

(I) ARRANGES FOR THE REDEPOSIT OF THE MONEY INTO ONE OR MORE DEPOSIT ACCOUNTS, EACH IN AN AMOUNT OF NOT MORE THAN THE APPLICABLE FEDERAL DEPOSIT INSURANCE CORPORATION MAXIMUM INSURANCE COVERAGE LIMIT, IN ONE OR MORE FEDERALLY INSURED BANKS OR SAVINGS AND LOAN ASSOCIATIONS FOR THE ACCOUNT OF THE DEPOSITOR; AND

(II) ~~SERVES~~ ACTS AS CUSTODIAN FOR THE DEPOSITOR WITH RESPECT TO THE MONEY DEPOSITED INTO THE ACCOUNTS;

(3) ANY LOCAL GOVERNMENT MONEY DEPOSITED INTO A STATE FINANCIAL INSTITUTION IN ACCORDANCE WITH THIS SUBSECTION AND HELD BY THAT STATE FINANCIAL INSTITUTION AT THE CLOSE OF A BUSINESS DAY THAT IS IN EXCESS OF THE AMOUNT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION IS SECURED IN ACCORDANCE WITH THIS ARTICLE;

(4) THE FULL AMOUNT OF THE LOCAL GOVERNMENT MONEY REDEPOSITED BY THE STATE FINANCIAL INSTITUTION INTO DEPOSIT ACCOUNTS IN FEDERALLY INSURED BANKS OR SAVINGS AND LOAN ASSOCIATIONS UNDER THIS SUBSECTION IS INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION; AND

(5) ON THE SAME DATE THAT THE MONEY OF THE LOCAL GOVERNMENT IS REDEPOSITED UNDER THIS SUBSECTION, THE STATE FINANCIAL INSTITUTION SELECTED BY THE DEPOSITOR RECEIVES AN AMOUNT OF DEPOSITS FROM CUSTOMERS OF OTHER BANKS OR SAVINGS AND LOANS IN ACCORDANCE WITH THE DEPOSIT PLACEMENT PROGRAM THAT IS EQUAL TO THE AMOUNT OF THE LOCAL GOVERNMENT MONEY REDEPOSITED BY THE SELECTED STATE FINANCIAL INSTITUTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 104

(Senate Bill 778)

AN ACT concerning

Public Schools – Student Information – Availability to Military Recruiters

FOR the purpose of requiring certain public schools that administer the Armed Services Vocational Aptitude Battery (ASVAB) to choose a certain score reporting option for military recruiter contact; requiring certain public schools to send a certain notice containing certain information to the ASVAB representative coordinating the administration of the ASVAB and to notify certain students and the parent or guardian of certain students of certain release of student information requirements; providing that certain students or the parent or guardian of certain students who choose to release certain information to military recruiters may individually submit certain forms to the military services; defining a certain term; and generally relating to public schools and the availability of student information for military recruiters.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–111
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

7–111.

(a) Subject to subsection (b) of this section, each public school under the jurisdiction of a county board that provides access to its buildings and grounds or its student information directory to any person or group which makes students aware of occupational or educational options shall provide access on the same basis to official recruiting representatives of the military forces of this State and the United States for the purpose of informing students of educational and career opportunities available in the military.

(b) (1) A public school subject to this section shall provide notice to each student and to the parent or guardian of each student enrolled at the school that, in accordance with federal law, the student or the parent or guardian of the student may request that the student's name, address, and telephone number not be released to military recruiters.

(2) The notice described under paragraph (1) of this subsection shall:

(i) Be included in a clear and conspicuous manner and in the same size type as the other statements on the card requesting emergency contact information that is distributed by the public school to each student or parent or guardian of the student; and

(ii) Request that the student or the parent or guardian of the student indicate if the student's name, address, and telephone number is not to be released to military recruiters by checking the box "Do not release contact information".

(3) On or before October 1 and March 1 of each school year, the principal of each public school in a county shall submit a list to the county board that includes the name, address, and telephone number of each student whose contact information is not released to military recruiters as directed under paragraph (2)(ii) of this subsection.

(C) (1) IN THIS SUBSECTION, "ASVAB" MEANS THE ARMED SERVICES VOCATIONAL APTITUDE BATTERY.

(2) EACH PUBLIC SCHOOL IN THE STATE THAT ADMINISTERS THE ASVAB SHALL CHOOSE "OPTION 8" AS THE SCORE REPORTING OPTION FOR MILITARY RECRUITER CONTACT TO PROHIBIT THE GENERAL RELEASE OF ANY STUDENT INFORMATION TO MILITARY RECRUITERS.

(3) EACH PUBLIC SCHOOL THAT ADMINISTERS THE ASVAB SHALL:

(I) SEND A WRITTEN NOTICE TO THE ASVAB REPRESENTATIVE COORDINATING THE SCHOOL'S ADMINISTRATION OF THE ASVAB OF THE REQUIREMENT SET FORTH IN PARAGRAPH (2) OF THIS SUBSECTION; AND

(II) NOTIFY STUDENTS TAKING THE ASVAB AND THE PARENT OR GUARDIAN OF STUDENTS TAKING THE ASVAB OF THE RELEASE OF STUDENT INFORMATION REQUIREMENTS SET FORTH IN PARAGRAPHS (2) AND (4) OF THIS SUBSECTION.

(4) A STUDENT OR A STUDENT'S PARENT OR GUARDIAN MAY CHOOSE TO RELEASE THE STUDENT'S PERSONAL INFORMATION AND ASVAB SCORES TO RECRUITING REPRESENTATIVES OF THE MILITARY SERVICES BY INDIVIDUALLY SUBMITTING THE REQUIRED FORMS TO THE MILITARY SERVICES AUTHORIZING THE RELEASE OF THE INFORMATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 105

(House Bill 176)

AN ACT concerning

Public Schools – Student Information – Availability to Military Recruiters

FOR the purpose of requiring certain public schools that administer the Armed Services Vocational Aptitude Battery (ASVAB) to choose a certain score reporting option for military recruiter contact; requiring certain public schools to send a certain notice containing certain information to the ASVAB representative coordinating the administration of the ASVAB and to notify certain students and the parent or guardian of certain students of certain release of student information requirements; providing that certain students or the parent or guardian of certain students who choose to release certain information to military recruiters may individually submit certain forms to the military services; defining a certain term; and generally relating to public schools and the availability of student information for military recruiters.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–111
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

7–111.

(a) Subject to subsection (b) of this section, each public school under the jurisdiction of a county board that provides access to its buildings and grounds or its student information directory to any person or group which makes students aware of occupational or educational options shall provide access on the same basis to official recruiting representatives of the military forces of this State and the United States for the purpose of informing students of educational and career opportunities available in the military.

(b) (1) A public school subject to this section shall provide notice to each student and to the parent or guardian of each student enrolled at the school that, in accordance with federal law, the student or the parent or guardian of the student may request that the student's name, address, and telephone number not be released to military recruiters.

(2) The notice described under paragraph (1) of this subsection shall:

(i) Be included in a clear and conspicuous manner and in the same size type as the other statements on the card requesting emergency contact information that is distributed by the public school to each student or parent or guardian of the student; and

(ii) Request that the student or the parent or guardian of the student indicate if the student's name, address, and telephone number is not to be released to military recruiters by checking the box "Do not release contact information".

(3) On or before October 1 and March 1 of each school year, the principal of each public school in a county shall submit a list to the county board that includes the name, address, and telephone number of each student whose contact information is not released to military recruiters as directed under paragraph (2)(ii) of this subsection.

(C) (1) IN THIS SUBSECTION, "ASVAB" MEANS THE ARMED SERVICES VOCATIONAL APTITUDE BATTERY.

(2) EACH PUBLIC SCHOOL IN THE STATE THAT ADMINISTERS THE ASVAB SHALL CHOOSE "OPTION 8" AS THE SCORE REPORTING OPTION FOR MILITARY RECRUITER CONTACT TO PROHIBIT THE GENERAL RELEASE OF ANY STUDENT INFORMATION TO MILITARY RECRUITERS.

(3) EACH PUBLIC SCHOOL THAT ADMINISTERS THE ASVAB SHALL:

(I) SEND A WRITTEN NOTICE TO THE ASVAB REPRESENTATIVE COORDINATING THE SCHOOL'S ADMINISTRATION OF THE

ASVAB OF THE REQUIREMENT SET FORTH IN PARAGRAPH (2) OF THIS SUBSECTION; AND

(II) NOTIFY STUDENTS TAKING THE ASVAB AND THE PARENT OR GUARDIAN OF STUDENTS TAKING THE ASVAB OF THE RELEASE OF STUDENT INFORMATION REQUIREMENTS SET FORTH IN PARAGRAPHS (2) AND (4) OF THIS SUBSECTION.

(4) A STUDENT OR A STUDENT'S PARENT OR GUARDIAN MAY CHOOSE TO RELEASE THE STUDENT'S PERSONAL INFORMATION AND ASVAB SCORES TO RECRUITING REPRESENTATIVES OF THE MILITARY SERVICES BY INDIVIDUALLY SUBMITTING THE REQUIRED FORMS TO THE MILITARY SERVICES AUTHORIZING THE RELEASE OF THE INFORMATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 106

(Senate Bill 787)

AN ACT concerning

Financial Institutions – Mortgage Lenders – Net Worth Requirements

FOR the purpose of establishing that for purposes of satisfying certain minimum net worth requirements, in addition to computing the net worth of ~~an~~ a certain applicant for a new mortgage broker's license or for the renewal of a license according to generally accepted accounting principles, net worth may be computed according to any other recognized comprehensive basis of accounting approved by the Commissioner of Financial Regulation; and generally relating to net worth requirements for mortgage brokers.

BY repealing and reenacting, without amendments,
Article – Financial Institutions
Section 11–501(a) and (f)
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 11–508.1

Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

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

Article – Financial Institutions

11–501.

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

(f) "License" means a license issued by the Commissioner under this subtitle to authorize a person to engage in business as a mortgage lender.

11–508.1.

(a) An applicant for a new license or for the renewal of a license shall satisfy the Commissioner that the applicant or licensee has, and at all times will maintain, a minimum net worth computed according to generally accepted accounting principles **OR, WITH RESPECT TO AN APPLICANT OR LICENSEE DESCRIBED IN ITEM (1) OF THIS SUBSECTION, ANY OTHER RECOGNIZED COMPREHENSIVE BASIS OF ACCOUNTING APPROVED BY THE COMMISSIONER**:

(1) In the case of an applicant or licensee that does not lend money secured by a dwelling or residential real estate, in the amount of $25,000; and

(2) In the case of an applicant or licensee that lends money secured by a dwelling or residential real estate, in the amount of:

(i) $25,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate not more than $1,000,000 secured by a dwelling or residential real estate;

(ii) $50,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate more than $1,000,000, but not more than $5,000,000 secured by a dwelling or residential real estate;

(iii) $100,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate more than $5,000,000, but not more than $10,000,000 secured by a dwelling or residential real estate; and

(iv) $250,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate more than $10,000,000 secured by a dwelling or residential real estate.

(b) (1) Subject to paragraphs (2) and (3) of this subsection, the minimum net worth requirements under subsection (a)(2) of this section may be satisfied by the applicant or licensee having:

(i) Cash on deposit with a bank or depository institution;

(ii) A line of credit from a bank or depository institution;

(iii) Other assets; or

(iv) A combination of cash, a line of credit, or other assets.

(2) If cash is used toward satisfying the minimum net worth requirements under subsection (a)(2) of this section, the applicant or licensee shall submit to the Commissioner a bank letter verifying:

(i) The account balance;

(ii) The type of account in which the funds are held; and

(iii) That the funds are not encumbered or hypothecated in any way.

(3) (i) If a line of credit is used toward satisfying the minimum net worth requirements under subsection (a)(2) of this section, the applicant or licensee shall submit to the Commissioner a copy of the line of credit agreement and the promissory note.

(ii) A line of credit may not be used toward satisfying more than 75% of the minimum net worth requirements under subsection (a)(2) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 107

(Senate Bill 820)

AN ACT concerning

Police Training Commission – Additional Minimum Training Requirements

FOR the purpose of requiring the Police Training Commission to expand a certain curriculum and the minimum courses of study of certain police training conducted by certain police training schools to include special training on, attention to, and the study of the exploitation of children, the contact with and treatment of victims of crimes and delinquent acts, the notices, services, support, and rights under State law available to certain victims and victims' representatives, and notification of the rights of victims of identity fraud under federal law; and generally relating to minimum requirements for police training.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 3–207
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

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

Article – Public Safety

3–207.

Subject to the authority of the Secretary, the Commission has the following powers and duties:

(1) to establish standards for the approval and continuation of approval of schools that conduct police entrance–level and in–service training courses required by the Commission, including State, regional, county, and municipal training schools;

(2) to approve and issue certificates of approval to police training schools;

(3) to inspect police training schools;

(4) to revoke, for cause, the approval or certificate of approval issued to a police training school;

(5) to establish the following for police training schools:

(i) curriculum;

(ii) minimum courses of study;

(iii) attendance requirements;

(iv) eligibility requirements;

(v) equipment and facilities;

(vi) standards of operation; and

(vii) minimum qualifications for instructors;

(6) to require, for entrance–level police training and at least every 3 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**:**

(I) the criminal laws concerning rape and sexual offenses, including**[**:

(i)**]** the sexual abuse **AND EXPLOITATION** of children**[**;**]** **AND**

[(ii)**]** related evidentiary procedures; **[**and

(iii)**] (II)** the contact with and treatment of victims of **[**these**]** crimes **AND DELINQUENT ACTS**;

(III) THE NOTICES, SERVICES, SUPPORT, AND RIGHTS AVAILABLE TO VICTIMS AND VICTIMS' REPRESENTATIVES UNDER STATE LAW; AND

(IV) THE NOTIFICATION OF VICTIMS OF IDENTITY FRAUD AND RELATED CRIMES OF THEIR RIGHTS UNDER FEDERAL LAW;

(7) to certify and issue appropriate certificates to qualified instructors for police training schools authorized by the Commission to offer police training programs;

(8) to verify that police officers have satisfactorily completed training programs and issue diplomas to those police officers;

(9) to conduct and operate police training schools authorized by the Commission to offer police training programs;

(10) to make a continuous study of entrance–level and in–service training methods and procedures;

(11) to consult with and accept the cooperation of any recognized federal, State, or municipal law enforcement agency or educational institution;

(12) to consult and cooperate with universities, colleges, and institutions in the State to develop specialized courses of study for police officers in police science and police administration;

(13) to consult and cooperate with other agencies and units of the State concerned with police training;

(14) to develop, with the cooperation of the Office of the Chief Medical Examiner and the Federal Bureau of Investigation, a uniform missing person report form to be available for use by each law enforcement agency of the State on or before October 1, 2008;

(15) to require, for entrance–level police training and annually 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, for police officers who are issued an electronic control device by a law enforcement agency, special training in the proper use of electronic control devices, as defined in § 4–109 of the Criminal Law Article, consistent with established law enforcement standards and federal and State constitutional provisions; and

(16) to perform any other act that is necessary or appropriate to carry out the powers and duties of the Commission under this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 108

(House Bill 779)

AN ACT concerning

Police Training Commission – Additional Minimum Training Requirements

FOR the purpose of requiring the Police Training Commission to expand a certain curriculum and the minimum courses of study of certain police training conducted by certain police training schools to include special training on, attention to, and the study of the exploitation of children, the contact with and treatment of victims of crimes and delinquent acts, the notices, services, support, and rights under State law available to certain victims and victims' representatives, and notification of the rights of victims of identity fraud under federal law; and generally relating to minimum requirements for police training.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 3–207
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

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

Article – Public Safety

3–207.

Subject to the authority of the Secretary, the Commission has the following powers and duties:

(1) to establish standards for the approval and continuation of approval of schools that conduct police entrance–level and in–service training courses required by the Commission, including State, regional, county, and municipal training schools;

(2) to approve and issue certificates of approval to police training schools;

(3) to inspect police training schools;

(4) to revoke, for cause, the approval or certificate of approval issued to a police training school;

(5) to establish the following for police training schools:

(i) curriculum;

(ii) minimum courses of study;

(iii) attendance requirements;

(iv) eligibility requirements;

(v) equipment and facilities;

(vi) standards of operation; and

(vii) minimum qualifications for instructors;

(6) to require, for entrance–level police training and at least every 3 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**:**

(I) the criminal laws concerning rape and sexual offenses, including**[**:

(i)**]** the sexual abuse **AND EXPLOITATION** of children**[**;**]** **AND**

[(ii)**]** related evidentiary procedures; **[**and

(iii)**] (II)** the contact with and treatment of victims of **[**these**]** crimes **AND DELINQUENT ACTS**;

(III) THE NOTICES, SERVICES, SUPPORT, AND RIGHTS AVAILABLE TO VICTIMS AND VICTIMS' REPRESENTATIVES UNDER STATE LAW; AND

(IV) THE NOTIFICATION OF VICTIMS OF IDENTITY FRAUD AND RELATED CRIMES OF THEIR RIGHTS UNDER FEDERAL LAW;

(7) to certify and issue appropriate certificates to qualified instructors for police training schools authorized by the Commission to offer police training programs;

(8) to verify that police officers have satisfactorily completed training programs and issue diplomas to those police officers;

(9) to conduct and operate police training schools authorized by the Commission to offer police training programs;

(10) to make a continuous study of entrance–level and in–service training methods and procedures;

(11) to consult with and accept the cooperation of any recognized federal, State, or municipal law enforcement agency or educational institution;

(12) to consult and cooperate with universities, colleges, and institutions in the State to develop specialized courses of study for police officers in police science and police administration;

(13) to consult and cooperate with other agencies and units of the State concerned with police training;

(14) to develop, with the cooperation of the Office of the Chief Medical Examiner and the Federal Bureau of Investigation, a uniform missing person report form to be available for use by each law enforcement agency of the State on or before October 1, 2008;

(15) to require, for entrance–level police training and annually 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, for police officers who are issued an electronic control device by a law enforcement agency, special training in the proper use of electronic control devices, as defined in § 4–109 of the Criminal Law Article, consistent with established law enforcement standards and federal and State constitutional provisions; and

(16) to perform any other act that is necessary or appropriate to carry out the powers and duties of the Commission under this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 109

(Senate Bill 923)

AN ACT concerning

Carroll County – Homemade Food Sales – County Parks and Facilities

FOR the purpose of authorizing a county–owned and county–operated park or facility that is hosting a public festival to offer for sale or sell certain types of homemade–style food under certain circumstances; adding honey to the list of homemade–style food that may be offered for sale or sold under a certain provision of law; and generally relating to homemade food sales in Carroll County.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 21–305(f)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health – General

21–305.

(f) In Carroll County, a bona fide religious organization that meets the requirements of an excluded organization under § 21–301 of this subtitle **OR A COUNTY–OWNED AND COUNTY–OPERATED PARK OR FACILITY THAT IS HOSTING A PUBLIC FESTIVAL** may offer for sale or sell the following types of homemade–style food if the food is produced at the organization**, PARK, OR FACILITY** and meets the appropriate health and safety standards adopted by the Department:

(1) Fruit jellies, jams, and preserves made from apples, apricots, blackberries, blueberries, boysenberries, cherries, cranberries, grapes, nectarines, oranges, peaches, plums, quince, raspberries, red currants, strawberries, or tangerines;

(2) Fruit butter made from apples, apricots, grapes, peaches, plums, prunes, or quince; **[**and**]**

(3) Fruit pies made from apples, apricots, blackberries, blueberries, boysenberries, cherries, cranberries, grapes, nectarines, oranges, peaches, plums, quince, raspberries, red currants, strawberries, or tangerines**; AND**

(4) HONEY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 110

(House Bill 1167)

AN ACT concerning

Carroll County – Homemade Food Sales – County Parks and Facilities

FOR the purpose of authorizing a county–owned and county–operated park or facility that is hosting a public festival to offer for sale or sell certain types of homemade–style food under certain circumstances; adding honey to the list of homemade–style food that may be offered for sale or sold under a certain provision of law; and generally relating to homemade food sales in Carroll County.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 21–305(f)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health – General

21–305.

(f) In Carroll County, a bona fide religious organization that meets the requirements of an excluded organization under § 21–301 of this subtitle **OR A COUNTY–OWNED AND COUNTY–OPERATED PARK OR FACILITY THAT IS HOSTING A PUBLIC FESTIVAL** may offer for sale or sell the following types of homemade–style food if the food is produced at the organization**, PARK, OR FACILITY** and meets the appropriate health and safety standards adopted by the Department:

(1) Fruit jellies, jams, and preserves made from apples, apricots, blackberries, blueberries, boysenberries, cherries, cranberries, grapes, nectarines, oranges, peaches, plums, quince, raspberries, red currants, strawberries, or tangerines;

(2) Fruit butter made from apples, apricots, grapes, peaches, plums, prunes, or quince; **[**and**]**

(3) Fruit pies made from apples, apricots, blackberries, blueberries, boysenberries, cherries, cranberries, grapes, nectarines, oranges, peaches, plums, quince, raspberries, red currants, strawberries, or tangerines**; AND**

(4) HONEY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 111

(Senate Bill 943)

AN ACT concerning

Credit Regulation – Mortgage Brokers – Charges

FOR the purpose of authorizing mortgage brokers to charge borrowers for the actual cost of certain ~~services or goods~~ documents obtained by a mortgage broker at the written request of a borrower; authorizing mortgage brokers to charge borrowers for the actual cost of certain other goods or services that are required to complete a loan application process and that, at the written request of a borrower, are paid by a mortgage broker to a certain third–party provider; defining a certain term; and generally relating to fees that may be charged by mortgage brokers.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 12–801 and 12–804
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article – Commercial Law

12–801.

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

(b) "Borrower" means an individual who obtains a loan or advance of money.

(C) "COMMISSIONER" MEANS THE COMMISSIONER OF FINANCIAL REGULATION.

[(c)**] (D)** "Finder's fee" means any compensation or commission directly or indirectly imposed by a broker and paid by or on behalf of the borrower for the broker's services in procuring, arranging, or otherwise assisting a borrower in obtaining a loan or advance of money.

[(d)**] (E)** "Lender" means a person defined as a mortgage lender under § 11–501(j)(1)(ii) of the Financial Institutions Article.

[(e)**] (F)** "Mortgage broker" means a person defined as a mortgage lender under § 11–501(j)(1)(i) of the Financial Institutions Article.

[(f)**] (G)** "Person" includes an individual, corporation, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

12–804.

(a) A mortgage broker may charge a finder's fee not in excess of 8 percent of the amount of the loan or advance.

(b) In addition to a finder's fee, a mortgage broker may charge a borrower for the actual cost of **[**any**]:**

(1) ANY appraisal ~~or~~**,** credit report**, CONDOMINIUM DOCUMENT, OR SUBORDINATION AGREEMENT DOCUMENT** obtained by the mortgage broker **AT THE WRITTEN REQUEST OF THE BORROWER; AND**

(2) ANY OTHER ~~SERVICE OR GOOD~~ GOOD OR SERVICE, AS SPECIFIED IN REGULATIONS ADOPTED BY THE COMMISSIONER, THAT IS REQUIRED TO COMPLETE A LOAN APPLICATION PROCESS ~~THAT~~ AND THAT, AT THE WRITTEN REQUEST OF THE BORROWER, IS PAID ~~OR PAYABLE~~ BY THE MORTGAGE BROKER TO A THIRD–PARTY PROVIDER OF THE ~~SERVICE OR GOOD~~ GOOD OR SERVICE.

(c) A mortgage broker obtaining a mortgage loan with respect to the same property more than once within a 24–month period may charge a finder's fee only on so much of the loan as is in excess of the initial loan.

(d) The provisions of this section do not apply to:

(1) The charging of fees and charges otherwise permitted under this title; or

(2) Attorney's fees unless the attorney is functioning as a mortgage broker.

(e) A mortgage broker may not charge a finder's fee in any transaction in which the mortgage broker or an owner, part owner, partner, director, officer, or employee of the mortgage broker is the lender or an owner, part owner, partner, director, officer, or employee of the lender.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 112

(House Bill 1254)

AN ACT concerning

Credit Regulation – Mortgage Brokers – Charges

FOR the purpose of authorizing mortgage brokers to charge borrowers for the actual cost of certain ~~services or goods~~ documents obtained by a mortgage broker at the written request of a borrower; authorizing mortgage brokers to charge borrowers for the actual cost of certain other goods or services that are required to complete a loan application process and that, at the written request of a borrower, are paid by a mortgage broker to a certain third–party provider; defining a certain term; and generally relating to fees that may be charged by mortgage brokers.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 12–801 and 12–804
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article – Commercial Law

12–801.

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

(b) "Borrower" means an individual who obtains a loan or advance of money.

(C) "COMMISSIONER" MEANS THE COMMISSIONER OF FINANCIAL REGULATION.

[(c)**] (D)** "Finder's fee" means any compensation or commission directly or indirectly imposed by a broker and paid by or on behalf of the borrower for the broker's services in procuring, arranging, or otherwise assisting a borrower in obtaining a loan or advance of money.

[(d)**] (E)** "Lender" means a person defined as a mortgage lender under § 11–501(j)(1)(ii) of the Financial Institutions Article.

[(e)**] (F)** "Mortgage broker" means a person defined as a mortgage lender under § 11–501(j)(1)(i) of the Financial Institutions Article.

[(f)**] (G)** "Person" includes an individual, corporation, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

12–804.

(a) A mortgage broker may charge a finder's fee not in excess of 8 percent of the amount of the loan or advance.

(b) In addition to a finder's fee, a mortgage broker may charge a borrower for the actual cost of **[**any**]:**

(1) ANY appraisal ~~or~~**,** credit report**, CONDOMINIUM DOCUMENT, OR SUBORDINATION AGREEMENT DOCUMENT** obtained by the mortgage broker **AT THE WRITTEN REQUEST OF THE BORROWER; AND**

(2) ANY OTHER ~~SERVICE OR GOOD~~ GOOD OR SERVICE, AS SPECIFIED IN REGULATIONS ADOPTED BY THE COMMISSIONER, THAT IS REQUIRED TO COMPLETE A LOAN APPLICATION PROCESS ~~THAT~~ AND THAT, AT THE WRITTEN REQUEST OF THE BORROWER, IS PAID ~~OR PAYABLE~~ BY THE MORTGAGE BROKER TO A THIRD–PARTY PROVIDER OF THE ~~SERVICE OR GOOD~~ GOOD OR SERVICE.

(c) A mortgage broker obtaining a mortgage loan with respect to the same property more than once within a 24–month period may charge a finder's fee only on so much of the loan as is in excess of the initial loan.

(d) The provisions of this section do not apply to:

(1) The charging of fees and charges otherwise permitted under this title; or

(2) Attorney's fees unless the attorney is functioning as a mortgage broker.

(e) A mortgage broker may not charge a finder's fee in any transaction in which the mortgage broker or an owner, part owner, partner, director, officer, or employee of the mortgage broker is the lender or an owner, part owner, partner, director, officer, or employee of the lender.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 113

(Senate Bill 966)

AN ACT concerning

Education – High School Diploma by Examination

FOR the purpose of altering the eligibility requirement for obtaining a high school diploma by examination by repealing a certain waiting period; repealing the authority of the Secretary of Labor, Licensing, and Regulation to waive a certain withdrawal requirement; and generally relating to the eligibility requirements for an individual to obtain a high school diploma by examination.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 11–808
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Labor and Employment

11–808.

(a) An individual may obtain a high school diploma by examination as provided in this section if the individual:

(1) has not obtained a high school diploma;

(2) has resided in this State or on a federal reservation in this State for at least 3 months, provided that the Secretary may waive the residence requirement if the Secretary considers the waiver justified;

(3) is 16 years old or older; and

(4) has withdrawn from a regular full–time public or private school program **[**for at least 3 months, provided that the Secretary may waive the withdrawal requirement if the Secretary considers the waiver justified**]**.

(b) The Department shall offer examinations to individuals who are pursuing a high school diploma under this subtitle at least twice each year at places throughout the State that are reasonably convenient for the applicants.

(c) The examination shall:

(1) be offered in appropriate high school subject areas; and

(2) be of a comprehensive nature as determined by the State Board of Education.

(d) An individual who fails an examination may repeat taking the examination.

(e) A member of the armed forces may earn a Maryland high school diploma by taking the examinations furnished by the United States Armed Forces Institute and given by the appropriate service officer.

(f) The diploma shall be awarded in accordance with the regulations adopted by the Secretary and the State Board of Education.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 114

(Senate Bill 1006)

AN ACT concerning

Baltimore City – Sale of Motor Fuel for Dirt Bikes – Prohibition

FOR the purpose of requiring a retail service station dealer in Baltimore City to post a certain sign in a conspicuous location at a retail service station that states certain prohibitions relating to dispensing motor fuel into a dirt bike; requiring the Comptroller, in consultation with a certain organization, to adopt guidelines for the design of the sign; requiring a court, in making a disposition on a finding that a child has committed a certain violation of this Act, to order the Motor Vehicle Administration to suspend the driving privilege of the child for a certain period of time; prohibiting, in Baltimore City, a person who is not an owner or employee of a service station who is subject to certain prohibitions under local law from dispensing motor fuel into a dirt bike from a retail pump at a service station; requiring the court to notify the Administration if a person is convicted

of a certain violation of this Act; authorizing the Administration to suspend a person's driver's license for a certain period of time under certain circumstances; requiring the Administration to suspend a person's driver's license for a certain period of time under certain circumstances; establishing certain penalties; authorizing the court to order a minor's parent or guardian to pay a certain fine under certain circumstances; providing for the application of certain provisions of this Act; defining certain terms; and generally relating to the sale of motor fuel for dirt bikes.

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 10–101(k)
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY adding to
Article – Business Regulation
Section 10–503
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY adding to
Article – Courts and Judicial Proceedings
Section 3–8A–19(e)(5)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 16–206(c)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY adding to
Article – Transportation
Section 21–1128 and 27–101(dd)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – Business Regulation

10–101.

(k) "Retail service station dealer" means a person who operates a retail place of business where motor fuel is sold and delivered into the fuel supply tanks of motor vehicles.

10–503.

(A) IN THIS SECTION, "DIRT BIKE" HAS THE MEANING STATED IN § 21–1128 OF THE TRANSPORTATION ARTICLE.

(B) THIS SECTION APPLIES ONLY IN BALTIMORE CITY.

(C) A RETAIL SERVICE STATION DEALER SHALL POST A SIGN IN A CONSPICUOUS LOCATION AT THE RETAIL SERVICE STATION THAT STATES:

(1) THE PROVISIONS OF THE BALTIMORE CITY CODE THAT PROHIBIT A SERVICE STATION OR ANY OTHER PERSON FROM SELLING, TRANSFERRING, OR DISPENSING MOTOR FUEL FOR DELIVERY INTO A DIRT BIKE; AND

(2) THE PROVISIONS OF § 21–1128 OF THE TRANSPORTATION ARTICLE THAT PROHIBIT A PERSON FROM DISPENSING MOTOR FUEL INTO A DIRT BIKE.

(D) THE COMPTROLLER, IN CONSULTATION WITH THE WASHINGTON, MARYLAND, DELAWARE SERVICE STATION AND AUTOMOTIVE REPAIR ASSOCIATION, SHALL ADOPT GUIDELINES FOR THE DESIGN OF A SIGN REQUIRED UNDER THIS SECTION.

(E) IF A RETAIL SERVICE STATION DEALER DOES NOT POST A SIGN AS REQUIRED BY THIS SECTION, THE RETAIL SERVICE STATION DEALER:

(1) FOR A FIRST OFFENSE, SHALL RECEIVE A WARNING; AND

(2) FOR A SECOND OR SUBSEQUENT OFFENSE, IS SUBJECT TO A CIVIL PENALTY OF $100.

Article – Courts and Judicial Proceedings

3–8A–19.

(e) **(5) (I) IN MAKING A DISPOSITION ON A FINDING THAT THE CHILD HAS COMMITTED A VIOLATION UNDER § 21–1128 OF THE TRANSPORTATION ARTICLE, THE COURT SHALL ORDER THE MOTOR VEHICLE ADMINISTRATION TO INITIATE AN ACTION, UNDER THE MOTOR VEHICLE LAWS,**

TO SUSPEND THE DRIVING PRIVILEGE OF A CHILD LICENSED TO OPERATE A MOTOR VEHICLE BY THE MOTOR VEHICLE ADMINISTRATION FOR A SPECIFIED PERIOD OF NOT LESS THAN 30 DAYS NOR MORE THAN 90 DAYS.

(II) IF A CHILD SUBJECT TO A SUSPENSION UNDER THIS PARAGRAPH DOES NOT POSSESS THE PRIVILEGE TO DRIVE ON THE DATE OF THE DISPOSITION, THE SUSPENSION SHALL COMMENCE:

1. IF, ON THE DATE OF THE DISPOSITION, THE CHILD IS AT AN AGE THAT MAKES A CHILD ELIGIBLE TO OBTAIN THE PRIVILEGE TO DRIVE, ON THE DATE OF THE DISPOSITION; OR

2. IF, ON THE DATE OF THE DISPOSITION, THE CHILD IS YOUNGER THAN AN AGE THAT MAKES A CHILD ELIGIBLE TO OBTAIN THE PRIVILEGE TO DRIVE, ON THE DATE THE CHILD IS ELIGIBLE TO OBTAIN DRIVING PRIVILEGES.

Article – Transportation

16–206.

(c) (1) Pursuant to a court order under § 3–8A–19(e) of the Courts Article, the Administration shall initiate an action to suspend the driving privilege of a child for the time specified by the court.

(2) If a child subject to a suspension under § 3–8A–19(e) of the Courts Article does not hold a license to operate a motor vehicle on the date of the court order, the suspension shall commence:

(i) If the child is at least 16 years of age on the date of the disposition, on the date of the disposition; or

(ii) If the child is younger than 16 years of age on the date of the disposition, on the date the child reaches the child's 16th birthday.

(3) On receipt of a notice described under § 10–119(k) of the Criminal Law Article, the Administration shall suspend the license of an individual described under § 10–119(k) of the Criminal Law Article:

(i) For a first offense, for 6 months; and

(ii) For a second or subsequent offense, until the individual is 21 years old or for a period of 1 year, whichever is longer.

(4) If an individual subject to a suspension under paragraph (3) of this subsection does not hold a license to operate a motor vehicle on the date that the

individual is found guilty of a Code violation, the suspension shall begin on the date that the license is issued, or after the individual applies and becomes qualified to receive a license, or on the individual's twenty–first birthday, whichever occurs first.

(5) The Administration may modify a suspension under this subsection or subsection (b) of this section or issue a restricted license if:

(i) The license is required for the purpose of attending an alcohol education or alcoholic prevention or treatment program;

(ii) The child or individual is required to drive a motor vehicle in the course of employment;

(iii) It finds that the individual's or child's employment would be adversely affected because the individual or child has no reasonable alternative means of transportation to or from a place of employment; or

(iv) It finds that the individual's or child's education would be adversely affected because the individual or child has no reasonable alternative means of transportation for educational purposes.

21–1128.

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

(2) (I) "DIRT BIKE" MEANS ANY MOTORCYCLE OR SIMILAR VEHICLE THAT IS NOT REQUIRED TO BE REGISTERED UNDER TITLE 13 OF THIS ARTICLE.

(II) "DIRT BIKE" INCLUDES:

1. A MOTORIZED MINIBIKE, AS DEFINED IN § 11–134.4 OF THIS ARTICLE; AND

2. AN ALL–TERRAIN VEHICLE WITH EITHER 3 OR 4 WHEELS.

(III) "DIRT BIKE" DOES NOT INCLUDE:

1. A MOPED, AS DEFINED IN § 11–134.1 OF THIS ARTICLE; OR

2. A MOTOR SCOOTER, AS DEFINED IN § 11–134.5 OF THIS ARTICLE.

(3) "SERVICE STATION" MEANS A PLACE OF BUSINESS WHERE MOTOR FUEL IS SOLD AND DELIVERED INTO THE FUEL SUPPLY TANKS OF MOTOR VEHICLES.

(B) (1) THIS SECTION APPLIES ONLY IN BALTIMORE CITY.

(2) THIS SECTION DOES NOT APPLY TO AN OWNER OR EMPLOYEE OF A SERVICE STATION WHO IS SUBJECT TO THE PROVISIONS OF THE BALTIMORE CITY CODE PROHIBITING THE SELLING, TRANSFERRING, OR DISPENSING OF MOTOR FUEL FOR DELIVERY INTO A DIRT BIKE.

(C) A PERSON MAY NOT DISPENSE MOTOR FUEL INTO A DIRT BIKE FROM A RETAIL PUMP AT A SERVICE STATION.

(D) (1) IF A PERSON IS CONVICTED OF A VIOLATION OF THIS SECTION, THE COURT SHALL NOTIFY THE ADMINISTRATION OF THE CONVICTION.

(2) SUBJECT TO THE PROVISIONS OF PARAGRAPH (3) OF THIS SUBSECTION, ON RECEIPT OF THE NOTICE DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION THE ADMINISTRATION:

(I) FOR A FIRST VIOLATION, MAY SUSPEND THE PERSON'S DRIVER'S LICENSE FOR UP TO 30 DAYS; AND

(II) FOR A SECOND OR SUBSEQUENT VIOLATION, SHALL SUSPEND THE PERSON'S DRIVER'S LICENSE FOR 30 DAYS.

(3) SUBJECT TO THE PROVISIONS OF TITLE 12, SUBTITLE 2 OF THIS ARTICLE, A LICENSEE MAY REQUEST A HEARING ON A SUSPENSION UNDER THIS SECTION.

27–101.

(DD) (1) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF § 21–1128 OF THIS ARTICLE IS SUBJECT TO A FINE OF NOT MORE THAN $1,000 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH AND NOTWITHSTANDING ANY OTHER LAW, IF A MINOR IS THE DEFENDANT OR CHILD RESPONDENT IN A PROCEEDING UNDER § 21–1128 OF THIS ARTICLE, THE

COURT MAY ORDER THAT A FINE IMPOSED UNDER THIS SUBSECTION BE PAID BY:

1. THE MINOR;

2. THE PARENT OR GUARDIAN OF THE MINOR; OR

3. BOTH THE MINOR AND THE MINOR'S PARENT OR GUARDIAN.

(II) 1. A COURT MAY NOT ORDER A PARENT OR GUARDIAN OF A MINOR TO PAY A FINE UNDER THIS PARAGRAPH UNLESS THE PARENT OR GUARDIAN HAS BEEN GIVEN A REASONABLE OPPORTUNITY TO BE HEARD AND TO PRESENT EVIDENCE.

2. A HEARING UNDER THIS SUBPARAGRAPH MAY BE HELD AS PART OF THE SENTENCING OR DISPOSITION HEARING.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 115

(House Bill 1025)

AN ACT concerning

Baltimore City – Sale of Motor Fuel for Dirt Bikes – Prohibition

FOR the purpose of requiring a retail service station dealer in Baltimore City to post a certain sign in a conspicuous location at a retail service station that states certain prohibitions relating to dispensing motor fuel into a dirt bike; requiring the Comptroller, in consultation with a certain organization, to adopt guidelines for the design of the sign; requiring a court, in making a disposition on a finding that a child has committed a certain violation of this Act, to order the Motor Vehicle Administration to suspend the driving privilege of the child for a certain period of time; prohibiting, in Baltimore City, a person who is not an owner or employee of a service station who is subject to certain prohibitions under local law from dispensing motor fuel into a dirt bike from a retail pump at a service station; requiring the court to notify the Administration if a person is convicted of a certain violation of this Act; authorizing the Administration to suspend a

person's driver's license for a certain period of time under certain circumstances; requiring the Administration to suspend a person's driver's license for a certain period of time under certain circumstances; establishing certain penalties; authorizing the court to order a minor's parent or guardian to pay a certain fine under certain circumstances; providing for the application of certain provisions of this Act; defining certain terms; and generally relating to the sale of motor fuel for dirt bikes.

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 10–101(k)
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY adding to
Article – Business Regulation
Section 10–503
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY adding to
Article – Courts and Judicial Proceedings
Section 3–8A–19(e)(5)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 16–206(c)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY adding to
Article – Transportation
Section 21–1128 and 27–101(dd)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – Business Regulation

10–101.

(k) "Retail service station dealer" means a person who operates a retail place of business where motor fuel is sold and delivered into the fuel supply tanks of motor vehicles.

10–503.

(A) IN THIS SECTION, "DIRT BIKE" HAS THE MEANING STATED IN § 21–1128 OF THE TRANSPORTATION ARTICLE.

(B) THIS SECTION APPLIES ONLY IN BALTIMORE CITY.

(C) A RETAIL SERVICE STATION DEALER SHALL POST A SIGN IN A CONSPICUOUS LOCATION AT THE RETAIL SERVICE STATION THAT STATES:

(1) THE PROVISIONS OF THE BALTIMORE CITY CODE THAT PROHIBIT A SERVICE STATION OR ANY OTHER PERSON FROM SELLING, TRANSFERRING, OR DISPENSING MOTOR FUEL FOR DELIVERY INTO A DIRT BIKE; AND

(2) THE PROVISIONS OF § 21–1128 OF THE TRANSPORTATION ARTICLE THAT PROHIBIT A PERSON FROM DISPENSING MOTOR FUEL INTO A DIRT BIKE.

(D) THE COMPTROLLER, IN CONSULTATION WITH THE WASHINGTON, MARYLAND, DELAWARE SERVICE STATION AND AUTOMOTIVE REPAIR ASSOCIATION, SHALL ADOPT GUIDELINES FOR THE DESIGN OF A SIGN REQUIRED UNDER THIS SECTION.

(E) IF A RETAIL SERVICE STATION DEALER DOES NOT POST A SIGN AS REQUIRED BY THIS SECTION, THE RETAIL SERVICE STATION DEALER:

(1) FOR A FIRST OFFENSE, SHALL RECEIVE A WARNING; AND

(2) FOR A SECOND OR SUBSEQUENT OFFENSE, IS SUBJECT TO A CIVIL PENALTY OF $100.

Article – Courts and Judicial Proceedings

3–8A–19.

(e) **(5) (I) IN MAKING A DISPOSITION ON A FINDING THAT THE CHILD HAS COMMITTED A VIOLATION UNDER § 21–1128 OF THE TRANSPORTATION ARTICLE, THE COURT SHALL ORDER THE MOTOR VEHICLE ADMINISTRATION TO INITIATE AN ACTION, UNDER THE MOTOR VEHICLE LAWS,**

TO SUSPEND THE DRIVING PRIVILEGE OF A CHILD LICENSED TO OPERATE A MOTOR VEHICLE BY THE MOTOR VEHICLE ADMINISTRATION FOR A SPECIFIED PERIOD OF NOT LESS THAN 30 DAYS NOR MORE THAN 90 DAYS.

(II) IF A CHILD SUBJECT TO A SUSPENSION UNDER THIS PARAGRAPH DOES NOT POSSESS THE PRIVILEGE TO DRIVE ON THE DATE OF THE DISPOSITION, THE SUSPENSION SHALL COMMENCE:

1. IF, ON THE DATE OF THE DISPOSITION, THE CHILD IS AT AN AGE THAT MAKES A CHILD ELIGIBLE TO OBTAIN THE PRIVILEGE TO DRIVE, ON THE DATE OF THE DISPOSITION; OR

2. IF, ON THE DATE OF THE DISPOSITION, THE CHILD IS YOUNGER THAN AN AGE THAT MAKES A CHILD ELIGIBLE TO OBTAIN THE PRIVILEGE TO DRIVE, ON THE DATE THE CHILD IS ELIGIBLE TO OBTAIN DRIVING PRIVILEGES.

Article – Transportation

16–206.

(c) (1) Pursuant to a court order under § 3–8A–19(e) of the Courts Article, the Administration shall initiate an action to suspend the driving privilege of a child for the time specified by the court.

(2) If a child subject to a suspension under § 3–8A–19(e) of the Courts Article does not hold a license to operate a motor vehicle on the date of the court order, the suspension shall commence:

(i) If the child is at least 16 years of age on the date of the disposition, on the date of the disposition; or

(ii) If the child is younger than 16 years of age on the date of the disposition, on the date the child reaches the child's 16th birthday.

(3) On receipt of a notice described under § 10–119(k) of the Criminal Law Article, the Administration shall suspend the license of an individual described under § 10–119(k) of the Criminal Law Article:

(i) For a first offense, for 6 months; and

(ii) For a second or subsequent offense, until the individual is 21 years old or for a period of 1 year, whichever is longer.

(4) If an individual subject to a suspension under paragraph (3) of this subsection does not hold a license to operate a motor vehicle on the date that the

individual is found guilty of a Code violation, the suspension shall begin on the date that the license is issued, or after the individual applies and becomes qualified to receive a license, or on the individual's twenty–first birthday, whichever occurs first.

(5) The Administration may modify a suspension under this subsection or subsection (b) of this section or issue a restricted license if:

(i) The license is required for the purpose of attending an alcohol education or alcoholic prevention or treatment program;

(ii) The child or individual is required to drive a motor vehicle in the course of employment;

(iii) It finds that the individual's or child's employment would be adversely affected because the individual or child has no reasonable alternative means of transportation to or from a place of employment; or

(iv) It finds that the individual's or child's education would be adversely affected because the individual or child has no reasonable alternative means of transportation for educational purposes.

21–1128.

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

(2) (I) "DIRT BIKE" MEANS ANY MOTORCYCLE OR SIMILAR VEHICLE THAT IS NOT REQUIRED TO BE REGISTERED UNDER TITLE 13 OF THIS ARTICLE.

(II) "DIRT BIKE" INCLUDES:

1. A MOTORIZED MINIBIKE, AS DEFINED IN § 11–134.4 OF THIS ARTICLE; AND

2. AN ALL–TERRAIN VEHICLE WITH EITHER 3 OR 4 WHEELS.

(III) "DIRT BIKE" DOES NOT INCLUDE:

1. A MOPED, AS DEFINED IN § 11–134.1 OF THIS ARTICLE; OR

2. A MOTOR SCOOTER, AS DEFINED IN § 11–134.5 OF THIS ARTICLE.

(3) "SERVICE STATION" MEANS A PLACE OF BUSINESS WHERE MOTOR FUEL IS SOLD AND DELIVERED INTO THE FUEL SUPPLY TANKS OF MOTOR VEHICLES.

(B) (1) THIS SECTION APPLIES ONLY IN BALTIMORE CITY.

(2) THIS SECTION DOES NOT APPLY TO AN OWNER OR EMPLOYEE OF A SERVICE STATION WHO IS SUBJECT TO THE PROVISIONS OF THE BALTIMORE CITY CODE PROHIBITING THE SELLING, TRANSFERRING, OR DISPENSING OF MOTOR FUEL FOR DELIVERY INTO A DIRT BIKE.

(C) A PERSON MAY NOT DISPENSE MOTOR FUEL INTO A DIRT BIKE FROM A RETAIL PUMP AT A SERVICE STATION.

(D) (1) IF A PERSON IS CONVICTED OF A VIOLATION OF THIS SECTION, THE COURT SHALL NOTIFY THE ADMINISTRATION OF THE CONVICTION.

(2) SUBJECT TO THE PROVISIONS OF PARAGRAPH (3) OF THIS SUBSECTION, ON RECEIPT OF THE NOTICE DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION THE ADMINISTRATION:

(I) FOR A FIRST VIOLATION, MAY SUSPEND THE PERSON'S DRIVER'S LICENSE FOR UP TO 30 DAYS; AND

(II) FOR A SECOND OR SUBSEQUENT VIOLATION, SHALL SUSPEND THE PERSON'S DRIVER'S LICENSE FOR 30 DAYS.

(3) SUBJECT TO THE PROVISIONS OF TITLE 12, SUBTITLE 2 OF THIS ARTICLE, A LICENSEE MAY REQUEST A HEARING ON A SUSPENSION UNDER THIS SECTION.

27–101.

(DD) (1) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF § 21–1128 OF THIS ARTICLE IS SUBJECT TO A FINE OF NOT MORE THAN $1,000 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH AND NOTWITHSTANDING ANY OTHER LAW, IF A MINOR IS THE DEFENDANT OR CHILD RESPONDENT IN A PROCEEDING UNDER § 21–1128 OF THIS ARTICLE, THE

COURT MAY ORDER THAT A FINE IMPOSED UNDER THIS SUBSECTION BE PAID BY:

1. THE MINOR;

2. THE PARENT OR GUARDIAN OF THE MINOR; OR

3. BOTH THE MINOR AND THE MINOR'S PARENT OR GUARDIAN.

(II) 1. A COURT MAY NOT ORDER A PARENT OR GUARDIAN OF A MINOR TO PAY A FINE UNDER THIS PARAGRAPH UNLESS THE PARENT OR GUARDIAN HAS BEEN GIVEN A REASONABLE OPPORTUNITY TO BE HEARD AND TO PRESENT EVIDENCE.

2. A HEARING UNDER THIS SUBPARAGRAPH MAY BE HELD AS PART OF THE SENTENCING OR DISPOSITION HEARING.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 116

(Senate Bill 1020)

AN ACT concerning

Natural Resources – Incidental Taking Permit for Endangered Puritan Tiger Beetle – Requirements

FOR the purpose of requiring the Secretary of Natural Resources to issue a permit to an applicant that authorizes an incidental taking of the endangered Puritan Tiger Beetle under certain circumstances; requiring the Secretary to adopt certain regulations relating to an incidental taking permit for the endangered Puritan Tiger Beetle; <u>making this Act an emergency measure;</u> and generally relating to an incidental taking permit for the endangered Puritan Tiger Beetle.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 10–2A–05.1
Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

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

Article – Natural Resources

10–2A–05.1.

(a) The Secretary **[**may**]** **SHALL** issue a permit to an applicant that authorizes an incidental taking of the endangered Puritan Tiger Beetle if:

(1) The applicant submits a conservation plan to the Department that specifies:

(i) The impact that will likely result from the incidental taking;

(ii) The steps that the applicant will take to minimize and mitigate the impact, and the funding that will be available to implement the steps;

(iii) The alternative actions to the incidental taking that the applicant considered and the reasons that the alternatives were not used; and

(iv) Any other measures that the Secretary requires as being **REASONABLY** necessary or appropriate for the purposes of the plan; and

(2) The Secretary finds that:

(i) The incidental taking will not appreciably reduce the likelihood of the survival or recovery of the Puritan Tiger Beetle in the wild;

(ii) The applicant will, to the extent practicable, minimize and mitigate the impacts of the incidental taking;

(iii) Adequate funding for the conservation plan is available and the plan will be implemented; and

(iv) The applicant has obtained the required federal authorization for the incidental taking of the Puritan Tiger Beetle.

(b) The Secretary **[**may**]** **SHALL** adopt regulations to implement and enforce this section.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 13, 2010.

Chapter 117

(House Bill 295)

AN ACT concerning

Natural Resources – Incidental Taking Permit for Endangered Puritan Tiger Beetle – Requirements

FOR the purpose of requiring the Secretary of Natural Resources to issue a permit to an applicant that authorizes an incidental taking of the endangered Puritan Tiger Beetle under certain circumstances; requiring the Secretary to adopt certain regulations relating to an incidental taking permit for the endangered Puritan Tiger Beetle; making this Act an emergency measure; and generally relating to an incidental taking permit for the endangered Puritan Tiger Beetle.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 10–2A–05.1
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Natural Resources

10–2A–05.1.

(a) The Secretary **[**may**]** **SHALL** issue a permit to an applicant that authorizes an incidental taking of the endangered Puritan Tiger Beetle if:

(1) The applicant submits a conservation plan to the Department that specifies:

(i) The impact that will likely result from the incidental taking;

(ii) The steps that the applicant will take to minimize and mitigate the impact, and the funding that will be available to implement the steps;

(iii) The alternative actions to the incidental taking that the applicant considered and the reasons that the alternatives were not used; and

(iv) Any other measures that the Secretary requires as being **REASONABLY** necessary or appropriate for the purposes of the plan; and

(2) The Secretary finds that:

(i) The incidental taking will not appreciably reduce the likelihood of the survival or recovery of the Puritan Tiger Beetle in the wild;

(ii) The applicant will, to the extent practicable, minimize and mitigate the impacts of the incidental taking;

(iii) Adequate funding for the conservation plan is available and the plan will be implemented; and

(iv) The applicant has obtained the required federal authorization for the incidental taking of the Puritan Tiger Beetle.

(b) The Secretary **[**may**]** **SHALL** adopt regulations to implement and enforce this section.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 13, 2010.

Chapter 118

(House Bill 66)

AN ACT concerning

Department of Housing and Community Development – Neighborhood Business Development Program – Microenterprise Loans

FOR the purpose of authorizing certain entities to administer a ~~Microenterprise Loan Program~~ microenterprise loan program under ~~certain~~ standards adopted by the Department of Housing and Community Development under certain circumstances; ~~authorizing~~ requiring the Department to establish certain standards by regulation; exempting microenterprise projects from certain ~~financial funding~~ financing requirements; altering the purposes for which financial assistance may be used under a certain business development program; authorizing the Department to help train certain employees; authorizing the Department to charge and collect certain fees in a certain manner; authorizing the Department to directly fund a loan to a microenterprise under certain circumstances; authorizing the Department to provide financial assistance to a certain entity for the purpose of the entity making a loan to a microenterprise under certain circumstances; altering certain definitions; and generally relating to microenterprise loans and the Neighborhood Business Development Program ~~and the Microenterprise Loan Program~~ in the Department of Housing and Community Development.

BY repealing and reenacting, without amendments,
Article – Housing and Community Development
Section 6–301(a) ~~and (e)~~
Annotated Code of Maryland
(2006 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Housing and Community Development
Section 6–301(e) and (g), 6–306, and 6–307(b)
Annotated Code of Maryland
(2006 Volume and 2009 Supplement)

BY adding to
Article – Housing and Community Development
Section 6–308.1
Annotated Code of Maryland
(2006 Volume and 2009 Supplement)

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

Article – Housing and Community Development

6–301.

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

(e) "Microenterprise" means a business with not more than five employees that:

(1) requires not more than $35,000 in total start–up capital **OR FINANCIAL ASSISTANCE**; and

(2) does not have access to the traditional commercial banking sector.

(g) **(1)** "Project" means a neighborhood business development project that receives financial assistance from the Fund.

(2) "PROJECT" INCLUDES A MICROENTERPRISE PROJECT THAT RECEIVES FINANCIAL ASSISTANCE FROM THE FUND.

6–306.

(a) (1) A small business, nonprofit organization, or microenterprise may apply for financial assistance under the Business Development Program.

(2) The Department shall review each application.

(b) An applicant may qualify for financial assistance for a project in a designated neighborhood if the application demonstrates that:

(1) **EXCEPT FOR A MICROENTERPRISE PROJECT,** the project has significant commitments for financing from other private and nonstate public sources that are sufficient to complete the project with the money from the Fund;

(2) the financial assistance from the Fund is the minimum amount necessary to make the project financially feasible;

(3) the project is ready to proceed when it receives financial assistance from the Business Development Program; and

(4) the political subdivision has adopted a resolution, or its authorized designee has delivered a letter to the Business Development Program, that expresses support for the project.

(c) Financial assistance under the Business Development Program may be provided to a small business, nonprofit organization, or microenterprise as:

(1) a grant;

(2) a loan;

(3) a reduction in the principal obligation of or interest rate on a loan or portion of a loan;

(4) a prepayment of interest on a subordinate or superior loan or portion of a loan;

(5) an assurance;

(6) a guarantee; or

(7) any other form of credit enhancement.

6–307.

(b) Financial assistance under the Business Development Program may be used for**:**

(1) a part of the **[**project**]** development costs **OF A PROJECT; OR**

(2) THE DEVELOPMENT COSTS, WORKING CAPITAL, OR BUSINESS EXPENSES OF A MICROENTERPRISE PROJECT.

6–308.1.

(A) IF THE DEPARTMENT DETERMINES THAT AN ENTITY IS CAPABLE OF ADMINISTERING A ~~MICROENTERPRISE LOAN PROGRAM~~ MICROENTERPRISE LOAN PROGRAM, THE ENTITY MAY ORIGINATE AND ADMINISTER LOANS TO MICROENTERPRISES IN ACCORDANCE WITH STANDARDS THE DEPARTMENT ADOPTS BY REGULATION.

(B) (1) ~~BY REGULATION, THE~~ THE DEPARTMENT SHALL ADOPT REGULATIONS TO ESTABLISH STANDARDS FOR DETERMINING THE ELIGIBILITY OF AN ENTITY TO ADMINISTER A ~~MICROENTERPRISE LOAN PROGRAM~~ MICROENTERPRISE LOAN PROGRAM.

(2) THE STANDARDS SHALL INCLUDE PROVISIONS ON:

(I) THE SIZE, TRAINING, AND EXPERIENCE OF THE PROFESSIONAL STAFF THAT WOULD ADMINISTER THE ~~PROGRAM~~ PROGRAM; AND

(II) THE CAPABILITY OF THE PROFESSIONAL STAFF TO:

1. DETERMINE FINANCIAL CAPACITY OF A BORROWER;

2. ORIGINATE A LOAN; AND

3. EVALUATE APPLICATIONS FOR ~~PROGRAM~~ PROGRAM LOANS.

(C) THE DEPARTMENT MAY:

(1) HELP TRAIN EMPLOYEES OF AN APPROVED ENTITY TO ADMINISTER A ~~MICROENTERPRISE LOAN PROGRAM~~ MICROENTERPRISE LOAN PROGRAM IN ACCORDANCE WITH STANDARDS THAT THE DEPARTMENT ADOPTS; ~~AND~~

(2) CHARGE AND COLLECT FROM ~~THE~~ A BORROWER:

(I) REASONABLE ORIGINATION, APPLICATION, AND PROCESSING FEES; AND

(II) OTHER CHARGES, FEES, OR REIMBURSEMENTS INCIDENTAL TO MICROENTERPRISE LOANS;

(3) INCLUDE THE FEES AND CHARGES LISTED IN ITEM (2) OF THIS SUBSECTION IN THE LOAN AMOUNT; ~~AND~~

(4) PAY ~~THE~~ AN APPROVED ENTITY A REASONABLE ORIGINATION, APPLICATION, AND PROCESSING FEE FOR EACH LOAN ~~IT ORIGINATES~~ TO A MICROENTERPRISE THAT IS ORIGINATED BY THE APPROVED ENTITY;

(5) DIRECTLY FUND A LOAN TO A MICROENTERPRISE THAT IS ORIGINATED BY AN APPROVED ENTITY; AND

(6) PROVIDE FINANCIAL ASSISTANCE TO AN APPROVED ENTITY FOR THE PURPOSE OF THE APPROVED ENTITY MAKING A LOAN TO A MICROENTERPRISE IN ACCORDANCE WITH THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 119

(House Bill 67)

AN ACT concerning

Senior Prescription Drug Assistance Program – Sunset Extension

FOR the purpose of extending the termination date of the Senior Prescription Drug Assistance Program; altering the period of time during which the subsidy required under the Senior Prescription Drug Assistance Program may not exceed a certain amount; and generally relating to the Senior Prescription Drug Assistance Program.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 14–106(e)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Chapter 153 of the Acts of the General Assembly of 2002, as amended by Chapter 282 of the Acts of the General Assembly of 2005, Chapter 345 of the Acts of the General Assembly of 2006, Chapter 509 of the Acts of the General Assembly of 2007, and Chapter 558 of the Acts of the General Assembly of 2008
Section 13

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

Article – Insurance

14–106.

(e) The subsidy that a nonprofit health service plan is required to provide to the Senior Prescription Drug Assistance Program under subsection (d)(1)(iii) of this section may not exceed:

(1) for the period of January 1, 2006 through June 30, 2006, $8,000,000;

(2) for fiscal years 2008 through **[**2010**]** **2013**, $14,000,000; and

(3) for any year, the value of the nonprofit health service plan's premium tax exemption under § 6–101(b) of this article.

Chapter 153 of the Acts of 2002, as amended by Chapter 282 of the Acts of 2005, Chapter 345 of the Acts of 2006, Chapter 509 of the Acts of 2007, and Chapter 558 of the Acts of 2008

SECTION 13. AND BE IT FURTHER ENACTED, That:

(1) No later than June 1, 2003, the Secretary of Health and Mental Hygiene and the carrier that is required to offer the Short–Term Prescription Drug Subsidy Plan under Title 15, Subtitle 6 of the Health – General Article shall transfer all Plan records, data, and other information necessary to operate and administer the Senior Prescription Drug Program established under this Act to the Board of the Maryland Health Insurance Plan.

(2) Each individual enrolled in the Short–Term Prescription Drug Subsidy Plan, established under Title 15, Subtitle 6 of the Health – General Article, on June 30, 2003 shall, at the option of the enrollee and subject to the payment of all necessary premiums and copayments, be automatically enrolled in the Senior Prescription Drug Program established under this Act.

(3) It is the intent of the General Assembly that the transition of enrollees from the Short–Term Prescription Drug Subsidy Plan to the Senior Prescription Drug Program be accomplished without interruption of benefits for enrollees.

(4) Subsidies shall be offered to enrollees through the Senior Prescription Drug Assistance Program established under Title 14, Subtitle 5, Part II of the Insurance Article beginning January 1, 2006. At the end of December 31, **[**2010**]** **2012**, the Senior Prescription Drug Assistance Program established under Title 14, Subtitle 5, Part II, as amended, shall be abrogated and of no further force and effect.

(5) Beginning April 1, 2003, the carrier required to offer the Short–Term Prescription Drug Subsidy Plan under Title 15, Subtitle 6 of the Health – General Article and the Senior Prescription Drug Assistance Program under Title 14, Subtitle 5 of the Insurance Article shall subsidize the Plan and beginning January 1, 2006, the Program, using the value of the carrier's premium tax exemption.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 120

(House Bill 69)

AN ACT concerning

Insurance – Insurers – Audits, Investments, and Operations

FOR the purpose of authorizing the Maryland Insurance Commissioner to require a health maintenance organization, authorized insurer, nonprofit health service

plan, dental plan organization, and managed care organization to file certain audited financial reports earlier than certain dates; prohibiting certain partners in certain accounting firms responsible for preparing certain audited financial reports from acting in that capacity for more than a certain number of consecutive years for the same insurer; requiring certain insurers to file with the Commissioner certain written plans and all changes and amendments to the written plans for use in the State on or before a certain date; authorizing the reserve investments of an insurer to include securities lending, repurchase, reverse purchase, and dollar roll transactions with business entities, subject to certain requirements; clarifying the type of information that the Commissioner may consider in determining whether the continued operation of an authorized insurer engaging in insurance business in the State would be hazardous to policyholders or creditors of the authorized insurer or the general public; authorizing the Commissioner to order certain insurers to take certain actions if the Commissioner determines that the continued operation of an authorized insurer may be hazardous to policyholders or creditors of the authorized insurer or the general public; requiring the annual statement filed by each nonprofit health service plan to be in a certain form and to contain certain additional information; requiring each nonprofit health service plan to file a certain audited financial report; requiring each nonprofit health service plan to file a certain audited financial report for each affiliate and subsidiary owned by or under the control of the nonprofit health service plan; clarifying the form and content of the annual statement filed by a dental plan organization; authorizing the Commissioner to require a dental plan organization doing business in the State to file a certain interim statement containing certain information; requiring a dental plan organization to file a certain audited financial report; establishing certain penalties; defining certain terms; and generally relating to the audits, investments, and operations of insurers.

BY adding to
Article – Health – General
Section 19–706(cccc)
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–717
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 4–116(c), 4–118(c)(1), 5–511(n), 5–608(a) and (t), 9–102, and 9–103
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY adding to
Article – Insurance
Section 4–116(d) and 5–608(t)
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 14–121, 14–413, and 15–605(f)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Health – General

19–706.

(CCCC) THE PROVISIONS OF § 5–608(T) OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

19–717.

(a) Except as provided in **[**subsection (b)**]** **SUBSECTIONS (B) AND (C)** of this section and unless, for good cause shown, the Commissioner extends the time for a reasonable period:

(1) On or before March 1 of each year, each health maintenance organization shall file with the Commissioner a report that shows the financial condition of the health maintenance organization on the last day of the preceding calendar year and any other information that the Commissioner requires by rule or regulation; and

(2) On or before June 1 of each year, each health maintenance organization shall file with the Commissioner an audited financial report for the preceding calendar year.

(b) A health maintenance organization that has a fiscal year other than the calendar year may request permission to file both the annual report required under subsection (a)(1) of this section and the audited financial report required under subsection (a)(2) of this section at the end of its fiscal year rather than the preceding calendar year. If the Commissioner grants this permission, the health maintenance organization shall file the annual report with the Commissioner within 60 days after the end of its fiscal year, and the health maintenance organization shall file the audited financial report with the Commissioner within 150 days after the end of its fiscal year.

(C) WITH 90 DAYS' ADVANCE NOTICE, THE COMMISSIONER MAY REQUIRE A HEALTH MAINTENANCE ORGANIZATION TO FILE AN AUDITED FINANCIAL REPORT EARLIER THAN THE DATE SPECIFIED IN SUBSECTION (A) OF THIS SECTION.

[(c)**] (D)** The annual report shall:

(1) Be on the forms that the Commissioner requires; and

(2) Include a description of any changes in the information submitted under § 19–708 of this subtitle.

[(d)**] (E)** The audited financial report shall:

(1) Be on the forms that the Commissioner requires; and

(2) Be certified by an audit of a certified public accounting firm.

[(e)**] (F)** Each financial report filed under this section is a public record.

Article – Insurance

4–116.

(c) (1) **[**On**] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, ON** or before June 1 of each year, an authorized insurer shall file with the Commissioner an audited financial report for the immediately preceding calendar year.

(2) The authorized insurer shall have the report prepared by an independent certified public accountant.

(3) The Commissioner may:

(i) set requirements for the form and content of the report; and

(ii) for good cause, extend the time for filing the report.

(4) Unless the Commissioner extends the time for filing, an authorized insurer that fails to file an audited financial report on or before June 10 shall pay a penalty of:

(i) $100 for each day from June 1 to June 10, both inclusive; and

(ii) $150 for each day from June 11 to the day before the Commissioner receives the report, both inclusive.

(D) WITH 90 DAYS' ADVANCE NOTICE, THE COMMISSIONER MAY REQUIRE AN AUTHORIZED INSURER TO FILE AN AUDITED FINANCIAL REPORT EARLIER THAN THE DATE SPECIFIED IN SUBSECTION (C) OF THIS SECTION.

4–118.

(c) (1) (i) A partner in an accounting firm responsible for preparing an audited financial report under § 4–116 of this subtitle for an insurer may not act in that capacity for more than **[**7**] 5** consecutive years for the same insurer.

(ii) If a partner in an accounting firm responsible for preparing an audited financial report under § 4–116 of this subtitle for an insurer exceeds **[**7**] 5** consecutive years in that capacity, the partner shall be disqualified from acting in the same or similar capacity for that insurer or its insurance subsidiaries or affiliates for a period of not less than **[**2**] 5 CONSECUTIVE** years.

5–511.

(n) (1) The reserve investments of a life insurer may include securities lending, repurchase, reverse repurchase, and dollar roll transactions with business entities, subject to the requirements of paragraphs (2) through (9) of this subsection.

(2) **(I)** The insurer's board of directors shall adopt a written plan that specifies guidelines and objectives to be followed, such as:

[(i)**]** **1.** a description of how cash received will be invested or used for general corporate purposes of the insurer;

[(ii)**]** **2.** operational procedures to manage interest rate risk, counterparty default risk, the conditions under which proceeds from reverse repurchase transactions may be used in the ordinary course of business, and the use of acceptable collateral in a manner that reflects the liquidity needs of the transaction; and

[(iii)**]** **3.** the extent to which the insurer may engage in these transactions.

(II) THE INSURER SHALL FILE WITH THE COMMISSIONER THE WRITTEN PLAN INCLUDING ALL CHANGES AND AMENDMENTS TO THE WRITTEN PLAN FOR USE IN THE STATE ON OR BEFORE THE DATE THE PLAN BECOMES EFFECTIVE.

(3) (i) The insurer shall enter into a written agreement for all transactions authorized under this subsection other than dollar roll transactions.

(ii) The written agreement shall require that each transaction terminate no more than 1 year from its inception or on the earlier demand of the insurer.

(iii) The agreement shall be with the business entity counterparty, but for securities lending transactions, the agreement may be with an agent acting on behalf of the insurer, if the agent is a qualified business entity, and if the agreement:

1. requires the agent to enter into separate agreements with each counterparty that are consistent with the requirements of this section; and

2. prohibits securities lending transactions under the agreement with the agent or its affiliates.

(4) (i) Cash received in a transaction under this subsection shall be invested in accordance with this subtitle and in a manner that recognizes the liquidity needs of the transaction or used by the insurer for its general corporate purposes.

(ii) For so long as the transaction remains outstanding, the insurer, its agent, or custodian shall maintain, as to acceptable collateral received in a transaction under this subsection, either physically or through the book entry systems of the Federal Reserve, Depository Trust Company, Participants Trust Company, or other securities depositories approved by the Commissioner:

1. possession of the acceptable collateral;

2. a perfected security interest in the acceptable collateral; or

3. in the case of a jurisdiction outside the United States, title to, or rights of a secured creditor to, the acceptable collateral.

(5) (i) The limitations of § 5–507 of this subtitle do not apply to the business entity counterparty exposure created by transactions under this subsection.

(ii) For purposes of calculations made to determine compliance with this subsection, no effect will be given to the insurer's future obligation to resell securities, in the case of a repurchase transaction, or to repurchase securities, in the case of a reverse repurchase transaction.

(iii) An insurer may not enter into a transaction under this subsection if, as a result of and after giving effect to the transaction:

1. A. the aggregate amount of securities then loaned, sold to, or purchased from any one business entity counterparty under this subsection would exceed 5% of its admitted assets; and

B. in calculating the amount sold to or purchased from a business entity counterparty under repurchase or reverse repurchase transactions, effect may be given to netting provisions under a master written agreement; or

2. the aggregate amount of all securities then loaned, sold to, or purchased from all business entities under this subsection would exceed 40% of its admitted assets.

(6) (i) In a securities lending transaction, the insurer shall receive acceptable collateral having a market value as of the transaction date at least equal to 102% of the market value of the securities loaned by the insurer in the transaction as of that date.

(ii) If at any time the market value of the acceptable collateral is less than the market value of the loaned securities, the business entity counterparty shall be obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals 102% of the market value of the loaned securities.

(7) (i) In a reverse repurchase transaction, other than a dollar roll transaction, the insurer shall receive acceptable collateral having a market value as of the transaction date at least equal to 95% of the market value of the securities transferred by the insurer in the transaction as of that date.

(ii) If at any time the market value of the acceptable collateral is less than 95% of the market value of the securities so transferred, the business entity counterparty shall be obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals 95% of the market value of the transferred securities.

(8) In a dollar roll transaction, the insurer shall receive cash in an amount at least equal to the market value of the securities transferred by the insurer in the transaction as of the transaction date.

(9) (i) In a repurchase transaction, the insurer shall receive as acceptable collateral transferred securities having a market value at least equal to 102% of the purchase price paid by the insurer for the securities.

(ii) If at any time the market value of the acceptable collateral is less than 100% of the purchase price paid by the insurer, the business entity counterparty shall be obligated to provide additional acceptable collateral, the market

value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals 102% of the purchase price.

(iii) Securities acquired by an insurer in a repurchase transaction may not be sold in a reverse repurchase transaction, loaned in a securities lending transaction, or otherwise pledged.

5–608.

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

(2) "DOLLAR ROLL TRANSACTION" MEANS TWO SIMULTANEOUS TRANSACTIONS WITH DIFFERENT SETTLEMENT DATES NO MORE THAN 96 DAYS APART, SO THAT IN THE TRANSACTION WITH THE EARLIER SETTLEMENT DATE, AN INSURER SELLS TO A BUSINESS ENTITY, AND IN THE OTHER TRANSACTION THE INSURER IS OBLIGATED TO PURCHASE FROM THE SAME BUSINESS ENTITY, SUBSTANTIALLY SIMILAR SECURITIES OF THE FOLLOWING TYPES:

(I) ASSET–BACKED SECURITIES ISSUED, ASSUMED, OR GUARANTEED BY THE GOVERNMENT NATIONAL MORTGAGE ASSOCIATION, THE FEDERAL NATIONAL MORTGAGE ASSOCIATION, OR THE FEDERAL HOME LOAN MORTGAGE CORPORATION OR THEIR RESPECTIVE SUCCESSORS; AND

(II) OTHER ASSET–BACKED SECURITIES REFERRED TO IN SECTION 106 OF TITLE I OF THE SECONDARY MORTGAGE MARKET ENHANCEMENT ACT OF 1984 (15 U.S.C., § 77R–1), AS AMENDED.

[(2)**] (3)** "Fixed charges" include:

(i) interest on funded and unfunded debt amortization of debt discount; and

(ii) rentals for leased properties.

[(3)**] (4)** "Institution" includes a corporation, joint stock association, and business trust.

[(4)**] (5)** "Net earnings available for fixed charges" means net income after deducting operating and maintenance expenses, taxes other than federal and state income taxes, depreciation, and depletion, and excluding extraordinary nonrecurring items or income or expense appearing in the regular financial statements of the issuing, assuming, or guaranteeing institutions.

[(5)**] (6)** "Obligation" includes bonds, debentures, notes, or other evidences of indebtedness.

(7) "REPURCHASE TRANSACTION" MEANS A TRANSACTION IN WHICH AN INSURER PURCHASES SECURITIES FROM A BUSINESS ENTITY THAT IS OBLIGATED TO REPURCHASE THE PURCHASED SECURITIES OR EQUIVALENT SECURITIES FROM THE BUSINESS ENTITY AT A SPECIFIED PRICE, EITHER WITHIN A SPECIFIED PERIOD OF TIME OR ON DEMAND.

(8) "REVERSE REPURCHASE TRANSACTION" MEANS A TRANSACTION IN WHICH AN INSURER SELLS SECURITIES TO A BUSINESS ENTITY AND IS OBLIGATED TO REPURCHASE THE SOLD SECURITIES OR EQUIVALENT SECURITIES FROM THE BUSINESS ENTITY AT A SPECIFIED PRICE, EITHER WITHIN A SPECIFIED PERIOD OF TIME OR ON DEMAND.

(9) "SECURITIES LENDING TRANSACTION" MEANS A TRANSACTION IN WHICH SECURITIES ARE LOANED BY AN INSURER TO A BUSINESS ENTITY THAT IS OBLIGATED TO RETURN THE LOANED SECURITIES OR EQUIVALENT SECURITIES TO THE INSURER, EITHER WITHIN A SPECIFIED PERIOD OF TIME OR ON DEMAND.

(T) (1) THE RESERVE INVESTMENTS OF AN INSURER MAY INCLUDE SECURITIES LENDING, REPURCHASE, REVERSE REPURCHASE, AND DOLLAR ROLL TRANSACTIONS WITH BUSINESS ENTITIES, SUBJECT TO THE REQUIREMENTS OF PARAGRAPHS (2) THROUGH (9) OF THIS SUBSECTION.

(2) (I) THE INSURER'S BOARD OF DIRECTORS SHALL ADOPT A WRITTEN PLAN THAT SPECIFIES GUIDELINES AND OBJECTIVES TO BE FOLLOWED, SUCH AS:

1. A DESCRIPTION OF HOW CASH RECEIVED WILL BE INVESTED OR USED FOR GENERAL CORPORATE PURPOSES OF THE INSURER;

2. OPERATIONAL PROCEDURES TO MANAGE INTEREST RATE RISK, COUNTERPARTY DEFAULT RISK, THE CONDITIONS UNDER WHICH PROCEEDS FROM REVERSE REPURCHASE TRANSACTIONS MAY BE USED IN THE ORDINARY COURSE OF BUSINESS, AND THE USE OF ACCEPTABLE COLLATERAL IN A MANNER THAT REFLECTS THE LIQUIDITY NEEDS OF THE TRANSACTION; AND

3. THE EXTENT TO WHICH THE INSURER MAY ENGAGE IN THESE TRANSACTIONS.

(II) THE INSURER SHALL FILE WITH THE COMMISSIONER THE WRITTEN PLAN INCLUDING ALL CHANGES AND AMENDMENTS TO THE

WRITTEN PLAN FOR USE IN THE STATE ON OR BEFORE THE DATE THE PLAN BECOMES EFFECTIVE.

(3) (I) THE INSURER SHALL ENTER INTO A WRITTEN AGREEMENT FOR ALL TRANSACTIONS AUTHORIZED UNDER THIS SUBSECTION OTHER THAN DOLLAR ROLL TRANSACTIONS.

(II) THE WRITTEN AGREEMENT SHALL REQUIRE THAT EACH TRANSACTION TERMINATE NO MORE THAN 1 YEAR FROM ITS INCEPTION OR ON THE EARLIER DEMAND OF THE INSURER.

(III) THE AGREEMENT SHALL BE WITH THE BUSINESS ENTITY COUNTERPARTY, BUT FOR SECURITIES LENDING TRANSACTIONS, THE AGREEMENT MAY BE WITH AN AGENT ACTING ON BEHALF OF THE INSURER, IF THE AGENT IS A QUALIFIED BUSINESS ENTITY, AND IF THE AGREEMENT:

1. REQUIRES THE AGENT TO ENTER INTO SEPARATE AGREEMENTS WITH EACH COUNTERPARTY THAT ARE CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION; AND

2. PROHIBITS SECURITIES LENDING TRANSACTIONS UNDER THE AGREEMENT WITH THE AGENT OR ITS AFFILIATES.

(4) (I) CASH RECEIVED IN A TRANSACTION UNDER THIS SUBSECTION SHALL BE INVESTED IN ACCORDANCE WITH THIS SUBTITLE AND IN A MANNER THAT RECOGNIZES THE LIQUIDITY NEEDS OF THE TRANSACTION OR USED BY THE INSURER FOR ITS GENERAL CORPORATE PURPOSES.

(II) FOR SO LONG AS THE TRANSACTION REMAINS OUTSTANDING, THE INSURER, ITS AGENT, OR ITS CUSTODIAN SHALL MAINTAIN, AS TO ACCEPTABLE COLLATERAL RECEIVED IN A TRANSACTION UNDER THIS SUBSECTION, EITHER PHYSICALLY OR THROUGH THE BOOK ENTRY SYSTEMS OF THE FEDERAL RESERVE, DEPOSITORY TRUST COMPANY, PARTICIPANTS TRUST COMPANY, OR OTHER SECURITIES DEPOSITORIES APPROVED BY THE COMMISSIONER:

1. POSSESSION OF THE ACCEPTABLE COLLATERAL;

2. A PERFECTED SECURITY INTEREST IN THE ACCEPTABLE COLLATERAL; OR

3. IN THE CASE OF A JURISDICTION OUTSIDE THE UNITED STATES, TITLE TO, OR RIGHTS OF A SECURED CREDITOR TO, THE ACCEPTABLE COLLATERAL.

(5) (I) THE LIMITATIONS OF § 5–606(A) OF THIS SUBTITLE DO NOT APPLY TO THE BUSINESS ENTITY COUNTERPARTY EXPOSURE CREATED BY TRANSACTIONS UNDER THIS SUBSECTION.

(II) FOR PURPOSES OF CALCULATIONS MADE TO DETERMINE COMPLIANCE WITH THIS SUBSECTION, NO EFFECT WILL BE GIVEN TO THE INSURER'S FUTURE OBLIGATION TO RESELL SECURITIES, IN THE CASE OF A REPURCHASE TRANSACTION, OR TO REPURCHASE SECURITIES, IN THE CASE OF A REVERSE REPURCHASE TRANSACTION.

(III) AN INSURER MAY NOT ENTER INTO A TRANSACTION UNDER THIS SUBSECTION IF, AS A RESULT OF AND AFTER GIVING EFFECT TO THE TRANSACTION:

1. A. THE AGGREGATE AMOUNT OF SECURITIES THEN LOANED, SOLD TO, OR PURCHASED FROM ANY ONE BUSINESS ENTITY COUNTERPARTY UNDER THIS SUBSECTION WOULD EXCEED 5% OF ITS ADMITTED ASSETS; AND

B. IN CALCULATING THE AMOUNT SOLD TO OR PURCHASED FROM A BUSINESS ENTITY COUNTERPARTY UNDER REPURCHASE OR REVERSE REPURCHASE TRANSACTIONS, EFFECT MAY BE GIVEN TO NETTING PROVISIONS UNDER A MASTER WRITTEN AGREEMENT; OR

2. THE AGGREGATE AMOUNT OF ALL SECURITIES THEN LOANED, SOLD TO, OR PURCHASED FROM ALL BUSINESS ENTITIES UNDER THIS SUBSECTION WOULD EXCEED 40% OF ITS ADMITTED ASSETS.

(6) (I) IN A SECURITIES LENDING TRANSACTION, THE INSURER SHALL RECEIVE ACCEPTABLE COLLATERAL HAVING A MARKET VALUE AS OF THE TRANSACTION DATE AT LEAST EQUAL TO 102% OF THE MARKET VALUE OF THE SECURITIES LOANED BY THE INSURER IN THE TRANSACTION AS OF THAT DATE.

(II) IF AT ANY TIME THE MARKET VALUE OF THE ACCEPTABLE COLLATERAL IS LESS THAN THE MARKET VALUE OF THE LOANED SECURITIES, THE BUSINESS ENTITY COUNTERPARTY SHALL BE OBLIGATED TO DELIVER ADDITIONAL ACCEPTABLE COLLATERAL, THE MARKET VALUE OF WHICH, TOGETHER WITH THE MARKET VALUE OF ALL ACCEPTABLE

COLLATERAL THEN HELD IN CONNECTION WITH THE TRANSACTION, AT LEAST EQUALS 102% OF THE MARKET VALUE OF THE LOANED SECURITIES.

(7) (I) IN A REVERSE REPURCHASE TRANSACTION, OTHER THAN A DOLLAR ROLL TRANSACTION, THE INSURER SHALL RECEIVE ACCEPTABLE COLLATERAL HAVING A MARKET VALUE AS OF THE TRANSACTION DATE AT LEAST EQUAL TO 95% OF THE MARKET VALUE OF THE SECURITIES TRANSFERRED BY THE INSURER IN THE TRANSACTION AS OF THAT DATE.

(II) IF AT ANY TIME THE MARKET VALUE OF THE ACCEPTABLE COLLATERAL IS LESS THAN 95% OF THE MARKET VALUE OF THE SECURITIES SO TRANSFERRED, THE BUSINESS ENTITY COUNTERPARTY SHALL BE OBLIGATED TO DELIVER ADDITIONAL ACCEPTABLE COLLATERAL, THE MARKET VALUE OF WHICH, TOGETHER WITH THE MARKET VALUE OF ALL ACCEPTABLE COLLATERAL THEN HELD IN CONNECTION WITH THE TRANSACTION, AT LEAST EQUALS 95% OF THE MARKET VALUE OF THE TRANSFERRED SECURITIES.

(8) IN A DOLLAR ROLL TRANSACTION, THE INSURER SHALL RECEIVE CASH IN AN AMOUNT AT LEAST EQUAL TO THE MARKET VALUE OF THE SECURITIES TRANSFERRED BY THE INSURER IN THE TRANSACTION AS OF THE TRANSACTION DATE.

(9) (I) IN A REPURCHASE TRANSACTION, THE INSURER SHALL RECEIVE AS ACCEPTABLE COLLATERAL TRANSFERRED SECURITIES HAVING A MARKET VALUE AT LEAST EQUAL TO 102% OF THE PURCHASE PRICE PAID BY THE INSURER FOR THE SECURITIES.

(II) IF AT ANY TIME THE MARKET VALUE OF THE ACCEPTABLE COLLATERAL IS LESS THAN 100% OF THE PURCHASE PRICE PAID BY THE INSURER, THE BUSINESS ENTITY COUNTERPARTY SHALL BE OBLIGATED TO PROVIDE ADDITIONAL ACCEPTABLE COLLATERAL, THE MARKET VALUE OF WHICH, TOGETHER WITH THE MARKET VALUE OF ALL ACCEPTABLE COLLATERAL THEN HELD IN CONNECTION WITH THE TRANSACTION, AT LEAST EQUALS 102% OF THE PURCHASE PRICE.

(III) SECURITIES ACQUIRED BY AN INSURER IN A REPURCHASE TRANSACTION MAY NOT BE SOLD IN A REVERSE REPURCHASE TRANSACTION, LOANED IN A SECURITIES LENDING TRANSACTION, OR OTHERWISE PLEDGED.

[(t)**] (U)** The reserve investments of an insurer may include any other investments not otherwise prohibited by this subtitle if:

(1) the aggregate amount of the investments made under this subsection does not exceed 4% of the amount of the admitted assets of the insurer at the end of the previous year; and

(2) the investment does not violate any limitations on allowed investments under this section.

9–102.

(a) In determining whether the continued operation of an authorized insurer engaging in insurance business in the State would be hazardous to policyholders or creditors of the authorized insurer or the general public, the Commissioner may consider:

(1) adverse findings reported in financial condition and market conduct examination reports**, AUDIT REPORTS, AND ACTUARIAL OPINIONS, REPORTS, OR SUMMARIES**;

(2) the Insurance Regulatory Information System and **[**related reports**] OTHER FINANCIAL ANALYSIS SOLVENCY TOOLS AND REPORTS** of the National Association of Insurance Commissioners;

(3) **[**the ratios of benefits under policies, reserve increases, commission expense, and general insurance expense, as to annual premium and net investment income and whether any of those ratios could lead to an impairment of capital and surplus;

(4) whether the asset portfolio of the authorized insurer, when viewed in light of current economic conditions, has sufficient value, liquidity, or diversity to ensure the ability of the authorized insurer to meet its outstanding obligations as they mature**] WHETHER THE AUTHORIZED INSURER HAS MADE ADEQUATE PROVISION, ACCORDING TO PRESENTLY ACCEPTED ACTUARIAL STANDARDS OF PRACTICE, FOR THE ANTICIPATED CASH FLOWS REQUIRED BY THE CONTRACTUAL OBLIGATIONS AND RELATED EXPENSES OF THE INSURER, WHEN CONSIDERED IN LIGHT OF THE ASSETS HELD BY THE INSURER WITH RESPECT TO SUCH RESERVES AND RELATED ACTUARIAL ITEMS INCLUDING, BUT NOT LIMITED TO, THE INVESTMENT EARNINGS ON SUCH ASSETS AND THE CONSIDERATIONS ANTICIPATED TO BE RECEIVED AND RETAINED UNDER SUCH POLICIES AND CONTRACTS**;

[(5)**] (4)** the ability of an assuming reinsurer to perform, including whether the reinsurance program of the authorized insurer provides sufficient protection for its remaining surplus, after taking into account the cash flow of the authorized insurer and classes of business written by the authorized insurer and the financial condition of the assuming reinsurer;

[(6)**] (5)** whether in the last 12–month period or any shorter period, the authorized insurer's operating loss, calculated to include net capital gain or loss, change in non–admitted assets, and cash dividends paid to stockholders, is greater than 50% of that part of the authorized insurer's policyholder surplus that is in excess of the minimum required surplus;

(6) WHETHER THE AUTHORIZED INSURER'S OPERATING LOSS IN THE LAST 12–MONTH PERIOD OR ANY SHORTER PERIOD, EXCLUDING NET CAPITAL GAINS, IS GREATER THAN 20% OF THE AUTHORIZED INSURER'S POLICYHOLDER SURPLUS THAT IS IN EXCESS OF THE MINIMUM REQUIRED SURPLUS;

(7) whether **[**an affiliate, subsidiary, or**] A** reinsurer**, OBLIGOR, OR ANY ENTITY WITHIN THE AUTHORIZED INSURER'S INSURANCE HOLDING SYSTEM** is insolvent, threatened with insolvency, or delinquent in the payment of a monetary or other obligation**, AND WHICH, IN THE OPINION OF THE COMMISSIONER, MAY AFFECT THE SOLVENCY OF THE INSURER**;

(8) contingent liabilities, pledges, or guarantees that, either individually or collectively, involve a total amount that the Commissioner believes may affect the solvency of the authorized insurer;

(9) whether a controlling person of the authorized insurer is delinquent in transmission or payment of net premiums to the insurer;

(10) the age and collectibility of receivables;

(11) whether the management of the authorized insurer, including an officer, director, or any other person that has direct or indirect control over operation, fails to possess and demonstrate the competence, fitness, and reputation considered necessary to serve the authorized insurer in a position of control;

(12) whether the management of the authorized insurer has failed to respond to inquiries about the condition of the authorized insurer or has responded to an inquiry with false or misleading information;

(13) WHETHER THE AUTHORIZED INSURER HAS FAILED TO MEET FINANCIAL AND HOLDING COMPANY FILING REQUIREMENTS IN THE ABSENCE OF A REASON SATISFACTORY TO THE COMMISSIONER;

[(13)**] (14)** whether the management of the authorized insurer has:

(i) filed a false or misleading sworn financial statement;

(ii) released a false or misleading financial statement to a lending institution or the general public;

(iii) made a false or misleading entry in the books of the authorized insurer; or

(iv) omitted an entry of a material amount in the books of the authorized insurer;

[(14)**] (15)** whether the authorized insurer has grown so rapidly that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner; **[**or**]**

[(15)**] (16)** whether the authorized insurer has experienced or will experience in the foreseeable future cash flow or liquidity problems**;**

(17) WHETHER THE MANAGEMENT OF AN AUTHORIZED INSURER HAS ESTABLISHED RESERVES THAT DO NOT COMPLY WITH MINIMUM STANDARDS ESTABLISHED BY THE STATE'S INSURANCE LAWS, STATUTORY ACCOUNTING STANDARDS, SOUND ACTUARIAL PRINCIPLES, AND STANDARDS OF PRACTICE;

(18) WHETHER THE MANAGEMENT OF AN AUTHORIZED INSURER PERSISTENTLY ENGAGES IN MATERIAL UNDER–RESERVING THAT RESULTS IN ADVERSE DEVELOPMENT;

(19) WHETHER TRANSACTIONS AMONG AFFILIATES, SUBSIDIARIES, OR CONTROLLING PERSONS FOR WHICH THE INSURER RECEIVES ASSETS OR CAPITAL GAINS, OR BOTH, DO NOT PROVIDE SUFFICIENT VALUE, LIQUIDITY, OR DIVERSITY TO ASSURE THE AUTHORIZED INSURER'S ABILITY TO MEET ITS OUTSTANDING OBLIGATIONS AS THEY MATURE; OR

(20) ANY OTHER FINDING DETERMINED BY THE COMMISSIONER TO BE HAZARDOUS TO POLICYHOLDERS, CREDITORS OF THE AUTHORIZED INSURER, OR THE GENERAL PUBLIC.

(b) In determining whether the financial condition of an authorized insurer would cause its continued operation in the State to be hazardous to policyholders or creditors of the authorized insurer or the general public, the Commissioner may:

(1) disregard a credit or amount receivable resulting from transactions with a reinsurer that is insolvent, impaired, or otherwise subject to a delinquency proceeding;

(2) make appropriate adjustments**, INCLUDING DISALLOWANCE, CONSISTENT WITH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS ACCOUNTING POLICIES AND PROCEDURES MANUAL AND STATE LAWS AND REGULATIONS,** to asset values attributable to investments in or transactions with parents, subsidiaries, or affiliates of the authorized insurer;

(3) refuse to recognize the stated value of accounts receivable if the ability to collect the receivables is highly speculative because of the age of the account or financial condition of the debtor; or

(4) increase the liability of the authorized insurer in an amount equal to any contingent liability, pledge, or guarantee not otherwise included in the statement of liability if there is a substantial risk that the authorized insurer will have to discharge the liability, pledge, or guarantee within the next 12–month period.

9–103.

If the Commissioner determines that the continued operation of an authorized insurer may be hazardous to policyholders or creditors of the authorized insurer or the general public, the Commissioner may issue an order that requires the authorized insurer to:

(1) reduce the total amount of present and potential liability for benefits under policies through reinsurance;

(2) reduce, suspend, or limit the volume of business being accepted or renewed;

(3) reduce general insurance and commission expenses by specified methods;

(4) increase capital and surplus;

(5) suspend or limit the declaration and payment of dividends to policyholders or stockholders;

(6) file reports in a form acceptable to the Commissioner about the market value of its assets;

(7) limit or withdraw from certain investments or discontinue certain investment practices to the extent that the Commissioner considers necessary;

(8) document the adequacy of premium rates in relation to risks insured; **[**or**]**

(9) file, in addition to regular annual statements, interim financial reports on the form adopted by the National Association of Insurance Commissioners or in another form required by the Commissioner**;**

(10) CORRECT CORPORATE GOVERNANCE PRACTICE DEFICIENCIES AND ADOPT AND UTILIZE GOVERNANCE PRACTICES ACCEPTABLE TO THE COMMISSIONER;

(11) PROVIDE A BUSINESS PLAN TO THE COMMISSIONER IN ORDER TO CONTINUE TO TRANSACT BUSINESS IN THE STATE; OR

(12) NOTWITHSTANDING ANY OTHER PROVISION OF LAW LIMITING THE FREQUENCY OR AMOUNT OF PREMIUM RATE ADJUSTMENTS, ADJUST RATES FOR ANY NONLIFE INSURANCE PRODUCT WRITTEN BY THE AUTHORIZED INSURER THAT THE COMMISSIONER CONSIDERS NECESSARY TO IMPROVE THE FINANCIAL CONDITION OF THE INSURER.

14–121.

(a) (1) On or before March 1 of each year, unless the Commissioner extends the time for good cause, each nonprofit health service plan shall file with the Commissioner a complete statement of its financial condition, transactions, and affairs for the immediately preceding calendar year.

(2) The annual statement shall **[**contain the information required by the Commissioner and be certified by an independent certified public accountant**]:**

(I) BE IN THE FORM AND HAVE THE CONTENT APPROVED FOR CURRENT USE BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS OR ITS SUCCESSOR ORGANIZATION; AND

(II) CONTAIN ANY ADDITIONAL INFORMATION THAT THE COMMISSIONER REQUIRES.

(3) The applicable fee required by § 2–112 of this article shall be submitted at the same time as the statement.

(4) Unless the Commissioner extends the time for filing, a nonprofit health service plan that fails to file an annual statement on or before March 10 shall pay a penalty of:

(i) $100 for each day from March 1 to March 10, both inclusive; and

(ii) $150 for each day from March 11 to the day before the Commissioner receives the statement, both inclusive.

(b) At any time, the Commissioner may require a nonprofit health service plan doing business in the State to file an interim statement containing the information that the Commissioner considers necessary.

[(c) (1) (i) This paragraph does not apply to:

1. a health maintenance organization required to file an annual report under § 19–717 of the Health – General Article; or

2. an authorized insurer required to file an annual report under § 4–116 of this article.

(ii) On or before June 30 of each year, unless the Commissioner extends the time for good cause, each nonprofit health service plan shall file with the Commissioner an audited financial report for each affiliate and subsidiary owned by or under the control of the nonprofit health service plan during the immediately preceding calendar year.

(2) The report shall contain the information required by the Commissioner and be certified by an independent certified public accountant as to the financial condition, transactions, and affairs of each affiliate and subsidiary for the immediately preceding calendar year.

(3) Unless the Commissioner extends the time for filing, a nonprofit health service plan that fails to file an audited financial report on or before July 10 shall pay a penalty of:

(i) $100 for each day from June 30 to July 10, both inclusive; and

(ii) $150 for each day from July 11 to the day before the Commissioner receives the report, both inclusive.**]**

(C) (1) (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ON OR BEFORE JUNE 1 OF EACH YEAR, A NONPROFIT HEALTH SERVICE PLAN SHALL FILE WITH THE COMMISSIONER AN AUDITED FINANCIAL REPORT FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR.

(II) THE NONPROFIT HEALTH SERVICE PLAN SHALL HAVE THE AUDITED FINANCIAL REPORT PREPARED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.

(III) THE COMMISSIONER MAY:

1. SET REQUIREMENTS FOR THE FORM AND CONTENT OF THE AUDITED FINANCIAL REPORT; AND

2. FOR GOOD CAUSE, EXTEND THE TIME FOR FILING THE AUDITED FINANCIAL REPORT.

(2) WITH 90 DAYS' ADVANCE NOTICE, THE COMMISSIONER MAY REQUIRE A NONPROFIT HEALTH SERVICE PLAN TO FILE AN AUDITED FINANCIAL REPORT EARLIER THAN THE DATE SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION.

(3) (I) THIS PARAGRAPH DOES NOT APPLY TO:

1. A HEALTH MAINTENANCE ORGANIZATION REQUIRED TO FILE AN ANNUAL REPORT UNDER § 19–717 OF THE HEALTH – GENERAL ARTICLE; OR

2. AN AUTHORIZED INSURER REQUIRED TO FILE AN ANNUAL REPORT UNDER § 4–116 OF THIS ARTICLE.

(II) ON OR BEFORE JUNE 1 OF EACH YEAR, A NONPROFIT HEALTH SERVICE PLAN SHALL FILE WITH THE COMMISSIONER AN AUDITED FINANCIAL REPORT FOR EACH AFFILIATE AND SUBSIDIARY OWNED BY OR UNDER THE CONTROL OF THE NONPROFIT HEALTH SERVICE PLAN DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR.

(III) THE COMMISSIONER MAY, FOR GOOD CAUSE, EXTEND THE TIME FOR FILING THE AUDITED FINANCIAL REPORTS.

(IV) THE AUDITED FINANCIAL REPORTS:

1. SHALL CONTAIN THE INFORMATION REQUIRED BY THE COMMISSIONER; AND

2. BE CERTIFIED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT AS TO THE FINANCIAL CONDITION, TRANSACTIONS, AND AFFAIRS OF EACH AFFILIATE AND SUBSIDIARY FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR.

(d) As part of the audited financial **[**report**]** **REPORTS** required under subsection **[**(c)**]** **(C)(3)** of this section, each nonprofit health service plan shall:

(1) file a consolidated financial statement that:

(i) covers the nonprofit health service plan and each of its affiliates and subsidiaries; and

(ii) consists of the financial statements of the nonprofit health service plan and each of its affiliates and subsidiaries, certified by an independent certified public accountant as to the financial condition, transactions, and affairs of the plan and its affiliates and subsidiaries for the immediately preceding calendar year;

(2) provide a list of:

(i) the names and addresses of and biographical information about the members of the board of directors of the nonprofit health service plan;

(ii) the total compensation, including all cash and deferred compensation in addition to salary, of:

1. each member of the board of directors of the nonprofit health service plan;

2. each officer of the nonprofit health service plan or any affiliate or subsidiary of the plan; and

3. any employee of the nonprofit health service plan or any affiliate or subsidiary of the plan designated by the Commissioner; and

(3) provide any other information or documents necessary for the Commissioner to ensure compliance with this subtitle.

(E) UNLESS THE COMMISSIONER EXTENDS THE TIME FOR FILING, A NONPROFIT HEALTH SERVICE PLAN THAT FAILS TO FILE AN AUDITED FINANCIAL REPORT ON OR BEFORE JUNE 10 SHALL PAY A PENALTY OF:

(1) $100 FOR EACH DAY FROM JUNE 1 TO JUNE 10, BOTH INCLUSIVE; AND

(2) $150 FOR EACH DAY FROM JUNE 11 TO THE DAY BEFORE THE COMMISSIONER RECEIVES THE REPORT, BOTH INCLUSIVE.

[(e)**] (F)** The statements and reports required under this section shall be in the form required by the Commissioner.

[(f)**] (G)** Whenever a corporation authorized under this subtitle makes a change that would result in a change in any of the information required under

subsection (d) of this section, the corporation shall notify the Commissioner within 30 days after the change becomes effective.

14–413.

(a) On or before **[**April 1**]** **MARCH 1** of each year, each dental plan organization shall file with the Commissioner a **[**report, on the form that the Commissioner provides, that covers the activities of the dental plan organization for the**]** **COMPLETE STATEMENT OF ITS FINANCIAL CONDITION, TRANSACTIONS, AND AFFAIRS FOR THE IMMEDIATELY** preceding calendar year.

[(b) The report required under subsection (a) of this section shall include:

(1) a financial statement of the dental plan organization, including its balance sheet, receipts, and disbursements for the preceding year certified by a certified public accountant;

(2) any significant modification of information submitted with the application for a certificate of authority;

(3) the number of individuals who became enrollees during the year, the number of enrollees as of the end of the year, and the number of enrollments terminated during the year;

(4) a description of the enrollee complaint system, including:

(i) the procedures of the complaint system;

(ii) the number of written complaints handled through the complaint system;

(iii) a summary of causes underlying the complaints; and

(iv) the current number, amount, and disposition of malpractice claims settled during the year by the dental plan organization and any of the dentists used by it; and

(5) any other information about the performance of the dental plan organization that the Commissioner requires.**]**

(B) THE ANNUAL STATEMENT SHALL:

(1) BE IN THE FORM AND HAVE THE CONTENT APPROVED FOR CURRENT USE BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS OR ITS SUCCESSOR ORGANIZATION; AND

(2) CONTAIN ANY ADDITIONAL INFORMATION THAT THE COMMISSIONER REQUIRES.

(C) UNLESS THE COMMISSIONER EXTENDS THE TIME FOR FILING, A DENTAL PLAN ORGANIZATION THAT FAILS TO FILE AN ANNUAL STATEMENT ON OR BEFORE MARCH 10 SHALL PAY A PENALTY OF:

(1) $100 FOR EACH DAY FROM MARCH 1 TO MARCH 10, BOTH INCLUSIVE; AND

(2) $150 FOR EACH DAY FROM MARCH 11 TO THE DAY BEFORE THE COMMISSIONER RECEIVES THE REPORT, BOTH INCLUSIVE.

(D) AT ANY TIME, THE COMMISSIONER MAY REQUIRE A DENTAL PLAN ORGANIZATION DOING BUSINESS IN THE STATE TO FILE AN INTERIM STATEMENT CONTAINING THE INFORMATION THAT THE COMMISSIONER CONSIDERS NECESSARY.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION, ON OR BEFORE JUNE 1 OF EACH YEAR, EACH DENTAL PLAN ORGANIZATION SHALL FILE WITH THE COMMISSIONER AN AUDITED FINANCIAL REPORT FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR.

(2) THE DENTAL PLAN ORGANIZATION SHALL HAVE THE AUDITED FINANCIAL REPORT PREPARED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.

(3) THE COMMISSIONER MAY:

(I) SET REQUIREMENTS FOR THE FORM AND CONTENT OF THE AUDITED FINANCIAL REPORT; AND

(II) FOR GOOD CAUSE, EXTEND THE TIME FOR FILING THE AUDITED FINANCIAL REPORT.

(4) UNLESS THE COMMISSIONER EXTENDS THE TIME FOR FILING, A DENTAL PLAN ORGANIZATION THAT FAILS TO FILE AN AUDITED FINANCIAL REPORT ON OR BEFORE JUNE 10 SHALL PAY A PENALTY OF:

(I) $100 FOR EACH DAY FROM JUNE 1 TO JUNE 10, BOTH INCLUSIVE; AND

(II) $150 FOR EACH DAY FROM JUNE 11 TO THE DAY BEFORE THE COMMISSIONER RECEIVES THE REPORT, BOTH INCLUSIVE.

(5) WITH 90 DAYS' ADVANCE NOTICE, THE COMMISSIONER MAY REQUIRE A DENTAL PLAN ORGANIZATION TO FILE AN AUDITED FINANCIAL REPORT EARLIER THAN THE DATE SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION.

15–605.

(f) (1) (i) On or before March 1 of each year, unless, for good cause shown, the Commissioner extends the time for a reasonable period, each managed care organization shall file with the Commissioner a report that shows the financial condition of the managed care organization on the last day of the preceding calendar year and any other information that the Commissioner requires by bulletin or regulation.

(ii) At any time, the Commissioner may require a managed care organization to file an interim statement containing the information that the Commissioner considers necessary.

(iii) The annual and interim reports shall be filed in a form required by the Commissioner.

(2) (i) **[**On**] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION ON** or before June 1 of each year, each managed care organization shall file with the Commissioner an audited financial report for the preceding calendar year.

(ii) The audited financial report shall:

1. be filed in a form required by the Commissioner; and

2. be certified by an audit of an independent certified public accountant.

(3) WITH 90 DAYS' ADVANCE NOTICE, THE COMMISSIONER MAY REQUIRE A MANAGED CARE ORGANIZATION TO FILE AN AUDITED FINANCIAL REPORT EARLIER THAN THE DATE SPECIFIED IN PARAGRAPH (2) OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 121

(House Bill 71)

AN ACT concerning

Senior Prescription Drug Assistance Program – ~~Appointment of Insurance Producers~~ Training for Insurance Producers

~~FOR the purpose of prohibiting an insurance producer from marketing the Senior Prescription Drug Assistance Program or assisting a Medicare beneficiary to enroll in the Program unless the insurance producer has an appointment from the Program; authorizing the Program to require an insurance producer to receive certain training before granting an appointment to the insurance producer; authorizing the Program to terminate the appointment of an insurance producer under certain circumstances; requiring the Program to maintain a producer register in accordance with certain provisions of law; requiring an insurance producer who has been appointed by the Program to maintain documentation of the appointment in accordance with certain provisions of law; and generally relating to the Senior Prescription Drug Assistance Program.~~

FOR the purpose of requiring certain insurance producers who engage in certain activities relating to the Senior Prescription Drug Assistance Program to receive certain continuing education; authorizing the Board of Directors for the Maryland Health Insurance Plan to adopt regulations that require an insurance producer to receive training about the Program before the insurance producer may market the Program or assist a Medicare beneficiary to enroll in the Program; providing that training received about the Program qualifies as continuing education under certain provisions of law; and generally relating to training for insurance producers about the Senior Prescription Drug Assistance Program.

BY ~~adding to~~ repealing and reenacting, with amendments,
Article – Insurance
Section ~~14–515(f)~~ 10–116(a)(4) and 14–514(b)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Insurance

~~14–515.~~

~~(F) (1) AN INSURANCE PRODUCER MAY NOT MARKET THE PROGRAM OR ASSIST A MEDICARE BENEFICIARY TO ENROLL IN THE PROGRAM UNLESS THE INSURANCE PRODUCER HAS AN APPOINTMENT FROM THE PROGRAM.~~

~~(2) THE PROGRAM MAY:~~

~~(I) REQUIRE AN INSURANCE PRODUCER TO RECEIVE TRAINING ABOUT THE PROGRAM BEFORE GRANTING AN APPOINTMENT TO THE INSURANCE PRODUCER; AND~~

~~(II) TERMINATE THE APPOINTMENT OF AN INSURANCE PRODUCER IF THE PROGRAM DETERMINES THAT THE INSURANCE PRODUCER HAS VIOLATED:~~

~~1. A PROVISION OF THIS ARTICLE; OR~~

~~2. REGULATIONS ADOPTED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES REGARDING THE MARKETING OF MEDICARE PART D PRESCRIPTION DRUG PLANS OR MEDICARE ADVANTAGE PLANS.~~

~~(3) THE PROGRAM SHALL MAINTAIN A PRODUCER REGISTER IN ACCORDANCE WITH § 10–118 OF THIS ARTICLE.~~

~~(4) AN INSURANCE PRODUCER WHO HAS BEEN APPOINTED BY THE PROGRAM SHALL MAINTAIN DOCUMENTATION OF THE APPOINTMENT IN ACCORDANCE WITH § 10–118 OF THIS ARTICLE.~~

10–116.

(a) (4) (i) To increase the level of education of insurance producers, an insurance producer shall obtain continuing education in the kind or subdivision of insurance for which the insurance producer has received a license.

(ii) Each insurance producer who possesses a license to sell health insurance and who sells long–term care insurance shall receive continuing education that directly relates to long–term care insurance.

(iii) Each insurance producer who possesses a license to sell property and casualty insurance and who sells flood insurance shall receive continuing education that directly relates to flood insurance.

(IV) EACH INSURANCE PRODUCER WHO POSSESSES A LICENSE TO SELL HEALTH INSURANCE AND WHO MARKETS THE SENIOR PRESCRIPTION DRUG ASSISTANCE PROGRAM OR ASSISTS A MEDICARE

BENEFICIARY TO ENROLL IN THE SENIOR PRESCRIPTION DRUG ASSISTANCE PROGRAM SHALL RECEIVE CONTINUING EDUCATION THAT DIRECTLY RELATES TO THE SENIOR PRESCRIPTION DRUG ASSISTANCE PROGRAM.

14–514.

(b) **(1)** The Board shall adopt regulations to carry out Part II of this subtitle.

(2) THE BOARD MAY ADOPT REGULATIONS THAT REQUIRE AN INSURANCE PRODUCER TO RECEIVE TRAINING ABOUT THE PROGRAM BEFORE THE INSURANCE PRODUCER MAY MARKET THE PROGRAM OR ASSIST A MEDICARE BENEFICIARY TO ENROLL IN THE PROGRAM.

(3) SUBJECT TO § 10–116(D) OF THIS ARTICLE, TRAINING RECEIVED UNDER PARAGRAPH (2) OF THIS SUBSECTION QUALIFIES AS CONTINUING EDUCATION UNDER § 10–116(A) OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 122

(House Bill 74)

AN ACT concerning

Family Law – Maryland Uniform Interstate Family Support Act – Revision

FOR the purpose of revising the Maryland Uniform Interstate Family Support Act; altering the circumstances under which a tribunal of this State is authorized to exercise personal jurisdiction over a nonresident individual in a proceeding to establish or enforce a child support order or to determine parentage; specifying who is required to give notice of a request for a determination of the controlling support order; authorizing the Attorney General to provide certain services to certain individuals; altering certain rules of evidence and procedure; altering the circumstances under which a support enforcement agency or tribunal of this State is required to redirect certain payments; altering a certain provision governing the recognition of a support order modified in another state; and generally relating to the revision of the Maryland Uniform Interstate Family Support Act.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 10–304(a), 10–310, 10–320, 10–328, 10–331, and 10–351
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Family Law

10–304.

(a) In a proceeding to establish or enforce a support order or to determine parentage, a tribunal of this State may exercise personal jurisdiction over a nonresident individual if:

(1) the individual is personally served within this State;

(2) the individual submits to the jurisdiction of this State by consent in a record, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3) **THE INDIVIDUAL RESIDED WITH THE CHILD IN THIS STATE;**

(4) the individual resided in this State and provided prenatal expenses or support for the child;

[(4)**] (5)** the child resides in this State as result of the acts or directives of the individual;

[(5)**] (6)** **[**the child may have been conceived**] THE INDIVIDUAL ENGAGED IN SEXUAL INTERCOURSE** in this State **AND THE CHILD MAY HAVE BEEN CONCEIVED BY THAT ACT OF INTERCOURSE**; or

[(6)**] (7)** there is any other basis consistent with the constitutions of this State and the United States for the exercise of personal jurisdiction.

10–310.

(a) If a proceeding is brought under this subtitle and only one tribunal has issued a child support order, the order of that tribunal controls and must be so recognized.

(b) If a proceeding is brought under this subtitle, and two or more child support orders have been issued by tribunals of this State or another state with regard

to the same obligor and same child, a tribunal of this State having personal jurisdiction over both the obligor and individual obligee shall apply the following rules and by order shall determine which order controls:

(1) if only one of the tribunals would have continuing, exclusive jurisdiction under this subtitle, the order of that tribunal controls and must be so recognized;

(2) if more than one of the tribunals would have continuing, exclusive jurisdiction under this subtitle, an order issued by a tribunal in the current home state of the child controls, but if an order has not been issued in the current home state of the child, the order most recently issued controls; or

(3) if none of the tribunals would have continuing, exclusive jurisdiction under this subtitle, the tribunal of this State shall issue a child support order, which controls.

(c) If two or more child support orders have been issued for the same obligor and same child, on request of a party who is an individual or support enforcement agency, a tribunal of this State having personal jurisdiction over both the obligor and the obligee who is an individual shall determine which order controls under subsection (b) of this section. The request may be filed with a registration for enforcement or registration for modification pursuant to Part VI of this subtitle, or may be filed as a separate proceeding.

(d) A request to determine which is the controlling order must be accompanied by a copy of every child support order in effect and the applicable record of payments. **[**Each party whose rights may be affected by a determination of the controlling order shall be given notice of the request for that determination in accordance with the Maryland Rules**]** **THE REQUESTING PARTY SHALL GIVE NOTICE OF THE REQUEST TO EACH PARTY WHOSE RIGHTS MAY BE AFFECTED BY THE DETERMINATION**.

(e) The tribunal that issued the controlling order under subsection (a), (b), or (c) of this section has continuing jurisdiction to the extent provided in § 10–308 or § 10–309 of this subtitle.

(f) A tribunal of this State that determines by order the controlling child support order under subsection (b)(1) or (2) or (c) of this section or that issues a new controlling child support order under subsection (b)(3) of this section, shall include in that order:

(1) the basis upon which the tribunal made its determination;

(2) the amount of prospective support, if any; and

(3) the total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided by § 10–312 of this subtitle.

(g) Within 30 days after issuance of the order determining the controlling order, the party obtaining that order shall file a certified copy of it in each tribunal that had issued or registered an earlier order of child support. Failure of the party or support enforcement agency obtaining the order to file a certified copy as required subjects that party or support enforcement agency to appropriate sanctions by a tribunal in which the issue of failure to file arises, but that failure has no effect on the validity or enforceability of the controlling order.

(h) An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section shall be recognized in proceedings under this subtitle.

10–320.

(a) If the Attorney General determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the Attorney General may order the agency to perform its duties under this subtitle **OR MAY PROVIDE THOSE SERVICES DIRECTLY TO THE INDIVIDUAL**.

(b) The Attorney General may determine that a foreign country or political subdivision has established a reciprocal arrangement for child support with this State and take appropriate action for notification of the determination.

10–328.

(a) The physical presence of a nonresident party who is an individual in a tribunal of this State is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

(b) An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing in another state.

(c) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(d) Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 10 days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from another state to a tribunal of this State by telephone, telecopier, or other means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission **[**unless the documentary evidence is shown to vary in a substantial or relevant manner from the original**]**.

(f) In a proceeding under this subtitle, a tribunal of this State shall permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this State shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self–incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) Laws attaching a privilege against the disclosure of communications between husband and wife do not apply to proceedings under this subtitle.

(i) **[**In proceedings under this subtitle, husband and wife are competent witnesses and may be compelled to testify to any relevant matter, including marriage and parentage.**] THE DEFENSE OF IMMUNITY BASED ON THE RELATIONSHIP OF HUSBAND AND WIFE OR PARENT AND CHILD DOES NOT APPLY IN A PROCEEDING UNDER THIS SUBTITLE.**

(j) A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

10–331.

(a) A support enforcement agency or tribunal of this State shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

(b) If the obligor, the obligee who is an individual, **[**or**] AND** the child **[**does**] DO** not reside in this State, on request from the support enforcement agency of this State or another state, the support enforcement agency of this State or a tribunal of this State shall:

(1) direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services; and

(2) issue and send to the obligor's employer a conforming income–withholding order or an administrative notice of change of payee, reflecting the redirected payments.

(c) The support enforcement agency of this State receiving redirected payments from another state pursuant to a law similar to subsection (b) of this section shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received.

10–351.

If a child support order issued by a tribunal of this State is modified by a tribunal of another state which assumed jurisdiction pursuant to **[**this subtitle**]** **THE UNIFORM INTERSTATE FAMILY SUPPORT ACT**, a tribunal of this State:

(1) may enforce its order that was modified only as to arrears and interest accruing before the modification;

(2) may provide appropriate relief for violations of its order which occurred before the effective date of the modification; and

(3) shall recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 123

(House Bill 75)

AN ACT concerning

Criminal Law – Escape from Juvenile Facility

FOR the purpose of altering the elements of the crimes of escape in the first degree and escape in the second degree to include a prohibition against escape from a privately operated, ~~physically~~ hardware secure facility for juveniles committed to the Department of Juvenile Services; defining a certain term; altering a certain definition; and generally relating to escape from a juvenile facility.

BY repealing and reenacting, with amendments,
Article – Criminal Law

Section 9–401, 9–404, and 9–405
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Human Services
Section 9–226
Annotated Code of Maryland
(2007 Volume and 2009 Supplement)

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

Article – Criminal Law

9–401.

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

(b) "Concealment" means hiding, secreting, or keeping out of sight.

(c) "Escape" retains its judicially determined meaning.

(d) "Fugitive" means an individual for whom a felony arrest warrant has been issued and is outstanding.

(e) (1) "Harbor" includes offering a fugitive or escaped inmate:

(i) concealment;

(ii) lodging;

(iii) care after concealment; or

(iv) obstruction of an effort of an authority to arrest the fugitive or escaped inmate.

(2) "Harbor" does not include failing to reveal the whereabouts of a fugitive or an escaped inmate by a person who did not participate in the effort of the fugitive or escaped inmate to elude arrest.

~~**(F) "PHYSICALLY SECURE FACILITY" MEANS A FACILITY WITH A PERIMETER THAT RESTRICTS A PERSON PLACED WITHIN IT AND PREVENTS UNAUTHORIZED ACCESS.**~~

(F) "HARDWARE SECURE FACILITY" MEANS A FACILITY THAT IS SECURELY LOCKED OR FENCED TO PREVENT ESCAPE.

[(f)**] (G)** (1) "Place of confinement" means:

(i) a correctional facility;

(ii) a facility of the Department of Health and Mental Hygiene; or

(iii) any other facility in which a person is confined under color of law.

(2) "Place of confinement" does not include:

(i) a detention center for juveniles;

(ii) a facility for juveniles listed in § 9–226(b) of the Human Services Article; **[**or**]**

(iii) a place identified in a juvenile community detention order**; OR**

(IV) A PRIVATELY OPERATED, ~~PHYSICALLY~~ HARDWARE SECURE FACILITY FOR JUVENILES COMMITTED TO THE DEPARTMENT OF JUVENILE SERVICES.

9–404.

(a) A person may not knowingly escape from a place of confinement.

(b) A person may not:

(1) escape from:

(i) a detention center for juveniles;

(ii) a facility for juveniles listed in § 9–226(b) of the Human Services Article; **[**or**]**

(iii) a place identified in a juvenile community detention order; **[**and**] OR**

(IV) A PRIVATELY OPERATED, ~~PHYSICALLY~~ HARDWARE SECURE FACILITY FOR JUVENILES COMMITTED TO THE DEPARTMENT OF JUVENILE SERVICES; AND

(2) in the course of the escape commit an assault.

(c) A person who violates this section is guilty of the felony of escape in the first degree and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $20,000 or both.

9–405.

(a) (1) A person who has been lawfully arrested may not knowingly depart from custody without the authorization of a law enforcement or judicial officer.

(2) A person may not knowingly fail to obey a court order to report to a place of confinement.

(3) A person may not escape from:

(i) except as otherwise punishable under § 9–404(b) of this subtitle, a detention center for juveniles or a facility for juveniles listed in § 9–226(b) of the Human Services Article;

(ii) a place identified in a home detention order or agreement; **[**or**]**

(iii) a place identified in a juvenile community detention order**; OR**

(IV) A PRIVATELY OPERATED, ~~PHYSICALLY~~ HARDWARE SECURE FACILITY FOR JUVENILES COMMITTED TO THE DEPARTMENT OF JUVENILE SERVICES.

(b) (1) This subsection applies to a person who is:

(i) temporarily released from a place of confinement;

(ii) committed to a pretrial agency;

(iii) committed to home detention by:

1. the court; or

2. the Division of Correction under Title 3, Subtitle 4 of the Correctional Services Article;

(iv) committed to a home detention program administered by a county;

(v) committed to a private home detention monitoring agency as defined in § 20–101 of the Business Occupations and Professions Article; or

(vi) ordered by a court to serve a term of custodial confinement as defined in § 6–219 of the Criminal Procedure Article as a condition of a suspended sentence or probation before or after judgment.

(2) A person may not knowingly:

(i) violate any restriction on movement imposed under the terms of a temporary release, pretrial commitment, custodial confinement, or home detention order or agreement;

(ii) fail to return to a place of confinement under the terms of a temporary release, pretrial commitment, custodial confinement, or home detention order or agreement; or

(iii) remove, block, deactivate, or otherwise tamper with a monitoring device required to be worn or carried by the person to track the person's location, including an ankle or wrist bracelet, global position satellite offender tracking technology, or comparable equipment or system.

(c) A person who violates this section is guilty of the misdemeanor of escape in the second degree and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both.

Article – Human Services

9–226.

(a) The Department may establish and operate the facilities that are necessary to properly diagnose, care for, train, educate, and rehabilitate children who need these services.

(b) The facilities described in subsection (a) of this section include:

(1) the Alfred D. Noyes Children's Center;

(2) the Baltimore City Juvenile Justice Center;

(3) the Charles H. Hickey, Jr. School;

(4) the Cheltenham Youth Facility;

(5) the J. DeWeese Carter Center;

(6) the Lower Eastern Shore Children's Center;

(7) the Thomas J. S. Waxter Children's Center;

(8) the Victor Cullen Center;

(9) the Western Maryland Children's Center; and

(10) the youth centers.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 124

(House Bill 80)

AN ACT concerning

State Board for Professional Engineers

FOR the purpose of requiring the State Board for Professional Engineers to adopt regulations to require a demonstration of professional competency as a condition of renewal of a license to practice engineering under certain circumstances; providing for implementation of the continuing competency program on a phased–in basis; authorizing the Board to issue certain retired status licenses; prohibiting a holder of a retired status license from practicing engineering; authorizing the holder of a retired status license to use a certain designation; authorizing the Board to reactivate a retired status license under certain circumstances; and generally relating to the practice of professional engineering.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 14–314
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY adding to
Article – Business Occupations and Professions
Section 14–316
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Occupations and Professions

14–314.

(a) Unless a license is renewed for a 2–year term as provided in this section, the license expires on the first June 30 that comes:

(1) after the effective date of the license; and

(2) in an even–numbered year.

(b) (1) At least 1 month before a license expires, the Board shall mail to the licensee, at the last known address of the licensee:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current license expires;

2. the date by which the Board must receive the renewal application for the renewal to be issued and mailed before the license expires; and

3. the amount of the license fee.

(2) The failure of a licensee to receive the notice for which this subsection provides does not prevent the license from expiring as specified under subsection (a) of this section.

(c) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Board a license fee set by the Board; and

(3) submits to the Board a renewal application on the form that the Board provides.

(d) (1) The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

(2) The Board shall include on each renewal certificate that the Board issues:

(i) the date on which the current license expires; and

(ii) the signatures of the chairman and secretary of the Board, under seal of the Board.

(e) The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.

(F) THE BOARD SHALL ADOPT REGULATIONS TO REQUIRE A DEMONSTRATION OF CONTINUING PROFESSIONAL COMPETENCY FOR A LICENSEE AS A CONDITION OF RENEWAL OF A LICENSE UNDER THIS SECTION IN ACCORDANCE WITH THE FOLLOWING:

(1) CONTINUING PROFESSIONAL COMPETENCY REQUIREMENTS DO NOT APPLY TO THE FIRST RENEWAL OF A LICENSE;

(2) IF A LICENSE EXPIRES ON OR BEFORE SEPTEMBER 30, ~~2011~~ 2012, A LICENSEE IS NOT REQUIRED TO FULFILL THE CONTINUING PROFESSIONAL COMPETENCY REQUIREMENTS;

(3) IF A LICENSE EXPIRES BETWEEN OCTOBER 1, ~~2011~~ 2012, AND SEPTEMBER 30, ~~2012~~ 2013, A LICENSEE IS REQUIRED TO FULFILL 50% OF THE CONTINUING PROFESSIONAL COMPETENCY REQUIREMENT AS PROVIDED IN THE REGULATIONS ADOPTED BY THE BOARD UNDER THIS SUBSECTION; AND

(4) IF A LICENSE EXPIRES ON OR AFTER OCTOBER 1, ~~2012~~ 2013, A LICENSEE IS REQUIRED TO FULFILL THE FULL CONTINUING PROFESSIONAL COMPETENCY REQUIREMENT AS PROVIDED IN THE REGULATIONS ADOPTED BY THE BOARD UNDER THIS SUBSECTION.

14–316.

(A) THE BOARD MAY ISSUE A RETIRED STATUS LICENSE TO AN INDIVIDUAL WHO:

(1) IS CURRENTLY LICENSED IN MARYLAND AS A PROFESSIONAL ENGINEER;

(2) HAS BEEN LICENSED AS A PROFESSIONAL ENGINEER FOR AT LEAST 25 YEARS, OF WHICH AT LEAST 5 YEARS WERE IN MARYLAND;

(3) IS NOT THE SUBJECT OF A PENDING DISCIPLINARY ACTION RELATED TO THE PRACTICE OF ENGINEERING IN THIS OR ANY OTHER STATE;

(4) SUBMITS TO THE BOARD AN APPLICATION ON THE FORM APPROVED BY THE BOARD; AND

(5) PAYS TO THE BOARD A FEE AS SET BY THE BOARD.

(B) (1) THE HOLDER OF A RETIRED STATUS LICENSE ISSUED UNDER THIS SECTION MAY NOT ENGAGE IN THE PRACTICE OF PROFESSIONAL ENGINEERING.

(2) THE HOLDER OF A RETIRED STATUS LICENSE SHALL BE PERMITTED TO USE THE DESIGNATION OF "PROFESSIONAL ENGINEER, RETIRED".

(C) THE BOARD MAY REACTIVATE THE LICENSE OF THE HOLDER OF A RETIRED STATUS LICENSE IF THAT INDIVIDUAL:

(1) SUBMITS TO THE BOARD AN APPLICATION FOR REACTIVATION ON THE FORM APPROVED BY THE BOARD;

(2) MEETS ALL APPLICABLE CONTINUING COMPETENCY REQUIREMENTS DETERMINED BY THE BOARD;

(3) IS NOT THE SUBJECT OF A PENDING DISCIPLINARY ACTION RELATED TO THE PRACTICE OF ENGINEERING IN THIS OR ANY OTHER STATE; AND

(4) PAYS TO THE BOARD A REACTIVATION FEE AS SET BY THE BOARD.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 125

(House Bill 82)

AN ACT concerning

State Board of Pilots – Limited Licenses

FOR the purpose of increasing the vessel draft for which individuals holding certain limited licenses may provide pilotage; making conforming changes relating to the requirements for demonstration of sufficient ability, skill, and experience and to license fees; and generally relating to the State Board of Pilots.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 11–403, 11–406, 11–407, and 11–408
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Occupations and Professions

11–403.

(a) To qualify for a limited license, an applicant shall be an individual who meets the requirements of this section.

(b) An applicant shall have trained as a pilot–in–training for at least 2 years.

(c) An applicant shall possess sufficient ability, skill, and experience for a **[**28–foot–draft**] 32–FOOT–DRAFT** limited license, a **[**34–foot–draft**] 36–FOOT–DRAFT** limited license, or a **[**37–foot–draft**] 40–FOOT–DRAFT** limited license as determined by the Board through observation of the applicant's performance providing pilotage.

(d) An applicant shall meet any other requirements that the Board establishes.

11–406.

(a) If an applicant qualifies for a license under this subtitle, the Board shall send the applicant a notice that states that:

(1) the applicant has qualified for a license; and

(2) the Board will issue the appropriate license to an applicant on receipt of a license fee of:

(i) $600 for an unlimited license;

(ii) $300 for a **[**37–foot–draft**] 40–FOOT–DRAFT** limited license;

(iii) $300 for a **[**34–foot–draft**] 36–FOOT–DRAFT** limited license; or

(iv) $200 for a **[**28–foot–draft**] 32–FOOT–DRAFT** limited license.

(b) On payment of the license fee, the Board shall issue an appropriate license to each applicant who meets the requirements of this subtitle.

(c) The Board shall seal each license that the Board issues with its official seal.

11–407.

(a) While an unlimited license is in effect, it authorizes the licensee to provide pilotage for vessels of any draft.

(b) (1) While a **[**37–foot–draft**] 40–FOOT–DRAFT** limited license is in effect, it authorizes the licensee to provide pilotage for vessels not exceeding **[**37–foot–draft**] 40–FOOT–DRAFT**.

(2) While a **[**34–foot–draft**] 36–FOOT–DRAFT** limited license is in effect, it authorizes the licensee to provide pilotage for vessels not exceeding **[**34–foot–draft**] 36–FOOT–DRAFT**.

(3) While a **[**28–foot–draft**] 32–FOOT–DRAFT** limited license is in effect, it authorizes the licensee to provide pilotage for vessels not exceeding **[**28–foot–draft**] 32–FOOT–DRAFT**.

11–408.

(a) A license shall be effective for 2 years from the date it is issued.

(b) At least 1 month before a license expires, the Board shall mail to the licensee, at the last known address of the licensee:

(1) a renewal application form; and

(2) a notice that states:

(i) the date on which the current license expires;

(ii) the date by which the Board must receive the renewal application for the renewal to be issued and mailed before the license expires; and

(iii) the amount of the renewal fee.

(c) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Board a renewal fee of:

(i) $600 for an unlimited license;

(ii) $300 for a **[**37–foot–draft**] 40–FOOT–DRAFT** limited license;

(iii) $300 for a **[**34–foot–draft**] 36–FOOT–DRAFT** limited license; or

(iv) $200 for a **[**28–foot–draft**] 32–FOOT–DRAFT** limited license; and

(3) submits to the Board a renewal application on the form that the Board provides.

(d) The Board shall renew the license of a licensee who meets the requirements of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 126

(House Bill 84)

AN ACT concerning

State Board of Heating, Ventilation, Air–Conditioning, and Refrigeration Contractors – Membership

FOR the purpose of increasing the number of members of the State Board of Heating, Ventilation, Air–Conditioning, and Refrigeration Contractors; and generally relating to the State Board of Heating, Ventilation, Air–Conditioning, and Refrigeration Contractors.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 9A–202

Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Regulation

9A–202.

(a) (1) The Board consists of **[**7**] 9** members.

(2) Of the **[**7**] 9** Board members:

(i) **[**3**] 5** shall be master heating, ventilation, air–conditioning, and refrigeration contractors licensed in the State, a subdivision of the State, or another state provided that state has licensing requirements equivalent to the licensing requirements of this title;

(ii) 1 shall be a master electrician;

(iii) 1 shall be a master plumber; and

(iv) 2 shall be consumer members.

(3) The Governor shall appoint the members of the Board with the advice of the Secretary and with the advice and consent of the Senate.

(b) Except for the initial members of the Board, of the members appointed under subsection (a)(2)(i), (ii), and (iii) of this section:

(1) 1 shall be from the area that consists of Caroline, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester counties;

(2) 1 shall be from the area that consists of Baltimore City, and Baltimore, Cecil, and Harford counties;

(3) 1 shall be from the area that consists of Anne Arundel, Calvert, Charles, and St. Mary's counties;

(4) 1 shall be from the area that consists of Howard, Montgomery, and Prince George's counties; and

(5) 1 shall be from the area that consists of Allegany, Carroll, Frederick, Garrett, and Washington counties.

(c) **[**(1) Two members of the Board may not be residents of the same city, county, or other political subdivision.

(2)**]** Each member of the Board shall be:

[(i)**] (1)** a citizen of the United States; and

[(ii)**] (2)** a resident of the State.

(d) (1) Each member appointed under subsection (a)(2)(i), (ii), and (iii) of this section:

(i) shall be an active contractor;

(ii) shall hold a current active license under this title or under a licensing program in a subdivision of the State; and

(iii) shall have provided services as a contractor for not less than 5 consecutive years immediately prior to the date of appointment.

(2) The master electrician member of the Board:

(i) shall be actively engaged in the electrical contracting business as a master electrician;

(ii) shall hold a current active license under this article; and

(iii) shall have been engaged in business as a master electrician for not less than 5 consecutive years immediately prior to the date of appointment.

(3) The master plumber member of the Board:

(i) shall be actively engaged in the plumbing contracting business as a master plumber;

(ii) shall hold a current active license under this article; and

(iii) shall have been engaged in business as a master plumber for not less than 5 consecutive years immediately prior to the date of appointment.

(e) Each consumer member of the Board:

(1) shall be a member of the general public;

(2) may not be a licensee or otherwise be subject to the regulation of the Board; and

(3) may not have had within 1 year before appointment a financial interest in or have received compensation from a person regulated by the Board.

(f) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(g) (1) The term of a member is 3 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on January 1, 1993.

(3) At the end of a term, a 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.

(5) Board members are eligible for reappointment, but may not serve more than 2 consecutive terms.

(6) The Governor may remove a member for incompetence or misconduct.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 127

(House Bill 87)

AN ACT concerning

State Fire Marshal – Nongovernmental Electrical Inspectors

FOR the purpose of requiring the State Fire Marshal to administer and enforce this Act; authorizing the State Fire Marshal to adopt certain regulations and use certain staff to carry out and enforce this Act; providing that this Act does not supersede certain local laws or ordinances; removing the exemption for certain counties; requiring certain electrical inspectors to obtain county approval or certification under certain circumstances; ~~requiring certain electrical installations to have a permit and be inspected;~~ requiring certain utilities to receive a certain certificate before the utility authorizes electrical current to be turned on; requiring certain electrical installations be certified within a certain

period of time after final completion; requiring a person to be certified as a nongovernmental electrical inspector by the State Fire Marshal before inspecting or certifying an electrical installation; requiring that applicants for a nongovernmental electrical inspector certificate meet certain minimum qualifications and pass a certain written examination; authorizing the State Fire Marshal to adopt certain regulations to establish certain alternate qualifications for applicants; requiring an applicant to submit an application and certain documents and pay a certain application fee; requiring the application to contain a certain statement; requiring the State Fire Marshal to issue a certificate under certain circumstances; requiring a certificate holder to give notice of a change of address; providing for certain procedures relating to renewal of a certificate; authorizing the State Fire Marshal to deny, refuse to renew, or suspend or revoke a certain certificate, reprimand a certificate holder, or impose a civil penalty under certain circumstances and subject to certain hearing requirements; providing for review of the State Fire Marshal's hearing determinations; providing for certain criminal penalties; making stylistic changes; providing for the application of this Act; repealing a certain definition; defining a certain term; altering a certain definition; and generally relating to the authority of the State Fire Marshal and the certification of nongovernmental electrical inspectors.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 12–601 through 12–603, 12–606, and 12–607
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

BY repealing
Article – Public Safety
Section 12–604 and 12–605
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

BY adding to
Article – Public Safety
Section 12–604 through 12–614
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

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

Article – Public Safety

12–601.

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

[(b) "Authorized electrical inspection agency" means a nongovernmental organization approved by the State Fire Marshal to inspect electrical installations for conformity with the National Electrical Code or a local code.**]**

(B) "CERTIFIED NONGOVERNMENTAL ELECTRICAL INSPECTOR" MEANS AN INDIVIDUAL CERTIFIED BY THE STATE FIRE MARSHAL TO INSPECT ELECTRICAL INSTALLATIONS FOR CONFORMITY WITH THE NATIONAL ELECTRICAL CODE OR ANY ADOPTED LOCAL ELECTRICAL CODE OR AMENDMENTS.

(c) "Electrical installation" means any installed:

(1) electrical wires or conductors that transmit electric current for electric light, heat, or power purposes;

(2) **CABLE,** molding, duct, raceway, or conduit for the reception or protection of wires or conductors; or

(3) electrical machinery, apparatus, device, or fixture.

12–602.

[(a) This subtitle does not apply to Baltimore County, Carroll County, Frederick County, or Montgomery County.**]**

[(b)**] (A)** This subtitle does not apply to**:**

(1) public utilities, their affiliated companies, and electrical appliances and devices used in their work**;**

(2) THE INSPECTION OR CERTIFICATION OF AN ELECTRICAL INSTALLATION BY A UNIT OF A COUNTY GOVERNMENT THAT IS AUTHORIZED TO CONDUCT ELECTRICAL INSPECTIONS; OR

(3) AN ELECTRICAL INSTALLATION OF THE STATE OR FEDERAL GOVERNMENT <u>DURING AN EMERGENCY</u> IF THE ELECTRICAL INSTALLATION IS NECESSARY FOR THE PUBLIC WELFARE AS A RESULT OF ~~AN~~ <u>THE</u> EMERGENCY.

(B) (1) THIS SUBTITLE DOES NOT SUPERSEDE ANY LOCAL LAW OR ORDINANCE OF A ~~COUNTY~~ <u>LOCAL JURISDICTION</u> THAT ESTABLISHES STANDARDS OR QUALIFICATIONS FOR ELECTRICAL <u>INSPECTORS AND</u> INSPECTIONS WITHIN THAT ~~COUNTY~~ <u>LOCAL JURISDICTION</u>.

(2) A CERTIFIED NONGOVERNMENTAL ELECTRICAL INSPECTOR SHALL OBTAIN COUNTY APPROVAL OR CERTIFICATION AS MAY BE REQUIRED BY LOCAL LAW OR ORDINANCE.

12–603.

Each electrical installation in the State shall conform to:

(1) the National Electrical Code; or

(2) the electrical code **AND AMENDMENTS** adopted by the county in which the electrical installation is done.

[12–604.

Within 15 days after completion, each electrical installation shall be certified by an authorized electrical inspection agency or a governmental unit that is qualified to issue electrical inspection certificates.**]**

12–604.

(A) THE STATE FIRE MARSHAL SHALL ADMINISTER AND ENFORCE THIS SUBTITLE.

(B) THE STATE FIRE MARSHAL MAY:

(1) ADOPT REGULATIONS NECESSARY TO CARRY OUT THIS SUBTITLE; AND

(2) USE ANY MEMBER OF THE OFFICE OF THE STATE FIRE MARSHAL, AS NECESSARY, TO CARRY OUT AND ENFORCE THIS SUBTITLE.

[12–605.

(a) (1) This subsection does not apply in a county that has a board or department of electrical inspections.

(2) The State Fire Marshal may test and issue a qualification certificate to a nongovernmental organization that seeks to qualify as an authorized electrical inspection agency.

(b) An authorized electrical inspection agency may inspect electrical installations for conformity with the National Electrical Code or a local electrical code.

(c) The State Fire Marshal shall regulate the quality and performance of inspections by authorized electrical inspection agencies.**]**

12–605.

~~(A) EACH ELECTRICAL INSTALLATION THAT REQUIRES ELECTRICAL CURRENT FOR ITS POWER SOURCE MUST HAVE A PERMIT ISSUED BY AN AUTHORIZED GOVERNMENTAL UNIT FOR THE INSTALLATION AND MUST BE INSPECTED BY A CERTIFIED NONGOVERNMENTAL ELECTRICAL INSPECTOR OR GOVERNMENTAL UNIT THAT IS QUALIFIED TO ISSUE ELECTRICAL INSPECTION CERTIFICATES.~~

~~(B)~~ (A) BEFORE A UTILITY AUTHORIZES ELECTRICAL CURRENT TO BE TURNED ON FOR A PREMISE OR STRUCTURE, THE UTILITY MUST RECEIVE A CUT–IN CERTIFICATE FROM A CERTIFIED NONGOVERNMENTAL ELECTRICAL INSPECTOR OR GOVERNMENTAL UNIT THAT IS QUALIFIED TO ISSUE ELECTRICAL INSPECTION CERTIFICATES.

~~(C)~~ (B) WITHIN 15 DAYS AFTER COMPLETION, EACH ELECTRICAL INSTALLATION SHALL BE CERTIFIED BY A CERTIFIED NONGOVERNMENTAL ELECTRICAL INSPECTOR OR A GOVERNMENTAL UNIT THAT IS QUALIFIED TO ISSUE ELECTRICAL INSPECTION CERTIFICATES.

12–606.

A PERSON SHALL BE CERTIFIED BY THE STATE FIRE MARSHAL AS A NONGOVERNMENTAL ELECTRICAL INSPECTOR BEFORE THE PERSON INSPECTS OR CERTIFIES AN ELECTRICAL INSTALLATION.

12–607.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN APPLICANT FOR A NONGOVERNMENTAL ELECTRICAL INSPECTOR CERTIFICATE SHALL MEET THE FOLLOWING MINIMUM QUALIFICATIONS:

(1) COMPLETE AN APPRENTICESHIP AS AN ELECTRICIAN;

(2) COMPLETE AT LEAST 5 YEARS OF DOCUMENTED PROGRESSIVE EXPERIENCE IN THE ELECTRICAL TRADE; AND

(3) PASS A WRITTEN EXAMINATION ADMINISTERED BY THE STATE FIRE MARSHAL.

(B) IN LIEU OF THE MINIMUM ELIGIBILITY REQUIREMENTS REQUIRED IN SUBSECTION (A)(1) AND (2) OF THIS SECTION, THE STATE FIRE MARSHAL MAY ADOPT REGULATIONS THAT ALLOW AN APPLICANT TO SUBSTITUTE AN

ELECTRICAL ENGINEERING DEGREE OR ACCUMULATED CREDITS TOWARD AN ELECTRICAL ENGINEERING DEGREE IN COMBINATION WITH EDUCATION, TRAINING, AND EXPERIENCE TO MEET THE QUALIFICATIONS.

12–608.

(A) AN APPLICANT FOR A CERTIFICATE SHALL:

(1) SUBMIT TO THE STATE FIRE MARSHAL AN APPLICATION ON THE FORM THE STATE FIRE MARSHAL PROVIDES;

(2) SUBMIT ALL DOCUMENTS THAT THE STATE FIRE MARSHAL REQUIRES; AND

(3) PAY TO THE STATE FIRE MARSHAL AN APPLICATION FEE OF $100.

(B) THE APPLICATION FORM PROVIDED BY THE STATE FIRE MARSHAL SHALL CONTAIN A STATEMENT ADVISING THE APPLICANT THAT WILLFULLY MAKING A FALSE STATEMENT ON AN APPLICATION IS A MISDEMEANOR, SUBJECT TO A FINE OR IMPRISONMENT OR BOTH, AS PROVIDED IN § 12–616 OF THIS SUBTITLE.

12–609.

(A) THE STATE FIRE MARSHAL SHALL ISSUE A CERTIFICATE TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.

(B) THE CERTIFICATE SHALL INCLUDE:

(1) THE FULL NAME OF THE CERTIFICATE HOLDER;

(2) THE DATE OF ISSUANCE; AND

(3) THE DATE ON WHICH THE CERTIFICATE EXPIRES.

(C) EACH CERTIFICATE HOLDER SHALL GIVE THE STATE FIRE MARSHAL WRITTEN NOTICE OF CHANGE OF ADDRESS WITHIN 10 BUSINESS DAYS AFTER THE CHANGE.

12–610.

WHILE A CERTIFICATE FOR A NONGOVERNMENTAL ELECTRICAL INSPECTOR IS IN EFFECT, IT AUTHORIZES THE CERTIFICATE HOLDER TO

INSPECT ELECTRICAL INSTALLATIONS FOR CONFORMITY WITH THE NATIONAL ELECTRICAL CODE OR A LOCAL CODE AS AMENDED.

12–611.

(A) (1) UNLESS A CERTIFICATE IS RENEWED FOR A 3–YEAR TERM AS PROVIDED IN THIS SECTION, THE CERTIFICATION EXPIRES ON THE DATE SET BY THE STATE FIRE MARSHAL.

(2) THE STATE FIRE MARSHAL MAY DETERMINE THAT CERTIFICATES ISSUED UNDER THIS SUBTITLE SHALL EXPIRE ON A STAGGERED BASIS.

(B) AT LEAST 45 DAYS BEFORE A CERTIFICATE EXPIRES, THE STATE FIRE MARSHAL SHALL MAIL TO THE CERTIFICATE HOLDER, AT THE LAST KNOWN ADDRESS OF THE CERTIFICATE HOLDER:

(1) A RENEWAL APPLICATION FORM; AND

(2) A NOTICE THAT STATES:

(I) THE DATE ON WHICH THE CURRENT CERTIFICATE EXPIRES;

(II) THAT THE STATE FIRE MARSHAL MUST RECEIVE THE RENEWAL APPLICATION AT LEAST 15 DAYS BEFORE THE CERTIFICATE EXPIRATION DATE FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE CERTIFICATE EXPIRES;

(III) THE AMOUNT OF THE RENEWAL FEE;

(IV) THAT AN INDIVIDUAL MAY NOT BE ISSUED A CERTIFICATE UNDER THIS SUBTITLE UNTIL ALL OUTSTANDING OBLIGATIONS ARE SATISFIED WITH THE STATE FIRE MARSHAL; AND

(V) THAT THE SUBMISSION OF A FALSE STATEMENT IN THE RENEWAL APPLICATION OR THE SUBMISSION OF ALTERED OR FALSE DOCUMENTS THAT ARE OTHERWISE REQUIRED IS CAUSE FOR REVOCATION OF THE CERTIFICATION.

(C) A CERTIFIED NONGOVERNMENTAL ELECTRICAL INSPECTOR MAY RENEW THE CERTIFICATION FOR A 3–YEAR TERM IF THE CERTIFICATE HOLDER:

(1) OTHERWISE IS ENTITLED TO BE CERTIFIED; AND

(2) SUBMITS TO THE STATE FIRE MARSHAL:

(I) A RENEWAL APPLICATION ON THE FORM THE STATE FIRE MARSHAL PROVIDES;

(II) A RENEWAL FEE OF $50; AND

(III) SATISFACTORY EVIDENCE OF COMPLIANCE WITH ANY OTHER REQUIREMENTS UNDER THIS SECTION FOR RENEWAL OF CERTIFICATION.

(D) CERTIFICATE HOLDERS WHO FAIL TO RENEW WITHIN 90 DAYS FROM THE DATE OF EXPIRATION SHALL BE REQUIRED TO SUBMIT AN INITIAL APPLICATION AND SUCCESSFULLY PASS THE WRITTEN EXAMINATION.

(E) THE STATE FIRE MARSHAL SHALL RENEW THE CERTIFICATION OF EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SECTION.

12–612.

(A) SUBJECT TO THE HEARING PROVISIONS OF § 12–613 OF THIS SUBTITLE, THE STATE FIRE MARSHAL MAY DENY A CERTIFICATE TO AN APPLICANT, REFUSE TO RENEW A CERTIFICATE, REPRIMAND A CERTIFICATE HOLDER, SUSPEND OR REVOKE A CERTIFICATE, OR IMPOSE A CIVIL PENALTY NOT EXCEEDING $1,000 IF THE APPLICANT OR CERTIFICATE HOLDER:

(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A CERTIFICATE FOR THE APPLICANT OR ANOTHER;

(2) FRAUDULENTLY OR DECEPTIVELY USES THE CERTIFICATE;

(3) ENGAGES IN AN UNFAIR OR DECEPTIVE TRADE PRACTICE, AS DEFINED IN § 13–301 OF THE COMMERCIAL LAW ARTICLE;

(4) WILLFULLY OR DELIBERATELY DISREGARDS OR VIOLATES A BUILDING CODE, ELECTRICAL CODE, OR LAW OF THE STATE OR A LOCAL JURISDICTION;

(5) WHILE NOT CERTIFIED, SOLICITS TO ENGAGE IN OR WILLFULLY ENGAGES IN PROVIDING ELECTRICAL INSPECTION SERVICES;

(6) WHILE NOT CERTIFIED, WILLFULLY ADVERTISES AS A CERTIFIED NONGOVERNMENTAL ELECTRICAL INSPECTOR;

(7) WILLFULLY MAKES A FALSE STATEMENT OR MISREPRESENTATION IN ANY RENEWAL APPLICATION OR IN ANY OTHER DOCUMENT THAT THE STATE FIRE MARSHAL REQUIRES TO BE SUBMITTED; OR

(8) VIOLATES ANY OTHER PROVISION OF THIS SUBTITLE OR ANY REGULATION ADOPTED BY THE STATE FIRE MARSHAL UNDER THIS SUBTITLE.

(B) IN DETERMINING THE APPROPRIATE PENALTY TO BE IMPOSED UNDER SUBSECTION (A) OF THIS SECTION, THE STATE FIRE MARSHAL SHALL CONSIDER:

(1) THE GRAVITY OF THE VIOLATION;

(2) THE GOOD FAITH OF THE VIOLATOR;

(3) THE NUMBER AND GRAVITY OF PREVIOUS VIOLATIONS BY THE SAME VIOLATOR;

(4) THE HARM CAUSED TO THE COMPLAINANT, THE PUBLIC, AND THE ELECTRICAL INSPECTOR PROFESSION;

(5) THE ASSETS OF THE VIOLATOR; AND

(6) ANY OTHER FACTORS THAT THE STATE FIRE MARSHAL CONSIDERS RELEVANT.

12–613.

(A) BEFORE THE STATE FIRE MARSHAL TAKES ANY FINAL ACTION UNDER § 12–612 OF THIS SUBTITLE, THE STATE FIRE MARSHAL SHALL GIVE THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE STATE FIRE MARSHAL.

(B) THE STATE FIRE MARSHAL SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(C) THE HEARING NOTICE SHALL BE SENT BY CERTIFIED MAIL TO THE LAST KNOWN ADDRESS OF THE PERSON AT LEAST 10 BUSINESS DAYS BEFORE THE HEARING.

(D) THE STATE FIRE MARSHAL MAY ADMINISTER OATHS IN CONNECTION WITH ANY PROCEEDING UNDER THIS SECTION.

(E) THE PERSON MAY BE REPRESENTED AT THE HEARING BY COUNSEL.

(F) IF, AFTER DUE NOTICE, THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED FAILS TO APPEAR FOR THE HEARING, THE STATE FIRE MARSHAL MAY HEAR AND DETERMINE THE MATTER.

12–614.

ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE STATE FIRE MARSHAL IN A CONTESTED CASE, AS DEFINED IN § 10–202 OF THE STATE GOVERNMENT ARTICLE, IS ENTITLED TO APPEAL TO THE OFFICE OF ADMINISTRATIVE HEARINGS AND TO JUDICIAL REVIEW, AS PROVIDED IN THE ADMINISTRATIVE PROCEDURE ACT.

[12–606.**] 12–615.**

(a) This section applies in Charles County and St. Mary's County.

(b) In a county subject to this section, a homeowner may install electrical wiring in a home that is to be used as the homeowner's residence subject to standards set by the county commissioners.

(c) (1) The county commissioners of Charles County may adopt regulations to govern the issuance of permits to homeowners under this section.

(2) The county commissioners of St. Mary's County shall adopt regulations to govern the issuance of permits to homeowners under this section.

[12–607.**] 12–616.**

(a) **[**A**] EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A** person may not **[**violate this subtitle**] INSPECT OR CERTIFY AN ELECTRICAL INSTALLATION UNLESS THE PERSON IS CERTIFIED BY THE STATE FIRE MARSHAL**.

(B) A PERSON MAY NOT WILLFULLY MAKE A FALSE STATEMENT ON AN APPLICATION SUBMITTED UNDER THIS SUBTITLE.

[(b)**] (C)** A person who violates this **[**section**] SUBTITLE** is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $500 or both.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that inspectors certified by the State Fire Marshal prior to the

effective date of this Act are not subject to requirements to take an examination or pay the initial application fee but shall only pay the renewal fee with a renewal application on expiration of the certificate.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 128

(House Bill 93)

AN ACT concerning

Motor Vehicle Administration – Identification Cards and Drivers' Licenses

FOR the purpose of altering the period of validity of identification cards issued for certain applicants by the Motor Vehicle Administration; repealing a requirement that certain information be stated on a driver's license application form; authorizing the Administration to waive a vision examination for certain license applicants under certain circumstances; and generally relating to drivers' licenses and identification cards.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 12–301(i), 16–106(b), and 16–110(h)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 16–106(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – Transportation

12–301.

(i) (1) Subject to paragraph (3) of this subsection, an identification card issued to an applicant **[**at least 16 years old**]** **UNDER THE AGE OF 65** expires at the

end of a period of not more than 5 years determined in regulations adopted by the Administration.

(2) Subject to paragraph (3) of this subsection, an identification card issued to an applicant **[**under the age of 16 years expires every 5 years**]** **AT LEAST 65 YEARS OLD EXPIRES AT THE END OF A PERIOD OF NOT MORE THAN 8 YEARS DETERMINED IN REGULATIONS ADOPTED BY THE ADMINISTRATION**.

(3) (i) If an applicant has temporary lawful status, the Administration may not issue an identification card to the applicant for a period that extends beyond the expiration date of the applicant's authorized stay in the United States or, if there is no expiration date, for a period longer than 1 year.

(ii) Nothing contained in this paragraph may be construed to allow the issuance of an identification card for a period longer than the period described in paragraphs (1) and (2) of this subsection.

(iii) The Administration shall indicate on the face and in the machine–readable zone of a temporary identification card issued under this paragraph that the card is a temporary identification card.

(4) An identification card may be renewed on application and payment of the fee required by this section.

16–106.

(a) Each application for a driver's license shall be made on the form that the Administration requires.

(b) The application shall state:

(1) The full name, Maryland residence address, **[**employer,**]** race, sex, height, weight, general physical condition, and date of birth of the applicant;

(2) Whether the applicant previously has been refused a license to drive and, if so:

(i) By what state or country; and

(ii) The date of and reason for the refusal;

(3) Whether the applicant previously has been licensed to drive and, if so:

(i) When and by what state or country; and

(ii) Whether the license ever has been suspended, revoked, or canceled and, if so, the date of and reason for the suspension, revocation, or cancellation;

(4) Subject to the provisions of subsection (c) of this section, the applicant's Social Security number; and

(5) Any other pertinent information that the Administration requires.

16–110.

(h) The Administration may not waive a vision examination required under this section **UNLESS THE APPLICANT:**

(1) IS APPLYING FOR A CORRECTED DRIVER'S LICENSE UNDER § 16–114.1 OF THIS SUBTITLE; AND

(2) HAS PASSED A VISION EXAMINATION ACCEPTABLE TO THE ADMINISTRATION WITHIN THE LAST 12 MONTHS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 129

(House Bill 113)

AN ACT concerning

Dorchester County – Membership of Sanitary Commission

FOR the purpose of increasing the number of sanitary commissioners in the Dorchester County Sanitary Commission; and generally relating to the sanitary commission for Dorchester County.

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–622(a)(1)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Environment

9–622.

(a) (1) The sanitary commission of each single county district consists of the following numbers of sanitary commissioners, each appointed by the governing body of the member county:

(i) Allegany County – 7;

(ii) Dorchester County – **[**5**] 6**;

(iii) Somerset County, except as provided in paragraph (2) of this subsection – 5;

(iv) Worcester County – 5; and

(v) Other counties – 3.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 130

(House Bill 119)

AN ACT concerning

Department of State Police – Firearm Applications – Authority of Secretary

FOR the purpose of providing that, in addition to the current methods for transferring a firearm application to the Secretary of State Police, a firearm application may be transferred to the Secretary by ~~any other method pre-approved~~ electronic means approved by the Secretary; and generally relating to the Department of State Police and the application to purchase a firearm.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 5–120
Annotated Code of Maryland

(2003 Volume and 2009 Supplement)

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

Article – Public Safety

5–120.

(a) (1) On receipt of a firearm application, a licensee or designated law enforcement agency shall promptly forward one copy of it to the Secretary by **[**certified mail or facsimile machine**]:**

(I) CERTIFIED MAIL;

(II) FACSIMILE MACHINE; OR

(III) ~~**ANY OTHER METHOD PRE–APPROVED**~~ **ELECTRONIC MEANS APPROVED BY THE SECRETARY**.

(2) The copy of the firearm application forwarded to the Secretary shall contain the name, address, and signature of the prospective seller, lessor, or transferor.

(b) (1) The prospective seller, lessor, or transferor shall keep one copy of the firearm application for not less than 3 years.

(2) The firearm applicant is entitled to the remaining copy of the firearm application.

(c) (1) Except as provided in paragraph (2) of this subsection, the licensee or designated law enforcement agency shall forward the $10 application fee with the firearm application to the Secretary.

(2) A licensee or designated law enforcement agency that uses a facsimile machine to forward the firearm application to the Secretary shall:

(i) be billed $10 for each firearm application forwarded to the Secretary during the month; and

(ii) pay the total application fee by the fifteenth day of the following month.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 131

(House Bill 133)

AN ACT concerning

State Board of Pilots – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Board of Pilots in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; requiring the Department of Labor, Licensing, and Regulation, in conjunction with the Board, to submit a certain report on or before a certain date; and generally relating to the State Board of Pilots.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 11–802
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(50)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Business Occupations and Professions

11–802.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, **[**2013**] 2022**.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(50) Pilots, State Board of (§ 11–201 of the Business Occupations and Professions Article: July 1, **[**2012**] 2021**);

SECTION 2. AND BE IT FURTHER ENACTED, That on or before October 1, 2010, the Department of Labor, Licensing, and Regulation, in conjunction with the State Board of Pilots, shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article, detailing the steps that have been taken to:

(1) determine whether additional requirements, such as a federal pilot license, should be a requirement for State pilot licensing;

(2) improve the Department's accounting of Board–related expenditures when staff are shared among several boards to ensure that the majority of Board–related costs, including personnel, are tracked;

(3) increase the pilot–in–training application and licensing fees to reflect inflation and help offset Board expenses;

(4) revise the draft levels associated with licenses in response to overall increases in vessel draft;

(5) develop statutory, regulatory, or other provisions to ensure adequate review and evaluation of the association's annual audits; and

(6) improve the tracking of, and ensure compliance with, pilot continuing education requirements.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 132

(House Bill 134)

AN ACT concerning

State Board of Examiners of Landscape Architects – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Board of Examiners of Landscape Architects in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to certain statutory and regulatory authority of the Board; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; requiring the Board to submit a certain report on or before a certain date; and generally relating to the State Board of Examiners of Landscape Architects.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 9–702
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(36)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Business Occupations and Professions

9–702.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, **[**2013**] 2024**.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(36) Landscape Architects, State Board of Examiners of (§ 9–201 of the Business Occupations and Professions Article: July 1, **[**2012**] 2023**);

SECTION 2. AND BE IT FURTHER ENACTED, That on or before October 1, 2011, the State Board of Examiners of Landscape Architects, in conjunction with the Department of Labor, Licensing, and Regulation, shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article, on its consideration of:

(1) instituting a continuing education requirement for landscape architects; and

(2) allowing individuals who have a college degree in a field related to landscape architecture to sit for the licensing examination under the academic option as described in § 9–303 of the Business Occupations and Professions Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 133

(House Bill 135)

AN ACT concerning

State Board of Chiropractic and Massage Therapy Examiners – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Board of Chiropractic and Massage Therapy Examiners in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; requiring the Board to submit certain reports on or before certain dates; altering a certain reference; and generally relating to the State Board of Chiropractic and Massage Therapy Examiners.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 3–602
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(12)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health Occupations

3–602.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, **[**2012**] 2022**.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(12) Chiropractic **AND MASSAGE THERAPY** Examiners, State Board of (§ 3–201 of the Health Occupations Article: July 1, **[**2011**] 2021**);

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2010, the State Board of Chiropractic and Massage Therapy Examiners shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, regarding:

(1) Financial activities that contributed to the Board's fiscal year 2009 fund balance; and

(2) Measures implemented during fiscal year 2010 to decrease the Board's fund balance and the impact of those measures.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before October 1, 2011, the State Board of Chiropractic and Massage Therapy Examiners shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, regarding the Board's progress in:

(1) Maintaining an appropriate fund balance;

(2) Meeting Managing for Results goals for complaint resolution; and

(3) Implementing formal data retrieval and analysis procedures.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 134

(House Bill 136)

AN ACT concerning

State Board of Plumbing – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Board of Plumbing in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; requiring the Department of Labor, Licensing, and Regulation to submit a certain report on or before a certain date; and generally relating to the State Board of Plumbing.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 12–702
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(51)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Business Occupations and Professions

12–702.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, **[**2013**] 2023**.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(51) Plumbing, State Board of (§ 12–201 of the Business Occupations and Professions Article: July 1, **[**2012**] 2022**);

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2011, the Department of Labor, Licensing, and Regulation shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article, on:

(1) the status of efforts to restructure the Division of Occupational and Professional Licensing to better serve the day–to–day operations of the State Board of Plumbing, particularly related to the Board's complaint backlog and other responsibilities;

(2) the Board's disposition of consumer complaints going back to at least fiscal year 2006, including the Board's effectiveness in resolving complaints in a timely manner;

(3) the imposition of fines on licensees or individuals who engage in malpractice, in particular the frequency and average amount of such fines and whether or not industry regulation and consumer protection would benefit from increasing fine amounts;

(4) the size of the Board's fiscal year 2010 surplus or funding gap following the restructuring of the Division of Occupational and Professional Licensing and any changes to the Board's staffing or fees necessary to address the Board's fiscal status; and

(5) whether the Board has been successful in filling the vacant consumer member seat.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 135

(House Bill 149)

AN ACT concerning

Calvert County – Public Facilities Bonds

FOR the purpose of authorizing and empowering the County Commissioners of Calvert County, from time to time, to borrow not more than $11,275,000 to finance the construction, improvement, or development of certain public facilities in Calvert County, as herein defined, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like par amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds and the interest thereon and any income derived therefrom from all State, county, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes; and generally relating to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used herein, the term "County" means the body politic and corporate of the State of Maryland known as the County Commissioners of Calvert County, and the term "construction, improvement, or development of public facilities" means the acquisition, alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of public buildings and facilities, and issuance costs together with the costs of acquiring land or interests in land as well as any related architectural, financial, legal, planning, or engineering services.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the public facilities described in

Section 1 of this Act, and to borrow money and incur indebtedness for that purpose, at one time or from time to time, in an amount not exceeding, in the aggregate, $11,275,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of Section 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be for the best interests of Calvert County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or state securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in a bond order pursuant to the bond resolution. The bonds may be issued in registered form and provision may be made for the registration of the principal only. In case any officer whose signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if he had remained in office until such delivery. The bonds and the issuance and sale thereof shall be exempt from the provisions of Sections 9, 10, and 11 of Article 31 of the Annotated Code of Maryland, as amended.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for

the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Treasurer of Calvert County or such other official of Calvert County as may be designated to receive such payment in a resolution passed by the County before such delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the acquisition, construction, improvement, or development of public facilities for which the bonds are sold. If the amounts borrowed shall prove inadequate to finance the projects described in the resolution, the County may issue additional bonds with the limitations hereof for the purpose of evidencing the borrowing of additional funds for such financing, provided the resolution authorizing the sale of additional bonds shall so recite, but if the net proceeds of the sale of any issue of bonds exceed the amount needed to finance the projects described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to the acquisition, construction, improvement, or development of other public facilities, as defined and within the limits set forth in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be

levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner hereinabove described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County in such an amount as shall be necessary for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, county, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland. Nothing in this Act

shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Calvert County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 136

(House Bill 162)

AN ACT concerning

Expedited Partner Therapy Pilot Program – Extension

FOR the purpose of extending the termination date of the Expedited Partner Therapy Pilot Program; and generally relating to the Expedited Partner Therapy Pilot Program.

BY repealing and reenacting, with amendments,
Chapter 146 of the Acts of the General Assembly of 2007
Section 2

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

Chapter 146 of the Acts of 2007

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. It shall remain effective for a period **[**3**] 8** years and, at the end of **[**June 30, 2010**] JUNE 30, 2015**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 137

(House Bill 224)

AN ACT concerning

Plumbing – Greywater Recycling

FOR the purpose of prohibiting a county from adopting or enforcing certain provisions of a local plumbing code; defining a certain term; and generally relating to greywater recycling.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 12–206
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Occupations and Professions

12–206.

(a) A county shall:

(1) enforce the State Plumbing Code; or

(2) adopt and enforce a local plumbing code that meets or exceeds the minimum standards of the State Plumbing Code for the proper design, acceptable installation, and adequate maintenance of plumbing systems.

(B) (1) IN THIS SUBSECTION:

(I) "GREYWATER" MEANS USED, UNTREATED WATER GENERATED BY:

1. A CLOTHES WASHING MACHINE;

2. A SHOWER; OR

3. A BATHTUB; AND

(II) "GREYWATER" DOES NOT INCLUDE WATER FROM:

1. A TOILET;

2. A KITCHEN SINK; OR

3. A DISHWASHING MACHINE.

(2) A COUNTY MAY NOT ADOPT OR ENFORCE A PROVISION OF A LOCAL PLUMBING CODE THAT PROHIBITS A SYSTEM THAT RECYCLES GREYWATER, AS AUTHORIZED UNDER THE STATE PLUMBING CODE.

[(b)**] (C)** Unless the Board determines that a county is adequately enforcing the State Plumbing Code or a local plumbing code that meets or exceeds the minimum standards of the State Plumbing Code, the Board shall enforce the State Plumbing Code in that county.

[(c)**] (D)** The Board may make a cooperative agreement with a county for the county to enforce:

(1) the State Plumbing Code; or

(2) if the county has adopted a local plumbing code, that code.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 138

(House Bill 230)

AN ACT concerning

Howard County Ethics Law – Clarifications and Enhancements

Ho. Co. 1–10

FOR the purpose of altering provisions of the Howard County ethics law; clarifying a certain definition; making certain persons subject to the Howard County ethics law under certain circumstances; altering provisions governing the preparation of a certain report about the affidavits and disclosures filed by certain persons under the Howard County ethics law; requiring that the summary reports be made available for immediate inspection by the public; and generally relating to the Howard County ethics law.

BY repealing and reenacting, with amendments,
Article – State Government
Section 15–848 and 15–849
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – State Government
Section 15–850
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Government

15–848.

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

(b) (1) "Applicant" means an individual or a business entity that is, with regard to the land that is the subject of the application:

(i) a title owner, assignee, or contract purchaser of the land;

(ii) a trustee that has an interest in the land, other than as a trustee described in a mortgage or deed of trust; or

(iii) a holder of a 5% or greater interest in the business entity that has an interest in the land if:

1. the interest holder is involved significantly in directing the affairs of the business entity, including the disposition of the land; or

2. the interest holder is engaged in substantive actions specifically pertaining to land development in Howard County as a regular part of the activity of the business entity.

(2) "Applicant" includes:

(i) any other business entity in which an individual or business entity described in paragraph (1) of this subsection holds a 3% or greater interest; **[**or**]**

(ii) an officer or director of a corporation who actually holds title to, or is the contract purchaser or assignee of, the land that is the subject of an application if:

1. the corporation is listed on a national securities exchange and the officer or director owns 5% or more of its stock; or

2. in the case of any other corporation, the officer or director owns any interest in the corporation**; OR**

(III) AS TO AN APPLICATION FOR A ZONING REGULATION, ANY PERSON AUTHORIZED TO SIGN THE APPLICATION.

(3) "Applicant" does not include:

(i) a financial institution that has loaned money or extended financing for the acquisition, development, or construction of improvements on the land that is the subject of an application;

(ii) a municipal or public corporation;

(iii) a public authority;

(iv) a public service company acting within the scope of the Public Utility Companies Article; or

(v) a person who is:

1. less than a full–time employee of a person described in paragraph (1) or paragraph (2) of this subsection; and

2. hired or retained as an accountant, attorney, architect, engineer, land use consultant, economic consultant, real estate agent, real estate broker, traffic consultant, or traffic engineer.

(c) "Application" means:

(1) an application for a zoning map amendment;

(2) an application for a zoning regulation amendment; or

(3) participation in the adoption and approval of a comprehensive zoning plan by appearing at a public hearing, filing a statement in an official record, or engaging in other similar communication to an elected official, where the intent is to change the classification or increase the density of the land of the applicant.

(d) "Business entity" means:

(1) a sole proprietorship;

(2) a corporation;

(3) a general partnership;

(4) a limited partnership;

(5) a limited liability company; or

(6) a joint venture.

(e) "Candidate" means a candidate for election as Howard County Executive or to the Howard County Council who becomes an elected official.

(f) "Contribution" means any payment or transfer of money or property or the incurring of any liability or promise of anything of value to the treasurer of a candidate, a political committee, or a slate.

(g) "Contributor" means an individual or business entity that makes a contribution.

(h) "Elected official" means an individual who serves as Howard County Executive or as a member of the Howard County Council.

(i) (1) "Engaging in business" means entering into any:

(i) sale, purchase, lease, or other transaction involving goods, services, or real property; or

(ii) contract, award, loan, extension of credit, or any other financial transaction.

(2) "Engaging in business" does not include the sale of goods to an individual for the use or consumption of the individual or others for personal, family,

or household purposes, as distinguished from industrial, commercial, or agricultural purposes.

(j) "Family member" means the spouse or child of either an applicant or a party of record who has made a contribution with the knowledge and consent of the applicant or party of record.

(k) "Party of record" means an individual or business entity that participates in a map amendment proceeding by the County Council or the zoning board, or who participates in the adoption and approval of a comprehensive zoning plan by appearing at a public hearing, filing a statement in an official record, or engaging in other similar communication to an elected official where the intent is to oppose a change in classification or an increase in density of the land of an applicant.

(l) "Political action committee" means a political committee that is not:

(1) a political party;

(2) a central committee;

(3) a slate; or

(4) a political committee organized and operated by, and solely on behalf of, an individual running for any elective office or a slate.

(m) "Political committee" means a committee, continuing or noncontinuing, specifically created to promote the candidacy of a person running for elective office.

(n) "Slate" means a group, combination, or organization of candidates created under the provisions of the Election Law Article.

(o) (1) "Treasurer" has the meaning provided in § 1–101 of the Election Law Article.

(2) "Treasurer" includes a subtreasurer.

15–849.

(a) (1) When an application is filed, the applicant shall file an affidavit, under oath, stating whether the applicant:

(i) has made any contribution or contributions having a cumulative value of $500 or more to the treasurer of a candidate or the treasurer of a political committee during the 48–month period before the application is filed, to the best of the applicant's information, knowledge, and belief; or

(ii) is currently engaging in business with an elected official.

(2) (i) If the applicant or a party of record or a family member has made a contribution or contributions having a cumulative value of $500 or more during the 48–month period before the application was filed or during the pendency of the application, the applicant or the party of record shall file a disclosure providing the name of the candidate or elected official to whose treasurer or political committee the contribution was made, the amount, and the date of the contribution. However, if the party of record is a community association, this paragraph may not be construed to require the association to poll its members to disclose individual contributions.

(ii) A contribution made between the filing of the application and the disposition of the application shall be disclosed within 5 business days of the contribution.

(3) An applicant who begins engaging in business with an elected official between the filing of the application and the disposition of the application shall file the affidavit at the time of engaging in business with the elected official.

(b) Except as provided in subsection (a)(3) of this section, the affidavit or disclosure shall be filed at least 30 calendar days prior to any consideration of the application by an elected official.

(c) Within 2 weeks after entering a proceeding, a party of record that has made a contribution shall submit a disclosure as described in subsection (a)(2) of this section.

(d) (1) Except as provided in paragraph (2) of this subsection, a contributor and an elected official are subject to the provisions of this Part VII if the contributor makes a contribution to:

(i) the candidate;

(ii) a slate; or

(iii) the candidate's political committee.

(2) The provisions of this Part VII do not apply to a transfer by a political action committee to a candidate or the candidate's continuing political committee.

(e) An affidavit or a disclosure required under this Part VII shall be in a form established by the Howard County Solicitor and approved by the County Council. The completed form shall be filed in the appropriate case file of an application. The disclosure form shall repeat the penalty provision in § 15–850(a) of this Part VII.

(f) A contribution made after the filing of the initial disclosure and before final disposition of the application by the County Council shall be disclosed within 5 business days of the contribution.

(g) In the enforcement of this Part VII, the administrative clerk to the zoning board or the administrator of the County Council, as appropriate, considering an application shall be subject to the authority of the Howard County Ethics Commission and, unless otherwise directed by the Ethics Commission, shall:

(1) receive filings of affidavits and disclosures;

(2) maintain filed affidavits and disclosures as public records available for review by the general public during normal business hours;

(3) report violations to the Howard County Ethics Commission; and

(4) perform ministerial duties necessary to administer this Part VII.

(h) (1) **[**At least twice each calendar year**]** **PROMPTLY ON RECEIPT,** the administrative assistant to the zoning board and the administrator of the County Council shall prepare a summary report compiling all affidavits and disclosures **[**that have been**]** filed **UNDER THIS PART VII**.

(2) The summary report shall be a matter of public record and available for **IMMEDIATE** inspection upon written request.

15–850.

(a) (1) Any person who knowingly and willfully violates the provisions of this Part VII is subject to a fine of not more than $5,000.

(2) If the person is not an individual, each officer and partner who knowingly authorized or participated in the violation is subject to the same penalty specified in paragraph (1) of this subsection.

(b) (1) Any person who is subject to the provisions of this Part VII shall preserve for 3 years from the date of filing the application all accounts, bills, receipts, books, papers, and documents necessary to complete and substantiate any reports, statements, or records required to be made under this Part VII.

(2) The papers and documents described in paragraph (1) of this subsection shall be available for inspection upon request to the Howard County Ethics Commission, after reasonable notice.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 139

(House Bill 246)

AN ACT concerning

Allegany County and Garrett County – Deer Hunting on Private Property – Sundays

FOR the purpose of authorizing a person in Allegany County or Garrett County to hunt for deer on private property with a bow and arrow on certain Sundays during certain months; and generally relating to deer hunting in Allegany and Garrett counties.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 10–410(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Natural Resources

10–410.

(a) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person may not hunt any game bird or mammal on Sundays.

(2) The following persons may hunt the specified game birds and mammals on Sundays:

(i) A person using State certified raptors to hunt game birds or mammals during open season;

(ii) An unarmed person participating in an organized fox chase to chase foxes;

(iii) Provided that the provisions of § 10–906(b)(3) of this title are met, a person:

1. Using a regulated shooting ground under § 10–906 of this title to hunt the following pen–reared game birds:

A. Pheasants;

B. Bobwhite quail;

C. Chukar partridge;

D. Hungarian partridge;

E. Tower released flighted mallard ducks; and

F. Turkey on a regulated shooting ground that was permitted to release turkey before September 1, 1992; and

2. Having the written permission of the owner of the land or other person designated by the owner of the land, if the land is owned or leased by a person other than the person hunting on Sundays; and

(iv) Subject to the provisions of § 10–411 of this subtitle, in **ALLEGANY,** Dorchester, Frederick, **GARRETT,** St. Mary's, Somerset, Washington, Wicomico, and Worcester counties, a person hunting deer on private property with a bow and arrow during open season on the last three Sundays in October and the second Sunday in November.

(3) Provided that the provisions of § 10–415 of this subtitle are met and subject to paragraph (4) of this subsection, the Department may allow a person to hunt deer on private property on the first Sunday of:

(i) The bow hunting season in November; and

(ii) The deer firearms season.

(4) The Sunday deer hunting provisions under paragraph (3) of this subsection do not apply:

(i) In Baltimore, Carroll, Howard, and Prince George's counties; and

(ii) In Baltimore City.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 140

(House Bill 257)

AN ACT concerning

Evidence – Journalist's Testimonial Privileges – Student

FOR the purpose of providing that certain testimonial privileges apply to a student engaged in a news gathering or news disseminating capacity under certain circumstances; making stylistic changes; providing for the application of this Act; and generally relating to certain testimonial privileges.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 9–112
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Courts and Judicial Proceedings

9–112.

(a) In this section, "news media" means:

(1) Newspapers;

(2) Magazines;

(3) Journals;

(4) Press associations;

(5) News agencies;

(6) Wire services;

(7) Radio;

(8) Television; and

(9) Any printed, photographic, mechanical, or electronic means of disseminating news and information to the public.

(b) The provisions of this section apply to any person who is, or has been**[**,**]:**

(1) [employed**] EMPLOYED** by the news media in any news gathering or news disseminating capacity**; OR**

(2) ENROLLED AS A STUDENT IN AN INSTITUTION OF POSTSECONDARY EDUCATION AND ENGAGED IN ANY NEWS GATHERING OR NEWS DISSEMINATING CAPACITY RECOGNIZED BY THE INSTITUTION AS A SCHOLASTIC ACTIVITY OR IN CONJUNCTION WITH AN ACTIVITY SPONSORED, FUNDED, MANAGED, OR SUPERVISED BY SCHOOL STAFF OR FACULTY.

(c) Except as provided in subsection (d) of this section, any judicial, legislative, or administrative body, or anybody that has the power to issue subpoenas may not compel any person described in subsection (b) of this section to disclose:

(1) The source of any news or information procured by the person while employed by the news media **OR WHILE ENROLLED AS A STUDENT**, whether or not the source has been promised confidentiality; or

(2) Any news or information procured by the person while employed by the news media, in the course of pursuing **A** professional **[**activities**] ACTIVITY, OR ANY NEWS OR INFORMATION PROCURED BY THE PERSON WHILE ENROLLED AS A STUDENT, IN THE COURSE OF PURSUING A SCHOLASTIC ACTIVITY OR IN CONJUNCTION WITH AN ACTIVITY SPONSORED, FUNDED, MANAGED, OR SUPERVISED BY SCHOOL STAFF OR FACULTY,** for communication to the public but which is not so communicated, in whole or in part, including:

(i) Notes;

(ii) Outtakes;

(iii) Photographs or photographic negatives;

(iv) Video and sound tapes;

(v) Film; and

(vi) Other data, irrespective of its nature, not itself disseminated in any manner to the public.

(d) (1) A court may compel disclosure of news or information, if the court finds that the party seeking news or information protected under subsection (c)(2) of this section has established by clear and convincing evidence that:

(i) The news or information is relevant to a significant legal issue before any judicial, legislative, or administrative body, or anybody that has the power to issue subpoenas;

(ii) The news or information could not, with due diligence, be obtained by any alternate means; and

(iii) There is an overriding public interest in disclosure.

(2) A court may not compel disclosure under this subsection of the source of any news or information protected under subsection (c)(1) of this section.

(e) If any person **[**employed by the news media**]** **DESCRIBED IN SUBSECTION (B) OF THIS SECTION** disseminates a source of any news or information, or any portion of the news or information procured while pursuing ~~A professional~~ AN **[**activities**]** **ACTIVITY** ~~**OR A SCHOLASTIC ACTIVITY**~~ **DESCRIBED IN SUBSECTION (B) OF THIS SECTION**, the protection from compelled disclosure under this section is not waived by the **[**individual**]** **PERSON**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any subpoena issued before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 141

(House Bill 260)

AN ACT concerning

State Personnel – Classification of Positions in the State Personnel Management System

FOR the purpose of requiring the Secretary of Budget and Management to classify certain positions in the State Personnel Management System; repealing a provision of law that requires the Secretary to provide certain training regarding certain standards and procedures; requiring the Secretary to provide certain advice; authorizing the Secretary to delegate authority to the head of a principal unit to classify positions for the principal unit under certain

circumstances; requiring the head of a principal unit to classify certain positions if the Secretary delegates classification authority to the head of the principal unit; altering the circumstances under which the Secretary must conduct position classification audits; authorizing, instead of requiring, the Secretary to conduct certain operational audits; making clarifying and conforming changes; and generally relating to the classification of positions in the State Personnel Management System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 4–202 and 4–203
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – State Personnel and Pensions

4–202.

The Secretary shall:

(1) **CLASSIFY SKILLED SERVICE POSITIONS, PROFESSIONAL SERVICE POSITIONS, MANAGEMENT SERVICE POSITIONS, AND EXECUTIVE SERVICE POSITIONS;**

(2) establish standards and general procedures to be used to classify positions in the skilled service, professional service, management service, and executive service; and

[(2)**] (3)** provide **[**training**] ADVICE** and guidance on the use of those standards and procedures.

4–203.

(a) **(1) THE SECRETARY MAY DELEGATE AUTHORITY TO THE HEAD OF A PRINCIPAL UNIT TO CLASSIFY POSITIONS FOR THE PRINCIPAL UNIT IN ACCORDANCE WITH STANDARDS AND PROCEDURES ESTABLISHED BY THE SECRETARY IN ACCORDANCE WITH § 4–202(2) OF THIS SUBTITLE.**

(2) [The**] IF THE SECRETARY DELEGATES CLASSIFICATION AUTHORITY TO THE HEAD OF A PRINCIPAL UNIT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE** head of **[**a**] THE** principal unit shall**:**

(I) submit for the Secretary's approval a position classification plan for classifying positions in the **PRINCIPAL** unit that are in the skilled service, professional service, and management service**[**.**]; AND**

[(b) The head of a principal unit or designee shall**]**

(II) classify skilled service positions, professional service positions, and management service positions in the **PRINCIPAL** unit in accordance with the approved classification plan.

[(c)**] (B)** (1) Each employee in a position shall assume the classification title given the class to which that position belongs.

(2) The Secretary, the Comptroller, and the Treasurer shall use these classification titles in all relevant records and communications.

[(d)**] (C)** To ensure that positions in the State Personnel Management System are classified properly, the Secretary:

(1) shall conduct position classification audits at least once every 3 years **FOR ANY CLASSIFICATION ACTIVITY PERFORMED IN ACCORDANCE WITH SUBSECTION (A)(2) OF THIS SECTION**; and

(2) **[**shall**] MAY** conduct operational audits of classification practices and records in **PRINCIPAL** units at least once every 3 years.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 142

(House Bill 275)

AN ACT concerning

State Employees – Employee Performance Appraisals – Revisions

FOR the purpose of altering the factors that must be included in evaluating the performance of certain managers and supervisors; providing that a certain anonymous survey may be performed only under certain circumstances; altering the manner in which an employee's performance may be rated on a performance appraisal; repealing the requirement that an employee perform a certain

self–assessment; repealing the requirement that a certain self–assessment be part of an employee's performance appraisal; altering the definition of "grievance" under certain provisions of law to exclude a dispute about a certain mid–year performance appraisal; making clarifying and conforming changes; and generally relating to the conduct of employee performance appraisals for State employees.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 7–501, 7–502, 7–503, and 12–101(c)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – State Personnel and Pensions

7–501.

(a) The performance of each employee in the skilled service, professional service, and management service, including special appointments in each classification of each of those services, shall be evaluated in accordance with this subtitle.

(b) The appointing authority shall ensure that each of the unit's employees who is subject to this subtitle has performance evaluations in accordance with this subtitle and procedures established by the Secretary.

(c) Each supervisor of an employee subject to this subtitle shall attend mandatory training by the Department on the methods and procedures required in the performance appraisal process.

(d) Factors in evaluating a manager's or supervisor's performance shall include:

(1) attendance at any required performance appraisal training;

(2) adherence to established methods and procedures in conducting performance appraisals;

(3) the timely completion of performance appraisals for employees assigned to the **MANAGER OR** supervisor; and

(4) **[**except as provided in**]** **SUBJECT TO** subsection (e) of this section, **IF REQUIRED BY THE MANAGER'S OR SUPERVISOR'S SUPERVISOR,** the results of an anonymous survey of employees assigned to the **MANAGER OR** supervisor in accordance with procedures established by the Secretary.

(e) **[**The anonymous survey requirement under subsection (d)(4) of this section shall not be a factor in evaluating a manager's or supervisor's performance if fewer than five employees are assigned to the manager or supervisor**]** **AN ANONYMOUS SURVEY OF THE EMPLOYEES OF A MANAGER OR SUPERVISOR MAY BE PERFORMED ONLY IF MORE THAN FIVE EMPLOYEES ARE ASSIGNED TO THE MANAGER OR SUPERVISOR**.

7–502.

(a) An employee subject to this subtitle shall receive the following written performance appraisals at 6–month intervals based on the employee's entry–on–duty date:

(1) **[**a**]** **AN INFORMAL** mid–year performance appraisal; and

(2) an end–of–year performance appraisal with an overall performance rating **IN ACCORDANCE WITH § 7–503 OF THIS SUBTITLE**.

(b) An employee's performance may be rated on a performance appraisal as follows:

(1) outstanding;

(2) **[**exceeds standards;

(3) meets standards;

(4) needs improvement; or

(5)**]** **SATISFACTORY; OR**

(3) unsatisfactory.

7–503.

(a) (1) A supervisor shall prepare a preliminary performance appraisal for each employee for which the supervisor has primary direct responsibility.

(2) An appointing authority may review a preliminary appraisal before the supervisor presents it to the employee.

(b) **[**Each employee shall participate in the employee's performance appraisal by preparing a self–assessment that:

(1) evaluates the employee's performance during a rating period;

(2) indicates the employee's suggestions for ways that the employee and the employee's supervisor can enhance the employee's contribution to the unit's mission, goals, and objectives; and

(3) suggests training or other methods to promote the development of the employee's career objectives in the unit.

(c)**]** (1) An employee and the employee's supervisor shall review and discuss the **[**employee's self–assessment and the**]** supervisor's **[**assessment**]** **PRELIMINARY PERFORMANCE APPRAISAL**.

(2) The employee shall be notified, as provided in regulations adopted by the Secretary, prior to the date of the review and the discussion.

(3) The purpose of the review and discussion is to:

(i) promote agreement and understanding about the **[**assessments of the employee and supervisor**]** **SUPERVISOR'S PRELIMINARY PERFORMANCE APPRAISAL** and to aid the supervisor in determining the final ratings for the performance appraisal; and

(ii) 1. develop appropriate modifications to the employee's position description, if needed;

2. establish specific written tasks and indicators, based on measurable and objective standards that can be evaluated on outcome, that the employee needs to accomplish during the next rating period in order to meet the overall objectives of the position; and

3. identify any area in which training is needed for the next rating period, based on the employee's strengths and weaknesses.

[(d)**] (C)** (1) An appointing authority shall approve a performance appraisal before it is final.

(2) The final performance appraisal shall include:

(i) the employee's final performance ratings;

(ii) the specific tasks the employee is to achieve during the next rating period;

(iii) a list of modifications to the employee's position description, if any; and

(iv) any recommendations for training to enhance the employee's skills.

(3) The supervisor shall:

(i) give the employee a copy of the final performance appraisal;

(ii) retain a copy; and

(iii) place a copy in the employee's personnel records.

12–101.

(c) (1) "Grievance" means a dispute between an employee and the employee's employer about the interpretation of and application to the employee of:

(i) a personnel policy or regulation adopted by the Secretary; or

(ii) any other policy or regulation over which management has control.

(2) "Grievance" does not include a dispute about:

(i) a pay grade or range for a class;

(ii) the amount or the effective date of a statewide pay increase;

(iii) the establishment of a class;

(iv) the assignment of a class to a service category;

(v) the establishment of classification standards; **[**or**]**

(vi) **A MID–YEAR PERFORMANCE APPRAISAL; OR**

(VII) an oral reprimand or counseling.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 143

(House Bill 278)

AN ACT concerning

Maryland Medical Assistance Program – Medical Eligibility for Nursing Facility Level of Care – Report

FOR the purpose of requiring the Department of Health and Mental Hygiene to ~~determine that certain individuals are medically eligible for certain services under certain circumstances; requiring the Department to allow individuals to submit certain information under certain circumstances~~ provide a certain report to certain committees of the General Assembly and the Medicaid Advisory Committee within a certain time period prior to making any change to medical eligibility for certain Medical Assistance Program long–term care services; requiring the Department to discuss certain reports submitted to the Medicaid Advisory Committee at a meeting of the Committee; defining a certain ~~terms~~ term; and generally relating to medical eligibility for nursing facility level of care under the Maryland Medical Assistance Program.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 1–101(a) and (c) and 15–101(a) and (h)
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article – Health – General
Section 15–146
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health – General

1–101.

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

(c) "Department" means the Department of Health and Mental Hygiene.

15–101.

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

(h) "Program" means the Maryland Medical Assistance Program.

15–146.

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

~~(2) "ACTIVITIES OF DAILY LIVING" MEANS BATHING, DRESSING, MOBILITY, TRANSFER, TOILETING OR CONTINENCE, AND EATING.~~

~~(3) "HEALTH–RELATED SERVICES ABOVE THE LEVEL OF ROOM AND BOARD" MEANS:~~

~~(I) CARE OF AN INDIVIDUAL WHO REQUIRES HANDS–ON ASSISTANCE TO PERFORM ADEQUATELY AND SAFELY TWO OR MORE ACTIVITIES OF DAILY LIVING AS A RESULT OF A CURRENT MEDICAL CONDITION OR DISABILITY;~~

~~(II) SUPERVISION OF AN INDIVIDUAL'S PERFORMANCE OF TWO OR MORE ACTIVITIES OF DAILY LIVING FOR AN INDIVIDUAL:~~

~~1. WITH COGNITIVE DEFICITS, AS INDICATED BY A SCORE OF 15 OR LESS ON THE FOLSTEIN MINI–MENTAL STATUS EVALUATION OR AN EQUIVALENT DETERMINATION MADE BY A LICENSED PHYSICIAN, PSYCHOLOGIST, OR CERTIFIED SOCIAL WORKER–CLINICAL; AND~~

~~2. WHO IS IN NEED OF ASSISTANCE WITH AT LEAST THREE INSTRUMENTAL ACTIVITIES OF DAILY LIVING; OR~~

~~(III) SUPERVISION OF AN INDIVIDUAL'S PERFORMANCE OF TWO OR MORE ACTIVITIES OF DAILY LIVING COMBINED WITH THE NEED FOR SUPERVISION OF OR REDIRECTION FOR AN INDIVIDUAL WHO EXHIBITS AT LEAST TWO OF THE FOLLOWING BEHAVIORAL PROBLEMS:~~

~~1. WANDERING SEVERAL TIMES A DAY;~~

~~2. HALLUCINATIONS OR DELUSIONS AT LEAST WEEKLY;~~

~~3. AGGRESSIVE OR ABUSIVE BEHAVIOR SEVERAL TIMES A WEEK;~~

~~4. DISRUPTIVE OR SOCIALLY INAPPROPRIATE BEHAVIOR SEVERAL TIMES A WEEK; OR~~

~~5. SELF–INJURIOUS BEHAVIOR SEVERAL TIMES A MONTH.~~

~~(4) "INSTRUMENTAL ACTIVITIES OF DAILY LIVING" MEANS COMPLETING GROOMING, PREPARING A LIGHT MEAL, DOING LIGHT CHORES, GROCERY SHOPPING, TRAVELING BEYOND A WALKING DISTANCE, HANDLING MONEY AND MANAGING FINANCES, USING THE TELEPHONE, AND PLANNING AND MAKING DECISIONS.~~

~~(B) (1) THE DEPARTMENT SHALL DETERMINE THAT AN INDIVIDUAL IS MEDICALLY ELIGIBLE FOR NURSING FACILITY SERVICES OR FOR A NURSING FACILITY LEVEL OF CARE UNDER THE PROGRAM IF THE INDIVIDUAL REQUIRES, ON A REGULAR BASIS, HEALTH–RELATED SERVICES ABOVE THE LEVEL OF ROOM AND BOARD.~~

~~(2) IF AN INDIVIDUAL DOES NOT DEMONSTRATE THE CLINICAL NEED FOR HEALTH–RELATED SERVICES ABOVE THE LEVEL OF ROOM AND BOARD ON A REGULAR BASIS, THE DEPARTMENT SHALL PERMIT THE INDIVIDUAL TO SUBMIT ADDITIONAL INFORMATION FOR CLINICAL REVIEW TO DEMONSTRATE ELIGIBILITY UNDER APPLICABLE FEDERAL OR STATE REGULATIONS.~~

(A) IN THIS SECTION, "HOME– AND COMMUNITY–BASED WAIVER SERVICES" INCLUDE SERVICES PROVIDED UNDER THE LIVING AT HOME WAIVER, THE OLDER ADULTS WAIVER, AND THE MEDICAL DAY CARE WAIVER.

(B) AT LEAST 90 DAYS PRIOR TO MAKING ANY CHANGE TO MEDICAL ELIGIBILITY FOR PROGRAM LONG–TERM CARE SERVICES, INCLUDING NURSING FACILITY SERVICES, HOME– AND COMMUNITY–BASED WAIVER SERVICES, AND OTHER SERVICES THAT REQUIRE A NURSING FACILITY LEVEL OF CARE, THE DEPARTMENT SHALL PROVIDE A REPORT TO:

(1) THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE; AND

(2) THE MEDICAID ADVISORY COMMITTEE.

(C) THE REPORT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE:

(1) THE DETAILS OF THE INTENDED CHANGE IN MEDICAL ELIGIBILITY;

(2) A DESCRIPTION OF HOW THE INTENDED CHANGE WILL AFFECT CURRENT MEDICAL ELIGIBILITY;

(3) THE INTENDED EFFECTIVE DATE OF THE CHANGE; AND

(4) WHETHER THE CHANGE WILL BE PURSUED THROUGH DEPARTMENTAL POLICY, BY REGULATION, OR BY STATUTE.

(D) THE DEPARTMENT SHALL DISCUSS ANY REPORT SUBMITTED TO THE MEDICAID ADVISORY COMMITTEE UNDER SUBSECTION (B) OF THIS SECTION AT A MEETING OF THE MEDICAID ADVISORY COMMITTEE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 144

(Senate Bill 429)

AN ACT concerning

Maryland Medical Assistance Program – Medical Eligibility for Nursing Facility Level of Care – Report

FOR the purpose of requiring the Department of Health and Mental Hygiene to ~~determine that certain individuals are medically eligible for certain services under certain circumstances; requiring the Department to allow individuals to submit certain information under certain circumstances~~ provide a certain report to certain committees of the General Assembly and the Medicaid Advisory Committee within a certain time period prior to making any change to medical eligibility for certain Medical Assistance Program long–term care services; requiring the Department to discuss certain reports submitted to the Medicaid Advisory Committee at a meeting of the Committee; defining a certain ~~terms~~ term; and generally relating to medical eligibility for nursing facility level of care under the Maryland Medical Assistance Program.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 1–101(a) and (c) and 15–101(a) and (h)
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article – Health – General
Section 15–146
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health – General

1–101.

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

(c) "Department" means the Department of Health and Mental Hygiene.

15–101.

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

(h) "Program" means the Maryland Medical Assistance Program.

15–146.

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

~~(2) "ACTIVITIES OF DAILY LIVING" MEANS BATHING, DRESSING, MOBILITY, TRANSFER, TOILETING OR CONTINENCE, AND EATING.~~

~~(3) "HEALTH–RELATED SERVICES ABOVE THE LEVEL OF ROOM AND BOARD" MEANS:~~

~~(I) CARE OF AN INDIVIDUAL WHO REQUIRES HANDS–ON ASSISTANCE TO PERFORM ADEQUATELY AND SAFELY TWO OR MORE ACTIVITIES OF DAILY LIVING AS A RESULT OF A CURRENT MEDICAL CONDITION OR DISABILITY;~~

~~(II) SUPERVISION OF AN INDIVIDUAL'S PERFORMANCE OF TWO OR MORE ACTIVITIES OF DAILY LIVING FOR AN INDIVIDUAL:~~

~~1. WITH COGNITIVE DEFICITS, AS INDICATED BY A SCORE OF 15 OR LESS ON THE FOLSTEIN MINI–MENTAL STATUS EVALUATION~~

~~OR AN EQUIVALENT DETERMINATION MADE BY A LICENSED PHYSICIAN, PSYCHOLOGIST, OR CERTIFIED SOCIAL WORKER–CLINICAL; AND~~

~~2. WHO IS IN NEED OF ASSISTANCE WITH AT LEAST THREE INSTRUMENTAL ACTIVITIES OF DAILY LIVING; OR~~

~~(III) SUPERVISION OF AN INDIVIDUAL'S PERFORMANCE OF TWO OR MORE ACTIVITIES OF DAILY LIVING COMBINED WITH THE NEED FOR SUPERVISION OF OR REDIRECTION FOR AN INDIVIDUAL WHO EXHIBITS AT LEAST TWO OF THE FOLLOWING BEHAVIORAL PROBLEMS:~~

~~1. WANDERING SEVERAL TIMES A DAY;~~

~~2. HALLUCINATIONS OR DELUSIONS AT LEAST WEEKLY;~~

~~3. AGGRESSIVE OR ABUSIVE BEHAVIOR SEVERAL TIMES A WEEK;~~

~~4. DISRUPTIVE OR SOCIALLY INAPPROPRIATE BEHAVIOR SEVERAL TIMES A WEEK; OR~~

~~5. SELF–INJURIOUS BEHAVIOR SEVERAL TIMES A MONTH.~~

~~(4) "INSTRUMENTAL ACTIVITIES OF DAILY LIVING" MEANS TELEPHONE USE, MONEY MANAGEMENT, HOUSEKEEPING, AND MEDICATION MANAGEMENT.~~

~~(B) (1) THE DEPARTMENT SHALL DETERMINE THAT AN INDIVIDUAL IS MEDICALLY ELIGIBLE FOR NURSING FACILITY SERVICES OR FOR A NURSING FACILITY LEVEL OF CARE UNDER THE PROGRAM IF THE INDIVIDUAL REQUIRES, ON A REGULAR BASIS, HEALTH–RELATED SERVICES ABOVE THE LEVEL OF ROOM AND BOARD.~~

~~(2) IF AN INDIVIDUAL DOES NOT DEMONSTRATE THE CLINICAL NEED FOR HEALTH–RELATED SERVICES ABOVE THE LEVEL OF ROOM AND BOARD ON A REGULAR BASIS, THE DEPARTMENT SHALL PERMIT THE INDIVIDUAL TO SUBMIT ADDITIONAL INFORMATION FOR CLINICAL REVIEW TO DEMONSTRATE ELIGIBILITY UNDER APPLICABLE FEDERAL OR STATE REGULATIONS.~~

(A) IN THIS SECTION, "HOME– AND COMMUNITY–BASED WAIVER SERVICES" ~~INCLUDE~~ *INCLUDES* SERVICES PROVIDED UNDER THE LIVING AT

HOME WAIVER, THE OLDER ADULTS WAIVER, AND THE MEDICAL DAY CARE WAIVER.

(B) AT LEAST 90 DAYS PRIOR TO MAKING ANY CHANGE TO MEDICAL ELIGIBILITY FOR PROGRAM LONG–TERM CARE SERVICES, INCLUDING NURSING FACILITY SERVICES, HOME– AND COMMUNITY–BASED WAIVER SERVICES, AND OTHER SERVICES THAT REQUIRE A NURSING FACILITY LEVEL OF CARE, THE DEPARTMENT SHALL PROVIDE A REPORT TO:

(1) THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE; AND

(2) THE MEDICAID ADVISORY COMMITTEE.

(C) THE REPORT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE:

(1) THE DETAILS OF THE INTENDED CHANGE IN MEDICAL ELIGIBILITY;

(2) A DESCRIPTION OF HOW THE INTENDED CHANGE WILL AFFECT CURRENT MEDICAL ELIGIBILITY;

(3) THE INTENDED EFFECTIVE DATE OF THE CHANGE; AND

(4) WHETHER THE CHANGE WILL BE PURSUED THROUGH DEPARTMENTAL POLICY, BY REGULATION, OR BY STATUTE.

(D) THE DEPARTMENT SHALL DISCUSS ANY REPORT SUBMITTED TO THE MEDICAID ADVISORY COMMITTEE UNDER SUBSECTION (B) OF THIS SECTION AT A MEETING OF THE MEDICAID ADVISORY COMMITTEE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 145

(House Bill 282)

AN ACT concerning

Transportation Projects – Bicycle and Pedestrian Access – Funding and Reporting

FOR the purpose of declaring that it is the policy of the State that, in developing the annual Consolidated Transportation Program, the Maryland Department of Transportation shall work to ensure that there is ~~a~~ an appropriate balance between funding for certain transportation projects for pedestrians and bicycle riders and certain highway construction projects and place increased emphasis on certain transportation projects in certain areas under certain circumstances; requiring the Statewide 20–Year Bicycle–Pedestrian Master Plan to be ~~revised~~ reviewed and updated in each year that the Maryland Transportation Plan is revised; repealing an obsolete reference; and generally relating to transportation projects for pedestrians and bicycle riders.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 2–602 and 2–604
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Transportation

2–602.

The General Assembly finds that it is in the public interest for the State to include enhanced transportation facilities for pedestrians and bicycle riders as an essential component of the State's transportation system, and declares that it is the policy of the State that:

(1) Access to and use of transportation facilities by pedestrians and bicycle riders shall be considered and best engineering practices regarding the needs of bicycle riders and pedestrians shall be employed in all phases of transportation planning, including highway design, construction, reconstruction, and repair as well as expansion and improvement of other transportation facilities;

(2) The modal administrations in the Department shall ensure that the State maintains an integrated transportation system by working cooperatively to remove barriers, including restrictions on bicycle access to mass transit, that impede the free movement of individuals from one mode of transportation to another; **[**and**]**

(3) As to any new transportation project or improvement to an existing transportation facility, the Department shall work to ensure that transportation options for pedestrians and bicycle riders will be enhanced and that pedestrian and

bicycle access to transportation facilities will not be negatively impacted by the project or improvement**; AND**

(4) IN DEVELOPING THE ANNUAL CONSOLIDATED TRANSPORTATION PROGRAM, THE DEPARTMENT SHALL:

(I) ENSURE THAT THERE IS ~~A~~ AN APPROPRIATE BALANCE BETWEEN FUNDING FOR:

1. PROJECTS THAT RETROFIT EXISTING TRANSPORTATION PROJECTS WITH FACILITIES FOR PEDESTRIANS AND BICYCLE RIDERS; AND

2. NEW ~~HIGH~~ HIGHWAY CONSTRUCTION PROJECTS; AND

(II) IN TRANSIT–ORIENTED AREAS WITHIN PRIORITY FUNDING AREAS, AS DEFINED IN § 5–7B–02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, PLACE INCREASED EMPHASIS ON PROJECTS THAT RETROFIT EXISTING TRANSPORTATION PROJECTS WITH FACILITIES FOR PEDESTRIANS AND BICYCLE RIDERS AND INCREASE ACCESSIBILITY FOR THE GREATEST NUMBER OF PEDESTRIANS AND BICYCLE RIDERS.

2–604.

(a) The Director shall develop and coordinate policies and plans for the provision, preservation, improvement, and expansion of access to transportation facilities in the State for pedestrians and bicycle riders, including development**[**, before October 1, 2002,**]** of a Statewide 20–Year Bicycle–Pedestrian Master Plan that:

(1) (i) Identifies short–term and long–range goals that are consistent with the purposes of this subtitle; and

(ii) For each identified goal, includes:

1. Reasonable cost estimates for achieving the goal; and

2. For purposes of the annual report required under § 3–216 of this article, objective performance criteria against which progress in achieving the goal can be measured;

(2) Complies with applicable federal funding requirements;

(3) Provides a model to guide political subdivisions of the State in enhancing bicycle and pedestrian access to transportation facilities;

(4) Proposes long–term strategies for improving the State's highways to ensure compliance with the most advanced safety standards for pedestrians and bicycle riders; and

(5) After consultation with political subdivisions in the State, identifies bicycle–pedestrian priority areas to facilitate the targeting of available funds to those areas of the State most in need ~~**WITHIN PRIORITY FUNDING AREAS, AS DEFINED IN § 5–7B–02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE**~~.

(b) **THE STATEWIDE 20–YEAR BICYCLE–PEDESTRIAN MASTER PLAN SHALL BE** ~~**REVISED**~~ **REVIEWED AND UPDATED EACH YEAR THAT THE MARYLAND TRANSPORTATION PLAN, AS DESCRIBED IN § 2–103.1 OF THIS TITLE, IS REVISED.**

(C) To carry out the purposes of this subtitle, the Director shall:

(1) Participate in the planning of new transportation facilities and improvements to existing transportation facilities;

(2) Advise the Secretary on matters concerning bicycle and pedestrian access and any other matter as requested by the Secretary;

(3) Initiate a program of systematic identification of and planning for projects related to bicycle and pedestrian transportation that qualify for funds under Federal Highway Administration guidelines;

(4) Monitor State transportation plans, proposals, facilities, and services to ensure maximum benefits for pedestrians and bicycle riders in the State; and

(5) Consult regularly with the Bicycle and Pedestrian Advisory Committee established under § 2–606 of this subtitle.

[(c)**] (D)** The exercise of the powers and duties of the Director is subject to the authority of the Secretary.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 146

(House Bill 329)

AN ACT concerning

Estates and Trusts – Elective Share – Extension of Time for Making Election

FOR the purpose of authorizing a surviving spouse, within the period provided for making an election to take an elective share of the deceased spouse's estate, to file with the court a petition for an extension of time, with a copy given to the personal representative; repealing the limitation that the court may only grant an extension before the expiration of the time in which to make the election; and generally relating to the election by a surviving spouse to take an elective share of the deceased spouse's estate.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 3–206
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

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

Article – Estates and Trusts

3–206.

(a) (1) The election by a surviving spouse to take an elective share shall be made within the later of:

(i) Nine months after the date of the decedent's death; or

(ii) Six months after the first appointment of a personal representative under a will.

(2) **(I) WITHIN THE PERIOD FOR MAKING AN ELECTION, THE SURVIVING SPOUSE MAY FILE WITH THE COURT A PETITION FOR AN EXTENSION OF TIME, WITH A COPY GIVEN TO THE PERSONAL REPRESENTATIVE.**

(II) [The**] FOR GOOD CAUSE SHOWN, THE** court may extend the time for election**[**, before its expiration,**]** for a period not to exceed three months at a time**[**, upon notice given to the personal representative and for good cause shown**]**.

(b) The surviving spouse may withdraw the election at any time before the expiration of the time for making the election to take an elective share.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 147

(House Bill 368)

AN ACT concerning

Human Services – Local Departments of Social Services – Audits

FOR the purpose of altering the frequency of financial and compliance audits of the local departments of social services; specifying that the Office of the Inspector General in the Department of Human Resources is required to conduct the audits; and generally relating to audits of the local departments.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 3–602
Annotated Code of Maryland
(2007 Volume and 2009 Supplement)

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

Article – Human Services

3–602.

(a) At least once every **[**2**] 3** years, the **OFFICE OF THE INSPECTOR GENERAL IN THE** Department shall:

(1) conduct or contract for a financial and compliance audit of each local department; and

(2) prepare a written report of the audit findings.

(b) The audit shall comply with the auditing standards issued by the Institute of Internal Auditors.

(c) The written report of the audit findings shall be distributed to:

(1) the local board; and

(2) the local governing authority.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 148

(House Bill 400)

AN ACT concerning

Garrett County – Wine Festival License – Qualifications – Hearing and Notice

FOR the purpose of altering the requirements for a wine festival license in Garrett County to allow certain additional applicants to be issued the license; requiring that the Board of License Commissioners hold a hearing before a license is issued; requiring that the Board publish a certain notice before a certain time; and generally relating to alcoholic beverages licenses in Garrett County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 8–308.2
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

8–308.2.

(a) In this section, "Board" means the Garrett County Board of License Commissioners.

(b) This section applies only in Garrett County.

(c) The Board may issue annually one wine festival license.

(d) Notwithstanding any other provision of this article, an applicant for a wine festival license shall**:**

(1) **[**be a holder**]** **HOLD**, within the county, **[**of**]** an existing retail alcoholic beverages license, State Class 3 winery license, or State Class 4 limited winery license**; OR**

(2) BE ELIGIBLE FOR ANY TYPE OF SPECIAL CLASS C LICENSE THAT THE BOARD ISSUES.

(e) A wine festival licensee shall:

(1) Only display and sell wine that is:

(i) Manufactured and processed in any state;

(ii) Price filed in accordance with regulations adopted by the Comptroller; and

(iii) Distributed in the State at the time the application is filed; and

(2) Display and sell wine at retail for consumption on or off the licensed premises on the days and for the hours designated for the wine festival.

(f) The Board shall:

(1) Establish the license fee;

(2) Approve one or two days, excluding Sunday, annually for the wine festival provided that the days selected do not occur on the same weekend as the Maryland Wine Festival; and

(3) Approve a location in the county that is not licensed under this article for the wine festival.

(g) (1) Products to be displayed and sold at the wine festival shall be:

(i) Invoiced to the wine festival license holder by a licensed State wholesaler, winery, or limited winery; and

(ii) Delivered to the wine festival from the licensed premises of the wholesaler, winery, or limited winery.

(2) Whenever a wine festival license is issued under this section, holders of wholesale, winery, or limited winery licenses may enter into an agreement

with the holder of a wine festival license to deliver beer and wine 2 days prior to the effective date of the wine festival license and to accept returns 2 days after the expiration date of the wine festival license.

(h) Notwithstanding § 11–512(c) of this article, a wine festival license issued for use in election district 11 or 15 authorizes Sunday sales:

(1) To begin at 10 a.m.; and

(2) To be made without a consumer placing an order for a meal simultaneously or before placing an order for an alcoholic beverage.

(I) THE BOARD SHALL:

(1) HOLD A HEARING ON EACH APPLICATION FOR A WINE FESTIVAL LICENSE; AND

(2) PUBLISH A NOTICE OF THE APPLICATION ONE TIME AT LEAST 7 DAYS BEFORE THE HEARING IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY.

[(i)**] (J)** The Board shall adopt regulations to implement this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 149

(House Bill 402)

AN ACT concerning

Collection Agencies – Application and Renewal Fees

FOR the purpose of ~~authorizing~~ *requiring* the State Collection Agency Licensing Board to ~~adopt certain regulations and to~~ set by regulation collection agency license application fees, renewal fees, and investigation fees*, subject to certain limitations*; requiring the fees to be reasonable and set in a manner to produce funds that are sufficient to cover the direct and indirect costs of regulating collection agency licensees; requiring the Board to publish a certain fee schedule; providing that certain fees remain in effect until certain other fees take effect; and generally relating to the regulation of collection agencies.

BY adding to
Article – Business Regulation
Section ~~7–207 and~~ 7–302.1
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 7–302
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Regulation

~~**7–207.**~~

~~**IN ADDITION TO ANY POWERS SET FORTH ELSEWHERE, THE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS TITLE.**~~

7–302.

(a) ***(1)*** An applicant for a license shall:

~~(1)~~ ***(I)*** submit to the Board an application on the form that the Board provides; and

~~(2)~~ ***(II)*** pay to the Board**:**

~~**(I)**~~ ***1.*** an application fee **[**of $400**]** **IN THE AMOUNT SET BY THE BOARD; AND**

~~**(II)**~~ ***2.*** **AN INVESTIGATION FEE IN THE AMOUNT SET BY THE BOARD**.

(2) THE FEES AUTHORIZED UNDER THIS SUBSECTION MAY NOT EXCEED A TOTAL OF $900 FOR A 2–YEAR TERM.

(b) An application shall be made under oath.

(c) If an applicant wishes to do business as a collection agency at more than 1 place, the applicant shall submit a separate application and pay a separate application fee for each place.

(d) An application fee is nonrefundable.

(e) Before a license expires, the licensee periodically may renew the license for additional 2–year terms, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Board a renewal fee **[**of $400**]** **IN ~~THE~~** ***AN*** **AMOUNT,** ***NOT EXCEEDING $900,*** **SET BY THE BOARD**;

(3) submits to the Board a renewal application on a form required by the Board; and

(4) files with the Board a bond or bond continuation certificate as required under § 7–304 of this subtitle.

7–302.1.

(A) ~~THE~~ ***SUBJECT TO § 7–302(A)(2) AND (E)(2) OF THIS SUBTITLE, THE*** **BOARD SHALL SET BY REGULATION THE FEES PROVIDED FOR IN THIS SUBTITLE.**

(B) THE FEES ESTABLISHED BY THE BOARD UNDER THIS SECTION SHALL BE REASONABLE AND SET IN A MANNER THAT WILL PRODUCE FUNDS SUFFICIENT TO COVER THE ACTUAL DIRECT AND INDIRECT COSTS OF REGULATING COLLECTION AGENCIES IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE.

(C) THE BOARD SHALL PUBLISH THE FEE SCHEDULE SET BY THE BOARD.

SECTION 2. AND BE IT FURTHER ENACTED, That~~, notwithstanding Section 3 of this Act,~~ the fees under § 7–302 of the Business Regulation Article that are in effect on October 1, 2010, shall remain in effect until the fees set by regulation by the Board, as required under this Act, take effect.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 150

(House Bill 403)

AN ACT concerning

Office of Cemetery Oversight – Preneed Trust Account – Underfunding

FOR the purpose of authorizing the Director of the Office of Cemetery Oversight to require the correction of any underfunding, including interest, due to a preneed trust account.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 5–710
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Regulation

5–710.

(a) (1) Each seller shall keep detailed records of all preneed burial contracts and specific funds.

(2) The records of each seller and of each trustee appointed by the seller are subject to examination by:

(i) the Director;

(ii) the Attorney General or an authorized representative of the Attorney General; and

(iii) the State's Attorney for the county where the seller does business.

(b) (1) Each seller subject to the trust requirements of this subtitle shall submit a report to the Director within 120 days after the close of each calendar or other fiscal year chosen by the seller.

(2) The report shall:

(i) be on the form that the Director requires;

(ii) be certified by a certified public accountant retained by the seller;

(iii) be accompanied by a trustee's summary statement of assets;

(iv) be accompanied by a fee of $25; and

(v) include:

1. the name of the seller;

2. each location of the seller;

3. the amount of money that the seller received during that year that is subject to the trust requirements of this subtitle;

4. the amount of money actually deposited into trust accounts in that year;

5. the amount of money required to be disbursed from the trust accounts in that year;

6. the amount of money actually disbursed from the trust accounts in that year; and

7. the name and address of the trustee.

(3) (i) A seller of preneed goods or preneed services that sells its business, files a petition in bankruptcy, or ceases to operate shall provide written notice within 15 days:

1. to the Director, detailing the changes and the arrangements the seller has made for carrying out the preneed burial contracts and the disbursement of any moneys held in an escrow or trust account; and

2. to each buyer of a preneed burial contract, advising the buyer of the buyer's options under State law in regard to the preneed contract.

(ii) Nothing in this paragraph exempts a seller of preneed goods or services that sells its business, files a petition in bankruptcy, or ceases to operate from filing the annual report required under this section.

(c) A seller of a preneed burial contract shall provide each buyer or prospective buyer with a general price list for the buyer or prospective buyer to keep which shall include:

(1) specific prices for:

(i) ground opening and closing;

(ii) extra depth interment;

(iii) interment of cremated remains; and

(iv) mausoleum entombment; and

(2) general price ranges for burial space or preneed goods.

(d) A seller of a preneed burial contract shall disclose to the buyer:

(1) all goods and services that are reasonably expected to be required at the time of need that are not included in the preneed burial contract;

(2) the buyer's cancellation and refund rights under § 5–709 of this subtitle;

(3) the person responsible for installation of the goods sold and any warranties for the goods sold; and

(4) if the preneed contract provides for goods or services to be delivered or performed before death:

(i) that interest or finance charges may be imposed;

(ii) that interest or finance charges are not allowed on other preneed burial contracts that do not provide for goods or services to be delivered or performed before death;

(iii) the manner of delivery of goods including where the goods are stored; and

(iv) the buyer's remedy if delivered goods are damaged or destroyed.

(E) THE DIRECTOR MAY REQUIRE A SELLER TO CORRECT ANY UNDERFUNDING, INCLUDING INTEREST, DUE TO THE PRENEED TRUST ACCOUNT.

[(e)**] (F)** The Director may adopt regulations:

(1) to administer this section; and

(2) for determining whether sellers are complying with this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 151

(House Bill 404)

AN ACT concerning

Labor and Employment – Wage Payment and Collection – Order to Pay Wages

FOR the purpose of providing for an administrative procedure for the Commissioner of Labor and Industry on receipt of a complaint for failure to pay wages that do not exceed a certain amount; authorizing the ~~Commisioner~~ Commissioner to issue an order to pay wages under certain circumstances; authorizing an employer to request a de novo hearing on the order to pay wages; providing that the order to pay wages becomes a final order under certain circumstances; authorizing the Commissioner to enforce payment in District Court under certain circumstances; and generally relating to wage payment and collection.

BY renumbering
Article – Labor and Employment
Section 3–507.1
to be Section 3–507.2
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY adding to
Article – Labor and Employment
Section 3–507.1
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 3–507.1 of Article – Labor and Employment of the Annotated Code of Maryland be renumbered to be Section(s) 3–507.2.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Labor and Employment

3–507.1.

(A) ON RECEIPT OF A COMPLAINT FOR FAILURE TO PAY WAGES THAT DO NOT EXCEED ~~$5,000~~ $3,000, THE COMMISSIONER SHALL:

(1) SEND A COPY OF THE COMPLAINT TO THE EMPLOYER ALLEGED TO HAVE FAILED TO PAY WAGES; AND

(2) REQUIRE A WRITTEN RESPONSE TO THE COMPLAINT WITHIN 15 DAYS.

(B) (1) THE COMMISSIONER:

(I) SHALL REVIEW THE COMPLAINT AND ANY RESPONSE TO IT; AND

(II) MAY INVESTIGATE THE CLAIM.

(2) ON THE BASIS OF THE REVIEW AND ANY INVESTIGATION, THE COMMISSIONER MAY:

(I) ISSUE AN ORDER TO PAY WAGES UNDER SUBSECTION (C) OF THIS SECTION IF THE COMMISSIONER DETERMINES THAT THIS SUBTITLE HAS BEEN VIOLATED; OR

(II) DISMISS THE CLAIM.

(C) (1) THE COMMISSIONER MAY ISSUE AN ORDER TO PAY WAGES THAT:

(I) DESCRIBES THE ALLEGED VIOLATION;

(II) DIRECTS PAYMENT OF WAGES TO THE COMPLAINANT; AND

(III) IF APPROPRIATE, ORDERS THE PAYMENT OF INTEREST AT THE RATE OF 5% PER YEAR ACCRUING FROM THE DATE THE WAGES ARE OWED.

(2) THE COMMISSIONER SHALL SEND THE ORDER TO PAY WAGES TO THE COMPLAINANT AND TO THE EMPLOYER AT THE EMPLOYER'S LAST KNOWN BUSINESS ADDRESS BY BOTH REGULAR MAIL AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

(3) WITHIN 30 DAYS AFTER RECEIPT OF THE ORDER TO PAY WAGES, THE EMPLOYER MAY REQUEST A DE NOVO ADMINISTRATIVE HEARING, WHICH SHALL BE CONDUCTED IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(4) ON RECEIPT OF A REQUEST FOR A HEARING, THE COMMISSIONER SHALL SCHEDULE A HEARING.

(5) IF A HEARING IS NOT REQUESTED, THE ORDER TO PAY WAGES SHALL BECOME A FINAL ORDER OF THE COMMISSIONER.

(6) (I) IF A PETITION FOR REVIEW IS NOT FILED WITHIN 30 DAYS OF THE ISSUANCE OF THE FINAL ORDER, THE COMMISSIONER MAY PROCEED IN DISTRICT COURT OF THE COUNTY WHERE THE EMPLOYER RESIDES OR HAS A PLACE OF BUSINESS TO ENFORCE PAYMENT.

(II) IN A PROCEEDING UNDER THIS SUBSECTION, THE COMMISSIONER IS ENTITLED TO JUDGMENT IN THE AMOUNT OF THE ORDER TO PAY WAGES AND ANY INTEREST DUE ON A SHOWING THAT:

1. THE ORDER TO PAY WAGES AND INTEREST, IF ANY, WAS ASSESSED AGAINST THE EMPLOYER;

2. NO APPEAL IS PENDING;

3. THE ORDERED WAGES AND INTEREST, IF ANY, ARE WHOLLY OR PARTLY UNPAID; AND

4. THE EMPLOYER WAS DULY SERVED WITH A COPY OF THE ORDER TO PAY WAGES AND INTEREST, IF ANY, IN ACCORDANCE WITH THIS SECTION.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 152

(House Bill 407)

AN ACT concerning

State Board of Public Accountancy – Disciplinary Authority

FOR the purpose of clarifying the authority of the State Board of Public Accountancy to impose disciplinary action against an applicant or licensee as a result of a sanction by a regulatory entity established by law; authorizing the Board to impose a certain civil penalty against permit holders under certain circumstances; and generally relating to the disciplinary authority of the State Board of Public Accountancy.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 2–315 and 2–410
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Occupations and Professions

2–315.

(a) (1) Subject to the hearing provisions of § 2–317 of this subtitle, the Board, on the affirmative vote of a majority of its members, may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:

(i) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(ii) fraudulently or deceptively uses a license;

(iii) under the laws of the United States or of any state, is convicted of:

1. a felony; or

2. a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to practice certified public accountancy;

(iv) is guilty of fraud or other dishonesty in the practice of accountancy;

(v) is guilty of gross negligence in the practice of accountancy;

(vi) violates any provision of Subtitle 6 of this title;

(vii) has had the right to practice as a certified public accountant in another state denied, revoked, or suspended;

(viii) has been sanctioned in another state in a matter relating to the practice of public accountancy;

(ix) has had the renewal of the right to practice as a certified public accountant in another state denied for any cause other than failure to pay a renewal fee;

(x) has had the right to practice as a certified public accountant before any unit of the State or federal government revoked or suspended;

(xi) has been sanctioned by any unit of State or federal government**, OR ANY REGULATORY ENTITY ESTABLISHED BY LAW,** for an act or omission that directly relates to the fitness of the applicant or licensee to practice public accountancy; or

(xii) violates a rule of professional conduct adopted by the Board.

(2) (i) Instead of or in addition to reprimanding the licensee or suspending or revoking a license under this subsection, the Board may impose a penalty not exceeding $5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Board shall consider:

1. the seriousness of the violation;

2. the harm caused by the violation;

3. the good faith of the licensee; and

4. any history of previous violations by the licensee.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

(b) The Board shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when an applicant or licensee is convicted of a felony or misdemeanor described in subsection (a)(1)(iii) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to practice certified public accountancy;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

(c) On suspension or revocation of a license, the holder shall surrender to the Board the license certificate of the holder.

(d) At the end of a suspension period, the Board shall return to the licensee the license certificate surrendered under this section.

2–410.

(a) Subject to the hearing provisions of § 2–412 of this subtitle, the Board, on the affirmative vote of a majority of its members, may deny a permit to any applicant, reprimand a permit holder, or suspend or revoke a permit:

(1) for any applicable ground under § 2–315 of this title;

(2) if the applicant or permit holder fraudulently or deceptively obtains or attempts to obtain a permit;

(3) if the applicant or permit holder fraudulently or deceptively uses a permit;

(4) if the applicant or permit holder fails to meet or continue to meet the qualifications or requirements set forth under § 2–402 or § 2–403 of this subtitle; or

(5) if the applicant or permit holder has a partner, member, or corporate officer whose license has been suspended or revoked by the Board.

(b) On suspension or revocation of a permit, the holder shall surrender to the Board the permit certificate of the holder.

(c) At the end of a suspension period, the Board shall return to the permit holder the permit certificate surrendered under this section.

(D) (1) INSTEAD OF OR IN ADDITION TO REPRIMANDING THE PERMIT HOLDER OR SUSPENDING OR REVOKING A PERMIT UNDER THIS SUBSECTION,

THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING $5,000 FOR EACH VIOLATION.

(2) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED UNDER THIS SUBSECTION, THE BOARD SHALL CONSIDER:

(I) THE SERIOUSNESS OF THE VIOLATION;

(II) THE HARM CAUSED BY THE VIOLATION;

(III) THE GOOD FAITH OF THE PERMIT HOLDER; AND

(IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE PERMIT HOLDER.

(E) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 153

(House Bill 408)

AN ACT concerning

State Commission of Real Estate Appraisers and Home Inspectors – Administrative Sanctions – Civil Penalty

FOR the purpose of authorizing the State Commission of Real Estate Appraisers and Home Inspectors to consider certain factors before granting, denying, renewing, suspending, or revoking a home inspector license or reprimanding a licensee when the applicant or licensee has been convicted of a certain crime; authorizing the Commission to impose a civil penalty instead of, or in addition to, the imposition of an administrative sanction against a licensed home inspector under certain circumstances; and generally relating to the State Commission of Real Estate Appraisers and Home Inspectors.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions

Section 16–701.1
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Occupations and Professions

16–701.1.

(A) Subject to the hearing provisions of § 16–602 of this title, the Commission may deny a home inspector license to any applicant, reprimand any home inspector licensee, or suspend or revoke a home inspector license if the applicant or licensee:

(1) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(2) fraudulently or deceptively uses a license;

(3) engages in conduct that demonstrates bad faith, incompetency, negligence or untrustworthiness, or that constitutes dishonest, fraudulent, or improper dealings;

(4) under the laws of the United States or of any state, is convicted of:

(i) a felony; or

(ii) a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to provide home inspection services;

(5) fails to maintain the insurance required under § 16–4A–04 of this title;

(6) violates any provision of this title;

(7) violates any regulation adopted under this title; or

(8) aids, abets, or assists any person in violating any provision of this title or any regulation adopted under this title.

(B) (1) INSTEAD OF OR IN ADDITION TO REPRIMANDING A LICENSEE OR SUSPENDING OR REVOKING A LICENSE UNDER THIS SECTION, THE COMMISSION MAY IMPOSE A PENALTY NOT EXCEEDING $5,000 FOR EACH VIOLATION.

(2) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED, THE COMMISSION SHALL CONSIDER:

(I) THE SERIOUSNESS OF THE VIOLATION;

(II) THE HARM CAUSED BY THE VIOLATION;

(III) THE GOOD FAITH OF THE LICENSEE; AND

(IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE LICENSEE.

(3) THE COMMISSION SHALL PAY ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.

(C) THE COMMISSION SHALL CONSIDER THE FOLLOWING FACTS IN THE GRANTING, DENIAL, RENEWAL, SUSPENSION, OR REVOCATION OF A LICENSE OR THE REPRIMAND OF A LICENSEE WHEN AN APPLICANT OR LICENSEE IS CONVICTED OF A FELONY OR A MISDEMEANOR DESCRIBED IN SUBSECTION (A)(4) OF THIS SECTION:

(1) THE NATURE OF THE CRIME;

(2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED BY THE LICENSE;

(3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE CONVICTION TO THE FITNESS AND QUALIFICATION OF THE APPLICANT OR LICENSEE TO PROVIDE HOME INSPECTION SERVICES;

(4) THE LENGTH OF TIME SINCE THE CONVICTION; AND

(5) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT OR LICENSEE BEFORE AND AFTER THE CONVICTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 154

(House Bill 535)

AN ACT concerning

Cecil County – Alcoholic Beverages – Entertainment Facility License

FOR the purpose of creating in Cecil County a Class EF (entertainment facility) beer, wine and liquor license; authorizing a license holder to sell beer, wine, and liquor, from one or more outlets in a certain entertainment facility, for consumption anywhere in the entertainment facility only; requiring a facility for which a license is issued to have a certain amount of capital investment; authorizing the Board of License Commissioners to issue one or more licenses for the same facility; specifying that the license authorizes the playing of music and dancing; specifying the hours of sale and a certain license fee; and generally relating to alcoholic beverages licenses in Cecil County.

BY adding to
Article 2B – Alcoholic Beverages
Section 6–201(i)(4)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

6–201.

(i) **(4) (I) THERE IS A CLASS EF (ENTERTAINMENT FACILITY) BEER, WINE AND LIQUOR LICENSE.**

(II) A CLASS EF LICENSE AUTHORIZES THE HOLDER TO SELL BEER, WINE, AND LIQUOR BY THE DRINK AND BY THE BOTTLE, FROM ONE OR MORE OUTLETS IN THE ENTERTAINMENT FACILITY, FOR CONSUMPTION ANYWHERE WITHIN THE ENTERTAINMENT FACILITY.

(III) A HOLDER OF A CLASS EF LICENSE MAY NOT SELL ALCOHOLIC BEVERAGES FOR OFF–SALE CONSUMPTION.

(IV) NOTWITHSTANDING § 8–208(B) OF THIS ARTICLE, THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A CLASS EF LICENSE IF THE APPLICANT HAS A CAPITAL INVESTMENT IN THE FACILITY FOR WHICH THE

LICENSE IS SOUGHT, NOT INCLUDING ANY REAL PROPERTY, OF AT LEAST $35,000,000.

(V) THE BOARD MAY ISSUE ONE OR MORE CLASS EF LICENSES FOR THE SAME FACILITY.

(VI) A CLASS EF LICENSE AUTHORIZES THE PLAYING OF MUSIC AND DANCING.

(VII) A CLASS EF LICENSE AUTHORIZES THE SALES AND SERVING OF BEER, WINE, AND LIQUOR THROUGHOUT THE ENTERTAINMENT FACILITY DURING THOSE DAYS AND HOURS THAT THE ENTERTAINMENT FACILITY IS OPEN FOR BUSINESS.

(VIII) THE ANNUAL LICENSE FEE IS $7,500.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 155

(House Bill 536)

AN ACT concerning

Department of Aging – Long–Term Care Ombudsman Program

FOR the purpose of repealing certain powers and duties of the Secretary of Aging; repealing certain provisions of law relating to the Maryland Long–Term Care Ombudsman Program and the Maryland Long–Term Care Ombudsman; reestablishing the Long–Term Care Ombudsman Program in the Department of Aging; specifying the purpose of the Program; establishing the Office of the Long–Term Care Ombudsman in the Department; providing for the ~~appointment~~ selection of the State Long–Term Care Ombudsman; establishing certain powers and duties of the Secretary, the State Long–Term Care Ombudsman, and designated ombudsmen; establishing the qualifications of entities qualified to be designated as local long–term care ombudsman entities; requiring that an ombudsman have access to certain facilities, documents, and records; requiring the Secretary to adopt certain regulations; requiring the Secretary to adopt certain regulations in consultation with area agencies on aging; making it a misdemeanor, subject to a certain penalty, to willfully interfere with an ombudsman's performance of an official duty or to retaliate or

make reprisals against certain persons; requiring the State Long–Term Care Ombudsman to submit a certain annual report to the Governor and the General Assembly; requiring the Department of Aging to reconvene a certain workgroup; requiring the workgroup to meet on a certain basis; providing for the duties of the Department and the State Long–Term Care Ombudsman in conducting the workgroup; defining certain terms; and generally relating to the Long–Term Care Ombudsman Program.

BY repealing
Article – Human Services
Section 10–212 and 10–213
Annotated Code of Maryland
(2007 Volume and 2009 Supplement)

BY adding to
Article – Human Services
Section 10–901 through 10–911 to be under the new subtitle "Subtitle 9. Long–Term Care Ombudsman Program"
Annotated Code of Maryland
(2007 Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 10–212 and 10–213 of Article – Human Services of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Human Services

SUBTITLE 9. LONG–TERM CARE OMBUDSMAN PROGRAM.

10–901.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "LOCAL LONG–TERM CARE OMBUDSMAN ENTITY" MEANS AN ENTITY DESIGNATED BY ~~THE SECRETARY AND~~ THE STATE LONG–TERM CARE OMBUDSMAN TO ASSIST IN CARRYING OUT THE DUTIES OF THE PROGRAM.

(C) "LONG–TERM CARE FACILITY" MEANS:

(1) A NURSING FACILITY, AS DEFINED IN § 19–301 OF THE HEALTH – GENERAL ARTICLE; OR

(2) AN ASSISTED LIVING PROGRAM, AS DEFINED IN § 19–1801 OF THE HEALTH – GENERAL ARTICLE.

(D) "OFFICE" MEANS THE OFFICE OF THE LONG–TERM CARE OMBUDSMAN ESTABLISHED UNDER THIS SUBTITLE.

(E) "OMBUDSMAN" MEANS:

(1) THE STATE LONG–TERM CARE OMBUDSMAN; AND

(2) ANY INDIVIDUAL, WHETHER A PAID EMPLOYEE OR A VOLUNTEER, WHO IS DESIGNATED BY THE STATE LONG–TERM CARE OMBUDSMAN AS AN OMBUDSMAN.

(F) "PROGRAM" MEANS THE LONG–TERM CARE OMBUDSMAN PROGRAM ESTABLISHED UNDER THIS SUBTITLE.

(G) "RESIDENT" MEANS A RESIDENT OF A LONG–TERM CARE FACILITY LOCATED IN THE STATE.

(H) "STATE LONG–TERM CARE OMBUDSMAN" MEANS THE INDIVIDUAL ~~APPOINTED~~ SELECTED BY THE SECRETARY UNDER § 10–903 OF THIS SUBTITLE.

10–902.

(A) THERE IS A LONG–TERM CARE OMBUDSMAN PROGRAM IN THE DEPARTMENT.

(B) THE PURPOSE OF THE PROGRAM IS TO FULFILL THE REQUIREMENTS OF:

(1) THE PROGRAM UNDER THIS SUBTITLE; AND

(2) THE FEDERAL OLDER AMERICANS ACT, INCLUDING THE REQUIREMENTS OF 42 U.S.C. § 3058G.

(C) (1) THE SECRETARY SHALL ADOPT REGULATIONS NECESSARY TO CARRY OUT THIS SUBTITLE.

(2) THE REGULATIONS ADOPTED UNDER SUBSECTION (C) OF THIS SECTION SHALL ESTABLISH:

(I) THE REQUIREMENTS FOR AN ANNUAL REVIEW BY THE DEPARTMENT OF ALL OMBUDSMAN ACTIVITIES; AND

(II) THE PROCESS FOR ASSISTING INDIVIDUALS WITH ORGANIZING AND OPERATING A RESIDENT COUNCIL AND A FAMILY COUNCIL IN A LONG–TERM CARE FACILITY.

10–903.

(A) THERE IS AN OFFICE OF THE LONG–TERM CARE OMBUDSMAN IN THE DEPARTMENT.

(B) (1) UNLESS THE SECRETARY IS SUBJECT TO A CONFLICT OF INTEREST THAT CANNOT BE REMOVED, THE SECRETARY SHALL ~~APPOINT~~ SELECT A STATE LONG–TERM CARE OMBUDSMAN.

(2) IF THE SECRETARY IS SUBJECT TO A CONFLICT OF INTEREST THAT CANNOT BE REMOVED, THE SECRETARY SHALL DESIGNATE ANOTHER INDIVIDUAL, WHO IS NOT SUBJECT TO A CONFLICT OF INTEREST, TO ~~APPOINT~~ SELECT THE STATE LONG–TERM CARE OMBUDSMAN.

(C) THE STATE LONG–TERM CARE OMBUDSMAN:

(1) SHALL PERSONALLY ADMINISTER THE OFFICE;

(2) SHALL HAVE EXPERTISE AND EXPERIENCE IN THE FIELD OF LONG–TERM CARE ADVOCACY~~, OTHER CONSUMER PROTECTION SERVICES, OR AGING~~;

(3) MAY NOT HAVE ANY CONFLICT OF INTEREST WITH THE POSITION; AND

(4) SHALL, ON A FULL–TIME BASIS, PERFORM DUTIES RELATED TO THE PROGRAM.

(D) THE STATE LONG–TERM CARE OMBUDSMAN SHALL PERSONALLY OR THROUGH DESIGNATED OMBUDSMEN:

(1) IDENTIFY, INVESTIGATE, AND ~~SOLVE~~ RESOLVE COMPLAINTS FROM ANY SOURCE MADE BY, OR ON BEHALF OF, A RESIDENT RELATING TO ANY ACTION, INACTION, OR DECISION, ~~BY A LONG–TERM CARE FACILITY, A GOVERNMENTAL ENTITY, OR A PRIVATE SOCIAL SERVICE AGENCY~~ THAT MAY ADVERSELY AFFECT THE HEALTH, SAFETY, WELFARE, OR RIGHTS OF A RESIDENT INCLUDING THE WELFARE AND RIGHTS OF RESIDENTS WITH RESPECT TO THE APPOINTMENT AND ACTIVITIES OF GUARDIANS AND REPRESENTATIVE PAYEES, OF:

(I) A PROVIDER, OR A REPRESENTATIVE OF A PROVIDER, OF LONG–TERM CARE SERVICES;

(II) A PUBLIC AGENCY; OR

(III) A HEALTH OR SOCIAL SERVICE AGENCY;

(2) REPRESENT THE INTERESTS OF RESIDENTS BEFORE GOVERNMENTAL AGENCIES AND SEEK ADMINISTRATIVE, LEGAL, AND OTHER REMEDIES TO PROTECT THE HEALTH, SAFETY, WELFARE, AND RIGHTS OF RESIDENTS;

(3) PROVIDE INFORMATION AS APPROPRIATE TO OTHER AGENCIES AND THE PUBLIC REGARDING THE PROBLEMS AND CONCERNS OF RESIDENTS;

(4) INFORM RESIDENTS, FAMILY MEMBERS, AND OTHERS ACTING ON BEHALF OF RESIDENTS ABOUT HOW TO ACCESS THE ASSISTANCE AND SERVICES OF THE OFFICE AND THE SERVICES AND ASSISTANCE OF OTHER PROVIDERS OR AGENCIES, INCLUDING LEGAL SERVICES;

(5) ENSURE REGULAR AND TIMELY ACCESS TO AND RESPONSE FROM THE OFFICE;

(6) COMMENT ON, FACILITATE PUBLIC COMMENT ON, AND RECOMMEND CHANGES TO EXISTING OR PROPOSED LAWS, RULES, REGULATIONS, AND OTHER GOVERNMENTAL POLICIES AND ACTIONS THAT AFFECT THE HEALTH, SAFETY, WELFARE, AND RIGHTS OF RESIDENTS;

(7) PROVIDE TECHNICAL SUPPORT FOR THE DEVELOPMENT OF RESIDENT AND FAMILY COUNCILS TO PROTECT THE WELL–BEING AND RIGHTS OF RESIDENTS;

(8) PROVIDE FOR THE EDUCATION AND TRAINING OF OMBUDSMEN;

(9) EDUCATE FACILITIES, AGENCIES, AND STAFF MEMBERS CONCERNING THE RIGHTS AND WELFARE OF RESIDENTS;

(10) PROMOTE THE DEVELOPMENT OF CITIZEN ORGANIZATIONS TO ADVOCATE FOR THE WELL–BEING AND RIGHTS OF RESIDENTS;

(11) ~~PROVIDE TECHNICAL SUPPORT FOR THE DEVELOPMENT OF RESIDENT AND FAMILY COUNCILS TO PROTECT THE WELL–BEING AND RIGHTS OF RESIDENTS~~ PROVIDE SERVICES TO ASSIST RESIDENTS IN PROTECTING THE HEALTH, SAFETY, WELFARE, AND RIGHTS OF RESIDENTS; AND

(12) CARRY OUT ANY OTHER ACTIVITIES THAT THE SECRETARY DETERMINES TO BE APPROPRIATE OR THAT ARE REQUIRED BY THE FEDERAL OLDER AMERICANS ACT.

10–904.

(A) ENTITIES ELIGIBLE TO BE DESIGNATED AS LOCAL LONG–TERM CARE OMBUDSMAN ENTITIES SHALL:

(1) HAVE DEMONSTRATED CAPABILITY TO CARRY OUT THE RESPONSIBILITIES OF THE OFFICE;

(2) BE PUBLIC OR NONPROFIT ~~AGENCIES~~ ENTITIES;

(3) BE FREE OF CONFLICTS OF INTEREST; AND

(4) MEET ANY ADDITIONAL REQUIREMENTS THAT THE SECRETARY AND THE STATE LONG–TERM CARE OMBUDSMAN SPECIFY.

(B) (1) THE SECRETARY, IN CONSULTATION WITH AREA AGENCIES ON AGING, SHALL ADOPT REGULATIONS TO ESTABLISH REQUIREMENTS FOR TRAINING AND DESIGNATING OMBUDSMEN, INCLUDING IN–SERVICE TRAINING.

(2) THE REGULATIONS SHALL PROHIBIT THE STATE LONG–TERM CARE OMBUDSMAN FROM DESIGNATING AN INDIVIDUAL AS AN OMBUDSMAN UNLESS THE INDIVIDUAL HAS SUCCESSFULLY COMPLETED THE REQUIRED TRAINING AND SATISFIED THE REQUIREMENTS FOR DESIGNATION.

10–905.

IN ACCORDANCE WITH REQUIREMENTS OF THE FEDERAL OLDER AMERICANS ACT, AN OMBUDSMAN SHALL HAVE ACCESS TO:

(1) LONG–TERM CARE FACILITIES AND RESIDENTS;

(2) THE MEDICAL AND SOCIAL RECORDS OF A RESIDENT, IF:

(I) THE OMBUDSMAN HAS THE PERMISSION OF THE RESIDENT OR THE LEGAL REPRESENTATIVE OF THE RESIDENT; OR

(II) THE RESIDENT IS UNABLE TO CONSENT AND HAS NO LEGAL REPRESENTATIVE;

(3) THE RECORDS THAT ARE NECESSARY TO INVESTIGATE A COMPLAINT IF:

(I) A LEGAL GUARDIAN OF THE RESIDENT REFUSES TO GIVE PERMISSION TO ACCESS THE RECORDS;

(II) THE OMBUDSMAN HAS REASONABLE CAUSE TO BELIEVE THAT THE GUARDIAN IS NOT ACTING IN THE BEST INTERESTS OF THE RESIDENT; AND

(III) THE OMBUDSMAN OBTAINS THE APPROVAL OF THE STATE LONG–TERM CARE OMBUDSMAN;

(4) THE ADMINISTRATIVE RECORDS, POLICIES, AND DOCUMENTS OF LONG–TERM CARE FACILITIES TO WHICH THE RESIDENTS OR MEMBERS OF THE GENERAL PUBLIC HAVE ACCESS; AND

(5) COPIES OF ALL LICENSING AND CERTIFICATION RECORDS MAINTAINED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OR ANY OTHER STATE UNIT WITH RESPECT TO LONG–TERM CARE FACILITIES.

10–906.

(A) THE SECRETARY, IN CONSULTATION WITH AREA AGENCIES ON AGING, SHALL ADOPT REGULATIONS TO GOVERN CONFLICTS OF INTEREST TO ENSURE THAT:

(1) NO INDIVIDUAL, OR MEMBER OF THE IMMEDIATE FAMILY OF AN INDIVIDUAL, INVOLVED IN THE DESIGNATION OF THE STATE LONG–TERM CARE OMBUDSMAN OR A LOCAL LONG–TERM CARE OMBUDSMAN ENTITY, IS SUBJECT TO A CONFLICT OF INTEREST; AND

(2) NO OMBUDSMAN OR IMMEDIATE FAMILY MEMBER OF AN OMBUDSMAN IS SUBJECT TO A CONFLICT OF INTEREST.

(B) THE SECRETARY, IN CONSULTATION WITH AREA AGENCIES ON AGING, SHALL ADOPT REGULATIONS GOVERNING ~~CONFIDENTIALITY AND PRIVACY OF COMPLAINANTS.~~ THE CONFIDENTIALITY OF INFORMATION AND DOCUMENTS, INCLUDING RESIDENT RECORDS, FACILITY RECORDS, AND COMPLAINANT IDENTIFICATION.

10–907.

THE SECRETARY SHALL REQUIRE THE STATE LONG–TERM CARE OMBUDSMAN TO COORDINATE OMBUDSMAN SERVICES WITH:

(1) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;

(2) THE DEPARTMENT OF HUMAN RESOURCES;

(3) PROTECTION AND ADVOCACY SYSTEMS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES AND MENTAL ILLNESSES; AND

(4) LEGAL ASSISTANCE.

10–908.

THE SECRETARY SHALL ESTABLISH AND MAINTAIN A STATEWIDE UNIFORM REPORTING SYSTEM FOR THE PROGRAM TO COLLECT AND ANALYZE DATA RELATING TO COMPLAINTS AND CONDITIONS IN LONG–TERM FACILITIES AND TO RESIDENTS FOR THE PURPOSE OF IDENTIFYING AND RESOLVING SIGNIFICANT PROBLEMS.

10–909.

THE STATE LONG–TERM CARE OMBUDSMAN SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON THE ACTIVITIES OF THE PROGRAM THAT INCLUDES RECOMMENDATIONS OF THE STATE LONG–TERM CARE OMBUDSMAN FOR IMPROVING SERVICES FOR RESIDENTS.

10–910.

(A) IN ACCORDANCE WITH 42 U.S.C. § 3058G(J)(1), A PERSON MAY NOT WILLFULLY INTERFERE WITH AN OMBUDSMAN'S PERFORMANCE OF AN OFFICIAL DUTY.

(B) A PERSON MAY NOT RETALIATE OR MAKE REPRISALS WITH RESPECT TO ANY PERSON WHO FILED A COMPLAINT WITH, OR PROVIDED INFORMATION TO, AN OMBUDSMAN.

(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $1,500.

10–911.

AN OMBUDSMAN IS NOT LIABLE UNDER STATE LAW FOR GOOD FAITH PERFORMANCE OF OFFICIAL DUTIES.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) On or before July 31, 2010, the Department of Aging shall reconvene, and the State Long–Term Care Ombudsman shall attend meetings with the stakeholder groups involved in the Department's "A Plan for Excellence for the Maryland Long–Term Care Ombudsman Program" including the AARP Maryland, Maryland Disabilities Law Center, Legal Aid Bureau, United Seniors of Maryland, and Voices for Quality Care.

(b) (1) The State Long–Term Care Ombudsman shall expand the stakeholder group to include at least one nursing home resident or representative of a nursing home resident and one assisted living facility resident or representative of an assisted living facility resident.

(2) The nursing home resident or assisted living facility resident included in the stakeholder group, or the nursing home resident or assisted living facility resident who has a representative who is included in the stakeholder group shall be a current resident of a facility and may not be represented by any other member of the stakeholder group.

(c) (1) The stakeholder group shall meet at least quarterly until January 2013, unless the stakeholder group determines that the meetings can be held less frequently.

(2) At the meetings, the Department shall provide updates, solicit input, and identify barriers to the progress to refine and implement the strategic action plan to improve the Ombudsman Program.

(3) Before the first meeting of the stakeholder group, the State Long–Term Care Ombudsman shall gather up–to–date names, addresses, and electronic mail addresses of the individuals who will represent the stakeholder groups to set dates for the meetings and ensure the timely dispersal of information required under this section.

(4) Between meetings, the Department shall provide information to the stakeholder group of any significant proposed actions regarding the Ombudsman Program.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 156

(House Bill 567)

AN ACT concerning

Prince George's County – Alcoholic Beverages – License Fees and Salaries of Inspectors

PG 305–10

FOR the purpose of altering the fees for certain alcoholic beverages licenses in George's County; repealing a certain alcoholic beverages license in Prince George's County; increasing the percentage of alcohol by volume in wine for consumption purposes allowed under a certain wine tasting license in Prince George's County; requiring that alcoholic beverages inspectors in Prince George's County shall receive a certain annual salary; and generally relating to alcoholic beverages in Prince George's County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 3–101(r), 3–201(r)(1), 3–301(r), 3–401(r), 5–101(r), 5–201(r)(2) and (4)(ii), 5–301(r), 5–401(r), 6–101(r), 6–201(r)(2)(i)1., (ii)2., and (iii)2., (3)(i), (5)(ii), (6)(ii), (8)(ii), (9)(ii), (10)(ii), (11)(ii), (12)(ii), (13)(ii), (14)(ii), (15)(iii), (16)(iii), and (17)(iii), 6–301(r)(2)(ii), (3)(ii), (4)(ii), (5)(ii), (6)(ii), and (7)(ii), 7–101(b)(11)(i), (d)(11)(i), and (x), 8–409(a), 8–505(b)(5), 8–702(e)(1), ~~and~~ 8–1001(e), and 15–109(r)(6)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 5–201(r)(1) and (4)(i) and (iii), 6–201(r)(1)(i), (2)(i)2., (ii)1., and (iii)1., (5)(i), (6)(i), (8)(i), (9)(i), (10)(i), (11)(i), (12)(i), (13)(i), (14)(i), (15)(i), (16)(ii), and (17)(i), 6–301(r)(1), (2)(i), (3)(i), (4)(i), (5)(i), (6)(i), and (7)(i), 7–101(b)(11)(ii) and (d)(11)(ii), 8–702(b) and (c), ~~and~~ 8–1001(b) and (c), and 15–109(r)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing
Article 2B – Alcoholic Beverages
Section 6–201(r)(7)

Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

3–101.

(r) In Prince George's County the annual license fee is **[**$220**] $245**.

3–201.

(r) (1) In Prince George's County the annual license fee is **[**$330**] $365**.

3–301.

(r) In Prince George's County the annual license fee is **[**$220**] $245**.

3–401.

(r) In Prince George's County the annual license fee is **[**$330**] $365**.

5–101.

(r) In Prince George's County the annual license fee is **[**$220**] $245**.

5–201.

(r) (1) This subsection applies only in Prince George's County.

(2) The annual license fee is **[**$330**] $365**.

(4) (i) There is a Class B–Stadium beer and light wine license.

(ii) The annual license fee is **[**$2,200**] $2,420**.

(iii) The license is a special 7–day Class B–Stadium (baseball stadium) license for on–sale consumption only for exclusive use on the premises of a baseball stadium owned or operated by the Maryland–National Capital Park and Planning Commission.

5–301.

(r) In Prince George's County the annual license fee is **[**$220**] $245**.

5–401.

(r) In Prince George's County the annual license fee is **[**$330**] $365**.

6–101.

(r) In Prince George's County the annual license fee is **[**$825**] $910**.

6–201.

(r) (1) (i) This subsection applies only in Prince George's County.

(2) (i) 1. The annual license fee is **[**$1,320**] $1,455**.

2. The licensee may not make any sale of alcoholic beverages for consumption off the licensed premises except from the main bar and within the main portion of the dining room facilities.

(ii) 1. A separate license fee may be charged whenever the applicant for or holder of a Class B (on–sale) beer, wine and liquor license proposes to or in fact establishes and conducts on the licensed premises, an area or portion of these licensed premises, where there are maintained "off–sale" shelves or counters not contained within and an integral part of the main bar and in the main dining facilities where the majority of the meals are served and consumed in the licensed premises (whether enclosed or opened, partitioned or otherwise partly separated from the main bar or the usual serving area within these premises for the sale of alcoholic beverages for consumption on the premises and not part of the premises where the major portion of meals are served and consumed in these licensed premises) for the sale of alcoholic beverages for consumption off the licensed premises.

2. The annual license fee is **[**$2,200**] $2,420**.

(iii) 1. The license holder under this subsection may sell alcoholic beverages for consumption off the premises from any portion of these premises other than from the main bar, or the usual place maintained for sale of alcoholic beverages for consumption on the premises and where the major portion of the meals are consumed in these premises.

2. The annual license fee for this privilege is **[**$2,200**] $2,420**.

(3) (i) This license may be issued to any agricultural association, agricultural fair association or any other association duly authorized to conduct racing under the provisions of the Maryland Horse Racing Act where restaurant facilities are available or to duly authorized concessionaires of any association, or to any

organization on any other day, exclusive of racing days, where the premises and facilities of this association are used for a limited period of time for legitimate theatrical productions, social receptions, and any bona fide entertainment conducted by any club, society or association, or for any bona fide religious, fraternal, civic, war veterans, hospital or charitable organizations upon payment of a license fee of **[**$55**]** **$60** per day for the period of this license.

(5) (i) There is a special Sunday "on–sale" permit.

(ii) The annual fee for a special Sunday "on–sale" permit is **[**$770**]** **$850**, which is in addition to the annual fee for the Class B beer, wine and liquor license to which it is attached.

(6) (i) There is a Class BLX license, which is a special Class B license.

(ii) The annual license fee is **[**$2,750**]** **$3,025**.

[(7) (i) 1. There is an arena license.

2. "Person" means a natural person, an association, a firm, a partnership, a corporation, or the County Council of Prince George's County.

(ii) The annual license fee is $11,000.

(iii) 1. The Board may issue a Class B beer, wine and liquor license, known as an "arena license", for the sale of beer, wine, and liquor by the drink and by the bottle within the arena, from one or more outlets, for consumption on the licensed premises.

2. This license shall be issued only to the person, firm, or corporation owning or leasing an arena, one of whom shall be a resident of the State of Maryland, or to a concessionaire designated by the person, firm, or corporation owning or leasing the arena. The concessionaire need not be a resident of the State of Maryland.

(iv) The Board shall prescribe regulations pertaining to the manner of dispensing alcoholic beverages, the number of outlets authorized to dispense alcoholic beverages, and the hours and days of sale.

(v) The licensee is subject to all of the provisions of this article and to the regulations of the Board.

(vi) The residency requirements specified in § 9–101 of this article as it pertains to Prince George's County do not apply to arena licenses.**]**

(8) (i) There is a Class BCE license.

(ii) The annual license fee is **[**$3,300**] $3,630**.

(9) (i) There is a Class B/ECF license.

(ii) The annual fee is **[**$3,850**] $4,325**.

(10) (i) There is a special Class B license known as Class B–CI.

(ii) The annual license fee is **[**$1,375**] $1,515**.

(11) (i) There is a Class B–ECR license.

(ii) The annual license fee is **[**$2,200**] $2,420**.

(12) (i) There is a Class B–ECF/DS license.

(ii) The annual license fee is **[**$6,750**] $7,425**.

(13) (i) There is a Class B beer, wine and liquor stadium license.

(ii) The annual license fee is **[**$19,800**] $21,780**.

(14) (i) There is a Class B–MB/22 license, which may be issued only to a holder of a Class 7 micro–brewery license in the 22nd legislative district.

(ii) The annual license fee is **[**$990**] $1,090**.

(15) (i) There is a Class B–DD (development district) 7–day beer, wine and liquor license.

(iii) The annual license fee is **[**$2,750**] $3,025**.

(16) (ii) There is a Class B (TP) beer, wine and liquor theme park license.

(iii) The annual license fee is **[**$3,900**] $4,290**.

(17) (i) There is a Class B–CC (convention center) beer, wine and liquor license.

(iii) The annual license fee is **[**$20,000**] $22,000**.

6–301.

(r) (1) This subsection applies only in Prince George's County.

(2) (i) There is a veterans' license.

(ii) The annual license fee is **[**$825**] $910**.

(3) (i) There is a fraternal/sororal/service license.

(ii) The annual license fee is **[**$825**] $910**.

(4) (i) There is a special Class C (yacht club) license in Prince George's County.

(ii) The annual license fee is **[**$1,430**] $1,575**.

(5) (i) There is a special Class C (golf and country club) license.

(ii) The annual license fee is **[**$1,650**] $1,815**.

(6) (i) There is a special Class C (country club) license.

(ii) The annual license fee is **[**$1,000**] $1,100**.

(7) (i) There is a special Class C (concession) beer, wine and liquor license.

(ii) The annual license fee is **[**$1,650**] $1,815**. The fee shall be paid prior to its issuance, regardless of any terms or conditions in any contractual agreement between the concessionaire and Prince George's County.

7–101.

(b) (11) In Prince George's County:

(i) Except as provided in item (ii) of this paragraph, the fee is **[**$50**] $75** per day;

(ii) For a club, society, or association holding a casino or gambling event, the fee is $100 per day, which shall be paid by the club, society, or association and shall be considered as part of the club's, society's, or association's special license fee; and

(d) (11) In Prince George's County:

(i) Except as provided in item (ii) of this paragraph, the fee is **[**$150**] $200** per day;

(ii) For a club, society, or association holding a casino or gambling event, the fee is $150 per day, which shall be paid by the club, society, or association and shall be considered as part of the club's, society's, or association's special license fee; and

(x) (1) This subsection applies only in Prince George's County.

(2) The Board of License Commissioners may issue a special 3–day Class C beer, wine and liquor license to a nonprofit organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

(3) The special license entitles the holder to sell beer, wine, or liquor at the National Harbor.

(4) Beer, wine, and liquor sold under the special license may be consumed on or off the premises.

(5) The fee for a special license is **[**$150**] $200** per day.

(6) The special license may not be issued to any one organization for more than 3 consecutive days in a single calendar year.

(7) (i) A holder of the special license shall purchase beer, wine, or liquor only from a wholesaler licensed in the State.

(ii) A wholesaler licensed in the State may donate alcoholic beverages to the holder of the special license.

8–409.

(a) (1) In Prince George's County, the Board of License Commissioners may approve the issuance of a wine tasting (WT) alcoholic beverages license.

(2) The license is issued only to holders of a beer, wine and liquor (BWL) or a beer and wine (BW) license.

(3) The license permits the consumption of wine, containing not more than **[**14**] 15.5** percent of alcohol by volume, for tasting or sampling purposes only.

(4) The licensee may not serve more than 1 ounce from each given brand to any one person.

(5) The annual license fee:

(i) For holders of a BWL license, is **[**$110**] $120** in addition to the cost of the BWL license; and

(ii) For holders of a BW license, is **[**$110**] $120** in addition to the cost of the BW license.

8–505.

(b) (5) The annual fee for a special 7–day Class B–GC on–sale beer and wine license is **[**$330**] $365**.

8–702.

(b) This section applies only in the City of Greenbelt, Prince George's County.

(c) There is a Class B–DH (drafthouse) license.

(e) (1) The annual license fee is **[**$220**] $245**.

8–1001.

(b) This section applies only in Prince George's County.

(c) There is a Class B–RD license.

(e) The annual license fee is **[**$660**] $725**.

15–109.

(r) (1) This subsection applies only in Prince George's County.

(6) (i) The County Council shall pay for all expenses of the Board of License Commissioners upon the submission of an annual budget.

(ii) In that budget, the salary of the members of the Board, the salary of the attorney for the Board, and any additional compensation for legal fees for the attorney for the Board, shall be approved as hereinbefore set forth.

(iii) **[**All**] EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH, ALL** other expenses, including, but not restricted to, **[**the compensation of the inspectors,**]** the salary of the administrator as limited herein, compensation of other personnel, who shall be qualified and employed under the county merit system, printing, supplies, and office space, shall be at the discretion of the County Council.

(IV) EACH INSPECTOR SHALL RECEIVE AN ANNUAL SALARY OF $10,900.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 157

(House Bill 573)

AN ACT concerning

Prince George's County – Alcoholic Beverages – Class A/Class 4 Light Wine Licenses

PG 312–10

FOR the purpose of authorizing a Class A light wine license to be issued in Prince George's County; exempting a winery that applies for a certain license from certain quotas; and generally relating to alcoholic beverages licenses in Prince George's County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 4–201(a) and (c)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

4–201.

(a) A Class A light wine license may be issued only in:

(1) Anne Arundel County;

(2) Baltimore County;

(3) Calvert County;

(4) Caroline County;

(5) Carroll County;

(6) Cecil County;

(7) Dorchester County;

(8) Frederick County;

(9) Garrett County;

(10) Harford County;

(11) Howard County;

(12) Kent County;

(13) Montgomery County;

(14) PRINCE GEORGE'S COUNTY;

[(14)**] (15)** Queen Anne's County;

[(15)**] (16)** St. Mary's County;

[(16)**] (17)** Somerset County;

[(17)**] (18)** Talbot County;

[(18)**] (19)** Washington County;

[(19)**] (20)** Wicomico County; and

[(20)**] (21)** Worcester County.

(c) (1) A Class A light wine license may be issued by the license issuing authority of the county in which the place of business is located to any holder of a Class 4 manufacturer's license.

(2) A winery in Cecil County that applies for a Class A/Class 4 license is exempt from any quotas established by the Cecil County Board of License Commissioners as to the number of licenses in the election district where the winery is located.

(3) A winery in Baltimore County that applies for a Class A/Class 4 license is exempt from any quotas established by the Baltimore County Board of

License Commissioners as to the number of licenses in the election district where the winery is located.

(4) A WINERY IN PRINCE GEORGE'S COUNTY THAT APPLIES FOR A CLASS A/CLASS 4 LICENSE IS EXEMPT FROM ANY QUOTAS ESTABLISHED BY THE PRINCE GEORGE'S COUNTY BOARD OF LICENSE COMMISSIONERS AS TO THE NUMBER OF LICENSES IN THE ELECTION DISTRICT WHERE THE WINERY IS LOCATED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 158

(House Bill 574)

AN ACT concerning

Prince George's County – National Harbor – Alcoholic Beverages – Restriction on License Holder

PG 308–10

FOR the purpose of prohibiting the issuance of a certain Class C beer, wine and liquor license for use in the National Harbor in Prince George's County to the same organization for a certain number of consecutive years; and generally relating to alcoholic beverages in Prince George's County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 7–101(x)(1), (2), and (3)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 7–101(x)(6)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

7–101.

(x) (1) This subsection applies only in Prince George's County.

(2) The Board of License Commissioners may issue a special 3–day Class C beer, wine and liquor license to a nonprofit organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

(3) The special license entitles the holder to sell beer, wine, or liquor at the National Harbor.

(6) The special license may not be issued to any one organization for**:**

(I) **[**more**]** **MORE** than 3 consecutive days in a single calendar year**; OR**

(II) **2 CONSECUTIVE YEARS**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 159

(House Bill 661)

AN ACT concerning

Criminal Procedure – Arrest – Violation of Protective Order

FOR the purpose of codifying in the Criminal Procedure Article a requirement in the Family Law Article that an officer 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 certain protective order; and generally relating to arrests for violations of protective orders.

BY adding to
Article – Criminal Procedure
Section 2–204.1
Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Family Law
Section 4–508.1(c) and 4–509(b)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Criminal Procedure

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.

Article – Family Law

4–508.1.

(c) A law enforcement officer shall arrest with or without a warrant and take into custody a person whom the officer has probable cause to believe is in violation of an order for protection that was issued by a court of another state or a Native American tribe and is in effect at the time of the violation if the person seeking the assistance of the law enforcement officer:

(1) has filed with the District Court or circuit court for the jurisdiction in which the person seeks assistance a copy of the order; or

(2) displays or presents to the law enforcement officer a copy of the order that appears valid on its face.

4–509.

(b) An 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 an interim, temporary, or final protective order in effect at the time of the violation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 160

(House Bill 698)

AN ACT concerning

District Court – Mailings – Notice of Dismissal, Nolle Prosequi, or Stet

FOR the purpose of requiring a clerk of the District Court to mail notice of a dismissal, nolle prosequi, or stet of a criminal charge to a defendant and the defendant's attorney under certain circumstances; prohibiting a clerk of the District Court from mailing notice of a dismissal, nolle prosequi, or stet of a criminal charge to a defendant or the defendant's attorney under certain circumstances; and generally relating to certain notices mailed by a clerk of the District Court.

BY adding to
Article – Courts and Judicial Proceedings
Section 2–603(d)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Courts and Judicial Proceedings

2–603.

(D) (1) THIS SUBSECTION APPLIES TO:

(I) A DISMISSAL OR NOLLE PROSEQUI OF A CHARGE ENTERED ON THE RECORD IN THE DISTRICT COURT; AND

(II) AN INDEFINITE POSTPONEMENT IN THE DISTRICT COURT OF A TRIAL OF A CHARGE BY MARKING THE CHARGE "STET" ON THE DOCKET.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF A DISMISSAL OR NOLLE PROSEQUI OF A CHARGE IS ENTERED OR A CHARGE IS STETTED, A CLERK OF THE COURT:

(I) SUBJECT TO ITEM (II) OF THIS PARAGRAPH, SHALL MAIL NOTICE OF THE DISMISSAL, NOLLE PROSEQUI, OR STET, AS THE CASE MAY

BE, TO THE DEFENDANT AND THE DEFENDANT'S ATTORNEY OF RECORD IF BOTH THE DEFENDANT AND THE DEFENDANT'S ATTORNEY OF RECORD ARE NOT PRESENT IN COURT WHEN THE DISMISSAL OR NOLLE PROSEQUI OF THE CHARGE IS ENTERED OR THE CHARGE IS STETTED;

(II) MAY NOT MAIL A NOTICE DESCRIBED IN THIS SUBSECTION TO THE DEFENDANT IF THE DEFENDANT'S WHEREABOUTS ARE UNKNOWN; AND

(III) MAY NOT MAIL A NOTICE DESCRIBED IN THIS SUBSECTION TO THE DEFENDANT OR THE DEFENDANT'S ATTORNEY OF RECORD IF EITHER IS PRESENT IN COURT WHEN THE DISMISSAL OR NOLLE PROSEQUI OF THE CHARGE IS ENTERED OR THE CHARGE IS STETTED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 161

(House Bill 717)

AN ACT concerning

Howard County – Alcoholic Beverages – Class A Licenses – Findings

Ho. Co. 7–10

FOR the purpose of requiring in Howard County the Appointed Alcoholic Beverage Hearing Board, on determining whether to approve an application for a new Class A license, regardless of kind, to include certain findings in its written decision; and generally relating to alcoholic beverages licenses in Howard County.

BY adding to
Article 2B – Alcoholic Beverages
Section 9–214(e)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 10–202(a)(2)(i)

Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

9–214.

(E) ON DETERMINING WHETHER TO APPROVE AN APPLICATION FOR A NEW CLASS A LICENSE, REGARDLESS OF KIND, THE APPOINTED ALCOHOLIC BEVERAGE HEARING BOARD SHALL INCLUDE IN ITS WRITTEN DECISION FINDINGS AS TO EACH OF THE FACTORS SET FORTH IN § 10–202(A)(2)(I) OF THIS ARTICLE.

10–202.

(a) (2) (i) Before approving an application and issuing a license, the board shall consider:

1. The public need and desire for the license;

2. The number and location of existing licensees and the potential effect on existing licensees of the license applied for;

3. The potential commonality or uniqueness of the services and products to be offered by the applicant's business;

4. The impact on the general health, safety, and welfare of the community, including issues relating to crime, traffic conditions, parking, or convenience; and

5. Any other necessary factors as determined by the board.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 162

(House Bill 730)

AN ACT concerning

Howard County – Alcoholic Beverages Act of 2010

Ho. Co. 3–10

FOR the purpose of establishing a Class B special beer and wine license in Howard County; authorizing a holder of the license to sell beer and wine for consumption off the licensed premises; specifying the persons authorized to be issued the license; providing for the term of and hours of sale for the license; specifying certain requirements that must be met before the license may be issued; authorizing a holder of the license to sell beer and wine for consumption off the licensed premises only to certain persons; prohibiting a holder of the license from displaying or providing shelving for certain beer and wine in certain areas of the establishment; specifying that certain off–sale alcoholic beverages receipts be included in a certain calculation; specifying certain requirements that a holder of the license must meet; authorizing the Board of License Commissioners of Howard County to adopt certain regulations for a certain purpose; authorizing the holder of a certain alcoholic beverages license to employ an individual of a certain age to sell or serve alcoholic beverages; making a certain stylistic change; and generally relating to alcoholic beverages licenses and employees of holders of alcoholic beverages licenses in Howard County.

BY adding to
Article 2B – Alcoholic Beverages
Section 7–101(p–1)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 12–214
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

7–101.

(P–1) (1) THIS SUBSECTION APPLIES ONLY IN HOWARD COUNTY.

(2) THERE IS A CLASS B SPECIAL BEER AND WINE (B–SBW) (OFF–SALE) LICENSE.

(3) A HOLDER OF A B–SBW LICENSE MAY SELL BEER AND WINE FOR CONSUMPTION OFF THE LICENSED PREMISES.

(4) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A B–SBW LICENSE ONLY TO A HOLDER OF A CLASS B BEER, WINE AND LIQUOR (7–DAY) (ON–SALE) LICENSE THAT IS ISSUED FOR A RESTAURANT.

(5) THE TERM OF A B–SBW LICENSE ISSUED TO A SUCCESSFUL APPLICANT SHALL BE THE SAME AS THAT OF THE CLASS B BEER, WINE AND LIQUOR LICENSE THAT THE APPLICANT HOLDS.

(6) BEFORE THE BOARD OF LICENSE COMMISSIONERS ISSUES A B–SBW LICENSE TO AN APPLICANT:

(I) THE APPLICANT SHALL:

1. COMPLETE THE FORM THAT THE BOARD OF LICENSE COMMISSIONERS PROVIDES; AND

2. PAY AN ANNUAL LICENSE FEE OF $500; AND

(II) THE SAME ADVERTISING, POSTING OF NOTICE, AND PUBLIC HEARING REQUIREMENTS AS THOSE FOR OTHER CLASS B LICENSES SHALL BE MET.

(7) A HOLDER OF A B–SBW LICENSE:

(I) MAY SELL BEER AND WINE FOR CONSUMPTION OFF THE LICENSED PREMISES ONLY TO PERSONS WHO HAVE PURCHASED FOOD OR ALCOHOL FROM THE LICENSED PREMISES; AND

(II) IN AREAS OF THE ESTABLISHMENT THAT ARE ACCESSIBLE TO THE PUBLIC, MAY NOT DISPLAY OR PROVIDE SHELVING FOR BEER OR WINE FOR OFF–PREMISES SALES.

(8) OFF–SALE ALCOHOLIC BEVERAGES RECEIPTS COLLECTED UNDER A B–SBW LICENSE SHALL BE INCLUDED IN THE CALCULATION OF AVERAGE DAILY RECEIPTS FROM THE SALE OF ALCOHOLIC BEVERAGES UNDER § 1–102(A)(22)(I)1C OF THIS ARTICLE.

(9) THE HOURS FOR SALE FOR A B–SBW LICENSE ARE FROM 10 A.M. TO MIDNIGHT, MONDAY THROUGH SUNDAY.

(10) A HOLDER OF A B–SBW LICENSE MAY EXERCISE THE PRIVILEGES OF THE LICENSE ONLY IF THE LICENSED PREMISES IS OPEN FOR BUSINESS AS A RESTAURANT.

(11) THE BOARD OF LICENSE COMMISSIONERS MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBSECTION, INCLUDING A LIMIT ON THE NUMBER OF LICENSES TO BE ISSUED.

12–214.

(A) THIS SECTION APPLIES ONLY IN HOWARD COUNTY.

(B) [In Howard County it**] IT** is unlawful for any "on–sale" licensee to allow persons under the age of 18 years to engage in pool, billiards, shuffleboard, or the playing of pinball or console machines or in any other game of chance or skill in their licensed establishment unless those persons under 18 years are accompanied by a parent or guardian. Any licensee violating the provisions of this section is guilty of a misdemeanor and upon conviction shall be fined not more than $100 or imprisoned not more than 30 days.

(C) THE HOLDER OF A CLASS A, B, OR C LICENSE MAY EMPLOY AN INDIVIDUAL WHO IS AT LEAST 18 YEARS OLD TO SELL OR SERVE ALCOHOLIC BEVERAGES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 163

(House Bill 795)

AN ACT concerning

Task Force to Study ~~Nanotechnology and~~ Nanobiotechnology

FOR the purpose of establishing a Task Force to Study ~~Nanotechnology and~~ Nanobiotechnology; providing for the membership of the Task Force; providing for the ~~designation of~~ cochairs of the Task Force; providing for the meeting times and places of the Task Force; providing for the staffing of the Task Force;

prohibiting a member of the Task Force from receiving compensation and authorizing reimbursement of certain expenses; requiring the Task Force to study certain matters; requiring the Task Force to make certain recommendations; requiring the Task Force to report its findings and recommendations to the Governor and General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the establishment of a Task Force to Study ~~Nanotechnology and~~ Nanobiotechnology.

Preamble

WHEREAS, Recent advances in ~~nanotechnology and~~ nanobiotechnology have the potential to revolutionize the treatment of cancer and other serious diseases as well as the development of state–of–the–art electronics, medical equipment, chemical processes, ~~building materials,~~ and a wide array of other commercial products; and

WHEREAS, Robust ~~nanotechnology and~~ nanobiotechnology industries in the State will create jobs, generate significant revenue for the State, and improve the quality of life for countless individuals; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force to Study ~~Nanotechnology and~~ Nanobiotechnology.

(b) (1) The Task Force consists of the following members:

(i) ~~three members~~ *one member* of the Senate of Maryland, appointed by the President of the Senate;

(ii) ~~three members~~ *one member* of the House of Delegates, appointed by the Speaker of the House;

(iii) the Secretary of Business and Economic Development, or the Secretary's designee;

(iv) the Chair of the Maryland Technology Development Corporation (TEDCO), or the Chair's designee;

(v) the Chair of the Tech Council of Maryland, or the Chair's designee; and

(vi) the following ~~ten~~ members appointed by the Governor:

1. three representatives of higher education institutions in Maryland involved in research or scholarship on ~~nanotechnology or~~ nanobiotechnology;

2. three ~~individuals who serve as the chair or president of a nanotechnology or nanobiotechnology organization or association;~~ representatives from regional or local business organizations that advocate on behalf of the life sciences; and

3. ~~two individuals who serve as chief executive officer of private nanotechnology companies; and~~

~~4.~~ two individuals who serve as chief executive officer of private nanobiotechnology companies.

(2) The Governor shall also invite the following four representatives of federal agencies to serve as members of the Task Force:

(i) the Director of the National Institutes of Health, or the Director's designee;

(ii) the Director of the National Institute of Standards and Technology, or the Director's designee;

(iii) the Director of the Food and Drug Administration, or the Director's designee; and

(iv) the Director of the United States Patent and Trademark Office, or the Director's designee.

(c) The ~~President of the Senate and the Speaker of the House shall each designate a member from the~~ members appointed from the General Assembly ~~to~~ *shall* serve as ~~cochair~~ *cochairs* of the Task Force.

(d) The Task Force shall meet at the times and places determined by the cochairs.

(e) The Department of Business and Economic Development and the Maryland Technology Development Corporation shall provide staff for the Task Force.

(f) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(g) The Task Force shall:

(1) study:

(i) the benefits of ~~nanotechnology and~~ nanobiotechnology, including:

1. job creation;

2. the development of lifesaving treatments;

3. reductions in health care costs;

4. the development of state–of–the–art electronics, medical equipment, chemical processes, ~~building materials,~~ and other commercial products;

5. the generation of revenue for the State; and

6. improvements to the quality of life for the State's citizens; and

(ii) the State's role in supporting Maryland's leadership in ~~nanotechnology and~~ nanobiotechnology, including:

1. promoting public–private partnerships;

2. assisting companies in technology transfers, including from research to commercial product;

3. promoting research;

4. protecting intellectual property;

5. offering appropriate financial incentives, including tax credits; and

6. capturing and leveraging federal funds for both public and private ventures; and

(2) make recommendations regarding actions that the State should take to promote the growth of the ~~nanotechnology and~~ nanobiotechnology industries in the State.

(h) On or before January 1, 2011, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010. It shall remain effective for a period of 1 year and, at the end of May 31,

2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, April 13, 2010.

Chapter 164

(House Bill 822)

AN ACT concerning

Queen Anne's County – Arts and Entertainment District

FOR the purpose of providing that in Queen Anne's County, the governing body may establish an arts and entertainment district composed of noncontiguous areas in the county, including noncontiguous areas in a municipal corporation in the county, subject to the designation of the Secretary of Business and Economic Development; requiring the governing body of Queen Anne's County to comply with certain application procedures; and generally relating to arts and entertainment districts in Queen Anne's County.

BY repealing and reenacting, without amendments,
Article – Economic Development
Section 4–703 and 4–704
Annotated Code of Maryland
(2008 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 4–705
Annotated Code of Maryland
(2008 Volume and 2009 Supplement)

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

Article – Economic Development

4–703.

(a) The following political subdivisions may apply to the Secretary to designate an arts and entertainment district:

(1) a political subdivision for an area within that political subdivision;

(2) with the prior consent of the municipal corporation, a county, on its own behalf or on behalf of a municipal corporation, for an area in the municipal corporation; or

(3) two or more political subdivisions jointly for an area astride their common boundaries.

(b) The application shall:

(1) be in the form and manner and contain the information that the Secretary requires by regulation;

(2) contain sufficient information to allow the Secretary to determine if the proposed district qualifies under §§ 4–701(c) and 4–704(a) of this subtitle; and

(3) be submitted for a political subdivision by its chief elected officer or, if none, its governing body.

4–704.

(a) The Secretary may designate an area as an arts and entertainment district only if the area is a contiguous geographic area that is wholly within a priority funding area as provided under § 5–7B–02 of the State Finance and Procurement Article.

(b) (1) Within 60 days after a submission date, the Secretary may designate one or more arts and entertainment districts from among the areas in the applications timely submitted.

(2) A county may not receive more than one arts and entertainment district designation in a calendar year.

(c) The designation of the Secretary is final.

(d) At any time, a political subdivision may reapply to the Secretary to designate as an arts and entertainment district an area that is not so designated.

4–705.

(A) A political subdivision may apply to the Secretary to expand an existing arts and entertainment district in the same manner as the political subdivision would apply to designate a new arts and entertainment district.

(B) (1) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION AND § 4–704(A) OF THIS SUBTITLE, IN QUEEN ANNE'S COUNTY, THE GOVERNING BODY MAY ESTABLISH AN ARTS AND ENTERTAINMENT DISTRICT COMPOSED OF

NONCONTIGUOUS AREAS IN THE COUNTY, INCLUDING NONCONTIGUOUS AREAS WITHIN A MUNICIPAL CORPORATION IN THE COUNTY, SUBJECT TO THE SECRETARY'S DESIGNATION OF THE DISTRICT AS AN ARTS AND ENTERTAINMENT DISTRICT IN THE COUNTY.

(2) IN APPLYING FOR THE ESTABLISHMENT OF AN ARTS AND ENTERTAINMENT DISTRICT IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE QUEEN ANNE'S COUNTY GOVERNING BODY SHALL COMPLY WITH THE PROVISIONS OF § 4–703 OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 165

(House Bill 1023)

AN ACT concerning

Criminal Procedure – Expiration Date of Sentences – Repeal

FOR the purpose of repealing the requirement that a court sentence a defendant for a period of imprisonment that will expire between certain dates under certain circumstances; repealing a provision authorizing a court to sentence a defendant to a certain period of imprisonment that is less than the minimum punishment required under certain circumstances; and generally relating to criminal procedure and sentencing.

BY repealing
Article – Criminal Procedure
Section 6–227
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Criminal Procedure

[6–227.

(a) In sentencing a defendant to imprisonment, a court shall sentence the defendant for a period that will expire between the first day of April and the last day of August if the court considers it expedient to do so.

(b) In sentencing a defendant to imprisonment in compliance with subsection (a) of this section, a court may sentence the defendant to imprisonment for not less than 18 months if the punishment required for the crime is at least 2 years.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 166

(House Bill 1050)

AN ACT concerning

Maryland Health Insurance Plan – Plan Options – Governmental Third Party Payers

FOR the purpose of authorizing the Board of Directors for the Maryland Health Insurance Plan to establish a certain Plan option for certain Plan members whose premiums are paid by certain governmental units; authorizing the Board to include certain amounts in setting premium rates and cost–sharing arrangements for the Plan option, subject to a certain limitation; authorizing the Board to limit the eligibility of certain members of the Plan to the Plan option; authorizing the Board to limit or eliminate the availability to certain members of the Plan of a certain premium subsidy; defining a certain term; and generally relating to the Maryland Health Insurance Plan.

BY adding to
Article – Insurance
Section 14–505(l)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Insurance

14–505.

(L) (1) (I) IN THIS SUBSECTION, "GOVERNMENTAL UNIT" MEANS A COUNTY, MUNICIPAL CORPORATION, UNIT OF STATE OR LOCAL GOVERNMENT, OR OTHER PUBLIC BODY CREATED UNDER STATE OR LOCAL LAW.

(II) "GOVERNMENTAL UNIT" DOES NOT INCLUDE THE PLAN.

(2) THIS SUBSECTION DOES NOT APPLY TO A MEMBER OF THE PLAN WHO RECEIVES A TAX CREDIT FOR HEALTH INSURANCE COSTS UNDER § 35 OF THE INTERNAL REVENUE CODE.

(3) THE BOARD MAY ESTABLISH A PLAN OPTION FOR A MEMBER OF THE PLAN WHOSE PREMIUMS ARE PAID BY A GOVERNMENTAL UNIT.

(4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IN SETTING PREMIUM RATES AND COST–SHARING ARRANGEMENTS FOR THE PLAN OPTION ESTABLISHED UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE BOARD MAY INCLUDE AMOUNTS TO LIMIT THE SHIFTING OF COSTS FROM A GOVERNMENTAL UNIT TO THE PLAN.

(II) THE BOARD MAY NOT SET PREMIUM RATES AND COST–SHARING ARRANGEMENTS AT A LEVEL THAT WOULD MAKE A GOVERNMENTAL UNIT UNABLE TO PAY THE PREMIUMS AND COST–SHARING FOR THE ENTIRE MEMBERSHIP OF A PROGRAM OF THE GOVERNMENTAL UNIT DUE TO RESTRICTIONS IN FEDERAL LAW OR POLICY ON THE USE OF FEDERAL FUNDS BY THE GOVERNMENTAL UNIT.

(5) IF THE PREMIUMS OF A MEMBER OF THE PLAN ARE PAID BY A GOVERNMENTAL UNIT, THE BOARD MAY:

(I) LIMIT THE ELIGIBILITY OF THE MEMBER TO THE PLAN OPTION ESTABLISHED UNDER PARAGRAPH (3) OF THIS SUBSECTION; AND

(II) LIMIT OR ELIMINATE THE AVAILABILITY TO THE MEMBER OF ANY PREMIUM SUBSIDY BASED ON INCOME.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 167

(House Bill 1152)

AN ACT concerning

Commissioner of Financial Regulation – Applicant and Staff Criminal Background Checks

FOR the purpose of requiring the Commissioner of Financial Regulation to apply to the Criminal Justice Information System Central Repository for a State and national criminal history records check for each applicant for employment with the Commissioner; authorizing the Commissioner to apply to the Central Repository for a State and national criminal history records check for each employee of the Commissioner; requiring the Commissioner to submit certain fingerprints and fees as part of the application for the criminal history records check; requiring the Central Repository to forward certain information to the applicant or employee and the Commissioner; requiring that the information obtained by the Central Repository be confidential and used only for certain purposes; prohibiting the information obtained by the Central Repository from being redisseminated; authorizing certain individuals to contest the contents of certain statements; requiring the Commissioner to consider certain factors in considering certain convictions as they relate to the individual's qualifications for employment with the Commissioner; defining certain terms; and generally relating to criminal history records checks for applicants for employment with and employees of the Commissioner of Financial Regulation.

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 2–104
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

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

Article – Financial Institutions

2–104.

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

(2) "APPLICANT" MEANS AN APPLICANT FOR EMPLOYMENT WITH THE COMMISSIONER.

(3) "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(4) "EMPLOYEE" MEANS A FULL–TIME OR PART–TIME EMPLOYEE OF THE COMMISSIONER, INCLUDING A TEMPORARY EMPLOYEE OR A CONTRACTUAL EMPLOYEE.

(B) The Commissioner may employ a staff in accordance with the State budget.

(C) THE COMMISSIONER SHALL APPLY TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR EACH APPLICANT PRIOR TO AN OFFER OF EMPLOYMENT.

(D) THE COMMISSIONER MAY APPLY TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR AN EMPLOYEE.

(E) AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE COMMISSIONER SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(1) TWO COMPLETE SETS OF THE 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 THE CRIMINAL PROCEDURE ARTICLE 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.

(F) IN ACCORDANCE WITH §§ 10–201 THROUGH 10–234 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE SUBJECT APPLICANT OR EMPLOYEE AND THE COMMISSIONER THE APPLICANT'S OR EMPLOYEE'S CRIMINAL HISTORY RECORD INFORMATION.

(G) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION:

(1) SHALL BE CONFIDENTIAL;

(2) MAY NOT BE REDISSEMINATED; AND

(3) SHALL BE USED ONLY FOR THE EMPLOYMENT PURPOSE AUTHORIZED BY THIS SECTION.

(H) 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 THE CRIMINAL PROCEDURE ARTICLE.

(I) IN CONSIDERING ANY FELONY OR MISDEMEANOR CONVICTION OF AN INDIVIDUAL AS IT RELATES TO THE INDIVIDUAL'S QUALIFICATION FOR EMPLOYMENT WITH THE COMMISSIONER, THE COMMISSIONER SHALL CONSIDER:

(1) THE NATURE OF THE CRIME;

(2) THE RELEVANCE OF THE CRIME TO THE DUTIES AND RESPONSIBILITIES RELATED TO EMPLOYMENT;

(3) THE LENGTH OF TIME SINCE THE CONVICTION; AND

(4) THE BEHAVIOR AND ACTIVITIES OF THE INDIVIDUAL SINCE THE CONVICTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 168

(House Bill 1202)

AN ACT concerning

Business Regulation – Franchises – Copies of Documents to Franchisees

FOR the purpose of prohibiting a franchisor from selling a franchise in the State without first giving a prospective franchisee a copy of the offering prospectus and a copy of each proposed agreement that relates to the sale of the franchise at the earlier of: a certain period of time before the execution of a certain

binding agreement, a certain period of time before payment of certain consideration, or at the prospective franchisee's reasonable request to receive a copy of the offering prospectus; and generally relating to providing copies of certain documents to franchisees.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 14–223
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Regulation

14–223.

A franchisor may not sell a franchise in the State without first giving a prospective franchisee a copy of the offering prospectus and a copy of each proposed agreement that relates to the sale of the franchise at the earlier of:

(1) **[**the first personal meeting of the franchisor and**] 14 CALENDAR DAYS BEFORE THE EXECUTION BY** the prospective franchisee **[**to discuss the possible sale of the franchise; or**] OF ANY BINDING AGREEMENT WITH THE FRANCHISOR;**

(2) **[**10 business days before the execution of a contract or**] 14 CALENDAR DAYS BEFORE** payment of any consideration that relates to the franchise relationship**; OR**

(3) A REASONABLE REQUEST BY A PROSPECTIVE FRANCHISEE TO RECEIVE A COPY OF THE OFFERING PROSPECTUS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 169

(House Bill 1205)

AN ACT concerning

Montgomery County – Alcoholic Beverages License Fees – Repeal of Sunset

MC 24–10

FOR the purpose of repealing the termination date of certain Class B alcoholic beverage license fees applicable in Montgomery County; and generally relating to alcoholic beverages in Montgomery County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 6–201(q)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Chapter 91 of the Acts of the General Assembly 2001, as amended by Chapter 48 of the Acts of the General Assembly of 2005
Section 2

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

Article 2B – Alcoholic Beverages

6–201.

(q) (1) (i) This subsection applies only in Montgomery County.

(ii) 1. In this subsection the following words have the meanings indicated.

2. "Board" means the Board of License Commissioners.

3. "Dining area" means the area occupied by patrons for the consumption of food and includes a cocktail area where food need not be served if there is no separate outdoor entrance to the cocktail area.

(2) (i) 1. The Board may issue this license only to the owner of any restaurant or hotel.

2. The restaurant shall be located in the second, third, fourth, sixth, seventh, eighth, ninth, tenth, or thirteenth election districts.

3. The licensee may not be located in the Towns of Poolesville, Takoma Park, and Kensington.

(ii) 1. As a prerequisite for the initial issuance of a license under this subsection, the owner shall attest in a sworn statement that gross receipts from food sales in the restaurant or hotel will be at least equal to the gross receipts from the sale of alcoholic beverages.

2. As a prerequisite for each renewal of a license issued under this subsection, the owner shall attest in a sworn statement that the gross receipts from food sales in the restaurant or hotel for the 12–month period immediately preceding the application for renewal have been at least equal to the gross receipts from the sale of alcoholic beverages.

3. The Board by regulation shall provide for periodic inspection of the premises and for audits to determine the ratio of gross receipts from the sale of food to gross receipts from the sale of alcoholic beverages.

4. Any regulations adopted by the Board shall include a requirement of at least monthly physical inspections of the premises during the initial license year of any licensee and the submission by the licensee to the Board, during the initial license year, of monthly statements showing gross receipts from the sale of food and gross receipts from the sale of alcoholic beverages for the immediately preceding month.

5. In the event that a licensee, during the initial license year, fails to maintain the sales ratio requirement provided in this paragraph for a period of three consecutive months or after the initial license year for each license or calendar year, the Board, in its discretion, may revoke the license. The Board may require any licensee to provide supporting data as it, in its discretion, deems necessary, in order to establish that the requirements of this section relating to the ratio of gross receipts from the sale of food to those from the sale of alcoholic beverages have been met.

(iii) A license issued under this subsection authorizes its holder to keep for sale and sell alcoholic beverages for consumption on the premises only, and alcoholic beverages may not be served to patrons or consumed at any bar, counter without seats, or other room but in the dining area. However, the seats in the cocktail area may not exceed 25 percent of the seats normally available for the general public in the dining area, including the cocktail area portion, but excluding special banquet and private party facilities.

(iv) Signs visible from the exterior of the building, advertising the sale of alcoholic beverages, are not permitted in connection with any restaurant or hotel holding a license issued under the provisions of this section except for the display of the menu then in use by the licensee.

(v) 1. The annual license fee is $2,500.

2. For the third license that is not restricted by location and is obtained by a licensee under § 9–102.1 of this article, the annual fee is $5,000.

(3) (i) There is a special Class B license known as Class B–BWL (H–M) which shall be issued only for hotels and motels that meet the minimum requirements set forth in subsection (a)(3) of this section. All of the privileges and restrictions provided for in paragraph (2) of this subsection are applicable to this special Class B license except that the gross receipts from the sale of alcoholic beverages may not exceed the gross receipts from the sale of food, and registered guests may be served in their rooms. In any instance where there is more than one licensed establishment within the hotel or motel, the foregoing sales ratio shall be applicable only to one license and that shall be the one that provides the food and beverage service to the conventions, banquets and other groups that utilize facilities within the hotel or motel.

(ii) The annual license fee is $2,500.

(4) (i) In this paragraph, "performing arts facility" means a facility that is used for artistic, corporate, and community related activities.

(ii) There is a special Class B–BWL (performing arts facility) license.

(iii) The Board of License Commissioners may issue a special Class B–BWL (performing arts facility) license to apply only to a performing arts facility that has:

1. A minimum capital investment, not including real property, of $1,000,000;

2. A minimum capacity of 1,500 persons; and

3. A food service facility permit and 40 seats in a food service area.

(iv) The Board may issue a special Class B–BWL (performing arts facility) license for use by a not–for–profit partnership, limited liability company, corporation, or other entity that leases the performing arts facility to host artistic, corporate, and community related activities.

(v) 1. A special Class B–BWL (performing arts facility) license authorizes the holder to sell beer, wine, and liquor by the drink from one or more outlets on the licensed premises for consumption on the licensed premises.

2. A holder of a special Class B–BWL (performing arts facility) license may only exercise the privileges under the license from 10:00 a.m. on any day until 2:00 a.m. the following day.

3. A holder of a special Class B–BWL (performing arts facility) license may not sell alcoholic beverages at:

A. A high school graduation held on the licensed premises; or

B. A community meeting held, without food service, on the licensed premises.

(vi) The Board may impose conditions on the issuance or renewal of a special Class B–BWL (performing arts facility) license that establish the areas in the performing arts facility where beer, wine, and liquor may be sold, served, possessed, or consumed.

(vii) The Board may not approve the transfer of a special Class B–BWL (performing arts facility) license to another location.

(viii) The annual license fee for a special Class B–BWL (performing arts facility) license is $1,000.

Chapter 91 of the Acts of 2001, as amended by Chapter 48 of the Acts of 2005

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health and safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. **[**It shall remain effective through June 30, 2010, and, at the end of June 30, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 170

(House Bill 1309)

AN ACT concerning

Somerset and Worcester Counties – Liquor Control Boards – Ethics

FOR the purpose of including the Liquor Control Board for Somerset County and the Liquor Control Board for Worcester County in the definition of "executive unit" as it relates to the Maryland Public Ethics Law to clarify that the Maryland Public Ethics Law applies to both liquor control boards; ~~specifying that the members and employees of both liquor control boards are public officials for certain purposes;~~ and generally relating to the Liquor Control Board for Somerset County and the Liquor Control Board for Worcester County.

BY repealing and reenacting, without amendments,
Article – State Government
Section 15–101(b) and 15–102(a)
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – State Government
Section 15–102(m) ~~and 15–103(b)~~
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Government

15–101.

(b) For the purpose of guarding against improper influence, the General Assembly enacts this Maryland Public Ethics Law to require certain government officials and employees to disclose their financial affairs and to set minimum ethical standards for the conduct of State and local business.

15–102.

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

(1) the context clearly requires a different meaning; or

(2) a different definition is adopted for a particular provision.

(m) (1) "Executive unit" means a department, agency, commission, board, council, or other body of State government that:

(i) is established by law; and

(ii) is not in the Legislative Branch or the Judicial Branch of State government.

(2) "Executive unit" includes:

(i) a county health department unless the officials and employees of the department are expressly designated as "local officials" in § 15–807 of this title;

(ii) the office of the sheriff in each county; **[**and**]**

(iii) the office of the State's Attorney in each county**;**

(IV) THE LIQUOR CONTROL BOARD FOR SOMERSET COUNTY; AND

(V) THE LIQUOR CONTROL BOARD FOR WORCESTER COUNTY.

~~15–103.~~

~~(b) Except as provided in subsection (f) of this section, the following individuals in executive units are public officials:~~

~~(1) an individual who receives compensation at a rate equivalent to at least State grade level 16, or who is appointed to a board, if the Ethics Commission determines under § 15–208 of this title that:~~

~~(i) the individual, acting alone or as a member of an executive unit, has decision making authority or acts as a principal advisor to one with that authority:~~

~~1. in making State policy in an executive unit; or~~

~~2. in exercising quasi-judicial, regulatory, licensing, inspecting, or auditing functions; and~~

~~(ii) the individual's duties are not essentially administrative and ministerial;~~

~~(2) any other individual in an executive unit, if the Ethics Commission determines that the individual, acting alone or as a member of the executive unit, has decision making authority or acts as a principal advisor to one with that authority in drafting specifications for, negotiating, or executing contracts that commit the State or an executive unit to spend more than $10,000 in a year;~~

~~(3) a member, appointee, or employee of the Maryland Stadium Authority;~~

~~(4) a member, appointee, or employee of the Canal Place Preservation and Development Authority; [and]~~

~~(5) a member of the Emergency Medical Services Board;~~

~~**(6) A MEMBER OR AN EMPLOYEE OF THE LIQUOR CONTROL BOARD FOR SOMERSET COUNTY; AND**~~

~~**(7) A MEMBER OR AN EMPLOYEE OF THE LIQUOR CONTROL BOARD FOR WORCESTER COUNTY.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 171

(House Bill 1496)

AN ACT concerning

Baltimore County – Alcoholic Beverages – Tasting Licenses – Fees

FOR the purpose of authorizing in Baltimore County a holder of a Class BWT beer and light wine tasting license or a Class BWLT beer, wine and liquor tasting license to pay a certain fee to use the license for a certain extended period; and generally relating to alcoholic beverages license fees in Baltimore County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 8–404.1(a) through (c)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 8–404.1(d)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

8–404.1.

(a) This section applies in Baltimore County.

(b) The Board of License Commissioners may issue a Class BWT beer and light wine (on–premises) tasting license to the holder of a Class A beer and light wine license.

(c) The Board of License Commissioners may issue a Class BWLT beer, wine and liquor (on–premises) tasting license to a holder of a Class A beer, wine and liquor license.

(d) (1) The fees for a Class BWT and Class BWLT license are as follows:

(i) $20 for a daily tasting license, which may be issued not more than 12 times in any annual license year;

(ii) $200 annually for a 26–day tasting license, which may be used consecutively or nonconsecutively; **[**and**]**

(iii) $300 annually for a 52–day tasting license, which may be used consecutively or nonconsecutively**; AND**

(IV) $400 ANNUALLY FOR A 104–DAY TASTING LICENSE, WHICH MAY BE USED CONSECUTIVELY OR NONCONSECUTIVELY.

(2) The fees for a Class BWT license and Class BWLT license are in addition to the Class A annual license fee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 172

(House Bill 1531)

AN ACT concerning

City of Annapolis – Alcoholic Beverages – Renewal of Licenses

FOR the purpose of authorizing the Mayor, Counselor, and Aldermen of the City of Annapolis to determine a periodic basis on which payments for the renewal of alcoholic beverages licenses may be made; making this Act an emergency measure; make certain stylistic changes; and generally relating to the renewal of alcoholic beverages licenses in the City of Annapolis.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 8–202(c) and 10–301(a)(1)(ii)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

8–202.

(c) In the City of Annapolis the Mayor, Counselor, and Aldermen have the power to**:**

(1) **[**fix**]** **FIX** the fees for all licenses authorized to be issued in the city**; AND**

(2) DETERMINE A PERIODIC BASIS ON WHICH PAYMENTS FOR THE RENEWAL OF A LICENSE MAY BE MADE.

10–301.

(a) (1) (ii) 1. The renewal application shall state that the facts in the original application are unchanged.

2. It shall be accompanied by a statement signed by the owner of the premises consenting to renewal of the license and to search and seizure as in the case of original applications.

3. In the case of retail dealers applying for renewal, the statement of consent by the owner of the premises may not be required if the owner has previously signed such a statement in connection with an original application or previous renewal application giving consent for the term of the owner's lease with the applicant if the lease or renewal does not expire during the term of the renewal license.

4. [Upon] **SUBJECT TO SUBSUBPARAGRAPH 5 OF THIS SUBPARAGRAPH, ON** the filing of the renewal application[,] and [upon] payment of the annual fee, the holder of the expiring license is entitled to a new license for another year without the filing of further statements or the furnishing of any further information unless specifically requested by the official authorized to approve the license.

5. IN THE CITY OF ANNAPOLIS, THE MAYOR, COUNSELOR, AND ALDERMEN MAY DETERMINE A PERIODIC BASIS ON WHICH PAYMENTS FOR THE RENEWAL OF A LICENSE MAY BE MADE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 13, 2010.

Chapter 173

(House Bill 1564)

AN ACT concerning

Maryland Health Insurance Plan – Administration of National High Risk Pool Program

FOR the purpose of authorizing the Board of Directors for the Maryland Health Insurance Plan to elect for the Plan to administer a certain national high risk pool program for the State; authorizing the Board to enter into any agreements necessary for the Plan to administer a national temporary high risk pool program for the State; authorizing the Board to limit enrollment in the national temporary high risk pool program based on the availability of certain funding; altering the eligibility requirements for the Plan; authorizing the Board to establish a benefit package and premium rate for individuals enrolled in a national temporary high risk pool program in accordance with certain standards; requiring the State to meet a certain maintenance of effort requirement; requiring the Plan to monitor certain legislation and notify the Department of Legislative Services if certain legislation is enacted; providing for the termination of this Act; making this Act an emergency measure; and generally relating to the administration of a national high risk pool program by the Maryland Health Insurance Plan.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 14–501(h)(1)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Insurance
Section 14–505(d), (e), (h), and (i)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY adding to
Article – Insurance
Section 14–505(l) and 14–508(d)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Insurance

14–501.

(h) (1) "Medically uninsurable individual" means an individual who is a resident of the State and who:

(i) provides evidence that, for health reasons, a carrier has refused to issue substantially similar coverage to the individual;

(ii) provides evidence that, for health reasons, a carrier has refused to issue substantially similar coverage to the individual, except at a rate that exceeds the Plan rate;

(iii) satisfies the definition of "eligible individual" under § 15–1301 of this article;

(iv) has a history of or suffers from a medical or health condition that is included on a list promulgated in regulation by the Board;

(v) is eligible for the tax credit for health insurance costs under § 35 of the Internal Revenue Code; **[**or**]**

(vi) is a dependent of an individual who is eligible for coverage under this subsection**; OR**

(VII) SATISFIES THE ELIGIBILITY REQUIREMENTS ESTABLISHED BY FEDERAL LAW TO ENROLL IN A NATIONAL TEMPORARY HIGH RISK POOL PROGRAM THAT IS:

1. ESTABLISHED BY THE SECRETARY OF HEALTH AND HUMAN SERVICES; AND

2. ADMINISTERED BY THE PLAN FOR THE STATE.

14–505.

(d) The Board may make a change to the standard benefit package only if:

(1) the proposed change is submitted in writing to the Board at least 15 days before the meeting at which a vote on the proposed change will be taken;

(2) consideration of the proposed change is listed as an action item on the agenda for the meeting;

(3) the proposed change is set forth in a written motion that:

(i) identifies the specific changes to be made; and

(ii) is included in the minutes of the meeting of the Board at which the motion is made;

(4) the deliberations and vote on the proposed change occur during a public session of a meeting with the Board; and

(5) the vote approving the proposed change is reflected in the minutes of the meeting of the Board at which the vote is taken.

(e) A change to the standard benefit package is not effective until the later of:

(1) 30 days after the date the Board adopts the change;

(2) the date an updated master plan document reflecting the change is filed with the Commissioner; or

(3) 15 days after notice of the change and the effective date of change is:

(i) sent to:

1. each member of the Plan; or

2. if dependents are included in the coverage, to the family unit; and

(ii) posted on the Plan website.

(h) (1) The Board shall establish a premium rate for Plan coverage subject to review and approval by the Commissioner.

(2) The premium rate may vary on the basis of family composition.

(3) If the Board determines that a standard risk rate would create market dislocation, the Board may adjust the premium rate based on member age.

(4) The Board may charge different premiums based on the benefit package delivery system or cost–sharing arrangement when more than one benefit package delivery system or cost–sharing arrangement is offered.

(i) (1) The Board shall determine a standard risk rate by considering the premium rates charged by carriers in the State for coverage comparable to that of the Plan.

(2) The premium rate for Plan coverage:

(i) may not be less than 110% of the standard risk rate established under paragraph (1) of this subsection; and

(ii) may not exceed 200% of the standard risk rate.

(3) Premium rates shall be reasonably calculated to encourage enrollment in the Plan.

(4) The Board may subsidize premiums, deductibles, and other policy expenses, based on a member's income.

(L) (1) IF THE BOARD ENTERS INTO AN AGREEMENT FOR THE PLAN TO ADMINISTER A NATIONAL TEMPORARY HIGH RISK POOL PROGRAM FOR THE STATE, THE BOARD MAY ESTABLISH A SEPARATE BENEFIT PACKAGE DELIVERY SYSTEM AND PREMIUM RATE FOR INDIVIDUALS ENROLLED IN THE NATIONAL HIGH RISK POOL PROGRAM IN ACCORDANCE WITH STANDARDS FOR BENEFIT PACKAGES AND PREMIUM RATES ESTABLISHED UNDER FEDERAL LAW FOR THE NATIONAL HIGH RISK POOL PROGRAM.

(2) THE REQUIREMENTS OF SUBSECTIONS (D) AND (E) OF THIS SECTION DO NOT APPLY TO THE SEPARATE BENEFIT PACKAGE ESTABLISHED FOR INDIVIDUALS ENROLLED IN THE TEMPORARY HIGH RISK POOL PROGRAM UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) THE REQUIREMENTS OF SUBSECTIONS (H) AND (I) OF THIS SECTION DO NOT APPLY TO THE SEPARATE PREMIUM RATE ESTABLISHED FOR INDIVIDUALS ENROLLED IN THE NATIONAL HIGH RISK POOL PROGRAM UNDER PARAGRAPH (1) OF THIS SUBSECTION.

14–508.

(D) (1) IF THE SECRETARY OF HEALTH AND HUMAN SERVICES ESTABLISHES A NATIONAL HIGH RISK POOL PROGRAM THAT ALLOWS ADMINISTRATION BY STATES THROUGH A STATE HIGH RISK POOL, THE BOARD MAY:

(I) ELECT FOR THE PLAN TO ADMINISTER THE NATIONAL HIGH RISK POOL PROGRAM FOR THE STATE; AND

(II) ENTER INTO ANY AGREEMENTS NECESSARY FOR THE PLAN TO ADMINISTER THE NATIONAL HIGH RISK POOL PROGRAM FOR THE STATE.

(2) THE BOARD MAY LIMIT ENROLLMENT IN THE TEMPORARY HIGH RISK POOL PROGRAM BASED ON THE AMOUNT OF FEDERAL FUNDING THAT IS AVAILABLE FOR THE PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That the State shall meet any maintenance of effort requirement established by federal law in connection with a temporary high risk pool program administered by Maryland Health Insurance Plan. To that end, the Health Services Cost Review Commission shall ~~take into account~~ consider any maintenance of effort obligation associated with the temporary high risk pool in making its annual assessment in accordance with § 19–214(d)(3)(i) of the Health – General Article.

SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland Health Insurance Plan shall monitor federal and State legislation relating to the national high risk pool program, and shall notify within 10 days the Department of Legislative Services of the enactment of legislation that ends the national high risk pool program or ends the administration of the national high risk pool program for the State by the Maryland Health Insurance Plan. This Act shall be abrogated and of no further force and effect on the earlier of the date that the national high risk pool program ends or the Maryland Health Insurance Plan ends its administration of the national high risk pool program for the State.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members

elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 13, 2010.

Chapter 174

(Senate Bill 854)

AN ACT concerning

~~Criminal Procedure~~ Crimes – Sex Offenders – Notification ~~and~~, Registration, ~~Commitment, and Court Procedures~~ *and Penalties*

FOR the purpose of ~~authorizing a court to admit evidence of a defendant's commission of a certain separate act of sexual misconduct involving a minor in a prosecution for certain sexual offenses involving a minor under certain circumstances; requiring the State's Attorney to disclose to the defendant the State's intent to offer the evidence within a certain time period before the trial unless the court allows disclosure at a later time for good cause shown; specifying the content of the disclosure to the defendant; prohibiting certain evidence from being referred to in a statement to the jury or introduced at trial unless the court first holds a closed hearing and determines that the evidence is admissible; requiring the court to enter an order stating which evidence may be introduced under certain circumstances; authorizing the court to reconsider a ruling excluding evidence and hold an additional closed hearing if new information is discovered during the trial that may make the evidence admissible;~~ *increasing the maximum and mandatory minimum penalties for a person convicted of rape in the second degree of a child under the age of 13 years; increasing the maximum and mandatory minimum penalties for a person convicted of sexual offense in the second degree against a child under the age of 13 years;* altering certain requirements relating to the registration of individuals who have committed certain offenses on a certain registry; altering the offenses for which a person can be required to register on a certain registry for committing, attempting to commit, or conspiring to commit; requiring certain persons to register on a certain registry if they have been convicted of certain crimes in certain countries; ~~altering the requirements for registration on a certain registry for a certain person granted probation before judgment;~~ providing that certain requirements for a person to register on a certain registry are to be applied retroactively under certain circumstances; providing for the calculation of a certain term of registration; altering certain requirements for persons under a certain age to register on a certain registry under certain circumstances; requiring a certain person to be included in a certain listing of juvenile sex offenders; specifying that a certain listing of juvenile sex offenders shall be accessible only by law enforcement personnel for law enforcement purposes;

requiring a certain person to be removed from a certain listing of juvenile sex offenders at a certain time; establishing that certain individuals who are under the protection of certain witness protection programs are exempt from certain registration requirements; altering certain time periods relating to certain registration, notice, and reporting requirements; requiring certain sex offenders to register in person with ~~a~~ certain local law enforcement ~~unit~~ units within certain time periods; providing that a certain sex offender may be required to provide certain additional information to a certain local law enforcement unit; establishing that a person is a resident for purposes of a certain offender registry if the person has a home or other place where the person habitually lives located in the State at the time of a certain event; establishing that a certain registrant shall register with a certain supervising authority within a certain period of time after the registrant begins to habitually live in the State; requiring a certain homeless registrant to register in person with a local law enforcement unit within certain time periods; requiring a certain homeless registrant to register with a local law enforcement unit at certain intervals; establishing that certain registration requirements for a homeless registrant are in addition to certain other requirements; requiring a registrant who was homeless and obtains a fixed address to register with a local law enforcement unit within a certain time period; requiring a certain registrant who makes changes in certain identifying information to send a certain notice to a local law enforcement unit within a certain time period; requiring a certain sexual offender registrant who establishes a new electronic mail address, computer log–in or screen name or identity, instant–message identity, or electronic chat room identity to provide written notice to the sexual offender registry of the new information within a certain period after establishing the new address, name, or identity; requiring certain notifications by certain registrants to be made by reporting in person; requiring certain registrants to notify *a* ~~a~~ certain local law enforcement ~~unit~~ ~~units~~ *unit* when the registrant leaves the United States under certain circumstances or temporarily moves; requiring a certain notification to be made in a certain manner; adding to the requirements of a certain registration statement; requiring a certain registrant to provide a digital image instead of a photograph under certain circumstances; requiring a certain registrant to provide a palm print; repealing an exemption from a certain requirement to provide DNA for a certain person convicted of a misdemeanor; altering the terms of registration for certain sex offenders on a certain registry; authorizing certain terms of registration to be reduced under certain circumstances; requiring a certain notification relating to the registration of a certain sex offender to be sent to certain school superintendents, schools, school principals, police departments, and certain entities relating to children; requiring local law enforcement units to provide certain notifications to the Department of Public Safety and Correctional Services; expanding certain notification requirements relating to the residence of a certain registrant to include ~~the~~ each county where the registrant habitually lives or intends to habitually live; requiring a certain supervising authority to notify ~~the~~ each local law enforcement unit where a registrant resided or habitually lived in the event of a certain escape or recapture; expanding the authority of a local law

enforcement unit to notify entities of the location of a certain sex offender to include notifying child care centers issued a certain letter of compliance; providing that the Department is responsible for receiving and distributing certain communications and notifying certain jurisdictions of certain information; prohibiting certain registration information provided to the public from including certain information; altering a certain provision to require the Department to post certain information about a registrant on the Internet; requiring the Department to post on the Internet, in plain language that can be understood without special knowledge of the criminal laws of the State, a description of the crime of a sex offender registrant, excluding details that would identify the victim; requiring the Department to provide certain information relating to out–of–state registration status on a certain Internet posting; altering a certain prohibition to provide that a registrant may not fail to provide certain notice, whether written or in person; prohibiting a certain person required to register as a sexual offender from knowingly failing to provide any information required to be included in a registration statement; ~~creating a procedure in which a person who has been convicted of a sexually violent offense and who suffers from a certain mental abnormality or personality disorder may be placed in the custody of the Secretary of Health and Mental Hygiene until the person meets certain criteria; establishing that a term of extended parole supervision commences on the expiration of a certain term of commitment to a certain State facility; requiring the Commissioner of Correction of the Department of Public Safety and Correctional Services to give notice to the Attorney General before certain persons who have been convicted of certain sexually violent offenses are released from confinement; requiring the Attorney General to determine if certain persons meet the criteria of sexually violent offenders in need of commitment; establishing certain procedures for determining whether persons are sexually violent offenders in need of commitment; requiring that a review committee of prosecutors and a multidisciplinary team be formed to make recommendations concerning the identification of sexually violent offenders in need of commitment; making the Commissioner and certain other individuals immune from civil liability for acts performed in good faith in carrying out this Act; specifying the criteria for finding a person to be a sexually violent offender in need of commitment; authorizing the Attorney General to petition the circuit court to find probable cause that a certain person is a sexually violent offender in need of commitment; authorizing a court to order a certain person taken into custody if the court determines certain probable cause exists; authorizing a court to conduct a trial under certain circumstances to determine if a certain person is a sexually violent offender in need of commitment; allowing a certain person certain rights at trial; requiring that the standard of proof at a trial to determine whether a person is a sexually violent offender in need of commitment be that of proof beyond a reasonable doubt; requiring that a person who is found to be a sexually violent offender in need of commitment be placed in the custody of the Secretary of Health and Mental Hygiene for control, care, and treatment at a State facility until the mental abnormality or personality disorder of the person has so changed that the person is not likely to engage in a~~

~~certain act if released; requiring that a certain committed person in a State facility be subject to an annual mental examination and an annual status review hearing; authorizing the court to determine at an annual status review hearing that probable cause exists to believe that the committed person is not likely to engage in certain acts if released; authorizing that a release hearing be held under certain circumstances; establishing the procedures for certain hearings; requiring that the court release a committed person under certain circumstances; providing that certain provisions of this Act have no effect on the operation of certain provisions of the Code; providing for the construction and application of certain provisions of this Act;~~ *requiring the Department to adopt certain regulations on or before a certain date;* providing that certain provisions of this Act are severable under certain circumstances; making certain conforming changes; defining certain terms; altering certain terms; repealing certain terms; ~~making certain provisions of this Act subject to a certain contingency;~~ and generally relating to sex ~~offender registration, commitment, and court procedures~~ *offenders*.

BY repealing and reenacting, ~~without~~ *with* amendments,
Article – Criminal Law
Section ~~1–101(g)~~ *3–304 and 3–306*
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

~~BY adding to~~
~~Article – Courts and Judicial Proceedings~~
~~Section 10–916.1~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2009 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 11–701, ~~11–702,~~ 11–702.1, 11–704 through 11–710, 11–712, 11–713, 11–714, 11–717, 11–718(a), and ~~11–721~~ 11–721~~, and 11–723~~ to be under the amended subtitle "Subtitle 7. Sex Offender Registration"
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Procedure
Section 11–702 and 11–703
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY adding to
Article – Criminal Procedure
Section 11–704.1 and 11–704.2
Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

~~BY repealing and reenacting, without amendments,~~
~~Article – Health – General~~
~~Section 1–101(a), (c), and (k) and 10–101(e) and (h)~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume)~~

~~BY adding to~~
~~Article – Health – General~~
~~Section 10–636 through 10–646 to be under the new part "Part VI. Sexually Violent Offender in Need of Commitment"~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume)~~

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

Article – Criminal Law

3–304.

(a) A person may not engage in vaginal intercourse with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the act is at least 4 years older than the victim.

(b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

(c) (1) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment for not less than ***[****5****] 15*** *years and not exceeding* ***[****20 years****] LIFE****.*

(ii) A court may not suspend any part of the mandatory minimum sentence of ***[****5****] 15*** *years.*

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (d) of this section, the mandatory minimum shall not apply.

(d) If the State intends to seek a sentence of imprisonment for not less than ***[****5****] 15*** *years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.*

3–306.

(a) A person may not engage in a sexual act with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the sexual act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the sexual act is at least 4 years older than the victim.

(b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

(c) (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment for not less than ***[****5****] 15*** *years and not exceeding* ***[****20 years****] LIFE****.*

(ii) A court may not suspend any part of the mandatory minimum sentence of ***[****5****] 15*** *years.*

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (d) of this section, the mandatory minimum shall not apply.

(d) If the State intends to seek a sentence of imprisonment for not less than ***[5] 15*** *years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.*

~~1–101.~~

~~(g) "Minor" means an individual under the age of 18 years.~~

~~**Article – Courts and Judicial Proceedings**~~

~~**10–916.1.**~~

~~**(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**~~

~~**(2) "ACT OF SEXUAL MISCONDUCT INVOLVING A MINOR" MEANS A CONVICTION FOR:**~~

~~**(I) A VIOLATION OF § 3–602 OF THE CRIMINAL LAW ARTICLE;**~~

~~**(II) A VIOLATION OF FORMER ARTICLE 27, § 35C OF THE CODE OCCURRING BEFORE OCTOBER 1, 2002, THAT INVOLVED SEXUAL ABUSE OF A MINOR;**~~

~~**(III) A VIOLATION OF TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE INVOLVING A VICTIM WHO IS A MINOR; OR**~~

~~**(IV) A VIOLATION OF FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT, IF COMMITTED IN THIS STATE, WOULD CONSTITUTE ANY OF THE CRIMES SPECIFIED IN ITEMS (I) THROUGH (III) OF THIS PARAGRAPH.**~~

~~**(3) "MINOR" HAS THE MEANING STATED IN § 1–101 OF THE CRIMINAL LAW ARTICLE.**~~

~~**(B) SUBJECT TO SUBSECTION (D) OF THIS SECTION, IN A PROSECUTION FOR A VIOLATION OF § 3–602 OF THE CRIMINAL LAW ARTICLE OR A VIOLATION OF TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE INVOLVING A VICTIM WHO IS A MINOR, EVIDENCE OF THE DEFENDANT'S COMMISSION OF A SEPARATE ACT OF SEXUAL MISCONDUCT INVOLVING A MINOR IS ADMISSIBLE IF THE COURT:**~~

~~(1) (I) IN A BENCH TRIAL, FINDS BY CLEAR AND CONVINCING EVIDENCE THAT THE DEFENDANT COMMITTED THE SEPARATE ACT; OR~~

~~(II) IN A JURY TRIAL, FINDS THAT A REASONABLE JURY COULD FIND BY CLEAR AND CONVINCING EVIDENCE THAT THE DEFENDANT COMMITTED THE SEPARATE ACT; AND~~

~~(2) FINDS THAT THE PROBATIVE VALUE OF THE EVIDENCE IS NOT SUBSTANTIALLY OUTWEIGHED BY THE DANGER OF UNFAIR PREJUDICE AGAINST THE DEFENDANT.~~

~~(C) (1) IF THE STATE INTENDS TO OFFER EVIDENCE UNDER THIS SECTION, THE STATE'S ATTORNEY SHALL DISCLOSE THE EVIDENCE TO THE DEFENDANT AT LEAST 15 DAYS BEFORE THE SCHEDULED DATE OF TRIAL, UNLESS THE COURT ALLOWS DISCLOSURE AT A LATER TIME FOR GOOD CAUSE SHOWN.~~

~~(2) THE DISCLOSURE SHALL INCLUDE STATEMENTS OF WITNESSES OR A SUMMARY OF THE SUBSTANCE OF ANY TESTIMONY THAT THE STATE EXPECTS TO OFFER.~~

~~(D) (1) EVIDENCE DESCRIBED IN SUBSECTION (B) OF THIS SECTION MAY NOT BE REFERRED TO IN A STATEMENT TO A JURY OR INTRODUCED IN A TRIAL UNLESS THE COURT FIRST HOLDS A CLOSED HEARING AND DETERMINES THAT THE EVIDENCE IS ADMISSIBLE.~~

~~(2) IF THE COURT DETERMINES THAT ALL OR SOME OF THE EVIDENCE IS ADMISSIBLE, THE COURT SHALL ENTER AN ORDER STATING WHICH EVIDENCE MAY BE INTRODUCED.~~

~~(3) THE COURT MAY RECONSIDER A RULING EXCLUDING THE EVIDENCE AND HOLD AN ADDITIONAL CLOSED HEARING IF NEW INFORMATION IS DISCOVERED DURING THE COURSE OF THE TRIAL THAT MAY MAKE THE EVIDENCE ADMISSIBLE.~~

~~(E) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE ADMISSION OR CONSIDERATION OF EVIDENCE UNDER ANY OTHER RULE OR PROVISION OF LAW.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

Article – Criminal Procedure

Subtitle 7. **SEX OFFENDER** Registration **[**of Certain Offenders**]**.

11–701.

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

(b) "Board" means the Sexual Offender Advisory Board.

(c) **[**"Child sexual offender" means a person who:

(1) has been convicted of violating § 3–602 of the Criminal Law Article;

(2) has been convicted of violating any of the provisions of the rape or sexual offense statutes under §§ 3–303 through 3–307 of the Criminal Law Article for a crime involving a child under the age of 15 years;

(3) has been convicted of violating the fourth degree sexual offense statute under § 3–308 of the Criminal Law Article for a crime involving a child under the age of 15 years and has been ordered by the court to register under this subtitle;

(4) has been convicted in another state or in a federal, military, or Native American tribal court of a crime that, if committed in this State, would constitute one of the crimes listed in items (1) and (2) of this subsection; or

(5) (i) has been adjudicated delinquent for an act involving a victim under the age of 15 years that would constitute a violation of § 3–303, § 3–304, § 3–305, or § 3–306 of the Criminal Law Article if committed by an adult; and

(ii) meets the requirements for registration under § 11–704(c) of this subtitle.

(d)**]** "Commission" means the Maryland Parole Commission.

[(e)**] (D)** "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.

[(f)**] (E)** "Extended parole supervision offender" means a person who:

(1) is a sexually violent predator;

(2) has been convicted of a violation of § 3–303, § 3–304, § 3–305, § 3–306(a)(1) or (2), or § 3–307(a)(1) or (2) of the Criminal Law Article;

(3) has been convicted of a violation of § 3–309, § 3–310, or § 3–311 of the Criminal Law Article or an attempt to commit a violation of § 3–306(a)(1) or (2) of the Criminal Law Article;

(4) has been convicted of a violation of § 3–602 of the Criminal Law Article for commission of a sexual act involving penetration of a child under the age of 12 years; or

(5) has been convicted more than once of a crime as a **[**child sexual offender, an offender, or a sexually violent offender**] TIER I SEX OFFENDER, TIER II SEX OFFENDER, OR TIER III SEX OFFENDER**.

(F) (1) "HABITUALLY LIVES" MEANS ANY PLACE WHERE A PERSON LIVES ~~OR SLEEPS~~, *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.

(G) "HOMELESS" MEANS HAVING NO FIXED RESIDENCE.

(H) "IMPRISONMENT" MEANS INCARCERATION PURSUANT TO A CONVICTION, REGARDLESS OF THE NATURE OF THE INSTITUTION IN WHICH THE OFFENDER SERVES THE SENTENCE.

(I) "JURISDICTION" MEANS A STATE OR A NATIVE AMERICAN TRIBE THAT ELECTS TO FUNCTION AS A REGISTRATION JURISDICTION UNDER FEDERAL LAW.

[(g)**] (J)** "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.

[(h) "Offender" means a person who is ordered by a court to register under this subtitle and who:

(1) has been convicted of violating § 3–503 of the Criminal Law Article;

(2) has been convicted of violating § 3–502 of the Criminal Law Article or the fourth degree sexual offense statute under § 3–308 of the Criminal Law Article, if the victim is under the age of 18 years;

(3) has been convicted of the common law crime of false imprisonment, if the victim is under the age of 18 years and the person is not the victim's parent;

(4) has been convicted of a crime that involves soliciting a person under the age of 18 years to engage in sexual conduct;

(5) has been convicted of violating the child pornography statute under § 11–207 of the Criminal Law Article;

(6) has been convicted of violating any of the prostitution and related crimes statutes under Title 11, Subtitle 3 of the Criminal Law Article if the intended prostitute or victim is under the age of 18 years;

(7) has been convicted of a crime that involves conduct that by its nature is a sexual offense against a person under the age of 18 years;

(8) has been convicted of an attempt to commit a crime listed in items (1) through (7) of this subsection; or

(9) has been convicted in another state or in a federal, military, or Native American tribal court of a crime that, if committed in this State, would constitute one of the crimes listed in items (1) through (8) of this subsection.**]**

[(i)**] (K)** (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 offender" means a person who:

(1) has been convicted of a sexually violent offense;

(2) has been convicted of an attempt to commit a sexually violent offense; or

(3) (i) has been adjudicated delinquent for an act involving a victim 15 years of age or older that would constitute a violation of § 3–303, § 3–304, § 3–305, or § 3–306 of the Criminal Law Article if committed by an adult; and

(ii) meets the requirements for registration under § 11–704(c) of this subtitle.**]**

[(k)**] (L)** "Sexually violent offense" means:

(1) a violation of §§ 3–303 through 3–307 or §§ 3–309 through 3–312 of the Criminal Law Article;

(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 **[**state or in a federal, military, or Native American tribal jurisdiction**] 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.

[(l)**] (M)** "Sexually violent predator" means**[**:

(1)**]** a person who:

[(i)**] (1)** is convicted of a sexually violent offense; and

[(ii)**] (2)** has been determined in accordance with this subtitle to be at risk of committing another sexually violent offense**[**; or

(2) a person who is or was required to register every 90 days for life under the laws of another state or a federal, military, or Native American tribal jurisdiction**]**.

(N) "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 WHEN 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.

(O) "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.

[(m)**] (P)** "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 (12) 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 and Mental Hygiene, if the registrant is in the custody of a facility operated by the Department of Health and Mental Hygiene;

(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 **[**Secretary, if the registrant moves to this State and was convicted in another state of a crime that would require the registrant to register if the crime was committed in this State**] 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 Secretary, if the registrant moves to this State from another state where the registrant was required to register;

(10) the Secretary, if the registrant is convicted in a federal, military, or Native American tribal court and is not under supervision by another supervising authority;

(11) the Secretary, if the registrant is not a resident of this State and has been convicted in another state or by a federal, military, or Native American tribal court;

(12)**] (9)** the Director of Parole and Probation, if the registrant is under the supervision of the Division of Parole and Probation; or

[(13)**] (10)** the Secretary of Juvenile Services, if the registrant was a minor at the time the act was committed for which registration is required.

(Q) "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~~, IF THE VICTIM IS AN ADULT~~;

(2) CONSPIRING TO COMMIT, ATTEMPTING TO COMMIT, OR COMMITTING A VIOLATION OF § 3–902 OR § 11–208 OF THE CRIMINAL LAW ARTICLE ~~OR THE COMMON LAW OFFENSE OF INDECENT EXPOSURE~~, 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. § 2252C;

(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.

(R) "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) OF THE CRIMINAL LAW ARTICLE, OR ~~§ 3–308(B) OR (C),~~ ~~§ 3–324,~~ ~~§ 3–314,~~ § 3–324, § 11–207, OR § 11–209 OF THE CRIMINAL LAW ARTICLE, IF THE VICTIM IS A MINOR;

(2) CONSPIRING TO COMMIT, ATTEMPTING TO COMMIT, OR COMMITTING A VIOLATION OF § 11–303, § 11–305, OR § 11–306 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 ~~§ 3–308(B)(1) OR (C), § 3–314,~~ § 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;

~~(4)~~ *(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

~~(5)~~ *(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.

(S) "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(4)(VIII),~~ *§ 2–201(A)(4)(VIII),* (X), OR (XI) OF THE CRIMINAL LAW ARTICLE; ~~OR~~

(II) § 3–303, § 3–304, § 3–305, § 3–306, § 3–307(A)(1) OR (2), § 3–309, § 3–310, § 3–311, § 3–312, § 3–315, ~~§ 3–322,~~ § 3–323, § 3–502, OR § 3–602 OF THE CRIMINAL LAW ARTICLE~~, OR THE COMMON LAW OFFENSE OF SODOMY;~~; OR

(III) THE COMMON LAW OFFENSE OF SODOMY OR § 3–322 OF THE CRIMINAL LAW ARTICLE IF THE OFFENSE WAS COMMITTED WITH FORCE OR THREAT OF FORCE;

(2) CONSPIRING TO COMMIT, ATTEMPTING TO COMMIT, OR COMMITTING A VIOLATION OF § 3–307(A)(3), ~~§ 3–308,~~ § 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) ~~CONSPIRING TO COMMIT, ATTEMPTING TO COMMIT, OR COMMITTING A VIOLATION OF § 3–202 OR § 3–203 OF THE CRIMINAL LAW ARTICLE, IF THE PERSON IS CHARGED WITH A VIOLATION OF § 3–303, § 3–304, § 3–305, OR § 3–306 OF THE CRIMINAL LAW ARTICLE ARISING OUT OF THE SAME INCIDENT;~~

~~(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 ~~(4)~~ (3) OF THIS SUBSECTION; OR

~~(6)~~ ~~(5)~~ *(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 ~~(4)~~ (3) OF THIS SUBSECTION.

[(n)**] (T)** "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, [except as provided in subsection (b) of this section,] this subtitle shall be applied retroactively to include a [registrant convicted of an offense committed before July 1, 1997, and who is under the custody or supervision of a supervising authority on October 1, 2001] TIER I SEX OFFENDER RELEASED AFTER OCTOBER 1, 1993, FOR A CRIME REQUIRING REGISTRATION UNDER THIS SUBTITLE.~~

~~(b) Notwithstanding any other provision of law to the contrary, this subtitle shall be applied retroactively to a [child sexual offender who committed the sexual offense on or before October 1, 1995, and who is under the custody or supervision of a supervising authority on October 1, 2001] TIER II SEX OFFENDER RELEASED AFTER OCTOBER 1, 1984.~~

~~(c) [(1) Notwithstanding any other provision of law to the contrary, this subtitle shall be applied retroactively to include:~~

~~(i) a person convicted on or after July 1, 1997, of an offense committed before July 1, 1997, for which registration as a sexually violent predator or sexually violent offender is required under this subtitle; and~~

~~(ii) a person convicted on or after October 1, 1995, of an offense committed before October 1, 1995, for which registration as a child sexual offender is~~

~~required under this subtitle.~~**]** ~~**NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THIS SUBTITLE SHALL BE APPLIED RETROACTIVELY TO ALL TIER III SEX OFFENDERS.**~~

~~**[**(2)**] (D)** The Department shall **ATTEMPT TO** contact and notify each person **[**who is not under the custody or supervision of a supervising authority on October 1, 2009,**]** for whom registration is required under **[**paragraph (1) of this subsection**]** **THIS SECTION.**~~

(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; OR

(3) IS CONVICTED OF ANY CRIME 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.

~~**(E)**~~ ***(B)*** **THE TERM OF REGISTRATION FOR A SEX OFFENDER REGISTERED UNDER SUBSECTION (A)** ~~**OR (B)**~~ **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) **[**Subject to subsection (c) of this section, a**] A** person shall register with the person's supervising authority if the person is:

(1) **[**a child sexual offender**] A TIER I SEX OFFENDER**;

(2) **[**an offender**] A TIER II SEX OFFENDER**;

(3) **[**a sexually violent offender**] A TIER III SEX OFFENDER**; **OR**

(4) **[**a sexually violent predator;

(5) a child sexual offender who, before moving into this State, was required to register in another state or by a federal, military, or Native American tribal court for a crime that occurred before October 1, 1995;

(6) an offender, sexually violent offender, or sexually violent predator who, before moving into this State, was required to register in another state or by a federal, military, or Native American tribal court for a crime that occurred before July 1, 1997; or

(7) a child sexual offender, offender, sexually violent offender, or sexually violent predator**] A SEX OFFENDER** who is required to register **[**in**] BY** another **[**state,**] 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;

[(ii)**] (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

[(iii)**] (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 ~~described under § 11–701(e)(5)(i) of this subtitle, or a person described under § 11–701(j)(3)(i) of this subtitle~~ **WHO HAS BEEN ADJUDICATED DELINQUENT FOR AN ACT THAT, IF COMMITTED BY AN ADULT, WOULD CONSTITUTE A VIOLATION OF § 3–303, § 3–304, § 3–305, OR § 3–306 OF THE CRIMINAL LAW ARTICLE, OR § 3–307(A)(1) OR (2) OR § 3–308(B)(1) OF THE CRIMINAL LAW ARTICLE INVOLVING CONDUCT DESCRIBED IN § 3–301(F)(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 ~~child sexual~~ **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 and Judicial Proceedings 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 PERSON WHO IS UNDER THE AGE OF 18 AT THE TIME THE PERSON COMMITS AN OFFENSE THAT REQUIRES REGISTRATION AS A TIER I SEX OFFENDER, TIER II SEX OFFENDER, OR TIER III SEX OFFENDER MUST REGISTER IF:~~

~~(1) CRIMINAL JURISDICTION OVER THE PERSON HAS BEEN WAIVED TO AN ADULT COURT AND THE PERSON HAS BEEN CONVICTED AS REQUIRED BY THIS SUBTITLE;~~

~~(2) THE PERSON IS AT LEAST 14 YEARS OLD AND HAS BEEN ADJUDICATED DELINQUENT FOR A VIOLATION OF § 3–303, § 3–304, § 3–305, OR § 3–306 OF THE CRIMINAL LAW ARTICLE; OR~~

~~(3) THE PERSON IS AT LEAST 14 YEARS OLD AND HAS BEEN ADJUDICATED DELINQUENT FOR A VIOLATION OF § 3–307(A)(1) OR § 3–307(A)(2) OF THE CRIMINAL LAW ARTICLE, IF THE VICTIM IS A CHILD UNDER THE AGE OF 12.~~

(A) A PERSON SHALL BE INCLUDED IN A LISTING 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, WOULD CONSTITUTE A VIOLATION OF § 3–303, § 3–304, § 3–305, OR § 3–306 OF THE CRIMINAL LAW ARTICLE, OR § 3–307(A)(1) OR (2) OR § 3–308(B)(1) OF THE CRIMINAL LAW ARTICLE INVOLVING CONDUCT DESCRIBED IN § 3–301(F)(2) OF THE CRIMINAL LAW ARTICLE; AND

(2) THE PERSON WAS A MINOR WHO WAS AT LEAST 13 YEARS OLD AT THE TIME THE DELINQUENT ACT WAS COMMITTED.

(B) THE LISTING OF JUVENILE SEX OFFENDERS SHALL BE ACCESSIBLE ONLY BY LAW ENFORCEMENT PERSONNEL FOR LAW ENFORCEMENT PURPOSES.

(C) WHEN THE JUVENILE COURT'S JURISDICTION OVER A PERSON WHO IS INCLUDED IN THE LISTING OF JUVENILE SEX OFFENDERS TERMINATES UNDER § 3–8A–07 OF THE COURTS ARTICLE, THE PERSON SHALL BE REMOVED FROM THE LISTING.

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 **[**lives**]** **HAS A HOME OR** ~~AN~~ **OTHER PLACE** ~~THAT~~ ***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; ~~OR~~

(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 is a resident, on or**] 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 released;**]**

[(ii)**] (I)** is granted probation before judgment;

[(iii)**] (II)** is granted probation after judgment;

[(iv)**] (III)** is granted a suspended sentence; or

[(v)**] (IV)** receives a sentence that does not include a term of imprisonment;

~~[~~ ~~(2)~~ ***(3)*** if the registrant was a resident who was a minor at the time the act was committed for which registration is required, within ~~7~~ ***3*** days after the juvenile court's jurisdiction over the person terminates under § 3–8A–07 of the Courts Article;~~]~~

~~(3)~~ ***(4)*** if the registrant moves into the State, within **[**7**] 3** days after the earlier of the date that the registrant:

(i) establishes a temporary or permanent residence in the State; **[**or**]**

(ii) **BEGINS TO HABITUALLY LIVE IN THE STATE; OR**

(III) applies for a driver's license in the State; or

~~(4)~~ ***(5)*** if the registrant is not a resident, within **[**14**] 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 **[**child sexual**]** **SEX** offender shall also register in person with the local law enforcement unit of ~~the~~ **EACH** county where the **[**child sexual**]** **SEX** offender **[**will reside**]** **RESIDES WITHIN 3 DAYS OF**:

(i) **[**within 7 days after release, or within 7 days after the juvenile court's jurisdiction over the person terminates under § 3–8A–07 of the Courts Article, if the child sexual offender is a resident**]** **RELEASE FROM ANY PERIOD OF IMPRISONMENT OR ARREST**; or

(ii) **[**within 7 days**]** ~~after~~ 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) **[**Within 7 days after registering with the supervising authority, a child sexual offender who is not a resident and has entered the State under § 11–704(a)(7) of this subtitle shall also register in person with the local law enforcement unit of the county where the child sexual offender is a transient or will work or attend school.

(3) A child sexual offender**]** **A SEX OFFENDER** may be required to give to ~~the~~ ~~A~~ ***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 ~~THE~~ 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 ~~24 HOURS~~ 3 DAYS AFTER ENTERING AND REMAINING IN A COUNTY.

(2) AFTER INITIALLY REGISTERING WITH ~~THE~~ 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) **[**A**]** **WITHIN 3 DAYS OF ANY CHANGE,** A registrant **[**who changes residences shall send written notice of the change to the State registry within 5 days after the change occurs.**]** **SHALL NOTIFY THE LOCAL LAW ENFORCEMENT UNIT WHERE THE REGISTRANT MOST RECENTLY REGISTERED AND ~~THE~~ 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.

[(e)**]** **(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 **[**send written notice to the State registry**]** **PROVIDE NOTICE IN PERSON TO THE LOCAL LAW ENFORCEMENT UNIT WHERE THE INSTITUTION OF HIGHER EDUCATION IS LOCATED** within **[**5**]** **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 **[**send written notice to the State registry**]** **PROVIDE NOTICE IN PERSON TO THE LOCAL LAW ENFORCEMENT UNIT WHERE THE INSTITUTION OF HIGHER EDUCATION IS LOCATED** within **[**5**]** **3** days after the commencement or termination of employment.

[(f)**]** **(G)** A registrant who is granted a legal change of name by a court shall send written notice of the change to ~~the~~ **EACH** **[**State registry**]** **LOCAL LAW ENFORCEMENT UNIT WHERE THE REGISTRANT RESIDES OR HABITUALLY LIVES** within **[**5**]** **3** days after the change is granted.

(H) A REGISTRANT SHALL NOTIFY ~~THE~~ EACH LOCAL LAW ENFORCEMENT UNIT WHERE THE REGISTRANT RESIDES OR HABITUALLY LIVES AT LEAST 3 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 ~~THE~~ 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 ~~7~~ *5* DAYS OR WHEN THE REGISTRANT WILL BE ABSENT FROM THE REGISTRANT'S RESIDENCE OR ~~A~~ 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 ~~THE~~ 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 ~~LOCATION~~ 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) **[**A**] FOR ALL SEX OFFENDERS IN THE STATE, A** registration statement shall include:

(1) the registrant's full name, including any suffix, and ~~address OR PLACE~~ **ALL ADDRESSES AND PLACES WHERE THE REGISTRANT RESIDES OR HABITUALLY LIVES**;

(2) **[**(i) for a registrant under § 11–704(a)(7)(i) of this subtitle or who is on work release, the registrant's place of employment; or**] THE NAME AND ADDRESS OF *EACH OF* THE REGISTRANT'S ~~EMPLOYER~~ *EMPLOYERS* AND A DESCRIPTION OF ~~THE~~ *EACH* LOCATION WHERE THE REGISTRANT PERFORMS EMPLOYMENT DUTIES, IF THAT LOCATION DIFFERS FROM THE ADDRESS OF THE EMPLOYER;**

[(ii) for a registrant under § 11–704(a)(7)(ii) of this subtitle, the registrant's place of educational institution or school enrollment;**]**

(3) **[**(i) for a registrant enrolled, or expecting to enroll, in an institution of higher education in the State as a full–time or part–time student, the name and address of the institution of higher education; or

(ii) for a registrant who carries on employment, or expects to carry on employment, at an institution of higher education in the State, the name and address of the institution of higher education**] 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, ~~OR~~ PURPORTED DATES OF BIRTH, AND PLACE OF BIRTH**;

(9) **[**any other name by which the registrant has been legally known**]** ~~ANY~~ *ALL* **IDENTIFYING FACTORS, INCLUDING A PHYSICAL DESCRIPTION**;

(10) **[**a copy of the registrant's valid driver's license or identification card;**] A COPY OF THE REGISTRANT'S PASSPORT OR IMMIGRATION PAPERS;**

(11) INFORMATION REGARDING ANY PROFESSIONAL LICENSES THE REGISTRANT HOLDS;

[(11)**] (12)** the license plate number ~~**OR**~~**, REGISTRATION NUMBER,** and description of any vehicle**, INCLUDING ALL MOTOR VEHICLES, BOATS, AND AIRCRAFT,** owned or regularly operated by the registrant; **[**and**]**

(13) THE PERMANENT OR FREQUENT ~~**ADDRESS**~~ ***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**~~**, LANDLINE TELEPHONE NUMBERS, AND CELL PHONE NUMBERS**~~**;**

(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 ~~**DATE**~~ ***DATES*** **OF ALL ARRESTS AND CONVICTIONS, THE STATUS OF PAROLE, PROBATION, OR SUPERVISED RELEASE,** ~~**REGISTRATION STATUS,**~~ **AND THE EXISTENCE OF ANY OUTSTANDING ARREST WARRANTS; AND**

[(12)**] (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) **[**identifying factors, including a physical description;

(2)**]** anticipated future residence, if known at the time of registration; **AND**

[(3) offense history; and**]**

[(4)**] (2)** documentation of treatment received for a mental abnormality or personality disorder.

11–707.

(a) (1) (i) A [child sexual] **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 [photograph] **DIGITAL IMAGE** that shall be updated every 6 months.

(2) (i) [An offender and a sexually violent] **A TIER III SEX** offender shall register in person every [6] **3** months with a local law enforcement unit for the term provided under paragraph (4) of this subsection.

(ii) Registration shall include a [photograph] **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)(ii)] **(4)** of this subsection.

(ii) Registration shall include a [photograph] **DIGITAL IMAGE** that shall be updated every 6 months.

(4) [The] **SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE** term of registration is:

(i) [except as provided in items (ii) and (iii) of this paragraph, 10 years] **15 YEARS, IF THE REGISTRANT IS A TIER I SEX OFFENDER**;

(II) 25 YEARS, IF THE REGISTRANT IS A TIER II SEX OFFENDER; ~~OR~~

[(ii)] **(III)** [except as provided in item (iii) of this paragraph,] the life of the registrant, if[:

1. the registrant is a sexually violent predator;

2. the registrant has been convicted of a sexually violent offense;

3. the registrant has been convicted of a violation of § 3–602 of the Criminal Law Article for commission of a sexual act involving penetration of a child under the age of 12 years; or

4. the registrant has been convicted of a prior crime as a child sexual offender, an offender, or a sexually violent offender; or] **THE REGISTRANT IS A TIER III SEX OFFENDER~~,~~*; OR***

~~[(iii)~~ ***(IV)*** up to 5 years, if the registrant is a person described under § ~~11–701(c)(5)(i) of this subtitle or a person described under § 11–701(j)(3)(i)~~ ***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; ~~OR~~

(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) ~~(1)~~ 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:

~~(I)~~ *(1)* IS NOT CONVICTED OF ANY OFFENSE FOR WHICH A TERM OF IMPRISONMENT OF MORE THAN 1 YEAR MAY BE IMPOSED;

~~(II)~~ *(2)* IS NOT CONVICTED OF ANY SEX OFFENSE;

~~(III)~~ *(3)* SUCCESSFULLY COMPLETES, WITHOUT REVOCATION, ANY PERIOD OF SUPERVISED RELEASE, PAROLE, OR PROBATION; AND

~~(IV)~~ *(4)* SUCCESSFULLY COMPLETES AN APPROPRIATE SEX OFFENDER TREATMENT PROGRAM ~~CERTIFIED BY THE STATE~~.

~~(2) THE TERM OF REGISTRATION FOR A REGISTRANT CONVICTED OF A TIER III SEX OFFENSE, WHO WAS REQUIRED TO REGISTER ON THE BASIS OF A JUVENILE ADJUDICATION, SHALL BE REDUCED TO 25 YEARS IF, IN THE 25 YEARS FOLLOWING THE DATE ON WHICH THE REGISTRANT WAS REQUIRED TO REGISTER, THE REGISTRANT:~~

~~(I) IS NOT CONVICTED OF ANY OFFENSE FOR WHICH A TERM OF IMPRISONMENT OF MORE THAN 1 YEAR MAY BE IMPOSED;~~

~~(II) IS NOT CONVICTED OF ANY SEX OFFENSE;~~

~~(III) SUCCESSFULLY COMPLETES, WITHOUT REVOCATION, ANY PERIOD OF SUPERVISED RELEASE, PAROLE, OR PROBATION; AND~~

~~(IV) SUCCESSFULLY COMPLETES AN APPROPRIATE SEX OFFENDER TREATMENT PROGRAM CERTIFIED BY THE STATE.~~

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(e) and (f)**] § 11–705** of this subtitle;

(iii) the requirement for a **[**child sexual**] SEX** offender to register in person with the local law enforcement unit of ~~the~~ **EACH** county where the **[**child sexual**] SEX** offender will reside **OR HABITUALLY LIVE** or where the **[**child sexual**] 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 **[**7**] 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 **[**photograph and fingerprints**]** **DIGITAL IMAGE, FINGERPRINTS, AND PALM PRINTS** of the registrant and **[**attach**]** **FORWARD** the updated **[**photograph and fingerprints**]** **DIGITAL IMAGE, FINGERPRINTS, AND PALM PRINTS** to the **[**registration statement**]** **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.

[(3) This subsection does not apply if the registrant is required to register under § 11–704 of this subtitle solely as a result of a misdemeanor conviction.**]**

(c) (1) Within **[**5**]** **3** days after obtaining a registration statement, the supervising authority shall send a copy of the registration statement with the attached fingerprints **[**and updated photograph**]**, **PALM PRINTS, AND UPDATED DIGITAL IMAGE** of the registrant to the local law enforcement unit in ~~the~~ **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 **[**5**]** **3** days after obtaining a registration statement, the supervising authority shall send a copy of the registration statement with the attached fingerprints **[**and updated photograph**]**, **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 **[**and updated photograph**]**, **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 **[**5**]** **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) **[**Every 3 months within 5**] 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 **[**5**] 3** days after a **[**child sexual offender**] 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 **[**child sexual offender's**] TIER I SEX OFFENDER'S OR ~~A~~ TIER II SEX OFFENDER'S** biannual registration to the Department.

(2) Every 6 months, a local law enforcement unit shall send a **[**child sexual**] TIER III SEX** offender's and sexually violent predator's updated **[**photograph**] DIGITAL IMAGE** to the Department within 6 days after the **[**photograph**] DIGITAL IMAGE** is submitted.

(b) (1) As soon as possible but not later than **[**5**] 3** working days after receiving a registration statement of a **[**child sexual offender or**] SEX OFFENDER,** notice of a change of address of a **[**child sexual**] SEX** offender, **OR CHANGE IN ~~THE~~ A COUNTY IN WHICH A HOMELESS SEX OFFENDER HABITUALLY LIVES,** a local law enforcement unit shall send written notice of the registration statement **[**or**],** 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 **[**child sexual**] SEX** offender is to reside **OR HABITUALLY LIVE** or where a **[**child sexual**] 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 **[**child sexual**] 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 **[**5**] 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 ~~the~~ **EACH** local police precinct or district in which the **[**child sexual**] SEX** offender is to reside **OR HABITUALLY LIVE** or where a **[**child sexual**] SEX** offender who is not a resident of the State will work or attend school.

(e) As soon as possible but not later than **[**5**] 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 ~~the~~ **EACH** district or area in which the **[**child sexual**] SEX** offender is to reside **OR HABITUALLY LIVE** or where a **[**child sexual**] 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 **[**child sexual**] SEX** offender is to reside **OR HABITUALLY LIVE** or where a **[**child sexual**] 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 **[**child sexual**] SEX** offender:

(1) family day care homes or child care centers registered **[**or licensed**], 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 **[**child sexual**] 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~~ ~~A~~ *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, ~~THE~~ A COUNTY IN WHICH THE REGISTRANT HABITUALLY LIVES, VEHICLE OR LICENSE PLATE INFORMATION, ELECTRONIC MAIL OR INTERNET IDENTIFIERS, OR ~~HOME OR CELL~~ *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 ~~LOCATION~~ LOCATIONS WHERE THE REGISTRANT HABITUALLY LIVES.

11–710.

(a) As soon as possible but not later than **[**5**] 3** working days after receipt of notice of a registrant's change of address, **~~THE~~ A COUNTY IN WHICH ~~THE~~ A REGISTRANT HABITUALLY LIVES, VEHICLE OR LICENSE PLATE INFORMATION, ELECTRONIC MAIL OR INTERNET IDENTIFIERS, OR ~~HOME OR CELL~~ *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; **[**and**]**

(2) **TO ANY OTHER JURISDICTION OR FOREIGN COUNTRY WHERE THE SEX OFFENDER IS REQUIRED TO REGISTER; AND**

(3) (i) to ~~the~~ **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** ~~A~~ **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 **[**5**] 3** working days after receipt of notice under **[**§ 11–705(e)**] § 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 **[**agency**] UNIT** having primary **[**jurisdiction**] 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 **[**5**] 3** working days after receipt of notice under **[**§ 11–705(f)**] § 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 ~~the~~ **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 **[**agency**] 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) ~~the~~ **EACH** local law enforcement unit **[**in the jurisdiction**]** 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) ~~the~~ **EACH** local law enforcement unit **[**in the jurisdiction**]** 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 **[**5**] 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 reimburse local law enforcement units for the cost of processing the registration statements of registrants, including the cost of taking fingerprints **[**and photographs**], PALM PRINTS, AND DIGITAL IMAGES**; **[**and**]**

(4) shall reimburse local law enforcement units for the reasonable costs of implementing community notification procedures**;**

(5) SHALL BE RESPONSIBLE FOR RECEIVING AND DISTRIBUTING ALL INTRASTATE, FEDERAL, AND FOREIGN GOVERNMENT COMMUNICATIONS RELATING TO THE REGISTRATION OF SEX OFFENDERS; AND

(6) 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 **[**photograph**] DIGITAL IMAGE**, but need not include the fingerprints **OR PALM PRINTS** of the registrant.

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 ~~may~~ **SHALL** post on the Internet**:**

(1) a current listing of each registrant's name~~, crime,~~ 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 ~~the~~ **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 ~~**OR THROUGH THE NATIONAL CRIME PREVENTION AND PRIVACY COMPACT UNDER TITLE 10, SUBTITLE 2, PART V OF THIS ARTICLE**~~.

(d) The Department shall allow members of the public who live in ~~the~~ **A** county in which ~~the~~ ***A*** registrant is to reside **OR HABITUALLY** ~~**LIVES**~~ **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 ~~a~~ ***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 **[**or**]**, a change of address of the registrant**, OR A CHANGE IN** ~~**THE**~~ **A COUNTY IN WHICH THE REGISTRANT HABITUALLY** ~~**RESIDES**~~ **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.

11–721.

(a) A registrant may not knowingly fail to register, knowingly fail to provide the **[**written**]** notice required under § **[**11–705(d), (e), or (f)**] 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.

~~SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~**Article – Criminal Procedure**~~

~~11–701.~~

[(i)**]** ~~**(K)**~~ ~~(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~~**;** ~~**AND**~~

~~**(VII) RELEASE FROM THE CUSTODY OF THE SECRETARY OF HEALTH AND MENTAL HYGIENE.**~~

~~(3) "Release" does not include:~~

~~(i) an escape; or~~

~~(ii) leave that is granted on an emergency basis.~~

~~11–723.~~

~~(a) Except where a term of natural life without the possibility of parole is imposed, a sentence for an extended parole supervision offender shall include a term of extended sexual offender parole supervision.~~

~~(b) The term of extended sexual offender parole supervision for a defendant sentenced on or after August 1, 2006, shall:~~

~~(1) be a minimum of 3 years to a maximum of a term of life; and~~

~~(2) commence on the expiration of the later of any term of imprisonment, probation, parole, [or] mandatory supervision, OR COMMITMENT TO A FACILITY OWNED AND OPERATED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE IN ACCORDANCE WITH § 10–641 OF THE HEALTH – GENERAL ARTICLE.~~

~~**Article – Health – General**~~

~~1–101.~~

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

~~(c) "Department" means the Department of Health and Mental Hygiene.~~

~~(k) "Secretary" means the Secretary of Health and Mental Hygiene.~~

~~10–101.~~

~~(c) (1) Except as otherwise provided in this title, "facility" means any public or private clinic, hospital, or other institution that provides or purports to provide treatment or other services for individuals who have mental disorders.~~

~~(2) "Facility" does not include a Veterans' Administration hospital.~~

~~(h) "State facility" means a facility that is owned or operated by the Department.~~

~~**10–634. RESERVED.**~~

~~**10–635. RESERVED.**~~

~~**PART VI. SEXUALLY VIOLENT OFFENDER IN NEED OF COMMITMENT.**~~

~~**10–636.**~~

~~**(A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**~~

~~**(B) "COMMISSIONER" MEANS THE COMMISSIONER OF CORRECTION OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.**~~

~~(C) "COMMITTED PERSON" MEANS A PERSON WHO HAS BEEN FOUND TO BE A SEXUALLY VIOLENT OFFENDER IN NEED OF COMMITMENT UNDER § 10–638 OF THIS SUBTITLE AND HAS BEEN COMMITTED TO A STATE FACILITY.~~

~~(D) "MENTAL ABNORMALITY" MEANS A CONGENITAL OR ACQUIRED CONDITION THAT AFFECTS EMOTIONAL OR VOLITIONAL CAPACITY TO PREDISPOSE A PERSON TO COMMIT A SEXUALLY VIOLENT OFFENSE IN A DEGREE THAT MAKES THE PERSON A MENACE TO THE HEALTH AND SAFETY OF OTHERS.~~

~~(E) "PREDATORY ACT" MEANS AN ACT DIRECTED TOWARD:~~

~~(1) A STRANGER; OR~~

~~(2) AN INDIVIDUAL WITH WHOM A RELATIONSHIP HAS BEEN ESTABLISHED OR PROMOTED FOR THE PRIMARY PURPOSE OF VICTIMIZATION.~~

~~(F) "SEXUALLY VIOLENT OFFENDER IN NEED OF COMMITMENT" MEANS AN INDIVIDUAL WHO HAS COMMITTED A SEXUALLY VIOLENT OFFENSE AND WHO IS PLACED IN THE CUSTODY OF THE SECRETARY IN ACCORDANCE WITH § 10–643 OF THIS SUBTITLE.~~

~~(G) "SEXUALLY VIOLENT OFFENSE" HAS THE MEANING STATED IN § 11–701(L) OF THE CRIMINAL PROCEDURE ARTICLE.~~

~~10–637.~~

~~(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE COMMISSIONER SHALL GIVE WRITTEN NOTICE TO THE ATTORNEY GENERAL AT LEAST 90 DAYS BEFORE THE ANTICIPATED RELEASE FROM A CORRECTIONAL FACILITY OF A PERSON WHO HAS BEEN CONVICTED OF A SEXUALLY VIOLENT OFFENSE.~~

~~(B) IF A PERSON IS RETURNED TO A CORRECTIONAL FACILITY FOR NOT MORE THAN 90 DAYS AS A RESULT OF REVOCATION OF POSTRELEASE SUPERVISION, THE COMMISSIONER SHALL GIVE WRITTEN NOTICE AS SOON AS PRACTICABLE.~~

~~10–638.~~

~~A PERSON IS A SEXUALLY VIOLENT OFFENDER IN NEED OF COMMITMENT IF THE PERSON:~~

~~(1) HAS BEEN CONVICTED OF A SEXUALLY VIOLENT OFFENSE; AND~~

~~(2) SUFFERS FROM A MENTAL ABNORMALITY OR PERSONALITY DISORDER, AS DETERMINED UNDER § 10–639 OF THIS SUBTITLE, THAT MAKES THE PERSON LIKELY TO ENGAGE IN A PREDATORY ACT INVOLVING A SEXUALLY VIOLENT OFFENSE.~~

~~10–639.~~

~~(A) THE ATTORNEY GENERAL SHALL DETERMINE WHETHER A PERSON ABOUT WHOM THE COMMISSIONER GIVES NOTICE UNDER § 10–637 OF THIS SUBTITLE MEETS THE CRITERIA OF A SEXUALLY VIOLENT OFFENDER IN NEED OF COMMITMENT.~~

~~(B) TO MAKE THIS DETERMINATION, THE ATTORNEY GENERAL SHALL RECEIVE RECOMMENDATIONS FROM:~~

~~(1) A REVIEW COMMITTEE OF PROSECUTORS, TO BE APPOINTED BY THE ATTORNEY GENERAL; AND~~

~~(2) A MULTIDISCIPLINARY TEAM, TO BE APPOINTED BY THE COMMISSIONER FROM REPRESENTATIVES OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE AND THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.~~

~~10–640.~~

~~THE COMMISSIONER, EMPLOYEES AND OFFICIALS OF THE DIVISION OF CORRECTION, MEMBERS AND STAFF OF THE MULTIDISCIPLINARY TEAM AND THE REVIEW COMMITTEE OF PROSECUTORS, AND PERSONS WHO CONTRACT OR VOLUNTEER FOR SERVICES ARE NOT CIVILLY LIABLE FOR ACTS PERFORMED IN GOOD FAITH IN CARRYING OUT THIS PART.~~

~~10–641.~~

~~(A) WITHIN 75 DAYS AFTER THE ATTORNEY GENERAL RECEIVES WRITTEN NOTICE FROM THE COMMISSIONER UNDER § 10–637 OF THIS SUBTITLE, THE ATTORNEY GENERAL MAY PETITION THE CIRCUIT COURT TO FIND THAT PROBABLE CAUSE EXISTS TO BELIEVE THAT THE PERSON NAMED IN THE PETITION IS A SEXUALLY VIOLENT OFFENDER IN NEED OF COMMITMENT.~~

~~(B) IF THE COURT FINDS PROBABLE CAUSE EXISTS, THE COURT SHALL:~~

~~(1) DIRECT THAT THE PERSON BE TAKEN INTO THE CUSTODY OF THE SECRETARY; AND~~

~~(2) CONDUCT A TRIAL WITHIN 60 DAYS AFTER THE DATE OF THE PROBABLE CAUSE HEARING TO DETERMINE THE STATUS OF THE PERSON AS A SEXUALLY VIOLENT OFFENDER IN NEED OF COMMITMENT.~~

~~(C) THE PERSON NAMED IN THE PETITION SHALL BE ENTITLED TO BE REPRESENTED BY COUNSEL, TO PRESENT EVIDENCE, TO CROSS-EXAMINE WITNESSES, AND TO VIEW AND COPY ALL PETITIONS AND REPORTS IN THE COURT FILE.~~

~~10–642.~~

~~(A) THE RULES OF EVIDENCE SHALL APPLY TO A TRIAL HELD UNDER THIS SECTION.~~

~~(B) IF THE PERSON NAMED IN THE PETITION IS INDIGENT, THE COURT SHALL APPOINT COUNSEL.~~

~~(C) (1) A PERSON NAMED IN THE PETITION MAY RETAIN AN EXPERT TO PERFORM AN EXAMINATION.~~

~~(2) IF A PERSON NAMED IN THE PETITION WISHES TO BE EXAMINED BY AN EXPERT OR OTHER INDIVIDUAL CHOSEN BY THE PERSON, THE EXAMINER SHALL BE ALLOWED TO HAVE REASONABLE ACCESS TO THE PERSON AS WELL AS TO RELEVANT MEDICAL AND PSYCHOLOGICAL RECORDS AND REPORTS.~~

~~(3) THE COURT SHALL ASSIST AN INDIGENT PERSON TO OBTAIN AN EXPERT OR OTHER INDIVIDUAL TO PERFORM AN EXAMINATION OR PARTICIPATE IN THE TRIAL ON BEHALF OF THE PERSON IF THE COURT DETERMINES THE SERVICES ARE NECESSARY AND THE REQUESTED COMPENSATION FOR THE SERVICES IS REASONABLE.~~

~~(D) THE PERSON NAMED IN THE PETITION, THE ATTORNEY GENERAL, AND THE JUDGE ARE ENTITLED TO DEMAND THAT THE TRIAL BE BEFORE A JURY.~~

~~(E) AT A TRIAL UNDER THIS SECTION, THE STATE HAS THE BURDEN OF PROVING BEYOND A REASONABLE DOUBT THAT THE PERSON NAMED IN THE PETITION IS A SEXUALLY VIOLENT OFFENDER IN NEED OF COMMITMENT.~~

~~10–643.~~

~~IF THE COURT OR JURY DETERMINES THAT A PERSON IS A SEXUALLY VIOLENT OFFENDER IN NEED OF COMMITMENT, THE PERSON SHALL BE PLACED IN THE CUSTODY OF THE SECRETARY FOR CONTROL, CARE, AND TREATMENT AT A STATE FACILITY UNTIL THE MENTAL ABNORMALITY OR PERSONALITY DISORDER OF THE PERSON HAS SO CHANGED THAT THE PERSON IS NOT LIKELY TO ENGAGE IN A PREDATORY ACT INVOLVING A SEXUALLY VIOLENT OFFENSE IF RELEASED.~~

~~10–644.~~

~~(A) (1) A COMMITTED PERSON IS SUBJECT TO AN ANNUAL MENTAL EXAMINATION IN A STATE FACILITY.~~

~~(2) AN OFFICIAL DESIGNATED BY THE PERSON IN CHARGE OF THE STATE FACILITY SHALL COMPLETE A REPORT OF THE MENTAL EXAMINATION AND SHALL FILE A COPY OF THE REPORT WITH THE COURT THAT ORDERED THE COMMITTED PERSON TO A STATE FACILITY UNDER THIS PART.~~

~~(B) THE COURT SHALL CONDUCT AN ANNUAL STATUS REVIEW HEARING FOR EACH COMMITTED PERSON.~~

~~(C) A COMMITTED PERSON SHALL BE ENTITLED TO PETITION THE COURT FOR DISCHARGE AT THE ANNUAL STATUS REVIEW HEARING OF THE COMMITTED PERSON.~~

~~(D) (1) THE SECRETARY SHALL PROVIDE THE COMMITTED PERSON WITH AN ANNUAL WRITTEN NOTICE OF THE RIGHT OF THE COMMITTED PERSON TO PETITION THE COURT FOR RELEASE.~~

~~(2) THE SECRETARY SHALL FORWARD THE NOTICE TO THE COURT WITH THE ANNUAL REPORT.~~

~~(3) THE COMMITTED PERSON IS ENTITLED TO AN ATTORNEY TO REPRESENT THE COMMITTED PERSON AT THE ANNUAL STATUS REVIEW HEARING, BUT THE COMMITTED PERSON IS NOT ENTITLED TO BE PRESENT AT THE HEARING.~~

~~10–645.~~

~~(A) (1) THE COURT SHALL SET A RELEASE HEARING IF THE COURT AT THE ANNUAL STATUS REVIEW HEARING DETERMINES THAT PROBABLE CAUSE EXISTS TO BELIEVE THAT THE MENTAL ABNORMALITY OR PERSONALITY DISORDER OF THE COMMITTED PERSON HAS CHANGED SO THAT THE~~

~~COMMITTED PERSON IS NOT LIKELY TO ENGAGE IN A PREDATORY ACT INVOLVING A SEXUALLY VIOLENT OFFENSE IF RELEASED.~~

~~(2) AT THE RELEASE HEARING, THE COMMITTED PERSON IS ENTITLED TO BE PRESENT AND TO USE ALL OF THE PROTECTIONS, INCLUDING THE USE OF EXPERT WITNESSES, THAT WERE AVAILABLE AT THE INITIAL HEARING UNDER § 10–642 OF THIS SUBTITLE.~~

~~(3) THE ATTORNEY GENERAL:~~

~~(I) SHALL REPRESENT THE STATE AT THE RELEASE HEARING;~~

~~(II) MAY REQUEST A JURY TRIAL; AND~~

~~(III) MAY REQUEST THAT THE COMMITTED PERSON BE EVALUATED BY EXPERTS CHOSEN BY THE STATE.~~

~~(4) THE STATE HAS THE BURDEN OF PROVING BEYOND A REASONABLE DOUBT THAT THE MENTAL ABNORMALITY OR PERSONALITY DISORDER OF THE COMMITTED PERSON REMAINS SO SEVERE AS TO MAKE THE COMMITTED PERSON LIKELY TO ENGAGE IN A PREDATORY ACT INVOLVING A SEXUALLY VIOLENT OFFENSE IF RELEASED.~~

~~(B) THE COURT SHALL RELEASE A COMMITTED PERSON FROM CUSTODY IF THE COURT FINDS AT A RELEASE HEARING THAT THE STATE HAS NOT PROVEN BEYOND A REASONABLE DOUBT THAT THE COMMITTED PERSON IS NOT SAFE TO BE AT LARGE OR IS LIKELY TO ENGAGE IN A PREDATORY ACT INVOLVING A SEXUALLY VIOLENT OFFENSE IF RELEASED.~~

~~10–646.~~

~~THIS PART DOES NOT AFFECT THE OPERATION OF TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any prosecution commenced before the effective date of this Act.~~

SECTION 2. AND BE IT FURTHER ENACTED, That on or before December 31, 2010, the Department of Public Safety and Correctional Services shall adopt regulations to implement the listing of juvenile sex offenders in accordance with this Act, including a definition of "law enforcement personnel" who are authorized to access the listing.

SECTION ~~2.~~ ~~5.~~ *3.* AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

~~SECTION 6. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect October 1, 2011, contingent on the Governor providing full funding for the civil commitment provisions of this Act beginning with the 2012 fiscal year and, if funding is not provided, Section 3 of this Act shall be null and void without the necessity of further action by the General Assembly.~~

SECTION ~~3.~~ ~~7.~~ *4.* AND BE IT FURTHER ENACTED, That~~, except as provided in Section 6 of this Act,~~ this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 175

(House Bill 936)

AN ACT concerning

~~Criminal Procedure~~ *Crimes* – Sex Offenders – Notification ~~and~~, Registration, *and Penalties*

FOR the purpose of *increasing the maximum and mandatory minimum penalties for a person convicted of rape in the second degree of a child under the age of 13 years; increasing the maximum and mandatory minimum penalties for a person convicted of sexual offense in the second degree against a child under the age of 13 years;* altering certain requirements relating to the registration of individuals who have committed certain offenses on a certain registry; altering the offenses for which a person can be required to register on a certain registry for committing, attempting to commit, or conspiring to commit; requiring certain persons to register on a certain registry if they have been convicted of certain crimes in certain countries; ~~altering the requirements for registration on a certain registry for a certain person granted probation before judgment;~~ providing that certain requirements for a person to register on a certain registry are to be applied retroactively under certain circumstances; providing for the calculation of a certain term of registration; altering certain requirements for persons under a certain age to register on a certain registry under certain circumstances; requiring a certain person to be included in a certain listing of juvenile sex offenders; specifying that a certain listing of juvenile sex offenders

shall be accessible only by law enforcement personnel for law enforcement purposes; requiring a certain person to be removed from a certain listing of juvenile sex offenders at a certain time; establishing that certain individuals who are under the protection of certain witness protection programs are exempt from certain registration requirements; altering certain time periods relating to certain registration, notice, and reporting requirements; requiring certain sex offenders to register in person with ~~a~~ certain local law enforcement ~~unit~~ units within certain time periods; providing that a certain sex offender may be required to provide certain additional information to a certain local law enforcement unit; establishing that a person is a resident for purposes of a certain offender registry if the person has a home or other place where the person habitually lives located in the State at the time of a certain event; establishing that a certain registrant shall register with a certain supervising authority within a certain period of time after the registrant begins to habitually live in the State; requiring a certain homeless registrant to register in person with a local law enforcement unit within certain time periods; requiring a certain homeless registrant to register with a local law enforcement unit at certain intervals; establishing that certain registration requirements for a homeless registrant are in addition to certain other requirements; requiring a registrant who was homeless and obtains a fixed address to register with a local law enforcement unit within a certain time period; requiring a certain registrant who makes changes in certain identifying information to send a certain notice to a local law enforcement unit within a certain time period; *requiring a certain sexual offender registrant who establishes a new electronic mail address, computer log–in or screen name or identity, instant–message identity, or electronic chat room identity to provide written notice to the sexual offender registry of the new information within a certain period after establishing the new address, name, or identity;* requiring certain notifications by certain registrants to be made by reporting in person; requiring certain registrants to notify a certain local law enforcement unit when the registrant leaves the United States under certain circumstances or temporarily moves; requiring a certain notification to be made in a certain manner; adding to the requirements of a certain registration statement; requiring a certain registrant to provide a digital image instead of a photograph under certain circumstances; requiring a certain registrant to provide a palm print; repealing an exemption from a certain requirement to provide DNA for a certain person convicted of a misdemeanor; altering the terms of registration for certain sex offenders on a certain registry; authorizing ~~certain terms~~ ~~a certain term~~ *certain terms* of registration to be reduced under certain circumstances; requiring a certain notification relating to the registration of a certain sex offender to be sent to certain school superintendents, schools, school principals, police departments, and certain entities relating to children; requiring local law enforcement units to provide certain notifications to the Department of Public Safety and Correctional Services; expanding certain notification requirements relating to the residence of a certain registrant to include ~~the~~ each county where the registrant habitually lives or intends to habitually live; requiring a certain supervising authority to notify ~~the~~ each local law enforcement unit where a

registrant resided or habitually lived in the event of a certain escape or recapture; expanding the authority of a local law enforcement unit to notify entities of the location of a certain sex offender to include notifying child care centers issued a certain letter of compliance; providing that the Department is responsible for receiving and distributing certain communications and notifying certain jurisdictions of certain information; prohibiting certain registration information provided to the public from including certain information; altering a certain provision to require the Department to post certain information about a registrant on the Internet; requiring the Department to post on the Internet, in plain language that can be understood without special knowledge of the criminal laws of the State, a description of the crime of a sex offender registrant, excluding details that would identify the victim; requiring the Department to provide certain information relating to out–of–state registration status on a certain Internet posting; altering a certain prohibition to provide that a registrant may not fail to provide certain notice, whether written or in person; *prohibiting a certain person required to register as a sexual offender from knowingly failing to provide any information required to be included in a registration statement;* requiring the Department~~, in consultation with the Department of State Police,~~ to adopt certain regulations on or before a certain date; providing that certain provisions of this Act are severable under certain circumstances; making certain conforming changes; defining certain terms; altering certain terms; repealing certain terms; and generally relating to sex ~~offender registration~~ *offenders*.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 3–304 and 3–306
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 11–701, ~~11–702,~~ 11–702.1, 11–704 through 11–710, 11–712, 11–713, 11–714, 11–717, 11–718(a), ~~and 11–721~~ *11–721, and 11–723* to be under the amended subtitle "Subtitle 7. Sex Offender Registration"
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Procedure
Section *11–702 and* 11–703
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY adding to
Article – Criminal Procedure
Section 11–704.1 and 11–704.2

Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Criminal Law

3–304.

(a) A person may not engage in vaginal intercourse with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the act is at least 4 years older than the victim.

(b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

(c) (1) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment for not less than ***[****5****] 15*** *years and not exceeding* ***[****20 years****] LIFE****.*

(ii) A court may not suspend any part of the mandatory minimum sentence of ***[****5****] 15*** *years.*

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (d) of this section, the mandatory minimum shall not apply.

(d) If the State intends to seek a sentence of imprisonment for not less than ***[****5****] 15*** *years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.*

3–306.

(a) A person may not engage in a sexual act with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the sexual act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the sexual act is at least 4 years older than the victim.

(b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

(c) (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

*(2) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment for not less than **[**5**]** **15** years and not exceeding **[**20 years**]** **LIFE**.*

*(ii) A court may not suspend any part of the mandatory minimum sentence of **[**5**]** **15** years.*

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (d) of this section, the mandatory minimum shall not apply.

*(d) If the State intends to seek a sentence of imprisonment for not less than **[**5**]** **15** years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.*

Article – Criminal Procedure

Subtitle 7. **SEX OFFENDER** Registration **[**of Certain Offenders**]**.

11–701.

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

(b) "Board" means the Sexual Offender Advisory Board.

(c) **[**"Child sexual offender" means a person who:

(1) has been convicted of violating § 3–602 of the Criminal Law Article;

(2) has been convicted of violating any of the provisions of the rape or sexual offense statutes under §§ 3–303 through 3–307 of the Criminal Law Article for a crime involving a child under the age of 15 years;

(3) has been convicted of violating the fourth degree sexual offense statute under § 3–308 of the Criminal Law Article for a crime involving a child under the age of 15 years and has been ordered by the court to register under this subtitle;

(4) has been convicted in another state or in a federal, military, or Native American tribal court of a crime that, if committed in this State, would constitute one of the crimes listed in items (1) and (2) of this subsection; or

(5) (i) has been adjudicated delinquent for an act involving a victim under the age of 15 years that would constitute a violation of § 3–303, § 3–304, § 3–305, or § 3–306 of the Criminal Law Article if committed by an adult; and

(ii) meets the requirements for registration under § 11–704(c) of this subtitle.

(d)**]** "Commission" means the Maryland Parole Commission.

[(e)**] (D)** "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.

[(f)**] (E)** "Extended parole supervision offender" means a person who:

(1) is a sexually violent predator;

(2) has been convicted of a violation of § 3–303, § 3–304, § 3–305, § 3–306(a)(1) or (2), or § 3–307(a)(1) or (2) of the Criminal Law Article;

(3) has been convicted of a violation of § 3–309, § 3–310, or § 3–311 of the Criminal Law Article or an attempt to commit a violation of § 3–306(a)(1) or (2) of the Criminal Law Article;

(4) has been convicted of a violation of § 3–602 of the Criminal Law Article for commission of a sexual act involving penetration of a child under the age of 12 years; or

(5) has been convicted more than once of a crime as a **[**child sexual offender, an offender, or a sexually violent offender**]** **TIER I SEX OFFENDER, TIER II SEX OFFENDER, OR TIER III SEX OFFENDER**.

(F) (1) "HABITUALLY LIVES" MEANS ANY PLACE WHERE A PERSON LIVES ~~OR~~, 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~~, FOR THE PURPOSE OF LIVING OR SLEEPING~~.

(G) "HOMELESS" MEANS HAVING NO FIXED RESIDENCE.

(H) "IMPRISONMENT" MEANS INCARCERATION PURSUANT TO A CONVICTION, REGARDLESS OF THE NATURE OF THE INSTITUTION IN WHICH THE OFFENDER SERVES THE SENTENCE.

(I) "JURISDICTION" MEANS A STATE OR A NATIVE AMERICAN TRIBE THAT ELECTS TO FUNCTION AS A REGISTRATION JURISDICTION UNDER FEDERAL LAW.

[(g)**]** **(J)** "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.

[(h) "Offender" means a person who is ordered by a court to register under this subtitle and who:

(1) has been convicted of violating § 3–503 of the Criminal Law Article;

(2) has been convicted of violating § 3–502 of the Criminal Law Article or the fourth degree sexual offense statute under § 3–308 of the Criminal Law Article, if the victim is under the age of 18 years;

(3) has been convicted of the common law crime of false imprisonment, if the victim is under the age of 18 years and the person is not the victim's parent;

(4) has been convicted of a crime that involves soliciting a person under the age of 18 years to engage in sexual conduct;

(5) has been convicted of violating the child pornography statute under § 11–207 of the Criminal Law Article;

(6) has been convicted of violating any of the prostitution and related crimes statutes under Title 11, Subtitle 3 of the Criminal Law Article if the intended prostitute or victim is under the age of 18 years;

(7) has been convicted of a crime that involves conduct that by its nature is a sexual offense against a person under the age of 18 years;

(8) has been convicted of an attempt to commit a crime listed in items (1) through (7) of this subsection; or

(9) has been convicted in another state or in a federal, military, or Native American tribal court of a crime that, if committed in this State, would constitute one of the crimes listed in items (1) through (8) of this subsection.**]**

[(i)**] (K)** (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 offender" means a person who:

(1) has been convicted of a sexually violent offense;

(2) has been convicted of an attempt to commit a sexually violent offense; or

(3) (i) has been adjudicated delinquent for an act involving a victim 15 years of age or older that would constitute a violation of § 3–303, § 3–304, § 3–305, or § 3–306 of the Criminal Law Article if committed by an adult; and

(ii) meets the requirements for registration under § 11–704(c) of this subtitle.**]**

[(k)**] (L)** "Sexually violent offense" means:

(1) a violation of §§ 3–303 through 3–307 or §§ 3–309 through 3–312 of the Criminal Law Article;

(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 **[**state or in a federal, military, or Native American tribal jurisdiction**] 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.

[(l)**] (M)** "Sexually violent predator" means**[**:

(1)**]** a person who:

[(i)**] (1)** is convicted of a sexually violent offense; and

[(ii)**] (2)** has been determined in accordance with this subtitle to be at risk of committing another sexually violent offense**[**; or

(2) a person who is or was required to register every 90 days for life under the laws of another state or a federal, military, or Native American tribal jurisdiction**]**.

(N) "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 WHEN 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.

(O) "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.

[(m)**] (P)** "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 (12) 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 and Mental Hygiene, if the registrant is in the custody of a facility operated by the Department of Health and Mental Hygiene;

(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 **[**Secretary, if the registrant moves to this State and was convicted in another state of a crime that would require the registrant to register if the crime was committed in this State**] 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 Secretary, if the registrant moves to this State from another state where the registrant was required to register;

(10) the Secretary, if the registrant is convicted in a federal, military, or Native American tribal court and is not under supervision by another supervising authority;

(11) the Secretary, if the registrant is not a resident of this State and has been convicted in another state or by a federal, military, or Native American tribal court;

(12)**] (9)** the Director of Parole and Probation, if the registrant is under the supervision of the Division of Parole and Probation; or

[(13)**] (10)** the Secretary of Juvenile Services, if the registrant was a minor at the time the act was committed for which registration is required.

(Q) "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~~, IF THE VICTIM IS AN ADULT~~;

(2) CONSPIRING TO COMMIT, ATTEMPTING TO COMMIT, OR COMMITTING A VIOLATION OF § 3–902 OR § 11–208 OF THE CRIMINAL LAW ARTICLE ~~OR THE COMMON LAW OFFENSE OF INDECENT EXPOSURE~~, IF THE VICTIM IS A MINOR;

~~(3) CONSPIRING TO COMMIT, ATTEMPTING TO COMMIT, OR COMMITTING THE COMMON LAW OFFENSE OF INDECENT EXPOSURE, IF THE VICTIM IS A MINOR AND THE COURT MAKES A SPECIFIC FINDING ON THE RECORD THAT THE DEFENDANT'S UNDERLYING INTENT WAS SEXUAL IN NATURE;~~

~~(3)~~ ~~(4)~~ *(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)~~ ~~(1), (2), OR (3)~~ *(1) OR (2)* OF THIS SUBSECTION;

~~(4)~~ ~~(5)~~ *(4)* ANY OF THE FOLLOWING FEDERAL OFFENSES:

(I) MISLEADING DOMAIN NAMES ON THE INTERNET UNDER 18 U.S.C. § 2252C;

(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)~~ ~~(6)~~ *(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)~~ ~~(5)~~ *(4)* OF THIS SUBSECTION; OR

~~(6)~~ ~~(7)~~ *(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)~~ ~~(6)~~ *(5)* OF THIS SUBSECTION.

(R) "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) OF THE CRIMINAL LAW ARTICLE, OR ~~§ 3–308(B) OR (C),~~ § 3–324, § 11–207, OR § 11–209 OF THE CRIMINAL LAW ARTICLE, IF THE VICTIM IS A MINOR;

(2) CONSPIRING TO COMMIT, ATTEMPTING TO COMMIT, OR COMMITTING A VIOLATION OF § 11–303, § 11–305, OR § 11–306 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 ~~§ 3–308(B)(1) OR (C)~~ ~~§ 3–308, § 3–314,~~ *§ 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;

~~(4)~~ (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)~~ ~~(4)~~ *(3)* OF THIS SUBSECTION; OR

~~(5)~~ (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)~~ ~~(4)~~ *(3)* OF THIS SUBSECTION.

(S) "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(4)(VIII)~~ § 2–201(A)(4)(VIII), (X), OR (XI) OF THE CRIMINAL LAW ARTICLE; ~~OR~~

(II) § 3–303, § 3–304, § 3–305, § 3–306, § 3–307(A)(1) OR (2), § 3–309, § 3–310, § 3–311, § 3–312, § 3–315, ~~§ 3–322,~~ § 3–323, § 3–502, OR § 3–602 OF THE CRIMINAL LAW ARTICLE~~, OR THE COMMON LAW OFFENSE OF SODOMY~~; *OR*

(III) THE COMMON LAW OFFENSE OF SODOMY OR § 3–322 OF THE CRIMINAL LAW ARTICLE IF THE OFFENSE WAS COMMITTED WITH FORCE OR THREAT OF FORCE;

(2) CONSPIRING TO COMMIT, ATTEMPTING TO COMMIT, OR COMMITTING A VIOLATION OF § 3–307(A)(3), ~~§ 3–308,~~ § 3–314, ~~§ 3–321, § 3–322,~~ § 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 A VIOLATION OF § 3–202 OR § 3–203 OF THE CRIMINAL LAW ARTICLE, IF THE PERSON IS CHARGED WITH A VIOLATION OF § 3–303, § 3–304, § 3–305, OR § 3–306 OF THE CRIMINAL LAW ARTICLE ARISING OUT OF THE SAME INCIDENT, AND THE COURT MAKES A SPECIFIC FINDING ON THE RECORD THAT THE DEFENDANT'S UNDERLYING INTENT WAS SEXUAL IN NATURE;~~

~~(5)~~ 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)~~ ~~(6)~~ *(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 ~~(4)~~ ~~(5)~~ *(3)* OF THIS SUBSECTION; OR

~~(6)~~ ~~(7)~~ *(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 ~~(4)~~ ~~(5)~~ *(3)* OF THIS SUBSECTION.

[(n)**] (T)** "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, [except as provided in subsection (b) of this section,] this subtitle shall be applied retroactively to include a [registrant convicted of an offense committed before July 1, 1997, and who is under the custody or supervision of a supervising authority on October 1, 2001] TIER I SEX OFFENDER RELEASED AFTER OCTOBER 1, 1993 1995, FOR A CRIME REQUIRING REGISTRATION UNDER THIS SUBTITLE.~~

~~(b) Notwithstanding any other provision of law to the contrary, this subtitle shall be applied retroactively to a [child sexual offender who committed the sexual offense on or before October 1, 1995, and who is under the custody or supervision of a supervising authority on October 1, 2001] TIER II SEX OFFENDER RELEASED AFTER OCTOBER 1, 1984 1985.~~

~~(c) [(1) Notwithstanding any other provision of law to the contrary, this subtitle shall be applied retroactively to include:~~

~~(i) a person convicted on or after July 1, 1997, of an offense committed before July 1, 1997, for which registration as a sexually violent predator or sexually violent offender is required under this subtitle; and~~

~~(ii) a person convicted on or after October 1, 1995, of an offense committed before October 1, 1995, for which registration as a child sexual offender is~~

~~required under this subtitle.~~**]** ~~**NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THIS SUBTITLE SHALL BE APPLIED RETROACTIVELY TO ALL TIER III SEX OFFENDERS.**~~

~~**[**(2)**] (D)** The Department shall **ATTEMPT TO** contact and notify each person **[**who is not under the custody or supervision of a supervising authority on October 1, 2009,**]** for whom registration is required under **[**paragraph (1) of this subsection**]** **THIS SECTION.**~~

(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; OR

(3) IS CONVICTED OF ANY CRIME 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.

~~**(E)**~~ ***(B)*** **THE TERM OF REGISTRATION FOR A SEX OFFENDER REGISTERED UNDER SUBSECTION (A)** ~~**OR (B)**~~ **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) **[**Subject to subsection (c) of this section, a**]** **A** person shall register with the person's supervising authority if the person is:

(1) **[**a child sexual offender**]** **A TIER I SEX OFFENDER**;

(2) **[**an offender**]** **A TIER II SEX OFFENDER**;

(3) **[**a sexually violent offender**]** **A TIER III SEX OFFENDER**; **OR**

(4) **[**a sexually violent predator;

(5) a child sexual offender who, before moving into this State, was required to register in another state or by a federal, military, or Native American tribal court for a crime that occurred before October 1, 1995;

(6) an offender, sexually violent offender, or sexually violent predator who, before moving into this State, was required to register in another state or by a federal, military, or Native American tribal court for a crime that occurred before July 1, 1997; or

(7) a child sexual offender, offender, sexually violent offender, or sexually violent predator**]** **A SEX OFFENDER** who is required to register **[**in**]** **BY** another **[**state,**]** **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;

[(ii)**]** **(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

[(iii)**]** **(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 ~~described under § 11–701(e)(5)(i) of this subtitle, or a person described under § 11–701(j)(3)(i) of this subtitle~~ **WHO HAS BEEN ADJUDICATED DELINQUENT FOR AN ACT THAT, IF COMMITTED BY AN ADULT, WOULD CONSTITUTE A VIOLATION OF § 3–303, § 3–304, § 3–305, OR § 3–306 OF THE CRIMINAL LAW ARTICLE, OR § 3–307(A)(1) OR (2) OR § 3–308(B)(1) OF THE CRIMINAL LAW ARTICLE INVOLVING CONDUCT DESCRIBED IN § 3–301(F)(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 ~~child sexual~~ **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 and Judicial Proceedings 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 PERSON WHO IS UNDER THE AGE OF 18 AT THE TIME THE PERSON COMMITS AN OFFENSE THAT REQUIRES REGISTRATION AS A TIER I SEX OFFENDER, TIER II SEX OFFENDER, OR TIER III SEX OFFENDER MUST REGISTER IF:~~

~~(1) CRIMINAL JURISDICTION OVER THE PERSON HAS BEEN WAIVED TO AN ADULT COURT AND THE PERSON HAS BEEN CONVICTED AS REQUIRED BY THIS SUBTITLE;~~

~~(2) THE PERSON IS AT LEAST 14 YEARS OLD AND HAS BEEN ADJUDICATED DELINQUENT FOR A VIOLATION OF § 3–303, § 3–304, § 3–305, OR § 3–306 OF THE CRIMINAL LAW ARTICLE; OR~~

~~(3) THE PERSON IS AT LEAST 14 YEARS OLD AND HAS BEEN ADJUDICATED DELINQUENT FOR A VIOLATION OF § 3–307(A)(1) OR § 3–307(A)(2) OF THE CRIMINAL LAW ARTICLE, IF THE VICTIM IS A CHILD UNDER THE AGE OF 12.~~

(A) A PERSON SHALL BE INCLUDED IN A LISTING 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, WOULD CONSTITUTE A VIOLATION OF § 3–303, § 3–304, § 3–305, OR § 3–306 OF THE CRIMINAL LAW ARTICLE, OR § 3–307(A)(1) OR (2) OR § 3–308(B)(1) OF THE CRIMINAL LAW ARTICLE INVOLVING CONDUCT DESCRIBED IN § 3–301(F)(2) OF THE CRIMINAL LAW ARTICLE; AND

(2) THE PERSON WAS A MINOR WHO WAS AT LEAST 13 YEARS OLD AT THE TIME THE DELINQUENT ACT WAS COMMITTED.

(B) THE LISTING OF JUVENILE SEX OFFENDERS SHALL BE ACCESSIBLE ONLY BY LAW ENFORCEMENT PERSONNEL FOR LAW ENFORCEMENT PURPOSES.

(C) WHEN THE JUVENILE COURT'S JURISDICTION OVER A PERSON WHO IS INCLUDED IN THE LISTING OF JUVENILE SEX OFFENDERS TERMINATES UNDER § 3–8A–07 OF THE COURTS ARTICLE, THE PERSON SHALL BE REMOVED FROM THE LISTING.

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 **[**lives**]** **HAS A HOME OR** ~~AN~~ **OTHER PLACE** ~~THAT~~ **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; ~~OR~~

(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 is a resident, on or**] 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 released;**]**

[(ii)**] (I)** is granted probation before judgment;

[(iii)**] (II)** is granted probation after judgment;

[(iv)**] (III)** is granted a suspended sentence; or

[(v)**] (IV)** receives a sentence that does not include a term of imprisonment;

~~[(2)~~ ***(3)*** if the registrant was a resident who was a minor at the time the act was committed for which registration is required, within ~~7~~ **3** days after the juvenile court's jurisdiction over the person terminates under § 3–8A–07 of the Courts Article;~~]~~

~~(3)~~ ***(4)*** if the registrant moves into the State, within **[**7**] 3** days after the earlier of the date that the registrant:

(i) establishes a temporary or permanent residence in the State; **[**or**]**

(ii) **BEGINS TO HABITUALLY LIVE IN THE STATE; OR**

(III) applies for a driver's license in the State; or

~~(4)~~ ***(5)*** if the registrant is not a resident, within **[**14**] 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 **[**child sexual**]** **SEX** offender shall also register in person with the local law enforcement unit of ~~the~~ **EACH** county where the **[**child sexual**]** **SEX** offender **[**will reside**]** **RESIDES WITHIN 3 DAYS OF**:

(i) **[**within 7 days after release, or within 7 days after the juvenile court's jurisdiction over the person terminates under § 3–8A–07 of the Courts Article, if the child sexual offender is a resident**]** **RELEASE FROM ANY PERIOD OF IMPRISONMENT OR ARREST**; or

(ii) **[**within 7 days**]** ~~after~~ 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) **[**Within 7 days after registering with the supervising authority, a child sexual offender who is not a resident and has entered the State under § 11–704(a)(7) of this subtitle shall also register in person with the local law enforcement unit of the county where the child sexual offender is a transient or will work or attend school.

(3) A child sexual offender**]** **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 ~~THE~~ 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 ~~24 HOURS~~ *3 DAYS* AFTER ENTERING AND REMAINING IN A COUNTY.

(2) AFTER INITIALLY REGISTERING WITH ~~THE~~ *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) [A] **WITHIN 3 DAYS OF ANY CHANGE, A** registrant [who changes residences shall send written notice of the change to the State registry within 5 days after the change occurs.] **SHALL NOTIFY THE LOCAL LAW ENFORCEMENT UNIT WHERE THE REGISTRANT MOST RECENTLY REGISTERED AND ~~THE~~ *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.

[(e)] **(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 [send written notice to the State registry] **PROVIDE NOTICE IN PERSON TO THE LOCAL LAW ENFORCEMENT UNIT WHERE THE INSTITUTION OF HIGHER EDUCATION IS LOCATED** within [5] **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 [send written notice to the State registry] **PROVIDE NOTICE IN PERSON TO THE LOCAL LAW ENFORCEMENT UNIT WHERE THE INSTITUTION OF HIGHER EDUCATION IS LOCATED** within [5] **3** days after the commencement or termination of employment.

[(f)] **(G)** A registrant who is granted a legal change of name by a court shall send written notice of the change to ~~the~~ ***EACH*** [State registry] **LOCAL LAW ENFORCEMENT UNIT WHERE THE REGISTRANT RESIDES OR HABITUALLY LIVES** within [5] **3** days after the change is granted.

(H) A REGISTRANT SHALL NOTIFY ~~THE~~ *EACH* LOCAL LAW ENFORCEMENT UNIT WHERE THE REGISTRANT RESIDES OR HABITUALLY LIVES AT LEAST 3 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 ~~THE~~ *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 ~~7~~ 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 ~~THE~~ *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 ~~LOCATION~~ *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) **[**A**] FOR ALL SEX OFFENDERS IN THE STATE, A** registration statement shall include:

(1) the registrant's full name, including any suffix, and ~~address OR PLACE~~ ALL ADDRESSES AND PLACES **WHERE THE REGISTRANT RESIDES OR HABITUALLY LIVES**;

(2) **[**(i) for a registrant under § 11–704(a)(7)(i) of this subtitle or who is on work release, the registrant's place of employment; or**] THE NAME AND ADDRESS OF** EACH OF **THE REGISTRANT'S** ~~EMPLOYER~~ EMPLOYERS **AND A DESCRIPTION OF** ~~THE~~ EACH **LOCATION WHERE THE REGISTRANT PERFORMS EMPLOYMENT DUTIES, IF THAT LOCATION DIFFERS FROM THE ADDRESS OF THE EMPLOYER;**

[(ii) for a registrant under § 11–704(a)(7)(ii) of this subtitle, the registrant's place of educational institution or school enrollment;**]**

(3) **[**(i) for a registrant enrolled, or expecting to enroll, in an institution of higher education in the State as a full–time or part–time student, the name and address of the institution of higher education; or

(ii) for a registrant who carries on employment, or expects to carry on employment, at an institution of higher education in the State, the name and address of the institution of higher education**] 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,** ~~OR~~ **PURPORTED DATES OF BIRTH, AND PLACE OF BIRTH**;

(9) **[**any other name by which the registrant has been legally known**]** ~~ANY~~ ALL **IDENTIFYING FACTORS, INCLUDING A PHYSICAL DESCRIPTION**;

(10) **[**a copy of the registrant's valid driver's license or identification card;**] A COPY OF THE REGISTRANT'S PASSPORT OR IMMIGRATION PAPERS;**

(11) INFORMATION REGARDING ANY PROFESSIONAL LICENSES THE REGISTRANT HOLDS;

[(11)**] (12)** the license plate ~~number OR REGISTRATION NUMBER~~ **NUMBER, REGISTRATION NUMBER,** and description of any vehicle**, INCLUDING ALL MOTOR VEHICLES, BOATS, AND AIRCRAFT,** owned or regularly operated by the registrant; **[**and**]**

(13) THE PERMANENT OR FREQUENT ~~**ADDRESS**~~ **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~~**, LANDLINE TELEPHONE NUMBERS, AND CELL PHONE NUMBERS**~~**;**

(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** ~~**DATE**~~ **DATES OF ALL ARRESTS AND CONVICTIONS, THE STATUS OF PAROLE, PROBATION, OR SUPERVISED RELEASE,** ~~**REGISTRATION STATUS,**~~ **AND THE EXISTENCE OF ANY OUTSTANDING ARREST WARRANTS; AND**

[(12)**] (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) **[**identifying factors, including a physical description;

(2)**]** anticipated future residence, if known at the time of registration; **AND**

[(3) offense history; and**]**

[(4)**] (2)** documentation of treatment received for a mental abnormality or personality disorder.

11–707.

(a) (1) (i) A [child sexual] **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 [photograph] **DIGITAL IMAGE** that shall be updated every 6 months.

(2) (i) [An offender and a sexually violent] **A TIER III SEX** offender shall register in person every [6] **3** months with a local law enforcement unit for the term provided under paragraph (4) of this subsection.

(ii) Registration shall include a [photograph] **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)(ii)] **(4)** of this subsection.

(ii) Registration shall include a [photograph] **DIGITAL IMAGE** that shall be updated every 6 months.

(4) [The] **SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE** term of registration is:

(i) [except as provided in items (ii) and (iii) of this paragraph, 10 years] **15 YEARS, IF THE REGISTRANT IS A TIER I SEX OFFENDER**;

(II) 25 YEARS, IF THE REGISTRANT IS A TIER II SEX OFFENDER; ~~OR~~

[(ii)] **(III)** [except as provided in item (iii) of this paragraph,] the life of the registrant, if[:

1. the registrant is a sexually violent predator;

2. the registrant has been convicted of a sexually violent offense;

3. the registrant has been convicted of a violation of § 3–602 of the Criminal Law Article for commission of a sexual act involving penetration of a child under the age of 12 years; or

4. the registrant has been convicted of a prior crime as a child sexual offender, an offender, or a sexually violent offender; or**]** **THE REGISTRANT IS A TIER III SEX OFFENDER~~.~~; OR**

[~~(iii)~~ (IV) up to 5 years, if the registrant is a person described under § ~~11–701(c)(5)(i) of this subtitle or a person described under § 11–701(j)(3)(i)~~ **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; ~~OR~~

(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) ~~(1)~~ **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:**

~~(I)~~ **(1) IS NOT CONVICTED OF ANY OFFENSE FOR WHICH A TERM OF IMPRISONMENT OF MORE THAN 1 YEAR MAY BE IMPOSED;**

~~(II)~~ **(2) IS NOT CONVICTED OF ANY SEX OFFENSE;**

~~(III)~~ **(3) SUCCESSFULLY COMPLETES, WITHOUT REVOCATION, ANY PERIOD OF SUPERVISED RELEASE, PAROLE, OR PROBATION; AND**

~~(IV)~~ **(4) SUCCESSFULLY COMPLETES AN APPROPRIATE SEX OFFENDER TREATMENT PROGRAM ~~CERTIFIED BY THE STATE~~.**

~~**(2) THE TERM OF REGISTRATION FOR A REGISTRANT CONVICTED OF A TIER III SEX OFFENSE, WHO WAS REQUIRED TO REGISTER ON THE BASIS OF A JUVENILE ADJUDICATION, SHALL BE REDUCED TO 25 YEARS IF, IN THE 25**~~

~~YEARS FOLLOWING THE DATE ON WHICH THE REGISTRANT WAS REQUIRED TO REGISTER, THE REGISTRANT:~~

~~(I) IS NOT CONVICTED OF ANY OFFENSE FOR WHICH A TERM OF IMPRISONMENT OF MORE THAN 1 YEAR MAY BE IMPOSED;~~

~~(II) IS NOT CONVICTED OF ANY SEX OFFENSE;~~

~~(III) SUCCESSFULLY COMPLETES, WITHOUT REVOCATION, ANY PERIOD OF SUPERVISED RELEASE, PAROLE, OR PROBATION; AND~~

~~(IV) SUCCESSFULLY COMPLETES AN APPROPRIATE SEX OFFENDER TREATMENT PROGRAM CERTIFIED BY THE STATE.~~

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(e) and (f)**] § 11–705** of this subtitle;

(iii) the requirement for a **[**child sexual**] SEX** offender to register in person with the local law enforcement unit of ~~the~~ ***EACH*** county where the **[**child sexual**] SEX** offender will reside ***OR HABITUALLY LIVE*** or where the **[**child sexual**] 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 **[**7**] 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 **[**photograph and fingerprints**]** **DIGITAL IMAGE, FINGERPRINTS, AND PALM PRINTS** of the registrant and **[**attach**]** **FORWARD** the updated **[**photograph and fingerprints**]** **DIGITAL IMAGE, FINGERPRINTS, AND PALM PRINTS** to the **[**registration statement**]** **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.

[(3) This subsection does not apply if the registrant is required to register under § 11–704 of this subtitle solely as a result of a misdemeanor conviction.**]**

(c) (1) Within **[**5**]** **3** days after obtaining a registration statement, the supervising authority shall send a copy of the registration statement with the attached fingerprints **[**and updated photograph**]**, **PALM PRINTS, AND UPDATED DIGITAL IMAGE** of the registrant to the local law enforcement unit in ~~the~~ **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 **[**5**]** **3** days after obtaining a registration statement, the supervising authority shall send a copy of the registration statement with the attached fingerprints **[**and updated photograph**]**, **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 **[**and updated photograph**]**, **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 **[**5**] 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) **[**Every 3 months within 5**] 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 **[**5**] 3** days after a **[**child sexual offender**] 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 **[**child sexual offender's**] TIER I SEX OFFENDER'S OR ~~A~~ TIER II SEX OFFENDER'S** biannual registration to the Department.

(2) Every 6 months, a local law enforcement unit shall send a **[**child sexual**] TIER III SEX** offender's and sexually violent predator's updated **[**photograph**] DIGITAL IMAGE** to the Department within 6 days after the **[**photograph**] DIGITAL IMAGE** is submitted.

(b) (1) As soon as possible but not later than **[**5**] 3** working days after receiving a registration statement of a **[**child sexual offender or**] SEX OFFENDER,** notice of a change of address of a **[**child sexual**] SEX** offender, **OR CHANGE IN ~~THE~~ *A* COUNTY IN WHICH A HOMELESS SEX OFFENDER HABITUALLY LIVES,** a local law enforcement unit shall send written notice of the registration statement **[**or**],** 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 **[**child sexual**] SEX** offender is to reside **OR HABITUALLY LIVE** or where a **[**child sexual**] 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 **[**child sexual**] 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 **[**5**] 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 ~~the~~ ***EACH*** local police precinct or district in which the **[**child sexual**] SEX** offender is to reside **OR HABITUALLY LIVE** or where a **[**child sexual**] SEX** offender who is not a resident of the State will work or attend school.

(e) As soon as possible but not later than **[**5**] 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 ~~the~~ ***EACH*** district or area in which the **[**child sexual**] SEX** offender is to reside **OR HABITUALLY LIVE** or where a **[**child sexual**] 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 **[**child sexual**] SEX** offender is to reside **OR HABITUALLY LIVE** or where a **[**child sexual**] 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 **[**child sexual**] SEX** offender:

(1) family day care homes or child care centers registered **[**or licensed**], 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 **[**child sexual**] 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, ~~THE~~ *A* COUNTY IN WHICH THE REGISTRANT HABITUALLY LIVES, VEHICLE OR LICENSE PLATE INFORMATION, ELECTRONIC MAIL OR INTERNET IDENTIFIERS, OR ~~HOME OR CELL~~ 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 ~~LOCATION~~ LOCATIONS WHERE THE REGISTRANT HABITUALLY LIVES.

11–710.

(a) As soon as possible but not later than **[**5**] 3** working days after receipt of notice of a registrant's change of address, ~~THE~~ *A* **COUNTY IN WHICH ~~THE~~ *A* REGISTRANT HABITUALLY LIVES, VEHICLE OR LICENSE PLATE INFORMATION, ELECTRONIC MAIL OR INTERNET IDENTIFIERS, OR ~~HOME OR CELL~~ 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; **[**and**]**

(2) **TO ANY OTHER JURISDICTION OR FOREIGN COUNTRY WHERE THE SEX OFFENDER IS REQUIRED TO REGISTER; AND**

(3) (i) to ~~the~~ ***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 **[**5**] 3** working days after receipt of notice under **[**§ 11–705(e)**] § 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 **[**agency**] UNIT** having primary **[**jurisdiction**] 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 **[**5**] 3** working days after receipt of notice under **[**§ 11–705(f)**] § 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 ~~the~~ **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 **[**agency**]** **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) ~~the~~ **EACH** local law enforcement unit **[**in the jurisdiction**]** 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) ~~the~~ **EACH** local law enforcement unit **[**in the jurisdiction**]** 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 **[**5**]** **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 reimburse local law enforcement units for the cost of processing the registration statements of registrants, including the cost of taking fingerprints **[**and photographs**]**, **PALM PRINTS, AND DIGITAL IMAGES**; **[**and**]**

(4) shall reimburse local law enforcement units for the reasonable costs of implementing community notification procedures**;**

(5) SHALL BE RESPONSIBLE FOR RECEIVING AND DISTRIBUTING ALL INTRASTATE, FEDERAL, AND FOREIGN GOVERNMENT COMMUNICATIONS RELATING TO THE REGISTRATION OF SEX OFFENDERS; AND

(6) 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 **[**photograph**] DIGITAL IMAGE**, but need not include the fingerprints **OR PALM PRINTS** of the registrant.

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 ~~may~~ **SHALL** post on the Internet**:**

(1) a current listing of each registrant's name~~, crime,~~ 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 ~~the~~ ***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 ~~**OR THROUGH THE NATIONAL CRIME PREVENTION AND PRIVACY COMPACT UNDER TITLE 10, SUBTITLE 2, PART V OF THIS ARTICLE**~~.

(d) The Department shall allow members of the public who live in ~~the~~ A county in which ~~the~~ A registrant is to reside **OR HABITUALLY** ~~**LIVES**~~ **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 ~~a~~ **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 **[**or**],** a change of address of the registrant**, OR A CHANGE IN** ~~**THE**~~ ***A*** **COUNTY IN WHICH THE REGISTRANT HABITUALLY** ~~**RESIDES**~~ ***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.

11–721.

(a) A registrant may not knowingly fail to register, knowingly fail to provide the **[**written**]** notice required under § **[**11–705(d), (e), or (f)**] 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.

SECTION 2. AND BE IT FURTHER ENACTED, That on or before December 31, 2010, the Department of Public Safety and Correctional Services~~, in consultation with the Department of State Police,~~ shall adopt regulations to implement the listing of juvenile sex offenders in accordance with this Act, including a definition of "law enforcement personnel" who are authorized to access the listing.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 176

(Senate Bill 280)

AN ACT concerning

Criminal Procedure – Sexual Offenders – Lifetime Supervision

FOR the purpose of repealing the requirement that the Maryland Parole Commission administer extended sexual offender parole supervision; adding certain hearings related to lifetime sexual offender supervision to the list of subsequent proceedings for which the State's Attorney is required to provide a certain notice to a certain victim or victim's representative; altering certain provisions relating to extended sexual offender supervision of certain offenders; altering the term for certain extended sexual offender supervision; requiring a sentence for certain persons to include a term of lifetime sexual offender supervision;

authorizing a sentence for certain persons to include a term of lifetime sexual offender supervision; altering the term of lifetime sexual offender supervision; establishing that lifetime sexual offender supervision is imposed on a defendant for a crime *or act* committed on or after a certain date; requiring a certain sentencing court *or juvenile court* to impose certain conditions of lifetime sexual offender supervision and to advise certain persons of the conditions of lifetime sexual offender supervision; requiring the sentencing court *or juvenile court* to order a presentence investigation under certain circumstances; requiring the sentencing court to order a certain risk assessment under certain circumstances; authorizing a certain sentencing court *or juvenile court* to adjust certain conditions of lifetime sexual offender supervision under certain circumstances; establishing a certain offense and penalty for violation of lifetime sexual offender supervision; authorizing certain procedures for violations of lifetime sexual offender supervision; ~~requiring certain judges to hear certain violations and certain petitions;~~ ~~authorizing~~ prohibiting a certain sentencing court ~~to deny~~ from denying a certain petition under certain circumstances; providing for the discharge of certain persons from lifetime sexual offender supervision under certain circumstances; requiring a certain sentencing court to hear and adjudicate certain petitions; altering the composition of a certain sexual offender management team; requiring certain progress reports of a certain sexual offender management team; authorizing the Department of Public Safety and Correctional Services to adopt certain regulations; making a certain technical correction; deleting certain terms; making certain conforming changes; and generally relating to sexual offender supervision.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 7–206
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section ~~11–701~~ 11–503, 11–701, and 11–723 through 11–726
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Correctional Services

7–206.

The Commission shall:

(1) evaluate information on the activities of parolees that the Division of Parole and Probation reports;

(2) issue warrants or delegate to the Director of the Division of Parole and Probation the authority to issue warrants to retake parolees who are charged with violating a condition of parole;

(3) review and make recommendations to the Governor:

(i) concerning parole of an inmate under a sentence of life imprisonment; and

(ii) if requested by the Governor, concerning a pardon, commutation of sentence, or other clemency;

(4) establish and modify general policy governing the conduct of parolees; **AND**

(5) arrange for psychiatric or psychological examination of applicants for parole whenever the Commission believes that an examination will better enable it to decide on the advisability of parole and include the expense for the examination in its annual budget**[**; and

(6) administer extended sexual offender parole supervision under Title 11, Subtitle 7 of the Criminal Procedure Article**]**.

Article – Criminal Procedure

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; **[**and**]**

(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(e) of this title if:

(1) before the State's Attorney distributes notification request forms under § 11–104(c) 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(c) of this title, the victim or victim's representative submits a notification request form in accordance with § 11–104(d) 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.

11–701.

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

(b) "Board" means the Sexual Offender Advisory Board.

(c) "Child sexual offender" means a person who:

(1) has been convicted of violating § 3–602 of the Criminal Law Article;

(2) has been convicted of violating any of the provisions of the rape or sexual offense statutes under §§ 3–303 through 3–307 of the Criminal Law Article for a crime involving a child under the age of 15 years;

(3) has been convicted of violating the fourth degree sexual offense statute under § 3–308 of the Criminal Law Article for a crime involving a child under the age of 15 years and has been ordered by the court to register under this subtitle;

(4) has been convicted in another state or in a federal, military, or Native American tribal court of a crime that, if committed in this State, would constitute one of the crimes listed in items (1) and (2) of this subsection; or

(5) (i) has been adjudicated delinquent for an act involving a victim under the age of 15 years that would constitute a violation of § 3–303, § 3–304, § 3–305, or § 3–306 of the Criminal Law Article if committed by an adult; and

(ii) meets the requirements for registration under § 11–704(c) of this subtitle.

(d) **[**"Commission" means the Maryland Parole Commission.

(e)**]** "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.

[(f) "Extended parole supervision offender" means a person who:

(1) is a sexually violent predator;

(2) has been convicted of a violation of § 3–303, § 3–304, § 3–305, § 3–306(a)(1) or (2), or § 3–307(a)(1) or (2) of the Criminal Law Article;

(3) has been convicted of a violation of § 3–309, § 3–310, or § 3–311 of the Criminal Law Article or an attempt to commit a violation of § 3–306(a)(1) or (2) of the Criminal Law Article;

(4) has been convicted of a violation of § 3–602 of the Criminal Law Article for commission of a sexual act involving penetration of a child under the age of 12 years; or

(5) has been convicted more than once of a crime as a child sexual offender, an offender, or a sexually violent offender.**]**

[(g)**] (E)** "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.

[(h)**] (F)** "Offender" means a person who is ordered by a court to register under this subtitle and who:

(1) has been convicted of violating § 3–503 of the Criminal Law Article;

(2) has been convicted of violating § 3–502 of the Criminal Law Article or the fourth degree sexual offense statute under § 3–308 of the Criminal Law Article, if the victim is under the age of 18 years;

(3) has been convicted of the common law crime of false imprisonment, if the victim is under the age of 18 years and the person is not the victim's parent;

(4) has been convicted of a crime that involves soliciting a person under the age of 18 years to engage in sexual conduct;

(5) has been convicted of violating the child pornography statute under § 11–207 of the Criminal Law Article;

(6) has been convicted of violating any of the prostitution and related crimes statutes under Title 11, Subtitle 3 of the Criminal Law Article if the intended prostitute or victim is under the age of 18 years;

(7) has been convicted of a crime that involves conduct that by its nature is a sexual offense against a person under the age of 18 years;

(8) has been convicted of an attempt to commit a crime listed in items (1) through (7) of this subsection; or

(9) has been convicted in another state or in a federal, military, or Native American tribal court of a crime that, if committed in this State, would constitute one of the crimes listed in items (1) through (8) of this subsection.

[(i)**] (G)** (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)**] (H)** "Sexually violent offender" means a person who:

(1) has been convicted of a sexually violent offense;

(2) has been convicted of an attempt to commit a sexually violent offense; or

(3) (i) has been adjudicated delinquent for an act involving a victim 15 years of age or older that would constitute a violation of § 3–303, § 3–304, § 3–305, or § 3–306 of the Criminal Law Article if committed by an adult; and

(ii) meets the requirements for registration under § 11–704(c) of this subtitle.

[(k)**] (I)** "Sexually violent offense" means:

(1) a violation of §§ 3–303 through 3–307 or §§ 3–309 through 3–312 of the Criminal Law Article;

(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 state or in a federal, military, or Native American tribal jurisdiction that, if committed in this State, would constitute one of the crimes listed in item (1) or (2) of this subsection.

[(l)**] (J)** "Sexually violent predator" means:

(1) a person who:

(i) is convicted of a sexually violent offense; and

(ii) has been determined in accordance with this subtitle to be at risk of committing another sexually violent offense; or

(2) a person who is or was required to register every 90 days for life under the laws of another state or a federal, military, or Native American tribal jurisdiction.

[(m)**] (K)** "Supervising authority" means:

(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 (12) 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 and Mental Hygiene, if the registrant is in the custody of a facility operated by the Department of Health and Mental Hygiene;

(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 Secretary, if the registrant moves to this State and was convicted in another state of a crime that would require the registrant to register if the crime was committed in this State;

(9) the Secretary, if the registrant moves to this State from another state where the registrant was required to register;

(10) the Secretary, if the registrant is convicted in a federal, military, or Native American tribal court and is not under supervision by another supervising authority;

(11) the Secretary, if the registrant is not a resident of this State and has been convicted in another state or by a federal, military, or Native American tribal court;

(12) the Director of Parole and Probation, if the registrant is under the supervision of the Division of Parole and Probation; or

(13) the Secretary of Juvenile Services, if the registrant was a minor at the time the act was committed for which registration is required.

[(n)**] (L)** "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.

11–723.

(a) Except where a term of natural life without the possibility of parole is imposed, a sentence for **[**an extended parole supervision offender**] THE FOLLOWING PERSONS** shall include a term of **[**extended**] LIFETIME** sexual offender **[**parole**]** supervision**:**

(1) A PERSON WHO IS A SEXUALLY VIOLENT PREDATOR;

(2) A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF § 3–303, § 3–304, § 3–305, OR § 3–306(A)(1) OR (2)~~, OR § 3–307(A)(1) OR (2)~~ OF THE CRIMINAL LAW ARTICLE;

(3) A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF § 3–309, § 3–310, OR § 3–311 OF THE CRIMINAL LAW ARTICLE OR AN ATTEMPT TO COMMIT A VIOLATION OF § 3–306(A)(1) OR (2) OF THE CRIMINAL LAW ARTICLE;

(4) A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF § 3–602 OF THE CRIMINAL LAW ARTICLE ~~FOR THE COMMISSION OF A SEXUAL ACT INVOLVING PENETRATION OF~~ *INVOLVING* A CHILD UNDER THE AGE OF 12 YEARS; ~~AND~~

(5) A PERSON WHO IS REQUIRED TO REGISTER UNDER § 11–704(C) OF THIS SUBTITLE; AND

~~(5)~~ *(6)* A PERSON WHO HAS BEEN CONVICTED MORE THAN ONCE ARISING OUT OF SEPARATE INCIDENTS OF A CRIME ~~AS A CHILD SEXUAL OFFENDER, AN OFFENDER, OR A SEXUALLY VIOLENT OFFENDER~~ 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) MAY INCLUDE A TERM OF LIFETIME SEXUAL OFFENDER SUPERVISION.

~~(b)~~ (C) *(1)* ~~The~~ *EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE* term of [extended] LIFETIME sexual offender [parole] supervision [for a defendant sentenced] IMPOSED ON A PERSON FOR A CRIME COMMITTED on or after ~~August 1, 2006~~ *OCTOBER 1, 2010*, shall:

~~(1)~~ *(I)* be [a minimum of 3 years to a maximum of] a term of life; and

~~(2)~~ *(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.

~~(C)~~ (D) (1) ~~THE~~ 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), 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 DAY CARE CENTERS, 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 ~~CERTIFIED~~ 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) The Maryland Parole Commission shall:

(1) enter into and sign extended sexual offender parole supervision agreements with registrants sentenced to supervision under § 11–723 of this subtitle that set out specific conditions of supervision;

(2) hear and adjudicate cases of extended sexual offender parole supervision violations; and

(3) impose sanctions for extended sexual offender parole supervision violations, including additional restrictive conditions.**]**

(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.

[(b)**] (C)** Imprisonment for **[**an extended**] A LIFETIME** sexual offender **[**parole**]** supervision violation is not subject to diminution credits.

[(c) Specific conditions of extended sexual offender parole supervision shall commence upon release of the extended parole supervision offender from incarceration or imposition of probation on the extended parole supervision offender and may include:

(1) monitoring a registrant through global positioning satellite tracking technology;

(2) where appropriate and feasible, restricting a registrant from living in proximity to or loitering near schools, family day care centers, child care centers, and other places primarily used by minors;

(3) restricting a registrant from obtaining employment or from participating in an activity that would bring the registrant into contact with minors;

(4) requiring a registrant to participate in a certified sexual offender treatment program;

(5) prohibiting a registrant from using illicit drugs or alcohol;

(6) authorizing parole agents to access the personal computer of a registrant to check for material relating to sexual relations with minors;

(7) requiring a registrant to take regular polygraph examinations; and

(8) prohibiting a registrant from contacting specific individuals or categories of individuals.**]**

(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 ~~(G)~~ *(F)* OF THIS SECTION.

(E) DURING THE PERIOD OF LIFETIME SEXUAL OFFENDER SUPERVISION, THE COURT MAY:

(1) ~~ON WRITTEN CHARGES UNDER OATH OR ON VIOLATION OF A CONDITION OF SUPERVISION, ISSUE A WARRANT REQUIRING THE PERSON UNDER SUPERVISION TO BE BROUGHT OR TO APPEAR BEFORE THE JUDGE ISSUING THE WARRANT:~~

~~(I) TO ANSWER THE CHARGE OF VIOLATION OF CONDITIONS OF SUPERVISION; AND~~

~~(II) TO BE PRESENT FOR THE SETTING OF A HEARING DATE FOR THAT CHARGE;~~

~~(2)~~ **REMAND THE PERSON TO A CORRECTIONAL FACILITY OR RELEASE THE PERSON WITH OR WITHOUT BAIL PENDING THE HEARING OR DETERMINATION OF ~~THE~~ *A* CHARGE *OF VIOLATION OF A CONDITION OF LIFETIME SEXUAL OFFENDER SUPERVISION*; AND**

~~(3)~~ *(2)* **IF ~~AT THE HEARING~~ THE COURT FINDS THAT THE PERSON ~~VIOLATED~~ *COMMITTED A VIOLATION OF* A CONDITION OF SUPERVISION, IMPOSE A SENTENCE AS PRESCRIBED IN SUBSECTION (B) OF THIS SECTION.**

~~(F) (1) THE JUDGE WHO ORIGINALLY IMPOSED THE LIFETIME SEXUAL OFFENDER SUPERVISION SHALL HEAR ANY CHARGE OF VIOLATION OF CONDITIONS OF SUPERVISION.~~

~~(2) IF THE JUDGE HAS BEEN REMOVED FROM OFFICE, HAS DIED OR RESIGNED, OR IS OTHERWISE INCAPACITATED, ANOTHER JUDGE MAY ACT IN THE MATTER.~~

[(d)**]** ~~(G)~~ *(F)* (1) The **[**Commission**]** **SENTENCING COURT** shall hear and adjudicate a petition for discharge from **[**extended**]** **LIFETIME** sexual offender **[**parole**]** supervision **[**from a registrant**]**.

(2) A **[**registrant**]** **PERSON** may file a petition for discharge after serving at least ~~3~~ *5* years of extended sexual offender **[**parole**]** supervision.

(3) If a petition for discharge is denied, a **[**registrant**]** **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 **[**registrant**]** **PERSON** conducted by a **[**certified**]** 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 **[**registrant**]** **PERSON** from the sexual offender management team.

(5) **(I)** The **[**Commission**]** **SENTENCING COURT MAY NOT DENY A PETITION FOR DISCHARGE WITHOUT A HEARING.**

(II) THE COURT may not discharge a **[**registrant**]** **PERSON** from **[**extended**]** **LIFETIME** sexual offender **[**parole**]** supervision unless the **[**Commission determines**]** **COURT MAKES A FINDING ON THE RECORD** that the petitioner ~~no longer poses an unacceptable risk to community safety~~ ***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.

[(e) The Commission shall have all of the powers set forth in § 7–205 of the Correctional Services Article for the purpose of carrying out the duties of the Commission under this subtitle.

(f) The Commission shall appoint an administrator to coordinate the requirements of extended sexual offender parole supervision under this subtitle.**]**

11–725.

(a) Under the supervision of the Division of Parole and Probation, a sexual offender management team shall conduct **[**extended**]** **LIFETIME** sexual offender **[**parole**]** supervision and the supervision of probation, parole, or mandatory release of a **[**registrant**]** **PERSON** subject to **[**extended**]** **LIFETIME** sexual offender **[**parole**]** supervision.

(b) A sexual offender management team:

(1) consists of:

(i) a specially trained parole **AND PROBATION** agent; and

(ii) a representative of a **[**certified sex offender treatment provider**]** **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; **[**and**]**

(v) a [polygrapher] **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 [registrant] **PERSON UNDER SUPERVISION** to the [Commission] **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 [registrant] **PERSON** resides [or where a sexual offender who is not a resident of the State will work or attend school].

11–726.

The [Commission, with the advice of the Sexual Offender Advisory Board established under § 1–401 of the Public Safety Article,] **DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES** shall adopt regulations necessary to carry out the duties of the [Commission under § 11–724 of] **DEPARTMENT RELATING TO LIFETIME SEXUAL OFFENDER SUPERVISION UNDER** this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 177

(House Bill 473)

AN ACT concerning

Criminal Procedure – Sexual Offenders – Lifetime Supervision

FOR the purpose of repealing the requirement that the Maryland Parole Commission administer extended sexual offender parole supervision; *adding certain hearings related to lifetime sexual offender supervision to the list of subsequent proceedings for which the State's Attorney is required to provide a certain notice to a certain victim or victim's representative;* altering certain provisions relating to extended sexual offender supervision of certain offenders; altering the term for certain extended sexual offender supervision; requiring a sentence for certain persons to include a term of lifetime sexual offender supervision; *authorizing a sentence for certain persons to include a term of lifetime sexual offender supervision;* altering the term of lifetime sexual offender supervision; establishing that lifetime sexual offender supervision is imposed on a defendant for a crime *or act* committed on or after a certain date; requiring a certain sentencing court *or juvenile court* to impose certain conditions of lifetime sexual offender supervision and to advise certain persons of the conditions of lifetime sexual offender supervision; requiring the sentencing court *or juvenile court* to order a presentence investigation under certain circumstances; *requiring the sentencing court to order a certain risk assessment under certain circumstances;* authorizing a certain sentencing court *or juvenile court* to adjust certain conditions of lifetime sexual offender supervision under certain circumstances; ~~clarifying that the imposition or adjustment of special conditions of lifetime sexual offender supervision is a subsequent proceeding under a certain provision of law;~~ establishing a certain offense and penalty for violation of lifetime sexual offender supervision; authorizing certain procedures for violations of lifetime sexual offender supervision; ~~requiring certain judges to hear certain violations and certain petitions;~~ ~~authorizing~~ ~~*requiring certain judges to hear certain violations and certain petitions;*~~ prohibiting a certain sentencing court ~~to deny~~ from denying a certain petition under certain circumstances; providing for the discharge of certain persons from lifetime sexual offender supervision under certain circumstances; ~~clarifying that certain proceedings are a subsequent proceeding under a certain provision of law;~~ requiring a certain sentencing court to hear and adjudicate certain petitions; altering the composition of a certain sexual offender management team; requiring certain progress reports of a certain sexual offender management team; authorizing the Department of Public Safety and Correctional Services to adopt certain regulations; making a certain technical correction; deleting certain terms; making certain conforming changes; and generally relating to sexual offender supervision.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 7–206
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Procedure
Section ~~11–701~~ *11–503, 11–701,* and 11–723 through 11–726
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Correctional Services

7–206.

The Commission shall:

(1) evaluate information on the activities of parolees that the Division of Parole and Probation reports;

(2) issue warrants or delegate to the Director of the Division of Parole and Probation the authority to issue warrants to retake parolees who are charged with violating a condition of parole;

(3) review and make recommendations to the Governor:

(i) concerning parole of an inmate under a sentence of life imprisonment; and

(ii) if requested by the Governor, concerning a pardon, commutation of sentence, or other clemency;

(4) establish and modify general policy governing the conduct of parolees; **AND**

(5) arrange for psychiatric or psychological examination of applicants for parole whenever the Commission believes that an examination will better enable it to decide on the advisability of parole and include the expense for the examination in its annual budget**[**; and

(6) administer extended sexual offender parole supervision under Title 11, Subtitle 7 of the Criminal Procedure Article**]**.

Article – Criminal Procedure

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; **[**and**]***

(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(e) of this title if:

(1) before the State's Attorney distributes notification request forms under § 11–104(c) 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(c) of this title, the victim or victim's representative submits a notification request form in accordance with § 11–104(d) 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.

11–701.

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

(b) "Board" means the Sexual Offender Advisory Board.

(c) "Child sexual offender" means a person who:

(1) has been convicted of violating § 3–602 of the Criminal Law Article;

(2) has been convicted of violating any of the provisions of the rape or sexual offense statutes under §§ 3–303 through 3–307 of the Criminal Law Article for a crime involving a child under the age of 15 years;

(3) has been convicted of violating the fourth degree sexual offense statute under § 3–308 of the Criminal Law Article for a crime involving a child under the age of 15 years and has been ordered by the court to register under this subtitle;

(4) has been convicted in another state or in a federal, military, or Native American tribal court of a crime that, if committed in this State, would constitute one of the crimes listed in items (1) and (2) of this subsection; or

(5) (i) has been adjudicated delinquent for an act involving a victim under the age of 15 years that would constitute a violation of § 3–303, § 3–304, § 3–305, or § 3–306 of the Criminal Law Article if committed by an adult; and

(ii) meets the requirements for registration under § 11–704(c) of this subtitle.

(d) **[**"Commission" means the Maryland Parole Commission.

(e)**]** "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.

[(f) "Extended parole supervision offender" means a person who:

(1) is a sexually violent predator;

(2) has been convicted of a violation of § 3–303, § 3–304, § 3–305, § 3–306(a)(1) or (2), or § 3–307(a)(1) or (2) of the Criminal Law Article;

(3) has been convicted of a violation of § 3–309, § 3–310, or § 3–311 of the Criminal Law Article or an attempt to commit a violation of § 3–306(a)(1) or (2) of the Criminal Law Article;

(4) has been convicted of a violation of § 3–602 of the Criminal Law Article for commission of a sexual act involving penetration of a child under the age of 12 years; or

(5) has been convicted more than once of a crime as a child sexual offender, an offender, or a sexually violent offender.**]**

[(g)**] (E)** "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.

[(h)**] (F)** "Offender" means a person who is ordered by a court to register under this subtitle and who:

(1) has been convicted of violating § 3–503 of the Criminal Law Article;

(2) has been convicted of violating § 3–502 of the Criminal Law Article or the fourth degree sexual offense statute under § 3–308 of the Criminal Law Article, if the victim is under the age of 18 years;

(3) has been convicted of the common law crime of false imprisonment, if the victim is under the age of 18 years and the person is not the victim's parent;

(4) has been convicted of a crime that involves soliciting a person under the age of 18 years to engage in sexual conduct;

(5) has been convicted of violating the child pornography statute under § 11–207 of the Criminal Law Article;

(6) has been convicted of violating any of the prostitution and related crimes statutes under Title 11, Subtitle 3 of the Criminal Law Article if the intended prostitute or victim is under the age of 18 years;

(7) has been convicted of a crime that involves conduct that by its nature is a sexual offense against a person under the age of 18 years;

(8) has been convicted of an attempt to commit a crime listed in items (1) through (7) of this subsection; or

(9) has been convicted in another state or in a federal, military, or Native American tribal court of a crime that, if committed in this State, would constitute one of the crimes listed in items (1) through (8) of this subsection.

[(i)**] (G)** (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)**] (H)** "Sexually violent offender" means a person who:

(1) has been convicted of a sexually violent offense;

(2) has been convicted of an attempt to commit a sexually violent offense; or

(3) (i) has been adjudicated delinquent for an act involving a victim 15 years of age or older that would constitute a violation of § 3–303, § 3–304, § 3–305, or § 3–306 of the Criminal Law Article if committed by an adult; and

(ii) meets the requirements for registration under § 11–704(c) of this subtitle.

[(k)**] (I)** "Sexually violent offense" means:

(1) a violation of §§ 3–303 through 3–307 or §§ 3–309 through 3–312 of the Criminal Law Article;

(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 state or in a federal, military, or Native American tribal jurisdiction that, if committed in this State, would constitute one of the crimes listed in item (1) or (2) of this subsection.

[(l)**] (J)** "Sexually violent predator" means:

(1) a person who:

(i) is convicted of a sexually violent offense; and

(ii) has been determined in accordance with this subtitle to be at risk of committing another sexually violent offense; or

(2) a person who is or was required to register every 90 days for life under the laws of another state or a federal, military, or Native American tribal jurisdiction.

[(m)**] (K)** "Supervising authority" means:

(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 (12) 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 and Mental Hygiene, if the registrant is in the custody of a facility operated by the Department of Health and Mental Hygiene;

(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 Secretary, if the registrant moves to this State and was convicted in another state of a crime that would require the registrant to register if the crime was committed in this State;

(9) the Secretary, if the registrant moves to this State from another state where the registrant was required to register;

(10) the Secretary, if the registrant is convicted in a federal, military, or Native American tribal court and is not under supervision by another supervising authority;

(11) the Secretary, if the registrant is not a resident of this State and has been convicted in another state or by a federal, military, or Native American tribal court;

(12) the Director of Parole and Probation, if the registrant is under the supervision of the Division of Parole and Probation; or

(13) the Secretary of Juvenile Services, if the registrant was a minor at the time the act was committed for which registration is required.

[(n)**] (L)** "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.

11–723.

(a) Except where a term of natural life without the possibility of parole is imposed, a sentence for **[**an extended parole supervision offender**] THE FOLLOWING PERSONS** shall include a term of **[**extended**] LIFETIME** sexual offender **[**parole**]** supervision**:**

(1) A PERSON WHO IS A SEXUALLY VIOLENT PREDATOR;

(2) A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF § 3–303, § 3–304, § 3–305, *OR* § 3–306(A)(1) OR (2)~~, OR § 3–307(A)(1) OR (2)~~ OF THE CRIMINAL LAW ARTICLE;

(3) A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF § 3–309, § 3–310, OR § 3–311 OF THE CRIMINAL LAW ARTICLE OR AN ATTEMPT TO COMMIT A VIOLATION OF § 3–306(A)(1) OR (2) OF THE CRIMINAL LAW ARTICLE;

(4) A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF § 3–602 OF THE CRIMINAL LAW ARTICLE ~~FOR THE COMMISSION OF A SEXUAL ACT INVOLVING PENETRATION OF~~ *INVOLVING* A CHILD UNDER THE AGE OF 12 YEARS; ~~*AND*~~ ~~AND~~

(5) A PERSON WHO IS REQUIRED TO REGISTER UNDER § 11–704(C) OF THIS SUBTITLE; AND

~~**(5) A PERSON WHO IS REQUIRED TO REGISTER UNDER § 11–704(C) OF THIS ARTICLE SUBTITLE; AND**~~

~~**(5)**~~ ~~***(6)***~~ ~~***(5)***~~ ***(6)*** **A PERSON WHO HAS BEEN CONVICTED MORE THAN ONCE *ARISING OUT OF SEPARATE INCIDENTS* OF A CRIME ~~AS A CHILD SEXUAL OFFENDER, AN OFFENDER, OR A SEXUALLY VIOLENT OFFENDER~~ THAT REQUIRES REGISTRATION ~~AS A SEX OFFENDER~~ 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) MAY INCLUDE A TERM OF LIFETIME SEXUAL OFFENDER SUPERVISION.

~~(b)~~ ***(C)*** ***(1)*** ~~The~~ ***EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE*** term of **[**extended**]** **LIFETIME** sexual offender **[**parole**]** supervision **[**for a defendant sentenced**]** **IMPOSED ON A PERSON FOR A CRIME COMMITTED** on or after ~~August 1, 2006~~ ***OCTOBER 1, 2010***, shall:

~~(1)~~ ***(I)*** be **[**a minimum of 3 years to a maximum of**]** a term of life; and

~~(2)~~ ***(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.

~~(C)~~ *(D)* (1) ~~THE~~ *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), 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 DAY CARE CENTERS, 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 ~~CERTIFIED~~ 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.

~~(5) THE IMPOSITION OR ADJUSTMENT OF SPECIAL CONDITIONS OF LIFETIME SEXUAL OFFENDER SUPERVISION IS A SUBSEQUENT PROCEEDING UNDER § 11–503(A) OF THIS ARTICLE.~~

11–724.

[(a) The Maryland Parole Commission shall:

(1) enter into and sign extended sexual offender parole supervision agreements with registrants sentenced to supervision under § 11–723 of this subtitle that set out specific conditions of supervision;

(2) hear and adjudicate cases of extended sexual offender parole supervision violations; and

(3) impose sanctions for extended sexual offender parole supervision violations, including additional restrictive conditions.**]**

(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.

[(b)**] (C)** Imprisonment for **[**an extended**] A LIFETIME** sexual offender **[**parole**]** supervision violation is not subject to diminution credits.

[(c) Specific conditions of extended sexual offender parole supervision shall commence upon release of the extended parole supervision offender from incarceration or imposition of probation on the extended parole supervision offender and may include:

(1) monitoring a registrant through global positioning satellite tracking technology;

(2) where appropriate and feasible, restricting a registrant from living in proximity to or loitering near schools, family day care centers, child care centers, and other places primarily used by minors;

(3) restricting a registrant from obtaining employment or from participating in an activity that would bring the registrant into contact with minors;

(4) requiring a registrant to participate in a certified sexual offender treatment program;

(5) prohibiting a registrant from using illicit drugs or alcohol;

(6) authorizing parole agents to access the personal computer of a registrant to check for material relating to sexual relations with minors;

(7) requiring a registrant to take regular polygraph examinations; and

(8) prohibiting a registrant from contacting specific individuals or categories of individuals.**]**

(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 ~~(G)~~ *(F)* OF THIS SECTION.

(E) DURING THE PERIOD OF LIFETIME SEXUAL OFFENDER SUPERVISION, THE COURT MAY:

(1) ~~***ON WRITTEN CHARGES UNDER OATH OR ON VIOLATION OF A CONDITION OF SUPERVISION, ISSUE A WARRANT REQUIRING THE PERSON UNDER SUPERVISION TO BE BROUGHT OR TO APPEAR BEFORE THE JUDGE ISSUING THE WARRANT:***~~

~~***(I)***~~ ~~***TO ANSWER THE CHARGE OF VIOLATION OF CONDITIONS OF SUPERVISION; AND***~~

~~***(II)***~~ ~~***TO BE PRESENT FOR THE SETTING OF A HEARING DATE FOR THAT CHARGE;***~~

~~**(1)**~~ ~~**ON WRITTEN CHARGES UNDER OATH OR ON VIOLATION OF A CONDITION OF SUPERVISION, ISSUE A WARRANT REQUIRING THE PERSON UNDER SUPERVISION TO BE BROUGHT OR TO APPEAR BEFORE THE JUDGE ISSUING THE WARRANT:**~~

~~**(I)**~~ ~~**TO ANSWER THE CHARGE OF VIOLATION OF CONDITIONS OF SUPERVISION; AND**~~

~~**(II)**~~ ~~**TO BE PRESENT FOR THE SETTING OF A HEARING DATE FOR THAT CHARGE;**~~

~~***(2)***~~ ***(2)*** **REMAND THE PERSON TO A CORRECTIONAL FACILITY OR RELEASE THE PERSON WITH OR WITHOUT BAIL PENDING THE *HEARING OR*** ~~**HEARING OR**~~ **DETERMINATION OF** ~~**THE**~~ ~~**A**~~ ~~***THE***~~ ***A*** **CHARGE *OF VIOLATION OF A CONDITION OF LIFETIME SEXUAL OFFENDER SUPERVISION*** ~~**OF VIOLATION OF A CONDITION OF LIFETIME SEXUAL OFFENDER SUPERVISION**~~**; AND**

~~***(3)***~~ ~~***(2)***~~ ~~***(3)***~~ ***(2)*** **IF** ~~***AT THE HEARING***~~ ~~**AT THE HEARING**~~ **THE COURT FINDS THAT THE PERSON** ~~**VIOLATED**~~ ~~**COMMITTED A VIOLATION OF**~~ ~~***VIOLATED***~~ ***COMMITTED A VIOLATION OF*** **A CONDITION OF SUPERVISION, IMPOSE A SENTENCE AS PRESCRIBED IN SUBSECTION (B) OF THIS SECTION.**

~~(F) (1) THE JUDGE WHO ORIGINALLY IMPOSED THE LIFETIME SEXUAL OFFENDER SUPERVISION SHALL HEAR ANY CHARGE OF VIOLATION OF CONDITIONS OF SUPERVISION.~~

~~(2) IF THE JUDGE HAS BEEN REMOVED FROM OFFICE, HAS DIED OR RESIGNED, OR IS OTHERWISE INCAPACITATED, ANOTHER JUDGE MAY ACT IN THE MATTER.~~

[(d)**]** ~~(G)~~ **(F)** (1) The **[**Commission**]** **SENTENCING COURT** shall hear and adjudicate a petition for discharge from **[**extended**]** **LIFETIME** sexual offender **[**parole**]** supervision **[**from a registrant**]**.

(2) A **[**registrant**]** **PERSON** may file a petition for discharge after serving at least ~~3~~ **5** years of extended sexual offender **[**parole**]** supervision.

(3) If a petition for discharge is denied, a **[**registrant**]** **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 **[**registrant**]** **PERSON** conducted by a **[**certified**]** 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 **[**registrant**]** **PERSON** from the sexual offender management team.

(5) **(I)** The **[**Commission**]** **SENTENCING COURT MAY NOT DENY A PETITION FOR DISCHARGE WITHOUT A HEARING.**

(II) **THE COURT** may not discharge a **[**registrant**]** **PERSON** from **[**extended**]** **LIFETIME** sexual offender **[**parole**]** supervision unless the **[**Commission determines**]** **COURT MAKES A FINDING ON THE RECORD** that the petitioner ~~no longer poses an unacceptable risk to community safety~~ **IS NO LONGER A DANGER TO** ~~**SELF OR**~~ **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.

~~**(G) PROCEEDINGS UNDER THIS SECTION ARE A SUBSEQUENT PROCEEDING UNDER § 11–503(A) OF THIS ARTICLE.**~~

[(e) The Commission shall have all of the powers set forth in § 7–205 of the Correctional Services Article for the purpose of carrying out the duties of the Commission under this subtitle.

(f) The Commission shall appoint an administrator to coordinate the requirements of extended sexual offender parole supervision under this subtitle.**]**

11–725.

(a) Under the supervision of the Division of Parole and Probation, a sexual offender management team shall conduct **[**extended**]** **LIFETIME** sexual offender **[**parole**]** supervision and the supervision of probation, parole, or mandatory release of a **[**registrant**]** **PERSON** subject to **[**extended**]** **LIFETIME** sexual offender **[**parole**]** supervision.

(b) A sexual offender management team:

(1) consists of:

(i) a specially trained parole **AND PROBATION** agent; and

(ii) a representative of a **[**certified sex offender treatment provider**]** **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; **[**and**]**

(v) a **[**polygrapher**]** **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 **[**registrant**]** **PERSON UNDER SUPERVISION** to the **[**Commission**]** **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 **[**registrant**]** **PERSON** resides **[**or where a sexual offender who is not a resident of the State will work or attend school**]**.

11–726.

The **[**Commission, with the advice of the Sexual Offender Advisory Board established under § 1–401 of the Public Safety Article,**]** **DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES** shall adopt regulations necessary to carry out the duties of the **[**Commission under § 11–724 of**]** **DEPARTMENT RELATING TO LIFETIME SEXUAL OFFENDER SUPERVISION UNDER** this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 178

(Senate Bill 856)

AN ACT concerning

Public Safety – Sexual Offender Advisory Board

FOR the purpose of altering the composition of a certain Sexual Offender Advisory Board; requiring certain members of the Board to have certain expertise; providing for the terms of the appointed members of the Board to be staggered in a certain manner; altering the duties of the Board; requiring the Board to make a certain report by a certain date; repealing a requirement that the Department of Health and Mental Hygiene provide staff to the Board; making

certain conforming changes; and generally relating to the Sexual Offender Advisory Board.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 1–401
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

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

Article – Public Safety

1–401.

(a) There is a Sexual Offender Advisory Board **[**in the Department of Public Safety and Correctional Services**]**.

(b) The Board consists of the following members:

(1) the Secretary of Public Safety and Correctional Services, or the Secretary's designee;

(2) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;

(3) THE SECRETARY OF JUVENILE SERVICES, OR THE SECRETARY'S DESIGNEE;

[(2)**] (4)** the Director of the Division of Parole and Probation, or the Director's designee;

[(3)**] (5)** the Chairman of the Maryland Parole Commission, or the Chairman's designee;

(6) THE DIRECTOR OF THE MARYLAND CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY, OR THE DIRECTOR'S DESIGNEE;

[(4)**] (7)** the Executive Director of the Mental Hygiene Administration of the Department of Health and Mental Hygiene, or the Executive Director's designee;

[(5)**] (8)** the Secretary of State Police, or the Secretary's designee; **[**and**]**

(9) THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

[(6)**] (10)** the following members, appointed by the Governor:

(i) a representative from a **[**victim's**] VICTIMS'** advocacy **[**group**] ORGANIZATION OR VICTIM SERVICE PROVIDER WITH RECOGNIZED EXPERTISE IN SEXUAL ABUSE AND VICTIMIZATION**;

(ii) **[**a health care professional with expertise in mental disorders**] A LICENSED MENTAL HEALTH PROFESSIONAL WITH RECOGNIZED EXPERTISE IN THE TREATMENT OF SEXUAL OFFENDERS**;

(iii) a State's Attorney **WITH EXPERTISE IN THE PROSECUTION OF SEXUAL AND CHILD ABUSE CRIMES**;

[(iv) a lawyer with expertise in criminal defense;**]**

(IV) AN ASSISTANT PUBLIC DEFENDER WITH EXPERTISE IN THE DEFENSE OF SEXUAL AND CHILD ABUSE CRIMES;

(v) **[**a sexual offender treatment provider;

(vi) a polygrapher;

(vii)**]** a representative of a local law enforcement unit **WITH EXPERTISE IN THE INVESTIGATION OF SEXUAL AND CHILD ABUSE CRIMES;**

(VI) A REPRESENTATIVE FROM A CHILD ADVOCACY CENTER WITH RECOGNIZED EXPERTISE IN SEXUAL ABUSE AND VICTIMIZATION; and

[(viii)**] (VII)** two citizen members.

(c) (1) The term of a member appointed by the Governor is 4 years.

(2) The terms of the appointed members are staggered as required by the terms provided for members of the Board on **[**the effective date of Chapter 4 of the Acts of the General Assembly of the Special Session of 2006**] OCTOBER 1, 2010**.

(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.

(5) A member whose term has expired may be reappointed to the Board.

(d) A Board member:

(1) may not receive compensation for serving on the Board; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(e) The Governor shall select a chairman from among the Board's members**.**

(f) (1) A majority of the Board's members constitutes a quorum.

(2) The Board may adopt rules for conducting business.

(3) The Board shall meet at least twice annually at the times and places determined by the Board.

(g) The Board shall:

(1) **[**review technology for the tracking of offenders**] IN COLLABORATION WITH THE DIVISION OF PAROLE AND PROBATION** ~~AND THE MARYLAND JUDICIARY~~**, DEVELOP CRITERIA FOR MEASURING A PERSON'S RISK OF REOFFENDING TO ASSIST THE COURT IN DETERMINING WHETHER A PERSON MAY BE APPROPRIATELY RELEASED FROM SUPERVISION UNDER §§ 11–723 AND 11–724 OF THE CRIMINAL PROCEDURE ARTICLE**;

(2) review the effectiveness of the State's laws **AND PRACTICES** concerning sexual offenders**, INCLUDING:**

(I) SEXUAL OFFENDER REGISTRATION AND MONITORING REQUIREMENTS; AND

(II) COMMUNITY NOTIFICATION REQUIREMENTS;

(3) review the laws **AND PRACTICES** of other states and jurisdictions concerning sexual offenders;

(4) review practices and procedures of the Maryland Parole Commission and the Division of Parole and Probation concerning supervision and monitoring of sexual offenders;

(5) review developments [in] **AND MAKE RECOMMENDATIONS FOR** the treatment**, MANAGEMENT,** and assessment of sexual offenders**, INCLUDING:**

(I) EXISTING AND EMERGING TECHNOLOGY FOR THE TRACKING OF SEXUAL OFFENDERS;

(II) CIVIL COMMITMENT OF SEXUAL OFFENDERS;

~~(II)~~ ***(III)*** **EXISTING AND EMERGING TECHNOLOGY FOR THE TREATMENT OF SEXUAL OFFENDERS; AND**

~~(III)~~ ***(IV)*** **BEST PRACTICES FOR LOWERING RECIDIVISM RATES AND PROTECTING THE PUBLIC**;

(6) develop standards for **THE CERTIFICATION OF** sexual offender treatment **PROVIDERS** based on current and evolving [best] **EVIDENCE–BASED** practices **AND MAKE RECOMMENDATIONS FOR A STATEWIDE CERTIFICATION PROCESS**;

(7) [certify State sexual offender treatment programs that are in compliance with the Board's standards; and

(8) provide] **MAKE RECOMMENDATIONS TO THE DIVISION OF PAROLE AND PROBATION FOR** training [for] sexual offender management teams**;** ***AND***

(8) CONSIDER WAYS TO INCREASE COOPERATION AMONG STATES WITH REGARD TO SEXUAL OFFENDER REGISTRATION AND MONITORING~~**; AND**~~

~~**(9) CONSIDER OPTIONS FOR PROHIBITING SEXUAL OFFENDERS FROM LIVING WITHIN A CERTAIN DISTANCE OF A SCHOOL, CHURCH, OR OTHER PLACE WHERE CHILDREN CONGREGATE**~~.

(h) On or before December 31, [2009] **2010**, and every year thereafter, the Board shall report the findings and recommendations of the Board to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

(i) Each unit of State and local government shall cooperate with the Board.

(j) The Department of Public Safety and Correctional Services [and the Department of Health and Mental Hygiene] shall provide staff to the Board.

SECTION 2. AND IT BE FURTHER ENACTED, That the terms of the members of the Sexual Offender Advisory Board who are appointed on or before October 1, 2010, and who are subject to appointment, shall expire as follows:

(1) two appointed members in 2012;

(2) three appointed members in 2013; and

(3) three appointed members in 2014.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 179

(House Bill 931)

AN ACT concerning

Public Safety – Sexual Offender Advisory Board

FOR the purpose of altering the composition of a certain Sexual Offender Advisory Board; requiring certain members of the Board to have certain expertise; providing for the terms of the appointed members of the Board to be staggered in a certain manner; altering the duties of the Board; requiring the Board to make a certain report by a certain date; repealing a requirement that the Department of Health and Mental Hygiene provide staff to the Board; making certain conforming changes; and generally relating to the Sexual Offender Advisory Board.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 1–401
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

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

Article – Public Safety

1–401.

(a) There is a Sexual Offender Advisory Board **[**in the Department of Public Safety and Correctional Services**]**.

(b) The Board consists of the following members:

(1) the Secretary of Public Safety and Correctional Services, or the Secretary's designee;

(2) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;

(3) THE SECRETARY OF JUVENILE SERVICES, OR THE SECRETARY'S DESIGNEE;

[(2)**] (4)** the Director of the Division of Parole and Probation, or the Director's designee;

[(3)**] (5)** the Chairman of the Maryland Parole Commission, or the Chairman's designee;

(6) THE DIRECTOR OF THE MARYLAND CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY, OR THE DIRECTOR'S DESIGNEE;

[(4)**] (7)** the Executive Director of the Mental Hygiene Administration of the Department of Health and Mental Hygiene, or the Executive Director's designee;

[(5)**] (8)** the Secretary of State Police, or the Secretary's designee; **[**and**]**

(9) THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

[(6)**] (10)** the following members, appointed by the Governor:

(i) a representative from a **[**victim's**] VICTIMS'** advocacy **[**group**] ORGANIZATION OR VICTIM SERVICE PROVIDER WITH RECOGNIZED EXPERTISE IN SEXUAL ABUSE AND VICTIMIZATION**;

(ii) **[**a health care professional with expertise in mental disorders**] A LICENSED MENTAL HEALTH PROFESSIONAL WITH RECOGNIZED EXPERTISE IN THE TREATMENT OF SEXUAL OFFENDERS**;

(iii) a State's Attorney **WITH EXPERTISE IN THE PROSECUTION OF SEXUAL AND CHILD ABUSE CRIMES**;

[(iv) a lawyer with expertise in criminal defense;**]**

(IV) AN ASSISTANT PUBLIC DEFENDER WITH EXPERTISE IN THE DEFENSE OF SEXUAL AND CHILD ABUSE CRIMES;

(v) **[**a sexual offender treatment provider;

(vi) a polygrapher;

(vii)**]** a representative of a local law enforcement unit **WITH EXPERTISE IN THE INVESTIGATION OF SEXUAL AND CHILD ABUSE CRIMES;**

(VI) A REPRESENTATIVE FROM A CHILD ADVOCACY CENTER WITH RECOGNIZED EXPERTISE IN SEXUAL ABUSE AND VICTIMIZATION; and

[(viii)**] (VII)** two citizen members.

(c) (1) The term of a member appointed by the Governor is 4 years.

(2) The terms of the appointed members are staggered as required by the terms provided for members of the Board on **[**the effective date of Chapter 4 of the Acts of the General Assembly of the Special Session of 2006**] OCTOBER 1, 2010**.

(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.

(5) A member whose term has expired may be reappointed to the Board.

(d) A Board member:

(1) may not receive compensation for serving on the Board; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(e) The Governor shall select a chairman from among the Board's members**.**

(f) (1) A majority of the Board's members constitutes a quorum.

(2) The Board may adopt rules for conducting business.

(3) The Board shall meet at least twice annually at the times and places determined by the Board.

(g) The Board shall:

(1) **[**review technology for the tracking of offenders**]** **IN COLLABORATION WITH THE DIVISION OF PAROLE AND PROBATION** ~~**AND THE MARYLAND JUDICIARY**~~**, DEVELOP CRITERIA FOR MEASURING A PERSON'S RISK OF REOFFENDING TO ASSIST THE COURT IN DETERMINING WHETHER A PERSON MAY BE APPROPRIATELY RELEASED FROM SUPERVISION UNDER §§ 11–723 AND 11–724 OF THE CRIMINAL PROCEDURE ARTICLE**;

(2) review the effectiveness of the State's laws **AND PRACTICES** concerning sexual offenders**, INCLUDING:**

(I) SEXUAL OFFENDER REGISTRATION AND MONITORING REQUIREMENTS; AND

(II) COMMUNITY NOTIFICATION REQUIREMENTS;

(3) review the laws **AND PRACTICES** of other states and jurisdictions concerning sexual offenders;

(4) review practices and procedures of the Maryland Parole Commission and the Division of Parole and Probation concerning supervision and monitoring of sexual offenders;

(5) review developments **[**in**]** **AND MAKE RECOMMENDATIONS FOR** the treatment**, MANAGEMENT,** and assessment of sexual offenders**, INCLUDING:**

(I) EXISTING AND EMERGING TECHNOLOGY FOR THE TRACKING OF SEXUAL OFFENDERS;

(II) CIVIL COMMITMENT OF SEXUAL OFFENDERS;

~~**(II)**~~ ***(III)*** **EXISTING AND EMERGING TECHNOLOGY FOR THE TREATMENT OF SEXUAL OFFENDERS; AND**

~~**(III)**~~ ***(IV)*** **BEST PRACTICES FOR LOWERING RECIDIVISM RATES AND PROTECTING THE PUBLIC**;

(6) develop standards for **THE CERTIFICATION OF** sexual offender treatment **PROVIDERS** based on current and evolving **[**best**]** **EVIDENCE–BASED**

practices **AND MAKE RECOMMENDATIONS FOR A STATEWIDE CERTIFICATION PROCESS**;

(7) **[**certify State sexual offender treatment programs that are in compliance with the Board's standards; ~~and~~

(8) provide**]** **MAKE RECOMMENDATIONS TO THE DIVISION OF PAROLE AND PROBATION FOR** training **[**for**]** sexual offender management teams***;*** ***AND***

(8) CONSIDER WAYS TO INCREASE COOPERATION AMONG STATES WITH REGARD TO SEXUAL OFFENDER REGISTRATION AND MONITORING.

(h) On or before December 31, **[**2009**]** **2010**, and every year thereafter, the Board shall report the findings and recommendations of the Board to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

(i) Each unit of State and local government shall cooperate with the Board.

(j) The Department of Public Safety and Correctional Services **[**and the Department of Health and Mental Hygiene**]** shall provide staff to the Board.

SECTION 2. AND IT BE FURTHER ENACTED, That the terms of the members of the Sexual Offender Advisory Board who are appointed on or before October 1, 2010, and who are subject to appointment, shall expire as follows:

(1) two appointed members in 2012;

(2) three appointed members in 2013; and

(3) three appointed members in 2014.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 180

(Senate Bill 622)

AN ACT concerning

Crimes – Sexual Offenses Against Children – Penalties

FOR the purpose of increasing the maximum and mandatory minimum penalties for a person convicted of rape in the second degree of a child under the age of 13 years; increasing the maximum and mandatory minimum penalties for a person convicted of sexual offense in the second degree against a child under the age of 13 years; and generally relating to sexual offenses against children.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 3–304 and 3–306
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

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

Article – Criminal Law

3–304.

(a) A person may not engage in vaginal intercourse with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the act is at least 4 years older than the victim.

(b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

(c) (1) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment for not less than **[**5**]** ~~**20**~~ ***15*** years and not exceeding **[**20 years**]** **LIFE**.

(ii) A court may not suspend any part of the mandatory minimum sentence of **[**5**]** ~~**20**~~ ***15*** years.

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (d) of this section, the mandatory minimum shall not apply.

(d) If the State intends to seek a sentence of imprisonment for not less than **[**5**]** ~~**20**~~ ***15*** years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

3–306.

(a) A person may not engage in a sexual act with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the sexual act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the sexual act is at least 4 years older than the victim.

(b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

(c) (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment for not less than **[**5**]** ~~**20**~~ ***15*** years and not exceeding **[**20 years**]** **LIFE**.

(ii) A court may not suspend any part of the mandatory minimum sentence of **[**5**]** ~~**20**~~ ***15*** years.

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (d) of this section, the mandatory minimum shall not apply.

(d) If the State intends to seek a sentence of imprisonment for not less than **[**5**]** ~~**20**~~ ***15*** years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 181

(House Bill 254)

AN ACT concerning

Crimes – Sexual Offenses Against Children – Jessica's Law Enhancement

FOR the purpose of increasing the maximum and mandatory minimum penalties for a person convicted of rape in the second degree of a child under the age of 13 years; increasing the maximum and mandatory minimum penalties for a person convicted of sexual offense in the second degree against a child under the age of 13 years; and generally relating to sexual offenses against children.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 3–304 and 3–306
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

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

Article – Criminal Law

3–304.

(a) A person may not engage in vaginal intercourse with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the act is at least 4 years older than the victim.

(b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

(c) (1) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment for not less than **[**5**]** ~~**20**~~ **15** years and not exceeding **[**20 years**]** **LIFE**.

(ii) A court may not suspend any part of the mandatory minimum sentence of **[**5**]** ~~**20**~~ **15** years.

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (d) of this section, the mandatory minimum shall not apply.

(d) If the State intends to seek a sentence of imprisonment for not less than **[**5**]** ~~**20**~~ **15** years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

3–306.

(a) A person may not engage in a sexual act with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the sexual act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the sexual act is at least 4 years older than the victim.

(b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

(c) (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment for not less than **[**5**]** ~~**20**~~ **15** years and not exceeding **[**20 years**]** **LIFE**.

(ii) A court may not suspend any part of the mandatory minimum sentence of **[**5**]** ~~**20**~~ **15** years.

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (d) of this section, the mandatory minimum shall not apply.

(d) If the State intends to seek a sentence of imprisonment for not less than **[**5**]** ~~**20**~~ **15** years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 182

(House Bill 289)

AN ACT concerning

Correctional Services – Child Sexual Offenders – Diminution Credits ~~and Parole~~

FOR the purpose of prohibiting the earning of diminution credits to reduce the term of confinement of an inmate who is serving a sentence in a State or local correctional facility for committing a certain sexual crime against a ~~minor~~

victim who is a child under a certain age; ~~providing that an inmate who is serving a sentence for committing a certain sexual crime against a minor is not eligible for parole consideration and may not be granted parole at any time during the inmate's sentence~~ providing for the construction of a certain provision of this Act; providing for the application of this Act; and generally relating to the elimination of diminution credits ~~and parole eligibility~~ for persons serving sentences for committing certain sexual crimes against children.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 3–702 and 11–502
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

~~BY adding to~~
~~Article – Correctional Services~~
~~Section 7–301(e)~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume and 2009 Supplement)~~

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

Article – Correctional Services

3–702.

(A) Subject to **SUBSECTION (B) OF THIS SECTION,** § 3–711 of this subtitle**,** and Title 7, Subtitle 5 of this article, an inmate committed to the custody of the Commissioner is entitled to a diminution of the inmate's term of confinement as provided under this subtitle.

(B) AN INMATE WHO IS SERVING A SENTENCE FOR *A* VIOLATION OF § 3–303, § 3–304, § 3–305, OR § 3–306 OF THE CRIMINAL LAW ARTICLE INVOLVING A ~~MINOR~~ VICTIM WHO IS A CHILD UNDER THE AGE OF 16 YEARS IS NOT ENTITLED TO A DIMINUTION OF THE INMATE'S TERM OF CONFINEMENT AS PROVIDED UNDER THIS SUBTITLE.

~~7–301.~~

~~**(E) AN INMATE WHO IS SERVING A SENTENCE FOR VIOLATION OF § 3–303, § 3–304, § 3–305, OR § 3–306 OF THE CRIMINAL LAW ARTICLE INVOLVING A MINOR VICTIM IS NOT ELIGIBLE FOR PAROLE CONSIDERATION AND MAY NOT BE GRANTED PAROLE AT ANY TIME DURING THE INMATE'S SENTENCE.**~~

11–502.

(A) [An] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN** inmate who has been sentenced to a term of imprisonment shall be allowed deductions from the inmate's term of confinement as provided under this subtitle for any period of presentence or postsentence confinement in a local correctional facility.

(B) (1) AN INMATE WHO IS SERVING A SENTENCE FOR *A* VIOLATION OF § 3–303, § 3–304, § 3–305, OR § 3–306 OF THE CRIMINAL LAW ARTICLE INVOLVING A ~~MINOR~~ VICTIM WHO IS A CHILD UNDER THE AGE OF 16 YEARS MAY NOT BE ALLOWED DEDUCTIONS FROM THE INMATE'S TERM OF CONFINEMENT AS PROVIDED UNDER THIS SUBTITLE FOR ANY PERIOD OF PRESENTENCE OR POSTSENTENCE CONFINEMENT IN A LOCAL CORRECTIONAL FACILITY.

(2) THIS SUBSECTION MAY NOT BE CONSTRUED TO REQUIRE AN INMATE TO SERVE A LONGER SENTENCE OF CONFINEMENT THAN IS AUTHORIZED BY THE STATUTE UNDER WHICH THE INMATE WAS CONVICTED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any offense committed before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 183

(House Bill 599)

AN ACT concerning

Correctional Services – Repeat Child Sexual Offenders – Diminution Credits

FOR the purpose of prohibiting the earning of diminution credits to reduce the term of confinement of a certain inmate who is serving a sentence ~~for~~ in a State or local correctional facility for committing a certain sexual offense against a ~~minor~~ victim who is a child under a certain age after being previously convicted of a certain sexual offense against a ~~minor~~ victim who is a child under a certain age; providing for the construction of a certain provision of this Act; providing for the application of this Act; and generally relating to diminution credits.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 3–702 and 11–502
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Correctional Services

3–702.

(A) Subject to **SUBSECTION (B) OF THIS SECTION,** § 3–711 of this subtitle**,** and Title 7, Subtitle 5 of this article, an inmate committed to the custody of the Commissioner is entitled to a diminution of the inmate's term of confinement as provided under this subtitle.

(B) AN INMATE WHO IS SERVING A SENTENCE FOR A VIOLATION OF ~~TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE IN WHICH THE VICTIM WAS A MINOR~~ § 3–307 OF THE CRIMINAL LAW ARTICLE INVOLVING A VICTIM WHO IS A CHILD UNDER THE AGE OF 16 YEARS IS NOT ENTITLED TO A DIMINUTION OF THE INMATE'S TERM OF CONFINEMENT AS PROVIDED UNDER THIS SUBTITLE, IF THE INMATE WAS PREVIOUSLY CONVICTED OF A VIOLATION OF ~~TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE IN WHICH THE VICTIM WAS A MINOR.~~ § 3–307 OF THE CRIMINAL LAW ARTICLE INVOLVING A VICTIM WHO IS A CHILD UNDER THE AGE OF 16 YEARS.

11–502.

(A) **[**An**] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN** inmate who has been sentenced to a term of imprisonment shall be allowed deductions from the inmate's term of confinement as provided under this subtitle for any period of presentence or postsentence confinement in a local correctional facility.

(B) (1) AN INMATE WHO IS SERVING A SENTENCE FOR A VIOLATION OF § 3–307 OF THE CRIMINAL LAW ARTICLE INVOLVING A VICTIM WHO IS A CHILD UNDER THE AGE OF 16 YEARS, WHO HAS PREVIOUSLY BEEN CONVICTED OF VIOLATING § 3–307 OF THE CRIMINAL LAW ARTICLE INVOLVING A VICTIM WHO IS A CHILD UNDER THE AGE OF 16 YEARS, MAY NOT BE ALLOWED DEDUCTIONS FROM THE INMATE'S TERM OF CONFINEMENT AS PROVIDED UNDER THIS SUBTITLE FOR ANY PERIOD OF PRESENTENCE OR POSTSENTENCE CONFINEMENT IN A LOCAL CORRECTIONAL FACILITY.

(2) THIS SUBSECTION MAY NOT BE CONSTRUED TO REQUIRE AN INMATE TO SERVE A LONGER SENTENCE OF CONFINEMENT THAN IS AUTHORIZED BY THE STATUTE UNDER WHICH THE INMATE WAS CONVICTED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any offense committed before the effective date of this Act.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 184

(House Bill 1046)

AN ACT concerning

Criminal Procedure – Registered Sex Offenders – Restrictions on Pretrial Release and Inclusion on RAP Sheet

FOR the purpose of prohibiting a District Court commissioner from authorizing the pretrial release of a defendant who is a registered sex offender; providing that a judge may authorize the pretrial release of a certain defendant on suitable bail or certain other conditions or both; requiring a judge to order the continued detention of a certain defendant under certain circumstances at a certain time; creating a rebuttable presumption that a certain defendant will flee and pose a danger to another person or the community; adding the imposition of ~~extended~~ lifetime sexual offender ~~parole~~ supervision as a certain reportable event that must be reported to the Criminal Justice Information System Central Repository; requiring a certain State Record of Arrest and Prosecution to prominently indicate, if applicable, that a certain individual is a registered sex offender or subject to a term of ~~extended~~ lifetime sexual offender ~~parole~~ supervision; and generally relating to registered sex offenders.

BY adding to
Article – Criminal Procedure
Section 5–202(g), 10–215(a)(24), and 10–229
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Procedure
Section 10–215(a)(23) and (24)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Criminal Procedure

5–202.

(G) (1) A DISTRICT COURT COMMISSIONER MAY NOT AUTHORIZE THE PRETRIAL RELEASE OF A DEFENDANT WHO IS REGISTERED UNDER TITLE 11, SUBTITLE 7 OF THIS 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.

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:

(23) the initial registration of a person under Title 11, Subtitle 7 of this article; **[**and**]**

(24) THE IMPOSITION OF ~~EXTENDED~~ LIFETIME SEXUAL OFFENDER ~~PAROLE~~ SUPERVISION UNDER TITLE 11, SUBTITLE 7 OF THIS ARTICLE; AND

[(24)**] (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.

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 ~~EXTENDED~~ LIFETIME SEXUAL OFFENDER ~~PAROLE~~ SUPERVISION UNDER TITLE 11, SUBTITLE 7 OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 185

(Senate Bill 559)

AN ACT concerning

Child Protection – ~~Mandatory~~ Reporting of Children ~~Regularly in Contact with Persons Convicted of Child Abuse and Child Sexual Abuse~~ Living with or in the Regular Presence of Registered Child Sexual Offenders

FOR the purpose of ~~requiring certain professionals~~ authorizing an individual to notify the local department of social services or the appropriate law enforcement agency if the ~~professionals have~~ individual has reason to believe that a parent, guardian, or caregiver allows a child to reside with or ~~regularly associate with~~ be in the regular presence of a certain individual; ~~providing certain exceptions~~ providing for the manner of reporting; describing the information that is to be

included in a certain report; providing for the receipt and investigation of a certain report ~~that a child is at substantial risk of abuse~~; requiring the Secretary of Human Resources to adopt certain regulations; requiring the local department ~~or~~ and the appropriate law enforcement agency to take certain actions within a certain time period after receiving a certain report; requiring an investigation to be completed within a certain time period; ~~authorizing and~~ requiring the local department to take certain actions ~~after completion~~ as part of an investigation; ~~providing for expungement of certain reports;~~ providing certain immunity for certain persons who make or participate in making certain reports; and generally relating to ~~mandatory~~ reporting of children ~~regularly in contact~~ living with or in the regular presence of certain persons.

BY adding to
Article – Family Law
Section 5–704.1 and 5–706.2
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section ~~5–707(b) and~~ 5–708
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

~~Preamble~~

~~WHEREAS, No child should suffer injury or death from maltreatment resulting from regular association with a person with a known criminal record of child abuse or child injury; and~~

~~WHEREAS, A child's regular association with a person with a history of abuse or criminal injury to a child presents a preventable threat to the safety of Maryland's children; and~~

~~WHEREAS, Maryland courts have consistently held that a child can be adjudicated a child in need of assistance under certain circumstances without waiting until a child suffers maltreatment before protecting the child; and~~

~~WHEREAS, A court is unlikely to have the information necessary to protect a child who is regularly exposed to a person with a history of harming children unless a local department of social services petitions the court to find that the child is in need of assistance; and~~

~~WHEREAS, The Office of the Attorney General has interpreted the statutory scheme requiring a local department of social services to investigate abuse to be incident–based and, thus, not in harmony with the child in need of assistance statute; and~~

~~WHEREAS, To prevent death and injuries to children at substantial risk of harm, local departments of social services should have an affirmative obligation to assess risk and protect children; now, therefore,~~

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

Article – Family Law

5–704.1.

(A) ~~EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION AND NOTWITHSTANDING ANY OTHER PROVISION OF LAW, INCLUDING ANY LAW ON PRIVILEGED COMMUNICATIONS, EACH HEALTH PRACTITIONER, POLICE OFFICER, PAROLE AND PROBATION AGENT, EDUCATOR, OR HUMAN SERVICE WORKER, ACTING IN A PROFESSIONAL CAPACITY IN THIS STATE, SHALL~~ AN INDIVIDUAL MAY NOTIFY THE LOCAL DEPARTMENT OR THE APPROPRIATE LAW ENFORCEMENT AGENCY IF THE INDIVIDUAL HAS REASON TO BELIEVE THAT A PARENT, GUARDIAN, OR CAREGIVER OF A CHILD ALLOWS THE CHILD TO RESIDE ~~OR REGULARLY ASSOCIATE~~ WITH OR BE IN THE REGULAR PRESENCE OF AN INDIVIDUAL, OTHER THAN THE CHILD'S PARENT OR GUARDIAN, WHO:

(1) IS REGISTERED UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE ~~AS A CHILD SEXUAL OFFENDER~~ *BASED ON THE COMMISSION OF AN OFFENSE AGAINST A CHILD*; AND

(2) BASED ON ADDITIONAL INFORMATION, POSES A SUBSTANTIAL RISK OF SEXUAL ABUSE TO THE CHILD.

~~(1) IS IDENTIFIED IN THE CENTRAL REGISTRY UNDER § 5–714 OF THIS SUBTITLE AS AN INDIVIDUAL RESPONSIBLE FOR CHILD SEXUAL ABUSE; OR~~

~~(2) HAS BEEN CONVICTED IN THE STATE WITHIN THE PAST 10 YEARS OF:~~

~~(I) CHILD ABUSE UNDER § 3–601 OF THE CRIMINAL LAW ARTICLE; OR~~

~~(II) CHILD SEXUAL ABUSE UNDER § 3–602 OF THE CRIMINAL LAW ARTICLE.~~

~~(B) AN INDIVIDUAL IS NOT REQUIRED TO PROVIDE NOTICE UNDER SUBSECTION (A) OF THIS SECTION:~~

~~(1) IN VIOLATION OF THE PRIVILEGE DESCRIBED UNDER § 9–108 OF THE COURTS ARTICLE;~~

~~(2) IF THE NOTICE WOULD DISCLOSE MATTER COMMUNICATED IN CONFIDENCE BY A CLIENT TO THE CLIENT'S ATTORNEY OR OTHER INFORMATION RELATING TO THE REPRESENTATION OF THE CLIENT; OR~~

~~(3) IN VIOLATION OF ANY CONSTITUTIONAL RIGHT TO ASSISTANCE OF COUNSEL.~~

~~(C) (1) AN INDIVIDUAL WHO NOTIFIES THE APPROPRIATE AUTHORITIES UNDER SUBSECTION (A) OF THIS SECTION SHALL MAKE:~~

~~(I) AN ORAL REPORT, BY TELEPHONE OR DIRECT COMMUNICATION, AS SOON AS POSSIBLE, TO THE LOCAL DEPARTMENT OR APPROPRIATE LAW ENFORCEMENT AGENCY; AND~~

~~(II) A WRITTEN REPORT NOT LATER THAN 48 HOURS AFTER THE CONTACT, EXAMINATION, ATTENTION, OR TREATMENT THAT CAUSED THE INDIVIDUAL TO BELIEVE THAT THE CHILD IS AT SUBSTANTIAL RISK OF ABUSE BECAUSE THE CHILD IS ALLOWED TO RESIDE OR REGULARLY ASSOCIATE WITH AN INDIVIDUAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION.~~

(B) (1) A REPORT UNDER SUBSECTION (A) OF THIS SECTION MAY BE ORAL OR IN WRITING.

(2) IF ACTING AS A STAFF MEMBER OF A HOSPITAL, PUBLIC HEALTH AGENCY, CHILD CARE INSTITUTION, JUVENILE DETENTION CENTER, SCHOOL, OR SIMILAR INSTITUTION, AN INDIVIDUAL WHO NOTIFIES THE APPROPRIATE AUTHORITIES UNDER SUBSECTION (A) OF THIS SECTION IMMEDIATELY SHALL NOTIFY AND GIVE ALL OF THE INFORMATION REQUIRED BY THIS SECTION TO THE HEAD OF THE INSTITUTION OR THE DESIGNEE OF THE HEAD OF THE INSTITUTION.

~~(D)~~ (C) TO THE EXTENT REASONABLY POSSIBLE, AN INDIVIDUAL WHO MAKES A REPORT UNDER THIS SECTION SHALL INCLUDE IN THE REPORT THE FOLLOWING INFORMATION:

(1) THE NAME, AGE, AND HOME ADDRESS OF THE CHILD;

(2) THE NAME AND HOME ADDRESS OF THE CHILD'S PARENT OR OTHER PERSON WHO IS RESPONSIBLE FOR THE CHILD'S CARE;

(3) THE WHEREABOUTS OF THE CHILD;

(4) THE NATURE AND EXTENT OF THE SUBSTANTIAL RISK OF SEXUAL ABUSE OF THE CHILD, INCLUDING ANY EVIDENCE OR INFORMATION AVAILABLE TO THE REPORTER CONCERNING POSSIBLE PREVIOUS INSTANCES OF SEXUAL ABUSE; AND

(5) ANY OTHER INFORMATION THAT WOULD HELP TO DETERMINE:

(I) THE CAUSE OF THE SUBSTANTIAL RISK OF SEXUAL ABUSE; AND

(II) THE IDENTITY OF ANY INDIVIDUAL RESPONSIBLE FOR THE SUBSTANTIAL RISK OF SEXUAL ABUSE.

5–706.2.

(A) (1) A LOCAL DEPARTMENT OR A LAW ENFORCEMENT AGENCY MAY RECEIVE A REPORT UNDER § 5–704.1 OF THIS SUBTITLE THAT A CHILD IS AT SUBSTANTIAL RISK OF SEXUAL ABUSE.

(2) ~~(I)~~ IF A LAW ENFORCEMENT AGENCY RECEIVES THE REPORT, THE LAW ENFORCEMENT AGENCY SHALL IMMEDIATELY REFER THE REPORT TO THE LOCAL DEPARTMENT.

~~**(II) ON REQUEST OF THE LOCAL DEPARTMENT, THE LAW ENFORCEMENT AGENCY SHALL, WITHIN 48 HOURS, PROVIDE ANY NECESSARY INFORMATION TO CONFIRM OR DENY CONVICTIONS ALLEGED IN THE REPORT AS DESCRIBED IN § 5–704.1(A)(2) OF THIS SUBTITLE.**~~

(3) THE SECRETARY OF HUMAN RESOURCES SHALL ADOPT REGULATIONS GOVERNING:

(I) HOW STAFF IN A LOCAL DEPARTMENT SHOULD ELICIT INFORMATION WHEN RECEIVING A REPORT UNDER § 5–704.1 OF THIS SUBTITLE; AND

(II) THE DEFINITION OF SUBSTANTIAL RISK OF SEXUAL ABUSE AS USED IN ~~§ 5–704.1 OF~~ THIS SUBTITLE.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, AFTER CONFIRMING THAT THE ALLEGATIONS IN THE REPORT REGARDING THE INDIVIDUAL'S HISTORY ARE ~~TRUE~~ ACCURATE AND THAT THERE IS SPECIFIC INFORMATION THAT THE CHILD IS AT SUBSTANTIAL RISK OF

SEXUAL ABUSE, THE LOCAL DEPARTMENT SHALL MAKE A THOROUGH INVESTIGATION TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF ANY CHILD OR CHILDREN WHO MAY BE AT SUBSTANTIAL RISK OF SEXUAL ABUSE.

(2) THE LOCAL DEPARTMENT ~~MAY~~ SHALL CONDUCT THE INVESTIGATION JOINTLY WITH AN APPROPRIATE LAW ENFORCEMENT AGENCY.

(3) IF A SUBSEQUENT REPORT IS RECEIVED REGARDING AN INDIVIDUAL WITH A HISTORY OF ~~CHILD~~ SEXUAL ABUSE THAT ALLEGES SUBSTANTIALLY THE SAME FACTS AS A REPORT THAT THE LOCAL DEPARTMENT HAS PREVIOUSLY INVESTIGATED, THE LOCAL DEPARTMENT MAY DECLINE TO MAKE AN INVESTIGATION OF THE SUBSEQUENT REPORT.

(C) WITHIN 5 DAYS AFTER RECEIVING THE REPORT, THE LOCAL DEPARTMENT ~~OR~~ AND THE APPROPRIATE LAW ENFORCEMENT AGENCY SHALL:

(1) SEE THE CHILD IN PERSON;

(2) ATTEMPT TO HAVE AN ON–SITE INTERVIEW WITH THE CHILD'S CAREGIVER AND THE INDIVIDUAL IDENTIFIED IN THE REPORT AS ~~HAVING A HISTORY OF ABUSE~~ ~~A CHILD SEXUAL OFFENDER~~ *AN INDIVIDUAL REGISTERED UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE BASED ON THE COMMISSION OF AN OFFENSE AGAINST A CHILD*;

(3) DECIDE ON THE SAFETY AND LEVEL OF RISK OF THE CHILD, WHEREVER THE CHILD IS, AND OF OTHER CHILDREN IN THE HOUSEHOLD; AND

(4) DECIDE ON THE SAFETY AND LEVEL OF RISK OF OTHER CHILDREN IN THE CARE OR CUSTODY OF THE INDIVIDUAL IDENTIFIED IN THE REPORT AS ~~HAVING A HISTORY OF ABUSE~~ ~~A CHILD SEXUAL OFFENDER~~ *AN INDIVIDUAL REGISTERED UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE BASED ON THE COMMISSION OF AN OFFENSE AGAINST A CHILD*.

(D) ~~(1)~~ TO THE EXTENT POSSIBLE, AN INVESTIGATION UNDER THIS SECTION SHALL BE COMPLETED ~~WITHIN 10~~ AS SOON AS PRACTICABLE BUT NOT LATER THAN 30 DAYS AFTER RECEIPT OF THE REPORT.

~~(2) AN INVESTIGATION THAT IS NOT COMPLETED WITHIN 30 DAYS SHALL BE COMPLETED WITHIN 60 DAYS AFTER RECEIPT OF THE REPORT.~~

~~(E) IF, AFTER THE INVESTIGATION IS COMPLETED, THE LOCAL DEPARTMENT DETERMINES THAT THE CHILD IS NOT SAFE OR IS AT SUBSTANTIAL RISK OF ABUSE, THE LOCAL DEPARTMENT SHALL:~~

~~(1) OFFER SERVICES TO THE FAMILY; AND~~

~~(2) IMMEDIATELY DECIDE WHETHER TO FILE A PETITION ALLEGING THAT THE CHILD IS IN NEED OF ASSISTANCE.~~

~~(F) WITHIN 30 DAYS AFTER THE COMPLETION OF AN INVESTIGATION UNDER THIS SECTION, THE LOCAL DEPARTMENT SHALL NOTIFY IN WRITING THE CHILD'S CAREGIVER AND THE INDIVIDUAL IDENTIFIED IN THE REPORT AS HAVING A HISTORY OF ABUSE OF THE LOCAL DEPARTMENT'S DETERMINATION ON THE SAFETY AND LEVEL OF RISK OF THE CHILD.~~

(E) AS PART OF THE INVESTIGATION, THE LOCAL DEPARTMENT SHALL:

(1) DETERMINE WHETHER THE CHILD IS SAFE;

(2) DETERMINE WHETHER SEXUAL ABUSE OF THE CHILD HAS OCCURRED;

(3) IF APPROPRIATE, OFFER SERVICES TO THE FAMILY; AND

(4) IMMEDIATELY DECIDE WHETHER TO FILE A PETITION ALLEGING THAT THE CHILD IS IN NEED OF ASSISTANCE.

~~5–707.~~

~~(b) The local department shall expunge a report of suspected abuse or neglect OR OF SUBSTANTIAL RISK OF ABUSE and all assessments and investigative findings:~~

~~(1) within 5 years after the date of referral if the investigation under § 5–706 OR § 5–706.2 of this subtitle concludes that the report is unsubstantiated, and no further reports of abuse or neglect OR OF SUBSTANTIAL RISK OF ABUSE are received during the 5 years; and~~

~~(2) within 120 days after the date of referral if the report is ruled out, and no further reports of abuse or neglect OR OF SUBSTANTIAL RISK OF ABUSE are received during the 120 days.~~

5–708.

Any person who makes or participates in making a report of abuse or neglect under § 5–704, § 5–705, or § 5–705.1 of this subtitle **OR A REPORT OF SUBSTANTIAL RISK OF SEXUAL ABUSE UNDER § 5–704.1 OF THIS SUBTITLE** or participates in an investigation or a resulting judicial proceeding shall have the immunity described

under § 5–620 of the Courts and Judicial Proceedings Article from civil liability or criminal penalty.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 186

(House Bill 811)

AN ACT concerning

~~Child Abuse and Neglect – Mandatory Reporting – Children in Contact with~~ Child Protection – Reporting of Children Living with or in the Regular Presence of Registered Child Sexual Offenders

FOR the purpose of ~~requiring certain professionals~~ authorizing an individual to notify the local department of social services or the appropriate law enforcement agency if the ~~professionals have~~ individual has reason to believe that a ~~child is at substantial risk of child abuse or neglect because the child's~~ parent, guardian, or caregiver allows ~~the~~ a child to reside with or ~~regularly associate with~~ be in the regular presence of a certain individual; providing for the manner of reporting; describing the information that is to be included in a certain report; providing for the receipt and investigation of a certain report; ~~providing certain exceptions; establishing certain reporting procedures;~~ requiring the Secretary of Human Resources to adopt certain regulations; ~~establishing certain investigation procedures;~~ requiring the local department and the appropriate law enforcement agency to take certain actions ~~after completion of an investigation; providing for expungement of certain reports;~~ within a certain time period after receiving a certain report; requiring an investigation to be completed within a certain time period; requiring the local department to take certain actions as part of an investigation; providing certain immunity for certain persons who make or participate in making certain reports; and generally relating to ~~reports and investigations concerning children at substantial risk of child abuse or neglect~~ reporting of children living with or in the regular presence of certain persons.

BY adding to
Article – Family Law
Section ~~5–705.2~~ 5–704.1 and 5–706.2
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section ~~5–707(b) and~~ 5–708
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

~~Preamble~~

~~WHEREAS, No child should suffer injury or death from maltreatment resulting from regular association with an individual with a known criminal record of child abuse or neglect; and~~

~~WHEREAS, A child's regular association with an individual with a history of child abuse or neglect presents a preventable threat to the safety of Maryland's children; and~~

~~WHEREAS, Maryland courts have consistently held that a child can be adjudicated a child in need of assistance under certain circumstances without waiting until the child suffers maltreatment before protecting the child; and~~

~~WHEREAS, A court is unlikely to have the information necessary to protect a child who is regularly exposed to an individual with a history of harming children unless a local department of social services petitions the court to find that the child is in need of assistance; and~~

~~WHEREAS, The Office of the Attorney General has interpreted the statutory scheme requiring a local department of social services to investigate abuse and neglect to be incident–based and therefor not in harmony with the child in need of assistance statutes; and~~

~~WHEREAS, To prevent death and injuries to children at substantial risk of harm, local departments of social services should have an obligation to assess risk and protect children; now, therefore,~~

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

Article – Family Law

~~**5–705.2.**~~

~~**(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, INCLUDING ANY LAW ON PRIVILEGED COMMUNICATIONS, AND EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, EACH HEALTH PRACTITIONER, POLICE OFFICER, PAROLE AND PROBATION AGENT, JUDGE, EDUCATOR, AND HUMAN SERVICE WORKER, ACTING IN A PROFESSIONAL CAPACITY IN THIS STATE,**~~

~~SHALL NOTIFY THE LOCAL DEPARTMENT OR THE APPROPRIATE LAW ENFORCEMENT AGENCY IF THE INDIVIDUAL HAS REASON TO BELIEVE THAT THE CHILD IS AT SUBSTANTIAL RISK OF ABUSE OR NEGLECT BECAUSE A PARENT, GUARDIAN, OR CAREGIVER OF A CHILD ALLOWS THE CHILD TO RESIDE WITH OR TO ASSOCIATE REGULARLY WITH AN INDIVIDUAL OTHER THAN THE PARENT OR GUARDIAN WHO:~~

~~(1) IS IDENTIFIED IN A CENTRAL REGISTRY UNDER § 5–714 OF THIS SUBTITLE AS AN INDIVIDUAL RESPONSIBLE FOR CHILD SEXUAL ABUSE; OR~~

~~(2) IS REGISTERED ON THE SEXUAL OFFENDER REGISTRY UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE.~~

~~(B) AN INDIVIDUAL IS NOT REQUIRED TO PROVIDE NOTICE UNDER SUBSECTION (A) OF THIS SECTION:~~

~~(1) IN VIOLATION OF THE PRIVILEGE DESCRIBED UNDER § 9–108 OF THE COURTS ARTICLE;~~

~~(2) IF THE NOTICE WOULD DISCLOSE MATTER COMMUNICATED IN CONFIDENCE BY A CLIENT TO THE CLIENT'S ATTORNEY OR OTHER INFORMATION RELATING TO THE REPRESENTATION OF THE CLIENT; OR~~

~~(3) IN VIOLATION OF ANY CONSTITUTIONAL RIGHT TO ASSISTANCE OF COUNSEL.~~

~~(C) (1) AN INDIVIDUAL WHO NOTIFIES THE APPROPRIATE AUTHORITY UNDER SUBSECTION (A) OF THIS SECTION SHALL MAKE:~~

~~(I) AN ORAL REPORT, BY TELEPHONE OR DIRECT COMMUNICATION, AS SOON AS POSSIBLE, TO THE LOCAL DEPARTMENT OR APPROPRIATE LAW ENFORCEMENT AGENCY; AND~~

~~(II) A WRITTEN REPORT NOT LATER THAN 48 HOURS AFTER THE CONTACT, EXAMINATION, ATTENTION, OR TREATMENT THAT CAUSED THE INDIVIDUAL TO BELIEVE THAT THE CHILD IS AT SUBSTANTIAL RISK OF ABUSE OR NEGLECT BECAUSE THE CHILD IS ALLOWED TO RESIDE WITH OR TO ASSOCIATE REGULARLY WITH AN INDIVIDUAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION.~~

~~(2) IF ACTING AS A STAFF MEMBER OF A HOSPITAL, PUBLIC HEALTH AGENCY, CHILD CARE INSTITUTION, JUVENILE DETENTION CENTER, SCHOOL, OR SIMILAR INSTITUTION, AN INDIVIDUAL WHO NOTIFIES THE APPROPRIATE AUTHORITY UNDER SUBSECTION (A) OF THIS SECTION~~

~~IMMEDIATELY SHALL NOTIFY AND GIVE ALL THE INFORMATION REQUIRED BY THIS SECTION TO THE HEAD OF THE INSTITUTION OR THE DESIGNEE OF THE HEAD.~~

~~(D) TO THE EXTENT REASONABLY POSSIBLE, AN INDIVIDUAL WHO MAKES A REPORT UNDER THIS SECTION SHALL INCLUDE IN THE REPORT THE FOLLOWING INFORMATION:~~

~~(1) THE NAME, AGE, AND HOME ADDRESS OF THE CHILD;~~

~~(2) THE NAME AND HOME ADDRESS OF THE CHILD'S PARENT OR OTHER PERSON WHO IS RESPONSIBLE FOR THE CHILD'S CARE;~~

~~(3) THE WHIEREABOUTS OF THE CHILD;~~

~~(4) THE NATURE AND EXTENT OF THE SUBSTANTIAL RISK OF ABUSE OR NEGLECT OF THE CHILD, INCLUDING ANY EVIDENCE OR INFORMATION AVAILABLE TO THE REPORTER CONCERNING POSSIBLE PREVIOUS INSTANCES OF ABUSE OR NEGLECT; AND~~

~~(5) ANY OTHER INFORMATION THAT WOULD HELP TO DETERMINE:~~

~~(I) THE CAUSE OF THE SUBSTANTIAL RISK OF ABUSE OR NEGLECT; AND~~

~~(II) THE IDENTITY OF THE INDIVIDUAL DESCRIBED IN SUBSECTION (A)(1) OR (2) OF THIS SECTION.~~

5–704.1.

(A) AN INDIVIDUAL MAY NOTIFY THE LOCAL DEPARTMENT OR THE APPROPRIATE LAW ENFORCEMENT AGENCY IF THE INDIVIDUAL HAS REASON TO BELIEVE THAT A PARENT, GUARDIAN, OR CAREGIVER OF A CHILD ALLOWS THE CHILD TO RESIDE WITH OR BE IN THE REGULAR PRESENCE OF AN INDIVIDUAL, OTHER THAN THE CHILD'S PARENT OR GUARDIAN, WHO:

(1) IS REGISTERED UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE ~~AS A CHILD SEXUAL OFFENDER~~ *BASED ON THE COMMISSION OF AN OFFENSE AGAINST A CHILD*; AND

(2) BASED ON ADDITIONAL INFORMATION, POSES A SUBSTANTIAL RISK OF SEXUAL ABUSE TO THE CHILD.

(B) (1) A REPORT UNDER SUBSECTION (A) OF THIS SECTION MAY BE ORAL OR IN WRITING.

(2) IF ACTING AS A STAFF MEMBER OF A HOSPITAL, PUBLIC HEALTH AGENCY, CHILD CARE INSTITUTION, JUVENILE DETENTION CENTER, SCHOOL, OR SIMILAR INSTITUTION, AN INDIVIDUAL WHO NOTIFIES THE APPROPRIATE AUTHORITIES UNDER SUBSECTION (A) OF THIS SECTION IMMEDIATELY SHALL NOTIFY AND GIVE ALL OF THE INFORMATION REQUIRED BY THIS SECTION TO THE HEAD OF THE INSTITUTION OR THE DESIGNEE OF THE HEAD OF THE INSTITUTION.

(C) TO THE EXTENT REASONABLY POSSIBLE, AN INDIVIDUAL WHO MAKES A REPORT UNDER THIS SECTION SHALL INCLUDE IN THE REPORT THE FOLLOWING INFORMATION:

(1) THE NAME, AGE, AND HOME ADDRESS OF THE CHILD;

(2) THE NAME AND HOME ADDRESS OF THE CHILD'S PARENT OR OTHER PERSON WHO IS RESPONSIBLE FOR THE CHILD'S CARE;

(3) THE WHEREABOUTS OF THE CHILD;

(4) THE NATURE AND EXTENT OF THE SUBSTANTIAL RISK OF SEXUAL ABUSE OF THE CHILD, INCLUDING ANY EVIDENCE OR INFORMATION AVAILABLE TO THE REPORTER CONCERNING POSSIBLE PREVIOUS INSTANCES OF SEXUAL ABUSE; AND

(5) ANY OTHER INFORMATION THAT WOULD HELP TO DETERMINE:

(I) THE CAUSE OF THE SUBSTANTIAL RISK OF SEXUAL ABUSE; AND

(II) THE IDENTITY OF ANY INDIVIDUAL RESPONSIBLE FOR THE SUBSTANTIAL RISK OF SEXUAL ABUSE.

5–706.2.

(A) (1) A LOCAL DEPARTMENT OR A LAW ENFORCEMENT AGENCY MAY RECEIVE A REPORT UNDER § ~~5–705.2~~ 5–704.1 OF THIS SUBTITLE THAT A CHILD IS AT SUBSTANTIAL RISK OF ~~ABUSE OR NEGLECT~~ SEXUAL ABUSE.

(2) ~~(I) A LOCAL DEPARTMENT THAT RECEIVES A REPORT UNDER § 5–705.2 OF THIS SUBTITLE IMMEDIATELY SHALL NOTIFY THE~~

~~APPROPRIATE LAW ENFORCEMENT AGENCY AND THE DIVISION OF PAROLE AND PROBATION.~~

~~(II) A LAW ENFORCEMENT AGENCY THAT RECEIVES A REPORT UNDER § 5–705.2 OF THIS SUBTITLE IMMEDIATELY SHALL NOTIFY THE APPROPRIATE LOCAL DEPARTMENT AND THE DIVISION OF PAROLE AND PROBATION.~~

~~(3)~~ ~~(I)~~ IF A LAW ENFORCEMENT AGENCY RECEIVES THE REPORT, THE LAW ENFORCEMENT AGENCY ~~IMMEDIATELY SHALL~~ SHALL IMMEDIATELY REFER THE REPORT TO THE LOCAL DEPARTMENT.

~~(II) ON REQUEST OF THE LOCAL DEPARTMENT, THE LAW ENFORCEMENT AGENCY SHALL, WITHIN 48 HOURS, PROVIDE ANY NECESSARY INFORMATION TO CONFIRM OR DENY REGISTRATION OF AN INDIVIDUAL ON THE SEXUAL OFFENDER REGISTRY ALLEGED IN THE REPORT AS DESCRIBED IN § 5–705.2(A)(2) OF THIS SUBTITLE.~~

~~(4)~~ (3) THE SECRETARY OF HUMAN RESOURCES SHALL ADOPT REGULATIONS GOVERNING:

(I) HOW STAFF IN A LOCAL DEPARTMENT SHOULD ELICIT INFORMATION WHEN RECEIVING A REPORT UNDER § ~~5–705.2~~ 5–704.1 OF THIS SUBTITLE; AND

(II) THE DEFINITION OF SUBSTANTIAL RISK OF ~~ABUSE OR NEGLECT,~~ SEXUAL ABUSE AS USED IN ~~§ 5–705.2 OF~~ THIS SUBTITLE.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, AFTER CONFIRMING THAT THE ALLEGATIONS IN THE REPORT REGARDING THE INDIVIDUAL'S HISTORY ARE ~~TRUE~~ ACCURATE AND THAT THERE IS SPECIFIC INFORMATION THAT THE CHILD IS AT SUBSTANTIAL RISK OF SEXUAL ABUSE, THE LOCAL DEPARTMENT SHALL MAKE A THOROUGH INVESTIGATION TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF ANY CHILD OR CHILDREN WHO MAY BE AT SUBSTANTIAL RISK OF ~~ABUSE OR NEGLECT~~ SEXUAL ABUSE.

(2) ~~(I)~~ THE LOCAL DEPARTMENT SHALL CONDUCT THE INVESTIGATION JOINTLY WITH AN APPROPRIATE LAW ENFORCEMENT AGENCY.

~~(II) THE LOCAL DEPARTMENT AND THE APPROPRIATE LAW ENFORCEMENT AGENCY SHALL ENTER INTO A WRITTEN AGREEMENT THAT SPECIFIES STANDARD OPERATING PROCEDURES FOR AN INVESTIGATION UNDER THIS SECTION.~~

~~(III) THE INVESTIGATION PROCEDURE SHALL:~~

~~1. INCLUDE APPROPRIATE TECHNIQUES DESIGNED TO:~~

~~A. EXPEDITE THE VALIDATION OF REPORTS;~~

~~B. DECREASE THE POTENTIAL FOR PHYSICAL HARM TO THE CHILD; AND~~

~~C. DECREASE ANY TRAUMA EXPERIENCED BY THE CHILD IN THE INVESTIGATION; AND~~

~~2. ESTABLISH AN ONGOING TRAINING PROGRAM FOR PERSONNEL INVOLVED IN THE INVESTIGATION.~~

(3) IF A SUBSEQUENT REPORT IS RECEIVED REGARDING AN INDIVIDUAL WITH A HISTORY OF SEXUAL ABUSE THAT ALLEGES SUBSTANTIALLY THE SAME FACTS AS A REPORT THAT THE LOCAL DEPARTMENT ~~PREVIOUSLY HAS~~ HAS PREVIOUSLY INVESTIGATED, THE LOCAL DEPARTMENT MAY DECLINE TO MAKE AN INVESTIGATION OF THE SUBSEQUENT REPORT.

(C) WITHIN 5 DAYS AFTER RECEIVING THE REPORT, THE LOCAL DEPARTMENT ~~OR~~ AND THE APPROPRIATE LAW ENFORCEMENT AGENCY SHALL:

(1) SEE THE CHILD IN PERSON;

(2) ATTEMPT TO HAVE AN ON–SITE INTERVIEW WITH THE CHILD'S CAREGIVER AND THE INDIVIDUAL ~~DESCRIBED IN § 5–705.2(A)(1) OR (2) OF THIS SUBTITLE~~ IDENTIFIED IN THE REPORT AS ~~A CHILD SEXUAL OFFENDER~~ *AN INDIVIDUAL REGISTERED UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE BASED ON THE COMMISSION OF AN OFFENSE AGAINST A CHILD*;

(3) ~~DETERMINE~~ DECIDE ON THE SAFETY ~~OF~~ AND LEVEL OF RISK TO THE CHILD, WHEREVER THE CHILD IS, AND ~~TO~~ OF OTHER CHILDREN IN THE HOUSEHOLD; AND

(4) ~~DETERMINE~~ DECIDE ON THE SAFETY ~~OF~~ AND LEVEL OF RISK ~~TO~~ OF OTHER CHILDREN IN THE CARE OR CUSTODY OF THE INDIVIDUAL ~~DESCRIBED IN § 5–705.2(A)(1) OR (2) OF THIS SUBTITLE~~ IDENTIFIED IN THE REPORT AS ~~A CHILD SEXUAL OFFENDER~~ *AN INDIVIDUAL REGISTERED UNDER*

TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE BASED ON THE COMMISSION OF AN OFFENSE AGAINST A CHILD.

(D) TO THE EXTENT POSSIBLE, AN INVESTIGATION UNDER THIS SECTION SHALL BE COMPLETED ~~WITHIN~~ AS SOON AS PRACTICABLE BUT NOT LATER THAN 30 DAYS AFTER RECEIPT OF THE REPORT.

(E) ~~IF, AFTER THE INVESTIGATION IS COMPLETED, THE LOCAL DEPARTMENT DETERMINES THAT THE CHILD IS NOT SAFE OR IS AT SUBSTANTIAL RISK OF ABUSE OR NEGLECT, THE LOCAL DEPARTMENT SHALL:~~

~~(1) OFFER SERVICES TO THE FAMILY;~~

~~(2) PROVIDE THE CHILD'S CAREGIVER WITH INFORMATION ON CHILD SEXUAL ABUSE; AND~~

~~(3) IMMEDIATELY DECIDE WHETHER TO FILE A PETITION ALLEGING THAT THE CHILD IS IN NEED OF ASSISTANCE.~~

~~(F) WITHIN 30 DAYS AFTER THE COMPLETION OF AN INVESTIGATION UNDER THIS SECTION, THE LOCAL DEPARTMENT SHALL NOTIFY IN WRITING THE CHILD'S CAREGIVER, THE INDIVIDUAL DESCRIBED IN § 5–705.2(A)(1) OR (2) OF THIS SUBTITLE, LOCAL LAW ENFORCEMENT, AND THE DIVISION OF PAROLE AND PROBATION OF THE LOCAL DEPARTMENT'S DETERMINATION ON THE SAFETY OF AND LEVEL OF RISK TO THE CHILD.~~

~~5–707.~~

~~(b) The local department shall expunge a report of suspected abuse or neglect **OR OF SUBSTANTIAL RISK OF ABUSE OR NEGLECT** and all assessments and investigative findings:~~

~~(1) within 5 years after the date of referral if the investigation under § 5–706 **OR § 5–706.2** of this subtitle concludes that the report is unsubstantiated, and no further reports of abuse or neglect **OR SUBSTANTIAL RISK OF ABUSE OR NEGLECT** are received during the 5 years; and~~

~~(2) within 120 days after the date of referral if the report is ruled out, and no further reports of abuse or neglect **OR SUBSTANTIAL RISK OF ABUSE OR NEGLECT** are received during the 120 days~~ **AS PART OF THE INVESTIGATION, THE LOCAL DEPARTMENT SHALL:**

(1) DETERMINE WHETHER THE CHILD IS SAFE;

(2) DETERMINE WHETHER SEXUAL ABUSE OF THE CHILD HAS OCCURRED;

(3) IF APPROPRIATE, OFFER SERVICES TO THE FAMILY; AND

(4) IMMEDIATELY DECIDE WHETHER TO FILE A PETITION ALLEGING THAT THE CHILD IS IN NEED OF ASSISTANCE.

5–708.

Any person who makes or participates in making a report of abuse or neglect under § 5–704, § 5–705, or § 5–705.1 of this subtitle **OR A REPORT OF SUBSTANTIAL RISK OF ~~ABUSE OR NEGLECT~~ SEXUAL ABUSE UNDER § ~~5–705.2~~ 5–704.1 OF THIS SUBTITLE** or participates in an investigation or a resulting judicial proceeding shall have the immunity described under § 5–620 of the Courts and Judicial Proceedings Article from civil liability or criminal penalty.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 187

(House Bill 60)

AN ACT concerning

Criminal Procedure – Violation by Child Sexual Offender of Pretrial or Posttrial Release No Contact Order ~~– Expedited Hearing~~ ("Alexis's Law")

FOR the purpose of authorizing ~~an alleged victim, a pretrial services representative, or a State's Attorney to request an expedited hearing before a certain District Court or circuit court judge if the alleged victim alleges that the defendant has violated a certain condition of pretrial or posttrial release; requiring a court to issue a bench warrant and schedule a certain expedited hearing under certain circumstances; requiring a certain hearing to be held within a certain period of time; authorizing a court to revoke or continue a defendant's release under certain circumstances;~~ a police officer to arrest a person without a warrant if the police officer has probable cause to believe that the person has violated a condition of pretrial or posttrial release; prohibiting a person charged with committing a certain sexual crime against a victim who is a minor from

violating a certain condition of pretrial or posttrial release; establishing a penalty for a violation of certain conditions of pretrial or posttrial release; and generally relating to violations of conditions of pretrial and posttrial release.

BY repealing and reenacting, ~~without~~ with amendments,
Article – Criminal Procedure
Section ~~5–201(a) and 5–213~~ 2–203
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY adding to
Article – Criminal Procedure
Section 5–213.1
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Criminal Procedure

~~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.~~

~~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) IF AN ALLEGED VICTIM ALLEGES THAT A DEFENDANT HAS VIOLATED A CONDITION OF PRETRIAL OR POSTTRIAL RELEASE PROHIBITING THE DEFENDANT FROM CONTACTING, HARASSING, OR ABUSING THE ALLEGED VICTIM OR GOING IN OR NEAR THE ALLEGED VICTIM'S PREMISES OR PLACE OF EMPLOYMENT, THE ALLEGED VICTIM, A PRETRIAL SERVICES REPRESENTATIVE, OR A STATE'S ATTORNEY MAY REQUEST AN EXPEDITED HEARING BEFORE ANY DISTRICT COURT OR CIRCUIT COURT JUDGE OF THE COUNTY IN WHICH THE CASE IS PENDING ON THE MATTER.~~

~~(B) ON THE FILING OF A REQUEST UNDER SUBSECTION (A) OF THIS SECTION, THE COURT SHALL ISSUE A BENCH WARRANT FOR THE ARREST OF THE DEFENDANT AND SCHEDULE AN EXPEDITED HEARING.~~

~~(C) A HEARING SCHEDULED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE HELD NO LATER THAN 2 BUSINESS DAYS AFTER THE FILING OF A REQUEST UNDER SUBSECTION (A) OF THIS SECTION.~~

~~(D) AT THE CONCLUSION OF THE HEARING, THE COURT MAY:~~

~~(1) REVOKE THE DEFENDANT'S RELEASE; OR~~

~~(2) CONTINUE THE DEFENDANT'S RELEASE WITH OR WITHOUT CONDITIONS.~~

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 $500 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; **[**and**]**

(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.

5–213.1.

(A) A PERSON CHARGED WITH COMMITTING A VIOLATION OF TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE AGAINST A VICTIM WHO IS A MINOR MAY NOT VIOLATE A CONDITION OF PRETRIAL OR POSTTRIAL RELEASE PROHIBITING THE PERSON FROM CONTACTING, HARASSING, OR ABUSING THE ALLEGED VICTIM OR GOING IN OR NEAR THE ALLEGED VICTIM'S RESIDENCE OR PLACE OF EMPLOYMENT.

(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.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 188

(House Bill 1160)

AN ACT concerning

Safe Schools Act of 2010

FOR the purpose of ~~requiring~~ *clarifying the authority of* the juvenile court to notify ~~a~~ certain school ~~official~~ *officials* that a child has been found to be delinquent, in need of assistance, or in need of supervision and committed to a certain agency under certain circumstances; ~~requiring~~ *authorizing* a court to notify certain school officials if a child found to be delinquent, in need of assistance, or in need of supervision is no longer committed to the custody of certain agencies; ~~requiring that certain information transmitted by the juvenile court to certain school officials relating to a child found to be delinquent, in need of assistance, or in need of supervision is confidential and may not be made part of the student's permanent educational record; authorizing a local superintendent of schools to transmit certain information as a confidential file to certain persons under certain circumstances;~~ adding certain offenses to a list of offenses for which a student is arrested that are required to be reported to certain school officials under certain circumstances; requiring a certain local law enforcement agency to notify a school security officer of the arrest of a student for a certain offense within a certain period of time under certain circumstances; authorizing a certain law enforcement agency to notify the State's Attorney of the arrest of a student for a certain offense; requiring the State Board of Education to adopt certain regulations; requiring a local school superintendent and a school principal to consider prohibiting a student who is arrested for a reportable offense *involving rape or a sexual offense* from attending the same school or riding on the same school bus as the alleged victim under certain circumstances; prohibiting a student who is convicted of or adjudicated delinquent for a reportable offense involving rape or a sexual offense from attending the same school or riding on the same school bus as the victim; requiring ~~each public middle and high school~~ certain public schools to designate at least one school security officer; requiring the State Board of Education to develop a model policy to address gangs ~~and gang-like activity~~*, gang activity, and similar destructive or illegal group behavior* in schools; specifying the components of the model policy; requiring each ~~county board of education~~ *local school system* to establish a policy *or regulations* to address gangs ~~and~~ ~~gang-like activity~~*, gang activity, and similar destructive or illegal group behavior*; requiring each ~~county board~~ *local school system* to develop the policy *or regulations* in consultation with certain groups; requiring each ~~county board~~ *local school system* to publicize its policy *or regulations* in a certain manner; requiring each ~~county board~~ *local*

school system to submit its policy *or regulations* to the State Board by a certain date; requiring each ~~county board~~ *local school system* to develop certain educational programs to address gangs ~~and gang-like activity~~*, gang activity, and similar destructive or illegal group behavior* in schools; requiring a school employee to report suspected ~~gang or gang-like activity~~ *gang activity or similar destructive or illegal group behavior* to certain school officials; authorizing certain school officials to take certain actions; requiring each county superintendent of schools to require certain school security meetings for certain schools; requiring the participation of certain individuals in school security meetings; requiring each county superintendent to enter into a certain memorandum of understanding with the county State's Attorney's Office; requiring the State Department of Education to submit a certain report to the General Assembly on or before a certain date each year; requiring the Governor's Office of Crime Control and Prevention to perform certain actions and submit a certain report to the General Assembly on or before a certain date; *requiring the Administrative Office of the Courts, the Department of Human Resources, the Department of Juvenile Services, and the State Department of Education to report to the Governor, the General Assembly, and certain legislative committees on or before a certain date regarding a certain process, certain notification, and certain recommendations;* defining certain terms; repealing a certain definition; altering a certain definition; making certain clarifying and conforming changes; and generally relating to school safety, gang prevention and intervention in schools, and truancy.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–819(b–1) and 3–8A–19(d)(5)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Education
Section 7–302
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section ~~7–302 and~~ 7–303
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY adding to
Article – Education
Section 7–424.2
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Courts and Judicial Proceedings

3–819.

(b–1) (1) If the court finds that a child **ENROLLED IN A PUBLIC ELEMENTARY OR SECONDARY SCHOOL** is in need of assistance and commits the child to the custody of a local department, the court **[**may**]** ~~**SHALL**~~ notify the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent of the fact that the child has been found to be in need of assistance and has been committed to the custody of a local department.

(2) IF THE COURT RESCINDS THE COMMITMENT ORDER FOR A CHILD ENROLLED IN A PUBLIC ELEMENTARY OR SECONDARY SCHOOL, THE COURT ~~**SHALL**~~ ***MAY*** **NOTIFY THE COUNTY SUPERINTENDENT, THE SUPERVISOR OF PUPIL PERSONNEL, OR ANY OTHER OFFICIAL DESIGNATED BY THE COUNTY SUPERINTENDENT OF THE FACT THAT THE CHILD IS NO LONGER COMMITTED TO THE CUSTODY OF A LOCAL DEPARTMENT OF SOCIAL SERVICES.**

~~(2)~~ **(3)** The notice ~~**REQUIRED**~~ ***AUTHORIZED*** **UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION** may not include any order or pleading related to the child in need of assistance case.

~~**(4) EXCEPT BY ORDER OF A JUVENILE COURT OR OTHER COURT ON GOOD CAUSE SHOWN, THE INFORMATION OBTAINED BY AN INDIVIDUAL UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION:**~~

~~**(I) IS CONFIDENTIAL AND MAY NOT BE REDISCLOSED BY SUBPOENA OR OTHERWISE EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION; AND**~~

~~**(II) MAY NOT BE MADE PART OF THE STUDENT'S PERMANENT EDUCATIONAL RECORD.**~~

~~**(5) A LOCAL SUPERINTENDENT MAY TRANSMIT THE INFORMATION OBTAINED UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION AS A CONFIDENTIAL FILE TO THE LOCAL SUPERINTENDENT OF ANOTHER PUBLIC SCHOOL SYSTEM IN THE STATE OR A NONPUBLIC SCHOOL IN THE STATE IN WHICH THE STUDENT HAS ENROLLED OR BEEN TRANSFERRED IF THE STUDENT IS STILL COMMITTED TO THE CUSTODY OF A LOCAL DEPARTMENT.**~~

~~(6) THE STATE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT PARAGRAPHS (4) AND (5) OF THIS SUBSECTION.~~

3–8A–19.

(d) (5) (i) If the court finds that a child **ENROLLED IN A PUBLIC ELEMENTARY OR SECONDARY SCHOOL** is **DELINQUENT OR** in need of supervision and commits the child to the custody or under the guardianship of the Department of Juvenile Services, the court **[**may**]** ~~SHALL~~ notify the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent of the fact that the child has been found to be **DELINQUENT OR** in need of supervision and has been committed to the custody or under the guardianship of the Department of Juvenile Services.

(II) IF THE COURT RESCINDS THE COMMITMENT ORDER FOR A CHILD ENROLLED IN A PUBLIC ELEMENTARY OR SECONDARY SCHOOL, THE COURT ~~SHALL~~ ***MAY*** **NOTIFY THE COUNTY SUPERINTENDENT, THE SUPERVISOR OF PUPIL PERSONNEL, OR ANY OTHER OFFICIAL DESIGNATED BY THE COUNTY SUPERINTENDENT OF THE FACT THAT THE CHILD IS NO LONGER COMMITTED TO THE CUSTODY OF THE DEPARTMENT OF JUVENILE SERVICES.**

~~(ii)~~ **(III)** The notice ~~REQUIRED~~ ***AUTHORIZED*** **UNDER SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH** may not include any order or pleading related to the **DELINQUENCY OR** child in need of supervision case.

~~(IV) EXCEPT BY ORDER OF A JUVENILE COURT OR OTHER COURT ON GOOD CAUSE SHOWN, THE INFORMATION OBTAINED BY AN INDIVIDUAL UNDER SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH:~~

~~1. IS CONFIDENTIAL AND MAY NOT BE REDISCLOSED BY SUBPOENA OR OTHERWISE EXCEPT AS PROVIDED IN SUBPARAGRAPH (V) OF THIS SUBSECTION; AND~~

~~2. MAY NOT BE MADE PART OF THE STUDENT'S PERMANENT EDUCATIONAL RECORD.~~

~~(V) A LOCAL SUPERINTENDENT MAY TRANSMIT THE INFORMATION OBTAINED UNDER SUBPARAGRAPHS (I) AND (II) OF THIS SUBSECTION AS A CONFIDENTIAL FILE TO THE LOCAL SUPERINTENDENT OF ANOTHER PUBLIC SCHOOL SYSTEM IN THE STATE OR A NONPUBLIC SCHOOL IN THE STATE IN WHICH THE STUDENT HAS ENROLLED OR BEEN TRANSFERRED IF THE STUDENT IS STILL COMMITTED TO THE CUSTODY OF A LOCAL DEPARTMENT.~~

~~**(VI) THE STATE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT SUBPARAGRAPHS (IV) AND (V) OF THIS PARAGRAPH.**~~

Article – Education

7–302.

(a) The principal or head teacher of each public or private school in this State shall report immediately to the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent the name of each child enrolled in his school who has been absent or irregular in attendance, without lawful excuse, or who shows evidence of maladjustment, so that the causes may be studied and solutions worked out.

(b) On receipt of a report from a principal or head teacher of a public school that a student has been habitually truant without lawful excuse, the appropriate representative of the school system:

(1) Shall initiate an investigation into the cause of the child's truancy;

(2) May provide counseling regarding the availability of social, health, and educational services; and

(3) Following the investigation or intervention:

(i) May notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse;

(ii) **[**Shall**]** ~~**FOR A STUDENT DESCRIBED IN § 3–819(B–1) OF THE COURTS ARTICLE, SHALL**~~ notify the appropriate local department that the student has been habitually truant, without lawful excuse~~**[**~~, if a court has given the notice authorized by § 3–819(b–1) of the Courts Article~~**]**~~; and

(iii) **[**Shall**]** ~~**FOR A STUDENT DESCRIBED IN § 3–8A–19(D)(5) OF THE COURTS ARTICLE, SHALL**~~ notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse~~**[**~~, if a court has given the notice authorized by § 3–8A–19(d)(5) of the Courts Article~~**]**~~.

(c) The county superintendent, the superintendent's designee, or the supervisor of pupil personnel shall provide to the local education agency for inclusion in the report of the local education agency under § 7–304(f)(1) of this subtitle information regarding the number of students identified as being habitually truant.

7–303.

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

(2) "Criminal gang" has the meaning stated in § 9–801 of the Criminal Law Article.

(3) "Law enforcement agency" means the law enforcement agencies listed in § 3–101(e) of the Public Safety Article.

(4) "Local school system" means the schools and school programs under the supervision of the local superintendent.

(5) "Local superintendent" means:

(i) The county superintendent, for the county in which a student is enrolled, or a designee of the superintendent, who is an administrator; or

(ii) The superintendent of schools for the:

1. Archdiocese of Baltimore;

2. Archdiocese of Washington; and

3. Catholic Diocese of Wilmington.

[(6) "Nonpublic school principal" means the principal of the nonpublic school in which a student is enrolled, or a designee of the principal, who is an administrator.**]**

[(7)**] (6)** "Reportable offense" means:

(i) A crime of violence, as defined in § 14–101 of the Criminal Law Article;

(ii) Any of the offenses enumerated in § 3–8A–03(d)(4) of the Courts Article;

(iii) A violation of § 4–101, § 4–102, § 4–203, or § 4–204 of the Criminal Law Article;

(iv) A violation of §§ 5–602 through 5–609, §§ 5–612 through 5–614, § 5–617, § 5–618, § 5–627, or § 5–628 of the Criminal Law Article;

(v) A violation of § 4–503, § 9–504, or § 9–505 of the Criminal Law Article;

(vi) A violation of § 6–102, § 6–103, § 6–104, or § 6–105 of the Criminal Law Article; **[**or**]**

(vii) A violation of § 9–802 or § 9–803 of the Criminal Law Article**;**

(VIII) A VIOLATION OF § 3–203 OF THE CRIMINAL LAW ARTICLE; ~~**OR**~~

(IX) A VIOLATION OF § 6–301 OF THE CRIMINAL LAW ARTICLE;

(X) A VIOLATION OF § 9–302, § 9–303, OR § 9–305 OF THE CRIMINAL LAW ARTICLE; OR

(XI) A VIOLATION OF § 7–105 OF THE CRIMINAL LAW ARTICLE.

(7) "SCHOOL PRINCIPAL" MEANS THE PRINCIPAL OF THE PUBLIC OR NONPUBLIC SCHOOL IN WHICH A STUDENT IS ENROLLED, OR A DESIGNEE OF THE PRINCIPAL, WHO IS AN ADMINISTRATOR.

(8) (I) "SCHOOL SECURITY OFFICER" ~~**MEANS AN INDIVIDUAL DESIGNATED BY THE COUNTY SUPERINTENDENT OR A SCHOOL PRINCIPAL TO HELP MAINTAIN THE SECURITY AND SAFETY OF A SCHOOL**~~ **INCLUDES A SCHOOL PRINCIPAL, ANOTHER SCHOOL ADMINISTRATOR, A LAW ENFORCEMENT OFFICER, OR OTHER INDIVIDUAL EMPLOYED BY A LOCAL SCHOOL SYSTEM OR A LOCAL GOVERNMENT WHO IS DESIGNATED BY THE COUNTY SUPERINTENDENT OR A SCHOOL PRINCIPAL TO HELP MAINTAIN THE SECURITY AND SAFETY OF A SCHOOL.**

(II) "SCHOOL SECURITY OFFICER" DOES NOT INCLUDE A TEACHER.

[(8)**] (9)** "Student" means an individual enrolled in a public school system or nonpublic school in the State who is 5 years of age or older and under 22 years of age.

(b) If a student is arrested for a reportable offense or an offense that is related to the student's membership in a criminal gang, the law enforcement agency making the arrest**:**

(1) [shall**] SHALL** notify **[**either**] THE FOLLOWING INDIVIDUALS OF THE ARREST AND THE CHARGES WITHIN 24 HOURS OF THE ARREST OR AS SOON AS PRACTICABLE:**

(I) [the**] THE** local superintendent **[**or**];**

(II) **[**the**]** **THE** **[**nonpublic**]** school principal **[**of the arrest and the charges within 24 hours of the arrest or as soon as practicable**]; AND**

(III) FOR A SCHOOL THAT HAS A SCHOOL SECURITY OFFICER, THE SCHOOL SECURITY OFFICER; AND

(2) MAY NOTIFY THE STATE'S ATTORNEY OF THE ARREST AND CHARGES.

(c) The State's Attorney shall promptly notify either the local superintendent or the **[**nonpublic**]** school principal of the disposition of the reportable offense required to be reported under subsection (b) of this section.

(d) Except by order of a juvenile court or other court upon good cause shown, the information obtained by **[**a local superintendent or nonpublic school principal**]** **AN INDIVIDUAL** pursuant to subsections (b) and (c) of this section:

(1) Is confidential and may not be redisclosed by subpoena or otherwise except as provided pursuant to subsections (e) and (f) of this section; and

(2) May not be made part of the student's permanent educational record.

(e) (1) Notwithstanding the provisions of subsection (d) of this section, nothing shall prohibit a local superintendent or **[**nonpublic**]** school principal from transmitting the information obtained pursuant to subsections (b) and (c) of this section as a confidential file to the local superintendent of another public school system in the State or another nonpublic school in the State in which the student has enrolled or been transferred in order to carry out the purposes of this section if the disposition of the reportable offense was a conviction or an adjudication of delinquency or the criminal charge or delinquency petition is still pending.

(2) A local superintendent or **[**nonpublic**]** school principal who transmits information about a student under this subsection shall include in the transmittal information regarding any educational programming and related services provided to the student.

(f) The State Board shall adopt regulations to ensure that information obtained by a local superintendent **[**or nonpublic school principal**]**, **A SCHOOL PRINCIPAL, OR A SCHOOL SECURITY OFFICER** under subsections (b), (c), and (e) of this section is:

(1) Used to provide appropriate educational programming and related services to the student and to maintain a safe and secure school environment for students and school personnel; ~~and~~

(2) Transmitted only to **[**the school principal of the school in which the student is enrolled and other**]** school personnel **OF THE SCHOOL IN WHICH THE STUDENT IS ENROLLED AS** necessary to carry out the purposes set forth in item (1) of this subsection**; AND**

(3) DESTROYED WHEN THE STUDENT GRADUATES *OR OTHERWISE PERMANENTLY LEAVES SCHOOL* OR TURNS 22 YEARS OLD, WHICHEVER OCCURS FIRST.

(G) (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE LOCAL SUPERINTENDENT AND THE SCHOOL PRINCIPAL SHALL CONSIDER PROHIBITING A STUDENT WHO IS ARRESTED FOR A REPORTABLE OFFENSE *INVOLVING RAPE OR A SEXUAL OFFENSE* FROM ATTENDING THE SAME SCHOOL OR RIDING ON THE SAME SCHOOL BUS AS THE ALLEGED VICTIM OF THE REPORTABLE OFFENSE IF SUCH ACTION IS NECESSARY OR APPROPRIATE TO PROTECT THE PHYSICAL OR PSYCHOLOGICAL WELL–BEING OF THE ALLEGED VICTIM.

(2) IF A STUDENT IS ARRESTED FOR A REPORTABLE OFFENSE INVOLVING RAPE OR A SEXUAL OFFENSE AND IS CONVICTED OF OR ADJUDICATED DELINQUENT FOR THE RAPE OR SEXUAL OFFENSE, THE STUDENT MAY NOT ATTEND THE SAME SCHOOL OR RIDE ON THE SAME SCHOOL BUS AS THE VICTIM.

[(g)**] (H)** Nothing in this section is intended to limit the manner in which a local school obtains information or uses information obtained by any lawful means other than that set forth in subsections (b), (c), and (e) of this section.

(I) EACH PUBLIC ~~MIDDLE SCHOOL AND HIGH SCHOOL~~ SCHOOL THAT ENROLLS STUDENTS IN GRADES SIX THROUGH TWELVE IN THE STATE SHALL DESIGNATE AT LEAST ONE SCHOOL SECURITY OFFICER.

7–424.2.

(A) (1) IN THIS SECTION, "SCHOOL SECURITY OFFICER" ~~MEANS AN INDIVIDUAL DESIGNATED BY THE COUNTY SUPERINTENDENT OR A SCHOOL PRINCIPAL TO HELP MAINTAIN THE SECURITY AND SAFETY OF A SCHOOL~~ INCLUDES A SCHOOL PRINCIPAL, ANOTHER SCHOOL ADMINISTRATOR, A LAW ENFORCEMENT OFFICER, OR OTHER INDIVIDUAL EMPLOYED BY A LOCAL SCHOOL SYSTEM OR A LOCAL GOVERNMENT WHO IS DESIGNATED BY THE COUNTY SUPERINTENDENT OR A SCHOOL PRINCIPAL TO HELP MAINTAIN THE SECURITY AND SAFETY OF A SCHOOL.

(2) "SCHOOL SECURITY OFFICER" DOES NOT INCLUDE A TEACHER.

(B) BY ~~JANUARY 1, 2011~~ MARCH 31, 2011, THE STATE BOARD, AFTER CONSULTATION WITH AND INPUT FROM THE DEPARTMENT OF JUVENILE SERVICES, THE DEPARTMENT OF STATE POLICE, THE DEPARTMENT OF HUMAN RESOURCES, AND LOCAL SCHOOL SYSTEMS, SHALL DEVELOP A MODEL POLICY TO ADDRESS GANGS, *GANG ACTIVITY,* AND ~~GANG-LIKE ACTIVITY~~ *SIMILAR DESTRUCTIVE OR ILLEGAL GROUP BEHAVIOR* IN SCHOOLS.

(C) THE MODEL POLICY DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE:

(1) A STATEMENT PROHIBITING GANG ACTIVITY IN SCHOOLS;

(2) A STATEMENT PROHIBITING REPRISAL OR RETALIATION AGAINST INDIVIDUALS WHO REPORT SUSPECTED GANG ACTIVITY;

(3) A DEFINITION OF GANG AND GANG ACTIVITY;

(4) STANDARD CONSEQUENCES AND REMEDIAL ACTIONS FOR INDIVIDUALS ENGAGED IN ~~GANG OR GANG-LIKE ACTIVITY~~ *GANG ACTIVITY OR SIMILAR DESTRUCTIVE OR ILLEGAL GROUP BEHAVIOR*;

(5) STANDARD CONSEQUENCES AND REMEDIAL ACTIONS FOR INDIVIDUALS FOUND TO HAVE MADE FALSE ACCUSATIONS;

(6) MODEL PROCEDURES FOR REPORTING SUSPECTED ~~GANG OR GANG-LIKE ACTIVITY~~ *GANG ACTIVITY OR SIMILAR DESTRUCTIVE OR ILLEGAL GROUP BEHAVIOR*;

(7) MODEL PROCEDURES FOR THE PROMPT INVESTIGATION OF SUSPECTED ~~GANG OR GANG-LIKE ACTIVITY~~ *GANG ACTIVITY OR SIMILAR DESTRUCTIVE OR ILLEGAL GROUP BEHAVIOR*;

(8) INFORMATION ABOUT THE TYPES OF SUPPORT SERVICES, INCLUDING FAMILY SUPPORT SERVICES, FOR A STUDENT SUSPECTED OF PARTICIPATING IN GANG ACTIVITY; AND

(9) RECOMMENDATIONS CONCERNING GANG PREVENTION AND INTERVENTION SERVICES AND PROGRAMS FOR STUDENTS THAT MAXIMIZE COMMUNITY PARTICIPATION AND THE USE OF FEDERAL FUNDING.

(D) (1) EACH ~~COUNTY BOARD~~ *LOCAL SCHOOL SYSTEM* SHALL ESTABLISH A POLICY *OR REGULATIONS* TO ADDRESS GANGS, *GANG ACTIVITY,* AND ~~GANG-LIKE ACTIVITY~~ *SIMILAR DESTRUCTIVE OR ILLEGAL GROUP BEHAVIOR* IN SCHOOLS BASED ON THE MODEL POLICY.

(2) THE POLICY *OR REGULATIONS* SHALL ADDRESS THE COMPONENTS OF THE MODEL POLICY SPECIFIED IN SUBSECTION (C) OF THIS SECTION.

(3) EACH ~~COUNTY BOARD~~ *LOCAL SCHOOL SYSTEM* SHALL DEVELOP THE POLICY *OR REGULATIONS* IN CONSULTATION WITH REPRESENTATIVES OF THE FOLLOWING GROUPS:

(I) PARENTS OR GUARDIANS OF STUDENTS;

(II) SCHOOL EMPLOYEES AND ADMINISTRATORS;

(III) SCHOOL VOLUNTEERS;

(IV) STUDENTS;

(V) LOCAL LAW ENFORCEMENT;

(VI) GANG PREVENTION AND INTERVENTION PROGRAMS;

(VII) THE OFFICE OF THE PUBLIC DEFENDER;

~~(VI)~~ (VIII) THE MARYLAND STATE'S ATTORNEYS ASSOCIATION; AND

~~(VII)~~ (IX) MEMBERS OF THE COMMUNITY.

(E) EACH ~~COUNTY BOARD~~ *LOCAL SCHOOL SYSTEM* SHALL SUBMIT ITS POLICY *OR REGULATIONS* TO THE STATE SUPERINTENDENT BY SEPTEMBER 1, 2011.

(F) EACH ~~COUNTY BOARD~~ *LOCAL SCHOOL SYSTEM* SHALL PUBLICIZE ITS POLICY *OR REGULATIONS* IN STUDENT HANDBOOKS, ON SCHOOL SYSTEM WEBSITES, AND AT ANY OTHER LOCATION OR VENUE THE ~~COUNTY BOARD~~ *LOCAL SCHOOL SYSTEM* DETERMINES IS NECESSARY OR APPROPRIATE.

(G) EACH ~~COUNTY BOARD~~ *LOCAL SCHOOL SYSTEM* SHALL DEVELOP THE FOLLOWING EDUCATIONAL PROGRAMS IN ITS EFFORTS TO ADDRESS GANGS,

GANG ACTIVITY*,** AND ~~GANG-LIKE ACTIVITY~~ ***SIMILAR DESTRUCTIVE OR ILLEGAL GROUP BEHAVIOR IN SCHOOLS:

(1) AN EDUCATIONAL GANG AWARENESS PROGRAM FOR STUDENTS, STAFF, VOLUNTEERS, AND PARENTS; AND

(2) A TEACHER AND ADMINISTRATOR DEVELOPMENT PROGRAM THAT TRAINS TEACHERS AND ADMINISTRATORS TO IMPLEMENT THE POLICY ***OR REGULATIONS*.**

(H) (1) A SCHOOL EMPLOYEE SHALL REPORT ANY INCIDENCE OF SUSPECTED ~~GANG OR GANG-LIKE ACTIVITY~~ ***GANG ACTIVITY OR SIMILAR DESTRUCTIVE OR ILLEGAL GROUP BEHAVIOR*** PROMPTLY TO THE PRINCIPAL AND, FOR A SCHOOL THAT HAS A SCHOOL SECURITY OFFICER, TO THE SCHOOL SECURITY OFFICER.

(2) THE PRINCIPAL AND THE SCHOOL SECURITY OFFICER MAY TAKE APPROPRIATE ACTION TO MAINTAIN A SAFE AND SECURE SCHOOL ENVIRONMENT, INCLUDING THE PROVISION OF APPROPRIATE INTERVENTION SERVICES.

(I) (1) EACH COUNTY SUPERINTENDENT SHALL REQUIRE REGULAR SCHOOL SECURITY MEETINGS FOR EACH MIDDLE SCHOOL AND HIGH SCHOOL TO ENSURE COORDINATION OF GANG PREVENTION, INTERVENTION, AND SUPPRESSION EFFORTS.

(2) THE FOLLOWING INDIVIDUALS SHALL PARTICIPATE IN THE MEETINGS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION:

(I) SCHOOL PRINCIPALS;

(II) SCHOOL SECURITY OFFICERS;

(III) GUIDANCE COUNSELORS;

(IV) LOCAL LAW ENFORCEMENT OFFICERS;

(V) REPRESENTATIVES FROM THE COUNTY STATE'S ATTORNEY'S OFFICE;

(VI) REPRESENTATIVES FROM THE OFFICE OF THE PUBLIC DEFENDER;

~~(VI)~~ (VII) GANG PREVENTION AND INTERVENTION PROGRAM REPRESENTATIVES; AND

~~(VII)~~ (VIII) ANY OTHER INDIVIDUALS THAT THE COUNTY SUPERINTENDENT CONSIDERS APPROPRIATE.

(J) EACH COUNTY SUPERINTENDENT SHALL ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE COUNTY STATE'S ATTORNEY'S OFFICE TO FOSTER COORDINATION OF GANG PREVENTION, INTERVENTION, AND SUPPRESSION EFFORTS.

(K) ON OR BEFORE JANUARY 1, 2011, AND EACH YEAR THEREAFTER, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON THE IMPLEMENTATION OF STATE AND LOCAL POLICIES *AND REGULATIONS* TO ADDRESS GANGS, *GANG ACTIVITY*, AND ~~GANG–LIKE ACTIVITY~~ *SIMILAR DESTRUCTIVE OR ILLEGAL GROUP BEHAVIOR* DESCRIBED IN THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1, 2011, the Governor's Office of Crime Control and Prevention shall: (1) perform a community services survey to determine which gang prevention and intervention services exist in each county; (2) develop criteria for gang prevention and intervention programs that are evidence–based and produce measurable outcomes; (3) make recommendations for a pilot program to provide comprehensive gang prevention and intervention services for a high school where gang activity is prevalent and the high school's middle school feeder system; and (4) report its findings and recommendations to the General Assembly, in accordance with § 2–1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That on or before December 31, 2010, the Administrative Office of the Courts, the Department of Human Resources, the Department of Juvenile Services, and the State Department of Education, shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly, the Senate Education, Health, and Environmental Affairs Committee, the Senate Judicial Proceedings Committee, the House Judiciary Committee, and the House Committee on Ways and Means regarding:

(1) the process for notifying school officials under § 3–819 and § 3–8A–19 of the Courts and Judicial Proceedings Article;

(2) how often school officials are actually notified under these statutes; and

(3) recommendations, if any, to improve this process and better serve these students.

SECTION ~~3.~~ *4.* AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2010~~ July 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 189

(House Bill 1263)

AN ACT concerning

Education Reform Act of 2010

FOR the purpose of altering the probationary period of employment of a certificated employee in a ~~public~~ local school system; altering certain procedures related to the probationary period of a certificated employee; requiring a county board of education to evaluate annually a nontenured certificated employee based on established performance evaluation criteria; requiring certain certificated employees to be assigned a mentor and provided ~~certain guidance and instruction and~~ additional professional development under certain circumstances; ~~requiring that a performance evaluation of a certificated teacher or principal in a public school system include certain data as a certain component of the evaluation; requiring that a certain component of an evaluation be one of multiple measures; requiring the State Board of Education to adopt regulations to implement certain provisions of this Act; requiring certain classroom teachers and principals working in certain public schools to receive a certain stipend~~ requiring the State Board of Education to adopt regulations ~~establishing~~ *to establish certain* standards ~~for effective mentoring; providing that a tenured certificated employee who moves to another local school system in the State shall be tenured in the local school system to which the employee relocates under certain circumstances; authorizing the local school system to which an employee relocates to extend the employee's probationary period under certain circumstances; requiring a county board to establish certain performance evaluation criteria for a certificated teacher or principal under certain conditions; requiring the performance evaluation criteria to include certain measures; requiring the State Board to establish by regulation general standards for teacher and principal performance evaluations, that the performance evaluation criteria include certain measures, and that certain criteria be accounted for in a certain manner; requiring the State Board to establish a certain program to support certain incentives, contingent on the receipt of certain federal funds~~ *that include certain provisions; requiring certain employees to be tenured under certain circumstances; authorizing certain local school systems to extend a certain probationary period for certain employees under certain circumstances; requiring the State Board to adopt certain regulations that establish general standards for certain performance evaluations,*

including certain model performance evaluation criteria; requiring the State Board to solicit certain information and recommendations from local school systems before proposing certain regulations and convene a certain meeting; requiring certain county boards to establish certain performance evaluation criteria that are mutually agreed upon by certain local school systems and certain exclusive employee representatives for certain teachers and principals based on certain standards; requiring certain performance evaluation criteria to include certain data as a certain component of the evaluation; requiring that a certain component of an evaluation be one of multiple measures; prohibiting certain performance evaluation criteria from being based solely on certain examinations or assessments; requiring certain model performance evaluation criteria adopted by the State Board to take effect in a local jurisdiction at a certain time under certain circumstances; requiring the State Board to establish a certain program to support certain incentives for certain teachers and principals that meets certain requirements; authorizing the program to include certain incentives; requiring the State Board to adopt certain guidelines to implement a certain program; authorizing the award of certain stipends in certain years to be based on obtainment of National Board Certification; requiring each local school system, on or before a certain date, to submit to the State Board certain information relating to the local system's teacher mentoring program; providing for the construction of certain provisions of this Act; defining ~~a certain term~~ certain terms; providing for the application of a certain provision of this Act; *making this Act an emergency measure;* and generally relating to the employment of certificated employees in a ~~public~~ local school system.

BY repealing and reenacting, with amendments,
Article – Education
Section 6–202
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY adding to
Article – Education
Section 6–306(b)(5)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

6–202.

(a) (1) On the recommendation of the county superintendent, a county board may suspend or dismiss a teacher, principal, supervisor, assistant superintendent, or other professional assistant for:

(i) Immorality;

(ii) Misconduct in office, including knowingly failing to report suspected child abuse in violation of § 5–704 of the Family Law Article;

(iii) Insubordination;

(iv) Incompetency; or

(v) Willful neglect of duty.

(2) Before removing an individual, the county board shall send the individual a copy of the charges against him and give him an opportunity within 10 days to request a hearing.

(3) If the individual requests a hearing within the 10–day period:

(i) The county board promptly shall hold a hearing, but a hearing may not be set within 10 days after the county board sends the individual a notice of the hearing; and

(ii) The individual shall have an opportunity to be heard before the county board, in person or by counsel, and to bring witnesses to the hearing.

(4) The individual may appeal from the decision of the county board to the State Board.

(5) Notwithstanding any provision of local law, in Baltimore City the suspension and removal of assistant superintendents and higher levels shall be as provided by the personnel system established by the Baltimore City Board of School Commissioners under § 4–311 of this article.

(b) (1) ~~Except as provided in~~ **~~SUBJECT TO~~** ***EXCEPT AS PROVIDED IN*** paragraph ~~(2)~~ ***(3)*** of this subsection, the probationary period of employment of a certificated employee in a ~~public~~ **LOCAL** school system shall cover a period of **[**2 years**]** **3 YEARS** from the date of employment and shall consist of a 1–year employment contract that may be renewed by the county board.

[(2) (i) A probationary period for a certificated employee in a public school system may be extended for a third year from the date of employment if the certificated employee does not qualify for tenure at the end of the second year based on established performance evaluation criteria and the employee demonstrates a strong potential for improvement.

(ii) If the probationary period of a certificated employee is extended as provided in this paragraph, a mentor shall be assigned to the employee and the employee shall be evaluated at the end of the third year based on established performance evaluation criteria.**]**

(2) (I) A COUNTY BOARD SHALL EVALUATE ANNUALLY A NONTENURED CERTIFICATED EMPLOYEE BASED ON ESTABLISHED PERFORMANCE EVALUATION CRITERIA.

(II) ~~IF~~ *SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, IF* THE NONTENURED CERTIFICATED EMPLOYEE IS NOT ON TRACK TO QUALIFY FOR TENURE AT ~~THE END OF THE FIRST OR SECOND YEAR, A~~ ANY FORMAL EVALUATION POINT:

1. A MENTOR *PROMPTLY* SHALL BE ASSIGNED TO THE EMPLOYEE TO PROVIDE THE EMPLOYEE COMPREHENSIVE GUIDANCE AND INSTRUCTION; AND ~~AND ADDITIONAL~~

2. ADDITIONAL PROFESSIONAL DEVELOPMENT SHALL BE PROVIDED TO THE EMPLOYEE, AS APPROPRIATE.

(III) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO PROHIBIT A COUNTY BOARD FROM ASSIGNING A MENTOR AT ANY TIME DURING A NONTENURED CERTIFICATED EMPLOYEE'S EMPLOYMENT.

(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF A CERTIFICATED EMPLOYEE HAS ACHIEVED TENURE IN ~~ANY~~ *A* LOCAL SCHOOL SYSTEM IN THE STATE AND MOVES TO ANOTHER LOCAL SCHOOL SYSTEM IN THE STATE, THAT EMPLOYEE SHALL BE TENURED IF THE EMPLOYEE'S CONTRACT IS RENEWED AFTER 1 YEAR OF PROBATIONARY EMPLOYMENT IN THE LOCAL SCHOOL SYSTEM TO WHICH THE EMPLOYEE RELOCATED IF:

1. THE EMPLOYEE'S FINAL EVALUATION IN THE LOCAL SCHOOL SYSTEM FROM WHICH THE EMPLOYEE DEPARTED IS SATISFACTORY OR BETTER; AND

2. THERE HAS BEEN NO BREAK IN THE EMPLOYEE'S SERVICE BETWEEN THE TWO SYSTEMS OF LONGER THAN 1 YEAR.

(II) A LOCAL SCHOOL SYSTEM MAY EXTEND THE PROBATIONARY PERIOD FOR A CERTIFICATED EMPLOYEE SUBJECT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR A SECOND YEAR FROM THE DATE OF EMPLOYMENT IF:

1. THE EMPLOYEE DOES NOT QUALIFY FOR TENURE AT THE END OF THE FIRST YEAR BASED ON ESTABLISHED PERFORMANCE EVALUATION CRITERIA; AND

2. THE EMPLOYEE DEMONSTRATES A STRONG POTENTIAL FOR IMPROVEMENT.

~~(3)~~ **(4) (I)** The State Board shall adopt regulations that implement the provisions of paragraphs (1) and (2) of this subsection and define the scope of a mentoring program **AND PROFESSIONAL DEVELOPMENT** that will be aligned with the **[**2–year**] 3–YEAR** probationary period **[**and the 1–year extension as provided in paragraph (2) of this subsection**]**.

(II) THE STATE BOARD SHALL ADOPT REGULATIONS TO ESTABLISH STANDARDS FOR EFFECTIVE MENTORING, INCLUDING PROVISIONS TO ENSURE THAT MENTORS PROVIDE MENTORING THAT ~~**IS FOCUSED, OF HIGH QUALITY, AND GEARED TO THE NEEDS OF EACH EMPLOYEE BEING MENTORED:**~~

1. IS FOCUSED;

2. IS SYSTEMATIC;

3. IS ONGOING;

4. IS OF HIGH QUALITY;

5. IS GEARED TO THE NEEDS OF EACH EMPLOYEE BEING MENTORED;

6. INCLUDES OBSERVATIONS; AND

7. INCLUDES FEEDBACK.

~~**(C) (1) A PERFORMANCE EVALUATION OF A CERTIFICATED TEACHER OR PRINCIPAL IN A PUBLIC SCHOOL SYSTEM SHALL INCLUDE DATA ON STUDENT GROWTH AS A SIGNIFICANT COMPONENT OF THE EVALUATION AND ONE OF MULTIPLE MEASURES.**~~

~~**(2) THE STATE BOARD SHALL ADOPT REGULATIONS THAT IMPLEMENT THE PROVISIONS OF THIS SUBSECTION.**~~

(C) (1) IN THIS SUBSECTION, "STUDENT GROWTH" MEANS STUDENT PROGRESS ~~**MEASURED**~~ ***ASSESSED*** **BY MULTIPLE** ~~**CRITERIA**~~ ***MEASURES*** **AND FROM A CLEARLY ARTICULATED BASELINE TO ONE OR MORE POINTS IN TIME.**

~~(2) SUBJECT TO PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, A COUNTY BOARD SHALL ESTABLISH PERFORMANCE EVALUATION CRITERIA FOR CERTIFICATED TEACHERS AND PRINCIPALS IN A LOCAL SCHOOL SYSTEM AFTER MEETING AND CONFERRING WITH THE EXCLUSIVE EMPLOYEE REPRESENTATIVE.~~

~~(3) THE STATE BOARD SHALL ADOPT REGULATIONS THAT ESTABLISH GENERAL STANDARDS FOR PERFORMANCE EVALUATIONS FOR CERTIFICATED TEACHERS AND PRINCIPALS.~~

~~(4) (I) PERFORMANCE EVALUATION CRITERIA FOR A CERTIFICATED TEACHER OR PRINCIPAL IN A LOCAL SCHOOL SYSTEM SHALL INCLUDE MULTIPLE MEASURES.~~

~~(II) STUDENT GROWTH SHALL ACCOUNT FOR 50% OF THE PERFORMANCE EVALUATION CRITERIA.~~

~~(III) NO SINGLE CRITERION SHALL ACCOUNT FOR MORE THAN 35% OF THE TOTAL PERFORMANCE EVALUATION CRITERIA.~~

(2) (I) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE STATE BOARD SHALL ADOPT REGULATIONS THAT ESTABLISH GENERAL STANDARDS FOR PERFORMANCE EVALUATIONS FOR CERTIFICATED TEACHERS AND PRINCIPALS THAT INCLUDE OBSERVATIONS, CLEAR STANDARDS, RIGOR, AND CLAIMS AND EVIDENCE OF OBSERVED INSTRUCTION.

(II) THE REGULATIONS ADOPTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE MODEL PERFORMANCE EVALUATION CRITERIA.

(III) BEFORE THE PROPOSAL OF THE REGULATIONS REQUIRED UNDER THIS PARAGRAPH, THE STATE BOARD SHALL SOLICIT INFORMATION AND RECOMMENDATIONS FROM EACH LOCAL SCHOOL SYSTEM AND CONVENE A MEETING WHEREIN THIS INFORMATION AND THESE RECOMMENDATIONS ARE DISCUSSED AND CONSIDERED.

(3) SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION:

(I) A COUNTY BOARD SHALL ESTABLISH PERFORMANCE EVALUATION CRITERIA FOR CERTIFICATED TEACHERS AND PRINCIPALS IN THE LOCAL SCHOOL SYSTEM BASED ON THE GENERAL STANDARDS ADOPTED UNDER PARAGRAPH (2) OF THIS SUBSECTION THAT ARE MUTUALLY AGREED ON BY THE LOCAL SCHOOL SYSTEM AND THE EXCLUSIVE EMPLOYEE REPRESENTATIVE.

(II) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO REQUIRE MUTUAL AGREEMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH TO BE GOVERNED BY SUBTITLES 4 AND 5 OF THIS TITLE.

(4) THE PERFORMANCE EVALUATION CRITERIA DEVELOPED UNDER PARAGRAPH (3) OF THIS SUBSECTION:

(I) SHALL INCLUDE DATA ON STUDENT GROWTH AS A SIGNIFICANT COMPONENT OF THE EVALUATION AND AS ONE OF MULTIPLE MEASURES; AND

(II) MAY NOT BE BASED SOLELY ON AN EXISTING OR NEWLY CREATED SINGLE EXAMINATION OR ASSESSMENT.

(5) (I) AN EXISTING OR NEWLY CREATED SINGLE EXAMINATION OR ASSESSMENT MAY BE USED AS ONE OF THE MULTIPLE MEASURES.

(II) NO SINGLE CRITERION SHALL ACCOUNT FOR MORE THAN 35% OF THE TOTAL PERFORMANCE EVALUATION CRITERIA.

(6) IF A LOCAL SCHOOL SYSTEM AND THE EXCLUSIVE EMPLOYEE REPRESENTATIVE FAIL TO MUTUALLY AGREE UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE MODEL PERFORMANCE EVALUATION CRITERIA ADOPTED BY THE STATE BOARD UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION SHALL TAKE EFFECT IN THE LOCAL JURISDICTION 6 MONTHS FOLLOWING THE FINAL ADOPTION OF THE REGULATIONS.

6–306.

(b) **(5)** ~~(I) IN THIS PARAGRAPH, "RACE TO THE TOP APPLICATION" GRANT" MEANS THE STATE'S APPLICATION TO THE UNITED STATES DEPARTMENT OF EDUCATION FOR THE RACE TO THE TOP FUND, AUTHORIZED UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.~~

~~(II) A HIGHLY EFFECTIVE CLASSROOM TEACHER OR PRINCIPAL WORKING IN A PUBLIC SCHOOL IDENTIFIED IN THE STATE'S RACE TO THE TOP APPLICATION AS A SCHOOL IN THE LOWEST ACHIEVING 5% OF TITLE I SCHOOLS IN IMPROVEMENT, CORRECTIVE ACTION, OR RESTRUCTURING SHALL RECEIVE A STIPEND FROM THE STATE IN AN AMOUNT DETERMINED BY THE STATE BOARD, CONTINGENT ON RECEIPT OF RACE TO THE TOP GRANT FUNDS.~~

~~(II) CONTINGENT ON THE RECEIPT OF RACE TO THE TOP GRANT FUNDS, THE STATE BOARD SHALL ESTABLISH A PROGRAM TO SUPPORT LOCALLY NEGOTIATED INCENTIVES FOR HIGHLY EFFECTIVE CLASSROOM TEACHERS AND PRINCIPALS TO WORK IN PUBLIC SCHOOLS IN IMPROVEMENT, CORRECTIVE ACTION, OR RESTRUCTURING.~~

(I) 1. THE STATE BOARD SHALL ESTABLISH A PROGRAM TO SUPPORT LOCALLY NEGOTIATED INCENTIVES, GOVERNED UNDER SUBTITLES 4 AND 5 OF THIS TITLE, FOR HIGHLY EFFECTIVE CLASSROOM TEACHERS AND PRINCIPALS TO WORK IN PUBLIC SCHOOLS THAT ARE:

A. IN IMPROVEMENT, CORRECTIVE ACTION, OR RESTRUCTURING;

B. CATEGORIZED BY THE LOCAL SCHOOL SYSTEM AS A TITLE I SCHOOL; OR

C. IN THE HIGHEST 25% OF SCHOOLS IN THE STATE BASED ON A RANKING OF THE PERCENTAGE OF STUDENTS WHO RECEIVE FREE AND REDUCED PRICED MEALS.

2. THE PROGRAM ESTABLISHED UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH MAY INCLUDE FINANCIAL INCENTIVES, LEADERSHIP CHANGES, OR OTHER INCENTIVES.

(II) 1. THE STATE BOARD SHALL ADOPT GUIDELINES TO IMPLEMENT THIS PARAGRAPH.

2. NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO PROHIBIT A LOCAL SCHOOL SYSTEM FROM EMPLOYING MORE STRINGENT STANDARDS THAN THE GUIDELINES ADOPTED UNDER THIS SUBPARAGRAPH.

SECTION 2. AND BE IT FURTHER ENACTED, That during the 2010–2011 and 2011–2012 school years, stipends awarded under § 6–306(b)(5) of the Education Article, as enacted by Section 1 of this Act, may be based on whether the teacher has obtained certification by the National Board for Professional Teaching Standards.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 31, 2010, each local school system shall submit to the State Board of Education a description of the local school system's teacher mentoring program, including data relating to the number of mentors who have been assigned, the number of teachers to whom the mentors have been assigned, and how, if at all, the effectiveness of the mentoring program is measured.

SECTION ~~2.~~ *4.* AND BE IT FURTHER ENACTED, That the probationary period of employment specified in § 6–202(b) of the Education Article, as enacted by Section 1 of this Act, shall be applicable to a certificated employee in a ~~public~~ local school system with a date of employment starting on or after July 1, 2010.

SECTION ~~3.~~ *5.* AND BE IT FURTHER ENACTED, That this Act ~~shall take effect July 1, 2010~~ *is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted*.

Approved by the Governor, May 4, 2010.

Chapter 190

(Senate Bill 275)

AN ACT concerning

Education – Maryland Longitudinal Data System

FOR the purpose of establishing the Maryland Longitudinal Data System as a statewide data system containing certain student data from all levels of education and into the State's workforce; limiting the linkage of certain student and workforce data under the Maryland Longitudinal Data System to a certain period of time; establishing the purpose of the Maryland Longitudinal Data System; establishing the Maryland Longitudinal Data System Center as an independent unit of State government; providing for the organizational placement, location, staffing, and funding of the Center; providing for the functions ~~and duties~~, duties, and requirements of the Center; providing that the Center shall be considered an authorized representative of certain State educational agencies for certain purposes; establishing the Governing Board of the Maryland Longitudinal Data System Center; providing for the membership of the Governing Board; providing for the appointment and terms for certain members of the Governing Board; providing for the duties of the Governing Board; requiring certain agencies and public institutions to make certain efforts to comply with certain requirements for the Maryland Longitudinal Data System and to transfer certain data to the Maryland Longitudinal Data System in accordance with a certain plan; authorizing private institutions of higher education and private secondary schools ~~to provide student data for~~ to transfer certain data to the Maryland Longitudinal Data System in accordance with a certain plan; requiring the Governing Board to issue certain reports; requiring the Center to adopt certain regulations; defining certain terms; ~~requiring the Governing Board to submit a certain plan to the Governor and the General Assembly on or before a certain date; requiring the Governing Board to brief~~

~~certain legislative committees on or before a certain date regarding a certain plan;~~ expressing a certain intent of the General Assembly; ~~providing for the termination of a certain provision of this Act;~~ and generally relating to the establishment of the Maryland Longitudinal Data System.

BY adding to
Article – Education
Section 24–701 through ~~24–706~~ 24–707 to be under the new subtitle "Subtitle 7. Maryland Longitudinal Data System"
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

SUBTITLE 7. MARYLAND LONGITUDINAL DATA SYSTEM.

24–701.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "CENTER" MEANS THE MARYLAND LONGITUDINAL DATA SYSTEM CENTER.

(C) "DE–IDENTIFIED DATA" MEANS A DATA SET IN WHICH PARENT AND STUDENT IDENTITY INFORMATION, INCLUDING THE STATE ASSIGNED STUDENT IDENTIFIER AND STUDENT SOCIAL SECURITY NUMBER, HAS BEEN REMOVED.

(D) "GOVERNING BOARD" MEANS THE GOVERNING BOARD OF THE MARYLAND LONGITUDINAL DATA SYSTEM CENTER.

(E) "STATE ASSIGNED STUDENT IDENTIFIER" OR "SASID" MEANS THE IDENTIFIER ASSIGNED TO EACH STUDENT BY:

(1) A LOCAL EDUCATION AGENCY BASED ON THE IDENTIFIER SYSTEM DEVELOPED BY THE STATE DEPARTMENT OF EDUCATION; OR

(2) AN INSTITUTION OF HIGHER EDUCATION, IF THE STUDENT HAS NOT BEEN ASSIGNED AN IDENTIFIER BY A LOCAL EDUCATION AGENCY.

(F) (1) "STUDENT DATA" MEANS DATA RELATING TO STUDENT PERFORMANCE.

(2) "STUDENT DATA" INCLUDES:

(I) STATE AND NATIONAL ASSESSMENTS;

(II) COURSE–TAKING AND COMPLETION;

(III) GRADE POINT AVERAGE;

(IV) REMEDIATION;

(V) RETENTION;

(VI) DEGREE, DIPLOMA, OR CREDENTIAL ATTAINMENT;

(VII) ENROLLMENT; *AND* ~~AND~~

(VIII) DEMOGRAPHIC DATA~~; *AND*~~

~~*(IX)*~~ ~~*SUSPENSION AND EXPULSION RECORDS*~~.

(3) "STUDENT DATA" DOES NOT INCLUDE:

(I) JUVENILE DELINQUENCY RECORDS;

(II) CRIMINAL AND CINA RECORDS; ~~*AND*~~

(III) MEDICAL AND HEALTH RECORDS*; AND*

(IV) DISCIPLINE RECORDS~~; AND~~

~~(IV) DISCIPLINE RECORDS~~.

(G) "WORKFORCE DATA" MEANS DATA RELATING TO:

(1) EMPLOYMENT STATUS;

(2) WAGE INFORMATION;

(3) GEOGRAPHIC LOCATION OF EMPLOYMENT; AND

(4) EMPLOYER INFORMATION.

24–702.

(A) THE STATE DEPARTMENT OF EDUCATION, MARYLAND HIGHER EDUCATION COMMISSION, UNIVERSITY SYSTEM OF MARYLAND, MORGAN STATE UNIVERSITY, ST. MARY'S COLLEGE OF MARYLAND, AND DEPARTMENT OF LABOR, LICENSING, AND REGULATION JOINTLY SHALL ESTABLISH THE MARYLAND LONGITUDINAL DATA SYSTEM *THAT SHALL BE FULLY OPERATIONAL BY DECEMBER 31, 2014* ~~THAT SHALL BE FULLY OPERATIONAL BY DECEMBER 31, 2014~~.

(B) THE MARYLAND LONGITUDINAL DATA SYSTEM IS A STATEWIDE DATA SYSTEM THAT CONTAINS INDIVIDUAL–LEVEL STUDENT DATA AND WORKFORCE DATA FROM ALL LEVELS OF EDUCATION AND THE STATE'S WORKFORCE, AND ALLOWS ~~USERS~~ THE CENTER TO:

(1) EFFECTIVELY ORGANIZE, MANAGE, DISAGGREGATE, AND ANALYZE INDIVIDUAL STUDENT DATA; AND

(2) EXAMINE STUDENT PROGRESS AND OUTCOMES OVER TIME, INCLUDING PREPARATION FOR POSTSECONDARY EDUCATION AND THE WORKFORCE.

(C) THE LINKAGE OF STUDENT DATA AND WORKFORCE DATA FOR THE PURPOSES OF THE MARYLAND LONGITUDINAL DATA SYSTEM SHALL BE LIMITED TO NO LONGER THAN 5 YEARS FROM THE DATE OF LATEST ATTENDANCE IN ANY EDUCATIONAL INSTITUTION IN THE STATE.

~~(C)~~ (D) THE PURPOSE OF THE MARYLAND LONGITUDINAL DATA SYSTEM IS TO:

~~(1) FACILITATE AND ENABLE THE EXCHANGE OF STUDENT DATA AMONG AGENCIES AND INSTITUTIONS WITHIN THE STATE; AND~~

~~(2)~~ (1) GENERATE TIMELY AND ACCURATE INFORMATION ABOUT STUDENT ~~ACHIEVEMENT~~ PERFORMANCE THAT CAN BE USED TO IMPROVE THE STATE'S EDUCATION SYSTEM AND GUIDE DECISION MAKERS AT ALL LEVELS; AND

(2) FACILITATE AND ENABLE THE LINKAGE OF STUDENT DATA AND WORKFORCE DATA.

24–703.

(A) THERE IS A MARYLAND LONGITUDINAL DATA SYSTEM CENTER.

(B) THE CENTER IS AN INDEPENDENT UNIT WITHIN STATE GOVERNMENT.

(C) THE ORGANIZATIONAL PLACEMENT AND LOCATION OF THE CENTER SHALL BE DETERMINED BY THE GOVERNING BOARD.

(D) (1) THE HEAD OF THE CENTER IS THE EXECUTIVE DIRECTOR, WHO SHALL BE APPOINTED BY THE GOVERNING BOARD.

(2) THE CENTER MAY EMPLOY THE ADDITIONAL STAFF NECESSARY TO CARRY OUT THE CENTER'S FUNCTIONS AS PROVIDED IN THE STATE BUDGET.

(E) THE CENTER SHALL BE CONSIDERED AN AUTHORIZED REPRESENTATIVE OF THE STATE DEPARTMENT OF EDUCATION AND THE MARYLAND HIGHER EDUCATION COMMISSION UNDER APPLICABLE FEDERAL AND STATE STATUTES FOR PURPOSES OF ACCESSING AND COMPILING STUDENT RECORD DATA FOR RESEARCH PURPOSES.

~~(E)~~ (F) THE CENTER SHALL PERFORM THE FOLLOWING FUNCTIONS AND DUTIES:

(1) SERVE AS A CENTRAL REPOSITORY OF ~~THE DATA~~ STUDENT DATA AND WORKFORCE DATA IN THE MARYLAND LONGITUDINAL DATA SYSTEM, INCLUDING DATA SETS PROVIDED BY:

(I) THE STATE DEPARTMENT OF EDUCATION;

(II) LOCAL EDUCATION AGENCIES;

(III) THE MARYLAND HIGHER EDUCATION COMMISSION;

(IV) INSTITUTIONS OF HIGHER EDUCATION; AND

(V) THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION; ~~AND~~

~~(VI) THE GOVERNOR'S WORKFORCE INVESTMENT BOARD;~~

(2) OVERSEE AND MAINTAIN THE WAREHOUSE OF THE MARYLAND LONGITUDINAL DATA SYSTEM DATA SETS;

(3) ENSURE ROUTINE AND ONGOING COMPLIANCE WITH THE FEDERAL FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT AND OTHER RELEVANT PRIVACY LAWS AND POLICIES, INCLUDING:

(I) THE REQUIRED USE OF DE–IDENTIFIED DATA IN DATA RESEARCH AND REPORTING;

(II) THE REQUIRED DISPOSITION OF INFORMATION THAT IS NO LONGER NEEDED;

(III) PROVIDING DATA SECURITY, INCLUDING THE CAPACITY FOR AUDIT TRAILS; ~~AND~~

(IV) PROVIDING FOR PERFORMANCE OF REGULAR AUDITS FOR COMPLIANCE WITH DATA PRIVACY AND SECURITY STANDARDS; AND

~~(IV)~~ (V) IMPLEMENTING GUIDELINES AND POLICIES THAT PREVENT THE REPORTING OF OTHER POTENTIALLY IDENTIFYING DATA;

(4) ~~PERFORM~~ CONDUCT RESEARCH USING TIMELY AND ACCURATE STUDENT ~~ACHIEVEMENT DATA~~ DATA AND WORKFORCE DATA TO IMPROVE THE STATE'S EDUCATION SYSTEM AND GUIDE DECISION MAKING BY STATE AND LOCAL GOVERNMENTS, EDUCATIONAL AGENCIES, INSTITUTIONS, TEACHERS, AND OTHER EDUCATION PROFESSIONALS;

(5) CONDUCT RESEARCH RELATING TO:

(I) THE IMPACT OF STATE AND FEDERAL EDUCATION PROGRAMS;

(II) THE PERFORMANCE OF EDUCATOR PREPARATION PROGRAMS; AND

(III) BEST PRACTICES REGARDING CLASSROOM INSTRUCTION, EDUCATION PROGRAMS AND CURRICULUM, AND SEGMENT ALIGNMENT;

~~(5)~~ (6) ~~FACILITATE~~ FULFILL INFORMATION AND DATA REQUESTS TO FACILITATE STATE AND FEDERAL EDUCATION REPORTING WITH EXISTING STATE AGENCIES AS APPROPRIATE; AND

~~(6)~~ (7) FULFILL APPROVED PUBLIC INFORMATION REQUESTS.

(G) (1) DIRECT ACCESS TO DATA IN THE MARYLAND LONGITUDINAL DATA SYSTEM SHALL BE RESTRICTED TO AUTHORIZED STAFF OF THE CENTER.

(2) THE CENTER MAY ONLY USE DE–IDENTIFIED DATA IN THE ANALYSIS, RESEARCH, AND REPORTING CONDUCTED BY THE CENTER.

(3) THE CENTER MAY ONLY USE AGGREGATE DATA IN THE RELEASE OF DATA IN REPORTS AND IN RESPONSE TO DATA REQUESTS.

(4) DATA THAT MAY BE IDENTIFIABLE BASED ON THE SIZE OR UNIQUENESS OF THE POPULATION UNDER CONSIDERATION MAY NOT BE REPORTED IN ANY FORM BY THE CENTER.

(5) THE CENTER MAY NOT RELEASE INFORMATION THAT MAY NOT BE DISCLOSED UNDER THE FEDERAL FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT AND OTHER RELEVANT PRIVACY LAWS AND POLICIES.

~~(F)~~ (H) THE CENTER MAY RECEIVE FUNDING FROM THE FOLLOWING SOURCES:

(1) STATE APPROPRIATIONS;

(2) GRANTS OR OTHER ASSISTANCE FROM LOCAL EDUCATION AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION;

(3) FEDERAL GRANTS;

(4) USER FEES; AND

(5) ANY OTHER GRANTS OR CONTRIBUTIONS FROM PUBLIC OR PRIVATE ENTITIES RECEIVED BY THE CENTER.

24–704.

(A) THERE IS A GOVERNING BOARD OF THE CENTER.

(B) THE GOVERNING BOARD SHALL INCLUDE THE FOLLOWING MEMBERS:

(1) THE SECRETARY OF HIGHER EDUCATION, OR THE SECRETARY'S DESIGNEE;

(2) THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND, OR THE CHANCELLOR'S DESIGNEE;

(3) THE PRESIDENT OF MORGAN STATE UNIVERSITY, OR THE PRESIDENT'S DESIGNEE;

(4) THE STATE SUPERINTENDENT OF SCHOOLS, OR THE SUPERINTENDENT'S DESIGNEE;

(5) THE SECRETARY OF LABOR, LICENSING, AND REGULATION, OR THE SECRETARY'S DESIGNEE;

(6) A REPRESENTATIVE OF LOCAL SUPERINTENDENTS OF SCHOOLS, APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE;

~~**(7) A REPRESENTATIVE OF COMMUNITY COLLEGES, APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE; AND**~~

(7) THE EXECUTIVE DIRECTOR OF THE MARYLAND ASSOCIATION OF COMMUNITY COLLEGES, OR THE EXECUTIVE DIRECTOR'S DESIGNEE; AND

(8) FOUR MEMBERS OF THE PUBLIC, APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

(C) ONE OF THE PUBLIC MEMBERS OF THE GOVERNING BOARD SHALL HAVE EXPERTISE IN LARGE DATA SYSTEMS AND DATA SECURITY.

(D) THE GOVERNOR SHALL APPOINT A CHAIR OF THE GOVERNING BOARD FROM AMONG ITS MEMBERS.

(E) A MEMBER APPOINTED BY THE GOVERNOR:

(1) SERVES AT THE PLEASURE OF THE GOVERNOR;

(2) SERVES FOR A TERM OF 3 YEARS AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES; AND

(3) MAY BE REAPPOINTED BUT MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

(F) A MEMBER OF THE GOVERNING BOARD:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE GOVERNING BOARD; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(G) THE GOVERNING BOARD SHALL:

(1) ESTABLISH THE ORGANIZATIONAL PLACEMENT AND LOCATION OF THE CENTER AFTER SEEKING AND EVALUATING PROPOSALS FROM INTERESTED ENTITIES BASED ON CRITERIA THAT SHALL INCLUDE:

(I) THE ABILITY OF THE ENTITY TO SUPPORT THE OPERATION OF A LARGE DATA SYSTEM;

(II) STRENGTH OF FUNDING SUPPORT; AND

(III) EXPERTISE IN DATA SECURITY;

(2) DEVELOP AN IMPLEMENTATION PLAN TO PHASE IN THE ESTABLISHMENT AND OPERATION OF THE MARYLAND LONGITUDINAL DATA SYSTEM AND THE CENTER;

(3) PROVIDE GENERAL OVERSIGHT AND DIRECTION TO THE CENTER;

(4) APPROVE THE ANNUAL BUDGET FOR THE CENTER;

(5) ESTABLISH THE POLICY AND RESEARCH AGENDA OF THE CENTER;

~~**(6) DEVELOP AND OVERSEE POLICIES TO COMPLY WITH THE FEDERAL FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT AND ANY OTHER PRIVACY MEASURES, AS REQUIRED BY LAW OR THE GOVERNING BOARD;**~~

(6) BEFORE THE INCORPORATION OF ANY INDIVIDUAL DATA IN THE MARYLAND LONGITUDINAL DATA SYSTEM:

(I) CREATE AN INVENTORY OF THE INDIVIDUAL STUDENT DATA:

1. PROPOSED TO BE MAINTAINED IN THE SYSTEM; AND

2. REQUIRED TO BE REPORTED BY STATE AND FEDERAL EDUCATION MANDATES;

(II) DEVELOP AND IMPLEMENT POLICIES TO COMPLY WITH THE FEDERAL FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT AND ANY OTHER PRIVACY MEASURES, AS REQUIRED BY LAW OR THE GOVERNING BOARD; AND

(III) DEVELOP A DETAILED DATA SECURITY AND SAFEGUARDING PLAN THAT INCLUDES:

1. AUTHORIZED ACCESS AND AUTHENTICATION FOR AUTHORIZED ACCESS;

2. PRIVACY COMPLIANCE STANDARDS;

3. PRIVACY AND SECURITY AUDITS;

4. BREACH NOTIFICATION AND PROCEDURES; AND

5. DATA RETENTION AND DISPOSITION POLICIES;

(7) OVERSEE ROUTINE AND ONGOING COMPLIANCE WITH THE FEDERAL FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT AND OTHER RELEVANT PRIVACY LAWS AND POLICIES;

(8) ENSURE THAT ANY CONTRACTS THAT GOVERN DATABASES THAT ARE OUTSOURCED TO PRIVATE VENDORS INCLUDE EXPRESS PROVISIONS THAT SAFEGUARD PRIVACY AND SECURITY AND INCLUDE PENALTIES FOR NONCOMPLIANCE;

~~(7)~~ (9) DESIGNATE A STANDARD AND COMPLIANCE TIMELINE FOR ELECTRONIC TRANSCRIPTS THAT INCLUDES THE USE OF SASID TO ENSURE THE UNIFORM AND EFFICIENT TRANSFER OF STUDENT DATA BETWEEN LOCAL EDUCATION AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION; AND

~~(8)~~ (10) REVIEW RESEARCH REQUIREMENTS AND SET POLICIES FOR THE APPROVAL OF DATA REQUESTS FROM STATE AND LOCAL AGENCIES, THE MARYLAND GENERAL ASSEMBLY, AND THE PUBLIC.

24–705.

~~(A) LOCAL EDUCATION AGENCIES, COMMUNITY COLLEGES, PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS, AND STATE AGENCIES SHALL MAKE EVERY EFFORT TO COMPLY WITH THE DATA REQUIREMENTS AND~~

~~IMPLEMENTATION SCHEDULE FOR THE MARYLAND LONGITUDINAL DATA SYSTEM AS SET FORTH BY THE GOVERNING BOARD.~~

~~(B) PRIVATE INSTITUTIONS OF HIGHER EDUCATION AND PRIVATE SECONDARY SCHOOLS MAY PROVIDE STUDENT DATA TO THE MARYLAND LONGITUDINAL DATA SYSTEM.~~

~~24–706.~~

(A) THE GOVERNING BOARD SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 15 OF EACH YEAR.

~~(B) THE REPORT SHALL INCLUDE AN UPDATE ON THE IMPLEMENTATION OF THE MARYLAND LONGITUDINAL DATA SYSTEM AND THE CENTER'S ACTIVITIES DURING THE PRECEDING YEAR, AND ANY RECOMMENDATIONS MADE BY THE GOVERNING BOARD.~~

(B) THE REPORT SHALL INCLUDE:

(1) AN UPDATE ON THE IMPLEMENTATION OF THE MARYLAND LONGITUDINAL DATA SYSTEM AND THE CENTER'S ACTIVITIES;

(2) A LIST OF ALL STUDIES PERFORMED BY THE CENTER DURING THE REPORTING PERIOD;

(3) A LIST OF CURRENTLY WAREHOUSED DATA THAT IS DETERMINED TO BE NO LONGER NECESSARY TO CARRY OUT THE MISSION OF THE CENTER;

(4) ANY PROPOSED OR PLANNED EXPANSION OF DATA MAINTAINED IN THE DATABASE; AND

(5) ANY OTHER RECOMMENDATIONS MADE BY THE GOVERNING BOARD.

24–706.

THE CENTER SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBTITLE.

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article – Education~~

24–707.

(A) LOCAL EDUCATION AGENCIES, COMMUNITY COLLEGES, PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS, AND STATE AGENCIES SHALL:

(1) MAKE EVERY EFFORT TO COMPLY WITH THE DATA REQUIREMENTS AND IMPLEMENTATION SCHEDULE FOR THE MARYLAND LONGITUDINAL DATA SYSTEM AS SET FORTH BY THE GOVERNING BOARD; AND

(2) TRANSFER STUDENT DATA AND WORKFORCE DATA TO THE MARYLAND LONGITUDINAL DATA SYSTEM IN ACCORDANCE WITH THE DATA SECURITY AND SAFEGUARDING PLAN DEVELOPED UNDER § 24–704(G)(6) OF THIS SUBTITLE.

(B) PRIVATE INSTITUTIONS OF HIGHER EDUCATION AND PRIVATE SECONDARY SCHOOLS MAY TRANSFER STUDENT DATA AND WORKFORCE DATA TO THE MARYLAND LONGITUDINAL DATA SYSTEM IN ACCORDANCE WITH THE DATA SECURITY AND SAFEGUARDING PLAN DEVELOPED UNDER § 24–704(G)(6) OF THIS SUBTITLE.

SECTION ~~3.~~ *2.* AND BE IT FURTHER ENACTED, That before the incorporation of any individual data in the Maryland Longitudinal Data System, the Governing Board of the Maryland Longitudinal Data Center shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, on:

(1) the inventory of individual student data proposed to be maintained in the system; ~~and~~

(2) the policies of the Center to comply with the federal Family Educational Rights and Privacy Act, and other privacy measures required by law or the Governing Board*; and*

(3) a data security and safeguarding plan for the Center.

~~SECTION 4. AND BE IT FURTHER ENACTED, That on or before December 1, 2010, and before the incorporation of any individual data in the Maryland Longitudinal Data System, the Governing Board of the Maryland Longitudinal Data System Center shall submit a data security and safeguarding plan for the Center that considers an opt–out provision to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly. On or before February 1, 2011, the Governing Board shall brief the Senate Education, Health, and Environmental Affairs Committee and the House Committee on Ways and Means regarding the plan.~~

SECTION ~~5.~~ *3.* AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that ~~federal or other funds that are not from the General Fund of the State be used first for the funding of~~ *the State shall make every effort to seek federal funding to support* the creation and establishment of the Maryland Longitudinal Data System and the Maryland Longitudinal Data System Center.

~~SECTION 6. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Maryland Longitudinal Data System and the Maryland Longitudinal Data System Center be fully operational on or before December 31, 2014.~~

~~SECTION 2. 7. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2010. It shall remain effective for a period of 1 year and, at the end of June 30, 2011, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.~~

SECTION ~~8.~~ *4.* AND BE IT FURTHER ENACTED, That~~, except as provided in Section 7 of this Act,~~ this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 191

(Senate Bill 286)

AN ACT concerning

Governor's P–20 Leadership Council of Maryland

FOR the purpose of establishing the Governor's P–20 Leadership Council of Maryland; providing for the membership, tenure, chair, and staffing of the Council; establishing an Executive Committee of the Council; providing for the duties of the Executive Committee and the Council; requiring the Council to submit a certain annual report to the Governor and General Assembly on or before a certain date; and generally relating to the Governor's P–20 Leadership Council of Maryland.

BY adding to
Article – Education
Section 24–701 to be under the new subtitle "Subtitle 7. Governor's P–20 Leadership Council of Maryland"
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

Preamble

WHEREAS, Both the State's economic competitiveness in the United States and internationally and the earning potential of its residents depend on the quality of education at all levels; and

WHEREAS, By providing students with the basic, critical thinking, and technical skills they need, Maryland's elementary and secondary schools and postsecondary institutions play critical roles in preparing their graduates to succeed in the competitive global economy; and

WHEREAS, Maryland's business and education communities recognize the importance of aligning education policies to the State's economic needs in order to better prepare students for the job market and to allow the State to grow economically; and

WHEREAS, The education community has shown a commitment to improving student preparation in science, technology, engineering, and mathematics (STEM) by investing in STEM programs at the elementary, secondary, and postsecondary levels; and

WHEREAS, Implementation of the federal government's 2005 Base Realignment and Closure (BRAC) process will bring to Maryland thousands of new jobs requiring a highly skilled workforce; and

WHEREAS, Maryland's changing demographics will bring a growing number of African American, Hispanic, Asian, and other minority students who will constitute a majority of the State's workforce; and

WHEREAS, Many companies in the health care, tourism and hospitality, biotechnology, life sciences, security, and defense sectors face shortages of skilled workers; and

WHEREAS, The State's education and workforce creation initiatives exist in multiple departments and agencies making it difficult to design and implement an integrated statewide system; and

WHEREAS, Improving student achievement and promoting workforce skills require a statewide approach that ensures that every student has a chance to succeed in school and in the workplace; and

WHEREAS, Maryland has developed connections within the education community through several iterations of an ad hoc multiagency council since the mid–1990s; and

WHEREAS, The Governor's P–20 Leadership Council of Maryland was established by Executive Order in 2007 to formalize the Council under the Governor's leadership and to expand the Council's efforts to focus on workforce development and economic competitiveness; and

WHEREAS, Codifying the Governor's P–20 Leadership Council of Maryland and adding legislative participation to the Council will strengthen its role in guiding State policy on education and workforce development and will demonstrate Maryland's commitment to developing strong P–20 connections, which could help Maryland leverage federal and private funds for its P–20 efforts; now, therefore,

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

Article – Education

SUBTITLE 7. GOVERNOR'S P–20 LEADERSHIP COUNCIL OF MARYLAND.

24–701.

(A) IN THIS SECTION, "COUNCIL" MEANS THE GOVERNOR'S P–20 LEADERSHIP COUNCIL OF MARYLAND.

(B) (1) THERE IS A GOVERNOR'S P–20 LEADERSHIP COUNCIL OF MARYLAND.

(2) THE COUNCIL IS A PARTNERSHIP BETWEEN THE STATE, EDUCATORS, AND THE BUSINESS COMMUNITY TO BETTER PREPARE MARYLAND STUDENTS FOR THE JOBS OF THE 21ST CENTURY WHILE ENHANCING THE STATE'S ECONOMIC COMPETITIVENESS BY CREATING A WORKFORCE WITH 21ST CENTURY SKILLS.

(C) THE COUNCIL SHALL CONSIST OF THE FOLLOWING MEMBERS:

(1) THE GOVERNOR OR THE GOVERNOR'S DESIGNEE;

(2) THE SECRETARY OF HIGHER EDUCATION;

(3) THE SECRETARY OF LABOR, LICENSING, AND REGULATION;

(4) THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT;

(5) THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND;

(6) THE STATE SUPERINTENDENT OF SCHOOLS;

(7) THE CHAIRMAN OF THE MARYLAND HIGHER EDUCATION COMMISSION;

(8) THE CHAIR AND THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S WORKFORCE INVESTMENT BOARD;

(9) TWO MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(10) TWO MEMBERS OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE; AND

(11) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

(I) A MEMBER OF THE STATE BOARD OF EDUCATION;

(II) A REPRESENTATIVE OF LOCAL SUPERINTENDENTS OF EDUCATION;

(III) A REPRESENTATIVE OF LOCAL BOARDS OF EDUCATION;

(IV) ~~A REPRESENTATIVE OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS~~ *TWO MEMBERS OF EMPLOYEE ORGANIZATIONS THAT REPRESENT ELEMENTARY AND SECONDARY SCHOOL PERSONNEL IN THE STATE*;

(V) A REPRESENTATIVE OF ELEMENTARY AND SECONDARY SCHOOL PRINCIPALS;

(VI) TWO REPRESENTATIVES OF NONPUBLIC ELEMENTARY AND SECONDARY SCHOOLS;

~~(VI)~~ (VII) AN EXPERT IN EARLY CHILDHOOD EDUCATION;

~~(VII)~~ (VIII) AN EXPERT IN CAREER AND TECHNOLOGY EDUCATION;

~~(VIII)~~ (IX) TWO REPRESENTATIVES OF COMMUNITY COLLEGES;

~~(IX)~~ (X) TWO REPRESENTATIVES OF INDEPENDENT COLLEGES OR UNIVERSITIES;

~~(X)~~ (XI) A REPRESENTATIVE OF PUBLIC INSTITUTIONS OF HIGHER EDUCATION OUTSIDE THE UNIVERSITY SYSTEM OF MARYLAND;

~~(XI)~~ (XII) A REPRESENTATIVE OF COLLEGE OR UNIVERSITY DEANS WHO HAS RESPONSIBILITY FOR A SCIENCE, TECHNOLOGY, ENGINEERING, AND MATH (STEM) DISCIPLINE;

~~(XII)~~ (XIII) FOUR REPRESENTATIVES OF THE UNIVERSITY SYSTEM OF MARYLAND; ~~AND~~

~~(XIII)~~ (XIV) THREE REPRESENTATIVES OF THE BUSINESS COMMUNITY*; AND*

(XV) SIX ADDITIONAL MEMBERS WITH EXPERIENCE AND KNOWLEDGE THAT WILL BENEFIT THE WORK OF THE COUNCIL.

(D) THE GOVERNOR OR THE GOVERNOR'S DESIGNEE SHALL CHAIR THE COUNCIL.

(E) MEMBERS OF THE COUNCIL APPOINTED BY THE GOVERNOR SHALL SERVE AT THE PLEASURE OF THE GOVERNOR.

(F) A MEMBER OF THE COUNCIL MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COUNCIL, BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(G) (1) THERE IS AN EXECUTIVE COMMITTEE OF THE COUNCIL THAT SHALL DIRECT THE COUNCIL IN ITS WORK.

(2) THE EXECUTIVE COMMITTEE SHALL INCLUDE THE FOLLOWING MEMBERS:

(I) THE GOVERNOR OR THE GOVERNOR'S DESIGNEE;

(II) THE SECRETARY OF HIGHER EDUCATION;

(III) THE SECRETARY OF LABOR, LICENSING, AND REGULATION;

(IV) THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT;

(V) THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND; AND

(VI) THE STATE SUPERINTENDENT OF SCHOOLS.

(H) (1) THE COUNCIL MAY ESTABLISH OTHER COMMITTEES OR TASK FORCES AS ARE NECESSARY TO ACCOMPLISH ITS WORK.

(2) A COMMITTEE OR TASK FORCE MAY INCLUDE AS A MEMBER AN INDIVIDUAL WHO IS NOT A COUNCIL MEMBER.

(I) THE COUNCIL SHALL INVESTIGATE WAYS TO IMPROVE EDUCATION, ADVANCE WORKFORCE CREATION, AND MAKE THE STATE MORE COMPETITIVE THROUGH SOME OR ALL OF THE FOLLOWING STRATEGIES:

(1) ENSURING THAT ALL STUDENTS HAVE THE BASIC, CRITICAL THINKING, AND TECHNICAL SKILLS NECESSARY TO SUCCEED IN THE MODERN WORKPLACE;

(2) REDUCING DROPOUT RATES AND INCREASING RETENTION AND GRADUATION RATES IN HIGH SCHOOL AND COLLEGE;

(3) IMPROVING STUDENT ACHIEVEMENT AND CLOSING STUDENT ACHIEVEMENT GAPS;

(4) IMPROVING TEACHING QUALITY;

(5) IMPROVING TEACHER RETENTION;

(6) STRENGTHENING AND EXPANDING EDUCATIONAL LEADERSHIP PROGRAMS;

(7) REDESIGNING CAREER AND TECHNOLOGY EDUCATION PROGRAMS TO MEET COLLEGE EXPECTATIONS AND EMPLOYER NEEDS;

(8) EXPANDING THE AVAILABILITY OF CAREER AND TECHNOLOGY PROGRAMS AND HIGH SCHOOL CENTERS;

(9) STRENGTHENING STEM PROGRAMS AT THE HIGH SCHOOL AND COLLEGE LEVELS;

(10) CONNECTING HIGH SCHOOL EXPECTATIONS AND COLLEGE EXPECTATIONS WITH EMPLOYER NEEDS;

(11) CREATING PATHWAYS FOR ALL STUDENTS TO OBTAIN COLLEGE DEGREES;

(12) PROVIDING TEACHERS THE RESOURCES AND PROFESSIONAL TRAINING THEY NEED TO HELP STUDENTS REACH HIGHER STANDARDS;

(13) EXPANDING OPPORTUNITIES FOR CONTINUOUS LEARNING;

(14) ALIGNING HIGH SCHOOL GRADUATION REQUIREMENTS WITH COLLEGE READINESS REQUIREMENTS;

(15) IMPROVING THE CONNECTIONS BETWEEN THE PRE–KINDERGARTEN, PRIMARY, SECONDARY, AND HIGHER EDUCATION SYSTEMS;

(16) CREATING PROGRAMS AND INCENTIVES TO ENCOURAGE MUTUALLY BENEFICIAL RELATIONSHIPS BETWEEN SCHOOLS, SCHOOL SYSTEMS, HIGHER EDUCATION, AND THE BUSINESS COMMUNITY; AND

(17) ANY OTHER STRATEGIES REQUESTED BY THE GOVERNOR OR GENERAL ASSEMBLY.

(J) MEMBERS OF THE EXECUTIVE COMMITTEE SHALL PROVIDE THE PRIMARY STAFF SUPPORT NECESSARY FOR THE COUNCIL.

(K) THE COUNCIL SHALL MEET AT LEAST QUARTERLY AT SUCH TIMES AND PLACES AS IT DETERMINES.

(L) (1) THE COUNCIL SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 15 OF EACH YEAR.

(2) THE REPORT SHALL SET FORTH ANY RECOMMENDATIONS FROM THE COUNCIL AND SUMMARIZE THE COUNCIL'S ACTIVITIES DURING THE PRECEDING YEAR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 192

(Senate Bill 283)

AN ACT concerning

Higher Education Investment Fund – Tuition Stabilization and Funding

FOR the purpose of requiring the Comptroller to continue to distribute certain income tax revenue from corporations to the Higher Education Investment Fund; expanding the authorized uses of the Fund; establishing a Tuition Stabilization Trust Account in the Fund; requiring certain funds to be transferred to the Trust Account under certain circumstances; setting a certain State goal regarding certain resident tuition and fees at public institutions of higher education; providing that the Trust Account consists of certain money; limiting the authorized use of funds in the Trust Account; *defining certain terms;* stating a certain goal of the State for certain education funding; ~~authorizing certain higher education institutions to periodically review certain tuition and fees; providing for the application of this Act;~~ *requiring the governing boards of certain higher education institutions to periodically review tuition at certain institutions and to take certain other actions for certain purposes;* and generally relating to funding and authorized uses of the Higher Education Investment Fund.

BY repealing and reenacting, with amendments,
Article – Education
Section 15–106.6
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 2–613.1
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

Preamble

WHEREAS, The State public universities have not raised in–State undergraduate tuition in the last four years and as a result Maryland has fallen from the 6th highest public tuition state in the nation to a current ranking of 17th; and

WHEREAS, The Commission to Develop the Maryland Model for Funding Higher Education was charged with developing an effective statewide framework for higher education funding to establish a consistent and stable funding mechanism while promoting policies to achieve national eminence; and

WHEREAS, The Commission recommended that the Higher Education Investment Fund be established as a permanent fund; and

WHEREAS, The Commission recommended the creation of a Tuition Stabilization Account within the Higher Education Investment Fund to stabilize tuition costs for resident students; and

WHEREAS, The Commission recommended that the State set as a goal to limit percentage increases in resident undergraduate tuition in any given year to a percent not to exceed the increase in the three–year rolling average of the State's median family income, a policy that would link tuition increases to a measure of affordability for Maryland families; now, therefore,

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

Article – Education

15–106.6.

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

(2) "Fund" means the Higher Education Investment Fund.

(3) "PUBLIC SENIOR HIGHER EDUCATION INSTITUTION" HAS THE MEANING STATED IN § 10–101(J)(1) AND (2) OF THIS ARTICLE.

~~(3)~~ ***(4)*** **"TRUST ACCOUNT" MEANS THE TUITION STABILIZATION TRUST ACCOUNT.**

[(3)**]** ~~(4)~~ ***(5)*** "Tuition" means the charges and fees approved by the governing board of a public senior higher education institution which are required of all undergraduate resident students by the institution as a condition of enrollment regardless of the student's degree program, field of study, or selected courses.

(b) (1) There is a Higher Education Investment Fund.

(2) The purpose of the Fund is to:

(i) Invest in public higher education and workforce development; and

(ii) Keep tuition affordable for Maryland students and families.

(3) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(4) The Treasurer shall hold the Fund and the Comptroller shall account for the Fund.

(5) The proceeds of the Fund shall be invested and reinvested.

(6) Any investment earnings shall be paid into the Fund.

(7) The Fund consists of:

(i) Money appropriated in the State budget for the Fund; and

(ii) Any other money from any other source accepted for the benefit of the Fund.

(8) The Commission shall administer the Fund.

(9) Money in the Fund may be expended only:

(i) To supplement General Fund appropriations to public senior higher education institutions and research institutes of the University System of Maryland;

(ii) For capital projects for public senior higher education institutions and research institutes of the University System of Maryland;

(iii) For workforce development initiatives administered by the Commission; and

(iv) For initiatives to address higher education needs related to the United States Department of Defense Base Realignment and Closure process.

(10) Expenditures from the Fund may be made only in accordance with an appropriation approved by the General Assembly in the annual State budget.

(C) (1) WITHIN THE FUND THERE IS A TUITION STABILIZATION TRUST ACCOUNT.

(2) (I) THE TRUST ACCOUNT IS ESTABLISHED TO RETAIN REVENUES FOR STABILIZING TUITION COSTS FOR RESIDENT UNDERGRADUATE STUDENTS.

(II) IN YEARS OF INCREASING CORPORATE TAX REVENUES THAT ARE ALLOCATED TO THE FUND UNDER § 2–613.1 OF THE TAX – GENERAL ARTICLE, FUNDS SHALL BE DEPOSITED INTO THE TRUST ACCOUNT.

(III) FUNDS IN THE TRUST ACCOUNT SHALL BE USED ONLY TO STABILIZE TUITION AT PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS.

(IV) IT IS THE GOAL OF THE STATE THAT ANY INCREASE IN RESIDENT UNDERGRADUATE TUITION AND ACADEMIC FEES AT PUBLIC SENIOR INSTITUTIONS OF HIGHER EDUCATION IN ANY GIVEN YEAR SHOULD BE LIMITED TO A PERCENT NOT TO EXCEED THE INCREASE IN THE 3–YEAR ROLLING AVERAGE OF THE STATE'S MEDIAN FAMILY INCOME.

(3) THE TRUST ACCOUNT CONSISTS OF:

(I) MONEY APPROPRIATED IN THE STATE BUDGET FOR THE TRUST ACCOUNT; AND

(II) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE TRUST ACCOUNT.

(4) A BALANCE OF BETWEEN 1% AND 5% OF RESIDENT UNDERGRADUATE TUITION REVENUES RECEIVED BY PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS IN THE PRIOR FISCAL YEAR SHOULD BE MAINTAINED IN THE TRUST ACCOUNT.

(5) MONEY IN THE TRUST ACCOUNT MAY BE EXPENDED ONLY TO SUPPLEMENT GENERAL FUND APPROPRIATIONS TO PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS FOR THE PURPOSE OF STABILIZING TUITION COSTS OF RESIDENT UNDERGRADUATE STUDENTS.

Article – Tax – General

2–613.1.

After making the distribution required under § 2–613 of this subtitle**[**:

(1)**]**, of the remaining income tax revenue from corporations, the Comptroller shall distribute:

[(i) for fiscal year 2008 only:

1. $16,000,000 to the Higher Education Investment Fund established under § 15–106.6 of the Education Article; and

2. the amount by which 15.15% of the remaining income tax revenue from corporations exceeds $16,000,000 to the General Fund; and

(ii) for each of fiscal years 2009 and 2010 only:

1.**]** **(1)** 6% to the Higher Education Investment Fund established under § 15–106.6 of the Education Article; and

[2.**]** **(2)** 9.15% to the General Fund**[**; and

(2) for fiscal year 2011 and subsequent fiscal years, the Comptroller shall distribute 15.15% of the remaining income tax revenue from corporations to the General Fund of the State**]**.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the goal of the State that in conjunction with moderate and affordable tuition, public senior higher education institution funding should reach 100% of the funding guidelines as developed and approved by the Maryland Higher Education Commission.

SECTION 3. AND BE IT FURTHER ENACTED, That, in order to provide access to higher education for Maryland students and to ensure a high return on State general fund allocations to higher education, the governing boards of public senior higher education institutions shall periodically conduct a review of tuition at individual institutions and make adjustments when necessary to promote access, to increase funding for financial aid, to align resident tuition rates with peer institutions in the State and nationwide, and to affect student demand as demonstrated by admissions data and productivity measures.

SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 193

(House Bill 470)

AN ACT concerning

Higher Education Investment Fund – Tuition Stabilization and Funding

FOR the purpose of requiring the Comptroller to continue to distribute certain income tax revenue from corporations to the Higher Education Investment Fund; expanding the authorized uses of the Fund; establishing a Tuition Stabilization Trust Account in the Fund; requiring certain funds to be transferred to the Trust Account under certain circumstances; setting a certain State goal regarding certain resident tuition and fees at public institutions of higher education; providing that the Trust Account consists of certain money; limiting the authorized use of funds in the Trust Account; defining certain terms; stating a certain goal of the State for certain education funding; requiring the governing boards of certain higher education institutions to periodically review tuition at certain institutions and to take certain other actions for certain purposes; and

generally relating to funding and authorized uses of the Higher Education Investment Fund.

BY repealing and reenacting, with amendments,
Article – Education
Section 15–106.6
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 2–613.1
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

Preamble

WHEREAS, The State public universities have not raised in–State undergraduate tuition in the last four years and as a result Maryland has fallen from the 6th highest public tuition state in the nation to a current ranking of 17th; and

WHEREAS, The Commission to Develop the Maryland Model for Funding Higher Education was charged with developing an effective statewide framework for higher education funding to establish a consistent and stable funding mechanism while promoting policies to achieve national eminence; and

WHEREAS, The Commission recommended that the Higher Education Investment Fund be established as a permanent fund; and

WHEREAS, The Commission recommended the creation of a Tuition Stabilization Account within the Higher Education Investment Fund to stabilize tuition costs for resident students; and

WHEREAS, The Commission recommended that the State set as a goal to limit percentage increases in resident undergraduate tuition in any given year to a percent not to exceed the increase in the three–year rolling average of the State's median family income, a policy that would link tuition increases to a measure of affordability for Maryland families; now, therefore,

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

Article – Education

15–106.6.

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

(2) "Fund" means the Higher Education Investment Fund.

(3) "PUBLIC SENIOR HIGHER EDUCATION INSTITUTION" HAS THE MEANING STATED IN § 10–101(J)(1) AND (2) OF THIS ARTICLE.

~~(3)~~ (4) "TRUST ACCOUNT" MEANS THE TUITION STABILIZATION TRUST ACCOUNT.

[(3)**]** **~~(4)~~ (5)** "Tuition" means the charges and fees approved by the governing board of a public senior higher education institution which are required of all undergraduate resident students by the institution as a condition of enrollment regardless of the student's degree program, field of study, or selected courses.

(b) (1) There is a Higher Education Investment Fund.

(2) The purpose of the Fund is to:

(i) Invest in public higher education and workforce development; and

(ii) Keep tuition affordable for Maryland students and families.

(3) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(4) The Treasurer shall hold the Fund and the Comptroller shall account for the Fund.

(5) The proceeds of the Fund shall be invested and reinvested.

(6) Any investment earnings shall be paid into the Fund.

(7) The Fund consists of:

(i) Money appropriated in the State budget for the Fund; and

(ii) Any other money from any other source accepted for the benefit of the Fund.

(8) The Commission shall administer the Fund.

(9) Money in the Fund may be expended only:

(i) To supplement General Fund appropriations to public senior higher education institutions and research institutes of the University System of Maryland;

(ii) For capital projects for public senior higher education institutions and research institutes of the University System of Maryland;

(iii) For workforce development initiatives administered by the Commission; and

(iv) For initiatives to address higher education needs related to the United States Department of Defense Base Realignment and Closure process.

(10) Expenditures from the Fund may be made only in accordance with an appropriation approved by the General Assembly in the annual State budget.

(C) (1) WITHIN THE FUND THERE IS A TUITION STABILIZATION TRUST ACCOUNT.

(2) (I) THE TRUST ACCOUNT IS ESTABLISHED TO RETAIN REVENUES FOR STABILIZING TUITION COSTS FOR RESIDENT UNDERGRADUATE STUDENTS.

(II) IN YEARS OF INCREASING CORPORATE TAX REVENUES THAT ARE ALLOCATED TO THE FUND UNDER § 2–613.1 OF THE TAX – GENERAL ARTICLE, FUNDS SHALL BE DEPOSITED INTO THE TRUST ACCOUNT.

(III) FUNDS IN THE TRUST ACCOUNT SHALL BE USED ONLY TO STABILIZE TUITION AT PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS.

(IV) IT IS THE GOAL OF THE STATE THAT ANY INCREASE IN RESIDENT UNDERGRADUATE TUITION AND ACADEMIC FEES AT PUBLIC SENIOR INSTITUTIONS OF HIGHER EDUCATION IN ANY GIVEN YEAR SHOULD BE LIMITED TO A PERCENT NOT TO EXCEED THE INCREASE IN THE 3–YEAR ROLLING AVERAGE OF THE STATE'S MEDIAN FAMILY INCOME.

(3) THE TRUST ACCOUNT CONSISTS OF:

(I) MONEY APPROPRIATED IN THE STATE BUDGET FOR THE TRUST ACCOUNT; AND

(II) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE TRUST ACCOUNT.

(4) A BALANCE OF BETWEEN 1% AND 5% OF RESIDENT UNDERGRADUATE TUITION REVENUES RECEIVED BY PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS IN THE PRIOR FISCAL YEAR SHOULD BE MAINTAINED IN THE TRUST ACCOUNT.

(5) MONEY IN THE TRUST ACCOUNT MAY BE EXPENDED ONLY TO SUPPLEMENT GENERAL FUND APPROPRIATIONS TO PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS FOR THE PURPOSE OF STABILIZING TUITION COSTS OF RESIDENT UNDERGRADUATE STUDENTS.

Article – Tax – General

2–613.1.

After making the distribution required under § 2–613 of this subtitle**[**:

(1)**],** of the remaining income tax revenue from corporations, the Comptroller shall distribute:

[(i) for fiscal year 2008 only:

1. $16,000,000 to the Higher Education Investment Fund established under § 15–106.6 of the Education Article; and

2. the amount by which 15.15% of the remaining income tax revenue from corporations exceeds $16,000,000 to the General Fund; and

(ii) for each of fiscal years 2009 and 2010 only:

1.**]** **(1)** 6% to the Higher Education Investment Fund established under § 15–106.6 of the Education Article; and

[2.**]** **(2)** 9.15% to the General Fund**[**; and

(2) for fiscal year 2011 and subsequent fiscal years, the Comptroller shall distribute 15.15% of the remaining income tax revenue from corporations to the General Fund of the State**]**.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the goal of the State that in conjunction with moderate and affordable tuition, public senior higher education institution funding should reach 100% of the funding guidelines as developed and approved by the Maryland Higher Education Commission.

SECTION 3. AND BE IT FURTHER ENACTED, That, in order to provide access to higher education for Maryland students and to ensure a high return on State general fund allocations to higher education, the governing boards of public senior

higher education institutions shall periodically conduct a review of tuition at individual institutions and make adjustments when necessary to promote access, to increase funding for financial aid, to align resident tuition rates with peer institutions in the State and nationwide, and to affect student demand as demonstrated by admissions data and productivity measures.

SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 194

(Senate Bill 887)

AN ACT concerning

Correctional Services – State Correctional Officers' Bill of Rights

FOR the purpose of providing for certain rights of a State correctional officer relating to employment, investigation, and discipline under certain circumstances; providing for the procedures for the investigation and interrogation of a State correctional officer; establishing procedures for an application for a show cause order under certain circumstances; establishing a certain limitation on administrative charges against a State correctional officer; providing for procedures for a hearing board conducting an investigation against a State correctional officer; providing for expungement of a record of a formal complaint against a State correctional officer under certain circumstances; providing for certain disciplinary actions against a State correctional officer under certain circumstances; providing that a State correctional officer who receives a certain recommendation with respect to disciplinary or punitive action has certain appeals rights; requiring a State correctional officer to be granted release time for certain purposes; requiring the Department of Public Safety and Correctional Services to bear the cost of certain expenses; providing that this Act supersedes inconsistent provisions of any other State or local law that conflict with this Act to the extent of the conflict; providing for the effect of this Act in relation to the duties of an appointing authority; prohibiting certain false statements; ~~establishing a criminal penalty for providing a false statement to certain persons;~~ defining certain terms; and generally relating to rights of a State correctional officer.

BY adding to
Article – Correctional Services

Section 10–901 through ~~10–914~~ 10–913 to be under the new subtitle "Subtitle 9. State Correctional Officers' Bill of Rights"
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 1–101(b) and 11–105
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – Correctional Services

SUBTITLE 9. STATE CORRECTIONAL OFFICERS' BILL OF RIGHTS.

10–901.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "APPOINTING AUTHORITY" HAS THE MEANING STATED IN § 1–101 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(C) "CORRECTIONAL OFFICER" MEANS AN EMPLOYEE OF THE DEPARTMENT WORKING IN A STATE CORRECTIONAL FACILITY ~~WHOSE DUTIES RELATE TO THE INVESTIGATION, CARE, CUSTODY, CONTROL, OR SUPERVISION OF INMATES~~ WHO SERVES IN THE CLASSIFICATION OF CORRECTIONAL OFFICER I, II, SERGEANT, LIEUTENANT, CAPTAIN, OR MAJOR, AND INCLUDES:

(1) A CORRECTIONAL DIETARY OFFICER;

(2) A CORRECTIONAL MAINTENANCE OFFICER;

(3) A CORRECTIONAL LAUNDRY OFFICER;

(4) A CORRECTIONAL RECREATION OFFICER; AND

(5) A CORRECTIONAL SUPPLY OFFICER.

(D) (1) "HEARING" MEANS A PROCEEDING DURING AN INVESTIGATION CONDUCTED BY A HEARING BOARD TO TAKE TESTIMONY OR RECEIVE OTHER EVIDENCE, OR A CONTESTED CASE PROCEEDING BEFORE THE

OFFICE OF ADMINISTRATIVE HEARINGS, ELECTED BY THE CORRECTIONAL OFFICER.

(2) "HEARING" DOES NOT INCLUDE AN INTERROGATION AT WHICH NO TESTIMONY IS TAKEN UNDER OATH.

(E) "HEARING BOARD" MEANS A HEARING BOARD THAT IS AUTHORIZED UNDER § 10–908 OF THIS SUBTITLE TO HOLD A HEARING ON A COMPLAINT AGAINST A CORRECTIONAL OFFICER.

(F) "INTERNAL INVESTIGATIVE UNIT" MEANS THE INTERNAL INVESTIGATIVE UNIT ESTABLISHED UNDER § 10–701 OF THIS ~~ARTICLE~~ TITLE.

(G) "MISCONDUCT" MEANS:

(1) ENGAGING IN INTENTIONAL BEHAVIOR, WITHOUT JUSTIFICATION, THAT INJURES ANOTHER PERSON, CAUSES DAMAGE TO PROPERTY, OR THREATENS THE SAFETY OF THE WORKPLACE;

(2) ENGAGING IN UNJUSTIFIABLY OFFENSIVE CONDUCT TOWARD FELLOW EMPLOYEES, INMATES, OR THE PUBLIC;

(3) USING EXCESSIVE FORCE IN THE TREATMENT OR CARE OF AN INMATE;

(4) POSSESSING OR TRAFFICKING IN CONTRABAND AT A DEPARTMENT FACILITY;

(5) BEING ON DUTY WHILE UNDER THE INFLUENCE OF ALCOHOL OR A CONTROLLED DANGEROUS SUBSTANCE, OR WHILE ENGAGED IN THE ILLEGAL USE OF A PRESCRIPTION DRUG;

(6) ENGAGING IN A SOCIAL, PERSONAL, INTIMATE, OR SEXUAL RELATIONSHIP WITH AN INMATE;

(7) STEALING STATE PROPERTY WITH A VALUE OF $300 OR LESS;

(8) ENGAGING IN CONDUCT INVOLVING DISHONESTY, FRAUD, DECEIT, MISREPRESENTATION, OR ILLEGALITY;

(9) WILLFULLY MAKING A FALSE OFFICIAL STATEMENT OR REPORT;

(10) VIOLATING A LAWFUL ORDER OR FAILING TO OBEY A LAWFUL ORDER GIVEN BY A SUPERIOR;

(11) ENGAGING IN ANY OF THE ACTIONS THAT ARE CAUSE FOR AUTOMATIC TERMINATION OF EMPLOYMENT UNDER § 11–105 OF THE STATE PERSONNEL AND PENSIONS ARTICLE; OR

(12) COMMITTING ANY VIOLATION OF THE DEPARTMENT'S STANDARDS OF CONDUCT.

10–902.

(A) THE PURPOSE OF THIS SUBTITLE IS TO ESTABLISH EXCLUSIVE PROCEDURES FOR THE INVESTIGATION AND DISCIPLINE OF A CORRECTIONAL OFFICER ~~BY THE INTERNAL INVESTIGATIVE UNIT OF THE DEPARTMENT~~ FOR ALLEGED ~~MISCONDUCT THAT~~ MISCONDUCT. ~~MAY LEAD TO DISCIPLINARY ACTION, DEMOTION, OR DISMISSAL.~~

(B) THE DISCIPLINARY ACTIONS AUTHORIZED UNDER THIS SUBTITLE ARE THOSE AUTHORIZED UNDER §§ 11–104 AND 11–105 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

10–903.

(A) EXCEPT AS OTHERWISE PROVIDED, THE PROVISIONS OF THIS SUBTITLE SUPERSEDE ANY INCONSISTENT PROVISIONS OF ANY OTHER STATE LAW, INCLUDING § 11–106 OF THE STATE PERSONNEL AND PENSIONS ARTICLE, THAT CONFLICT WITH THIS SUBTITLE TO THE EXTENT OF THE CONFLICT.

(B) THIS SUBTITLE DOES NOT LIMIT THE AUTHORITY OF THE APPOINTING AUTHORITY TO REGULATE THE COMPETENT AND EFFECTIVE OPERATION AND MANAGEMENT OF A STATE CORRECTIONAL FACILITY BY REASONABLE MEANS INCLUDING THE TRANSFER AND REASSIGNMENT OF EMPLOYEES IF:

(1) THAT ACTION IS NOT PUNITIVE IN NATURE; AND

(2) THE APPOINTING AUTHORITY DETERMINES THAT ACTION TO BE IN THE BEST INTERESTS OF THE INTERNAL MANAGEMENT OF THE CORRECTIONAL FACILITY.

10–904.

~~(A) AN APPOINTING AUTHORITY MAY NOT PROHIBIT OR REGULATE SECONDARY EMPLOYMENT BY A CORRECTIONAL OFFICER.~~

~~(B)~~ (A) A CORRECTIONAL OFFICER MAY NOT BE REQUIRED OR REQUESTED TO DISCLOSE AN ITEM OF THE CORRECTIONAL OFFICER'S PROPERTY, INCOME, ASSETS, SOURCE OF INCOME, DEBTS, OR PERSONAL OR DOMESTIC EXPENDITURES, INCLUDING THOSE OF A MEMBER OF THE CORRECTIONAL OFFICER'S FAMILY OR HOUSEHOLD, UNLESS THE DISCLOSURE IS REQUIRED BY FEDERAL OR STATE LAW OR THE INFORMATION IS NECESSARY TO INVESTIGATE A POSSIBLE CONFLICT OF INTEREST WITH RESPECT TO THE PERFORMANCE OF THE CORRECTIONAL OFFICER'S DUTIES.

~~(C)~~ (B) A CORRECTIONAL OFFICER MAY NOT BE DISCHARGED, DISCIPLINED, OR DEMOTED, DENIED PROMOTION, TRANSFER, OR REASSIGNMENT, OR OTHERWISE DISCRIMINATED AGAINST IN REGARD TO THE CORRECTIONAL OFFICER'S EMPLOYMENT OR BE THREATENED WITH THAT TREATMENT BECAUSE THE CORRECTIONAL OFFICER:

(1) HAS EXERCISED OR DEMANDED THE RIGHTS GRANTED BY THIS SUBTITLE; OR

(2) HAS LAWFULLY EXERCISED CONSTITUTIONAL RIGHTS.

~~(D)~~ (C) THE RIGHT OF A CORRECTIONAL OFFICER TO BRING SUIT ARISING OUT OF THE CORRECTIONAL OFFICER'S DUTIES AS A CORRECTIONAL OFFICER MAY NOT BE ABRIDGED BY RULE, REGULATION, OR POLICY.

~~(E) THE FACT THAT A CORRECTIONAL OFFICER IS UNDER INVESTIGATION MAY NOT IMPACT NEGATIVELY A PROMOTIONAL PROCESS IN WHICH THE CORRECTIONAL OFFICER IS INVOLVED.~~

(D) A CORRECTIONAL OFFICER MAY WAIVE ANY OR ALL OF THE RIGHTS UNDER THIS SUBTITLE IF:

(1) THE WAIVER IS SIGNED AND ACKNOWLEDGED BY THE CORRECTIONAL OFFICER; AND

(2) THE WAIVER IS GIVEN AFTER THE CORRECTIONAL OFFICER IS GIVEN AN OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL SELECTED BY THE CORRECTIONAL OFFICER OR A REPRESENTATIVE FROM THE CORRECTIONAL OFFICER'S EMPLOYEE ORGANIZATION.

10–905.

(A) THE INVESTIGATION OR INTERROGATION BY THE APPOINTING AUTHORITY OR BY THE INTERNAL INVESTIGATIVE UNIT OF A CORRECTIONAL OFFICER FOR A REASON THAT MAY LEAD TO DISCIPLINARY ACTION, DEMOTION, OR DISMISSAL SHALL BE CONDUCTED IN ACCORDANCE WITH THIS SECTION.

(B) THE INVESTIGATING OFFICER OR INTERROGATING OFFICER SHALL BE A MEMBER OF THE INTERNAL INVESTIGATIVE UNIT OR A DESIGNEE OF THE APPOINTING AUTHORITY.

~~(C) A COMPLAINT AGAINST A CORRECTIONAL OFFICER THAT ALLEGES BRUTALITY IN THE EXECUTION OF THE CORRECTIONAL OFFICER'S DUTIES MAY NOT BE INVESTIGATED UNLESS THE COMPLAINT:~~

~~(1) IS FILED WITHIN 15 DAYS AFTER THE ALLEGED BRUTALITY; AND~~

~~(2) IS SWORN ON PERSONAL KNOWLEDGE, BEFORE AN OFFICIAL AUTHORIZED TO ADMINISTER OATHS, BY:~~

~~(I) THE INDIVIDUAL FILING THE COMPLAINT; OR~~

~~(II) AN INDIVIDUAL WITH FIRSTHAND KNOWLEDGE OBTAINED BECAUSE THE INDIVIDUAL WAS PRESENT AT AND OBSERVED THE ALLEGED INCIDENT.~~

~~(D)~~ (C) (1) ~~BEFORE~~ AT LEAST 24 HOURS BEFORE AN INTERROGATION, THE CORRECTIONAL OFFICER UNDER INVESTIGATION SHALL BE INFORMED OF THE NAME, RANK, AND COMMAND OF:

(I) THE ~~INTERNAL INVESTIGATIVE UNIT MEMBER~~ PERSON IN CHARGE OF THE INVESTIGATION;

(II) THE INTERROGATING OFFICER; AND

(III) EACH INDIVIDUAL WHO WILL BE PRESENT DURING THE INTERROGATION.

(2) AT LEAST 24 HOURS BEFORE AN INTERROGATION, THE CORRECTIONAL OFFICER UNDER INVESTIGATION SHALL BE INFORMED IN WRITING BY THE APPOINTING AUTHORITY OF:

(I) THE NATURE OF THE INVESTIGATION; AND

~~(II) THE NAME OF THE COMPLAINANT; AND~~

~~(III)~~ (II) THE CORRECTIONAL OFFICER'S RIGHTS UNDER THIS SUBTITLE.

~~(E)~~ (D) IF THE CORRECTIONAL OFFICER UNDER INTERROGATION IS UNDER ARREST, OR IS LIKELY TO BE PLACED UNDER ARREST AS A RESULT OF THE INTERROGATION, THE CORRECTIONAL OFFICER SHALL BE INFORMED COMPLETELY OF THE CORRECTIONAL OFFICER'S CONSTITUTIONAL RIGHTS BEFORE THE INTERROGATION BEGINS.

~~(F)~~ (E) UNLESS THE SERIOUSNESS OF THE INVESTIGATION IS OF A DEGREE THAT AN IMMEDIATE INTERROGATION IS REQUIRED, THE INTERROGATION SHALL BE CONDUCTED AT A REASONABLE HOUR, PREFERABLY WHEN THE CORRECTIONAL OFFICER IS ON DUTY.

~~(G)~~ (F) THE INTERROGATION SHALL TAKE PLACE AT:

(1) THE APPOINTING AUTHORITY'S OFFICE;

(2) THE APPOINTING AUTHORITY'S CONFERENCE ROOM; OR

~~(3) THE ROLL CALL ROOM;~~

~~(4) THE CORRECTIONAL FACILITY OFFICE OF THE CORRECTIONAL OFFICERS' EXCLUSIVE BARGAINING REPRESENTATIVE; OR~~

~~(5)~~ (3) ANOTHER REASONABLE AND APPROPRIATE PLACE.

~~(H)~~ (G) (1) ALL QUESTIONS DIRECTED TO THE CORRECTIONAL OFFICER UNDER INTERROGATION SHALL BE ASKED BY ONE ~~INTERROGATING OFFICER~~ PERSON DURING ANY ONE SESSION OF INTERROGATION.

(2) EACH SESSION OF INTERROGATION SHALL~~:~~

~~(I) PROVIDE A BREAK OF AT LEAST 15 MINUTES FOR EACH 60 MINUTES OF INTERROGATION; AND~~

~~(II)~~ ALLOW FOR PERSONAL NECESSITIES AND REST PERIODS AS REASONABLY NECESSARY.

~~(I)~~ (H) THE CORRECTIONAL OFFICER UNDER INTERROGATION MAY NOT BE THREATENED WITH CRIMINAL PROSECUTION, TRANSFER, DISMISSAL, OR DISCIPLINARY ACTION.

~~(J) (1) THE INTERROGATING OFFICER MAY NOT INTENTIONALLY MAKE A FALSE STATEMENT DURING THE COURSE OF AN INTERROGATION.~~

~~(2) IF AN INTERROGATING OFFICER INTENTIONALLY MAKES A FALSE STATEMENT DURING AN INTERROGATION, THE INTERROGATING OFFICER SHALL BE SUBJECT TO DISCIPLINE FROM THE INTERNAL INVESTIGATION UNIT, INCLUDING TERMINATION.~~

~~(K) (1) (I) ON REQUEST, THE CORRECTIONAL OFFICER UNDER INTERROGATION SHALL BE REPRESENTED BY COUNSEL OR ANOTHER REPRESENTATIVE PROVIDED BY THE CORRECTIONAL OFFICERS' EXCLUSIVE BARGAINING REPRESENTATIVE.~~

(I) (1) IF REQUESTED BY OR ON BEHALF OF THE CORRECTIONAL OFFICER UNDER INVESTIGATION, THE CORRECTIONAL OFFICER MAY NOT BE QUESTIONED OR INTERROGATED, AND ANY CURRENT QUESTIONING OR INTERROGATION MUST CEASE, UNLESS:

(I) 1. THE CORRECTIONAL OFFICER IS REPRESENTED BY LEGAL COUNSEL SELECTED BY THE CORRECTIONAL OFFICER;

2. THE CORRECTIONAL OFFICER IS REPRESENTED BY AN AGENT OF THE EXCLUSIVE REPRESENTATIVE OF THE CORRECTIONAL OFFICER DESIGNATED UNDER § 3–406 OF THE STATE PERSONNEL AND PENSIONS ARTICLE; OR

3. THE CORRECTIONAL OFFICER CHOOSES AN AGENT OF THE EMPLOYEE ORGANIZATION SELECTED BY THE CORRECTIONAL OFFICER FOR AN INVESTIGATION UNDER THIS SUBTITLE IF THE CORRECTIONAL OFFICER IS NOT WITHIN THE BARGAINING UNIT FOR WHICH AN EXCLUSIVE REPRESENTATIVE IS DESIGNATED; AND

(II) THE LEGAL COUNSEL OR THE AGENT SELECTED BY THE CORRECTIONAL OFFICER IS PRESENT AND AVAILABLE FOR CONSULTATION AT ALL TIMES DURING THE INTERROGATION.

~~(II) THE EXCLUSIVE BARGAINING REPRESENTATIVE SHALL BE PRESENT AND AVAILABLE FOR CONSULTATION AT ALL TIMES DURING THE INTERROGATION.~~

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF REPRESENTATION IS NOT AVAILABLE, THE INTERROGATION SHALL BE SUSPENDED UNTIL REPRESENTATION IS OBTAINED.

(II) A SUSPENSION OF INTERROGATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT EXCEED 10 DAYS UNLESS THE APPOINTING AUTHORITY, FOR GOOD CAUSE SHOWN, EXTENDS THE PERIOD FOR OBTAINING REPRESENTATION.

(3) DURING THE INTERROGATION, THE CORRECTIONAL OFFICER'S COUNSEL OR REPRESENTATIVE MAY:

(I) REQUEST A RECESS AT ANY TIME TO CONSULT WITH THE CORRECTIONAL OFFICER;

(II) OBJECT TO ANY QUESTION POSED; AND

(III) STATE ON THE RECORD OUTSIDE THE PRESENCE OF THE CORRECTIONAL OFFICER THE REASON FOR THE OBJECTION.

~~(I)~~ (J) (1) A COMPLETE RECORD SHALL BE KEPT OF THE ENTIRE INTERROGATION, INCLUDING ALL RECESS PERIODS.

(2) THE RECORD SHALL BE MADE BY ELECTRONIC EQUIPMENT OR BY A STENOGRAPHER.

(3) ON COMPLETION OF THE INVESTIGATION, AND ON REQUEST OF THE CORRECTIONAL OFFICER OR THE CORRECTIONAL OFFICER'S COUNSEL OR REPRESENTATIVE, A COPY OF THE RECORD OF THE INTERROGATION SHALL BE PROVIDED WITHIN 5 DAYS OF THE REQUEST.

(K) (1) THE PERSON ASSIGNED TO CONDUCT THE INVESTIGATION MAY ORDER THE CORRECTIONAL OFFICER UNDER INVESTIGATION TO SUBMIT TO BLOOD ALCOHOL TESTS, BLOOD, BREATH, OR URINE TESTS FOR CONTROLLED DANGEROUS SUBSTANCES, POLYGRAPH EXAMINATIONS, OR INTERROGATIONS THAT SPECIFICALLY RELATE TO THE SUBJECT MATTER OF THE INVESTIGATION.

(2) IF THE CORRECTIONAL OFFICER IS ORDERED TO SUBMIT TO A TEST, EXAMINATION, OR INTERROGATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION AND THE CORRECTIONAL OFFICER REFUSES TO DO SO, THE APPOINTING AUTHORITY MAY COMMENCE AN ACTION THAT MAY LEAD TO DISCIPLINE AS A RESULT OF THE REFUSAL.

(3) IF A CORRECTIONAL OFFICER IS ORDERED TO SUBMIT TO A TEST, EXAMINATION, OR INTERROGATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE RESULTS OF THE TEST, EXAMINATION, OR

INTERROGATION ARE NOT ADMISSIBLE OR DISCOVERABLE IN A CRIMINAL PROCEEDING AGAINST THE CORRECTIONAL OFFICER.

(L) (1) IF THE CORRECTIONAL OFFICER IS ORDERED TO SUBMIT TO A POLYGRAPH EXAMINATION, THE RESULTS OF THE POLYGRAPH EXAMINATION MAY NOT BE USED AS EVIDENCE IN A HEARING BOARD OR AN ADMINISTRATIVE HEARING UNLESS THE APPOINTING AUTHORITY AND THE CORRECTIONAL OFFICER AGREE TO THE ADMISSION OF THE RESULTS.

(2) THE CORRECTIONAL OFFICER'S COUNSEL OR REPRESENTATIVE NEED NOT BE PRESENT DURING THE ACTUAL ADMINISTRATION OF A POLYGRAPH EXAMINATION BY A CERTIFIED POLYGRAPHER IF:

(I) THE QUESTIONS TO BE ASKED ARE REVIEWED WITH THE CORRECTIONAL OFFICER OR THE COUNSEL OR REPRESENTATIVE BEFORE THE ADMINISTRATION OF THE EXAMINATION;

(II) THE COUNSEL OR REPRESENTATIVE IS ALLOWED TO OBSERVE THE ADMINISTRATION OF THE EXAMINATION; AND

(III) A COPY OF THE FINAL REPORT OF THE EXAMINATION BY THE CERTIFIED POLYGRAPHER IS MADE AVAILABLE TO THE CORRECTIONAL OFFICER OR THE COUNSEL OR REPRESENTATIVE WITHIN A REASONABLE TIME, NOT EXCEEDING 10 DAYS, AFTER COMPLETION OF THE EXAMINATION.

(M) ON COMPLETION OF AN INVESTIGATION AND AT LEAST 20 DAYS BEFORE A HEARING, THE CORRECTIONAL OFFICER UNDER INVESTIGATION SHALL BE:

(1) NOTIFIED OF THE NAME OF EACH WITNESS AND OF EACH CHARGE AND SPECIFICATION AGAINST THE CORRECTIONAL OFFICER; AND

(2) PROVIDED WITH A COPY OF THE INVESTIGATORY FILE AND ANY EXCULPATORY INFORMATION, IF THE CORRECTIONAL OFFICER AND THE CORRECTIONAL OFFICER'S COUNSEL OR REPRESENTATIVE AGREE TO EXECUTE A CONFIDENTIALITY AGREEMENT WITH THE APPOINTING AUTHORITY OR THE INTERNAL INVESTIGATIVE UNIT NOT TO DISCLOSE ANY MATERIAL CONTAINED IN THE INVESTIGATORY FILE OR EXCULPATORY INFORMATION FOR ANY PURPOSE OTHER THAN TO DEFEND THE CORRECTIONAL OFFICER.

(N) A PERSON MAY NOT INSERT ADVERSE MATERIAL INTO A FILE OF THE CORRECTIONAL OFFICER, EXCEPT THE FILE OF THE INTERNAL INVESTIGATIVE UNIT, UNLESS THE CORRECTIONAL OFFICER HAS AN

OPPORTUNITY TO REVIEW, SIGN, RECEIVE A COPY OF, AND COMMENT IN WRITING ON THE ADVERSE MATERIAL.

10–906.

(A) A CORRECTIONAL OFFICER WHO IS DENIED A RIGHT GRANTED BY THIS SUBTITLE MAY APPLY TO THE CIRCUIT COURT OF THE COUNTY WHERE THE CORRECTIONAL OFFICER IS REGULARLY EMPLOYED FOR AN ORDER TO SHOW CAUSE WHY THE RIGHT SHOULD NOT BE GRANTED.

(B) THE CORRECTIONAL OFFICER MAY APPLY FOR THE SHOW CAUSE ORDER:

(1) EITHER INDIVIDUALLY OR THROUGH THE CORRECTIONAL OFFICERS' EXCLUSIVE BARGAINING REPRESENTATIVE WHO SHALL HAVE STANDING FOR THAT PURPOSE; AND

(2) AT ANY TIME BEFORE THE BEGINNING OF A HEARING BY THE HEARING BOARD.

~~**(C) FAILURE TO OBEY THE COURT ORDER MAY BE PUNISHED BY THE COURT AS CONTEMPT.**~~

10–907.

(A) THE APPOINTING AUTHORITY MAY NOT ~~IMPOSE ANY DISCIPLINARY ACTION 30 DAYS OR MORE~~ BRING CHARGES RECOMMENDING THE IMPOSITION OF DISCIPLINE MORE THAN 90 DAYS AFTER THE INTERNAL INVESTIGATIVE UNIT OR THE APPOINTING AUTHORITY ACQUIRES KNOWLEDGE OF THE ACTION THAT GIVES RISE TO THE DISCIPLINE.

(B) AN APPOINTING AUTHORITY MAY NOT RECOMMEND DISCIPLINARY ACTION AGAINST A CORRECTIONAL OFFICER FOR EXCESSIVE USE OF FORCE AGAINST AN INMATE BASED SOLELY ON THE UNCORROBORATED STATEMENT OF THE INMATE UNLESS THE APPOINTING AUTHORITY DETERMINES THAT THERE EXISTS ANY INDICIA OF RELIABILITY TO SUPPORT THE INMATE'S ALLEGATION.

(C) THIS SECTION DOES NOT LIMIT THE RIGHT OF THE DEPARTMENT TO INVESTIGATE CLAIMS OF EXCESSIVE FORCE AGAINST INMATES TO ENSURE THE SAFETY AND SECURITY OF ITS CORRECTIONAL FACILITIES, OR FOR ANY OTHER LEGITIMATE PURPOSE.

10–908.

(A) IF THE APPOINTING AUTHORITY BRINGS CHARGES RECOMMENDING DISCIPLINE AGAINST A CORRECTIONAL OFFICER, THE CHARGES SHALL CONTAIN:

(1) A STATEMENT OF FACTS AND OFFENSES ALLEGED; AND

(2) NOTICE OF THE CORRECTIONAL OFFICER'S APPEAL RIGHTS.

(B) THE APPOINTING AUTHORITY SHALL PROVIDE THE CHARGES AND NOTICE REQUIRED UNDER SUBSECTION (A)(2) OF THIS SECTION TO THE CORRECTIONAL OFFICER AND TO THE CORRECTIONAL OFFICER'S LEGAL COUNSEL OR THE AGENT OF THE EMPLOYEE ORGANIZATION SELECTED BY THE CORRECTIONAL OFFICER UNDER § 10–907 OF THIS SUBTITLE.

(C) ON RECEIVING CHARGES WHICH RECOMMEND TERMINATION, DEMOTION, OR SUSPENSION WITHOUT PAY OF 10 DAYS OR GREATER, A CORRECTIONAL OFFICER MAY:

(1) FILE AN APPEAL UNDER § 11–109 OF THE STATE PERSONNEL AND PENSIONS ARTICLE; OR

(2) WITHIN 15 DAYS AFTER RECEIVING THE CHARGES, FILE A REQUEST FOR A HEARING BY A HEARING BOARD.

(D) IF A CORRECTIONAL OFFICER RECEIVES CHARGES WHICH RECOMMEND DISCIPLINE OTHER THAN TERMINATION, DEMOTION, OR SUSPENSION WITHOUT PAY OF 10 DAYS OR GREATER, BEFORE THE APPOINTING AUTHORITY TAKES ACTION ON THE DISCIPLINE, THE CORRECTIONAL OFFICER MAY APPEAL ONLY UNDER § 11–109 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(E) AN EMERGENCY SUSPENSION IS NOT SUBJECT TO APPEAL.

(F) AN ACTION WHICH DOES NOT CONSTITUTE DISCIPLINE UNDER § 11–107 OF THE STATE PERSONNEL AND PENSIONS ARTICLE IS NOT SUBJECT TO APPEAL.

10–909.

~~(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IF THE INVESTIGATION OR INTERROGATION OF A CORRECTIONAL OFFICER RESULTS IN A RECOMMENDATION OF TERMINATION, DEMOTION, OR SUSPENSION WITHOUT PAY OF GREATER THAN 10 DAYS, THE CORRECTIONAL OFFICER IS ENTITLED TO A HEARING ON THE ISSUES BY THE HEARING BOARD~~

~~BEFORE THE APPOINTING AUTHORITY TAKES ACTION ON THE RECOMMENDATION.~~

~~(2)~~ (A) A CORRECTIONAL OFFICER WHO HAS BEEN CHARGED WITH A FELONY MAY REQUEST A STAY OF ALL CHARGES AND PROCEEDINGS UNDER THIS SECTION UNTIL AFTER A VERDICT HAS BEEN REACHED IN THE FELONY CASE.

~~(3)~~ (B) A CORRECTIONAL OFFICER WHO HAS BEEN CONVICTED OF A FELONY IS NOT ENTITLED TO A HEARING UNDER THIS SECTION.

~~(B) (1) THE INTERNAL INVESTIGATIVE UNIT SHALL GIVE WRITTEN NOTICE TO THE CORRECTIONAL OFFICER OF THE RIGHT TO A HEARING BY THE HEARING BOARD UNDER THIS SECTION.~~

~~(2) THE NOTICE REQUIRED UNDER THIS SUBSECTION SHALL STATE THE TIME AND PLACE OF THE HEARING AND THE ISSUES INVOLVED.~~

(C) (1) (I) THE HEARING BOARD AUTHORIZED UNDER THIS SECTION SHALL CONSIST OF AT LEAST THREE ~~MEMBERS, INCLUDING:~~

~~1. ONE MEMBER SELECTED BY THE APPOINTING AUTHORITY OF THE CORRECTIONAL FACILITY WHERE THE CORRECTIONAL OFFICER IS REGULARLY EMPLOYED, CHOSEN FROM A LIST OF THREE CORRECTIONAL OFFICERS EMPLOYED AT THE CORRECTIONAL FACILITY SELECTED BY THE EXCLUSIVE BARGAINING REPRESENTATIVE;~~

~~2. ONE MEMBER SELECTED BY THE EXCLUSIVE BARGAINING REPRESENTATIVE FROM A LIST COMPILED BY THE APPOINTING AUTHORITY OF THREE CORRECTIONAL OFFICERS FROM ANOTHER CORRECTIONAL FACILITY THAT ARE AT THE SAME RANK AS THE CORRECTIONAL OFFICER AGAINST WHOM THE COMPLAINT IS FILED; AND~~

~~3. ONE MEMBER, WHO SHALL SERVE AS THE CHAIR OF THE HEARING BOARD, SELECTED FROM A LIST OF ARBITRATORS WHO ARE MEMBERS OF THE NATIONAL ACADEMY OF ARBITRATORS MAINTAINED JOINTLY BY THE EXCLUSIVE BARGAINING REPRESENTATIVE AND THE DEPARTMENT.~~ MEMBERS.

1. FOR CORRECTIONAL OFFICERS HOLDING THE RANK OF SERGEANT OR BELOW, THE HEARING BOARD SHALL BE COMPOSED OF TWO CORRECTIONAL OFFICERS WHO ARE MEMBERS OF THE BARGAINING UNIT, ONE OF WHOM IS THE SAME RANK AS THE CORRECTIONAL OFFICER FACING CHARGES, AND ONE CORRECTIONAL OFFICER RANKED LIEUTENANT OR HIGHER.

2. FOR CORRECTIONAL OFFICERS HOLDING THE RANK OF LIEUTENANT AND ABOVE, THE HEARING BOARD SHALL BE COMPOSED OF ONE CORRECTIONAL OFFICER OF EQUAL RANK, ONE CORRECTIONAL OFFICER OF EQUAL OR LOWER RANK, AND ONE CORRECTIONAL OFFICER OF EQUAL OR HIGHER RANK.

(II) CORRECTIONAL OFFICERS ASSIGNED TO SERVE ON A HEARING BOARD SHALL BE RANDOMLY SELECTED FROM A ROTATING LIST OF CORRECTIONAL OFFICERS ELIGIBLE TO SERVE ON DISCIPLINARY HEARING BOARDS MAINTAINED BY THE DEPARTMENT.

(III) THE DEPARTMENT, AFTER CONSULTATION WITH THE EXCLUSIVE REPRESENTATIVE FOR THE CORRECTIONAL OFFICERS WHO ARE COVERED BY THIS SUBTITLE, SHALL DETERMINE:

1. THE MANNER OF SELECTION OF CORRECTIONAL OFFICERS WHO ARE ELIGIBLE TO SERVE ON A ROTATING LIST; AND

2. THE MANNER OF THE SELECTION OF CORRECTIONAL OFFICERS FOR A HEARING BOARD.

(IV) CORRECTIONAL OFFICERS ASSIGNED TO SERVE ON A HEARING BOARD SHALL BE FROM A FACILITY OTHER THAN THE FACILITY TO WHICH THE CORRECTIONAL OFFICER FACING CHARGES IS REGULARLY ASSIGNED, AND MAY NOT HAVE HAD A ROLE IN THE INVESTIGATION OR THE INTERROGATION OF THE CORRECTIONAL OFFICER AGAINST WHOM THE CHARGES ARE FILED, OR BE INVOLVED IN ANY WAY WITH THE INCIDENTS THAT ARE THE SUBJECT OF THE COMPLAINT.

(V) 1. THE HIGHEST RANKING MEMBER OF THE HEARING BOARD SHALL SERVE AS THE HEARING BOARD CHAIR.

2. THE CHAIR OF THE HEARING BOARD:

A. SHALL PARTICIPATE IN ANY DELIBERATIONS; BUT

B. MAY ONLY VOTE ON THE DECISION IN THE EVENT OF A TIE; AND

C. MAY FILE A STATEMENT OF POSITION FOR THE RECORD.

3. THE CHAIR OF THE HEARING BOARD SHALL BE FROM A DIFFERENT FACILITY THAN THE OTHER BOARD MEMBERS.

~~(II)~~ (VI) THE APPOINTING AUTHORITY AND THE EXCLUSIVE BARGAINING REPRESENTATIVE MAY NEGOTIATE AN ALTERNATIVE METHOD OF FORMING THE HEARING BOARD FOR MEMBERS OF THE COLLECTIVE BARGAINING UNIT.

~~(2) TO SERVE ON THE HEARING BOARD, A CORRECTIONAL OFFICER MAY NOT HAVE HAD ANY PART IN THE INVESTIGATION OR THE INTERROGATION OF THE CORRECTIONAL OFFICER AGAINST WHOM THE COMPLAINT IS FILED OR BE INVOLVED IN ANY WAY WITH THE INCIDENTS THAT ARE THE SUBJECT OF THE COMPLAINT.~~

~~(3) IF NO ONE IS WILLING TO SERVE AS A MEMBER OF THE HEARING BOARD UNDER PARAGRAPH (1)(I)2 OF THIS SUBSECTION, THE APPOINTING AUTHORITY MAY APPOINT A MEMBER FROM A LIST AGREED ON BY THE EXCLUSIVE BARGAINING REPRESENTATIVE.~~

~~(4)~~ (2) (I) DECISIONS OF THE HEARING BOARD SHALL BE BY MAJORITY VOTE OF ALL MEMBERS OF THE BOARD.

(II) THE VOTES OF THE HEARING BOARD ARE CONFIDENTIAL, AND DECISIONS SHALL BE REPORTED BY THE CHAIR.

(D) (1) IN CONNECTION WITH A DISCIPLINARY HEARING, THE HEARING BOARD MAY ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF DOCUMENTS AS RELEVANT OR NECESSARY.

(2) THE SUBPOENAS MAY BE SERVED WITHOUT COST IN ACCORDANCE WITH THE MARYLAND RULES THAT RELATE TO SERVICE OF PROCESS ISSUED BY A COURT.

(3) EACH PARTY MAY REQUEST THE HEARING BOARD TO ISSUE A SUBPOENA OR ORDER UNDER THIS SUBTITLE.

(4) IN CASE OF REFUSAL TO OBEY A SUBPOENA SERVED UNDER THIS SUBSECTION, THE PARTIES TO THE PROCEEDING MAY APPLY WITHOUT COST TO THE CIRCUIT COURT OF A COUNTY WHERE THE SUBPOENAED PARTY RESIDES OR CONDUCTS BUSINESS, FOR AN ORDER TO COMPEL THE ATTENDANCE AND TESTIMONY OF THE WITNESS OR THE PRODUCTION OF THE DOCUMENTS SOUGHT.

(5) ON A FINDING THAT THE ATTENDANCE AND TESTIMONY OF THE WITNESS OR THE PRODUCTION OF THE DOCUMENTS SOUGHT IS RELEVANT OR NECESSARY, THE COURT MAY:

(I) ISSUE WITHOUT COST AN ORDER THAT REQUIRES THE ATTENDANCE AND TESTIMONY OF WITNESSES OR THE PRODUCTION OF DOCUMENTS; AND

(II) IMPOSE PUNISHMENT FOR FAILURE TO OBEY THE ORDER.

(E) (1) THE HEARING SHALL BE CONDUCTED BY THE HEARING BOARD.

(2) THE HEARING BOARD SHALL GIVE THE ~~INTERNAL INVESTIGATIVE UNIT~~ DEPARTMENT AND CORRECTIONAL OFFICER AMPLE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ABOUT THE ISSUES INVOLVED.

(3) (I) THE CORRECTIONAL FACILITY AND CORRECTIONAL OFFICER MAY BE REPRESENTED BY LEGAL COUNSEL THEY EACH MAY SELECT.

(II) IN THE ALTERNATIVE, A CORRECTIONAL OFFICER MAY BE REPRESENTED:

1. BY AN AGENT OF THE EXCLUSIVE REPRESENTATIVE OF THE CORRECTIONAL OFFICER DESIGNATED UNDER § 3–406 OF THE STATE PERSONNEL AND PENSIONS ARTICLE; OR

2. IF THE CORRECTIONAL OFFICER IS NOT WITHIN THE BARGAINING UNIT FOR WHICH AN EXCLUSIVE REPRESENTATIVE IS DESIGNATED UNDER § 3–406 OF THE STATE PERSONNEL AND PENSIONS ARTICLE, BY ANY PERSON CHOSEN BY THE CORRECTIONAL OFFICER.

(4) EACH PARTY HAS THE RIGHT TO CROSS–EXAMINE WITNESSES WHO TESTIFY, AND EACH PARTY MAY SUBMIT REBUTTAL EVIDENCE.

(F) (1) EVIDENCE WITH PROBATIVE VALUE THAT IS COMMONLY ACCEPTED BY REASONABLE AND PRUDENT INDIVIDUALS IN THE CONDUCT OF THEIR AFFAIRS IS ADMISSIBLE AND SHALL BE GIVEN PROBATIVE EFFECT.

(2) THE HEARING BOARD SHALL GIVE EFFECT TO THE RULES OF PRIVILEGE RECOGNIZED BY LAW AND MAY EXCLUDE INCOMPETENT, IRRELEVANT, IMMATERIAL, AND UNDULY REPETITIOUS EVIDENCE.

(3) EACH RECORD OR DOCUMENT THAT A PARTY DESIRES TO USE SHALL BE OFFERED AND MADE A PART OF THE RECORD.

(4) DOCUMENTARY EVIDENCE MAY BE RECEIVED IN THE FORM OF COPIES OR EXCERPTS OR BY INCORPORATION BY REFERENCE.

(G) (1) THE HEARING BOARD MAY TAKE NOTICE OF:

(I) JUDICIALLY AND ADMINISTRATIVELY COGNIZABLE FACTS; AND

(II) GENERAL, TECHNICAL, OR SCIENTIFIC FACTS WITHIN ITS SPECIALIZED KNOWLEDGE.

(2) THE HEARING BOARD SHALL:

(I) NOTIFY EACH PARTY OF THE FACTS SO NOTICED EITHER BEFORE OR DURING THE HEARING OR BY REFERENCE IN PRELIMINARY REPORTS OR OTHERWISE; AND

(II) GIVE EACH PARTY AN OPPORTUNITY AND REASONABLE TIME TO CONTEST THE FACTS SO NOTICED.

(3) THE HEARING BOARD MAY USE ITS EXPERIENCE, TECHNICAL COMPETENCE, AND SPECIALIZED KNOWLEDGE IN THE EVALUATION OF THE EVIDENCE PRESENTED.

(H) THE OFFICIATING MEMBER OF A HEARING BOARD SHALL ADMINISTER OATHS OR AFFIRMATIONS AND EXAMINE INDIVIDUALS UNDER OATH.

~~**(I) (1) WITNESS FEES AND MILEAGE, IF CLAIMED, SHALL BE ALLOWED TO THE SAME EXTENT AS FOR TESTIMONY IN A CIRCUIT COURT.**~~

~~**(2) WITNESS FEES, MILEAGE, AND THE ACTUAL EXPENSES NECESSARILY INCURRED IN SECURING THE ATTENDANCE OF WITNESSES AND THEIR TESTIMONY SHALL BE ITEMIZED AND PAID BY THE CORRECTIONAL FACILITY.**~~

(I) (1) A CORRECTIONAL OFFICER SHALL BE GRANTED RELEASE TIME FROM THE CORRECTIONAL OFFICER'S NORMAL WORK SCHEDULE TO ATTEND A CONFERENCE OR HEARING AS A WITNESS.

(2) EXPENSES INCURRED IN CONNECTION WITH ATTENDANCE BY A CORRECTIONAL OFFICER AT CONFERENCES OR HEARINGS, WHETHER AS A GRIEVANT, AS A GRIEVANT'S REPRESENTATIVE, OR AS A WITNESS, SHALL BE BORNE BY THE DEPARTMENT.

(J) AN OFFICIAL RECORD, INCLUDING TESTIMONY AND EXHIBITS, SHALL BE KEPT OF THE HEARING.

(K) TO THE EXTENT THAT ANY PROVISION OF THIS SECTION IS INCONSISTENT WITH THE ADMINISTRATIVE PROCEDURE ACT, THE ADMINISTRATIVE PROCEDURE ACT SHALL GOVERN.

~~10–909~~ 10–910.

(A) (1) A DECISION, ORDER, OR ACTION TAKEN AS A RESULT OF A HEARING UNDER § ~~10–908~~ 10–909 OF THIS SUBTITLE SHALL BE IN WRITING AND ACCOMPANIED BY FINDINGS OF FACT.

(2) THE FINDINGS OF FACT SHALL CONSIST OF A CONCISE STATEMENT ON EACH ISSUE IN THE CASE.

(3) A FINDING OF NOT GUILTY BY THE HEARING BOARD TERMINATES THE ACTION.

(4) THE HEARING BOARD MAY MAKE A FINDING OF GUILTY ON ~~CLEAR AND CONVINCING~~ A PREPONDERANCE OF THE EVIDENCE THAT ESTABLISHES ~~FAULT WITH THE CORRECTIONAL OFFICER'S ACTIONS~~ THAT THE CORRECTIONAL OFFICER ENGAGED IN MISCONDUCT ON ANY OF THE CHARGES.

(5) THE HEARING BOARD SHALL MAKE A SEPARATE FINDING OF GUILTY OR NOT GUILTY AS TO EACH OFFENSE ALLEGED.

~~(5)~~ (6) IF THE HEARING BOARD MAKES A FINDING OF GUILT, THE HEARING BOARD SHALL:

(I) RECONVENE THE HEARING;

(II) RECEIVE EVIDENCE; AND

(III) CONSIDER THE CORRECTIONAL OFFICER'S PAST JOB PERFORMANCE, THE RELATION OF THE CONTEMPLATED DISCIPLINARY ACTION TO ANY PRIOR DISCIPLINARY ACTION, AND OTHER RELEVANT MITIGATING INFORMATION AS FACTORS BEFORE DECIDING A PENALTY.

~~(6)~~ (7) THE HEARING BOARD SHALL ~~DECIDE~~ RECOMMEND THE PENALTY IT CONSIDERS APPROPRIATE UNDER THE CIRCUMSTANCES, INCLUDING DISCIPLINARY SUSPENSION WITHOUT PAY, DEMOTION, DISMISSAL, TRANSFER, LOSS OF PAY, REASSIGNMENT, OR OTHER SIMILAR ACTION THAT IS CONSIDERED PUNITIVE.

(8) FOR THE PURPOSES OF THIS SUBSECTION, PERFORMANCE–BASED OFFENSES SHALL BE CONSIDERED ONE TYPE OF OFFENSE AND ATTENDANCE–BASED OFFENSES SHALL BE CONSIDERED ANOTHER TYPE OF OFFENSE.

~~(7)~~ (9) A COPY OF THE DECISION OR ORDER, FINDINGS OF FACT, CONCLUSIONS, AND A WRITTEN DETERMINATION OF PENALTY SHALL BE DELIVERED OR MAILED PROMPTLY TO:

(I) THE CORRECTIONAL OFFICER ~~OR~~ AND THE CORRECTIONAL OFFICER'S COUNSEL OR REPRESENTATIVE OF RECORD;

(II) THE APPOINTING AUTHORITY OF THE CORRECTIONAL FACILITY; AND

(III) THE SECRETARY.

~~(B) THE DECISION OF THE HEARING BOARD AS TO FINDINGS OF FACT AND PENALTY IS FINAL.~~

~~(C) WITHIN 5 DAYS AFTER RECEIPT OF THE DECISION OF THE HEARING BOARD, THE SECRETARY SHALL ISSUE A FINAL ORDER IMPLEMENTING THE DECISION OF THE HEARING BOARD.~~

~~(D) THE FINAL ORDER AND DECISION OF THE HEARING BOARD THEN MAY BE APPEALED IN ACCORDANCE WITH § 10–910 OF THIS SUBTITLE.~~

(B) (1) WITHIN 30 DAYS AFTER RECEIPT OF THE RECOMMENDATIONS OF THE HEARING BOARD, THE APPOINTING AUTHORITY SHALL:

(I) REVIEW THE FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS OF THE HEARING BOARD; AND

(II) ISSUE A FINAL ORDER.

(2) THE FINAL ORDER AND DECISION OF THE APPOINTING AUTHORITY IS BINDING, BUT MAY BE APPEALED IN ACCORDANCE WITH § 10–911 OF THIS SUBTITLE.

(3) THE RECOMMENDATION OF A PENALTY BY THE HEARING BOARD IS NOT BINDING ON THE APPOINTING AUTHORITY.

(4) THE APPOINTING AUTHORITY SHALL CONSIDER THE CORRECTIONAL OFFICER'S PAST JOB PERFORMANCE AND THE RELATION OF THE CONTEMPLATED DISCIPLINARY ACTION TO ANY PRIOR DISCIPLINARY ACTION BEFORE IMPOSING A PENALTY.

(5) BEFORE TERMINATING A CORRECTIONAL OFFICER UNDER THIS SUBSECTION, THE APPOINTING AUTHORITY SHALL OBTAIN APPROVAL FROM THE SECRETARY.

(6) WITH THE APPROVAL OF THE SECRETARY, THE APPOINTING AUTHORITY MAY INCREASE THE RECOMMENDED PENALTY OF THE HEARING BOARD IF THE APPOINTING AUTHORITY:

(I) REVIEWS THE ENTIRE RECORD OF THE PROCEEDINGS OF THE HEARING BOARD;

(II) MEETS WITH THE CORRECTIONAL OFFICER AND ALLOWS THE CORRECTIONAL OFFICER TO BE HEARD ON THE RECORD;

(III) AT LEAST 10 DAYS BEFORE THE MEETING, DISCLOSES AND PROVIDES IN WRITING TO THE CORRECTIONAL OFFICER ANY ORAL OR WRITTEN COMMUNICATION NOT INCLUDED IN THE RECORD OF THE HEARING BOARD ON WHICH THE DECISION TO CONSIDER INCREASING THE PENALTY IS WHOLLY OR PARTLY BASED; AND

(IV) STATES ON THE RECORD THE SUBSTANTIAL EVIDENCE ON WHICH THE APPOINTING AUTHORITY RELIED TO SUPPORT THE INCREASE OF THE RECOMMENDED PENALTY.

~~(E)~~ (C) (1) THE CORRECTIONAL TRAINING COMMISSION MAY REVOKE THE CERTIFICATION OF A CORRECTIONAL OFFICER IN CONJUNCTION WITH DISCIPLINARY ACTION TAKEN UNDER THIS SUBTITLE.

(2) IF A HEARING BOARD RESCINDS OR MODIFIES A DISCIPLINARY ACTION AGAINST A CORRECTIONAL OFFICER, THE HEARING BOARD MAY REINSTATE THE CORRECTIONAL OFFICER'S CERTIFICATION WITH NO FURTHER EXAMINATION OR CONDITION.

~~10–910~~ 10–911.

(A) AN APPEAL FROM A DECISION MADE UNDER § ~~10–909~~ 10–910 OF THIS SUBTITLE SHALL BE TAKEN TO THE CIRCUIT COURT FOR THE COUNTY IN ACCORDANCE WITH MARYLAND RULE 7–202.

(B) A PARTY AGGRIEVED BY A DECISION OF A COURT UNDER THIS SUBTITLE MAY APPEAL TO THE COURT OF SPECIAL APPEALS.

~~10–911~~ 10–912.

(A) ~~(1)~~ ON ~~WRITTEN~~ REQUEST, A CORRECTIONAL OFFICER MAY HAVE EXPUNGED FROM ANY FILE THE RECORD OF A FORMAL COMPLAINT MADE AGAINST THE CORRECTIONAL OFFICER IF:

~~(I)~~ (1) THE INTERNAL INVESTIGATIVE UNIT THAT INVESTIGATED THE COMPLAINT:

~~1.~~ (I) EXONERATED THE CORRECTIONAL OFFICER OF ALL CHARGES IN THE COMPLAINT; OR

~~2.~~ (II) DETERMINED THAT THE CHARGES WERE UNSUSTAINED OR UNFOUNDED; OR

~~(II)~~ (2) A HEARING BOARD ACQUITTED THE CORRECTIONAL OFFICER, DISMISSED THE ACTION, OR MADE A FINDING OF NOT GUILTY.

~~(2)~~ (B) THERE IS NO TIME REQUIREMENT FOR EXPUNGEMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION.

~~(B) (1) ON WRITTEN REQUEST, A CORRECTIONAL OFFICER WHO WAS FOUND TO HAVE COMMITTED WRONGDOING MAY HAVE EXPUNGED FROM THE CORRECTIONAL OFFICER'S PERSONAL FILE THE RECORD OF THAT WRONGDOING IF:~~

~~(I) 12 MONTHS HAVE PASSED SINCE THE FINDING OF WRONGDOING; AND~~

~~(II) THE CORRECTIONAL OFFICER HAS NOT BEEN FOUND TO HAVE COMMITTED ANY WRONGDOING OF THE SAME TYPE.~~

~~(2) FOR THE PURPOSES OF THIS SUBSECTION, PERFORMANCE–BASED OFFENSES SHALL BE CONSIDERED ONE TYPE OF OFFENSE AND ATTENDANCE–BASED OFFENSES SHALL BE CONSIDERED ANOTHER TYPE OF OFFENSE.~~

~~10–912~~ 10–913.

(A) THIS SUBTITLE DOES NOT PROHIBIT EMERGENCY SUSPENSION WITH PAY BY A CORRECTIONAL OFFICER OF HIGHER RANK AS DESIGNATED BY THE APPOINTING AUTHORITY.

(B) (1) THE APPOINTING AUTHORITY MAY IMPOSE EMERGENCY SUSPENSION WITH PAY IF IT APPEARS THAT THE ACTION IS IN THE BEST INTEREST OF THE INMATES, THE PUBLIC, AND THE CORRECTIONAL FACILITY.

(2) IF THE CORRECTIONAL OFFICER IS SUSPENDED WITH PAY, THE APPOINTING AUTHORITY MAY SUSPEND THE CORRECTIONAL POWERS OF THE CORRECTIONAL OFFICER AND REASSIGN THE CORRECTIONAL OFFICER TO RESTRICTED DUTIES PENDING:

(I) A DETERMINATION BY A COURT WITH RESPECT TO A CRIMINAL VIOLATION; OR

(II) A FINAL DETERMINATION BY THE HEARING BOARD OR THE OFFICE OF ADMINISTRATIVE HEARINGS WITH RESPECT TO A CORRECTIONAL FACILITY VIOLATION.

(3) A CORRECTIONAL OFFICER WHO IS SUSPENDED UNDER THIS SUBSECTION IS ENTITLED TO A PROMPT HEARING.

(C) (1) IF A CORRECTIONAL OFFICER IS CHARGED WITH A FELONY, THE APPOINTING AUTHORITY MAY IMPOSE AN EMERGENCY SUSPENSION OF CORRECTIONAL POWERS WITHOUT PAY.

(2) A CORRECTIONAL OFFICER WHO IS SUSPENDED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS ENTITLED TO A PROMPT HEARING, HELD NO MORE THAN 90 DAYS AFTER THE SUSPENSION.

~~10–913.~~

~~(A) ON RECEIVING A TERMINATION, DEMOTION, OR SUSPENSION WITHOUT PAY OF GREATER THAN 10 DAYS, A CORRECTIONAL OFFICER MAY:~~

~~(1) FILE AN APPEAL UNDER § 11–109 OF THE STATE PERSONNEL AND PENSIONS ARTICLE; OR~~

~~(2) REQUEST A HEARING BY THE HEARING BOARD.~~

~~(B) IF A CORRECTIONAL OFFICER RECEIVES PUNITIVE ACTION OTHER THAN TERMINATION, DEMOTION, OR SUSPENSION WITHOUT PAY OF GREATER THAN 10 DAYS, THE CORRECTIONAL OFFICER MAY APPEAL ONLY UNDER § 11–109 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.~~

~~(C) AN EMERGENCY SUSPENSION IS NOT SUBJECT TO APPEAL.~~

~~10–914.~~

~~(A) A PERSON MAY NOT KNOWINGLY MAKE A FALSE STATEMENT, REPORT, OR COMPLAINT DURING AN INVESTIGATION OR PROCEEDING CONDUCTED UNDER THIS SUBTITLE.~~

~~(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING $5,000 OR BOTH.~~

Article – State Personnel and Pensions

1–101.

(b) "Appointing authority" means an individual or a unit of government that has the power to make appointments and terminate employment.

11–105.

The following actions are causes for automatic termination of employment:

(1) intentional conduct, without justification, that:

(i) seriously injures another person;

(ii) causes substantial damage to property; or

(iii) seriously threatens the safety of the workplace;

(2) theft of State property of a value greater than $300;

(3) illegal sale, use, or possession of drugs on the job;

(4) conviction of a controlled dangerous substance offense by an employee in a designated sensitive classification;

(5) conviction of a felony;

(6) accepting for personal use any fee, gift, or other valuable thing in connection with or during the course of State employment if given to the employee by any person with the hope or expectation of receiving a favor or better treatment than that accorded to other persons;

(7) (i) violation of the Fair Election Practices Act; or

(ii) using, threatening, or attempting to use political influence or the influence of any State employee or officer in securing promotion, transfer, leave of absence, or increased pay;

(8) wantonly careless conduct or unwarrantable excessive force in the treatment or care of an individual who is a client, patient, prisoner, or any other individual who is in the care or custody of this State; and

(9) violation of § 3–314 of the Criminal Law Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 195

(Senate Bill 560)

AN ACT concerning

Vehicle Laws – Traffic Citations – Option to Request Trial

FOR the purpose of requiring that a certain traffic citation issued to a person contain a notice that, if the citation is a payable violation, the person must comply within a certain time period with one of a certain list of options, including the option to request~~, within a certain time period,~~ a trial date at the date, time, and place established by the District Court by writ or trial notice; requiring the notice to include a certain statement of the possible consequences if the person fails to comply within a certain time period; authorizing the District Court or circuit court to issue a warrant or provide a certain notice to the Motor Vehicle Administration if a person fails to comply with certain notices; providing that a warrant may not be issued for a certain noncompliance until after the expiration of certain time periods; *establishing requirements for certain copies of a citation form;* making conforming changes; *declaring the intent of the General Assembly; providing for the effective dates of this Act;* and generally relating to traffic citations.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 26–201(c), *(d), and (e)* and 26–204
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY adding to
Article – Transportation
Section 26–201(d)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – Transportation

26–201.

(c) A traffic citation issued to a person under this section shall contain:

(1) **[**A notice to appear in court, including a notice that, if the offense is not punishable by incarceration, the person may request a hearing regarding sentencing and disposition in lieu of a trial as provided in § 26–204(b)(2) of this subtitle**]** **A NOTICE IN ~~AT LEAST 14 POINT~~ BOLDFACE TYPE THAT, IF THE CITATION IS A PAYABLE VIOLATION~~, THE~~:**

(I) THE PERSON MUST COMPLY WITH ONE OF THE FOLLOWING WITHIN 30 DAYS AFTER RECEIPT OF THE CITATION:

~~(I)~~ 1. PAY THE FULL AMOUNT OF THE PRESET FINE;

~~(II)~~ 2. REQUEST A HEARING REGARDING SENTENCING AND DISPOSITION IN LIEU OF A TRIAL AS PROVIDED IN § 26–204(B)(2) OF THIS SUBTITLE; OR

~~(III)~~ 3. REQUEST~~, WITHIN 15 DAYS OF RECEIPT OF THE CITATION,~~ A TRIAL DATE AT THE DATE, TIME, AND PLACE ESTABLISHED BY THE DISTRICT COURT BY WRIT OR TRIAL NOTICE; AND

(II) 1. IF THE PERSON FAILS TO COMPLY WITHIN 30 DAYS AFTER RECEIPT OF THE CITATION, THE ADMINISTRATION WILL BE NOTIFIED AND MAY TAKE ACTION TO SUSPEND THE PERSON'S DRIVER'S LICENSE; AND

2. DRIVING ON A SUSPENDED LICENSE IS A CRIMINAL OFFENSE FOR WHICH THE PERSON COULD BE INCARCERATED; OR

(2) **[**A**] IF THE CITATION IS FOR A MUST–APPEAR VIOLATION, A** notice that:

(i) The citation is a summons to appear as notified by a circuit court or the District Court through a trial notice setting the date, time, and place for the person to appear; or

(ii) A circuit court or the District Court will issue a writ setting the date, time, and place for the person to appear;

(3) The name and address of the person;

(4) The number of the person's license to drive, if applicable;

(5) The State registration number of the vehicle, if applicable;

(6) The violation or violations charged;

(7) An acknowledgment of receipt of the citation, to be executed by the person as required under § 1–605 of the Courts Article;

(8) Near the acknowledgment, a clear and conspicuous statement that:

(i) Acknowledgment of the citation by the person does not constitute an admission of guilt; and

(ii) The failure to acknowledge receipt of the citation may subject the person to arrest; and

(9) Any other necessary information.

(D) IF A CITATION IS MARKED "YOU HAVE THE RIGHT TO STAND TRIAL":

(1) THE FORM OF THE DEFENDANT'S COPY OF THE CITATION SHALL INCLUDE IN BOLDFACE TYPE A DESCRIPTION OF THE FOLLOWING OPTIONS:

(I) PAYMENT OF THE FINE;

(II) REQUEST A TRIAL; AND

(III) REQUEST A "GUILTY WITH AN EXPLANATION" HEARING REGARDING SENTENCING AND DISPOSITION IN LIEU OF A TRIAL; AND

(2) THE FORM OF THE "RETURN TO COURT" COPY OF THE CITATION SHALL INCLUDE IN BOLDFACE TYPE A CHECK–OFF BOX FOR EACH OF THE OPTIONS DESCRIBED IN ITEM (1) OF THIS SUBSECTION.

[*(d)****] (E)*** *A police officer who discovers a vehicle stopped, standing, or parked in violation of § 21–1003 or § 21–1010 of this article shall:*

(1) Deliver a copy of a citation to the driver or, if the vehicle is unattended, attach a copy of a citation to the vehicle in a conspicuous place; and

(2) Keep a written or electronic copy of the citation, bearing the police officer's certification under penalty of perjury that the facts stated in the citation are true.

[*(e)****] (F)*** *(1) A police officer who discovers a motor vehicle parked in violation of § 13–402 of this article shall:*

(i) Deliver a copy of a citation to the driver or, if the motor vehicle is unattended, attach a copy of a citation to the motor vehicle in a conspicuous place; and

(ii) Keep a written or electronic copy of the citation, bearing the law enforcement officer's certification under penalty of perjury that the facts stated in the citation are true.

(2) In the absence of the driver, the owner of the motor vehicle is presumed to be the person receiving the copy of a citation or warning.

26–204.

(a) (1) A person shall comply with the notice to appear contained in a writ or a trial notice issued by either the District Court or a circuit court in an action on a traffic citation.

(2) Unless the person charged demands an earlier hearing, a time specified to appear shall be at least 5 days after the alleged violation.

(b) (1) For purposes of this section, the person may comply with the notice to appear by:

(i) Appearance in person;

(ii) Appearance by counsel; or

(iii) Payment of the fine for a particular offense, if provided for in the citation for that offense.

(2) (i) Subject to the provisions of subparagraph (iii) of this paragraph, a person who intends to comply with the notice to appear contained in a traffic citation by appearance in person or by counsel may return a copy of the citation to the District Court within the time allowed for payment of the fine indicating in the appropriate space on the citation that the person:

1. Does not dispute the truth of the facts as alleged in the citation; and

2. Requests, in lieu of a trial, a hearing before the Court regarding sentencing and disposition.

(ii) A person who requests a hearing under the provisions of subparagraph (i) of this paragraph waives:

1. Any right to a trial of the facts as alleged in the citation; and

2. Any right to compel the appearance of the police officer who issued the citation.

(iii) A person may request a hearing under the provisions of subparagraph (i) of this paragraph only if the traffic citation is for an offense that is not punishable by incarceration.

(c) If a person fails to comply with [the] **A NOTICE UNDER § 26–201(C)(1) OF THIS SUBTITLE, A NOTICE FOR A HEARING DATE ISSUED IN ACCORDANCE WITH A REQUEST MADE UNDER § 26–201(C)(1)(I)2 OF THIS SUBTITLE, A WRIT OR TRIAL NOTICE ISSUED IN ACCORDANCE WITH A REQUEST MADE UNDER § 26–201(C)(1)(I)3 OF THIS SUBTITLE, OR A** notice to appear **UNDER § 26–201(C)(2) OF THIS SUBTITLE**, the District Court or a circuit court may:

(1) Except as provided in subsection (f) of this section, issue a warrant for the person's arrest; or

(2) After 5 days, notify the Administration of the person's noncompliance.

(d) On receipt of a notice of noncompliance from the District Court or a circuit court, the Administration shall notify the person that the person's driving privileges shall be suspended unless, by the end of the 15th day after the date on which the notice is mailed, the person:

(1) Pays the fine on the original charge as provided for in the original citations; or

(2) Posts bond or a penalty deposit and requests a new date for a trial or a hearing on sentencing and disposition.

(e) If a person fails to pay the fine or post the bond or penalty deposit under subsection (d) of this section, the Administration may suspend the driving privileges of the person.

(f) When the offense is not punishable by incarceration, if the court notifies the Administration of the person's noncompliance under subsection (c) of this section, a warrant may not be issued for the person under this section until 20 days after **[**the original trial date**]:**

(1) THE EXPIRATION OF THE TIME PERIOD REQUIRED TO COMPLY WITH § 26–201(C)(1)(I) OF THIS SUBTITLE, IF THE PERSON HAS NOT REQUESTED A HEARING REGARDING SENTENCING AND DISPOSITION OR A TRIAL DATE; OR

(2) THE ORIGINAL TRIAL DATE IF A TRIAL HAS BEEN SCHEDULED IN RESPONSE TO A REQUEST UNDER § 26–201(C)(1)(I)3 OF THIS SUBTITLE.

(g) With the cooperation of the District Court and circuit courts, the Administration shall develop procedures to carry out those provisions of this section that relate to the suspension of driving privileges.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.~~

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that funding of up to $250,000 be provided to the Judicial Branch in fiscal 2011 by the Governor's Office of Crime Control and Prevention to the Administrative Office of the Courts for computer programming changes to the case management system and written and electronic citations.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect January 1, 2011.

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of this Act, this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 196

(House Bill 829)

AN ACT concerning

Vehicle Laws – Traffic Citations – Option to Request Trial

FOR the purpose of requiring that a certain traffic citation issued to a person contain a notice that, if the citation is a payable violation, the person must comply within a certain time period with one of a certain list of options, including the option to request~~, within a certain time period,~~ a trial date at the date, time, and place established by the District Court by writ or trial notice; requiring the notice to include a certain statement of the possible consequences if the person fails to comply within a certain time period; authorizing the District Court or circuit court to issue a warrant or provide a certain notice to the Motor Vehicle Administration if a person fails to comply with certain notices; providing that a warrant may not be issued for a certain noncompliance until after the expiration of certain time periods; establishing requirements for certain copies of a citation form; making conforming changes; declaring the intent of the General Assembly; providing for the effective dates of this Act; and generally relating to traffic citations.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 26–201(c), (d), and (e) and 26–204
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY adding to
Article – Transportation
Section 26–201(d)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – Transportation

26–201.

(c) A traffic citation issued to a person under this section shall contain:

(1) **[**A notice to appear in court, including a notice that, if the offense is not punishable by incarceration, the person may request a hearing regarding sentencing and disposition in lieu of a trial as provided in § 26–204(b)(2) of this

subtitle] **A NOTICE IN BOLDFACE TYPE THAT, IF THE CITATION IS A PAYABLE VIOLATION~~, THE~~:**

(I) THE PERSON MUST COMPLY WITH ONE OF THE FOLLOWING WITHIN 30 DAYS AFTER RECEIPT OF THE CITATION:

~~(I)~~ 1. PAY THE FULL AMOUNT OF THE PRESET FINE;

~~(II)~~ 2. REQUEST A HEARING REGARDING SENTENCING AND DISPOSITION IN LIEU OF A TRIAL AS PROVIDED IN § 26–204(B)(2) OF THIS SUBTITLE; OR

~~(III)~~ 3. REQUEST~~, WITHIN 15 DAYS OF RECEIPT OF THE CITATION,~~ A TRIAL DATE AT THE DATE, TIME, AND PLACE ESTABLISHED BY THE DISTRICT COURT BY WRIT OR TRIAL NOTICE; AND

(II) 1. IF THE PERSON FAILS TO COMPLY WITHIN 30 DAYS AFTER RECEIPT OF THE CITATION, THE ADMINISTRATION WILL BE NOTIFIED AND MAY TAKE ACTION TO SUSPEND THE PERSON'S DRIVER'S LICENSE; AND

2. DRIVING ON A SUSPENDED LICENSE IS A CRIMINAL OFFENSE FOR WHICH THE PERSON COULD BE INCARCERATED; OR

(2) [A] **IF THE CITATION IS FOR A MUST–APPEAR VIOLATION, A** notice that:

(i) The citation is a summons to appear as notified by a circuit court or the District Court through a trial notice setting the date, time, and place for the person to appear; or

(ii) A circuit court or the District Court will issue a writ setting the date, time, and place for the person to appear;

(3) The name and address of the person;

(4) The number of the person's license to drive, if applicable;

(5) The State registration number of the vehicle, if applicable;

(6) The violation or violations charged;

(7) An acknowledgment of receipt of the citation, to be executed by the person as required under § 1–605 of the Courts Article;

(8) Near the acknowledgment, a clear and conspicuous statement that:

(i) Acknowledgment of the citation by the person does not constitute an admission of guilt; and

(ii) The failure to acknowledge receipt of the citation may subject the person to arrest; and

(9) Any other necessary information.

(D) IF A CITATION IS MARKED "YOU HAVE THE RIGHT TO STAND TRIAL":

(1) THE FORM OF THE DEFENDANT'S COPY OF THE CITATION SHALL INCLUDE IN BOLDFACE TYPE A DESCRIPTION OF THE FOLLOWING OPTIONS:

(I) PAYMENT OF THE FINE;

(II) REQUEST A TRIAL; AND

(III) REQUEST A "GUILTY WITH AN EXPLANATION" HEARING REGARDING SENTENCING AND DISPOSITION IN LIEU OF A TRIAL; AND

(2) THE FORM OF THE "RETURN TO COURT" COPY OF THE CITATION SHALL INCLUDE IN BOLDFACE TYPE A CHECK–OFF BOX FOR EACH OF THE OPTIONS DESCRIBED IN ITEM (1) OF THIS SUBSECTION.

[(d)**] (E)** A police officer who discovers a vehicle stopped, standing, or parked in violation of § 21–1003 or § 21–1010 of this article shall:

(1) Deliver a copy of a citation to the driver or, if the vehicle is unattended, attach a copy of a citation to the vehicle in a conspicuous place; and

(2) Keep a written or electronic copy of the citation, bearing the police officer's certification under penalty of perjury that the facts stated in the citation are true.

[(e)**] (F)** (1) A police officer who discovers a motor vehicle parked in violation of § 13–402 of this article shall:

(i) Deliver a copy of a citation to the driver or, if the motor vehicle is unattended, attach a copy of a citation to the motor vehicle in a conspicuous place; and

(ii) Keep a written or electronic copy of the citation, bearing the law enforcement officer's certification under penalty of perjury that the facts stated in the citation are true.

(2) In the absence of the driver, the owner of the motor vehicle is presumed to be the person receiving the copy of a citation or warning.

26–204.

(a) (1) A person shall comply with the notice to appear contained in a writ or a trial notice issued by either the District Court or a circuit court in an action on a traffic citation.

(2) Unless the person charged demands an earlier hearing, a time specified to appear shall be at least 5 days after the alleged violation.

(b) (1) For purposes of this section, the person may comply with the notice to appear by:

(i) Appearance in person;

(ii) Appearance by counsel; or

(iii) Payment of the fine for a particular offense, if provided for in the citation for that offense.

(2) (i) Subject to the provisions of subparagraph (iii) of this paragraph, a person who intends to comply with the notice to appear contained in a traffic citation by appearance in person or by counsel may return a copy of the citation to the District Court within the time allowed for payment of the fine indicating in the appropriate space on the citation that the person:

1. Does not dispute the truth of the facts as alleged in the citation; and

2. Requests, in lieu of a trial, a hearing before the Court regarding sentencing and disposition.

(ii) A person who requests a hearing under the provisions of subparagraph (i) of this paragraph waives:

1. Any right to a trial of the facts as alleged in the citation; and

2. Any right to compel the appearance of the police officer who issued the citation.

(iii) A person may request a hearing under the provisions of subparagraph (i) of this paragraph only if the traffic citation is for an offense that is not punishable by incarceration.

(c) If a person fails to comply with **[**the**] A NOTICE UNDER § 26–201(C)(1) OF THIS SUBTITLE, A NOTICE FOR A HEARING DATE ISSUED IN ACCORDANCE WITH A REQUEST MADE UNDER § 26–201(C)(1)(I)2 OF THIS SUBTITLE, A WRIT OR TRIAL NOTICE ISSUED IN ACCORDANCE WITH A REQUEST MADE UNDER § 26–201(C)(1)(I)3 OF THIS SUBTITLE, OR A** notice to appear **UNDER § 26–201(C)(2) OF THIS SUBTITLE**, the District Court or a circuit court may:

(1) Except as provided in subsection (f) of this section, issue a warrant for the person's arrest; or

(2) After 5 days, notify the Administration of the person's noncompliance.

(d) On receipt of a notice of noncompliance from the District Court or a circuit court, the Administration shall notify the person that the person's driving privileges shall be suspended unless, by the end of the 15th day after the date on which the notice is mailed, the person:

(1) Pays the fine on the original charge as provided for in the original citations; or

(2) Posts bond or a penalty deposit and requests a new date for a trial or a hearing on sentencing and disposition.

(e) If a person fails to pay the fine or post the bond or penalty deposit under subsection (d) of this section, the Administration may suspend the driving privileges of the person.

(f) When the offense is not punishable by incarceration, if the court notifies the Administration of the person's noncompliance under subsection (c) of this section, a warrant may not be issued for the person under this section until 20 days after **[**the original trial date**]:**

(1) THE EXPIRATION OF THE TIME PERIOD REQUIRED TO COMPLY WITH § 26–201(C)(1)(I) OF THIS SUBTITLE, IF THE PERSON HAS NOT REQUESTED A HEARING REGARDING SENTENCING AND DISPOSITION OR A TRIAL DATE; OR

(2) THE ORIGINAL TRIAL DATE IF A TRIAL HAS BEEN SCHEDULED IN RESPONSE TO A REQUEST UNDER § 26–201(C)(1)(I)3 OF THIS SUBTITLE.

(g) With the cooperation of the District Court and circuit courts, the Administration shall develop procedures to carry out those provisions of this section that relate to the suspension of driving privileges.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.~~

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that funding of up to $250,000 be provided to the Judicial Branch in fiscal 2011 by the Governor's Office of Crime Control and Prevention to the Administrative Office of the Courts for computer programming changes to the case management system and written and electronic citations.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect January 1, 2011.

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of this Act, this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 197

(Senate Bill 517)

AN ACT concerning

~~Criminal Law – Criminal Gangs – Offenses and Membership~~
Maryland Gang Prosecution Act of 2010

FOR the purpose of altering the definition of criminal gang to repeal the requirement that an association of a certain number of persons whose members meet certain criteria be ongoing; altering ~~a~~ certain ~~list of~~ factors that persons can have in common to be considered a criminal gang; ~~defining "criminal gang member" for certain purposes;~~ altering the list of underlying crimes for criminal gang activity; altering a certain prohibition concerning participation in criminal gang activity to ~~provide that a person may not actively participate in a criminal gang under certain circumstances; prohibiting a person from actively participating as a criminal gang member in activities of a criminal gang; altering a provision of law to require that a certain sentence for a violation of the prohibition against participation in a criminal gang under certain conditions be separate from and consecutive to a sentence for the underlying crime~~ repeal the requirement that a pattern of criminal gang activity be ongoing; requiring a sentence imposed for a second or subsequent offense of participation in criminal gang activity to be

separate from and consecutive to a certain other sentence; requiring a sentence imposed for participation in criminal gang activity that results in the death of a victim to be separate from and consecutive to a sentence for a certain other sentence; specifying that a certain consecutive sentence shall not be mandatory unless the State makes a certain notification at a certain time; prohibiting a person from organizing, supervising, financing, or managing a criminal gang; establishing penalties; requiring a certain sentence to be separate from and consecutive to a certain other sentence; providing that a certain provision of law may not be construed inconsistently with certain other provisions of law; making clarifying changes; and generally relating to criminal gangs.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 9–801 and 9–804
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

BY adding to
Article – Criminal Law
Section 9–805 and 9–806
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

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

Article – Criminal Law

9–801.

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

(b) "Coerce" means to compel or attempt to compel another by threat of harm or other adverse consequences.

(c) "Criminal gang" means a group or **[**ongoing**]** association of three or more persons whose members:

(1) individually or collectively **[**engage in a pattern of criminal gang activity**]** ~~COMMIT, ATTEMPT TO COMMIT, CONSPIRE TO COMMIT, OR SOLICIT TWO OR MORE UNDERLYING CRIMES, OR ACTS BY A JUVENILE THAT WOULD BE AN UNDERLYING CRIME IF COMMITTED BY AN ADULT, PROVIDED THE CRIMES OR ACTS WERE NOT PART OF THE SAME INCIDENT~~;

(2) have as one of their primary objectives or activities the commission of one or more underlying crimes, including acts by juveniles that would be underlying crimes if committed by adults; and

(3) have in common~~:~~

~~(I) an identifying sign, symbol, name, leader, or purpose;~~

~~(II)~~ **AN OVERT OR COVERT ORGANIZATIONAL OR COMMAND STRUCTURE~~;~~**

~~(III) A DE FACTO CLAIM OF TERRITORY OR JURISDICTION;~~

~~(IV) AN INITIATION RITUAL; OR~~

~~(V) A METHOD OF OPERATION OR CRIMINAL ENTERPRISE~~.

~~[~~(d) "Pattern of criminal gang activity" means the commission of, attempted commission of, conspiracy to commit, or solicitation of two or more underlying crimes or acts by a juvenile that would be an underlying crime if committed by an adult, provided the crimes or acts were not part of the same incident.~~]~~

~~(D) "CRIMINAL GANG MEMBER" MEANS A PERSON WHOSE CRIMINAL GANG MEMBERSHIP IS PROVEN BY AT LEAST TWO OF THE FOLLOWING:~~

~~(1) SELF-PROCLAMATION;~~

~~(2) USE OF A CRIMINAL GANG'S IDENTIFYING SIGN, SYMBOL, NAME, OR ANY OTHER MEANS OF RECOGNITION;~~

~~(3) ASSOCIATION WITH KNOWN CRIMINAL GANG MEMBERS AND:~~

~~(I) DEMONSTRATED ASPIRATION TO BECOME A CRIMINAL GANG MEMBER BY ADOPTION OF THE CRIMINAL GANG'S STYLE OF DRESS, TATTOOS, HAND SIGNALS, OR SYMBOLS; OR~~

~~(II) PARTICIPATION IN CRIMINAL GANG ACTIVITIES, INCLUDING ATTENDING CRIMINAL GANG MEETINGS;~~

~~(4) IDENTIFICATION AS A CRIMINAL GANG MEMBER THROUGH ASSESSMENT AND VERIFICATION WHILE IN THE CUSTODY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES; OR~~

~~(5) PHYSICAL EVIDENCE INCLUDING PHOTOGRAPHS OR WRITTEN OR ELECTRONIC CORRESPONDENCE.~~

(e) "Solicit" has the meaning stated in § 11–301 of this article.

(f) "Underlying crime" means:

(1) a crime of violence as defined under § 14–101 of this article;

(2) A VIOLATION OF § 3–203 (SECOND DEGREE ASSAULT), ~~§ 3–701 (EXTORTION), § 4–101 (DANGEROUS WEAPONS),~~ § 4–203 (WEARING, CARRYING, OR TRANSPORTING A HANDGUN), ~~§ 6–301 (MALICIOUS DESTRUCTION),~~ § 9–302 (INDUCING FALSE TESTIMONY OR AVOIDANCE OF SUBPOENA), § 9–303 (RETALIATION FOR TESTIMONY), § 9–305 (INTIMIDATING OR CORRUPTING JUROR), § 11–303 (HUMAN TRAFFICKING), § 11–304 (RECEIVING EARNINGS OF PROSTITUTE), OR § 11–306 (A)(2), (3), OR (4) (HOUSE OF PROSTITUTION)~~, OR § 12–102 (GAMBLING)~~ OF THIS ARTICLE;

[(2)**] (3)** a felony violation of **[**§ 3–203, § 3–701,**] § 3–701 (EXTORTION),** § 4–503 **(MANUFACTURE OR POSSESSION OF DESTRUCTIVE DEVICE)**, § 5–602 **(DISTRIBUTION OF CDS)**, § 5–603 **(MANUFACTURING CDS OR EQUIPMENT)**, § 6–103 **(SECOND DEGREE ARSON)**~~, § 6–109 (ATTEMPT TO BURN STRUCTURE OR PROPERTY)~~, § 6–202 **(FIRST DEGREE BURGLARY)**, § 6–203 **(SECOND DEGREE BURGLARY)**, § 6–204 **(THIRD DEGREE BURGLARY)**, § 7–104 **(THEFT)**, **OR** § 7–105**[**, § 9–302, § 9–303, or § 9–305**](UNAUTHORIZED USE OF A MOTOR VEHICLE)** of this article; or

[(3)**](4)** a ~~[~~felony~~]~~ violation of § 5–133~~(B) OR (C)~~ of the Public Safety Article.

9–804.

(a) A person may not:

(1) ~~ACTIVELY~~ participate in a criminal gang ~~[~~knowing that the members of the gang engage in ~~an ongoing~~ A pattern of criminal gang activity; and

(2) knowingly~~]~~ and willfully direct or participate in ~~the commission of~~ an underlying crime, or act by a juvenile that would be an underlying crime if committed by an adult, committed for the benefit of, at the direction of, or in association with a criminal gang~~; OR~~

~~(2) ACTIVELY PARTICIPATE AS A CRIMINAL GANG MEMBER IN ACTIVITIES OF A CRIMINAL GANG~~.

(b) A person may not ~~commit a violation of~~ **VIOLATE** subsection (a) of this section ~~involving the commission of an underlying crime~~ that results in the death of a victim.

(c) (1) (i) Except as provided in subparagraph (ii) of this paragraph, a person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $100,000 or both.

(ii) A person who violates subsection (b) of this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years or a fine not exceeding $100,000 or both.

(2) **(I)** A sentence imposed under **PARAGRAPH (1)(I) OF THIS SUBSECTION** this section **FOR A FIRST OFFENSE** ~~[~~may~~]~~ ~~SHALL~~ be separate from and consecutive to ~~[~~or concurrent with~~]~~ a sentence for any crime based on the act establishing a violation of this section.

(II) A SENTENCE IMPOSED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION FOR A SECOND OR SUBSEQUENT OFFENSE, OR PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE SEPARATE FROM AND CONSECUTIVE TO A SENTENCE FOR ANY CRIME BASED ON THE ACT ESTABLISHING A VIOLATION OF THIS SECTION.

(III) A CONSECUTIVE SENTENCE FOR A SECOND OR SUBSEQUENT OFFENSE SHALL NOT BE MANDATORY UNLESS THE STATE NOTIFIES THE PERSON IN WRITING OF THE STATE'S INTENTION TO PROCEED AGAINST THE PERSON AS A SECOND OR SUBSEQUENT OFFENDER AT LEAST 30 DAYS BEFORE TRIAL.

(d) A person may be charged with a violation of this section only by indictment, criminal information, or petition alleging a delinquent act.

(e) (1) The Attorney General, at the request of the State's Attorney for a county in which a violation or an act establishing a violation of this section occurs, may:

(i) aid in the investigation of the violation or act; and

(ii) prosecute the violation or act.

(2) In exercising authority under paragraph (1) of this subsection, the Attorney General has all the powers and duties of a State's Attorney, including the use of the grand jury in the county, to prosecute the violation.

(3) Notwithstanding any other provision of law, in circumstances in which violations of this section are alleged to have been committed in more than one

county, the respective State's Attorney of each county, or the Attorney General, may join the causes of action in a single complaint with the consent of each State's Attorney having jurisdiction over an offense sought to be joined.

(f) Notwithstanding any other provision of law and provided at least one criminal gang activity of a criminal gang allegedly occurred in the county in which a grand jury is sitting, the grand jury may issue subpoenas, summon witnesses, and otherwise conduct an investigation of the alleged criminal gang's activities and offenses in other counties.

9–805.

(A) A PERSON MAY NOT ORGANIZE, SUPERVISE, FINANCE, OR MANAGE A CRIMINAL GANG.

(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 20 YEARS OR A FINE NOT EXCEEDING $100,000 OR BOTH.

(C) A SENTENCE IMPOSED UNDER THIS SECTION SHALL BE SEPARATE FROM AND CONSECUTIVE TO A SENTENCE FOR ANY CRIME BASED ON THE ACT ESTABLISHING A VIOLATION OF THIS SECTION.

9–806.

NOTHING IN THIS SUBTITLE MAY BE CONSTRUED INCONSISTENTLY WITH THE PROVISIONS RELATING TO JURISDICTION OVER JUVENILE CAUSES CONTAINED IN TITLE 3, SUBTITLE 8A OF THE COURTS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 198

(House Bill 1174)

AN ACT concerning

Junk Dealers and Scrap Metal Processors – Required Records

FOR the purpose of altering the requirements for records that certain junk dealers and scrap metal processors must keep for each purchase of certain junk or scrap

metal in the State; providing that certain provisions of law do not apply to certain transactions; providing for the designation of primary law enforcement units; ~~preempting~~ ~~providing that~~ *preempting* certain rights of certain counties and municipalities ~~are not preempted by certain provisions of this Act~~; ~~superseding~~ ~~providing that~~ *superseding* certain laws of certain counties and municipalities ~~are not superseded by certain provisions of this Act~~; providing for the applicability of the record keeping requirements; providing for the form and contents of the records; requiring that certain records be kept electronically; providing for the submission of certain records to certain law enforcement units under certain circumstances; providing that certain provisions may not be construed to require junk dealers and scrap metal processors to incur certain financial burdens for complying with certain record submission requirements; authorizing certain law enforcement units to issue certain waivers under certain circumstances; prohibiting junk dealers and scrap metal processors from purchasing a catalytic converter except under certain circumstances; prohibiting junk dealers and scrap metal processors from purchasing cemetery urns, grave markers, and certain other items except under certain circumstances; authorizing State or local law enforcement personnel to request information from certain records under certain circumstances; authorizing a State or local law enforcement agency to issue a certain hold notice under certain circumstances; exempting certain items acquired from certain entities from certain record and reporting requirements; *requiring certain contracts to be open to inspection by a local law enforcement agency under certain circumstances; prohibiting certain contracts from being open to public inspection without the consent of certain junk dealers or scrap metal processors;* authorizing certain law enforcement personnel to enforce this Act; establishing certain penalties; altering a certain definition; making this Act an emergency measure; and generally relating to junk dealers and scrap metal processors.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 12–102(a), 17–1001(e), 17–1010, and 17–1011
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 17–1001(a) and (f)
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY adding to
Article – Business Regulation
Section 17–1001(g) and 17–1003
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Regulation

12–102.

(a) This title does not apply to a transaction that involves:

(1) merchandise acquired from an established manufacturer or dealer who holds a license under this title, other than a pawnbroker, if the dealer who acquires the merchandise keeps an invoice or other customary proof of origin for the merchandise;

(2) a metal acquired for use in dentistry by a dentist licensed to practice dentistry under Title 4 of the Health Occupations Article; **[**or**]**

(3) coins or numismatic items**; OR**

(4) THE PURCHASE OF JUNK OR SCRAP METAL THAT IS SUBJECT TO THE RECORD KEEPING AND REPORTING REQUIREMENTS UNDER § 17–1011 OF THIS ARTICLE.

17–1001.

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

(e) **(1)** "Junk" or "scrap metal" includes:

[(1)**] (I) NONFERROUS** articles made wholly or **[**partly**] SUBSTANTIALLY** of:

[(i)**] 1.** aluminum;

[(ii)**] 2.** babbitt metal;

[(iii)**] 3.** brass;

[(iv)**] 4.** bronze;

[(v)**] 5.** light copper;

[(vi)**] 6.** heavy copper;

[(vii)**] 7.** lead;

[(viii)**] 8.** low carbon chrome;

[(ix)**] 9.** low carbon manganese;

[(x)**] 10.** molybdenum;

[(xi)**] 11.** monel metal;

[(xii)**] 12.** pewter;

[(xiii)**] 13.** nickel;

14. STAINLESS STEEL;

[(xiv)**] 15.** tin;

[(xv)**] 16.** vanadium; **[**or**]**

[(xvi)**] 17.** zinc;

18. PLATINUM;

19. GOLD;

20. RHODIUM; OR

21. OTHER NONFERROUS METALS; AND

[(2) stoves;

(3) plumbing fixtures and supplies;

(4) electrical fixtures and wiring;

(5) gas fixtures and appliances;

(6) pipes;

(7) locks;

(8) used railroad equipment;

(9) used farm machinery; and

(10) any other similar used material.**]**

(II) THE FOLLOWING USED ARTICLES, MADE OF EITHER FERROUS OR NONFERROUS METAL:

1. CATALYTIC CONVERTERS;

2. METAL BLEACHERS;

3. HARD–DRAWN COPPER;

4. METAL BEER KEGS;

5. CEMETERY URNS;

6. GRAVE MARKERS;

7. PROPANE TANKS; AND

8. ANY OTHER USED ARTICLES OWNED BY A PUBLIC UTILITY INCLUDING:

A. GUARDRAILS;

B. MANHOLE COVERS;

C. METAL LIGHT POLES;

D. TREE GRATES;

E. WATER METERS; AND

F. STREET SIGNS.

(2) "JUNK" OR "SCRAP METAL" DOES NOT INCLUDE BEVERAGE CANS OR FOOD CANS.

(f) "Junk dealer" or "scrap metal processor" means a person who does business buying or selling junk or scrap metal.

(G) "PRIMARY LAW ENFORCEMENT UNIT" MEANS THE DEPARTMENT OF STATE POLICE, A POLICE DEPARTMENT, OR SHERIFF, AS DESIGNATED BY A RESOLUTION OF THE COUNTY OR MUNICIPAL GOVERNING BODY IN THE COUNTY IN WHICH THE LICENSE OF THE JUNK DEALER OR SCRAP METAL PROCESSOR IS HELD.

17–1003.

(A) A COUNTY OR MUNICIPAL GOVERNING BODY IN THE COUNTY IN WHICH THE LICENSE OF THE JUNK DEALER OR SCRAP METAL PROCESSOR IS HELD SHALL DESIGNATE BY RESOLUTION THE PRIMARY LAW ENFORCEMENT UNIT TO RECEIVE RECORDS IN ACCORDANCE WITH § 17–1011(B) OF THIS SUBTITLE.

(B) IF A MUNICIPAL GOVERNING BODY DESIGNATES A COUNTY POLICE DEPARTMENT OR SHERIFF AS THE PRIMARY LAW ENFORCEMENT UNIT UNDER THIS SECTION, THE COUNTY MAY DESIGNATE THE DEPARTMENT OF STATE POLICE AS THE PRIMARY LAW ENFORCEMENT UNIT.

17–1010.

[(a)**]** A nonresident junk dealer or nonresident scrap metal processor may not keep a fixed place of business in the State.

[(b) (1) Before transporting junk or scrap metal from the State, each nonresident junk dealer, nonresident scrap metal processor, or agent of a nonresident junk dealer or nonresident scrap metal processor shall register with the sheriff of the county where the junk or scrap metal was bought a complete description of the junk or scrap metal to be transported.

(2) The description shall include:

(i) the date of purchase;

(ii) the name and junk dealer or scrap metal processor license number, if any, of the buyer;

(iii) the name and junk dealer or scrap metal processor license number, if any, of the seller;

(iv) the license tag number of the vehicle used; and

(v) the name of any consignee.**]**

17–1011.

[(a) Each junk dealer or scrap metal processor who is a resident of the State shall keep a written record in English that:

(1) for each purchase of junk or scrap metal:

(i) is made at the time of the purchase; and

(ii) includes:

1. a description of the junk or scrap metal purchased;

2. the name and address of the seller;

3. the license tag number of any vehicle used; and

4. the date and time of the purchase; and

(2) for each sale of junk or scrap metal, shows the name and address of the buyer.

(b) The records shall be open to inspection by State or local law enforcement personnel for the jurisdiction where the place of business of the junk dealer or scrap metal processor is located.**]**

(A) (1) THIS SECTION APPLIES TO ALL JUNK DEALERS AND SCRAP METAL PROCESSORS DOING BUSINESS IN THE STATE, INCLUDING NONRESIDENT JUNK DEALERS, NONRESIDENT SCRAP METAL PROCESSORS, AND JUNK DEALERS AND SCRAP METAL PROCESSORS WHO ARE RESIDENTS OF THE COUNTIES LISTED IN § 17–1002(A) OF THIS SUBTITLE.

(2) THIS SECTION APPLIES TO AN AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP METAL PROCESSOR LICENSED UNDER TITLE 15, SUBTITLE 5 OF THE TRANSPORTATION ARTICLE IF THE AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP METAL PROCESSOR:

(I) CONDUCTS BUSINESS AS A LICENSED JUNK DEALER OR SCRAP METAL PROCESSOR;

(II) ACQUIRES VEHICLE PARTS THAT QUALIFY AS JUNK OR SCRAP METAL AS DEFINED UNDER § 17–1001(E) OF THIS SUBTITLE; OR

(III) ACQUIRES ARTICLES THAT ARE LISTED, OR MADE OF METALS THAT ARE LISTED, IN § 17–1001(E) OF THIS SUBTITLE.

(3) THIS SECTION DOES NOT APPLY TO:

(I) AN AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP METAL PROCESSOR THAT ONLY ACQUIRES WHOLE VEHICLES FOR THE PURPOSE OF DISMANTLING, DESTROYING, OR SCRAPPING THEM FOR THE BENEFIT OF THEIR PARTS OR THE MATERIALS IN THEM; OR

(II) A PERSON THAT BUYS SCRAP METAL TO USE AS RAW MATERIAL TO PRODUCE 1,000,000 TONS OF STEEL OR MORE IN THE STATE PER CALENDAR YEAR.

(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THIS SECTION ~~PREEMPTS~~ ~~DOES NOT PREEMPT~~ *PREEMPTS* THE RIGHT OF A COUNTY OR MUNICIPALITY TO REGULATE THE RESALE OF JUNK OR SCRAP METAL.

(II) THIS SECTION DOES NOT LIMIT THE POWER OF A COUNTY OR MUNICIPALITY TO LICENSE JUNK DEALERS AND SCRAP METAL PROCESSORS.

(III) THIS SECTION ~~SUPERSEDES~~ ~~DOES NOT SUPERSEDE~~ *SUPERSEDES* ANY EXISTING LAW OF A COUNTY OR MUNICIPALITY THAT REGULATES THE RESALE OF JUNK OR SCRAP METAL.

(B) (1) FOR EACH PURCHASE OF JUNK OR SCRAP METAL IN THE STATE, A JUNK DEALER OR SCRAP METAL PROCESSOR SHALL KEEP AN ACCURATE RECORD IN ENGLISH.

(2) THE RECORD SHALL STATE:

(I) THE DATE AND TIME OF PURCHASE;

(II) A DESCRIPTION OF THE JUNK OR SCRAP METAL PURCHASED, INCLUDING:

1. THE TYPE AND GRADE OF THE JUNK OR SCRAP METAL; AND

2. IF PAYMENT IS BASED ON WEIGHT, THE WEIGHT OF EACH TYPE AND GRADE OF JUNK OR SCRAP METAL;

(III) THE AMOUNT PAID OR OTHER CONSIDERATION FOR THE JUNK OR SCRAP METAL;

(IV) THE REGISTRATION PLATE NUMBER, MAKE, AND MODEL OF ANY VEHICLE USED;

(V) THE NAME AND ADDRESS OF THE INDIVIDUAL FROM WHOM THE JUNK OR SCRAP METAL IS ACQUIRED;

(VI) THE SIGNATURE OF:

1. THE INDIVIDUAL FROM WHOM THE JUNK OR SCRAP METAL IS ACQUIRED; AND

2. THE JUNK DEALER, SCRAP METAL PROCESSOR, OR EMPLOYEE WHO ACCEPTED THE JUNK OR SCRAP METAL; AND

(VII) FOR EACH INDIVIDUAL FROM WHOM THE JUNK DEALER OR SCRAP METAL PROCESSOR ACQUIRES JUNK OR SCRAP METAL:

1. THE DATE OF BIRTH AND DRIVER'S LICENSE NUMBER OF THE INDIVIDUAL; OR

2. IDENTIFICATION INFORMATION ABOUT THE INDIVIDUAL FROM A VALID STATE–ISSUED PHOTO ID THAT PROVIDES A PHYSICAL DESCRIPTION OF THE INDIVIDUAL, INCLUDING THE SEX, RACE, ANY DISTINGUISHING FEATURES, AND APPROXIMATE AGE, HEIGHT, AND WEIGHT OF THE INDIVIDUAL.

(3) THE RECORDS REQUIRED UNDER THIS SUBSECTION SHALL BE KEPT IN ELECTRONIC FORM.

(4) (I) SUBJECT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH, THE JUNK DEALER OR SCRAP METAL PROCESSOR SHALL SUBMIT A COPY OF EACH RECORD REQUIRED UNDER THIS PARAGRAPH TO THE PRIMARY LAW ENFORCEMENT UNIT IN ACCORDANCE WITH SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH.

(II) A JUNK DEALER OR SCRAP METAL PROCESSOR SHALL SUBMIT A RECORD BY TRANSMITTING A COPY OF THE RECORDS ELECTRONICALLY, IN A FORMAT ACCEPTABLE TO THE RECEIVING PRIMARY LAW ENFORCEMENT UNIT, BY THE END OF THE FIRST BUSINESS DAY FOLLOWING THE DATE OF THE TRANSACTION.

(III) EACH COPY OF A RECORD SUBMITTED TO THE PRIMARY LAW ENFORCEMENT UNIT SHALL INCLUDE:

1. THE DATE AND TIME OF PURCHASE;

2. A DESCRIPTION OF THE JUNK OR SCRAP METAL, INCLUDING ITS WEIGHT IF PAYMENT IS BASED ON WEIGHT;

3. WHETHER THE AMOUNT PAID OR OTHER CONSIDERATION FOR THE JUNK OR SCRAP METAL EXCEEDS $500;

4. THE REGISTRATION PLATE NUMBER OF ANY VEHICLE USED BY THE INDIVIDUAL FROM WHOM THE JUNK OR SCRAP METAL IS ACQUIRED;

5. THE NAME AND ADDRESS OF THE INDIVIDUAL FROM WHOM THE JUNK OR SCRAP METAL IS ACQUIRED;

6. THE DATE OF BIRTH AND DRIVER'S LICENSE NUMBER OF THE INDIVIDUAL FROM WHOM THE JUNK OR SCRAP METAL IS ACQUIRED; ~~AND~~

7. IDENTIFICATION INFORMATION ABOUT THE INDIVIDUAL FROM A VALID STATE–ISSUED PHOTO ID THAT PROVIDES A PHYSICAL DESCRIPTION OF THE INDIVIDUAL, INCLUDING THE SEX, RACE, AGE, HEIGHT, AND WEIGHT OF THE INDIVIDUAL*; AND*

***8. AN ELECTRONIC SCAN OR PHOTOCOPY OF THE VALID STATE–ISSUED PHOTO ID UNDER ITEM 7 OF THIS SUBPARAGRAPH*.**

(IV) THE PROVISIONS OF SUBPARAGRAPHS (I), (II), AND (III) OF THIS PARAGRAPH MAY NOT BE CONSTRUED TO REQUIRE A JUNK DEALER OR SCRAP METAL PROCESSOR TO INCUR A SUBSTANTIAL FINANCIAL BURDEN TO COMPLY WITH THE REQUIREMENTS OF THIS PARAGRAPH.

(5) A COPY OF A RECORD SUBMITTED UNDER PARAGRAPH (4) OF THIS SUBSECTION:

(I) SHALL BE KEPT CONFIDENTIAL;

(II) IS NOT A PUBLIC RECORD; AND

(III) IS NOT SUBJECT TO TITLE 10, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE.

(6) THE PRIMARY LAW ENFORCEMENT UNIT MAY DESTROY THE COPY OF A RECORD SUBMITTED UNDER PARAGRAPH (4) OF THIS SUBSECTION AFTER 1 YEAR FROM THE DATE THAT THE PRIMARY LAW ENFORCEMENT UNIT RECEIVES THE COPY.

(7) (I) THE PRIMARY LAW ENFORCEMENT UNIT MAY WAIVE THE HOLDING OF ELECTRONIC RECORDS UNDER PARAGRAPH (3) OF THIS

SUBSECTION OR THE SUBMISSION OF ELECTRONIC RECORDS UNDER PARAGRAPH (4) OF THIS SUBSECTION BY A JUNK DEALER OR SCRAP METAL PROCESSOR.

(II) ANY WAIVERS GRANTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE LIMITED TO AUTHORIZING A JUNK DEALER OR SCRAP METAL PROCESSOR TO:

1. EXTEND THE REPORTING DEADLINE UNDER PARAGRAPH (4) OF THIS SUBSECTION FOR AN EXTRA DAY;

2. HOLD WRITTEN RECORDS; OR

3. SUBMIT RECORDS BY FACSIMILE OR BY MAIL.

(C) (1) THIS SUBSECTION APPLIES TO JUNK DEALERS AND SCRAP METAL PROCESSORS WHO ARE RESIDENTS OF THE STATE.

(2) EACH JUNK DEALER OR SCRAP METAL PROCESSOR SHALL KEEP THE RECORDS REQUIRED BY SUBSECTION (B) OF THIS SECTION FOR 1 YEAR AFTER THE DATE OF THE TRANSACTION.

(3) THE RECORDS KEPT IN ACCORDANCE WITH THIS SUBSECTION SHALL BE OPEN TO INSPECTION DURING BUSINESS HOURS BY STATE OR LOCAL LAW ENFORCEMENT PERSONNEL FOR AN INVESTIGATION OF A SPECIFIC CRIME INVOLVING THE MATERIALS LISTED UNDER § 17–1001(E) OF THIS SUBTITLE.

[(c)**] (D) (1)** A State junk licensee may not barter, buy, exchange, or accept from a person any junk or scrap metal unless the State junk licensee keeps records and makes entries in them in accordance with Part II of this subtitle.

(2) A STATE JUNK LICENSEE MAY NOT PURCHASE A CATALYTIC CONVERTER FROM AN INDIVIDUAL UNLESS THE INDIVIDUAL, AT THE TIME OF PURCHASE, PROVIDES IDENTIFICATION AS:

(I) A LICENSED AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP METAL PROCESSOR; OR

(II) AN AGENT OR EMPLOYEE OF A LICENSED COMMERCIAL ENTERPRISE.

(3) A STATE JUNK LICENSEE MAY NOT PURCHASE A CEMETERY URN, GRAVE MARKER, OR ANY OTHER ITEM LISTED UNDER § 17–1001(E)(1)(II) OF THIS SUBTITLE FROM AN INDIVIDUAL UNLESS THE

INDIVIDUAL, AT THE TIME OF PURCHASE, PROVIDES APPROPRIATE AUTHORIZATION FROM A RELEVANT BUSINESS OR UNIT OF FEDERAL, STATE, OR LOCAL GOVERNMENT SPECIFICALLY AUTHORIZING THE INDIVIDUAL TO CONDUCT THE TRANSACTION.

(E) STATE OR LOCAL LAW ENFORCEMENT PERSONNEL MAY REQUEST INFORMATION FROM THE RECORDS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION PURSUANT TO AN INVESTIGATION OF A SPECIFIC CRIME INVOLVING THE MATERIALS LISTED UNDER § 17–1001(E) OF THIS SUBTITLE.

(F) *(1)* THE RECORD AND REPORTING REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION DO NOT APPLY TO AN ITEM THAT IS ACQUIRED FROM:

~~(1)~~ *(I)* A LICENSED JUNK DEALER OR SCRAP METAL PROCESSOR;

~~(2)~~ *(II)* A UNIT OF FEDERAL, STATE, OR LOCAL GOVERNMENT; OR

~~(3)~~ *(III)* A COMMERCIAL ENTERPRISE WITH ~~WHOM THE JUNK DEALER OR SCRAP METAL PROCESSOR HAS ENTERED A WRITTEN CONTRACT~~ *A VALID BUSINESS LICENSE THAT HAS ENTERED INTO A WRITTEN CONTRACT WITH A JUNK DEALER OR SCRAP METAL PROCESSOR WHO HAS PROVIDED TO THE PRIMARY LAW ENFORCEMENT UNIT:*

1. THE NAME AND BUSINESS ADDRESS OF THE COMMERCIAL ENTERPRISE; AND

2. THE TYPE OF JUNK OR SCRAP METAL SUBJECT TO THE CONTRACT.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A CONTRACT UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION SHALL BE OPEN TO INSPECTION BY A LOCAL LAW ENFORCEMENT AGENCY ON THE PREMISES OF THE JUNK DEALER OR SCRAP METAL PROCESSOR DURING BUSINESS HOURS.

(II) NOTWITHSTANDING ANY OTHER LAW, A CONTRACT OPEN TO INSPECTION BY A LOCAL LAW ENFORCEMENT AGENCY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT BE OPEN FOR PUBLIC INSPECTION WITHOUT THE CONSENT OF THE JUNK DEALER OR SCRAP METAL PROCESSOR.

(G) (1) IF A STATE OR LOCAL LAW ENFORCEMENT AGENCY HAS REASONABLE CAUSE TO BELIEVE THAT JUNK OR SCRAP METAL THAT IS IN THE POSSESSION OF A JUNK DEALER OR SCRAP METAL PROCESSOR IS STOLEN, THE LAW ENFORCEMENT AGENCY MAY ISSUE A WRITTEN HOLD NOTICE.

(2) THE WRITTEN HOLD NOTICE SHALL:

(I) IDENTIFY THE ITEMS OF JUNK OR SCRAP METAL ALLEGED TO BE STOLEN AND SUBJECT TO HOLD;

(II) INFORM THE JUNK DEALER OR SCRAP METAL PROCESSOR OF THE HOLD IMPOSED ON THE ITEMS OF JUNK OR SCRAP METAL; AND

(III) SPECIFY THE TIME PERIOD FOR THE HOLD, NOT TO EXCEED 15 DAYS.

(3) ON RECEIPT OF A WRITTEN HOLD NOTICE FROM A LAW ENFORCEMENT AGENCY, A JUNK DEALER OR SCRAP METAL PROCESSOR MAY NOT PROCESS OR REMOVE FROM THE JUNK DEALER'S OR SCRAP METAL PROCESSOR'S PLACE OF BUSINESS BEFORE THE END OF THE HOLD PERIOD ANY ITEMS OF JUNK OR SCRAP METAL IDENTIFIED IN THE HOLD NOTICE, UNLESS THE ITEM IS RELEASED BY THE LAW ENFORCEMENT AGENCY OR BY COURT ORDER.

(H) LOCAL LAW ENFORCEMENT PERSONNEL OF THE COUNTY WHERE THE PLACE OF BUSINESS OF THE JUNK DEALER OR SCRAP METAL PROCESSOR IS LOCATED OR WHERE THE JUNK OR SCRAP METAL WAS PURCHASED MAY ENFORCE THIS SECTION.

(I) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

(1) A FINE NOT EXCEEDING $500 FOR A FIRST OFFENSE; AND

(2) A FINE NOT EXCEEDING $5,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH FOR A SUBSEQUENT OFFENSE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 4, 2010.

Chapter 199

(Senate Bill 99)

AN ACT concerning

Junk Dealers and Scrap Metal Processors – Required Records

FOR the purpose of altering the requirements for records that certain junk dealers and scrap metal processors must keep for each purchase of certain junk or scrap metal in the State; providing that certain provisions of law do not apply to certain transactions; providing for the designation of primary law enforcement units; preempting certain rights of certain counties and municipalities superseding certain laws of certain counties and municipalities; providing for the applicability of the record keeping requirements; providing for the form and contents of the records; requiring that certain records be kept electronically; providing for the submission of certain records to certain law enforcement units under certain circumstances; providing that certain provisions may not be construed to require junk dealers and scrap metal processors to incur certain ~~additional expenses~~ financial burdens for complying with certain record submission requirements; authorizing certain law enforcement units to issue certain waivers under certain circumstances; prohibiting junk dealers and scrap metal processors from purchasing a catalytic converter except under certain circumstances; prohibiting junk dealers and scrap metal processors from purchasing cemetery urns, grave markers, and certain other items except under certain circumstances; authorizing State or local law enforcement personnel to request information from certain records under certain circumstances; authorizing a State or local law enforcement agency to issue a certain hold notice under certain circumstances; exempting certain items acquired from certain entities from certain record and reporting requirements; *requiring certain contracts to be open to inspection by a local law enforcement agency under certain circumstances; prohibiting certain contracts from being open to public inspection without the consent of certain junk dealers or scrap metal processors;* authorizing certain law enforcement personnel to enforce this Act; establishing certain penalties; altering a certain definition; making this Act an emergency measure; and generally relating to junk dealers and scrap metal processors.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 12–102(a), 17–1001(e), 17–1010, and 17–1011
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 17–1001(a) and (f)
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY adding to
Article – Business Regulation
Section 17–1001(g) and 17–1003
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Regulation

12–102.

(a) This title does not apply to a transaction that involves:

(1) merchandise acquired from an established manufacturer or dealer who holds a license under this title, other than a pawnbroker, if the dealer who acquires the merchandise keeps an invoice or other customary proof of origin for the merchandise;

(2) a metal acquired for use in dentistry by a dentist licensed to practice dentistry under Title 4 of the Health Occupations Article; **[**or**]**

(3) coins or numismatic items**; OR**

(4) THE PURCHASE OF JUNK OR SCRAP METAL THAT IS SUBJECT TO THE RECORD KEEPING AND REPORTING REQUIREMENTS UNDER § 17–1011 OF THIS ARTICLE.

17–1001.

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

(e) **(1)** "Junk" or "scrap metal" includes:

[(1)**] (I) NONFERROUS** articles made wholly or **[**partly**] SUBSTANTIALLY** of:

[(i)**] 1.** aluminum;

[(ii)**]** **2.** babbitt metal;

[(iii)**]** **3.** brass;

[(iv)**]** **4.** bronze;

[(v)**]** **5.** light copper;

[(vi)**]** **6.** heavy copper;

[(vii)**]** **7.** lead;

[(viii)**]** **8.** low carbon chrome;

[(ix)**]** **9.** low carbon manganese;

[(x)**]** **10.** molybdenum;

[(xi)**]** **11.** monel metal;

[(xii)**]** **12.** pewter;

[(xiii)**]** **13.** nickel;

14. STAINLESS STEEL;

[(xiv)**]** **15.** tin;

[(xv)**]** **16.** vanadium; **[**or**]**

[(xvi)**]** **17.** zinc;

~~(XVIII)~~ **18. PLATINUM;**

~~(XIX)~~ **19. GOLD;**

~~(XX)~~ **20. RHODIUM; OR**

~~(XXI)~~ **21. OTHER NONFERROUS METALS; AND**

[(2) stoves;

(3) plumbing fixtures and supplies;

(4) electrical fixtures and wiring;

(5) gas fixtures and appliances;

(6) pipes;

(7) locks;

(8) used railroad equipment;

(9) used farm machinery; and

(10) any other similar used material.**]**

(II) THE FOLLOWING USED ARTICLES, MADE OF EITHER FERROUS OR NONFERROUS METAL:

1. CATALYTIC CONVERTERS;

2. METAL BLEACHERS;

3. HARD–DRAWN COPPER;

4. METAL BEER KEGS;

5. CEMETERY URNS;

6. GRAVE MARKERS;

7. PROPANE TANKS; AND

~~7.~~ 8. ANY OTHER USED ARTICLES OWNED BY A PUBLIC UTILITY INCLUDING:

A. GUARDRAILS;

B. MANHOLE COVERS;

C. METAL LIGHT POLES;

D. TREE GRATES;

E. WATER METERS; AND

F. STREET SIGNS.

(2) "JUNK" OR "SCRAP METAL" DOES NOT INCLUDE BEVERAGE CANS OR FOOD CANS.

(f) "Junk dealer" or "scrap metal processor" means a person who does business buying or selling junk or scrap metal.

(G) "PRIMARY LAW ENFORCEMENT UNIT" MEANS THE DEPARTMENT OF STATE POLICE, A POLICE DEPARTMENT, OR SHERIFF, AS DESIGNATED BY A RESOLUTION OF THE COUNTY OR MUNICIPAL GOVERNING BODY IN THE COUNTY IN WHICH THE LICENSE OF THE JUNK DEALER OR SCRAP METAL PROCESSOR IS HELD.

17–1003.

(A) A COUNTY OR MUNICIPAL GOVERNING BODY IN THE COUNTY IN WHICH THE LICENSE OF THE JUNK DEALER OR SCRAP METAL PROCESSOR IS HELD SHALL DESIGNATE BY RESOLUTION THE PRIMARY LAW ENFORCEMENT UNIT TO RECEIVE RECORDS IN ACCORDANCE WITH § 17–1011(B) OF THIS SUBTITLE.

(B) IF A MUNICIPAL GOVERNING BODY DESIGNATES A COUNTY POLICE DEPARTMENT OR SHERIFF AS THE PRIMARY LAW ENFORCEMENT UNIT UNDER THIS SECTION, THE COUNTY MAY DESIGNATE THE DEPARTMENT OF STATE POLICE AS THE PRIMARY LAW ENFORCEMENT UNIT.

17–1010.

[(a)**]** A nonresident junk dealer or nonresident scrap metal processor may not keep a fixed place of business in the State.

[(b) (1) Before transporting junk or scrap metal from the State, each nonresident junk dealer, nonresident scrap metal processor, or agent of a nonresident junk dealer or nonresident scrap metal processor shall register with the sheriff of the county where the junk or scrap metal was bought a complete description of the junk or scrap metal to be transported.

(2) The description shall include:

(i) the date of purchase;

(ii) the name and junk dealer or scrap metal processor license number, if any, of the buyer;

(iii) the name and junk dealer or scrap metal processor license number, if any, of the seller;

(iv) the license tag number of the vehicle used; and

(v) the name of any consignee.**]**

17–1011.

[(a) Each junk dealer or scrap metal processor who is a resident of the State shall keep a written record in English that:

(1) for each purchase of junk or scrap metal:

(i) is made at the time of the purchase; and

(ii) includes:

1. a description of the junk or scrap metal purchased;

2. the name and address of the seller;

3. the license tag number of any vehicle used; and

4. the date and time of the purchase; and

(2) for each sale of junk or scrap metal, shows the name and address of the buyer.

(b) The records shall be open to inspection by State or local law enforcement personnel for the jurisdiction where the place of business of the junk dealer or scrap metal processor is located.**]**

(A) (1) THIS SECTION APPLIES TO ALL JUNK DEALERS AND SCRAP METAL PROCESSORS DOING BUSINESS IN THE STATE, INCLUDING NONRESIDENT JUNK DEALERS, NONRESIDENT SCRAP METAL PROCESSORS, AND JUNK DEALERS AND SCRAP METAL PROCESSORS WHO ARE RESIDENTS OF THE COUNTIES LISTED IN § 17–1002(A) OF THIS SUBTITLE.

(2) THIS SECTION APPLIES TO AN AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP METAL PROCESSOR LICENSED UNDER TITLE 15, SUBTITLE 5 OF THE TRANSPORTATION ARTICLE IF THE AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP METAL PROCESSOR:

(I) CONDUCTS BUSINESS AS A LICENSED JUNK DEALER OR SCRAP METAL PROCESSOR;

(II) ACQUIRES VEHICLE PARTS THAT QUALIFY AS JUNK OR SCRAP METAL AS DEFINED UNDER § 17–1001(E) OF THIS SUBTITLE; OR

(III) ACQUIRES ARTICLES THAT ARE LISTED, OR MADE OF METALS THAT ARE LISTED, IN § 17–1001(E) OF THIS SUBTITLE.

(3) THIS SECTION DOES NOT APPLY TO:

(I) AN AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP METAL PROCESSOR THAT ONLY ACQUIRES WHOLE VEHICLES FOR THE PURPOSE OF DISMANTLING, DESTROYING, OR SCRAPPING THEM FOR THE BENEFIT OF THEIR PARTS OR THE MATERIALS IN THEM; OR

(II) A PERSON THAT BUYS SCRAP METAL TO USE AS RAW MATERIAL TO PRODUCE 1,000,000 TONS OF STEEL OR MORE IN THE STATE PER CALENDAR YEAR.

(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS ~~SUBSECTION~~ PARAGRAPH, THE SECTION PREEMPTS THE RIGHT OF A COUNTY OR MUNICIPALITY TO REGULATE THE RESALE OF JUNK OR SCRAP METAL.

(II) THIS SECTION DOES NOT LIMIT THE POWER OF A COUNTY OR MUNICIPALITY TO LICENSE JUNK DEALERS AND SCRAP METAL PROCESSORS.

(III) THIS SECTION SUPERSEDES ANY EXISTING LAW OF A COUNTY OR MUNICIPALITY THAT REGULATES THE RESALE OF JUNK OR SCRAP METAL.

(B) (1) FOR EACH PURCHASE OF JUNK OR SCRAP METAL IN THE STATE, A JUNK DEALER OR SCRAP METAL PROCESSOR SHALL KEEP AN ACCURATE RECORD IN ENGLISH.

(2) THE RECORD SHALL STATE:

(I) THE DATE AND TIME OF PURCHASE;

(II) A DESCRIPTION OF THE JUNK OR SCRAP METAL PURCHASED, INCLUDING:

1. THE TYPE AND GRADE OF THE JUNK OR SCRAP METAL; AND

2. IF PAYMENT IS BASED ON WEIGHT, THE WEIGHT OF EACH TYPE AND GRADE OF JUNK OR SCRAP METAL;

(III) THE AMOUNT PAID OR OTHER CONSIDERATION FOR THE JUNK OR SCRAP METAL;

(IV) THE ~~LICENSE TAG~~ REGISTRATION PLATE NUMBER, MAKE, AND MODEL OF ANY VEHICLE USED;

(V) THE NAME AND ADDRESS OF THE INDIVIDUAL FROM WHOM THE JUNK OR SCRAP METAL IS ACQUIRED;

(VI) THE SIGNATURE OF:

1. THE INDIVIDUAL FROM WHOM THE JUNK OR SCRAP METAL IS ACQUIRED; AND

2. THE JUNK DEALER, SCRAP METAL PROCESSOR, OR EMPLOYEE WHO ACCEPTED THE JUNK OR SCRAP METAL; AND

(VII) FOR EACH INDIVIDUAL FROM WHOM THE JUNK DEALER OR SCRAP METAL PROCESSOR ACQUIRES JUNK OR SCRAP METAL:

1. THE DATE OF BIRTH AND DRIVER'S LICENSE NUMBER OF THE INDIVIDUAL; OR

2. IDENTIFICATION INFORMATION ABOUT THE INDIVIDUAL FROM A VALID STATE–ISSUED PHOTO ID THAT PROVIDES A PHYSICAL DESCRIPTION OF THE INDIVIDUAL, INCLUDING THE SEX, RACE, ANY DISTINGUISHING FEATURES, AND APPROXIMATE AGE, HEIGHT, AND WEIGHT OF THE INDIVIDUAL.

(3) THE RECORDS REQUIRED UNDER THIS SUBSECTION SHALL BE KEPT IN ELECTRONIC FORM.

(4) (I) SUBJECT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH, THE JUNK DEALER OR SCRAP METAL PROCESSOR SHALL SUBMIT A COPY OF EACH RECORD REQUIRED UNDER THIS PARAGRAPH TO THE PRIMARY LAW ENFORCEMENT UNIT IN ACCORDANCE WITH SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH.

(II) A JUNK DEALER OR SCRAP METAL PROCESSOR SHALL SUBMIT A RECORD BY TRANSMITTING A COPY OF THE RECORDS ELECTRONICALLY, IN A FORMAT ACCEPTABLE TO THE RECEIVING PRIMARY LAW

ENFORCEMENT UNIT, BY THE END OF ~~EACH BUSINESS DAY~~ THE FIRST BUSINESS DAY FOLLOWING THE DATE OF THE TRANSACTION.

(III) EACH COPY OF A RECORD SUBMITTED TO THE PRIMARY LAW ENFORCEMENT UNIT SHALL INCLUDE:

1. THE DATE AND TIME OF PURCHASE;

2. A DESCRIPTION OF THE JUNK OR SCRAP METAL, INCLUDING ITS WEIGHT IF PAYMENT IS BASED ON WEIGHT; ~~AND~~

3. WHETHER THE AMOUNT PAID OR OTHER CONSIDERATION FOR THE JUNK OR SCRAP METAL EXCEEDS $500;

4. THE REGISTRATION PLATE NUMBER OF ANY VEHICLE USED BY THE INDIVIDUAL FROM WHOM THE JUNK OR SCRAP METAL IS ACQUIRED;

5. THE NAME AND ADDRESS OF THE INDIVIDUAL FROM WHOM THE JUNK OR SCRAP METAL IS ACQUIRED;

6. THE DATE OF BIRTH AND DRIVER'S LICENSE NUMBER OF THE INDIVIDUAL FROM WHOM THE JUNK OR SCRAP METAL IS ACQUIRED; ~~AND~~

7. IDENTIFICATION INFORMATION ABOUT THE INDIVIDUAL FROM A VALID STATE–ISSUED PHOTO ID THAT PROVIDES A PHYSICAL DESCRIPTION OF THE INDIVIDUAL, INCLUDING THE SEX, RACE, AGE, HEIGHT, AND WEIGHT OF THE INDIVIDUAL*; AND*

***8. AN ELECTRONIC SCAN OR PHOTOCOPY OF THE VALID STATE–ISSUED PHOTO ID UNDER ITEM 7 OF THIS SUBPARAGRAPH*.**

(IV) THE PROVISIONS OF SUBPARAGRAPHS (I), (II), AND (III) OF THIS PARAGRAPH MAY NOT BE CONSTRUED TO REQUIRE A JUNK DEALER OR SCRAP METAL PROCESSOR TO INCUR ~~ANY ADDITIONAL EXPENSE~~ A SUBSTANTIAL FINANCIAL BURDEN TO COMPLY WITH THE REQUIREMENTS OF THIS PARAGRAPH.

(5) A COPY OF A RECORD SUBMITTED UNDER PARAGRAPH (4) OF THIS SUBSECTION:

(I) SHALL BE KEPT CONFIDENTIAL;

(II) IS NOT A PUBLIC RECORD; AND

(III) IS NOT SUBJECT TO TITLE 10, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE.

(6) THE PRIMARY LAW ENFORCEMENT UNIT MAY DESTROY THE COPY OF A RECORD SUBMITTED UNDER PARAGRAPH (4) OF THIS SUBSECTION AFTER 1 YEAR FROM THE DATE THAT THE PRIMARY LAW ENFORCEMENT UNIT RECEIVES THE COPY.

(7) (I) THE PRIMARY LAW ENFORCEMENT UNIT MAY WAIVE THE HOLDING OF ELECTRONIC RECORDS UNDER PARAGRAPH (3) OF THIS SUBSECTION OR THE SUBMISSION OF ELECTRONIC RECORDS UNDER PARAGRAPH (4) OF THIS SUBSECTION BY A JUNK DEALER OR SCRAP METAL PROCESSOR.

(II) ANY WAIVERS GRANTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE LIMITED TO AUTHORIZING A JUNK DEALER OR SCRAP METAL PROCESSOR TO:

1. EXTEND THE REPORTING DEADLINE UNDER PARAGRAPH ~~(5)~~ (4) OF THIS SUBSECTION FOR AN EXTRA DAY;

2. HOLD WRITTEN RECORDS; OR

3. SUBMIT RECORDS BY FACSIMILE OR BY MAIL.

(C) (1) THIS SUBSECTION APPLIES TO JUNK DEALERS AND SCRAP METAL PROCESSORS WHO ARE RESIDENTS OF THE STATE.

(2) EACH JUNK DEALER OR SCRAP METAL PROCESSOR SHALL KEEP THE RECORDS REQUIRED BY SUBSECTION (B) OF THIS SECTION FOR 1 YEAR AFTER THE DATE OF THE TRANSACTION.

(3) THE RECORDS KEPT IN ACCORDANCE WITH THIS SUBSECTION SHALL BE OPEN TO INSPECTION DURING BUSINESS HOURS BY STATE OR LOCAL LAW ENFORCEMENT PERSONNEL FOR AN INVESTIGATION OF A SPECIFIC CRIME INVOLVING THE MATERIALS LISTED UNDER § 17–1001(E) OF THIS SUBTITLE.

[(c)**] (D) (1)** A State junk licensee may not barter, buy, exchange, or accept from a person any junk or scrap metal unless the State junk licensee keeps records and makes entries in them in accordance with Part II of this subtitle.

(2) A STATE JUNK LICENSEE MAY NOT PURCHASE A CATALYTIC CONVERTER FROM AN INDIVIDUAL UNLESS THE INDIVIDUAL, AT THE TIME OF PURCHASE, PROVIDES IDENTIFICATION AS:

(I) A LICENSED AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP METAL PROCESSOR; OR

(II) AN AGENT OR EMPLOYEE OF A LICENSED COMMERCIAL ENTERPRISE.

(3) A STATE JUNK LICENSEE MAY NOT PURCHASE A CEMETERY URN, GRAVE MARKER, OR ANY OTHER ITEM LISTED UNDER ~~§ 17–1001(E)(2)~~ § 17–1001(E)(1)(II) OF THIS SUBTITLE FROM AN INDIVIDUAL UNLESS THE INDIVIDUAL, AT THE TIME OF PURCHASE, PROVIDES APPROPRIATE AUTHORIZATION FROM A RELEVANT BUSINESS OR UNIT OF FEDERAL, STATE, OR LOCAL GOVERNMENT SPECIFICALLY AUTHORIZING THE INDIVIDUAL TO CONDUCT THE TRANSACTION.

(E) STATE OR LOCAL LAW ENFORCEMENT PERSONNEL MAY REQUEST INFORMATION FROM THE RECORDS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION PURSUANT TO AN INVESTIGATION OF A SPECIFIC CRIME INVOLVING THE MATERIALS LISTED UNDER § 17–1001(E) OF THIS SUBTITLE.

(F) *(1)* THE RECORD AND REPORTING REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION DO NOT APPLY TO AN ITEM THAT IS ACQUIRED FROM:

~~(1)~~ *(I)* A LICENSED JUNK DEALER OR SCRAP METAL PROCESSOR;

~~(2)~~ *(II)* A UNIT OF FEDERAL, STATE, OR LOCAL GOVERNMENT; OR

~~(3)~~ *(III)* A COMMERCIAL ENTERPRISE WITH ~~WHOM THE JUNK DEALER OR SCRAP METAL PROCESSOR HAS ESTABLISHED A DOCUMENTED ACCOUNT OR BUSINESS RELATIONSHIP ENTERED A WRITTEN CONTRACT~~ *A VALID BUSINESS LICENSE THAT HAS ENTERED INTO A WRITTEN CONTRACT WITH A JUNK DEALER OR SCRAP METAL PROCESSOR WHO HAS PROVIDED TO THE PRIMARY LAW ENFORCEMENT UNIT:*

1. THE NAME AND BUSINESS ADDRESS OF THE COMMERCIAL ENTERPRISE; AND

2. THE TYPE OF JUNK OR SCRAP METAL SUBJECT TO THE CONTRACT.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A CONTRACT UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION SHALL BE OPEN TO INSPECTION BY A LOCAL LAW ENFORCEMENT AGENCY ON THE PREMISES OF THE JUNK DEALER OR SCRAP METAL PROCESSOR DURING BUSINESS HOURS.

(II) NOTWITHSTANDING ANY OTHER LAW, A CONTRACT OPEN TO INSPECTION BY A LOCAL LAW ENFORCEMENT AGENCY UNDER SUBPARAGRAPH (1) OF THIS PARAGRAPH MAY NOT BE OPEN FOR PUBLIC INSPECTION WITHOUT THE CONSENT OF THE JUNK DEALER OR SCRAP METAL PROCESSOR.

~~(4)~~ ~~(I)~~ (G) (1) IF A STATE OR LOCAL LAW ENFORCEMENT AGENCY HAS REASONABLE CAUSE TO BELIEVE THAT JUNK OR SCRAP METAL THAT IS IN THE POSSESSION OF A JUNK DEALER OR SCRAP METAL PROCESSOR IS STOLEN, THE LAW ENFORCEMENT AGENCY MAY ISSUE A WRITTEN HOLD NOTICE.

~~(II)~~ (2) THE WRITTEN HOLD NOTICE SHALL:

~~1.~~ (I) IDENTIFY THE ITEMS OF JUNK OR SCRAP METAL ALLEGED TO BE STOLEN AND SUBJECT TO HOLD;

~~2.~~ (II) INFORM THE JUNK DEALER OR SCRAP METAL PROCESSOR OF THE HOLD IMPOSED ON THE ITEMS OF JUNK OR SCRAP METAL; AND

~~3.~~ (III) SPECIFY THE TIME PERIOD FOR THE HOLD, NOT TO EXCEED 15 DAYS.

~~(III)~~ (3) ON RECEIPT OF A WRITTEN HOLD NOTICE FROM A LAW ENFORCEMENT AGENCY, A JUNK DEALER OR SCRAP METAL PROCESSOR MAY NOT PROCESS OR REMOVE FROM THE JUNK DEALER'S OR SCRAP METAL PROCESSOR'S PLACE OF BUSINESS BEFORE THE END OF THE HOLD PERIOD ANY ITEMS OF JUNK OR SCRAP METAL IDENTIFIED IN THE HOLD NOTICE, UNLESS THE ITEM IS RELEASED BY THE LAW ENFORCEMENT AGENCY OR BY COURT ORDER.

~~(G)~~ (H) LOCAL LAW ENFORCEMENT PERSONNEL OF THE COUNTY WHERE THE PLACE OF BUSINESS OF THE JUNK DEALER OR SCRAP METAL PROCESSOR IS LOCATED OR WHERE THE JUNK OR SCRAP METAL WAS PURCHASED MAY ENFORCE THIS SECTION.

~~(II)~~ (I) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

(1) A FINE NOT EXCEEDING $500 FOR A FIRST OFFENSE; AND

(2) A FINE NOT EXCEEDING $5,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH FOR A SUBSEQUENT OFFENSE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 4, 2010.

Chapter 200

(Senate Bill 17)

AN ACT concerning

Criminal Law – Salvia Divinorum and Salvinorin A – Distribution to and Possession by Individual Under 21 Years of Age

FOR the purpose of prohibiting a person from distributing Salvia divinorum or Salvinorin A to an individual under the age of 21 years; providing that it is a defense in a certain prosecution that the defendant examined a certain license or identification that positively identified a certain purchaser or recipient as at least a certain age; establishing penalties for a certain violation of this Act; providing that certain separate incidents are separate violations for a certain purpose; prohibiting an individual under the age of 21 years from possessing Salvia divinorum or Salvinorin A; establishing that a person who violates this Act shall be issued a certain citation; authorizing certain individuals to issue certain citations under certain circumstances; requiring the District Court to prescribe a certain form of citation; requiring the jurisdiction that issues a certain citation to forward a copy of the citation and a request for trial to the District Court having a certain venue; requiring the District Court to schedule a certain trial and summon a certain defendant to appear; providing that a willful failure to respond to a certain summons is contempt of court; establishing that a violation of a certain provision of this Act is a Code violation and a civil offense; providing that a minor is subject to certain procedures and dispositions;

providing that an individual who is under the age of 21 years but not a minor is subject to certain provisions of this Act; establishing that an adjudication of a certain Code violation is not a criminal conviction for any purpose and does not impose certain disabilities; establishing certain procedures for a certain Code violation proceeding; establishing certain penalties for a certain violation of this Act; prohibiting the Chief Judge of the District Court from establishing a certain schedule for the prepayment of fines; authorizing a court to direct the payment of a certain fine be suspended or deferred; establishing that the willful failure to pay a certain fine is criminal contempt of court; providing that a certain defendant is liable for certain costs; establishing that a certain defendant has certain rights to appeal or file certain motions; authorizing the State's Attorney to prosecute a certain violation in a certain manner; authorizing a certain intake officer to refer a certain child to a substance abuse education or rehabilitation program under certain circumstances; requiring a certain intake officer to forward a certain citation to the State's Attorney if a certain child fails to comply with a substance abuse education or rehabilitation program referral; establishing that a violation of a certain provision of this Act is a violation for certain purposes; authorizing a certain law enforcement officer to issue a citation to a child for a violation of a certain provision of this Act under certain circumstances; requiring the Attorney General to submit a certain report to certain committees on or before a certain date; *providing for the application of this Act;* providing that this Act does not preempt certain local or municipal laws; defining a certain term; *making conforming changes;* and generally relating to Salvia divinorum and Salvinorin A.

BY adding to
Article – Criminal Law
Section 10–130 through 10–133 to be under the new part "Part IV. Salvia Divinorum"
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–8A–01(dd), 3–8A–10(k), and 3–8A–33(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Criminal Law

10–128. RESERVED.

10–129. RESERVED.

PART IV. SALVIA DIVINORUM.

10–130.

(A) IN THIS PART, "SALVIA DIVINORUM" INCLUDES SALVINORIN A AND ANY MATERIAL, COMPOUND, MIXTURE, PREPARATION, OR PRODUCT THAT CONTAINS SALVIA DIVINORUM OR SALVINORIN A.

(B) *NOTHING IN THIS PART SHALL PROHIBIT AN ACCREDITED ACADEMIC OR MEDICAL INSTITUTION OR RESEARCH FACILITY FROM CONDUCTING RESEARCH ON SALVIA DIVINORUM OR SALVINORIN A OR A DERIVATIVE OF SALVIA DIVINORUM OR SALVINORIN A.*

***(C)* THIS PART DOES NOT PREEMPT ANY LOCAL OR MUNICIPAL LAW REGULATING THE USE, POSSESSION, OR DISTRIBUTION OF SALVIA DIVINORUM OR SALVINORIN A.**

10–131.

(A) A PERSON MAY NOT DISTRIBUTE SALVIA DIVINORUM TO AN INDIVIDUAL UNDER THE AGE OF 21 YEARS.

(B) IN A PROSECUTION FOR A VIOLATION OF THIS SECTION, IT IS A DEFENSE THAT THE DEFENDANT EXAMINED THE PURCHASER'S OR RECIPIENT'S DRIVER'S LICENSE OR OTHER VALID IDENTIFICATION ISSUED BY AN EMPLOYER, *A* GOVERNMENT UNIT, OR *AN* INSTITUTION OF HIGHER EDUCATION THAT POSITIVELY IDENTIFIED THE PURCHASER OR RECIPIENT AS AT LEAST 21 YEARS OF AGE.

(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING:

(1) $300 FOR A FIRST VIOLATION;

(2) $1,000 FOR A SECOND VIOLATION OCCURRING WITHIN 2 YEARS AFTER THE FIRST VIOLATION; AND

(3) $3,000 FOR EACH SUBSEQUENT VIOLATION OCCURRING WITHIN 2 YEARS AFTER THE PRECEDING VIOLATION.

(D) FOR PURPOSES OF THIS SECTION, EACH SEPARATE INCIDENT AT A DIFFERENT TIME AND OCCASION IS A SEPARATE VIOLATION.

10–132.

AN INDIVIDUAL UNDER THE AGE OF 21 YEARS MAY NOT POSSESS SALVIA DIVINORUM.

10–133.

(A) A PERSON WHO VIOLATES § 10–132 OF THIS PART SHALL BE ISSUED A CITATION UNDER THIS SECTION.

(B) A CITATION FOR A VIOLATION OF § 10–132 OF THIS PART MAY BE ISSUED BY:

(1) A POLICE OFFICER AUTHORIZED TO MAKE ARRESTS; AND

(2) *IN STATE FORESTRY RESERVATIONS, STATE PARKS, HISTORIC MONUMENTS, AND RECREATION AREAS,* A FOREST OR PARK WARDEN UNDER § 5–206(A) OF THE NATURAL RESOURCES ARTICLE.

(C) A PERSON AUTHORIZED UNDER THIS SECTION TO ISSUE A CITATION SHALL ISSUE THE CITATION IF THE PERSON HAS PROBABLE CAUSE TO BELIEVE THAT THE PERSON CHARGED IS COMMITTING OR HAS COMMITTED A VIOLATION OF § 10–132 OF THIS PART.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE FORM OF CITATION ISSUED TO AN ADULT FOR A VIOLATION OF § 10–132 OF THIS PART SHALL BE AS PRESCRIBED BY THE DISTRICT COURT AND SHALL BE UNIFORM THROUGHOUT THE STATE.

(2) THE CITATION ISSUED TO AN ADULT SHALL CONTAIN:

(I) THE NAME AND ADDRESS OF THE PERSON CHARGED;

(II) THE STATUTE ALLEGEDLY VIOLATED;

(III) THE LOCATION, DATE, AND TIME THAT THE VIOLATION OCCURRED;

(IV) THE FINE THAT MAY BE IMPOSED;

(V) A NOTICE STATING THAT PREPAYMENT OF THE FINE IS NOT ALLOWED;

(VI) A NOTICE THAT THE DISTRICT COURT SHALL PROMPTLY SEND *TO* THE PERSON CHARGED A SUMMONS TO APPEAR FOR TRIAL;

(VII) THE SIGNATURE OF THE PERSON ISSUING THE CITATION; AND

(VIII) A SPACE FOR THE PERSON CHARGED TO SIGN THE CITATION.

(3) THE FORM OF CITATION ISSUED TO A MINOR SHALL:

(I) BE PRESCRIBED BY THE STATE COURT ADMINISTRATOR;

(II) BE UNIFORM THROUGHOUT THE STATE; AND

(III) CONTAIN THE INFORMATION LISTED IN § 3–8A–33(B) OF THE COURTS ARTICLE.

(E) (1) THE ISSUING JURISDICTION SHALL FORWARD A COPY OF THE CITATION AND A REQUEST FOR TRIAL TO THE DISTRICT COURT IN THE DISTRICT HAVING VENUE.

(2) THE DISTRICT COURT SHALL PROMPTLY SCHEDULE THE CASE FOR TRIAL AND SUMMON THE DEFENDANT TO APPEAR.

(3) WILLFUL FAILURE OF THE DEFENDANT TO RESPOND TO A SUMMONS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION IS CONTEMPT OF COURT.

(F) (1) FOR PURPOSES OF THIS SECTION, A VIOLATION OF § 10–132 OF THIS PART IS A CODE VIOLATION AND IS A CIVIL OFFENSE.

(2) A PERSON CHARGED WHO IS UNDER THE AGE OF 18 YEARS SHALL BE SUBJECT TO THE PROCEDURES AND DISPOSITIONS PROVIDED IN TITLE 3, SUBTITLE 8A OF THE COURTS ARTICLE.

(3) A PERSON CHARGED WHO IS AT LEAST 18 YEARS OLD SHALL BE SUBJECT TO THE PROVISIONS OF THIS SECTION.

(4) ADJUDICATION OF A CODE VIOLATION UNDER § 10–132 OF THIS PART IS NOT A CRIMINAL CONVICTION FOR ANY PURPOSE AND DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.

(G) IN ANY PROCEEDING FOR A CODE VIOLATION UNDER § 10–132 OF THIS PART:

(1) THE STATE HAS THE BURDEN TO PROVE THE GUILT OF THE DEFENDANT TO THE SAME EXTENT AS IS REQUIRED BY LAW IN THE TRIAL OF CRIMINAL CAUSES;

(2) THE COURT SHALL APPLY THE EVIDENTIARY STANDARDS AS PRESCRIBED BY LAW OR RULE FOR THE TRIAL OF CRIMINAL CAUSES;

(3) THE COURT SHALL ENSURE THAT THE DEFENDANT HAS RECEIVED A COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE DEFENDANT UNDERSTANDS THOSE CHARGES;

(4) THE DEFENDANT IS ENTITLED TO CROSS–EXAMINE ALL WITNESSES WHO APPEAR AGAINST THE DEFENDANT, TO PRODUCE EVIDENCE OR WITNESSES ON BEHALF OF THE DEFENDANT, OR TO TESTIFY ON THE DEFENDANT'S OWN BEHALF, IF THE DEFENDANT CHOOSES TO DO SO;

(5) THE DEFENDANT IS ENTITLED TO BE REPRESENTED BY COUNSEL OF THE DEFENDANT'S CHOICE AND AT THE EXPENSE OF THE DEFENDANT; AND

(6) THE DEFENDANT MAY ENTER A PLEA OF GUILTY OR NOT GUILTY, AND THE VERDICT OF THE COURT IN THE CASE SHALL BE:

(I) GUILTY OF A CODE VIOLATION;

(II) NOT GUILTY OF A CODE VIOLATION; OR

(III) PROBATION BEFORE JUDGMENT, IMPOSED BY THE COURT IN THE SAME MANNER AND TO THE SAME EXTENT AS IS ALLOWED BY LAW IN THE TRIAL OF A CRIMINAL CASE.

(H) (1) IF THE DISTRICT COURT FINDS THAT A PERSON HAS COMMITTED A CODE VIOLATION, THE COURT SHALL REQUIRE THE PERSON TO PAY:

(I) FOR A FIRST VIOLATION, A FINE NOT EXCEEDING $500; OR

(II) FOR A SECOND OR SUBSEQUENT VIOLATION, A FINE NOT EXCEEDING $1,000.

(2) THE CHIEF JUDGE OF THE DISTRICT COURT MAY NOT ESTABLISH A SCHEDULE FOR THE PREPAYMENT OF FINES FOR A VIOLATION UNDER § 10–132 OF THIS PART.

(I) WHEN A DEFENDANT HAS BEEN FOUND GUILTY OF A CODE VIOLATION AND A FINE HAS BEEN IMPOSED BY THE COURT:

(1) THE COURT MAY DIRECT THAT THE PAYMENT OF THE FINE BE SUSPENDED OR DEFERRED UNDER CONDITIONS THAT THE COURT MAY ESTABLISH; AND

(2) IF THE DEFENDANT WILLFULLY FAILS TO PAY THE FINE IMPOSED BY THE COURT, THAT WILLFUL FAILURE MAY BE TREATED AS A CRIMINAL CONTEMPT OF COURT, FOR WHICH THE DEFENDANT MAY BE PUNISHED BY THE COURT AS PROVIDED BY LAW.

(J) (1) THE DEFENDANT IS LIABLE FOR THE COSTS OF THE PROCEEDINGS IN THE DISTRICT COURT AND FOR PAYMENT TO THE CRIMINAL INJURIES COMPENSATION FUND.

(2) THE COURT COSTS IN A CODE VIOLATION CASE UNDER § 10–132 OF THIS PART IN WHICH COSTS ARE IMPOSED ARE $5.

(K) (1) A DEFENDANT WHO HAS BEEN FOUND GUILTY OF A CODE VIOLATION UNDER § 10–132 OF THIS PART HAS THE RIGHT TO APPEAL OR TO FILE A MOTION FOR A NEW TRIAL OR A MOTION FOR A REVISION OF A JUDGMENT PROVIDED BY LAW IN THE TRIAL OF A CRIMINAL CASE.

(2) A MOTION SHALL BE MADE IN THE SAME MANNER AS PROVIDED IN THE TRIAL OF CRIMINAL CASES, AND THE COURT, IN RULING ON THE MOTION, HAS THE SAME AUTHORITY PROVIDED IN THE TRIAL OF CRIMINAL CASES.

(L) (1) THE STATE'S ATTORNEY FOR ANY COUNTY MAY PROSECUTE A CODE VIOLATION UNDER § 10–132 OF THIS PART IN THE SAME MANNER AS PROSECUTION OF A VIOLATION OF THE CRIMINAL LAWS OF THE STATE.

(2) IN A CODE VIOLATION CASE UNDER § 10–132 OF THIS PART, THE STATE'S ATTORNEY MAY:

(I) ENTER A NOLLE PROSEQUI IN OR PLACE THE CASE ON THE STET DOCKET; AND

(II) EXERCISE AUTHORITY IN THE SAME MANNER AS PRESCRIBED BY LAW FOR VIOLATION OF THE CRIMINAL LAWS OF THE STATE.

Article – Courts and Judicial Proceedings

3–8A–01.

(dd) "Violation" means a violation for which a citation is issued under:

(1) § 10–113, § 10–114, § 10–115, or § 10–116 of the Criminal Law Article;

(2) § 10–108 of the Criminal Law Article; **[**or**]**

(3) § 10–132 OF THE CRIMINAL LAW ARTICLE; OR

[(3)**] (4)** § 26–103 of the Education Article.

3–8A–10.

(k) (1) If the intake officer receives a citation other than a citation authorized under § 10–108 of the Criminal Law Article, the intake officer may:

(i) Refer the child to an alcohol **OR SUBSTANCE ABUSE** education or rehabilitation program;

(ii) Assign the child to a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for the second or subsequent violation;

(iii) Require the parent or guardian of the child to withdraw the parent's or guardian's consent to the child's license to drive, and advise the Motor Vehicle Administration of the withdrawal of consent; or

(iv) Forward the citation to the State's Attorney.

(2) The intake officer shall forward the citation, other than a citation authorized under § 10–108 of the Criminal Law Article, to the State's Attorney if:

(i) The parent or guardian of the child refuses to withdraw consent to the child's license to drive;

(ii) The child fails to comply with an alcohol **OR SUBSTANCE ABUSE** education or rehabilitation program referral; or

(iii) The child fails to comply with a supervised work program assignment.

3–8A–33.

(a) A law enforcement officer authorized to make arrests shall issue a citation to a child if the officer has probable cause to believe that the child is violating:

(1) § 10–113, § 10–114, § 10–115, or § 10–116 of the Criminal Law Article;

(2) § 10–108 of the Criminal Law Article; **[**or**]**

(3) § 10–132 OF THE CRIMINAL LAW ARTICLE; OR

[(3)**] (4)** § 26–103 of the Education Article.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2010, the Attorney General shall, in accordance with § 2–1246 of the State Government Article, submit to the Senate Judicial Proceedings Committee and the House Judiciary Committee a report detailing a recommended plan for the regulation of sales of Salvia divinorum and Salvinorin A, including requirements for sellers and the placement of products in stores.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 201

(House Bill 1145)

AN ACT concerning

Criminal Law – ~~Salvinorin A and~~ Salvia Divinorum *and Salvinorin A* – Distribution to and Possession by Individual Under 21 Years of Age

FOR the purpose of prohibiting a person from distributing Salvia divinorum *or Salvinorin A* to an individual under the age of 21 years; providing that it is a defense in a certain prosecution that the defendant examined a certain license or identification that positively identified a certain purchaser or recipient as at least a certain age; establishing penalties for a certain violation of this Act; providing that certain separate incidents are separate violations for a certain purpose; prohibiting an individual under the age of 21 years from possessing

Salvia divinorum *or Salvinorin A*; establishing that a person who violates this Act shall be issued a certain citation; authorizing certain individuals to issue certain citations under certain circumstances; requiring the District Court to prescribe a certain form of citation; requiring the jurisdiction that issues a certain citation to forward a copy of the citation and a request for trial to the District Court having a certain venue; requiring the District Court to schedule a certain trial and summon a certain defendant to appear; providing that a willful failure to respond to a certain summons is contempt of court; establishing that a violation of a certain provision of this Act is a Code violation and a civil offense; providing that a minor is subject to certain procedures and dispositions; providing that an individual who is under the age of 21 years but not a minor is subject to certain provisions of this Act; establishing that an adjudication of a certain Code violation is not a criminal conviction for any purpose and does not impose certain disabilities; establishing certain procedures for a certain Code violation proceeding; establishing certain penalties for a certain violation of this Act; prohibiting the Chief Judge of the District Court from establishing a certain schedule for the prepayment of fines; authorizing a court to direct the payment of a certain fine be suspended or deferred; establishing that the willful failure to pay a certain fine is criminal contempt of court; providing that a certain defendant is liable for certain costs; establishing that a certain defendant has certain rights to appeal or file certain motions; authorizing the State's Attorney to prosecute a certain violation in a certain manner; authorizing a certain intake officer to refer a certain child to a substance abuse education or rehabilitation program under certain circumstances; requiring a certain intake officer to forward a certain citation to the State's Attorney if a certain child fails to comply with a substance abuse education or rehabilitation program referral; establishing that a violation of a certain provision of this Act is a violation for certain purposes; authorizing a certain law enforcement officer to issue a citation to a child for a violation of a certain provision of this Act under certain circumstances; providing for the application of this Act; *requiring the Attorney General to submit a certain report to certain committees on or before a certain date;* providing that this Act does not preempt certain local or municipal laws; defining a certain term; making conforming changes; and generally relating to Salvia divinorum *and Salvinorin A*.

BY adding to
Article – Criminal Law
Section 10–130 through 10–133 to be under the new part "Part IV. Salvia Divinorum"
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–8A–01(dd), 3–8A–10(k), and 3–8A–33(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Criminal Law

10–128. RESERVED.

10–129. RESERVED.

PART IV. SALVIA DIVINORUM.

10–130.

(A) IN THIS PART, "SALVIA DIVINORUM" INCLUDES SALVINORIN A AND ANY MATERIAL, COMPOUND, MIXTURE, PREPARATION, OR PRODUCT THAT CONTAINS SALVIA DIVINORUM OR SALVINORIN A.

(B) NOTHING IN THIS PART SHALL PROHIBIT AN ACCREDITED ACADEMIC OR MEDICAL INSTITUTION OR RESEARCH FACILITY FROM CONDUCTING RESEARCH ON SALVIA DIVINORUM OR SALVINORIN A OR A DERIVATIVE OF SALVIA DIVINORUM OR SALVINORIN A.

(C) THIS PART DOES NOT PREEMPT ANY LOCAL OR MUNICIPAL LAW ~~CURRENTLY~~ REGULATING THE USE, POSSESSION, OR DISTRIBUTION OF SALVIA DIVINORUM OR SALVINORIN A.

10–131.

(A) A PERSON MAY NOT DISTRIBUTE SALVIA DIVINORUM TO AN INDIVIDUAL UNDER THE AGE OF 21 YEARS.

(B) IN A PROSECUTION FOR A VIOLATION OF THIS SECTION, IT IS A DEFENSE THAT THE DEFENDANT EXAMINED THE PURCHASER'S OR RECIPIENT'S DRIVER'S LICENSE OR OTHER VALID IDENTIFICATION ISSUED BY AN EMPLOYER, A GOVERNMENT UNIT, OR AN INSTITUTION OF HIGHER EDUCATION THAT POSITIVELY IDENTIFIED THE PURCHASER OR RECIPIENT AS AT LEAST 21 YEARS OF AGE.

(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING:

(1) $300 FOR A FIRST VIOLATION;

(2) $1,000 FOR A SECOND VIOLATION OCCURRING WITHIN 2 YEARS AFTER THE FIRST VIOLATION; AND

(3) $3,000 FOR EACH SUBSEQUENT VIOLATION OCCURRING WITHIN 2 YEARS AFTER THE PRECEDING VIOLATION.

(D) FOR PURPOSES OF THIS SECTION, EACH SEPARATE INCIDENT AT A DIFFERENT TIME AND OCCASION IS A SEPARATE VIOLATION.

10–132.

AN INDIVIDUAL UNDER THE AGE OF 21 YEARS MAY NOT POSSESS SALVIA DIVINORUM.

10–133.

(A) A PERSON WHO VIOLATES § 10–132 OF THIS PART SHALL BE ISSUED A CITATION UNDER THIS SECTION.

(B) A CITATION FOR A VIOLATION OF § 10–132 OF THIS PART MAY BE ISSUED BY:

(1) A POLICE OFFICER AUTHORIZED TO MAKE ARRESTS; AND

(2) IN STATE FORESTRY RESERVATIONS, STATE PARKS, HISTORIC MONUMENTS, AND RECREATION AREAS, A FOREST OR PARK WARDEN UNDER § 5–206(A) OF THE NATURAL RESOURCES ARTICLE.

(C) A PERSON AUTHORIZED UNDER THIS SECTION TO ISSUE A CITATION SHALL ISSUE ~~IT~~ *THE CITATION* IF THE PERSON HAS PROBABLE CAUSE TO BELIEVE THAT THE PERSON CHARGED IS COMMITTING OR HAS COMMITTED A VIOLATION OF § 10–132 OF THIS PART.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE FORM OF CITATION ISSUED TO AN ADULT FOR A VIOLATION OF § 10–132 OF THIS PART SHALL BE AS PRESCRIBED BY THE DISTRICT COURT AND SHALL BE UNIFORM THROUGHOUT THE STATE.

(2) THE CITATION ISSUED TO AN ADULT SHALL CONTAIN:

(I) THE NAME AND ADDRESS OF THE PERSON CHARGED;

(II) THE STATUTE ALLEGEDLY VIOLATED;

(III) THE LOCATION, DATE, AND TIME THAT THE VIOLATION OCCURRED;

(IV) THE FINE THAT MAY BE IMPOSED;

(V) A NOTICE STATING THAT PREPAYMENT OF THE FINE IS NOT ALLOWED;

(VI) A NOTICE THAT THE DISTRICT COURT SHALL PROMPTLY SEND TO THE PERSON CHARGED A SUMMONS TO APPEAR FOR TRIAL;

(VII) THE SIGNATURE OF THE PERSON ISSUING THE CITATION; AND

(VIII) A SPACE FOR THE PERSON CHARGED TO SIGN THE CITATION.

(3) THE FORM OF CITATION ISSUED TO A MINOR SHALL:

(I) BE PRESCRIBED BY THE STATE COURT ADMINISTRATOR;

(II) BE UNIFORM THROUGHOUT THE STATE; AND

(III) CONTAIN THE INFORMATION LISTED IN § 3–8A–33(B) OF THE COURTS ARTICLE.

(E) (1) THE ISSUING JURISDICTION SHALL FORWARD A COPY OF THE CITATION AND A REQUEST FOR TRIAL TO THE DISTRICT COURT IN THE DISTRICT HAVING VENUE.

(2) THE DISTRICT COURT SHALL PROMPTLY SCHEDULE THE CASE FOR TRIAL AND SUMMON THE DEFENDANT TO APPEAR.

(3) WILLFUL FAILURE OF THE DEFENDANT TO RESPOND TO A SUMMONS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION IS CONTEMPT OF COURT.

(F) (1) FOR PURPOSES OF THIS SECTION, A VIOLATION OF § 10–132 OF THIS PART IS A CODE VIOLATION AND IS A CIVIL OFFENSE.

(2) A PERSON CHARGED WHO IS UNDER THE AGE OF 18 YEARS SHALL BE SUBJECT TO THE PROCEDURES AND DISPOSITIONS PROVIDED IN TITLE 3, SUBTITLE 8A OF THE COURTS ARTICLE.

(3) A PERSON CHARGED WHO IS AT LEAST 18 YEARS OLD SHALL BE SUBJECT TO THE PROVISIONS OF THIS SECTION.

(4) ADJUDICATION OF A CODE VIOLATION UNDER § 10–132 OF THIS PART IS NOT A CRIMINAL CONVICTION FOR ANY PURPOSE AND DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.

(G) IN ANY PROCEEDING FOR A CODE VIOLATION UNDER § 10–132 OF THIS PART:

(1) THE STATE HAS THE BURDEN TO PROVE THE GUILT OF THE DEFENDANT TO THE SAME EXTENT AS IS REQUIRED BY LAW IN THE TRIAL OF CRIMINAL CAUSES;

(2) THE COURT SHALL APPLY THE EVIDENTIARY STANDARDS AS PRESCRIBED BY LAW OR RULE FOR THE TRIAL OF CRIMINAL CAUSES;

(3) THE COURT SHALL ENSURE THAT THE DEFENDANT HAS RECEIVED A COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE DEFENDANT UNDERSTANDS THOSE CHARGES;

(4) THE DEFENDANT IS ENTITLED TO CROSS–EXAMINE ALL WITNESSES WHO APPEAR AGAINST THE DEFENDANT, TO PRODUCE EVIDENCE OR WITNESSES ON BEHALF OF THE DEFENDANT, OR TO TESTIFY ON THE DEFENDANT'S OWN BEHALF, IF THE DEFENDANT CHOOSES TO DO SO;

(5) THE DEFENDANT IS ENTITLED TO BE REPRESENTED BY COUNSEL OF THE DEFENDANT'S CHOICE AND AT THE EXPENSE OF THE DEFENDANT; AND

(6) THE DEFENDANT MAY ENTER A PLEA OF GUILTY OR NOT GUILTY, AND THE VERDICT OF THE COURT IN THE CASE SHALL BE:

(I) GUILTY OF A CODE VIOLATION;

(II) NOT GUILTY OF A CODE VIOLATION; OR

(III) PROBATION BEFORE JUDGMENT, IMPOSED BY THE COURT IN THE SAME MANNER AND TO THE SAME EXTENT AS IS ALLOWED BY LAW IN THE TRIAL OF A CRIMINAL CASE.

(H) (1) IF THE DISTRICT COURT FINDS THAT A PERSON HAS COMMITTED A CODE VIOLATION, THE COURT SHALL REQUIRE THE PERSON TO PAY:

(I) FOR A FIRST VIOLATION, A FINE NOT EXCEEDING $500; OR

(II) FOR A SECOND OR SUBSEQUENT VIOLATION, A FINE NOT EXCEEDING $1,000.

(2) THE CHIEF JUDGE OF THE DISTRICT COURT MAY NOT ESTABLISH A SCHEDULE FOR THE PREPAYMENT OF FINES FOR A VIOLATION UNDER § 10–132 OF THIS PART.

(I) WHEN A DEFENDANT HAS BEEN FOUND GUILTY OF A CODE VIOLATION AND A FINE HAS BEEN IMPOSED BY THE COURT:

(1) THE COURT MAY DIRECT THAT THE PAYMENT OF THE FINE BE SUSPENDED OR DEFERRED UNDER CONDITIONS THAT THE COURT MAY ESTABLISH; AND

(2) IF THE DEFENDANT WILLFULLY FAILS TO PAY THE FINE IMPOSED BY THE COURT, THAT WILLFUL FAILURE MAY BE TREATED AS A CRIMINAL CONTEMPT OF COURT, FOR WHICH THE DEFENDANT MAY BE PUNISHED BY THE COURT AS PROVIDED BY LAW.

(J) (1) THE DEFENDANT IS LIABLE FOR THE COSTS OF THE PROCEEDINGS IN THE DISTRICT COURT AND FOR PAYMENT TO THE CRIMINAL INJURIES COMPENSATION FUND.

(2) THE COURT COSTS IN A CODE VIOLATION CASE UNDER § 10–132 OF THIS PART IN WHICH COSTS ARE IMPOSED ARE $5.

(K) (1) A DEFENDANT WHO HAS BEEN FOUND GUILTY OF A CODE VIOLATION UNDER § 10–132 OF THIS PART HAS THE RIGHT TO APPEAL OR TO FILE A MOTION FOR A NEW TRIAL OR A MOTION FOR A REVISION OF A JUDGMENT PROVIDED BY LAW IN THE TRIAL OF A CRIMINAL CASE.

(2) A MOTION SHALL BE MADE IN THE SAME MANNER AS PROVIDED IN THE TRIAL OF CRIMINAL CASES, AND THE COURT, IN RULING ON THE MOTION, HAS THE SAME AUTHORITY PROVIDED IN THE TRIAL OF CRIMINAL CASES.

(L) (1) THE STATE'S ATTORNEY FOR ANY COUNTY MAY PROSECUTE A CODE VIOLATION UNDER § 10–132 OF THIS PART IN THE SAME MANNER AS PROSECUTION OF A VIOLATION OF THE CRIMINAL LAWS OF THE STATE.

(2) IN A CODE VIOLATION CASE UNDER § 10–132 OF THIS PART, THE STATE'S ATTORNEY MAY:

(I) ENTER A NOLLE PROSEQUI IN OR PLACE THE CASE ON THE STET DOCKET; AND

(II) EXERCISE AUTHORITY IN THE SAME MANNER AS PRESCRIBED BY LAW FOR VIOLATION OF THE CRIMINAL LAWS OF THE STATE.

Article – Courts and Judicial Proceedings

3–8A–01.

(dd) "Violation" means a violation for which a citation is issued under:

(1) § 10–113, § 10–114, § 10–115, or § 10–116 of the Criminal Law Article;

(2) § 10–108 of the Criminal Law Article; **[**or**]**

(3) § 10–132 OF THE CRIMINAL LAW ARTICLE; OR

[(3)**] (4)** § 26–103 of the Education Article.

3–8A–10.

(k) (1) If the intake officer receives a citation other than a citation authorized under § 10–108 of the Criminal Law Article, the intake officer may:

(i) Refer the child to an alcohol **OR SUBSTANCE ABUSE** education or rehabilitation program;

(ii) Assign the child to a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for the second or subsequent violation;

(iii) Require the parent or guardian of the child to withdraw the parent's or guardian's consent to the child's license to drive, and advise the Motor Vehicle Administration of the withdrawal of consent; or

(iv) Forward the citation to the State's Attorney.

(2) The intake officer shall forward the citation, other than a citation authorized under § 10–108 of the Criminal Law Article, to the State's Attorney if:

(i) The parent or guardian of the child refuses to withdraw consent to the child's license to drive;

(ii) The child fails to comply with an alcohol **OR SUBSTANCE ABUSE** education or rehabilitation program referral; or

(iii) The child fails to comply with a supervised work program assignment.

3–8A–33.

(a) A law enforcement officer authorized to make arrests shall issue a citation to a child if the officer has probable cause to believe that the child is violating:

(1) § 10–113, § 10–114, § 10–115, or § 10–116 of the Criminal Law Article;

(2) § 10–108 of the Criminal Law Article; **[**or**]**

(3) § 10–132 OF THE CRIMINAL LAW ARTICLE; OR

[(3)**] (4)** § 26–103 of the Education Article.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2010, the Attorney General shall, in accordance with § 2–1246 of the State Government Article, submit to the Senate Judicial Proceedings Committee and the House Judiciary Committee a report detailing a recommended plan for the regulation of sales of Salvia divinorum and Salvinorin A, including requirements for sellers and the placement of products in stores.

SECTION ~~2~~ *3*. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 202

(Senate Bill 25)

AN ACT concerning

Estates and Trusts – Property Held as Tenants by the Entireties – Transfer to Trust

FOR the purpose of ~~codifying certain common law rules relating to property held by a husband and wife as tenants by the entireties or joint tenants with rights of survivorship;~~ establishing that certain property of a husband and wife that is held as tenants by the ~~entireties~~ entirety and conveyed to ~~certain trusts~~ a trustee or trustees, and the proceeds of that property, shall retain its immunity from the claims of certain creditors under certain circumstances; providing that certain property continues to have certain immunity from the claims of certain creditors after the death of a certain individual; providing that a certain immunity may be waived in a certain manner; providing that a certain immunity shall be waived under certain circumstances; providing a certain exception; providing that the trustee or trustees of a certain trust have a certain burden of proof in a certain dispute; providing that certain property shall no longer be held as tenants by the entirety after a certain conveyance; providing that certain items are exempt from execution on a judgment; providing for the construction of certain provisions of this Act; defining a certain term; and generally relating to property held as tenants by the ~~entireties or joint tenants with rights of survivorship~~ entirety.

BY adding to
Article – Estates and Trusts
Section 14–113
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

BY adding to
Article – Courts and Judicial Proceedings
Section 11–504(b)(8) and (9)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Estates and Trusts

14–113.

~~**(A) (1) A HUSBAND AND WIFE MAY OWN REAL OR PERSONAL PROPERTY AS TENANTS BY THE ENTIRETIES.**~~

~~**(2) PERSONAL PROPERTY MAY BE OWNED AS TENANTS BY THE ENTIRETIES WHETHER OR NOT THE PERSONAL PROPERTY REPRESENTS THE PROCEEDS OF THE SALE OF REAL PROPERTY.**~~

~~(3) ANY PERSONAL PROPERTY THAT IS OWNED BY A HUSBAND AND WIFE AND ACQUIRED DURING THEIR MARRIAGE SHALL BE PRESUMED TO BE HELD AS TENANTS BY THE ENTIRETIES.~~

~~(4) AN INTENT THAT THE INTEREST OF A DECEASED SPOUSE IN PROPERTY SHOULD BELONG TO THE OTHER SPOUSE SHALL BE MANIFEST FROM A DESIGNATION OF A HUSBAND AND WIFE AS "TENANTS BY THE ENTIRETIES", "TENANTS BY THE ENTIRETY", OR "JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP".~~

~~(B) ANY PROPERTY OF A HUSBAND AND WIFE THAT IS HELD BY THEM AS TENANTS BY THE ENTIRETIES AND CONVEYED TO THEIR JOINT REVOCABLE OR IRREVOCABLE TRUST, OR TO THEIR SEPARATE REVOCABLE OR IRREVOCABLE TRUSTS, SHALL HAVE THE SAME IMMUNITY FROM THE CLAIMS OF THEIR SEPARATE CREDITORS AS IT WOULD IF THE PROPERTY HAD REMAINED A TENANCY BY THE ENTIRETY, AS LONG AS:~~

~~(1) THE SPOUSES REMAIN MARRIED;~~

~~(2) THE PROPERTY CONTINUES TO BE HELD IN THE TRUST OR TRUSTS; AND~~

~~(3) THE PROPERTY CONTINUES TO BE THE PROPERTY OF THE SPOUSES.~~

(A) IN THIS SECTION, "PROCEEDS" MEANS:

(1) PROPERTY ACQUIRED BY THE TRUSTEE UPON THE SALE, LEASE, LICENSE, EXCHANGE, OR OTHER DISPOSITION OF PROPERTY ORIGINALLY CONVEYED BY A HUSBAND AND WIFE TO A TRUSTEE OR TRUSTEES;

(2) PROPERTY COLLECTED BY THE TRUSTEE ON, OR DISTRIBUTED ON ACCOUNT OF, PROPERTY ORIGINALLY CONVEYED BY A HUSBAND AND WIFE TO A TRUSTEE OR TRUSTEES;

(3) RIGHTS ARISING OUT OF PROPERTY ORIGINALLY CONVEYED BY A HUSBAND AND WIFE TO A TRUSTEE;

(4) CLAIMS ARISING OUT OF THE LOSS, NONCONFORMITY, OR INTERFERENCE WITH THE USE OF, DEFECTS OR INFRINGEMENT OF RIGHTS IN, OR DAMAGE TO, PROPERTY ORIGINALLY CONVEYED BY A HUSBAND AND WIFE TO A TRUSTEE;

(5) INSURANCE PAYABLE BY REASON OF THE LOSS OR NONCONFORMITY OF, DEFECTS OR INFRINGEMENT OF RIGHTS IN, OR DAMAGE TO, PROPERTY ORIGINALLY CONVEYED BY A HUSBAND AND WIFE TO A TRUSTEE; OR

(6) PROPERTY HELD BY THE TRUSTEE THAT IS OTHERWISE TRACEABLE TO PROPERTY ORIGINALLY CONVEYED BY A HUSBAND AND WIFE TO A TRUSTEE OR THE PROPERTY PROCEEDS DESCRIBED IN ITEMS (1) THROUGH (5) OF THIS SUBSECTION.

(B) ANY PROPERTY OF A HUSBAND AND WIFE THAT IS HELD BY THEM AS TENANTS BY THE ENTIRETY AND SUBSEQUENTLY CONVEYED TO A TRUSTEE, AND THE PROCEEDS OF THAT PROPERTY, SHALL HAVE THE SAME IMMUNITY FROM THE CLAIMS OF THEIR SEPARATE CREDITORS AS WOULD EXIST IF THE HUSBAND AND WIFE HAD CONTINUED TO HOLD THE PROPERTY OR ITS PROCEEDS AS TENANTS BY THE ENTIRETY, AS LONG AS:

(1) THE HUSBAND AND WIFE REMAIN MARRIED;

(2) THE PROPERTY OR ITS PROCEEDS CONTINUES TO BE HELD IN TRUST BY THE TRUSTEE OR TRUSTEES OR THEIR SUCCESSORS IN TRUST; AND

(3) BOTH THE HUSBAND AND THE WIFE ARE BENEFICIARIES OF THE TRUST.

(C) *(1)* AFTER THE DEATH OF THE FIRST OF THE HUSBAND AND WIFE TO DIE, ALL PROPERTY HELD IN TRUST THAT WAS IMMUNE FROM THE CLAIMS OF THEIR SEPARATE CREDITORS UNDER SUBSECTION (B) OF THIS SECTION IMMEDIATELY PRIOR TO THE INDIVIDUAL'S DEATH SHALL CONTINUE TO HAVE THE SAME IMMUNITY FROM THE CLAIMS OF THE DECEDENT'S SEPARATE CREDITORS AS WOULD HAVE EXISTED IF THE HUSBAND AND WIFE HAD CONTINUED TO HOLD THE PROPERTY CONVEYED IN TRUST, OR ITS PROCEEDS, AS TENANTS BY THE ENTIRETY.

(2) TO THE EXTENT THAT THE SURVIVING SPOUSE REMAINS A BENEFICIARY OF THE TRUST, THE PROPERTY THAT IS IMMUNE FROM THE CLAIMS OF THE SEPARATE CREDITORS OF THE DECEDENT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE SUBJECT TO THE CLAIMS OF THE SEPARATE CREDITORS OF THE SURVIVING SPOUSE.

(D) THE IMMUNITY FROM THE CLAIMS OF SEPARATE CREDITORS UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION MAY BE WAIVED AS TO ANY SPECIFIC CREDITOR OR ANY SPECIFICALLY DESCRIBED TRUST PROPERTY BY:

(1) THE EXPRESS PROVISIONS OF A TRUST INSTRUMENT; OR

(2) THE WRITTEN CONSENT OF BOTH THE HUSBAND AND THE WIFE.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IMMUNITY FROM THE CLAIMS OF SEPARATE CREDITORS UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION SHALL BE WAIVED IF A TRUSTEE EXECUTES AND DELIVERS A FINANCIAL STATEMENT FOR THE TRUST THAT FAILS TO DISCLOSE THE REQUESTED IDENTITY OF PROPERTY HELD IN TRUST THAT IS IMMUNE FROM THE CLAIMS OF SEPARATE CREDITORS.

(2) IMMUNITY IS NOT WAIVED UNDER THIS SUBSECTION IF THE IDENTITY OF THE PROPERTY THAT IS IMMUNE FROM THE CLAIMS OF SEPARATE CREDITORS IS OTHERWISE REASONABLY DISCLOSED BY:

(I) A PUBLICLY RECORDED DEED OR OTHER INSTRUMENT OF CONVEYANCE BY THE HUSBAND AND WIFE TO THE TRUSTEE;

(II) A WRITTEN MEMORANDUM BY THE HUSBAND AND WIFE, OR BY A TRUSTEE, THAT IS RECORDED AMONG THE LAND RECORDS OR OTHER PUBLIC RECORDS IN THE COUNTY OR OTHER JURISDICTION WHERE THE RECORDS OF THE TRUST ARE REGULARLY MAINTAINED; OR

(III) THE TERMS OF THE TRUST INSTRUMENT, INCLUDING ANY SCHEDULE OR EXHIBIT ATTACHED TO THE TRUST INSTRUMENT, IF A COPY OF THE TRUST INSTRUMENT IS PROVIDED WITH THE FINANCIAL STATEMENT.

(3) A WAIVER UNDER THIS SUBSECTION SHALL BE EFFECTIVE ONLY AS TO:

(I) THE PERSON TO WHOM THE FINANCIAL STATEMENT IS DELIVERED BY THE TRUSTEE;

(II) THE PARTICULAR TRUST PROPERTY HELD IN TRUST FOR WHICH THE IMMUNITY FROM THE CLAIMS OF SEPARATE CREDITORS IS INSUFFICIENTLY DISCLOSED ON THE FINANCIAL STATEMENT; AND

(III) THE TRANSACTION FOR WHICH THE DISCLOSURE WAS SOUGHT.

(F) IN ANY DISPUTE RELATING TO THE IMMUNITY OF TRUST PROPERTY FROM THE CLAIMS OF A SEPARATE CREDITOR OF A HUSBAND OR WIFE, THE

TRUSTEE HAS THE BURDEN OF PROVING THE IMMUNITY OF THE TRUST PROPERTY FROM THE CREDITOR'S CLAIMS.

(G) AFTER A CONVEYANCE TO A TRUSTEE DESCRIBED IN SUBSECTION (B) OF THIS SECTION, THE PROPERTY TRANSFERRED SHALL NO LONGER BE HELD BY THE HUSBAND AND WIFE AS TENANTS BY THE ENTIRETY.

(H) THIS SECTION MAY NOT BE CONSTRUED TO AFFECT EXISTING STATE LAW WITH RESPECT TO TENANCIES BY THE ENTIRETY.

Article – Courts and Judicial Proceedings

11–504.

(b) The following items are exempt from execution on a judgment:

(8) THE DEBTOR'S BENEFICIAL INTEREST IN ANY TRUST PROPERTY THAT IS IMMUNE FROM THE CLAIMS OF THE DEBTOR'S CREDITORS UNDER § 14–113 OF THE ESTATES AND TRUSTS ARTICLE.

(9) WITH RESPECT TO CLAIMS BY A SEPARATE CREDITOR OF A HUSBAND OR WIFE, TRUST PROPERTY THAT IS IMMUNE FROM THE CLAIMS OF THE SEPARATE CREDITORS OF THE HUSBAND OR WIFE UNDER § 14–113 OF THE ESTATES AND TRUSTS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 203

(Senate Bill 28)

AN ACT concerning

~~Election Law – Voter Qualifications –~~Honorable Lorraine M. Sheehan Act to Protect Voting Rights for Individuals Under Guardianship for Mental Disability

FOR the purpose of ~~repealing the disqualification of individuals under guardianship for mental disability from voting;~~ *providing that an individual under guardianship for mental disability is not qualified to be a registered voter if a*

certain court has made a certain finding concerning the individual's desire to participate in the voting process; and generally relating to voter qualifications.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 3–102
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

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

Article – Election Law

3–102.

(a) Except as provided in subsection (b) of this section, an individual may become registered to vote if the individual:

(1) is a citizen of the United States;

(2) is at least 18 years old or will be 18 years old on or before the day of the next succeeding general or special election;

(3) is a resident of the State as of the day the individual seeks to register; and

(4) registers pursuant to this title.

(b) An individual is not qualified to be a registered voter if the individual:

(1) has been convicted of a felony and is actually serving a court–ordered sentence of imprisonment, including any term of parole or probation, for the conviction; ~~OR~~

(2) ~~[~~is under guardianship for mental disability ***AND A COURT OF COMPETENT JURISDICTION HAS SPECIFICALLY FOUND BY CLEAR AND CONVINCING EVIDENCE THAT THE INDIVIDUAL CANNOT COMMUNICATE, WITH OR WITHOUT ACCOMMODATIONS, A DESIRE TO PARTICIPATE IN THE VOTING PROCESS***; or

(3)~~]~~ has been convicted of buying or selling votes.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ ~~July~~ *June* 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 204

(House Bill 816)

AN ACT concerning

~~Election Law – Voter Qualifications –~~ Honorable Lorraine M. Sheehan Act to Protect Voting Rights for Individuals Under Guardianship for Mental Disability

FOR the purpose of ~~repealing the disqualification of individuals under guardianship for mental disability from voting;~~ providing that an individual under guardianship for mental disability is not qualified to be a registered voter if a certain court has made a certain finding concerning the individual's desire to participate in the voting process; and generally relating to voter qualifications.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 3–102
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

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

Article – Election Law

3–102.

(a) Except as provided in subsection (b) of this section, an individual may become registered to vote if the individual:

(1) is a citizen of the United States;

(2) is at least 18 years old or will be 18 years old on or before the day of the next succeeding general or special election;

(3) is a resident of the State as of the day the individual seeks to register; and

(4) registers pursuant to this title.

(b) An individual is not qualified to be a registered voter if the individual:

(1) has been convicted of a felony and is actually serving a court–ordered sentence of imprisonment, including any term of parole or probation, for the conviction; ~~OR~~

(2) ~~[~~is under guardianship for mental disability **AND A COURT OF COMPETENT JURISDICTION HAS SPECIFICALLY FOUND BY CLEAR AND CONVINCING EVIDENCE THAT THE INDIVIDUAL CANNOT COMMUNICATE, WITH OR WITHOUT ACCOMMODATIONS, A DESIRE TO PARTICIPATE IN THE VOTING PROCESS**; or

(3)~~]~~ has been convicted of buying or selling votes.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2010~~ June 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 205

(Senate Bill 29)

AN ACT concerning

Department of Natural Resources – Preparation of Fishery Management Plans – Authority

FOR the purpose of authorizing the Department of Natural Resources to prepare fishery management plans for any species of fish under certain circumstances; requiring the Department to include certain information relating to overfishing and sustainable harvests in a fishery management plan; authorizing the Department to waive a requirement to include certain information in a fishery management plan under certain circumstances; and generally relating to the authority of the Department of Natural Resources to prepare fishery management plans.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–215
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article – Natural Resources

4–215.

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

(2) "Conservation and management measures" means 1 or more techniques through which the objectives of a fishery management plan are achieved.

(3) "Fishery" or "fishery resource" means:

(i) One or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographic, scientific, technical, recreational, and economic characteristics; or

(ii) The group or industry harvesting those stocks.

(4) "Fishery management" means the system used to conserve and allocate the fishery resource, including research and data collection, determination of objectives and management measures, and establishment, enforcement, and periodic evaluation of regulations.

(5) "Fishery management plan" means a document or report that contains a systematic description of a given fishery and the objectives and conservation and management measures for the fishery.

(b) The Department shall prepare fishery management plans for the following species:

(1) Striped bass or rockfish;

(2) White perch;

(3) Yellow perch;

(4) American shad;

(5) Hickory shad;

(6) Oysters;

(7) Blue crabs;

(8) Bluefish;

(9) Herring;

(10) Weakfish;

(11) Croaker;

(12) Spot;

(13) Summer flounder;

(14) American eel;

(15) Red drum;

(16) Black drum;

(17) Spotted sea trout;

(18) Horseshoe crabs;

(19) Menhaden;

(20) Tautog;

(21) Black sea bass;

(22) Scup;

(23) Hard shell clams; and

(24) Catfish.

(C) THE DEPARTMENT MAY PREPARE FISHERY MANAGEMENT PLANS FOR ANY SPECIES OF FISH IF, AFTER CONSULTATION WITH THE TIDAL FISHERIES ADVISORY COMMISSION AND THE SPORT FISHERIES ADVISORY COMMISSION, THE DEPARTMENT DETERMINES THAT THE PLANS ARE NECESSARY BASED ON:

(1) THE POPULATION OF THE SPECIES;

(2) THE DISTRIBUTION OF THE SPECIES;

(3) THE HABITAT NEEDS OF THE SPECIES; OR

(4) OTHER BIOLOGICAL, ECOLOGICAL, OR SOCIOECONOMIC FACTORS CONCERNING THE SPECIES.

[(c)**] (D)** (1) Conservation and management measures adopted under a fishery management plan, to the extent possible:

(i) Shall prevent overfishing while attempting to achieve the best and most efficient utilization of the State's fishery resources;

(ii) Shall be based on the best information available;

(iii) May not discriminate unfairly among groups of fishermen or have economic allocation as its sole purpose;

(iv) Shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches; and

(v) Shall avoid duplication of regulatory efforts and unnecessary costs to the State and to any other person.

(2) If it becomes necessary to allocate or assign fishing privileges among various groups of individuals under paragraph (1)(iii) of this subsection, or under any fishery management plan, that allocation shall be:

(i) Fair and equitable to all individuals;

(ii) Reasonably calculated to promote conservation; and

(iii) Carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

[(d)**] (E)** **(1)** ~~A~~ **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A** fishery management plan may apply separately or jointly to the waters of the Chesapeake Bay and its tidal tributaries, the coastal bays and their tributaries, and the Maryland waters of the Atlantic Ocean and shall include:

~~(1)~~ **(I)** The best available estimates of sustainable harvest rates;

~~(2)~~ **(II)** Indicators that would trigger any tightening or loosening of harvest restrictions;

~~(3)~~ **(III)** A description of the fishery, including:

~~(i)~~ **1.** The history of the fishery, and its current condition relative to historic populations;

~~(ii)~~ **2.** The numbers of potential commercial and recreational fishermen projected to participate in the fishery;

~~(iii)~~ **3.** The type and quantity of fishing gear used commercially;

~~(iv)~~ **4.** Where practicable, the cost likely to be incurred in the management of the fishery; and

~~(v)~~ **5.** The actual and potential revenues from the recreational and commercial fishery; ~~and~~

(IV) IF THE DEPARTMENT DETERMINES THAT A FISHERY HAS BEEN, OR IS CURRENTLY, OVERFISHED:

1. A SPECIES–SPECIFIC TIME PERIOD FOR:

A. ENDING OR APPROPRIATELY ADDRESSING OVERFISHING; AND

B. REBUILDING THE STOCK OF THE SPECIES TO A SUSTAINABLE LEVEL; AND

2. A DESCRIPTION OF:

A. MANAGEMENT STRATEGIES THAT HAVE A HIGH PROBABILITY OF REDUCING FISHING TO A TARGET LEVEL WITHIN A TARGET TIME PERIOD, AS DETERMINED BY THE DEPARTMENT; AND

B. THE APPROPRIATE ASSIGNMENT OR ALLOCATION OF FISHING PRIVILEGES IN ACCORDANCE WITH SUBSECTION (D)(2) OF THIS SECTION; AND

~~(4)~~ **(V)** Other pertinent data that will assist the Secretary in determining conservation and management measures reasonably necessary to ensure that the fishery resources will be sustained.

(2) THE DEPARTMENT MAY WAIVE THE REQUIREMENTS IN PARAGRAPH (1)(IV) OF THIS SUBSECTION FOR A SPECIES OF FISH IF THE DEPARTMENT DETERMINES THAT MEETING THE REQUIREMENTS IS NOT PRACTICABLE OR BIOLOGICALLY APPROPRIATE BASED ON:

(I) THE SPECIFIC BIOLOGY OF THE SPECIES;

(II) THE MANAGEMENT OF THE SPECIES UNDER A FEDERAL OR MULTI–STATE FISHERY MANAGEMENT PLAN;

(III) THE DESIGNATION OF THE SPECIES AS A NUISANCE;

(IV) ENVIRONMENTAL CONDITIONS; OR

(V) OTHER ECOLOGICAL FACTORS.

[(e)**] (F)** A fishery management plan may include:

(1) Proposed limitations on the catch of fish, based on area, species, size, number, weight, sex, incidental catch, total biomass, or other factors, which are necessary and appropriate for conservation and management of a fishery;

(2) Incorporation of relevant fishery conservation and management measures proposed or adopted by interstate bodies of which Maryland is a member; and

(3) Other proposed measures, requirements, or conditions and restrictions which are necessary and appropriate for fishery management.

[(f)**] (G)** The Department shall present the management plans under this section in the form of an annual report, subject to § 2–1246 of the State Government Article, to:

(1) The Legislative Policy Committee;

(2) The Education, Health, and Environmental Affairs Committee; and

(3) The Environmental Matters Committee.

[(g)**] (H)** (1) (i) The Secretary shall adopt the proposed management plans and any proposed conservation and management measures by regulation.

(ii) The Secretary may adopt conservation and management measures in separate proceedings and by separate regulations. Conservation and management measures adopted separately may include changes to those proposed or adopted in a fishery management plan and any additional measures necessary to carry out the adopted plan.

(iii) The Secretary may not prohibit the use of pound net sites in the coastal bays that are registered with the Department as of January 1, 2000.

(2) The regulations of the Department to implement a fisheries management plan for the coastal bays may not become effective under this section until the Department first holds public hearings in Worcester County.

(3) All notices of public hearings required for the adoption of regulations under this section shall be printed in the Maryland Register and further publicized so as to provide reasonable notice to the affected communities of fishermen and the public.

[(h)**] (I)** Notwithstanding any other provision of this title, except § 4–1002 of this title, once a fishery management plan has been adopted by regulation, the State's fishery resources shall be harvested in accordance with the conservation and management measures in the fishery management plan and any regulations implementing or amending that plan.

[(i)**] (J)** The provisions of this section do not apply to aquaculture activities in nontidal ponds, lakes, or impoundments in the State.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 206

(Senate Bill 47)

AN ACT concerning

Dorchester County – Alcoholic Beverages – Restaurant Seating ~~Requirement~~ *Capacity*

FOR the purpose of ~~lowering~~ *altering* in Dorchester County the minimum seating ~~requirement~~ *capacity required* for certain ~~restaurants, motels, or hotels having certain~~ *restaurants and* restaurant facilities *to obtain a beer, wine, and liquor license*; ~~making certain stylistic changes;~~ and generally relating to alcoholic beverages ~~licenses~~ in Dorchester County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 6–201(k)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

6–201.

(k) (1) This subsection applies only in Dorchester County.

(2) (i) **[**Bona fide restaurants, motels and hotels having restaurant facilities for serving full–course meals at least twice daily and seating capacity at tables for ~~75~~ ***50*** or more persons, not including seats at bars or counters, may obtain a license from the Board of License Commissioners. This license entitles the licensee to sell beer, wines, and liquors.**]** ~~AN ESTABLISHMENT THAT IS A BONA FIDE RESTAURANT, MOTEL, OR HOTEL MAY OBTAIN A CLASS B (ON–SALE) BEER, WINE AND LIQUOR LICENSE FROM THE BOARD OF LICENSE COMMISSIONERS IF THE ESTABLISHMENT HAS:~~

~~1. RESTAURANT FACILITIES FOR SERVING FULL–COURSE MEALS AT LEAST TWICE DAILY; AND~~

~~2. EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, SEATING~~ ~~SEATING CAPACITY FOR 75 50 OR MORE INDIVIDUALS, NOT INCLUDING SEATS AT BARS OR COUNTERS.~~

~~(II) AN ESTABLISHMENT DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL HAVE A SEATING CAPACITY FOR 50 OR MORE INDIVIDUALS, NOT INCLUDING SEATS AT BARS OR COUNTERS, IF:~~

~~1. A LICENSE TO SELL ALCOHOLIC BEVERAGES ON THE PREMISES OF THIS ESTABLISHMENT EXISTED AS OF OCTOBER 1, 1996; OR~~

~~2. THE ESTABLISHMENT IS LOCATED IN CAMBRIDGE OR SECRETARY.~~

[(ii)**]** ~~(3)~~ The annual license fee is $1,000.

[(3)**]** ~~(4)~~ This license provides for the consumption of beer, wine, and liquor on the premises only.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 207

(Senate Bill 52)

AN ACT concerning

Department of Disabilities – Maryland Commission on Disabilities – Duties and Responsibilities

FOR the purpose of requiring the Secretary of Disabilities to request that the Interagency Disabilities Board revise the State Disabilities Plan at least once every certain number of years; altering the required membership of the Maryland Commission on Disabilities; clarifying the duties of the members of the Commission; eliminating the Personal Assistance Services Advisory Committee; ~~requiring the Commission to report certain findings to the Governor and the General Assembly on or before a certain date;~~ and generally relating to the duties of the Secretary of Disabilities and the Maryland Commission on Disabilities.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 7–113, 7–120, and 7–123
Annotated Code of Maryland
(2007 Volume and 2009 Supplement)

BY repealing
Article – Human Services
Section 7–135 through 7–140 and the part "Part VI. Personal Assistance Services Advisory Committee"
Annotated Code of Maryland
(2007 Volume and 2009 Supplement)

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

Article – Human Services

7–113.

(a) The Secretary is responsible for the budget of the Department.

(b) Except as otherwise provided by law, the Secretary shall pay all money collected by the Department under this subtitle into the General Fund of the State.

(c) (1) (i) Before publication in the Maryland Register, the Secretary shall review new or proposed changes to regulations submitted by a unit of State

government that relate to the provision of resources and services to individuals with disabilities.

(ii) The regulations shall include an assessment that describes the impact of the proposed regulations on individuals with disabilities.

(2) Before implementation, the Secretary shall review new or proposed changes to policies, programs, or services submitted by a unit of State government that relate to the provision of resources and services to individuals with disabilities.

(d) (1) The Secretary shall review, coordinate, and concur with any application for federal aid, waivers, or grants that is:

(i) specific to services for individuals with disabilities; and

(ii) submitted by or through any unit of State government.

(2) Except as otherwise prohibited by law, the Secretary may apply for, receive, and use grants–in–aid, funds, or services from the federal government or any of its units, or any public or private source made available to the Department for use in carrying out the powers and duties of the Secretary or the Department.

(e) (1) The Secretary shall review the State Disabilities Plan developed by the Board in accordance with § 7–132 of this subtitle.

(2) The Secretary may approve the State Disabilities Plan or amend the Plan if the Secretary determines that the Plan developed by the Board is not in accordance with § 7–132 of this subtitle.

(3) THE SECRETARY SHALL REQUEST THAT THE BOARD REVISE THE STATE DISABILITIES PLAN AT LEAST ONCE EVERY 4 YEARS.

[(3)**] (4)** The Secretary shall adopt regulations to implement the State Disabilities Plan as approved or as amended in accordance with paragraph (2) of this subsection.

(f) The Secretary shall submit an annual analysis of the State's progress in implementing the State Disabilities Plan and related performance objectives to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly on or before October 1 of each year.

(g) The Secretary may create citizens' advisory bodies that the Secretary considers necessary for the effective operation of the Department.

7–120.

(a) The Commission consists of:

(1) the following members, appointed by the Governor:

(i) one individual with a physical disability;

(ii) one individual who has experienced mental illness;

(iii) ~~one individual~~ **TWO INDIVIDUALS** with **[**an intellectual**] A DEVELOPMENTAL** disability**, INCLUDING ONE WITH AN INTELLECTUAL DISABILITY**;

(iv) one individual who is blind;

(v) one individual who is deaf or hard of hearing;

(vi) one parent or foster parent of a child with a disability;

(vii) four members of the general public who have disabilities;

(viii) three representatives from statewide disability advocacy organizations;

(ix) one representative from the home health care industry;

(x) one representative from a statewide organization of providers of services and support for individuals with disabilities;

(xi) one representative from the Alliance of Local Commissions on Disability; and

(xii) two representatives from the Board, one of whom shall be selected by the Secretary and one of whom shall be the Secretary of Budget and Management or the designee of the Secretary of Budget and Management;

(2) one representative from the Senate of Maryland, appointed by the President of the Senate; and

(3) one representative from the Maryland House of Delegates, appointed by the Speaker of the House.

(b) In making the appointments required under subsection (a)(1) of this section, the Governor shall appoint members from among:

(1) the geographic regions of the State; and

(2) diverse backgrounds.

(c) A majority of the members shall be individuals with disabilities.

(d) (1) The term of a member is 3 years.

(2) The terms of the members are staggered as required by the terms provided for the members of the Commission on October 1, 2007.

(3) At the end of a term, a 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.

(5) A member may not serve more than two consecutive 3–year terms.

(e) A member who fails to attend at least 50% of the regularly scheduled meetings of the Commission during any 12–month period shall be considered to have resigned.

7–123.

Members of the Commission shall:

(1) advise the Department in carrying out its duties;

(2) meet at least twice a year in meetings open to the public; and

(3) serve on **ONE OR MORE** subcommittees established by the Secretary to **[**carry out the mission of**]** **PROVIDE GUIDANCE TO** the Department **ON MATTERS AFFECTING INDIVIDUALS WITH DISABILITIES, INCLUDING PUBLIC POLICY, OUTREACH, AND PERSONAL ASSISTANCE SERVICES**.

[Part VI. Personal Assistance Services Advisory Committee.**]**

[7–135.

In this part, "Advisory Committee" means the Personal Assistance Services Advisory Committee.**]**

[7–136.

(a) There is a Personal Assistance Services Advisory Committee in the Office of Personal Assistance Services in the Department.

(b) The purpose of the Advisory Committee is to provide guidance to the Department on personal care, attendant care, and home care services, including:

(1) the development of standards for the training of personal care workers;

(2) the feasibility of establishing a referral system of individual providers;

(3) the feasibility of establishing a registry for personal care workers; and

(4) the compensation levels provided to personal care workers for personal assistance services.**]**

[7–137.

(a) The Advisory Committee consists of the following members, appointed by the Governor:

(1) 11 individuals with disabilities who are current or former consumers of personal home or attendant care services; and

(2) one representative each from:

(i) the Maryland Medical Assistance Program;

(ii) the Maryland Department of Aging;

(iii) the State Department of Education, Division of Rehabilitative Services;

(iv) the Maryland Association of Community Colleges or its designee;

(v) a local office on aging;

(vi) the Maryland State Independent Living Council;

(vii) an advocacy organization representing senior citizens;

(viii) an advocacy organization representing individuals with disabilities;

(ix) a provider of home care or personal attendant care services; and

(x) a home health worker.

(b) (1) The term of a member is 3 years.

(2) The terms of the members are staggered as required by the terms provided for members of the Advisory Committee on October 1, 2007.

(3) At the end of a term, a 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.

(5) A member may not serve more than two consecutive terms.**]**

[7–138.

From among the members of the Advisory Committee, the Secretary shall select a chair.**]**

[7–139.

(a) The Office of Personal Assistance Services shall provide staff to the Advisory Committee.

(b) The Advisory Committee shall meet at least four times a year, in meetings open to the public.**]**

[7–140.

The Advisory Committee shall report its recommendations on personal care assistance services to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly on or before October 1 of each year.**]**

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2010, the Maryland Commission on Disabilities shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on:~~

~~(a) The financial status of community providers funded by the Developmental Disabilities Administration and the Mental Hygiene Administration; and~~

~~(b) The efforts by the Department of Health and Mental Hygiene to develop and implement a rate setting process for community providers that would:~~

~~(1) Allow community providers to operate in a financially sound manner;~~

~~(2) Encourage efficiencies; and~~

~~(3) Provide for the highest level of quality care for individuals with developmental disabilities and mental illness.~~

SECTION ~~2.~~ ~~3.~~ *2.* AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 208

(Senate Bill 53)

AN ACT concerning

Workers' Compensation – Average Weekly Wage – Militia

FOR the purpose of authorizing, for the purpose of computing the average weekly wage for workers' compensation benefits for specified members of the organized militia, the use of actual wages earned by the member in the member's civilian employment at the time of entry into State active duty; and generally relating to the computation of the average weekly wage of members of the organized militia of the State.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–602(f)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Labor and Employment

9–602.

(f) For the purpose of computing the average weekly wage of a member of the organized militia of the State who is a covered employee under § 9–215 of this title, the wages of the covered employee shall be the greater of:

(1) the wage provided for active duty in § 13–406(b) of the Public Safety Article; **[**or**]**

(2) the actual wages earned by the covered employee in employment in the National Guard**; OR**

(3) THE ACTUAL WAGES EARNED BY THE COVERED EMPLOYEE IN THE EMPLOYEE'S CIVILIAN EMPLOYMENT AT THE TIME OF ENTRY INTO STATE ACTIVE DUTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 209

(Senate Bill 58)

AN ACT concerning

Workers' Compensation – Division of Rehabilitation Services – Unpaid Work–Based Learning Experiences

FOR the purpose of providing that certain individuals in unpaid work–based learning experiences with the Division of Rehabilitation Services in the State Department of Education are covered employees for the purpose of coverage under the State workers' compensation laws; designating the employer of a certain individual in an unpaid work–based learning experience for the purpose of coverage under the State workers' compensation laws; requiring the participating employer to secure certain workers' compensation coverage; requiring the Department to reimburse an employer for certain costs; defining certain terms; providing for the application of this Act; and generally relating to workers' compensation coverage for certain individuals in unpaid work–based learning experiences with the Division of Rehabilitation Services in the State Department of Education.

BY adding to
Article – Education
Section 21–310
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–228
Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

21–310.

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

(2) "DORS" MEANS THE DIVISION OF REHABILITATION SERVICES IN THE STATE DEPARTMENT OF EDUCATION.

(3) "DORS CONSUMER" MEANS AN INDIVIDUAL DETERMINED ELIGIBLE FOR REHABILITATION SERVICES UNDER § 21–306 OF THIS SUBTITLE WHO IS PLACED BY DORS IN AN UNPAID WORK–BASED LEARNING EXPERIENCE.

(4) "UNPAID WORK–BASED LEARNING EXPERIENCE" MEANS A PROGRAM THAT PROVIDES A DORS CONSUMER WITH STRUCTURED EMPLOYER–SUPERVISED LEARNING THAT:

(I) OCCURS IN THE WORKPLACE;

(II) LINKS WITH AN INDIVIDUALIZED PLAN FOR EMPLOYMENT;

(III) IS COORDINATED BY A DORS REHABILITATION SPECIALIST; AND

(IV) IS CONDUCTED IN ACCORDANCE WITH THE TERMS OF AN INDIVIDUAL WRITTEN WORK–BASED LEARNING EXPERIENCE AGREEMENT BETWEEN DORS AND THE EMPLOYER OF THAT PARTICIPATING DORS CONSUMER.

(B) A DORS CONSUMER WHO IS PLACED WITH AN EMPLOYER IN AN UNPAID WORK–BASED LEARNING EXPERIENCE IS A COVERED EMPLOYEE OF THAT EMPLOYER, AS DEFINED IN TITLE 9 OF THE LABOR AND EMPLOYMENT ARTICLE FOR THE PURPOSE OF COVERAGE *FOR MEDICAL SERVICES AND TREATMENT* UNDER THE STATE WORKERS' COMPENSATION LAWS.

(C) (1) THE PARTICIPATING EMPLOYER WHERE A DORS CONSUMER IS PLACED IN AN UNPAID WORK–BASED LEARNING EXPERIENCE SHALL SECURE WORKERS' COMPENSATION COVERAGE FOR THAT DORS CONSUMER.

(2) THE STATE DEPARTMENT OF EDUCATION SHALL REIMBURSE THE EMPLOYER IN AN AMOUNT EQUAL TO THE LESSER OF:

(I) THE COST OF THE PREMIUM FOR THE WORKERS' COMPENSATION COVERAGE; OR

(II) $250.

Article – Labor and Employment

9–228.

(a) (1) A student with a disability as defined in § 8–401(a)(2) of the Education Article is a covered employee while working for an employer without wages in a work assignment in accordance with § 8–402 of the Education Article.

(2) For the purposes of this title, the employer for whom the student with a disability works is the employer of that student.

(b) (1) An individual is a covered employee while working as a student intern or student teacher under § 6–107 of the Education Article.

(2) For the purposes of this title, the Board of School Commissioners of Baltimore City or the board of education for any other county is the employer of an individual who is a covered employee under this subsection in that county.

(c) (1) A student is a covered employee when the student has been placed with an employer in an unpaid work–based learning experience coordinated by a county board or private noncollegiate institution under § 7–114 of the Education Article.

(2) For purposes of this title, the employer for whom the student works in the unpaid work–based learning experience is the employer of that student.

(D) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) "DORS" MEANS THE DIVISION OF REHABILITATION SERVICES IN THE STATE DEPARTMENT OF EDUCATION.

(III) "DORS CONSUMER" HAS THE MEANING STATED IN § 21–310 OF THE EDUCATION ARTICLE.

(2) A DORS CONSUMER IS A COVERED EMPLOYEE WHEN THE INDIVIDUAL HAS BEEN PLACED BY DORS WITH AN EMPLOYER IN AN UNPAID WORK–BASED LEARNING EXPERIENCE.

(3) FOR PURPOSES OF THIS TITLE, THE EMPLOYER FOR WHOM THE DORS CONSUMER WORKS IN THE UNPAID WORK–BASED LEARNING EXPERIENCE IS THE EMPLOYER OF THE DORS CONSUMER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be applicable to students in unpaid work–based learning experiences, as defined in § 21–310 of the Education Article as enacted by this Act, beginning on the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 210

(Senate Bill 59)

AN ACT concerning

Agricultural Land Transfer Tax – Distribution and Use of Revenue

FOR the purpose of altering the distribution of certain revenues attributable to the agricultural land transfer tax; repealing a certain provision altering the distribution of the State transfer tax revenues under certain circumstances; altering the authorized uses of certain revenues received by the Maryland Agricultural and Resource–Based Industry Development Corporation; authorizing the use of certain funds for certain easement purchase payments approved by the Maryland Agricultural Land Preservation Foundation under certain circumstances; repealing a certain provision declaring the intent of the General Assembly relating to the establishment of Priority Preservation Areas and the use of certain funds for agricultural land preservation; and generally relating to the distribution and use of the agricultural land transfer tax.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 13–306(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)
(As enacted by Chapter 610 of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 10–523(d)
Annotated Code of Maryland
(2008 Volume and 2009 Supplement)

BY repealing
Chapter 610 of the Acts of the General Assembly of 2008
Section 4 and 5

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

Article – Tax – Property

13–306.

(a) (1) Except in Montgomery County and except as provided in subsection (b)(1) of this section for a certified county, each county collector shall remit from a special account to the Comptroller, as the Comptroller specifies:

(i) the revenue from:

1. the agricultural transfer tax that is attributable to the taxation of instruments of writing that transfer title to parcels of land that are entirely woodland; and

2. the surcharge imposed under § 13–303(d) of this subtitle; and

(ii) two–thirds of the balance of revenue from the agricultural land transfer tax that remains after the remittance under item (i) of this paragraph.

(2) In Montgomery County, if § 52–21(d) (1979) of the Montgomery County Code is in effect or a transfer tax substantially similar to that provision is in effect, the collector for Montgomery County shall remit to the Comptroller:

(i) the revenue from:

1. the agricultural transfer tax that is attributable to the taxation of instruments of writing that transfer title to parcels of land that are entirely woodland; and

2. the surcharge imposed under § 13–303(d) of this subtitle; and

(ii) one–third of the balance of revenue from the agricultural transfer tax that remains after the remittance under item (i) of this paragraph.

(3) The Comptroller shall deposit:

(i) up to $200,000 annually of the revenue remitted under paragraphs (1)(i) and (2)(i) of this subsection or subsection (b) of this section into the Woodland Incentives Fund established in § 5–307 of the Natural Resources Article; and

(ii) of the revenue in excess of $200,000 annually remitted under paragraphs (1)(i) and (2)(i) of this subsection or subsection (b)(1) of this section and the revenue remitted under paragraphs (1)(ii) and (2)(ii) of this subsection or subsection (b)(2) of this section:

1. subject to paragraph **[**(5)**] (4)** of this subsection, for fiscal year **[**2009**] 2011** and each fiscal year thereafter, **[**$2,500,000**] $2,756,250** into the Maryland Agricultural Land Preservation Fund to be used for the purposes stated in § 2–505 of the Agriculture Article;

2. after the distribution made under item 1 of this item, 37.5% of the agricultural land transfer tax revenue remitted to the Comptroller, up to a maximum of $4,000,000 annually, into a special fund to be used by the Maryland Agricultural and Resource–Based Industry Development Corporation for the Next Generation Farmland Acquisition Program; **AND**

[3. after the distributions made under items 1 and 2 of this item, $4,000,000 into a special fund to be used by the Maryland Agricultural and Resource–Based Industry Development Corporation for a program of facilitating preservation easement acquisition through the use of installment purchase agreements for easement purchases that have been approved by the Maryland Agricultural Land Preservation Foundation; and**]**

[4.**] 3.** after the distributions made under items 1 **[**through 3**] AND 2** of this item, the remainder into the Maryland Agricultural Land Preservation Fund to be used for the purposes stated in § 2–505 of the Agriculture Article.

[(4) (i) Notwithstanding § 13–209 of this title, if sufficient revenues are not collected in any fiscal year to provide a total of $4,000,000 into the special fund established under paragraph (3)(ii)3 of this subsection, any deficiency shall be made up by revenues otherwise required to be distributed to the Maryland Agricultural Land Preservation Fund from the transfer tax imposed under Subtitle 2 of this title.

(ii) The distribution required under subparagraph (i) of this paragraph shall be made prior to any distribution provided in § 13–209(c) and (d)(2) of this title.**]**

[(5)**] (4)** For each fiscal year after **[**2009**] 2011**, the amount distributed into the Maryland Agricultural Land Preservation Fund under paragraph (3)(ii)1 of this subsection shall be increased by 5% over the amount distributed for the preceding fiscal year.

[(6)**] (5)** The revenues required to be distributed to the Maryland Agricultural and Resource–Based Industry Development Corporation under **[**paragraphs (3) and (4)**] PARAGRAPH (3)** of this subsection shall be distributed on a quarterly basis on or about the first day of the month in July, October, January, and April.

Article – Economic Development

10–523.

(d) **[**(1)**]** The Corporation may use up to 3% of the money received under § 13–306(a)(3)(ii)2 of the Tax – Property Article for administrative costs associated with the Next Generation Farmland Acquisition Program.

[(2) The Corporation may use up to 3% of the money received under § 13–306(a)(3)(ii)3 of the Tax – Property Article for administrative costs associated with an installment purchase agreement program.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 4 and 5 of Chapter 610 of the Acts of the General Assembly of 2008 be repealed.

SECTION 3. AND BE IT FURTHER ENACTED, That any funds dedicated before July 1, 2010, to the installment purchase agreements program under § 13–306(a)(3)(ii)3 of the Tax – Property Article as in effect before July 1, 2010, may be used for lump–sum easement purchase payments approved by the Maryland Agricultural Land Preservation Foundation.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 211

(Senate Bill 60)

AN ACT concerning

Commission on Environmental Justice and Sustainable Communities – Membership

FOR the purpose of expanding the membership of the Commission on Environmental Justice and Sustainable Communities; and generally relating to the membership of the Commission on Environmental Justice and Sustainable Communities.

BY repealing and reenacting, without amendments,
Article – Environment
Section 1–101(a) and (k)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 1–701
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Environment

1–101.

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

(k) "Secretary" means the Secretary of the Environment.

1–701.

(a) In this section, "environmental justice" means equal protection from environmental and public health hazards for all people regardless of race, income, culture, and social status.

(b) There is a Commission on Environmental Justice and Sustainable Communities.

(c) **(1)** The Commission consists of the following **[**15**] 20** members:

[(1)**] (I)** One member of the Senate of Maryland, appointed by the President of the Senate;

[(2)**]** **(II)** One member of the House of Delegates, appointed by the Speaker of the House;

[(3)**]** **(III)** The Secretary, or the Secretary's designee;

[(4)**]** **(IV)** The Secretary of Health and Mental Hygiene, or the Secretary's designee;

[(5)**]** **(V)** The Secretary of Planning, or the Secretary's designee; **[**and**]**

(VI) THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;

(VII) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;

(VIII) THE SECRETARY OF TRANSPORTATION, OR THE SECRETARY'S DESIGNEE; AND

[(6)**]** **(IX)** **[**Ten**]** **TWELVE** members appointed by the Governor who represent the following interests:

[(i)**]** **1.** Affected communities concerned with environmental justice;

[(ii)**]** **2.** Business organizations;

[(iii)**]** **3.** Environmental organizations;

[(iv)**]** **4.** Health experts on environmental justice;

[(v)**]** **5.** Local government; and

[(vi)**]** **6.** The general public with interest or expertise in environmental justice.

(2) OF THE TWELVE MEMBERS APPOINTED BY THE GOVERNOR UNDER PARAGRAPH (1)(IX) OF THIS SUBSECTION, AT LEAST TWO MEMBERS SHALL REPRESENT AFFECTED COMMUNITIES CONCERNED WITH ENVIRONMENTAL JUSTICE.

(d) (1) The term of a member appointed by the Governor 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.

(4) A member may not be appointed to more than two consecutive terms.

(e) The Governor shall designate the chairman of the Commission.

(f) The Department shall provide staff for the Commission.

(g) (1) The Commission shall meet at the times and places that the chairman determines.

(2) A majority of members of the Commission shall constitute a quorum for the transaction of business.

(3) A member of the Commission:

(i) May not receive compensation; but

(ii) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(h) The Commission shall:

(1) Advise State government agencies on environmental justice and related community issues;

(2) Review and analyze the impact of current State laws and policies on the issue of environmental justice and sustainable communities;

(3) Assess the adequacy of State and local government laws to address the issue of environmental justice and sustainable communities;

(4) Coordinate with the Children's Environmental Health and Protection Advisory Council on recommendations related to environmental justice and sustainable communities;

(5) Develop criteria to assess whether communities in the State may be experiencing environmental justice issues; and

(6) Recommend options to the Governor for addressing issues, concerns, or problems related to environmental justice that surface after reviewing

State laws and policies, including prioritizing areas of the State that need immediate attention.

(i) On or before October 1 of each year, the Commission shall report its findings and recommendations to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 212

(Senate Bill 66)

AN ACT concerning

Vehicle Laws – Length of Vehicles – Saddle–Mount and Full–Mount Combinations

FOR the purpose of altering a certain limitation on the maximum allowable length of certain types of truck–tractor combinations; making stylistic changes; and generally relating to the permissible length of certain truck–tractor combinations.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 24–104.1(a)(3) and (j)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – Transportation

24–104.1.

(a) (3) "Saddle–mount and full–mount combinations" means a truck tractor or unloaded truck towing **[**1**]** **ONE** or more other truck tractors or unloaded trucks in combination.

(j) Except as otherwise provided in this section:

(1) In a combination of vehicles with a power unit that is a cargo–carrying vehicle, the overall length of the combination may not exceed 62 feet;

(2) Any other combination of vehicles may not exceed 55 feet; and

(3) (i) 1. A truck or truck tractor and semitrailer combination designed for and engaged exclusively in the transportation of automobiles or boats may not exceed 65 feet in length;

2. A stinger–steered automobile transporter **[**or a saddle–mount or a full–mount combination**]** may not exceed 75 feet in length; **[**and**]**

3. A. A maxi–cube vehicle described in subsection (a)(4)(i) of this section may not exceed 65 feet in length; and

B. A maxi–cube vehicle described in subsection (a)(4)(ii) of this section may not exceed 60 feet in length; **AND**

4. SADDLE–MOUNT AND FULL–MOUNT COMBINATIONS MAY NOT EXCEED 97 FEET IN LENGTH;

(ii) No other length requirements may be applied to the combinations of vehicles described in item (i) of this **[**paragraph**]** **ITEM**; and

(iii) The combinations of vehicles described in item (i) of this **[**paragraph**]** **ITEM** may only be operated on any part of the interstate system or other State system highways that are designated by the Secretary in conjunction with the U.S. Department of Transportation, or on a highway that is the shortest practical route between a designated highway and:

1. A truck terminal;

2. A point of origin/destination for cargo; or

3. For a distance not to exceed 1 mile, facilities for food, fuel, repairs, or rest.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 213

(Senate Bill 68)

AN ACT concerning

State Government – Human Relations – Closed–Captioning Activation Required

FOR the purpose of requiring activation of closed captioning on request on certain television receivers in public areas in places of public accommodation during regular hours; providing certain exceptions; defining certain terms; and generally relating to the activation of closed captioning on television receivers in places of public accommodation.

BY adding to
Article – State Government
Section 20–306
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Government

20–306.

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

(2) "CLOSED CAPTIONING" MEANS A TRANSCRIPT OR DIALOG OF THE AUDIO PORTION OF A TELEVISION PROGRAM THAT IS DISPLAYED ON A TELEVISION RECEIVER SCREEN WHEN THE USER ACTIVATES THE FEATURE.

(3) "CLOSED–CAPTIONING TELEVISION RECEIVER" MEANS A ~~TELEVISION THAT HAS A BUILT–IN DECODER TO DISPLAY CLOSED CAPTIONING~~ RECEIVER OF TELEVISION PROGRAMMING THAT HAS THE ABILITY TO DISPLAY CLOSED CAPTIONING, INCLUDING A TELEVISION, DIGITAL SET TOP BOX, AND ANY OTHER TECHNOLOGY CAPABLE OF DISPLAYING CLOSED CAPTIONING.

(4) "PUBLIC AREA" MEANS A PART OF A PLACE OF PUBLIC ACCOMMODATION THAT IS OPEN TO THE GENERAL PUBLIC.

(5) "REGULAR HOURS" MEANS THE HOURS OF ANY DAY IN WHICH A PLACE OF PUBLIC ACCOMMODATION IS OPEN TO MEMBERS OF THE GENERAL PUBLIC.

(B) ~~A~~ ON REQUEST, A PLACE OF PUBLIC ACCOMMODATION MAY NOT FAIL TO KEEP CLOSED CAPTIONING ACTIVATED ON ANY CLOSED–CAPTIONING TELEVISION RECEIVER THAT IS IN USE DURING REGULAR HOURS IN ANY PUBLIC AREA.

(C) THIS SECTION DOES NOT REQUIRE A PLACE OF PUBLIC ACCOMMODATION TO MAKE CLOSED CAPTIONING AVAILABLE IN A PUBLIC AREA OF THE PLACE OF PUBLIC ACCOMMODATION IF:

(1) NO TELEVISION RECEIVER OF ANY KIND IS AVAILABLE IN THE PUBLIC AREA; OR

(2) THE ONLY PUBLIC TELEVISION RECEIVER AVAILABLE IN THE PUBLIC AREA IS NOT A CLOSED–CAPTIONING TELEVISION RECEIVER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 214

(House Bill 1501)

AN ACT concerning

State Government – Human Relations – Closed–Captioning Activation Required

FOR the purpose of requiring activation of closed captioning on request on certain television receivers in public areas in places of public accommodation during regular hours; providing certain exceptions; defining certain terms; and generally relating to the activation of closed captioning on television receivers in places of public accommodation.

BY adding to
Article – State Government
Section 20–306
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Government

20–306.

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

(2) "CLOSED CAPTIONING" MEANS A TRANSCRIPT OR DIALOG OF THE AUDIO PORTION OF A TELEVISION PROGRAM THAT IS DISPLAYED ON A TELEVISION RECEIVER SCREEN WHEN THE USER ACTIVATES THE FEATURE.

(3) "CLOSED–CAPTIONING TELEVISION RECEIVER" MEANS A ~~TELEVISION THAT HAS A BUILT–IN DECODER TO DISPLAY CLOSED CAPTIONING~~ RECEIVER OF TELEVISION PROGRAMMING THAT HAS THE ABILITY TO DISPLAY CLOSED CAPTIONING, INCLUDING A TELEVISION, DIGITAL SET TOP BOX, AND ANY OTHER TECHNOLOGY CAPABLE OF DISPLAYING CLOSED CAPTIONING.

(4) "PUBLIC AREA" MEANS A PART OF A PLACE OF PUBLIC ACCOMMODATION THAT IS OPEN TO THE GENERAL PUBLIC.

(5) "REGULAR HOURS" MEANS THE HOURS OF ANY DAY IN WHICH A PLACE OF PUBLIC ACCOMMODATION IS OPEN TO MEMBERS OF THE GENERAL PUBLIC.

(B) ~~A~~ ON REQUEST, A PLACE OF PUBLIC ACCOMMODATION MAY NOT FAIL TO KEEP CLOSED CAPTIONING ACTIVATED ON ANY CLOSED–CAPTIONING TELEVISION RECEIVER THAT IS IN USE DURING REGULAR HOURS IN ANY PUBLIC AREA.

(C) THIS SECTION DOES NOT REQUIRE A PLACE OF PUBLIC ACCOMMODATION TO MAKE CLOSED CAPTIONING AVAILABLE IN A PUBLIC AREA OF THE PLACE OF PUBLIC ACCOMMODATION IF:

(1) NO TELEVISION RECEIVER OF ANY KIND IS AVAILABLE IN THE PUBLIC AREA; OR

(2) THE ONLY PUBLIC TELEVISION RECEIVER AVAILABLE IN THE PUBLIC AREA IS NOT A CLOSED–CAPTIONING TELEVISION RECEIVER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 215

(Senate Bill 69)

AN ACT concerning

Woodland Incentives Program – Prohibition on Use of Federal Funds – Repeal

FOR the purpose of repealing the prohibition on the use of federal funds administered by the Woodland Incentives Program in conjunction with certain other funds; *prohibiting certain persons from receiving in excess of a certain amount of certain woodland management cost share assistance; making a technical correction;* and generally relating to the Woodland Incentives Fund.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 5–304
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article – Natural Resources

5–304.

(A) An applicant for cost–share assistance shall:

(1) Submit a woodland management plan to the Department;

(2) File an application with the Department stating:

(i) The practice to be implemented;

(ii) The approximate cost of the practice to be implemented; and

(iii) A description of the land or lands upon which the practice is to be implemented; **[**and**]**

(3) File a statement of intent stating that the owner:

(i) Intends to use the cost–share assistance for long–range timber growing and improvement; **AND**

[(ii) Is not receiving or using federal funds for implementation of an approved practice on the same acre of land or lands described in the application; and

(iii)**] (II)** If there is joint tenancy, tenancy in common, or group ownership, has no knowledge of another application that is pending for cost–share assistance to be used on the land described in the application; and

(4) Submit other information required by the Department.

(B) AN OWNER MAY NOT RECEIVE A TOTAL OF STATE AND FEDERAL COST SHARE ASSISTANCE IN AN AMOUNT THAT EXCEEDS 100% OF THE ACTUAL COST OF THE APPROVED PRACTICE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 216

(Senate Bill 79)

AN ACT concerning

Office of the Deaf and Hard of Hearing – Responsibilities

FOR the purpose of altering the responsibilities of the Office of the Deaf and Hard of Hearing; altering the name and the membership of the Maryland Advisory Council for the Deaf and Hard of Hearing; defining a certain term; and generally relating to the Office of the Deaf and Hard of Hearing and the Maryland Advisory Council for the Deaf and Hard of Hearing.

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–2401, 9–2403, and 9–2404
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Government

9–2401.

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

(b) "Council" means the Maryland Advisory Council **[**for**]** **ON** Deaf and Hard of Hearing Individuals.

(c) (1) "Deaf and hard of hearing individuals" means those residents of Maryland who have a partial or complete loss of hearing.

(2) "Deaf and hard of hearing individuals" includes **INDIVIDUALS WHO ARE [**the**]** deaf, **[**the**]** hard of hearing, **DEAFBLIND,** and **[**the**]** late–deafened.

(3) "DEAFBLIND" MEANS THOSE RESIDENTS OF MARYLAND WHO HAVE CONCOMITANT VISION AND HEARING LOSS.

(d) "Director" means the Director of the Office.

(e) "Office" means the Office of the Deaf and Hard of Hearing.

9–2403.

(a) The Office shall be responsible for promoting the general welfare of deaf and hard of hearing individuals in the State.

(b) The responsibilities of the Office shall include:

(1) providing, advocating, and coordinating the adoption of public policies, regulations, and programs that will benefit deaf and hard of hearing individuals;

(2) improving access to communication and to existing services and programs for deaf and hard of hearing individuals;

(3) providing direct services to deaf and hard of hearing individuals as appropriate;

(4) increasing public awareness of the needs and issues affecting deaf and hard of hearing individuals;

(5) working with State and local agencies to ensure access for deaf and hard of hearing individuals to safety and emergency services**[**, including the acquisition and distribution of visual smoke detectors**]**;

(6) developing a referral service for deaf and hard of hearing individuals;

(7) serving as an information clearinghouse on the needs and issues affecting deaf and hard of hearing individuals;

(8) working to increase access for deaf and hard of hearing individuals to educational, health, and social opportunities;

(9) working with private organizations, the federal government, and other units of State government to promote economic development for deaf and hard of hearing individuals;

(10) working to eliminate the underemployment and unemployment of deaf and hard of hearing individuals;

(11) providing a network through which services provided by State and federal programs serving deaf and hard of hearing individuals can be channeled; and

(12) promoting compliance with State, local, and federal laws and policies protecting and serving deaf and hard of hearing individuals.

(c) The Office shall hold at least two public town hall meetings each year to receive public comments on:

(1) the quality of State services and programs affecting deaf and hard of hearing individuals;

(2) the functions and operations of the Office; and

(3) any other issues that affect deaf and hard of hearing individuals, including those specified in subsection (b) of this section.

(d) The Office shall:

(1) help facilitate the appropriate delivery of State, local, and other public services to deaf and hard of hearing individuals;

(2) advise other units of State government and the General Assembly on the needs of deaf and hard of hearing individuals;

(3) subject to appropriations in the State budget, provide any reasonable resources that any other unit of State government requests to serve or assist deaf and hard of hearing individuals; and

(4) to the greatest extent possible, in order to avoid any duplication of effort, coordinate with other units of the State and the federal government the services provided to deaf and hard of hearing individuals.

9–2404.

(a) There is a Maryland Advisory Council **[**for**]** **ON** the Deaf and Hard of Hearing.

(b) (1) The Council consists of **[**16**]** **18** members appointed by the Governor, with the advice and consent of the Senate.

(2) Of the **[**16**]** **18** Council members, at least five of the members shall be deaf and hard of hearing individuals.

(c) Of the **[**16**]** **18** Council members:

(1) one shall be the State Superintendent or a designee from the State Department of Education;

(2) one shall be the Secretary or a designee from the Department of Health and Mental Hygiene;

(3) one shall be the Secretary or a designee from the Department of Human Resources;

(4) one shall be the Secretary or a designee from the Department of Transportation;

(5) one shall be from the Human Relations Commission;

(6) one shall be the Secretary or a designee from the Department of Labor, Licensing, and Regulation;

(7) one shall be the Secretary or a designee from the Department of Housing and Community Development;

(8) one shall be the Superintendent or a designee from the Maryland School for the Deaf; **[**and**]**

(9) ONE SHALL BE THE SECRETARY OR A DESIGNEE FROM THE DEPARTMENT OF AGING; AND

[(9)**] (10)** **[**eight**]** **NINE** shall be from the general public.

(d) (1) The **[**eight**]** **NINE** members from the general public shall be chosen from different geographical areas of the State.

(2) Of the **[**eight**]** **NINE** members from the general public:

(i) five shall be deaf and hard of hearing individuals;

(ii) one shall be a private citizen with special knowledge or expertise relating to services to deaf and hard of hearing individuals;

(iii) one shall be a parent of a deaf or hard of hearing child; **[**and**]**

(iv) one shall be from a private agency providing services to deaf and hard of hearing individuals**; AND**

(V) ONE SHALL BE A PERSON WITH SPECIAL KNOWLEDGE OR EXPERTISE RELATING TO SERVICES TO INDIVIDUALS WHO ARE DEAFBLIND.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 217

(Senate Bill 80)

AN ACT concerning

Maryland Higher Education Commission – Office of Student Financial Assistance

FOR the purpose of revising and clarifying certain provisions relating to student financial assistance administered by the Office of Student Financial Assistance in the Maryland Higher Education Commission; repealing provisions relating to the enforcement of certain bonds given by scholarship recipients; authorizing the Office of Student Financial Assistance to adopt rules and regulations that include certain provisions; and generally relating to administration of student financial assistance by the Office of Student Financial Assistance in the Maryland Higher Education Commission.

BY repealing and reenacting, with amendments,
Article – Education
Section 18–102, 18–103, 18–106 through 18–108, 18–110(a), 18–111 through 18–113, 18–204, and 18–205
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing
Article – Education
Section 18–109
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

18–102.

Except as otherwise provided in this title, the provisions of this subtitle apply to any scholarship, grant, **[**or**]** loan**, OR OTHER STUDENT FINANCIAL ASSISTANCE** awarded **[**under this title**] BY THE OFFICE**.

18–103.

A scholarship, grant, **[**or**]** loan**, OR OTHER STUDENT FINANCIAL ASSISTANCE [**issued under this title**] AWARDED BY THE OFFICE** may be used at any public or private institution of higher education in this State that possesses a certificate of approval from the **[**Maryland Higher Education**]** Commission.

18–106.

(a) If, during an academic year, a student who is receiving any **STUDENT FINANCIAL ASSISTANCE** award **[**under this title**]** withdraws from the institution at which the award is used or otherwise fails to remain eligible for the award, the institution shall make a pro rata refund to the Office or other donor on the same terms that it makes refunds to students.

(b) Any refund may be reawarded on an interim basis under this title until the end of the academic year. Any requirement of an examination is waived for the recipient of an interim award.

18–107.

(a) (1) Each year, money for each **[**award**]** **STUDENT FINANCIAL ASSISTANCE** program **[**under this title**]** **ADMINISTERED BY THE OFFICE** shall be included in the State budget.

(2) Each year, the Governor shall include in the State budget at least 80 percent of the funds appropriated in the prior fiscal year for need–based programs as provided in §§ 18–301, 18–706(f), 18–1401, 18–1501, and 18–2601 of this title.

(b) (1) Except as otherwise provided in this title, money appropriated under this title that is not used by the end of the fiscal year may not revert to the State Treasury.

(2) All money retained under paragraph (1) of this subsection shall be used to make awards to students during subsequent fiscal years as provided in §§ 18–301, 18–601, 18–604, 18–706(f), 18–1401, 18–14A–01, 18–1501, and 18–2601 of this title and may not be used for administrative expenses.

18–108.

Any college student or other individual, who is under 18 years old and is eligible for or is receiving benefits from any State scholarship, loan, tuition grant, remission of fixed charges, fellowship, **[**or**]** federal or State student loan program **[**under this title**]**, **OR ANY OTHER STUDENT FINANCIAL ASSISTANCE**:

(1) May execute notes, contracts, or agreements necessary to obtain these benefits in the same manner and with the same effect as though he were 18 years old; and

(2) May not assert the disability of infancy as a defense in any action brought against him with respect to these benefits.

[18–109.

(a) The Office shall review and investigate each bond given by a recipient of a scholarship.

(b) If the Office determines that any recipient has failed or refused to comply with the conditions of the bond, the Office may refer the matter to the Attorney General, who shall do anything necessary and proper to enforce the bond.

(c) The Attorney General shall account for any money received from enforcement of a bond and the money shall revert to the State Treasury.**]**

18–110.

(a) Any student attending a public institution of higher education who is not a resident of this State and who is enrolled in an education course or program leading to an occupation as a licensed registered nurse or a licensed practical nurse shall pay only the tuition fees and other mandatory fees payable by a resident of this State if the student furnishes a **[**surety bond or**]** promissory note to this State, with security satisfactory to the **[**Maryland Higher Education**]** Commission, that, on completion of the education course or program, the student will work in this State for at least 4 years as a licensed registered nurse or a licensed practical nurse in a hospital or related institution, as defined in § 19–301 of the Health – General Article.

18–111.

As a condition of receiving **[**a scholarship or grant**]** **STUDENT FINANCIAL ASSISTANCE** awarded **[**under this title**]** **BY THE OFFICE**, each recipient shall sign a statement pledging to remain drug free. The Commission shall determine the contents of the drug free statement.

18–112.

(a) Except as otherwise provided in this title, repayment obligations incurred by recipients of student financial assistance**[**, scholarships, grants, or loans**]** administered by the **[**Commission under this title**]** **OFFICE** shall be calculated at an interest rate equal to and matching the interest rate established by the United States Department of Education for the Federal Stafford Loan on the first day of July of each year, with interest not accruing prior to notification to the Commission of a recipient's graduation or termination from an institution of higher education.

(b) A recipient shall commence repayment obligations **[**incurred under this title**]** upon graduation or termination from an institution of higher education.

18–113.

(a) A student may **[**hold a scholarship and grant issued under this title along with any other scholarship and grant issued under this title**]** **RECEIVE ONE OR MORE AWARDS OF STUDENT FINANCIAL ASSISTANCE** ***ADMINISTERED BY THE OFFICE*** if:

(1) Eligibility requirements are met for each **[**scholarship and grant**]** **TYPE OF STUDENT FINANCIAL ASSISTANCE** received; and

(2) The total of all **[**scholarships and grants**]** **STUDENT FINANCIAL ASSISTANCE** received does not exceed:

(i) The student's total cost of education as certified by the institution the student is attending; and

(ii) The equivalent annual expenses of a full–time resident undergraduate at the 4–year public institution of higher education within the University System of Maryland, other than the University of Maryland University College and University of Maryland, Baltimore, with the highest annual expenses for a full–time resident undergraduate.

(b) A student who **[**holds**]** **RECEIVES** multiple **[**scholarships and grants issued under this title**]** **AWARDS OF STUDENT FINANCIAL ASSISTANCE** that have a service obligation requirement:

(1) Must fulfill the terms of each service obligation; and

(2) May not fulfill the service obligations concurrently.

18–204.

(a) In addition to any other powers granted and duties imposed by this title, the Office has the powers and duties set forth in this section.

(b) Except as otherwise provided in this title, the Office shall:

(1) Administer **[**the scholarship and tuition assistance programs under this title**]** **STUDENT FINANCIAL ASSISTANCE PROGRAMS**;

(2) Issue and disseminate public information about **[**these scholarships**]** **STUDENT FINANCIAL ASSISTANCE**;

(3) Regulate the form and submission of applications for **[**scholarships and tuition**]** **STUDENT FINANCIAL** assistance under this title; and

(4) Conduct conferences and interviews with applicants to evaluate their eligibility.

(c) **(1)** The Office may adopt any rule or regulation necessary to carry out its powers and duties.

(2) THE RULES AND REGULATIONS ADOPTED BY THE OFFICE UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY INCLUDE PROVISIONS FOR:

(I) THE PERFORMANCE OF A SERVICE OBLIGATION FOR A PROGRAM THAT AS A CONDITION OF AWARD REQUIRES A RECIPIENT OF STUDENT FINANCIAL ASSISTANCE TO PERFORM A SERVICE OBLIGATION;

(II) THE REPAYMENT OF STUDENT FINANCIAL ASSISTANCE FUNDS RECEIVED SHOULD A RECIPIENT FAIL TO PERFORM A SERVICE OBLIGATION; AND

(III) WAIVER AND DEFERMENT OF A SERVICE OBLIGATION OR REPAYMENT IN CIRCUMSTANCES DETERMINED BY THE COMMISSION.

(d) The Office:

(1) Shall administer any federal program of scholarships or grants to students or institutions except for the Christa McAuliffe Fellowship which shall be administered by the Maryland State Department of Education; and

(2) May do anything necessary to comply with any federal law relating to these scholarships or grants.

(e) The Office shall:

(1) Arrange for the competitive examination required of applicants for certain scholarships; and

(2) Send the results of the examination to the appropriate institutions and to the person who awards the scholarship.

(f) The Office shall:

(1) Analyze under uniform standards the financial need of each applicant for a scholarship for which financial need is a consideration; and

(2) Send its analysis to the appropriate institution and the person who awards the scholarship.

18–205.

[The**]** **SUBJECT TO RULES AND REGULATIONS ADOPTED BY THE COMMISSION, THE** Office shall grant a deferment from the service obligation component of **[**a scholarship**]** **STUDENT FINANCIAL ASSISTANCE** awarded under this title to:

(1) An individual who has been assigned military duty outside of the State; or

(2) The spouse of an individual who has been assigned military duty outside of the State.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 218

(Senate Bill 83)

AN ACT concerning

Department of Housing and Community Development – Group Home Financing Program – Refinancing

FOR the purpose of authorizing the Department of Housing and Community Development to refinance a certain mortgage loan on a group home, including the financing of certain closing costs; authorizing the Department to modify certain terms of certain loans at risk of being in default; and generally relating to the Group Home Financing Program within the Department of Housing and Community Development.

BY repealing and reenacting, with amendments,
Article – Housing and Community Development
Section 4–603 and 4–610
Annotated Code of Maryland
(2006 Volume and 2009 Supplement)

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

Article – Housing and Community Development

4–603.

The purpose of the Program is to provide loans to group home sponsors to finance **OR REFINANCE** the costs of acquiring, constructing, **[**and**]** **OR** modifying buildings as group homes for persons of lower income, elderly households, individuals with disabilities, and other residents of the State with special housing needs.

4–610.

(a) (1) A Program loan shall be secured by a mortgage lien and may include the terms that the Department considers necessary to make the group home affordable to persons of lower income.

(2) In exceptional circumstances, the terms may include:

(i) deferred payment of principal and interest; and

(ii) interest rates as low as 0%.

(b) Each loan shall require that all unpaid principal and accrued interest, including principal or interest that was deferred, be paid at the earliest of:

(1) a stated date, which may be the maturity date of the Program loan;

(2) the date of the sale or other transfer of the group home or a controlling interest in the group home; and

(3) the date when the project ceases to be used as a group home.

(c) (1) Each Program loan shall provide for:

(i) a limit on the return on equity allowed to a group home sponsor;

(ii) equity participation between the Department and the group home sponsor; or

(iii) an amount of accrued and deferred interest that the Department finds can reasonably be expected to be paid from profit resulting from the sale of the group home.

(2) The Department may forgive any accrued and deferred interest described in paragraph (1)(iii) of this subsection that exceeds the profit from the sale of the group home.

(3) The Department may allow the group home sponsor to earn a reasonable return before the group home sponsor pays accrued and deferred interest.

(d) If a Program loan is in default **OR IS AT RISK OF BEING IN DEFAULT**, the Department may modify the interest rate, the time or amount of payment, or any other term to facilitate repayment and achieve the purposes of the Program.

(e) A Program loan may finance:

(1) the site acquisition, construction costs, and permanent mortgage for a group home;

(2) the purchase of an existing building to provide a group home;

(3) a modification to a building purchased with a Program loan, if the modification improves, repairs, renovates, or rehabilitates the building to:

(i) make it suitable as a group home; or

(ii) eliminate housing, building, fire, safety, health, or other code violations;

(4) THE REFINANCING OF AN EXISTING MORTGAGE LOAN ON A GROUP HOME;

[(4)**] (5)** closing costs associated with the construction **[**or**],** purchase**, OR REFINANCE** of a group home;

[(5)**] (6)** engineering, legal, title, survey, or architectural fees associated with financing real property development; and

[(6)**] (7)** other development costs that the Department considers reasonable.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 219

(Senate Bill 84)

AN ACT concerning

Tidal Fisheries Advisory Commission – Sport Fisheries Advisory Commission – Membership

FOR the purpose of expanding the maximum number of members of the Tidal Fisheries Advisory Commission; requiring the composition of the Tidal Fisheries Advisory Commission to reflect the geographic regions of the State where the commercial fishing industry is operating; staggering the terms for the membership of the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission; expanding the membership of the Sport Fisheries Advisory Commission; specifying the terms of the members of the commissions; and generally relating to the membership of the Tidal Fisheries Advisory Commission and Sport Fisheries Advisory Commissions in the Department of Natural Resources.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–204(a) and (b)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article – Natural Resources

4–204.

(a) (1) There is a Tidal Fisheries Advisory Commission in the Department.

(2) The Commission is composed of up to ~~12~~ **15** members appointed and serving in accordance with the procedures adopted under § 1–102(c) of this article.

(3) **(I)** Up to ~~eleven~~ **14** commercial watermen and one member of the Sports Fisheries Advisory Commission shall comprise the Commission.

(II) THE COMPOSITION OF THE COMMISSION SHALL REFLECT THE GEOGRAPHIC REGIONS OF THE STATE WHERE THE COMMERCIAL FISHING INDUSTRY IS OPERATING.

(4) The term of a member is 2 years.

(5) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON JULY 1, 2010.

(6) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(7) 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.

(b) (1) There is a Sport Fisheries Advisory Commission in the Department.

(2) The Commission shall provide the Department advice on recreational fisheries matters.

(3) The Commission is composed of **[**12**] 15** members appointed and serving in accordance with the provisions of § 1–102(c) of this article. The experience and backgrounds of Commission members shall represent the diversified angling interests and waters of the State.

(4) (i) The term of a member is 4 years and a member may be reappointed.

(II) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON JULY 1, 2010.

[(ii)**] (III)** At the end of a term, a member continues to serve until a successor is appointed and qualifies.

[(iii)**] (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.

SECTION 2. AND BE IT FURTHER ENACTED, That beginning with the term that began on July 22, 2009:

(1) the terms of five of the members of the Tidal Fisheries Advisory Commission shall expire on June 30, 2011; and

(2) the terms of the remaining members shall expire on June 30, 2013.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(1) beginning with the term that began on July 20, 2009:

(i) the terms of six of the existing members of the Sport Fisheries Advisory Commission shall expire on June 30, 2011; and

(ii) the terms of the remaining six existing members shall expire on June 30, 2013; and

(2) the initial terms of the new members appointed in accordance with § 4–204(b)(3) of the Natural Resources Article, as enacted by Section 1 of this Act, shall expire June 30, 2013.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 220

(Senate Bill 88)

AN ACT concerning

Environment – Controlled Hazardous Substance Advisory Council

FOR the purpose of providing that the Controlled Hazardous Substance Advisory Council is required to meet only at the request of the Secretary of the Environment; altering the membership of the Council; altering the term of a member of the Council; deleting certain obsolete references; repealing the requirement that the Council elect a chairperson annually; and generally relating to the Controlled Hazardous Substance Advisory Council.

BY repealing and reenacting, with amendments,
Article – Environment
Section 7–211 through 7–214
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Environment
Section 7–215
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Environment

7–211.

(A) There is a Controlled Hazardous Substance Advisory Council in the Department.

(B) THE CONTROLLED HAZARDOUS SUBSTANCE ADVISORY COUNCIL SHALL MEET ONLY AT THE REQUEST OF THE SECRETARY.

7–212.

(a) (1) The Council consists of 13 members.

(2) Of the 13 members, 10 shall be appointed by the Governor with the advice of the Secretary as follows:

(i) 1 shall be the pesticides coordinator **OR THE PESTICIDES COORDINATOR'S DESIGNEE** for the Cooperative Extension Service of the University of Maryland;

(ii) 1 shall be from the State Department of Agriculture;

(iii) 1 shall be from the Department of Labor, Licensing, and Regulation, Division of Labor and Industry;

(iv) 1 shall be from the Department of Natural Resources;

(v) 1 shall be the State Fire Marshal or the State Fire Marshal's designee;

(vi) 1 shall be from an industry that generates hazardous substances;

(vii) 1 shall be from the hazardous substance disposal and management industry;

(viii) 1 shall be from an industry that generates low–level nuclear waste;

(ix) 1 shall be from the low–level nuclear waste management industry; and

(x) 1 shall be an individual who is engaged in the business of resource recovery.

(3) Of the 13 members, 3 shall be public members appointed by the Governor with the advice and consent of the Senate.

(b) A public member may not be an individual who otherwise qualifies for membership under subsection (a)(2) of this section.

(c) (1) The term of a member is **[**6**]10** years.

(2) Except for an ex officio member, the terms of members are staggered as required by the terms provided for members of the Council on July 1, 1982. **[**The terms of those members end as follows:

(i) 2 public members in 1982;

(ii) The member from the Department of Labor, Licensing, and Regulation, Division of Labor and Industry in 1984;

(iii) The members from the State Department of Agriculture and the University of Maryland in 1985;

(iv) The members from the Department of Natural Resources, the business of resource recovery, and the State Fire Marshal's designee in 1986; and

(v) The members from the industry that generates hazardous substances, the hazardous substance disposal and management industry, the low–level nuclear waste management industry, and the industry that generates low–level nuclear waste and 1 public member in 1987.**]**

(3) At the end of a term, a 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.

7–213.

From among the public members, the Council **[**annually**]** shall elect a chairperson.

7–214.

[(a) The Council shall determine the times and places of its meetings.

(b)**]** A member of the Council:

(1) May not receive compensation; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

7–215.

The Council shall advise and assist the Department in:

(1) Identifying any hazardous substance as a controlled hazardous substance;

(2) Developing rules and regulations for the management and disposal of controlled hazardous substances; and

(3) Developing separate rules and regulations that relate to management and disposal of low–level nuclear wastes.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 221

(Senate Bill 91)

AN ACT concerning

Maryland Higher Education Commission – Exempt Institutions

FOR the purpose of prohibiting a person from making a certain statement concerning the status of an institution that is allowed to operate without a certificate of approval from the Maryland Higher Education Commission; prohibiting a person from enrolling a student in an institution that is allowed to operate without a certain certificate of approval unless certain requirements are met; establishing certain penalties for certain violations; and generally relating to institutions that are exempt from the requirement to obtain a certificate of approval from the Maryland Higher Education Commission.

BY repealing and reenacting, with amendments,
Article – Education
Section 11–202
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY adding to
Article – Education
Section 11–202.1
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

11–202.

(a) Except as provided in **[**subsection (c) of this section**]** **§ 11–202.1 OF THIS SUBTITLE**, an institution of postsecondary education may not commence or continue to operate, do business, or function without a certificate of approval from the Commission.

(b) The Commission shall issue a certificate of approval to an institution of postsecondary education if it finds that:

(1) The facilities, conditions of entrance and scholarship, and educational qualifications and standards are adequate and appropriate for:

(i) The purposes of the institution; and

(ii) The programs, training, and courses to be offered by the institution; and

(2) The proposed programs to be offered by the institution meet the educational needs of the State.

[(c) Subject to the requirements imposed by subsection (d) of this section, the following institutions of postsecondary education may operate without a certificate of approval from the Commission:

(1) A nonpublic institution of higher education operating under a charter granted by the General Assembly;

(2) A religious degree–granting institution which certifies, in accordance with procedures established by the Commission, that it:

(i) Is founded and operated by a church or organization of churches as an integral part of the religious ministry of that church or organization;

(ii) Offers sectarian instruction only designed for and aimed at persons who hold or seek to learn particular religious faiths or beliefs of churches or religious organizations, and provides only educational programs for religious vocations; and

(iii) States on the diploma or degree the religious nature of the degree; and

(3) A church or other religious institution offering a postsecondary instructional program leading to a diploma or certificate only if designed for and aimed at persons who hold or seek to learn the particular religious faith or beliefs of that church or religious organization, and providing only educational programs for religious purposes.

(d) (1) (i) Each institution of postsecondary education authorized to operate without a certificate of approval under subsection (c)(2) or (3) of this section shall submit, every 2 years, a financial statement compiled by an independent accountant employed by the institution to the Commission.

(ii) These institutions of postsecondary education may not commence or continue to operate, do business, or function unless the Commission determines on the basis of the financial statement submitted by the institution under this section that the institution possesses adequate financial resources to support its educational program.

(2) (i) The Commission shall adopt regulations establishing procedures and standards for the submission and evaluation of the reports and financial statements submitted by institutions of postsecondary education under this subsection.

(ii) Any institution under subsection (c)(2) or (3) of this section denied the right to operate has the right to judicial review as provided by the Administrative Procedure Act.

(e) Nothing in this section precludes an institution of postsecondary education authorized under subsection (c)(2) or (3) of this section to operate without a certificate of approval from seeking certification from the Commission.**]**

[(f)**] (C)** (1) If the Commission believes that an institution of postsecondary education that applies for a certificate of approval does not meet the conditions or standards necessary for the issuance of the certificate, the Commission shall give the institution written notice of the specific deficiencies.

(2) Within 20 days of receipt of a notice of deficiencies, the institution may request a hearing before the Commission, and within 60 days of receipt of the request the Commission shall hold a hearing to determine if the certificate of approval should be issued.

(3) If, within 6 months from the date on which the application for certification was submitted to the Commission, the institution has received neither a certificate of approval under subsection (b) of this section nor written notice of deficiencies under this subsection, the institution may request within 20 days a hearing before the Commission to determine if the certificate of approval should be issued.

[(g)**] (D)** (1) Any institution of postsecondary education that is denied a certificate of approval by the Commission after a hearing granted under subsection **[**(f)**] (C)** of this section has the right to judicial review provided by Title 10, Subtitle 2 of the State Government Article.

(2) The decision of the Commission shall be presumed correct, and the institution has the burden of proving otherwise.

(3) The Commission shall be a party to the proceeding.

11–202.1.

(A) A NONPUBLIC INSTITUTION OF HIGHER EDUCATION OPERATING UNDER A CHARTER GRANTED BY THE GENERAL ASSEMBLY MAY OPERATE WITHOUT A CERTIFICATE OF APPROVAL FROM THE COMMISSION.

(B) SUBJECT TO THE REQUIREMENTS IMPOSED BY SUBSECTION (C) OF THIS SECTION, THE FOLLOWING INSTITUTIONS OF POSTSECONDARY EDUCATION MAY OPERATE WITHOUT A CERTIFICATE OF APPROVAL FROM THE COMMISSION:

(1) A RELIGIOUS EDUCATIONAL INSTITUTION THAT CERTIFIES, IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE COMMISSION, THAT THE INSTITUTION:

(I) IS FOUNDED AND OPERATED BY A CHURCH OR OTHER RELIGIOUS INSTITUTION OR ORGANIZATION OF CHURCHES OR RELIGIOUS INSTITUTIONS AS AN INTEGRAL PART OF THE RELIGIOUS MINISTRY OF THAT INSTITUTION OR ORGANIZATION;

(II) OFFERS SECTARIAN INSTRUCTION ONLY DESIGNED FOR AND AIMED AT PERSONS WHO HOLD OR SEEK TO LEARN PARTICULAR RELIGIOUS FAITHS OR BELIEFS OF RELIGIOUS INSTITUTIONS OR RELIGIOUS ORGANIZATIONS, AND PROVIDES ONLY EDUCATIONAL PROGRAMS FOR RELIGIOUS VOCATIONS; AND

(III) STATES ON THE CERTIFICATE OR DIPLOMA THE RELIGIOUS NATURE OF THE AWARD; AND

(2) A CHURCH OR OTHER RELIGIOUS INSTITUTION OFFERING A POSTSECONDARY INSTRUCTIONAL PROGRAM LEADING TO A CERTIFICATE OR DIPLOMA ONLY IF DESIGNED FOR AND AIMED AT PERSONS WHO HOLD OR SEEK TO LEARN THE PARTICULAR RELIGIOUS FAITH OR BELIEFS OF THAT CHURCH OR RELIGIOUS INSTITUTION, AND PROVIDING ONLY EDUCATIONAL PROGRAMS FOR RELIGIOUS PURPOSES.

(C) (1) EACH INSTITUTION AUTHORIZED TO OPERATE WITHOUT A CERTIFICATE OF APPROVAL UNDER SUBSECTION (B) OF THIS SECTION:

(I) SHALL SUBMIT TO THE COMMISSION, EVERY 2 YEARS, A FINANCIAL STATEMENT REVIEWED BY AN INDEPENDENT ACCOUNTANT RETAINED BY THE INSTITUTION; AND

(II) MAY NOT COMMENCE OR CONTINUE TO OPERATE, DO BUSINESS, OR FUNCTION UNLESS THE COMMISSION DETERMINES ON THE BASIS OF THE FINANCIAL STATEMENT SUBMITTED BY THE INSTITUTION THAT THE INSTITUTION POSSESSES ADEQUATE FINANCIAL RESOURCES TO SUPPORT THE INSTITUTION'S EDUCATIONAL PROGRAM.

(2) THE COMMISSION SHALL ADOPT REGULATIONS ESTABLISHING PROCEDURES AND STANDARDS FOR THE SUBMISSION AND EVALUATION OF THE REPORTS AND FINANCIAL STATEMENTS SUBMITTED BY INSTITUTIONS UNDER THIS SUBSECTION.

(D) ANY INSTITUTION UNDER SUBSECTION (B) OF THIS SECTION THAT IS DENIED THE RIGHT TO OPERATE HAS THE RIGHT TO JUDICIAL REVIEW AS PROVIDED BY THE ADMINISTRATIVE PROCEDURE ACT.

(E) NOTHING IN THIS SECTION PRECLUDES AN INSTITUTION OPERATING WITHOUT A CERTIFICATE OF APPROVAL UNDER SUBSECTION (B) OF THIS SECTION FROM SEEKING A CERTIFICATE OF APPROVAL FROM THE COMMISSION.

(F) WITH REGARD TO AN INSTITUTION OPERATING WITHOUT A CERTIFICATE OF APPROVAL UNDER SUBSECTION (B) OF THIS SECTION, A PERSON MAY NOT:

(1) MAKE A STATEMENT, WHETHER VERBAL OR WRITTEN, THAT THE INSTITUTION IS APPROVED BY, OR HAS A CERTIFICATE OF APPROVAL FROM, THE COMMISSION, INCLUDING A STATEMENT ON ANY CERTIFICATE, DIPLOMA, ACADEMIC TRANSCRIPT, OR OTHER DOCUMENT ISSUED BY THE INSTITUTION OR IN ANY ADVERTISEMENT OR PUBLICATION, OR ON A WEBSITE; OR

(2) ENROLL A STUDENT IN THE INSTITUTION UNLESS, BEFORE ENROLLMENT, THE PERSON GIVES WRITTEN NOTICE TO AND OBTAINS A WRITTEN ACKNOWLEDGMENT FROM THE STUDENT THAT:

(I) THE INSTITUTION'S INSTRUCTIONAL PROGRAM IS ONLY DESIGNED FOR AND AIMED AT PERSONS WHO HOLD OR SEEK TO LEARN THE PARTICULAR RELIGIOUS FAITH OR BELIEFS OF THE CHURCH OR RELIGIOUS INSTITUTION, AND PROVIDES ONLY EDUCATIONAL PROGRAMS FOR RELIGIOUS VOCATIONS OR PURPOSES;

(II) AN INSTITUTION OF HIGHER EDUCATION IS NOT REQUIRED TO ACCEPT FOR TRANSFER CREDITS EARNED AT THE INSTITUTION;

(III) AN INSTITUTION OF HIGHER EDUCATION IS NOT REQUIRED TO RECOGNIZE AN AWARD EARNED AT THE INSTITUTION; AND

(IV) A POTENTIAL EMPLOYER MAY DETERMINE THAT AN AWARD EARNED AT THE INSTITUTION DOES NOT MEET MINIMUM EDUCATIONAL REQUIREMENTS FOR EMPLOYMENT.

(G) THE WRITTEN ACKNOWLEDGMENT OBTAINED FROM A STUDENT UNDER SUBSECTION (F) OF THIS SECTION SHALL BE:

(1) IN A FORM APPROVED BY THE COMMISSION;

(2) SIGNED BY BOTH THE STUDENT AND A REPRESENTATIVE OF THE INSTITUTION; AND

(3) PERMANENTLY RETAINED IN THE STUDENT'S FILE BY THE INSTITUTION.

(H) A PERSON WHO VIOLATES SUBSECTION (F) OR (G) OF THIS SECTION IS LIABLE FOR A PENALTY OF UP TO $5,000 FOR EACH VIOLATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 222

(Senate Bill 93)

AN ACT concerning

Agriculture – Pest Control – Fees and Registration

FOR the purpose of clarifying the authority of the Department of Agriculture to charge a fee for the retaking of certain examinations; requiring the operator of a pest control business annually to register certain employees with the Department; establishing certain registration and renewal fees; requiring the payment of certain late fees for certain applicants for a certain license, certificate, or registration renewal; and generally relating to requirements for the application of pesticide.

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 5–207(c)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY adding to
Article – Agriculture
Section 5–207(j) and (k)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Agriculture

5–207.

(c) Each applicant for a pest control consultant certificate, pest control applicator certificate, or public agency applicator certificate shall demonstrate competence to consult on pest control or to apply pesticides safely in the State by passing a written examination prepared and administered by the Department. There shall be no charge for an initial examination, provided that each pest control applicator or each pest control consultant shall pay $10 for each **[**category of**]** examination **RETAKEN** after the initial examination. Each applicant for a private applicator certificate shall pass an examination given by the Department. A private applicator certificate is valid for 3 years and may be renewed by the certificate holder by participation in training approved by the Department.

(J) (1) ANY PERSON WHO OPERATES A PEST CONTROL BUSINESS SHALL REGISTER ANNUALLY WITH THE DEPARTMENT EACH EMPLOYEE, OTHER THAN A CERTIFIED APPLICATOR, WHO OFFERS OR PERFORMS PEST CONTROL AT EACH BUSINESS LOCATION.

(2) THE APPLICATION FEE TO REGISTER AN EMPLOYEE INITIALLY IS $30.

(3) THE ANNUAL RENEWAL FEE TO REGISTER AN EMPLOYEE IS $30.

(K) IF AN APPLICATION FOR RENEWAL OF A LICENSE, CERTIFICATE, OR REGISTRATION IS RECEIVED BY THE DEPARTMENT MORE THAN ~~10~~ 30 DAYS AFTER THE EXPIRATION OF THE LICENSE, CERTIFICATE, OR REGISTRATION, THE APPLICANT IS SUBJECT TO A $30 LATE FEE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 223

(Senate Bill 97)

AN ACT concerning

Office of the Public Defender – Board of Trustees – ~~Composition~~ Membership

FOR the purpose of ~~altering the composition of the Board of Trustees of the Office of the Public Defender; altering the manner by which members of the Board of Trustees are appointed; establishing qualifications of members of the Board of Trustees; establishing the number of members of the Board of Trustees necessary for a quorum; authorizing a certain number of members of the Board of Trustees to call for additional meetings; providing for diversity of membership of the Board of Trustees; providing for the manner in which vacancies are filled on the Board of Trustees~~ repealing the requirement that the Public Defender serve at the pleasure of the Board of Trustees of the Office of the Public Defender; specifying that the Board of Trustees may remove the Public Defender for certain reasons, only on the recommendation of the Board of Trustees; providing that the Public Defender may serve for a certain term; increasing the number of members of the Board of Trustees; altering the method of selection of the members of the Board of Trustees; increasing the number of members of the Board of Trustees who are required to be active attorneys admitted to practice before the Court of Appeals of Maryland; requiring certain members of the Board of Trustees to have certain qualifications; prohibiting certain persons from serving on the Board of Trustees; providing for the staggering of terms of the Board of Trustees; specifying that at the end of a term a member of the Board of Trustees continues to serve until a successor is appointed and qualifies; authorizing the reappointment to the Board of Trustees of a member whose term has expired; providing for the manner of appointing a member to fill a vacancy on the Board of Trustees; increasing the requirements for a quorum of the Board of Trustees; ~~altering the number of members of the Board of Trustees that are required to make a request in order to call for an additional meeting;~~ requiring that the initial members of the Board of Trustees be appointed on or before a certain date; specifying the terms of the initial members of the Board of Trustees; providing that a member of the Board of Trustees who is serving on the effective date of this Act shall continue to serve until a successor is appointed and qualifies; providing that the Public Defender who is serving on the effective date

of this Act may continue to serve for a certain time *and may be reappointed after the expiration of the Public Defender's term*; and generally relating to ~~the Board of Trustees of~~ the Office of the Public Defender.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 16–203(a) and 16–301
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Criminal Procedure

16–203.

(a) (1) The head of the Office is the Public Defender.

(2) The Public Defender shall be appointed by **[**and serve at the pleasure of**]** 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.

[(4)**] (5)** The Public Defender shall receive the same salary as a judge of a circuit court.

[(5)**] (6)** The Public Defender may not engage in the private practice of law.

(7) THE PUBLIC DEFENDER SERVES FOR A TERM OF 6 YEARS.

16–301.

(a) There is a Board of Trustees of the Office of the Public Defender.

(b) The Board of Trustees consists of **[**three**]** ~~THE FOLLOWING ELEVEN~~ **13** **[**members appointed by the Governor.**]** **MEMBERS**~~:~~.

~~(1) FOUR MEMBERS APPOINTED BY THE GOVERNOR;~~

~~(2) TWO MEMBERS APPOINTED BY THE CHIEF JUDGE OF THE COURT OF APPEALS;~~

~~(3) ONE MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE;~~

~~(4) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE;~~

~~(5) ONE MEMBER APPOINTED BY THE PRESIDENT OF THE MARYLAND STATE BAR ASSOCIATION;~~

~~(6) ONE MEMBER APPOINTED BY THE DEAN OF THE UNIVERSITY OF MARYLAND SCHOOL OF LAW; AND~~

~~(7) ONE MEMBER APPOINTED BY THE DEAN OF THE UNIVERSITY OF BALTIMORE SCHOOL OF LAW.~~

(c) (1) Each member of the Board of Trustees shall be a resident of the State.

(2) ~~NINE~~ *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.**

~~(2)~~ **(3)** **[**Two**]** ~~AT LEAST NINE~~ ~~SIX~~ *ALL* members of the Board of Trustees ~~APPOINTED BY THE GOVERNOR~~ shall be active attorneys admitted to practice before the Court of Appeals of Maryland.

~~(D) TO THE EXTENT PRACTICABLE, IN APPOINTING MEMBERS TO THE BOARD, THE APPOINTING AUTHORITIES SHALL ENSURE THAT:~~

~~(1) EACH GEOGRAPHIC REGION OF THE STATE IS REPRESENTED EQUITABLY; AND~~

~~(2) THE BOARD OF TRUSTEES COLLECTIVELY REFLECTS THE RACIAL, ETHNIC, AGE, AND GENDER DIVERSITY OF THE STATE~~

(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) ~~ONE MEMBER SHALL BE THE DEAN OF THE UNIVERSITY OF MARYLAND SCHOOL OF LAW, OR THE DEAN'S DESIGNEE.~~

(7) ~~ONE MEMBER SHALL BE THE DEAN OF THE UNIVERSITY OF BALTIMORE SCHOOL OF LAW, OR THE DEAN'S DESIGNEE.~~

(8) 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.

~~(9)~~ *(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)~~]~~ ~~(E)~~ (1) The term of ~~a~~ **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.

~~(2)~~ **(3)** A vacancy occurring on the Board of Trustees during the term of a member shall be filled **[**by the Governor**]** 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)**]** (F)~~ (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)**]** (G)~~ ~~**[**Two**]**~~ ~~SIX~~ **SEVEN** members of the Board of Trustees are a quorum.

~~**[**(g)**]** (H)~~ (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**]** ~~FOUR~~ members of the Board of Trustees.

~~**[**(h)**]** (I)~~ 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.

SECTION 2. AND BE IT FURTHER ENACTED, That the initial members of the Board of Trustees shall be appointed on or before December 31, 2010.

SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial appointed members of the Board of Trustees shall expire as follows:

(1) the members appointed by the Governor representing judicial circuits one through four in 2012;

(2) the members appointed by the Governor representing judicial circuits five through eight in 2013; and

(3) the members appointed by the President of the Senate and the Speaker of the House of Delegates in 2014.

SECTION 4. AND BE IT FURTHER ENACTED, That a member of the Board of Trustees who is serving on the effective date of this Act shall continue to serve until a successor is appointed and qualifies.

SECTION 5. AND BE IT FURTHER ENACTED, That the Public Defender who is serving on the effective date of this Act may continue to serve until 6 years after the effective date of this Act *and may be reappointed after the expiration of the Public Defender's term.*

SECTION ~~2.~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ *June* 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 224

(House Bill 122)

AN ACT concerning

~~Criminal Procedure~~ *Office of the Public Defender* – Board of Trustees ~~of the Office of the Public Defender – Modification~~ *– Membership*

FOR the purpose of repealing ~~a provision of law requiring~~ *the requirement* that the Public Defender serve at the pleasure of the Board of Trustees of the Office of the Public Defender; specifying that the ~~Governor~~ Board of Trustees~~, by a certain vote,~~ may remove the Public Defender for certain reasons*, only on the recommendation of the Board of Trustees*~~, only on the recommendation of the Board of Trustees~~; *providing that the Public Defender may serve for a certain term;* increasing the number of members of the Board of Trustees; altering the method of selection of the members ~~and chair~~ of the Board of Trustees; ~~requiring each member of the Board of Trustees to have demonstrated commitment to indigent defense; increasing the number of members of the Board of Trustees who are required to be active attorneys admitted to practice before the Court of Appeals of Maryland; prohibiting a prosecutor, judge, or law enforcement officer from being a member of the Board of Trustees; providing for the staggering of terms of the Board of Trustees; specifying that at the end of a term a member of the Board of Trustees continues to serve until a successor is~~

~~appointed and qualifies; authorizing the reappointment to the Board of Trustees of a member whose term has expired; increasing the quorum of the Board of Trustees; repealing provisions of law relating to regional advisory boards of the Office of the Public Defender; requiring that the initial members of the Board of Trustees be appointed on or before a certain date; specifying the terms of the initial members of the Board of Trustees; providing that a member of the Board of Trustees who is serving on the effective date of this Act shall continue to serve until a successor is appointed and qualifies~~ *increasing the number of members of the Board of Trustees who are required to be active attorneys admitted to practice before the Court of Appeals of Maryland; requiring certain members of the Board of Trustees to have certain qualifications; prohibiting certain persons from serving on the Board of Trustees; providing for the staggering of terms of the Board of Trustees; specifying that at the end of a term a member of the Board of Trustees continues to serve until a successor is appointed and qualifies; authorizing the reappointment to the Board of Trustees of a member whose term has expired; providing for the manner of appointing a member to fill a vacancy on the Board of Trustees; increasing the requirements for a quorum of the Board of Trustees;* ~~*altering the number of members of the Board of Trustees that are required to make a request in order to call for an additional meeting;*~~ *requiring that the initial members of the Board of Trustees be appointed on or before a certain date; specifying the terms of the initial members of the Board of Trustees; providing that a member of the Board of Trustees who is serving on the effective date of this Act shall continue to serve until a successor is appointed and qualifies; providing that the Public Defender who is serving on the effective date of this Act may continue to serve for a certain time and may be reappointed after the expiration of the Public Defender's term*; and generally relating to the Office of the Public Defender.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 16–203(a) and 16–301
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

~~BY repealing~~
~~Article – Criminal Procedure~~
~~Section 16–303 and 16–304~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume and 2009 Supplement)~~

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

Article – Criminal Procedure

16–203.

(a) (1) The head of the Office is the Public Defender.

(2) The Public Defender shall be appointed by **[**and serve at the pleasure of**]** the Board of Trustees.

(3) ~~**ONLY ON THE RECOMMENDATION OF**~~ **BY A VOTE OF AT LEAST SEVEN MEMBERS, THE BOARD OF TRUSTEES**~~**, THE GOVERNOR**~~ **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.

[(3)**] (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.

[(4)**] (5)** The Public Defender shall receive the same salary as a judge of a circuit court.

[(5)**] (6)** The Public Defender may not engage in the private practice of law.

(7) THE PUBLIC DEFENDER SERVES FOR A TERM OF 6 YEARS.

16–301.

(a) There is a Board of Trustees of the Office of the Public Defender.

(b) ~~**(1)**~~ The Board of Trustees consists of **[**three**] 13** members ~~appointed by the Governor~~~~**, 12 OF WHOM EACH REPRESENT A PUBLIC DEFENDER DISTRICT, AND THE 13TH OF WHOM IS THE CHAIR.**~~

~~**(2) THE BAR ASSOCIATION OF EACH COUNTY SHALL SUBMIT TO THE GOVERNOR THE NAMES OF THREE INDIVIDUALS FOR CONSIDERATION FOR AN OPEN POSITION ON THE BOARD OF TRUSTEES REPRESENTING THE PUBLIC DEFENDER DISTRICT IN WHICH THE COUNTY IS LOCATED.**~~

~~(3) THE GOVERNOR SHALL CHOOSE THE MEMBERS OF THE BOARD OF TRUSTEES, OTHER THAN THE CHAIR, FROM AMONG THE NAMES SUBMITTED BY THE BAR ASSOCIATIONS~~.

(c) (1) Each member of the Board of Trustees shall be a resident of the State ~~AND HAVE DEMONSTRATED COMMITMENT TO INDIGENT DEFENSE~~.

~~(2) [Two members] EACH MEMBER of the Board of Trustees shall be AN active [attorneys] ATTORNEY admitted to practice before the Court of Appeals of Maryland.~~

~~(3) A PROSECUTOR, JUDGE, OR LAW ENFORCEMENT OFFICER MAY NOT BE A MEMBER OF THE BOARD OF TRUSTEES.~~

(2) ~~NINE~~ 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) ~~SIX~~ ALL MEMBERS OF THE BOARD OF TRUSTEES ~~APPOINTED BY THE GOVERNOR~~ 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) ~~ONE MEMBER SHALL BE THE DEAN OF THE UNIVERSITY OF MARYLAND SCHOOL OF LAW, OR THE DEAN'S DESIGNEE.~~

(7) ~~ONE MEMBER SHALL BE THE DEAN OF THE UNIVERSITY OF BALTIMORE SCHOOL OF LAW, OR THE DEAN'S DESIGNEE.~~

(8) 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.

~~(9)~~ *(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 ~~a~~ *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 ~~JUNE~~ *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.

~~(3)~~ *(4)* **AT THE END OF A TERM A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

~~(4)~~ *(5)* **A MEMBER WHOSE TERM HAS EXPIRED MAY BE REAPPOINTED TO THE BOARD OF TRUSTEES.**

~~[(2)] (5) A vacancy occurring on the Board of Trustees during the term of a member shall be filled by the Governor IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION for the remainder of the unexpired term.~~

(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) **[**Two**]** **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~~ ~~***FOUR***~~ *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.

~~**[**16–303.~~

~~(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.]~~

SECTION 2. AND BE IT FURTHER ENACTED, That the initial members of the Board of Trustees shall be appointed on or before December 31, 2010.

SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial members of the Board of Trustees shall expire as follows:

~~(1) The members representing public defender districts one through four in 2012;~~

~~(2) The members representing public defender districts five through eight in 2013;~~

~~(3) The members representing public defender districts nine through twelve in 2014; and~~

~~(4) The chair in 2014.~~

(1) the members appointed by the Governor representing judicial circuits one through four in 2012;

(2) the members appointed by the Governor representing judicial circuits five through eight in 2013; and

(3) the members appointed by the President of the Senate and the Speaker of the House of Delegates in 2014.

SECTION 4. AND BE IT FURTHER ENACTED, That a member of the Board of Trustees who is serving on the effective date of this Act shall continue to serve until a successor is appointed and qualifies.

SECTION 5. AND BE IT FURTHER ENACTED, That the Public Defender who is serving on the effective date of this Act may continue to serve until 6 years after the effective date of this Act and may be reappointed after the expiration of the Public Defender's term.

SECTION ~~5.~~ *6.* AND BE IT FURTHER ENACTED, That this Act shall take effect ~~June~~ ~~*October*~~ *June* 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 225

(Senate Bill 118)

AN ACT concerning

Courts – Jury Trials in Civil Actions – Amount in Controversy

FOR the purpose of altering the amount in controversy in a civil action in which a party may not demand a jury trial; providing for the construction and application of this Act; making this Act contingent on the passage and ratification of a certain constitutional amendment; and generally relating to jury trials in civil actions.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 4–402(e)(1)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Courts and Judicial Proceedings

4–402.

(e) (1) In a civil action in which the amount in controversy does not exceed **[**$10,000**]** ~~**$20,000**~~ ***$15,000***, exclusive of attorney's fees if attorney's fees are recoverable by law or contract, a party may not demand a jury trial pursuant to the Maryland Rules.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to affect any requirement under Maryland Rule 2–325 for withdrawal of an election for jury trial after a party files a demand electing a trial by jury.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any civil action filed before the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act is contingent on the passage of Chapter 480 ~~(S.B.___/H.B.___)~~ *(S.B.119/H.B.434)* (0lr0427) of the Acts of the General Assembly of 2010, a constitutional amendment, and its ratification by the voters of the State.

SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 4 of this Act, this Act shall take effect on the proclamation of the Governor that the constitutional amendment, having received a majority of the votes cast at the general election, has been adopted by the people of Maryland.

Approved by the Governor, May 4, 2010.

Chapter 226

(Senate Bill 120)

AN ACT concerning

Baltimore City – Alcoholic Beverages – Beer, Wine, and Liquor Tasting License

FOR the purpose of authorizing a Class BWLT beer, wine, and liquor tasting license to be issued by the Board of Liquor License Commissioners for Baltimore City in a certain precinct of the 41st Legislative District of Baltimore City; and generally relating to alcoholic beverages licenses in Baltimore City.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 8–403.2(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 8–403.2(b)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

8–403.2.

(a) This section applies only in:

(1) Ward 27, **[**precinct 42**]** **PRECINCTS 42 AND 44** of the 41st Legislative District of Baltimore City;

(2) Ward 27, precinct 41 of the 43rd Legislative District of Baltimore City; and

(3) Ward 11, precinct 5 of the 44th Legislative District of Baltimore City.

(b) The Board of Liquor License Commissioners for Baltimore City may issue a Class BWLT beer, wine, and liquor (on–premises) tasting license to a holder of a Class A beer, wine and liquor license.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 227

(Senate Bill 122)

AN ACT concerning

Baltimore County – Towson Commercial Revitalization District – Alcoholic Beverages Licenses – Restaurants ~~– Minimum Capital Investment and Transfers~~

FOR the purpose of ~~lowering~~ altering in the Towson Commercial Revitalization District in Baltimore County the ~~minimum~~ amount of capital investment required for certain restaurants for which certain alcoholic beverages licenses may be transferred and new licenses issued; altering the food sales and seating capacity requirements for certain restaurants; ~~reducing the time by a certain amount that an applicant for transfer must wait under certain circumstances;~~ and generally relating to alcoholic beverages licenses for restaurants in Baltimore County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 8–204.3(a) ~~and (b)(1)~~, (b)(1), and (f)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing
Article 2B – Alcoholic Beverages
Section 8–204.3(e)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 8–204.3(e)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section ~~8–204.3(f)~~ 8–204.3(d)(3) and (5)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

8–204.3.

(a) This section applies only in Baltimore County.

(b) (1) Notwithstanding the license population quota limitations of the Board of Liquor License Commissioners and in addition to the licenses authorized for issuance in Baltimore County, the Board of Liquor License Commissioners may authorize the transfer into the Towson Commercial Revitalization District, as defined by the Baltimore County Council, of not more than 10 beer, wine and liquor (on–sale) licenses that:

(i) Were issued on or before December 31, 2008;

(ii) Are in existence in Election District 15 of Baltimore County on June 1, 2009; and

(iii) Are valid on the date of transfer.

(d) (3) **[**The**]** **EXCEPT AS PROVIDED IN SUBSECTION (E)(2)(II) OF THIS SECTION, THE** restaurant operation shall maintain average daily receipts from the sale of food at least 65% of the total daily receipts of the restaurant.

(5) **[**The**]** **EXCEPT AS PROVIDED IN SUBSECTION (E)(2)(III) OF THIS SECTION, THE** area dedicated to the restaurant operation shall have a minimum seating capacity of 100 persons.

[(e) An applicant for transfer of a Class B or Class D license and issuance of a Class B (B, W, L) (TCRD) license shall demonstrate to the Board of Liquor License

Commissioners that the restaurant has a minimum capital investment of $500,000, excluding the cost of the land and building shell.**]**

(E) OF THE RESTAURANTS FOR WHICH A CLASS B OR CLASS D LICENSE MAY BE TRANSFERRED AND A CLASS B (B, W, L) (TCRD) MAY BE ISSUED UNDER SUBSECTION (B)(1) OF THIS SECTION, THE BOARD OF LIQUOR LICENSE COMMISSIONERS MAY REQUIRE THAT:

(1) FOR NOT MORE THAN ~~SIX~~ SEVEN RESTAURANTS, APPLICANTS FOR LICENSE TRANSFER AND ISSUANCE DEMONSTRATE A MINIMUM CAPITAL INVESTMENT, EXCLUDING THE COSTS OF THE LAND AND BUILDING SHELL, OF $500,000; AND

(2) FOR NOT MORE THAN ~~FOUR~~ THREE RESTAURANTS~~, APPLICANTS~~:

(I) APPLICANTS FOR LICENSE TRANSFER AND ISSUANCE DEMONSTRATE A ~~MINIMUM~~ CAPITAL INVESTMENT, EXCLUDING THE COSTS OF THE LAND AND BUILDING SHELL, OF ~~$50,000.~~ NOT LESS THAN $50,000 OR MORE THAN $400,000;

(II) THE RESTAURANT OPERATION MAINTAIN AVERAGE DAILY RECEIPTS FROM THE SALE OF FOOD AT LEAST 70% OF THE TOTAL DAILY RECEIPTS OF THE RESTAURANT; AND

(III) THE AREA DEDICATED TO THE RESTAURANT OPERATION HAVE:

1. A MAXIMUM SEATING CAPACITY OF 100 PERSONS, WITH THE SEATING CAPACITY IN THE BAR AREA NOT EXCEEDING 15% OF THE TOTAL SEATING CAPACITY OF THE RESTAURANT; AND

2. A MINIMUM SEATING CAPACITY OF 40 PERSONS.

(f) The Board of Liquor License Commissioners shall deny an application for transfer of a Class B or Class D license and issuance of a Class B (B, W, L) (TCRD) license if within **[**2 years**]** ~~1 YEAR~~ immediately preceding the application:

(1) (i) The applicant was a holder of an on–sale license issued under this article within the boundaries of the Towson Commercial Revitalization District; or

(ii) There was an on–sale license in existence for the proposed premises of the applicant; and

(2) The previous on–sale license was transferred to premises outside of the Towson Commercial Revitalization District.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 228

(House Bill 391)

AN ACT concerning

Baltimore County – Towson Commercial Revitalization District – Alcoholic Beverages Licenses – Restaurants

FOR the purpose of ~~lowering~~ altering in the Towson Commercial Revitalization District in Baltimore County the ~~minimum~~ amount of capital investment required for certain restaurants for which certain alcoholic beverages licenses may be transferred and new licenses issued; altering the food sales and seating capacity requirements for certain restaurants; ~~reducing the time by a certain amount that an applicant for transfer must wait under certain circumstances;~~ and generally relating to alcoholic beverages licenses for restaurants in Baltimore County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 8–204.3(a) ~~and (b)(1)~~, (b)(1), and (f)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 8–204.3(d)(3) and (5) ~~and (f)~~
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing
Article 2B – Alcoholic Beverages
Section 8–204.3(e)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY adding to

Article 2B – Alcoholic Beverages
Section 8–204.3(e)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

8–204.3.

(a) This section applies only in Baltimore County.

(b) (1) Notwithstanding the license population quota limitations of the Board of Liquor License Commissioners and in addition to the licenses authorized for issuance in Baltimore County, the Board of Liquor License Commissioners may authorize the transfer into the Towson Commercial Revitalization District, as defined by the Baltimore County Council, of not more than 10 beer, wine and liquor (on–sale) licenses that:

(i) Were issued on or before December 31, 2008;

(ii) Are in existence in Election District 15 of Baltimore County on June 1, 2009; and

(iii) Are valid on the date of transfer.

(d) (3) **[**The**] EXCEPT AS PROVIDED IN SUBSECTION (E)(2)(II) OF THIS SECTION, THE** restaurant operation shall maintain average daily receipts from the sale of food at least 65% of the total daily receipts of the restaurant.

(5) **[**The**] EXCEPT AS PROVIDED IN SUBSECTION (E)(2)(III) OF THIS SECTION, THE** area dedicated to the restaurant operation shall have a minimum seating capacity of 100 persons.

[(e) An applicant for transfer of a Class B or Class D license and issuance of a Class B (B, W, L) (TCRD) license shall demonstrate to the Board of Liquor License Commissioners that the restaurant has a minimum capital investment of $500,000, excluding the cost of the land and building shell.**]**

(E) OF THE RESTAURANTS FOR WHICH A CLASS B OR CLASS D LICENSE MAY BE TRANSFERRED AND A CLASS B (B, W, L) (TCRD) MAY BE ISSUED UNDER SUBSECTION (B)(1) OF THIS SECTION, THE BOARD OF LIQUOR LICENSE COMMISSIONERS MAY REQUIRE THAT:

(1) FOR NOT MORE THAN SEVEN RESTAURANTS, APPLICANTS FOR LICENSE TRANSFER AND ISSUANCE DEMONSTRATE A MINIMUM CAPITAL INVESTMENT, EXCLUDING THE COSTS OF THE LAND AND BUILDING SHELL, OF $500,000; AND

(2) FOR NOT MORE THAN THREE RESTAURANTS:

(I) APPLICANTS FOR LICENSE TRANSFER AND ISSUANCE DEMONSTRATE A ~~MINIMUM~~ CAPITAL INVESTMENT, EXCLUDING THE COSTS OF THE LAND AND BUILDING SHELL, OF ~~$50,000~~ NOT LESS THAN $50,000 OR MORE THAN $400,000;

(II) THE RESTAURANT OPERATION ~~SHALL~~ MAINTAIN AVERAGE DAILY RECEIPTS FROM THE SALE OF FOOD OF AT LEAST 70% OF THE TOTAL DAILY RECEIPTS OF THE RESTAURANT; AND

(III) THE AREA DEDICATED TO THE RESTAURANT OPERATION ~~SHALL HAVE A~~ HAVE:

1. A MAXIMUM SEATING CAPACITY OF 100 PERSONS ~~BUT NO MINIMUM SEATING REQUIREMENT~~, WITH THE SEATING CAPACITY IN THE BAR AREA NOT EXCEEDING 15% OF THE TOTAL SEATING CAPACITY OF THE RESTAURANT; AND

2. A MINIMUM SEATING CAPACITY OF 40 PERSONS.

(f) The Board of Liquor License Commissioners shall deny an application for transfer of a Class B or Class D license and issuance of a Class B (B, W, L) (TCRD) license if within **[**2 years**]** ~~1 YEAR~~ immediately preceding the application:

(1) (i) The applicant was a holder of an on–sale license issued under this article within the boundaries of the Towson Commercial Revitalization District; or

(ii) There was an on–sale license in existence for the proposed premises of the applicant; and

(2) The previous on–sale license was transferred to premises outside of the Towson Commercial Revitalization District.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 229

(Senate Bill 130)

AN ACT concerning

Procurement – Minority Business Enterprises – ~~Reciprocal~~ Certification Process

FOR the purpose of requiring the Board of Public Works to adopt regulations to ~~recognize and accommodate, for the purpose of certification under the State minority business enterprise program, minority business enterprises that receive~~ promote and facilitate certification under the State's minority business enterprise program of minority business enterprises that have received certification from a certain federal agency or ~~from~~ a county ~~government in the State~~ that uses a qualification process substantially similar to the State's certification process; requiring the Board to keep certain records and submit a certain annual report to the General Assembly about the certification of certain minority business enterprises; and generally relating to a ~~reciprocal~~ certification process for certain minority business enterprises.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–303
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Finance and Procurement

14–303.

(a) (1) (i) In accordance with Title 10, Subtitle 1 of the State Government Article, the Board shall adopt regulations consistent with the purposes of this Division II to carry out the requirements of this subtitle.

(ii) The Board shall keep a record of the number of waivers requested and the number of waivers granted each year under subsection (b)(8) of this section and submit a copy of the record to the General Assembly on or before October 1 of each year, in accordance with § 2–1246 of the State Government Article.

(III) THE BOARD SHALL KEEP A RECORD OF THE AGGREGATE NUMBER AND THE IDENTITY OF MINORITY BUSINESS ENTERPRISES

THAT RECEIVE CERTIFICATION UNDER THE ~~RECIPROCAL~~ PROCESS ESTABLISHED BY THE BOARD UNDER SUBSECTION (B)(1) OF THIS SECTION AND SUBMIT A COPY OF THE RECORD TO THE GENERAL ASSEMBLY ON OR BEFORE OCTOBER 1 OF EACH YEAR, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE.

(2) The regulations shall establish procedures to be followed by units, prospective contractors, and successful bidders or offerors to maximize notice to, and the opportunity to participate in the procurement process by, a broad range of minority business enterprises.

(b) These regulations shall include:

(1) **(I)** provisions designating one **STATE** agency to certify and decertify minority business enterprises for all units through a single process that meets applicable federal requirements**; AND**

(II) FOR THE PURPOSE OF CERTIFICATION UNDER THIS SUBTITLE, PROVISIONS THAT ~~RECOGNIZE AND ACCOMMODATE MINORITY BUSINESS ENTERPRISES THAT RECEIVE~~ PROMOTE AND FACILITATE CERTIFICATION OF MINORITY BUSINESS ENTERPRISES THAT HAVE RECEIVED CERTIFICATION FROM THE U.S. SMALL BUSINESS ADMINISTRATION OR A COUNTY ~~GOVERNMENT IN THIS STATE~~ THAT USES A CERTIFICATION PROCESS SUBSTANTIALLY SIMILAR TO THE PROCESS ESTABLISHED IN ACCORDANCE WITH ITEM (I) OF THIS ITEM;

(2) a requirement that the solicitation document accompanying each solicitation set forth the expected degree of minority business enterprise participation based, in part, on:

(i) the potential subcontract opportunities available in the prime procurement contract; and

(ii) the availability of certified minority business enterprises to respond competitively to the potential subcontract opportunities;

(3) a requirement that the unit provide a current list of certified minority business enterprises to each prospective contractor;

(4) provisions to ensure the uniformity of requests for bids on subcontracts;

(5) provisions relating to the timing of requests for bids on subcontracts and of submission of bids on subcontracts;

(6) provisions designed to ensure that a fiscal disadvantage to the State does not result from an inadequate response by minority business enterprises to a request for bids;

(7) provisions relating to joint ventures, under which a bidder may count toward meeting its minority business enterprise participation goal, the minority business enterprise portion of the joint venture;

(8) consistent with § 14–302(a)(6) of this subtitle, provisions relating to any circumstances under which a unit may waive obligations of the contractor relating to minority business enterprise participation;

(9) provisions requiring a monthly submission to the unit by minority business enterprises acknowledging all payments received in the preceding 30 days under a contract governed by this subtitle;

(10) a requirement that a unit shall verify and maintain data concerning payments received by minority business enterprises, including a requirement that, upon completion of a project, the unit shall compare the total dollar value actually received by minority business enterprises with the amount of contract dollars initially awarded, and an explanation of any discrepancies therein;

(11) a requirement that a unit verify that minority business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(12) provisions establishing a graduation program based on the financial viability of the minority business enterprise, using annual gross receipts or other economic indicators as may be determined by the Board;

(13) a requirement that a bid or proposal based on a solicitation with an expected degree of minority business enterprise participation identify the specific commitment of certified minority business enterprises at the time of submission;

(14) provisions promoting and providing for the counting and reporting of certified minority business enterprises as prime contractors; and

(15) other provisions that the Board considers necessary or appropriate to encourage participation by minority business enterprises and to protect the integrity of the procurement process.

(c) The regulations adopted under this section shall specify that a unit may not allow a business to participate as if it were a certified minority business enterprise if the business's certification is pending.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 230

(House Bill 250)

AN ACT concerning

Procurement – Minority Business Enterprises – ~~Reciprocal~~ Certification Process

FOR the purpose of requiring the Board of Public Works to adopt regulations to ~~recognize and accommodate, for the purpose of certification under the State minority business enterprise program, minority business enterprises that receive~~ promote and facilitate certification under the ~~State~~ *State's* minority business enterprise program of minority business enterprises that have received certification from a certain federal agency or ~~from a~~ *a* county ~~government~~ ~~in the State~~ that uses a ~~certification~~ *qualification* process substantially similar to the State's certification process; requiring the Board to keep certain records and submit a certain annual report to the General Assembly about the certification of certain minority business enterprises; and generally relating to a ~~reciprocal~~ certification process for certain minority business enterprises.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–303
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Finance and Procurement

14–303.

(a) (1) (i) In accordance with Title 10, Subtitle 1 of the State Government Article, the Board shall adopt regulations consistent with the purposes of this Division II to carry out the requirements of this subtitle.

(ii) The Board shall keep a record of the number of waivers requested and the number of waivers granted each year under subsection (b)(8) of this section and submit a copy of the record to the General Assembly on or before October 1 of each year, in accordance with § 2–1246 of the State Government Article.

(III) THE BOARD SHALL KEEP A RECORD OF THE AGGREGATE NUMBER AND THE IDENTITY OF MINORITY BUSINESS ENTERPRISES THAT RECEIVE CERTIFICATION UNDER THE ~~RECIPROCAL~~ PROCESS ESTABLISHED BY THE BOARD UNDER SUBSECTION (B)(1) OF THIS SECTION AND SUBMIT A COPY OF THE RECORD TO THE GENERAL ASSEMBLY ON OR BEFORE OCTOBER 1 OF EACH YEAR, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE.

(2) The regulations shall establish procedures to be followed by units, prospective contractors, and successful bidders or offerors to maximize notice to, and the opportunity to participate in the procurement process by, a broad range of minority business enterprises.

(b) These regulations shall include:

(1) **(I)** provisions designating one **STATE** agency to certify and decertify minority business enterprises for all units through a single process that meets applicable federal requirements**; AND**

(II) FOR THE PURPOSE OF CERTIFICATION UNDER THIS SUBTITLE, PROVISIONS THAT ~~RECOGNIZE AND ACCOMMODATE MINORITY BUSINESS ENTERPRISES THAT RECEIVE~~ PROMOTE AND FACILITATE CERTIFICATION OF MINORITY BUSINESS ENTERPRISES THAT HAVE RECEIVED CERTIFICATION FROM THE U.S. SMALL BUSINESS ADMINISTRATION OR A COUNTY ~~GOVERNMENT IN THIS STATE~~ THAT USES A CERTIFICATION PROCESS SUBSTANTIALLY SIMILAR TO THE PROCESS ESTABLISHED IN ACCORDANCE WITH ITEM (I) OF THIS ITEM;

(2) a requirement that the solicitation document accompanying each solicitation set forth the expected degree of minority business enterprise participation based, in part, on:

(i) the potential subcontract opportunities available in the prime procurement contract; and

(ii) the availability of certified minority business enterprises to respond competitively to the potential subcontract opportunities;

(3) a requirement that the unit provide a current list of certified minority business enterprises to each prospective contractor;

(4) provisions to ensure the uniformity of requests for bids on subcontracts;

(5) provisions relating to the timing of requests for bids on subcontracts and of submission of bids on subcontracts;

(6) provisions designed to ensure that a fiscal disadvantage to the State does not result from an inadequate response by minority business enterprises to a request for bids;

(7) provisions relating to joint ventures, under which a bidder may count toward meeting its minority business enterprise participation goal, the minority business enterprise portion of the joint venture;

(8) consistent with § 14–302(a)(6) of this subtitle, provisions relating to any circumstances under which a unit may waive obligations of the contractor relating to minority business enterprise participation;

(9) provisions requiring a monthly submission to the unit by minority business enterprises acknowledging all payments received in the preceding 30 days under a contract governed by this subtitle;

(10) a requirement that a unit shall verify and maintain data concerning payments received by minority business enterprises, including a requirement that, upon completion of a project, the unit shall compare the total dollar value actually received by minority business enterprises with the amount of contract dollars initially awarded, and an explanation of any discrepancies therein;

(11) a requirement that a unit verify that minority business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(12) provisions establishing a graduation program based on the financial viability of the minority business enterprise, using annual gross receipts or other economic indicators as may be determined by the Board;

(13) a requirement that a bid or proposal based on a solicitation with an expected degree of minority business enterprise participation identify the specific commitment of certified minority business enterprises at the time of submission;

(14) provisions promoting and providing for the counting and reporting of certified minority business enterprises as prime contractors; and

(15) other provisions that the Board considers necessary or appropriate to encourage participation by minority business enterprises and to protect the integrity of the procurement process.

(c) The regulations adopted under this section shall specify that a unit may not allow a business to participate as if it were a certified minority business enterprise if the business's certification is pending.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 231

(Senate Bill 131)

AN ACT concerning

State Procurement – Minority Business Enterprises – Electronic Certification Process

FOR the purpose of requiring the Board of Public Works to adopt regulations that include provisions that ~~allow a business seeking certification as a minority business enterprise to complete the application~~ promote and facilitate the submission of all or part of certain applications for certification as a minority business enterprise through an electronic process; and generally relating to an electronic certification process for minority business enterprises.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–303
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Finance and Procurement

14–303.

(a) (1) (i) In accordance with Title 10, Subtitle 1 of the State Government Article, the Board shall adopt regulations consistent with the purposes of this Division II to carry out the requirements of this subtitle.

(ii) The Board shall keep a record of the number of waivers requested and the number of waivers granted each year under subsection (b)(8) of this section and submit a copy of the record to the General Assembly on or before October 1 of each year, in accordance with § 2–1246 of the State Government Article.

(2) The regulations shall establish procedures to be followed by units, prospective contractors, and successful bidders or offerors to maximize notice to, and the opportunity to participate in the procurement process by, a broad range of minority business enterprises.

(b) These regulations shall include:

(1) provisions designating one agency to certify and decertify minority business enterprises for all units through a single process that meets applicable federal requirements**, INCLUDING PROVISIONS THAT** ~~**ALLOW A BUSINESS SEEKING CERTIFICATION TO COMPLETE THE**~~ **PROMOTE AND FACILITATE THE SUBMISSION OF SOME OR ALL OF THE CERTIFICATION APPLICATION THROUGH AN ELECTRONIC PROCESS**;

(2) a requirement that the solicitation document accompanying each solicitation set forth the expected degree of minority business enterprise participation based, in part, on:

(i) the potential subcontract opportunities available in the prime procurement contract; and

(ii) the availability of certified minority business enterprises to respond competitively to the potential subcontract opportunities;

(3) a requirement that the unit provide a current list of certified minority business enterprises to each prospective contractor;

(4) provisions to ensure the uniformity of requests for bids on subcontracts;

(5) provisions relating to the timing of requests for bids on subcontracts and of submission of bids on subcontracts;

(6) provisions designed to ensure that a fiscal disadvantage to the State does not result from an inadequate response by minority business enterprises to a request for bids;

(7) provisions relating to joint ventures, under which a bidder may count toward meeting its minority business enterprise participation goal, the minority business enterprise portion of the joint venture;

(8) consistent with § 14–302(a)(6) of this subtitle, provisions relating to any circumstances under which a unit may waive obligations of the contractor relating to minority business enterprise participation;

(9) provisions requiring a monthly submission to the unit by minority business enterprises acknowledging all payments received in the preceding 30 days under a contract governed by this subtitle;

(10) a requirement that a unit shall verify and maintain data concerning payments received by minority business enterprises, including a requirement that, upon completion of a project, the unit shall compare the total dollar value actually received by minority business enterprises with the amount of contract dollars initially awarded, and an explanation of any discrepancies therein;

(11) a requirement that a unit verify that minority business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(12) provisions establishing a graduation program based on the financial viability of the minority business enterprise, using annual gross receipts or other economic indicators as may be determined by the Board;

(13) a requirement that a bid or proposal based on a solicitation with an expected degree of minority business enterprise participation identify the specific commitment of certified minority business enterprises at the time of submission;

(14) provisions promoting and providing for the counting and reporting of certified minority business enterprises as prime contractors; and

(15) other provisions that the Board considers necessary or appropriate to encourage participation by minority business enterprises and to protect the integrity of the procurement process.

(c) The regulations adopted under this section shall specify that a unit may not allow a business to participate as if it were a certified minority business enterprise if the business's certification is pending.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 232

(House Bill 251)

AN ACT concerning

State Procurement – Minority Business Enterprises – Electronic Certification Process

FOR the purpose of requiring the Board of Public Works to adopt regulations that include provisions that ~~allow a business seeking certification as a minority business enterprise to complete the application~~ promote and facilitate the submission of *all or part of* certain applications for certification as a minority business enterprise through an electronic process; and generally relating to an electronic certification process for minority business enterprises.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–303
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Finance and Procurement

14–303.

(a) (1) (i) In accordance with Title 10, Subtitle 1 of the State Government Article, the Board shall adopt regulations consistent with the purposes of this Division II to carry out the requirements of this subtitle.

(ii) The Board shall keep a record of the number of waivers requested and the number of waivers granted each year under subsection (b)(8) of this section and submit a copy of the record to the General Assembly on or before October 1 of each year, in accordance with § 2–1246 of the State Government Article.

(2) The regulations shall establish procedures to be followed by units, prospective contractors, and successful bidders or offerors to maximize notice to, and the opportunity to participate in the procurement process by, a broad range of minority business enterprises.

(b) These regulations shall include:

(1) provisions designating one agency to certify and decertify minority business enterprises for all units through a single process that meets applicable federal requirements**, INCLUDING PROVISIONS THAT ~~ALLOW A BUSINESS SEEKING CERTIFICATION TO COMPLETE THE~~ PROMOTE AND FACILITATE THE SUBMISSION OF SOME OR ALL OF THE CERTIFICATION APPLICATION THROUGH AN ELECTRONIC PROCESS**;

(2) a requirement that the solicitation document accompanying each solicitation set forth the expected degree of minority business enterprise participation based, in part, on:

(i) the potential subcontract opportunities available in the prime procurement contract; and

(ii) the availability of certified minority business enterprises to respond competitively to the potential subcontract opportunities;

(3) a requirement that the unit provide a current list of certified minority business enterprises to each prospective contractor;

(4) provisions to ensure the uniformity of requests for bids on subcontracts;

(5) provisions relating to the timing of requests for bids on subcontracts and of submission of bids on subcontracts;

(6) provisions designed to ensure that a fiscal disadvantage to the State does not result from an inadequate response by minority business enterprises to a request for bids;

(7) provisions relating to joint ventures, under which a bidder may count toward meeting its minority business enterprise participation goal, the minority business enterprise portion of the joint venture;

(8) consistent with § 14–302(a)(6) of this subtitle, provisions relating to any circumstances under which a unit may waive obligations of the contractor relating to minority business enterprise participation;

(9) provisions requiring a monthly submission to the unit by minority business enterprises acknowledging all payments received in the preceding 30 days under a contract governed by this subtitle;

(10) a requirement that a unit shall verify and maintain data concerning payments received by minority business enterprises, including a requirement that, upon completion of a project, the unit shall compare the total dollar value actually received by minority business enterprises with the amount of contract dollars initially awarded, and an explanation of any discrepancies therein;

(11) a requirement that a unit verify that minority business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(12) provisions establishing a graduation program based on the financial viability of the minority business enterprise, using annual gross receipts or other economic indicators as may be determined by the Board;

(13) a requirement that a bid or proposal based on a solicitation with an expected degree of minority business enterprise participation identify the specific commitment of certified minority business enterprises at the time of submission;

(14) provisions promoting and providing for the counting and reporting of certified minority business enterprises as prime contractors; and

(15) other provisions that the Board considers necessary or appropriate to encourage participation by minority business enterprises and to protect the integrity of the procurement process.

(c) The regulations adopted under this section shall specify that a unit may not allow a business to participate as if it were a certified minority business enterprise if the business's certification is pending.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 233

(Senate Bill 135)

AN ACT concerning

Criminal Procedure – Petition for Writ of Actual Innocence – Notice of Filing and Hearing

FOR the purpose of *limiting to a person charged by indictment or criminal information with a crime triable in circuit court and convicted of that crime the authority to file a petition for writ of actual innocence under certain circumstances;* requiring a *certain* person who files a petition for writ of actual innocence to notify the State of the filing in a certain manner; authorizing the State to file a response to a petition for writ of actual innocence within a certain period of time; requiring that the victim or victim's representative be notified of a hearing on a petition for writ of actual innocence before the hearing is held; establishing that a victim or victim's representative has the right to attend a hearing on a petition for writ of actual innocence; *repealing a provision of law authorizing the court to dismiss a certain petition without a hearing if the court finds that the*

petition fails to state a claim; making this Act an emergency measure; and generally relating to a petition for writ of actual innocence.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 8–301
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Criminal Procedure

8–301.

(a) A ~~convicted~~ person ***CHARGED BY INDICTMENT OR CRIMINAL INFORMATION WITH A CRIME TRIABLE IN CIRCUIT COURT AND CONVICTED OF THAT CRIME MAY***, at any time, ~~may~~ 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) creates a substantial or significant possibility that the result may have been different, as that standard has been judicially determined; 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 ~~15~~ *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.

[(c)**] (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 ~~state a claim or~~ assert grounds on which relief may be granted.

[(d)**] (F)** (1) 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) The court shall state the reasons for its ruling on the record.

[(e)**] (G)** A petitioner in a proceeding under this section has the burden of proof.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 4, 2010.

Chapter 234

(House Bill 128)

AN ACT concerning

Criminal Procedure – Petition for Writ of Actual Innocence – Notice of Filing and Hearing

FOR the purpose of limiting to a person charged by indictment or criminal information with a crime triable in circuit court and convicted of that crime the authority to file a petition for writ of actual innocence under certain circumstances; requiring a certain person who files a petition for writ of actual innocence to notify the State of the filing in a certain manner; authorizing the State to file a response to a petition for writ of actual innocence within a certain period of time; requiring that the victim or victim's representative be notified of a hearing on a petition for writ of actual innocence before the hearing is held; establishing that a victim or victim's representative has the right to attend a hearing on a petition for writ of actual innocence; repealing a provision of law authorizing the court to dismiss a certain petition without a hearing if the court finds that the petition fails to state a claim; ~~authorizing the State or a certain petitioner to appeal a certain order to the Court of Special Appeals within a certain time period; requiring an appeal under this Act to follow the form and procedure set by the Maryland Rules; authorizing the court to stay an order and set bail under certain circumstances; authorizing the Court of Special Appeals to affirm, modify, or reverse an order or remand a case for further proceedings under certain circumstances;~~ making this Act an emergency measure; and generally relating to a petition for writ of actual innocence.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 8–301
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Criminal Procedure

8–301.

(a) A ~~convicted~~ person **CHARGED BY INDICTMENT OR CRIMINAL INFORMATION WITH A CRIME TRIABLE IN CIRCUIT COURT AND CONVICTED OF THAT CRIME MAY**, at any time, ~~may~~ 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) creates a substantial or significant possibility that the result may have been different, as that standard has been judicially determined; 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 ~~15~~ 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.

[(c)**] (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 ~~state a claim or~~ assert grounds on which relief may be granted.

[(d)**] (F)** (1) 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) The court shall state the reasons for its ruling on the record.

[(e)**] (G)** A petitioner in a proceeding under this section has the burden of proof.

~~(II) (1) WITHIN 30 DAYS AFTER THE COURT PASSES AN ORDER IN ACCORDANCE WITH THIS SECTION, THE STATE OR THE PETITIONER MAY APPEAL THE ORDER TO THE COURT OF SPECIAL APPEALS.~~

~~(2) (I) THE APPEAL SHALL FOLLOW THE FORM AND PROCEDURE SET BY THE MARYLAND RULES.~~

~~(II) IF THE STATE FILES AN APPEAL UNDER THIS SUBSECTION, THE COURT MAY:~~

~~1. STAY THE ORDER; AND~~

~~2. SET BAIL FOR THE PETITIONER.~~

~~(III) AFTER HEARING AN APPEAL UNDER THIS SUBSECTION, THE COURT OF SPECIAL APPEALS MAY:~~

~~1. AFFIRM, MODIFY, OR REVERSE THE ORDER APPEALED FROM; OR~~

~~2. REMAND THE CASE FOR FURTHER PROCEEDINGS.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 4, 2010.

Chapter 235

(Senate Bill 139)

AN ACT concerning

Property Tax – Exemption for Disabled ~~Veterans and Surviving Spouses – Definition~~ Public Health Service and NOAA Officers and Surviving Spouses

FOR the purpose of altering the definition of "disabled veteran" for purposes of a certain property tax exemption for dwelling houses owned by certain disabled veterans or surviving spouses of disabled veterans or of certain individuals who died while in the active military, naval, or air service of the United States;

providing for the application of this Act; and generally relating to a property tax exemption for disabled veterans.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 7–208(a) and (d)(1)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Tax – Property
Section 7–208(b)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Tax – Property

7–208.

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

(2) (i) "Disabled veteran" means an individual who:

1. is honorably discharged or released under honorable circumstances from active **MILITARY, NAVAL, OR AIR** service **[**in any branch of the armed forces**]** **AS DEFINED IN 38 U.S.C. § 101**; and

2. has been declared by the Veterans' Administration to have a permanent 100% service connected disability that results from blindness or other disabling cause that:

A. is reasonably certain to continue for the life of the veteran; and

B. was not caused or incurred by misconduct of the veteran.

(ii) "Disabled veteran" includes an individual who qualifies posthumously for a 100% service connected disability.

(3) "Dwelling house":

(i) means real property that is:

1. the legal residence of a disabled veteran or a surviving spouse; and

2. occupied by not more than 2 families; and

(ii) includes the lot or curtilage and structures necessary to use the real property as a residence.

(4) "Surviving spouse" means a surviving spouse, who has not remarried:

(i) of a disabled veteran;

(ii) of an individual who died in line of duty; or

(iii) who receives Dependency and Indemnity Compensation from the United States Department of Veterans Affairs.

(5) "Individual who died in line of duty" means an individual who died while in the active military, naval, or air service of the United States as a result of an injury or disease that is deemed under 38 U.S.C. § 105 to have been incurred in line of duty.

(b) Except as provided in subsection (e) of this section, a dwelling house is exempt from property tax if:

(1) the dwelling house is owned by:

(i) a disabled veteran;

(ii) a surviving spouse of an individual who died in line of duty, if:

1. the dwelling house was owned by the individual at the time of the individual's death;

2. the dwelling house was acquired by the surviving spouse within 2 years of the individual's death, if the individual or the surviving spouse was domiciled in the State as of the date of the individual's death; or

3. the dwelling house was acquired after the surviving spouse qualified for exemption for a former dwelling house under item 1 or 2 of this item, to the extent of the previous exemption; or

(iii) a surviving spouse of a disabled veteran who meets the requirements of subsection (c) of this section; and

(2) the application requirements of subsection (d) of this section are met.

(d) (1) A disabled veteran or a surviving spouse of a disabled veteran shall apply for an exemption under this section by providing to the supervisor:

(i) a copy of the disabled veteran's discharge certificate from active **MILITARY, NAVAL, OR AIR** service **[**in the armed forces**]**; and

(ii) on the form provided by the Department, a certification of the disabled veteran's disability from the Veterans' Administration.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010, and shall be applicable to all taxable years beginning after June 30, 2010.

Approved by the Governor, May 4, 2010.

Chapter 236

(Senate Bill 145)

AN ACT concerning

State Board of Examiners in Optometry – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Board of Examiners in Optometry in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) <u>by extending</u> to a certain date the termination provisions relating to statutory authority and regulatory authority of the Board; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; requiring the Board to submit a certain report on or before a certain date; and generally relating to the State Board of Examiners in Optometry.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 11–602
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)

Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(45)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health Occupations

11–602.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, **[**2013**] 2023**.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(45) Optometry, State Board of Examiners in (§ 11–201 of the Health Occupations Article: July 1, **[**2012**] 2022**);

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2011, the State Board of Examiners in Optometry shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, on the actions the Board has taken to:

(1) Monitor the decline in new licenses issued <u>and the trends in the renewal of previously issued licenses</u> and include any recommendations the Board has made to address the ~~decline~~ <u>Board's findings</u>;

(2) ~~Track developments in the scope of practice for optometry and their potential impact on entry into the profession in order to ensure that access to eye care in Maryland does not become a problem;~~

~~(3)~~ Review future revenue and expenditure trends to determine if a fee increase may be necessary; and

~~(4)~~ (3) Implement a biennial renewal cycle to maintain a more consistent fund balance.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 237

(Senate Bill 161)

AN ACT concerning

Anne Arundel County Public Schools – Office Discipline Referrals – ~~Accountability~~ Policy

FOR the purpose of requiring the Anne Arundel County Board of Education ~~to develop a certain policy for accounting for certain office discipline referrals submitted in certain schools on or before a certain date; requiring a certain policy to include certain information; requiring the county board to implement a certain policy in certain public schools in a certain school year;~~ *to establish a certain committee to develop a policy on administering office discipline referrals in the county; providing for the membership and chair of the committee; requiring the committee to develop and recommend a policy and certain guidelines regarding the administration of the office discipline referrals in the county to the county board for the county board's approval on or before a certain date;* requiring the county board to ~~submit~~ *present* a certain report to the ~~General Assembly on or before a certain date~~ *Anne Arundel County Delegation before the end of a certain period of time*; defining a certain term; providing for the termination of this Act; and generally relating to ~~an accountability~~ *a* policy by the Anne Arundel County Board of Education for office discipline referrals.

BY adding to
Article – Education
Section 7–311
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

7–311.

(A) IN THIS SECTION, "OFFICE DISCIPLINE REFERRAL" MEANS A SCHOOL FORM THAT REFERS A STUDENT TO THE SCHOOL'S ADMINISTRATIVE OFFICE TO ACT ON A DISCIPLINARY MATTER.

~~**(B) (1) ON OR BEFORE MARCH 31, 2011, THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION SHALL DEVELOP A POLICY FOR ACCOUNTING FOR ALL OFFICE DISCIPLINE REFERRALS SUBMITTED IN SCHOOLS WITHIN THE JURISDICTION OF THE COUNTY BOARD.**~~

~~**(2) THE ACCOUNTABILITY POLICY DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:**~~

~~**(I) A SYSTEM FOR ASSIGNING EACH OFFICE DISCIPLINE REFERRAL A UNIQUE NUMBER; AND**~~

~~**(II) A METHOD FOR PROVIDING A COPY OF THE NUMBERED OFFICE DISCIPLINE REFERRAL TO THE INDIVIDUAL SUBMITTING THE OFFICE DISCIPLINE REFERRAL AT THE TIME IT IS SUBMITTED.**~~

~~**(C) THE COUNTY BOARD SHALL IMPLEMENT THE POLICY DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION IN ALL SCHOOLS UNDER THE JURISDICTION OF THE COUNTY BOARD IN THE 2011–2012 SCHOOL YEAR.**~~

(B) THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION SHALL ESTABLISH A COMMITTEE TO DEVELOP A POLICY AND GUIDELINES FOR ADMINISTERING OFFICE DISCIPLINE REFERRALS IN THE COUNTY.

(C) THE COMMITTEE ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION SHALL CONSIST OF:

(1) TWO MEMBERS OF THE TEACHERS ASSOCIATION OF ANNE ARUNDEL COUNTY, OF WHOM:

(I) ONE SHALL BE AN ELEMENTARY SCHOOL TEACHER; AND

(II) ONE SHALL BE A SECONDARY SCHOOL TEACHER;

(2) TWO MEMBERS OF THE ASSOCIATION OF EDUCATIONAL LEADERS, OF WHOM:

(I) ONE SHALL BE AN ADMINISTRATOR OF AN ELEMENTARY SCHOOL; AND

(II) ONE SHALL BE AN ADMINISTRATOR OF A SECONDARY SCHOOL;

(3) ONE MEMBER OF THE ANNE ARUNDEL COUNTY–WIDE CITIZEN ADVISORY COMMITTEE;

(4) ONE MEMBER SHALL BE A DESIGNEE OF THE COUNTY SUPERINTENDENT; AND

(5) TWO MEMBERS OF THE ANNE ARUNDEL COUNTY PARENT TEACHER ASSOCIATION; AND

(6) ONE MEMBER OF THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION APPOINTED BY THE CURRENT CHAIRMAN OF THE BOARD OF EDUCATION.

(D) THE MEMBER OF THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION APPOINTED IN ACCORDANCE WITH SUBSECTION (C)(6) OF THIS SECTION SHALL SERVE AS THE CHAIR OF THE COMMITTEE.

(E) ON OR BEFORE JANUARY 1, 2011, THE COMMITTEE SHALL DEVELOP AND RECOMMEND A POLICY AND GUIDELINES FOR THE ADMINISTRATION OF OFFICE DISCIPLINE REFERRALS IN THE COUNTY TO THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION FOR THE COUNTY BOARD'S APPROVAL.

~~(D)~~ *(F)* ~~ON OR BEFORE DECEMBER 31, 2013~~ *BEFORE THE END OF THE 2011 SESSION OF THE GENERAL ASSEMBLY*, THE COUNTY BOARD SHALL ~~SUBMIT~~ *PRESENT* A REPORT, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE ~~GENERAL ASSEMBLY~~ *ANNE ARUNDEL COUNTY DELEGATION* ON THE ~~IMPLEMENTATION AND STATUS OF THE~~ *APPROVED* OFFICE DISCIPLINE REFERRAL ~~ACCOUNTABILITY~~ POLICY IN PUBLIC SCHOOLS IN ANNE ARUNDEL COUNTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010. It shall remain effective for a period of ~~4 years~~ *1 year* and, at the end of June 30, ~~2014~~ *2011*, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 4, 2010.

Chapter 238

(House Bill 178)

AN ACT concerning

Anne Arundel County Public Schools – Office Discipline Referrals – ~~Accountability~~ Policy

FOR the purpose of requiring the Anne Arundel County Board of Education ~~to develop a certain policy for accounting for certain office discipline referrals submitted in certain schools on or before a certain date; requiring a certain policy to include certain information; requiring the county board to implement a certain policy in certain public schools in a certain school year;~~ to establish a certain committee to develop a policy on administering office discipline referrals in the county; providing for the membership and chair of the committee; requiring the committee to develop and recommend a policy and certain guidelines regarding the administration of the office discipline referrals in the county to the county board for the county board's approval on or before a certain date; requiring the county board to ~~submit~~ present a certain report to the ~~General Assembly on or before a certain date~~ Anne Arundel County Delegation before the end of a certain period of time; defining a certain term; providing for the termination of this Act; and generally relating to ~~an accountability~~ a policy by the Anne Arundel County Board of Education for office discipline referrals.

BY adding to
Article – Education
Section 7–311
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

7–311.

(A) IN THIS SECTION, "OFFICE DISCIPLINE REFERRAL" MEANS A SCHOOL FORM THAT REFERS A STUDENT TO THE SCHOOL'S ADMINISTRATIVE OFFICE TO ACT ON A DISCIPLINARY MATTER.

~~(B) (1) ON OR BEFORE MARCH 31, 2011, THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION SHALL DEVELOP A POLICY FOR ACCOUNTING FOR ALL OFFICE DISCIPLINE REFERRALS SUBMITTED IN SCHOOLS WITHIN THE JURISDICTION OF THE COUNTY BOARD.~~

~~(2) THE ACCOUNTABILITY POLICY DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:~~

~~(I) A SYSTEM FOR ASSIGNING EACH OFFICE DISCIPLINE REFERRAL A UNIQUE NUMBER; AND~~

~~(II) A METHOD FOR PROVIDING A COPY OF THE NUMBERED OFFICE DISCIPLINE REFERRAL TO THE INDIVIDUAL SUBMITTING THE OFFICE DISCIPLINE REFERRAL AT THE TIME IT IS SUBMITTED.~~

~~(C) THE COUNTY BOARD SHALL IMPLEMENT THE POLICY DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION IN ALL SCHOOLS UNDER THE JURISDICTION OF THE COUNTY BOARD IN THE 2011–2012 SCHOOL YEAR.~~

(B) THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION SHALL ESTABLISH A COMMITTEE TO DEVELOP A POLICY AND GUIDELINES FOR ADMINISTERING OFFICE DISCIPLINE REFERRALS IN THE COUNTY.

(C) THE COMMITTEE ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION SHALL CONSIST OF:

(1) TWO MEMBERS OF THE TEACHERS ASSOCIATION OF ANNE ARUNDEL COUNTY, OF WHOM:

(I) ONE SHALL BE AN ELEMENTARY SCHOOL TEACHER; AND

(II) ONE SHALL BE A SECONDARY SCHOOL TEACHER;

(2) TWO MEMBERS OF THE ASSOCIATION OF EDUCATIONAL LEADERS, OF WHOM:

(I) ONE SHALL BE AN ADMINISTRATOR OF AN ELEMENTARY SCHOOL; AND

(II) ONE SHALL BE AN ADMINISTRATOR OF A SECONDARY SCHOOL;

(3) ONE MEMBER OF THE ANNE ARUNDEL COUNTY–WIDE CITIZEN ADVISORY COMMITTEE;

(4) ONE MEMBER SHALL BE A DESIGNEE OF THE COUNTY SUPERINTENDENT; AND

(5) TWO MEMBERS OF THE ANNE ARUNDEL COUNTY PARENT TEACHER ASSOCIATION; AND

(6) ONE MEMBER OF THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION APPOINTED BY THE CURRENT CHAIRMAN OF THE BOARD OF EDUCATION.

(D) THE MEMBER OF THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION APPOINTED IN ACCORDANCE WITH SUBSECTION (C)(6) OF THIS SECTION SHALL SERVE AS THE CHAIR OF THE COMMITTEE.

(E) ON OR BEFORE JANUARY 1, 2011, THE COMMITTEE SHALL DEVELOP AND RECOMMEND A POLICY AND GUIDELINES FOR THE ADMINISTRATION OF OFFICE DISCIPLINE REFERRALS IN THE COUNTY TO THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION FOR THE COUNTY BOARD'S APPROVAL.

~~(D)~~ (F) ~~ON OR BEFORE DECEMBER 31, 2013~~ BEFORE THE END OF THE 2011 SESSION OF THE GENERAL ASSEMBLY, THE COUNTY BOARD SHALL ~~SUBMIT~~ PRESENT A REPORT, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE ~~GENERAL ASSEMBLY~~ ANNE ARUNDEL COUNTY DELEGATION ON THE ~~IMPLEMENTATION AND STATUS OF THE~~ APPROVED OFFICE DISCIPLINE REFERRAL ~~ACCOUNTABILITY~~ POLICY IN PUBLIC SCHOOLS IN ANNE ARUNDEL COUNTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010. It shall remain effective for a period of ~~4 years~~ 1 year and, at the end of June 30, ~~2014~~ 2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 4, 2010.

Chapter 239

(Senate Bill 163)

AN ACT concerning

State Board of Pharmacy – ~~Wholesale Distributors – Accreditation and Reciprocity~~ Wholesale Distributor Permitting and Prescription Drug Integrity Act – Revisions

FOR the purpose of authorizing the State Department of Health and Mental Hygiene to purchase and distribute certain drugs and devices for certain purposes; requiring the Department to adopt certain regulations, in consultation with the State Board of Pharmacy, for certain purposes; altering ~~certain circumstances when~~ *the circumstances under which* the ~~State Board of Pharmacy~~ Board may grant "deemed status" to wholesale distributors; requiring wholesale distributors that receive a permit by reciprocity to comply with certain requirements; requiring wholesale distributors that are not eligible for reciprocity to be accredited; requiring the Board to grant "deemed status" to certain wholesale distributors under certain circumstances; altering ~~the definition of "deemed status" and~~ certain definitions ~~and~~ ~~defining certain other terms~~; and generally relating to the ~~accreditation of and granting of reciprocity to wholesale distributors of prescription drugs~~ *Wholesale Distributor Permitting and Prescription Drug Integrity Act*.

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 12–6C–01(a), (h), (n), (v), and (w)
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 12–6C–01(u) and 12–6C–04
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article – Health Occupations
Section 12–6C–03.1
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health Occupations

12–6C–01.

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

(h) "Facility" means a facility of a wholesale distributor where prescription drugs are stored, handled, repackaged, or offered for sale.

(n) "Pedigree" means a document or electronic file containing information that records each wholesale distribution of a prescription drug.

(u) (1) "Wholesale distribution" means the distribution of prescription drugs or prescription devices to persons other than a consumer or patient.

(2) "Wholesale distribution" does not include:

(i) Intracompany sales;

(ii) The sale, purchase, distribution, trade, or transfer of a prescription drug or an offer to sell, purchase, distribute, trade, or transfer a prescription drug for emergency medical reasons;

(III) THE SALE, PURCHASE, DISTRIBUTION, TRADE, OR TRANSFER OF A PRESCRIPTION DRUG OR PRESCRIPTION DEVICE BY THE DEPARTMENT FOR PUBLIC HEALTH PURPOSES;

[(iii)**] (IV)** The distribution of samples of a prescription drug by a manufacturer's representative;

[(iv)**] (V)** Prescription drug returns conducted by a hospital, health care entity, or charitable institution in accordance with 21 C.F.R. § 203.23;

[(v)**] (VI)** The sale of minimal quantities of prescription drugs by retail pharmacies to licensed health care practitioners for office use;

[(vi)**] (VII)** The sale, purchase, or trade of a prescription drug, an offer to sell, purchase, or trade a prescription drug, or the dispensing of a prescription drug in accordance with a prescription;

[(vii)**] (VIII)** The sale, transfer, merger, or consolidation of all or part of the business of a pharmacy to or with another pharmacy, whether accomplished as a purchase and sale of stock or business assets;

[(viii)**] (IX)** The sale, purchase, distribution, trade, or transfer of a prescription drug from one authorized distributor of record to one additional authorized distributor of record if:

1. The manufacturer has stated in writing to the receiving authorized distributor of record that the manufacturer is unable to supply the prescription drug; and

2. The supplying authorized distributor of record states in writing that the prescription drug being supplied had until that time been exclusively in the normal distribution channel;

[(ix)**] (X)** The delivery of, or offer to deliver, a prescription drug by a common carrier solely in the common carrier's usual course of business of transporting prescription drugs, if the common carrier does not store, warehouse, or take legal ownership of the prescription drug; or

[(x)**] (XI)** The sale or transfer from a retail pharmacy or pharmacy warehouse of expired, damaged, returned, or recalled prescription drugs to the original manufacturer or to a third party returns processor.

(v) (1) "Wholesale distributor" means a person that is engaged in the wholesale distribution of prescription drugs or prescription devices.

(2) "Wholesale distributor" includes:

(i) A manufacturer;

(ii) A repackager;

(iii) An own–label distributor;

(iv) A private–label distributor;

(v) A jobber;

(vi) A broker;

(vii) A warehouse, including a manufacturer's or distributor's warehouse;

(viii) A manufacturer's exclusive distributor or an authorized distributor of record;

(ix) A drug wholesaler or distributor;

(x) An independent wholesale drug trader;

(xi) A third party logistics provider;

(xii) A retail pharmacy that conducts wholesale distribution, if the wholesale distribution business accounts for more than 5% of the retail pharmacy's annual sales; and

(xiii) A pharmacy warehouse that conducts wholesale distribution.

(w) "Wholesale distributor permit" means a permit issued by the Board under this subtitle to distribute prescription drugs or prescription devices into, out of, or within the State as a wholesale distributor.

12–6C–03.1.

(A) THE DEPARTMENT ~~IS AUTHORIZED TO~~ *MAY* PURCHASE AND DISTRIBUTE PRESCRIPTION DRUGS AND PRESCRIPTION DEVICES FOR PUBLIC HEALTH PURPOSES.

(B) THE DEPARTMENT SHALL ADOPT REGULATIONS, IN CONSULTATION WITH THE BOARD, TO IMPLEMENT THIS SECTION.

12–6C–04.

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

(2) "Accreditation organization" means a private entity that**:**

(I) IS RECOGNIZED BY THE BOARD; AND

(II) [conducts**] CONDUCTS** inspections and surveys of wholesale distributors based on nationally recognized and developed standards.

(3) "Deemed status" means a status under which a wholesale distributor may be exempt from **INITIAL AND** routine **[**inspections and other permit**] INSPECTION** requirements **[**of the Board**] UNDER THIS SUBTITLE**.

~~**(4) "SUBSTANTIALLY EQUIVALENT" MEANS THAT THE LAWS OF ANOTHER STATE ARE EQUAL TO OR MORE STRINGENT THAN THE LAWS OF THIS STATE AND REQUIRE, AT MINIMUM, PEDIGREES, ROUTINE INSPECTIONS OF WHOLESALE DISTRIBUTORS, OPERATION OF WHOLESALE DISTRIBUTORS IN A COMMERCIAL NONRESIDENTIAL FACILITY, AND SECURITY MEASURES.**~~

[(b) If the Board determines that the standards of an accreditation organization are equal to or more stringent than State permit requirements, the Board may:

(1) Accept the accreditation of a wholesale distributor by an accreditation organization as evidence that the wholesale distributor has met State permit requirements; and

(2) Grant the wholesale distributor deemed status.]

(B) THE BOARD MAY ONLY GRANT DEEMED STATUS TO A WHOLESALE DISTRIBUTOR THAT IS:

(1) CURRENTLY ACCREDITED BY AN ACCREDITATION ORGANIZATION, WHEREVER THE WHOLESALE DISTRIBUTOR IS LOCATED; OR

(2) LOCATED IN A STATE THAT HAS REQUIREMENTS ~~THAT ARE~~ *THAT:*

(I) ARE* SUBSTANTIALLY EQUIVALENT TO THE REQUIREMENTS OF THIS STATE*; AND

***(II) INCLUDE PEDIGREES, ROUTINE INSPECTIONS OF WHOLESALE DISTRIBUTORS, OPERATION OF WHOLESALE DISTRIBUTORS IN A COMMERCIAL NONRESIDENTIAL FACILITY, AND SECURITY MEASURES*.**

(c) **(1)** The Board may issue a **WHOLESALE DISTRIBUTOR** permit by reciprocity to a wholesale distributor who holds a license or permit under the laws of another state if the Board determines that the requirements of that state are substantially equivalent to the requirements of this State.

(2) A WHOLESALE DISTRIBUTOR THAT RECEIVES A PERMIT BY RECIPROCITY SHALL COMPLY WITH THE REQUIREMENTS OF § 12–6C–05(E) AND (F) OF THIS SUBTITLE.

(3) IN ADDITION TO MEETING THE REQUIREMENTS UNDER THIS SUBTITLE, A WHOLESALE DISTRIBUTOR LOCATED OUT–OF–STATE THAT IS NOT ELIGIBLE FOR RECIPROCITY SHALL BE ACCREDITED BY AN ACCREDITATION ORGANIZATION.

(4) THE BOARD SHALL GRANT DEEMED STATUS TO A WHOLESALE DISTRIBUTOR THAT:

(I) IS CURRENTLY ACCREDITED BY AN ACCREDITATION ORGANIZATION; OR

(II) HAS BEEN GRANTED RECIPROCITY BY THE BOARD.

(d) The Board or its designee may inspect a wholesale distributor who is accredited or has been issued a permit by reciprocity to:

(1) Determine compliance with any permit requirement under this subtitle; or

(2) Investigate a complaint.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 240

(House Bill 868)

AN ACT concerning

State Board of Pharmacy – ~~Wholesale Distributors – Accreditation and Reciprocity~~ Wholesale Distributor Permitting and Prescription Drug Integrity Act – Revisions

FOR the purpose of authorizing the Department of Health and Mental Hygiene to purchase and distribute certain drugs and devices for certain purposes; *requiring the Department to adopt certain regulations, in consultation with the State Board of Pharmacy, for certain purposes;* altering ~~certain circumstances when~~ the circumstances under which the ~~State Board of Pharmacy~~ *Board* may grant "deemed status" to wholesale distributors; requiring wholesale distributors that receive a permit by reciprocity to comply with certain requirements; requiring wholesale distributors that are not eligible for reciprocity to be accredited; requiring the Board to grant "deemed status" to certain wholesale distributors under certain circumstances; altering ~~the definition of "deemed status" and defining certain other terms~~ certain definitions; and generally relating to the ~~accreditation of and granting of reciprocity to wholesale distributors of prescription drugs~~ Wholesale Distributor Permitting and Prescription Drug Integrity Act.

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 12–6C–01(a), (h), (n), (v), and (w)
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 12–6C–01(u) and 12–6C–04
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article – Health Occupations
Section 12–6C–03.1
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health Occupations

12–6C–01.

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

(h) "Facility" means a facility of a wholesale distributor where prescription drugs are stored, handled, repackaged, or offered for sale.

(n) "Pedigree" means a document or electronic file containing information that records each wholesale distribution of a prescription drug.

(u) (1) "Wholesale distribution" means the distribution of prescription drugs or prescription devices to persons other than a consumer or patient.

(2) "Wholesale distribution" does not include:

(i) Intracompany sales;

(ii) The sale, purchase, distribution, trade, or transfer of a prescription drug or an offer to sell, purchase, distribute, trade, or transfer a prescription drug for emergency medical reasons;

(III) THE SALE, PURCHASE, DISTRIBUTION, TRADE, OR TRANSFER OF A PRESCRIPTION DRUG OR PRESCRIPTION DEVICE BY THE DEPARTMENT FOR PUBLIC HEALTH PURPOSES;

[(iii)**]** **(IV)** The distribution of samples of a prescription drug by a manufacturer's representative;

[(iv)**]** **(V)** Prescription drug returns conducted by a hospital, health care entity, or charitable institution in accordance with 21 C.F.R. § 203.23;

[(v)**]** **(VI)** The sale of minimal quantities of prescription drugs by retail pharmacies to licensed health care practitioners for office use;

[(vi)**]** **(VII)** The sale, purchase, or trade of a prescription drug, an offer to sell, purchase, or trade a prescription drug, or the dispensing of a prescription drug in accordance with a prescription;

[(vii)**]** **(VIII)** The sale, transfer, merger, or consolidation of all or part of the business of a pharmacy to or with another pharmacy, whether accomplished as a purchase and sale of stock or business assets;

[(viii)**]** **(IX)** The sale, purchase, distribution, trade, or transfer of a prescription drug from one authorized distributor of record to one additional authorized distributor of record if:

1. The manufacturer has stated in writing to the receiving authorized distributor of record that the manufacturer is unable to supply the prescription drug; and

2. The supplying authorized distributor of record states in writing that the prescription drug being supplied had until that time been exclusively in the normal distribution channel;

[(ix)**]** **(X)** The delivery of, or offer to deliver, a prescription drug by a common carrier solely in the common carrier's usual course of business of transporting prescription drugs, if the common carrier does not store, warehouse, or take legal ownership of the prescription drug; or

[(x)**]** **(XI)** The sale or transfer from a retail pharmacy or pharmacy warehouse of expired, damaged, returned, or recalled prescription drugs to the original manufacturer or to a third party returns processor.

(v) (1) "Wholesale distributor" means a person that is engaged in the wholesale distribution of prescription drugs or prescription devices.

(2) "Wholesale distributor" includes:

(i) A manufacturer;

(ii) A repackager;

(iii) An own–label distributor;

(iv) A private–label distributor;

(v) A jobber;

(vi) A broker;

(vii) A warehouse, including a manufacturer's or distributor's warehouse;

(viii) A manufacturer's exclusive distributor or an authorized distributor of record;

(ix) A drug wholesaler or distributor;

(x) An independent wholesale drug trader;

(xi) A third party logistics provider;

(xii) A retail pharmacy that conducts wholesale distribution, if the wholesale distribution business accounts for more than 5% of the retail pharmacy's annual sales; and

(xiii) A pharmacy warehouse that conducts wholesale distribution.

(w) "Wholesale distributor permit" means a permit issued by the Board under this subtitle to distribute prescription drugs or prescription devices into, out of, or within the State as a wholesale distributor.

12–6C–03.1.

(A) **THE DEPARTMENT MAY PURCHASE AND DISTRIBUTE PRESCRIPTION DRUGS AND PRESCRIPTION DEVICES FOR PUBLIC HEALTH PURPOSES.**

(B) THE DEPARTMENT SHALL ADOPT REGULATIONS, IN CONSULTATION WITH THE BOARD, TO IMPLEMENT THIS SECTION.

12–6C–04.

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

(2) "Accreditation organization" means a private entity that**:**

(I) IS RECOGNIZED BY THE BOARD; AND

(II) [conducts**] CONDUCTS** inspections and surveys of wholesale distributors based on nationally recognized and developed standards.

(3) "Deemed status" means a status under which a wholesale distributor may be exempt from **INITIAL AND** routine **[**inspections and other permit**] INSPECTION** requirements **[**of the Board**] UNDER THIS SUBTITLE**.

~~(4) "SUBSTANTIALLY EQUIVALENT" MEANS THAT THE LAWS OF ANOTHER STATE ARE EQUAL TO OR MORE STRINGENT THAN THE LAWS OF THIS STATE AND REQUIRE, AT MINIMUM, PEDIGREES, ROUTINE INSPECTIONS OF WHOLESALE DISTRIBUTORS, OPERATION OF WHOLESALE DISTRIBUTORS IN A COMMERCIAL NONRESIDENTIAL FACILITY, AND SECURITY MEASURES.~~

[(b) If the Board determines that the standards of an accreditation organization are equal to or more stringent than State permit requirements, the Board may:

(1) Accept the accreditation of a wholesale distributor by an accreditation organization as evidence that the wholesale distributor has met State permit requirements; and

(2) Grant the wholesale distributor deemed status.**]**

(B) THE BOARD MAY ONLY GRANT DEEMED STATUS TO A WHOLESALE DISTRIBUTOR THAT IS:

(1) CURRENTLY ACCREDITED BY AN ACCREDITATION ORGANIZATION, WHEREVER THE WHOLESALE DISTRIBUTOR IS LOCATED; OR

(2) LOCATED IN A STATE THAT HAS REQUIREMENTS ~~THAT ARE~~ THAT:

(I) ARE SUBSTANTIALLY EQUIVALENT TO THE REQUIREMENTS OF THIS STATE; AND

(II) INCLUDE PEDIGREES, ROUTINE INSPECTIONS OF WHOLESALE DISTRIBUTORS, OPERATION OF WHOLESALE DISTRIBUTORS IN A COMMERCIAL NONRESIDENTIAL FACILITY, AND SECURITY MEASURES.

(c) **(1)** The Board may issue a **WHOLESALE DISTRIBUTOR** permit by reciprocity to a wholesale distributor who holds a license or permit under the laws of another state if the Board determines that the requirements of that state are substantially equivalent to the requirements of this State.

(2) A WHOLESALE DISTRIBUTOR THAT RECEIVES A PERMIT BY RECIPROCITY SHALL COMPLY WITH THE REQUIREMENTS OF § 12–6C–05(E) AND (F) OF THIS SUBTITLE.

(3) IN ADDITION TO MEETING THE REQUIREMENTS UNDER THIS SUBTITLE, A WHOLESALE DISTRIBUTOR LOCATED OUT–OF–STATE THAT IS NOT ELIGIBLE FOR RECIPROCITY SHALL BE ACCREDITED BY AN ACCREDITATION ORGANIZATION.

(4) THE BOARD SHALL GRANT DEEMED STATUS TO A WHOLESALE DISTRIBUTOR THAT:

(I) IS CURRENTLY ACCREDITED BY AN ACCREDITATION ORGANIZATION; OR

(II) HAS BEEN GRANTED RECIPROCITY BY THE BOARD.

(d) The Board or its designee may inspect a wholesale distributor who is accredited or has been issued a permit by reciprocity to:

(1) Determine compliance with any permit requirement under this subtitle; or

(2) Investigate a complaint.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 241

(Senate Bill 164)

AN ACT concerning

Advisory Committee on the Naming of State Facilities, Roads, and Bridges – Repeal

FOR the purpose of repealing the Advisory Committee on the Naming of State Facilities, Roads, and Bridges and other related provisions of law; and generally relating to the naming of State facilities, roads, and bridges.

BY repealing
Article – State Government
Section 2–10A–09
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Government

[2–10A–09.

(a) In this section, "Committee" means the Advisory Committee on the Naming of State Facilities, Roads, and Bridges established under this section.

(b) There is an Advisory Committee on the Naming of State Facilities, Roads, and Bridges.

(c) The Committee consists of the following members:

(1) the Governor, or the Governor's designee;

(2) the President of the Senate, or the President's designee;

(3) the Speaker of the House of Delegates, or the Speaker's designee;

(4) the Comptroller, or the Comptroller's designee;

(5) the State Treasurer, or the Treasurer's designee;

(6) the Secretary of General Services, or the Secretary's designee;

(7) the Secretary of Transportation, or the Secretary's designee;

(8) the Director of the Maryland Historical Trust, or the Director's designee; and

(9) a member of the public, appointed by the Governor.

(d) The Governor or the Governor's designee shall serve as chair of the Committee.

(e) The Department of Legislative Services shall provide staff assistance to the Committee.

(f) (1) The Committee shall consider and evaluate requests to name State facilities, other than the facilities at a public institution of higher education, in honor or memory of individuals.

(2) The Committee shall accept public testimony at hearings of the Committee.

(g) (1) In accordance with § 2–1246 of this title, the Committee shall submit an annual report to the General Assembly on or before January 1 of each year.

(2) The report shall include the recommendations of the Committee with regard to any matter considered by the Committee under subsection (f) of this section.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 242

(Senate Bill 176)

AN ACT concerning

Family Law – Family Day Care Homes and Child Care Centers – Inspections

FOR the purpose of requiring the ~~Department of Human Resources~~ State Department of Education to adopt regulations that provide for an announced inspection by the Department of each registered family day care home prior to issuance of a continuing registration; requiring the Department to inspect each child care center on an announced basis prior to issuing a continuing license or letter of compliance; repealing a requirement that the Department inspect on an announced basis certain family day care homes and child care centers at certain intervals; repealing a requirement that an inspection by the Department of certain family day care homes and child care centers include a determination of whether certain record keeping requirements are being met; and generally relating to inspections of family day care homes and child care centers.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–551(c)(7) and 5–578(c)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Family Law

5–551.

(c) At a minimum, the regulations of the Department shall provide for:

(7) announced inspection by the Department of each registered family day care home prior to issuance of an initial **OR CONTINUING** registration **[**and at least once every 2 years thereafter**]** to determine whether applicable requirements**[**, including record keeping requirements,**]** are being met;

5–578.

(c) The Department shall inspect each child care center operating under a license or a letter of compliance:

(1) on an announced basis prior to issuing the **INITIAL OR CONTINUING** license or letter of compliance **[**and at least every 2 years thereafter**]** to determine whether applicable requirements**[**, including record keeping requirements,**]** are being met; and

(2) on an unannounced basis at least once during each 12–month period that the license or letter of compliance is in effect to determine whether safe and appropriate child care is being provided.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 243

(Senate Bill 179)

AN ACT concerning

Baltimore City Public School System – Exclusion from Amount of Bonds Outstanding

FOR the purpose of excluding Qualified School Construction Bonds from the limitation on the aggregate principal amount of bonds outstanding for the Baltimore City Public School System; and generally relating to an exclusion from the amount of bonds outstanding for the Baltimore City Public School System.

BY repealing and reenacting, without amendments,
Article – Education
Section 4–306.2(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 4–306.2(b)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

4–306.2.

(a) The board may issue bonds for the purpose of financing or refinancing all or any part of the costs of any project.

(b) **(1) [**The**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** aggregate principal amount of bonds outstanding, including the amount of any reserve fund requirement established for the bonds, may not exceed, as of the date that the bonds are issued, $100,000,000.

(2) THE AGGREGATE PRINCIPAL AMOUNT OF BONDS OUTSTANDING DOES NOT INCLUDE QUALIFIED SCHOOL CONSTRUCTION BONDS AS DEFINED IN § 54F OF THE INTERNAL REVENUE CODE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 244

(Senate Bill 194)

AN ACT concerning

Dorchester ~~and Wicomico Counties~~ County – Alcoholic Beverages – Pub–Brewery and Micro–Brewery Licenses

FOR the purpose of authorizing the State Comptroller to issue a certain number of Class 6 pub–brewery licenses and Class 7 micro–brewery licenses to certain ~~persons~~ applicants for locations in an enterprise zone in Dorchester County; ~~expanding the location for Class 7 micro–brewery licenses in Wicomico County to include any enterprise zone in Wicomico County; repealing a certain~~

~~restriction concerning micro–brewery licenses~~ specifying that certain provisions of this Act do not limit the number of certain licenses that may be issued in Dorchester County; ~~making a certain technical corrections correction;~~ and generally relating to pub–brewery and micro–brewery licenses in Dorchester County~~ and Wicomico County~~.

~~BY repealing and reenacting, with amendments,~~
~~Article 2B – Alcoholic Beverages~~
~~Section 12–104(e)(5)~~
~~Annotated Code of Maryland~~
~~(2005 Replacement Volume and 2009 Supplement)~~

BY adding to
Article 2B – Alcoholic Beverages
Section 12–104(e)(6)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

12–104.

(e) ~~(5)~~ **[**~~(i)~~ ~~This paragraph applies only in Wicomico County.~~

~~(ii)~~ ~~Subject to subparagraphs (iii) and (iv) of this paragraph, the Board of License Commissioners~~ **~~STATE COMPTROLLER~~** ~~may issue one Class 6 pub–brewery license or one Class 7 micro–brewery license, but not both, to a person that holds not more than three Class B beer, wine and liquor licenses.~~

~~(iii)~~ ~~A Class 6 pub–brewery license or a Class 7 micro–brewery license issued under subparagraph (ii) of this paragraph may be issued only for a location in an enterprise zone in the City of Salisbury.~~

~~(iv)~~ ~~A holder of a Class 7 micro–brewery license issued under subparagraph (ii) of this paragraph may sell beer for off–premises consumption only to a wholesaler licensed under this article.~~**]**

(6) (I) THE STATE COMPTROLLER MAY ISSUE TO A SINGLE APPLICANT ONE CLASS 6 PUB–BREWERY LICENSE OR ONE CLASS 7 MICRO–BREWERY LICENSE BUT NOT BOTH:

~~(I)~~ ~~FOR~~ FOR A LOCATION IN AN ENTERPRISE ZONE IN DORCHESTER COUNTY, ~~TO A PERSON~~ IF THE APPLICANT ~~THAT~~ HOLDS NO MORE

THAN THREE CLASS B BEER, WINE AND LIQUOR LICENSES ~~ISSUED BY THE BOARD OF LICENSE COMMISSIONERS FOR DORCHESTER COUNTY; AND~~

~~(II) FOR A LOCATION IN AN ENTERPRISE ZONE IN WICOMICO COUNTY, TO A PERSON THAT HOLDS NO MORE THAN THREE CLASS B BEER, WINE AND LIQUOR LICENSES ISSUED BY THE BOARD OF LICENSE COMMISSIONERS FOR WICOMICO COUNTY.~~

(II) THIS PARAGRAPH DOES NOT LIMIT THE NUMBER OF CLASS 6 PUB–BREWERY LICENSES OR CLASS 7 MICRO–BREWERY LICENSES THAT THE STATE COMPTROLLER MAY ISSUE IN DORCHESTER COUNTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 245

(Senate Bill 195)

AN ACT concerning

Wicomico County – Alcoholic Beverages – Micro–Brewery Licenses

FOR the purpose of authorizing a Class 7 micro–brewery licensee in Wicomico County to sell beer at retail to customers for consumption off the licensed premises in refillable containers that are sealed by the licensee at the time of each refill; and generally relating to micro–brewery licensees in Wicomico County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 2–208(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–208(d)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

2–208.

(a) There is a Class 7 micro–brewery (on– and off–sale) license.

(d) (1) The on–sale privilege authorizes the holder, each calendar year, to sell at retail up to 4,000 barrels of beer brewed under this license to customers for consumption on the licensed premises.

(2) The off–sale privilege authorizes the holder to sell and deliver beer brewed under this license to:

(i) Any wholesaler licensed under this article to sell beer in this State; or

(ii) Any person who is located in a state other than Maryland who is authorized under the laws of that state to receive brewed beverages.

(3) (i) This paragraph applies only in:

1. Allegany County;

2. The City of Annapolis;

3. Anne Arundel County;

4. Baltimore City;

5. Baltimore County;

6. Calvert County;

7. Carroll County;

8. Charles County;

9. Dorchester County;

10. Frederick County;

11. Garrett County;

12. Harford County;

13. Howard County;

14. Montgomery County;

15. Prince George's County; **[**and**]**

16. Talbot County**; AND**

17. WICOMICO COUNTY.

(ii) The holder may sell at retail beer brewed under this license to customers for consumption off the licensed premises in refillable containers that are sealed by the micro–brewery licensee at the time of each refill.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 246

(Senate Bill 198)

AN ACT concerning

Farmer's Markets – ~~Raw~~ Agricultural Product Sales – Producer Mobile Farmer's Market License

FOR the purpose of altering a certain definition to exclude the sale of certain raw agricultural products at a farmer's market from regulation as a food service facility; prohibiting a local jurisdiction from requiring a license for the sale of raw agricultural products at a farmer's market; clarifying that a license is not required to deliver prepackaged food products; requiring the Department of Health and Mental Hygiene to establish a producer mobile farmer's market license; providing for the fee and duration of the license; authorizing a licensee to sell certain products at a farmer's market; providing that the license is valid in all jurisdictions in the State; prohibiting a local jurisdiction from requiring a certain licensee to obtain a separate permit or a license to sell certain products; requiring the Department to issue the license, conduct certain inspections, and adopt certain regulations; requiring the license to be displayed in a certain manner; establishing fines for violations of requirements relating to the license; requiring county health departments to enforce provisions relating to the license; establishing that certain fines for violations be paid to the county in which the violation occurred; defining certain terms; making conforming

changes; making stylistic changes; and generally relating to the sale of ~~raw~~ agricultural products and mobile food service facility licenses.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 21–301(h)(2), 21–304, 21–305(b) and (c), and 21–308(c)
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 21–305(a) and 21–309(a)
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article – Health – General
Section 21–309.1
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health – General

21–301.

(h) (2) "Food service facility" does not include:

(i) A kitchen in a private home where food is prepared at no charge for guests in the home, for guests at a social gathering, or for service to unemployed, homeless**,** or other disadvantaged populations; **[**or**]**

(ii) A food preparation or serving area where only nonpotentially hazardous food, as defined by the United States Food and Drug Administration, is prepared or served only by an excluded organization**; OR**

(III) A LOCATION IN A FARMER'S MARKET WHERE RAW AGRICULTURAL PRODUCTS, AS DEFINED IN § 21–304(D)(1)(III) OF THIS SUBTITLE, ARE SOLD.

21–304.

(a) (1) The Department shall adopt rules and regulations necessary to carry out the provisions of this subtitle.

(2) For excluded organizations, the Department:

(i) Shall adopt separate regulations that establish minimum standards that:

1. Ensure food integrity and safety;

2. Preserve public health; and

3. Control foodborne illnesses; and

(ii) May adopt separate regulations that establish a licensing system, with appropriate standards, that excluded organizations may voluntarily choose to submit to as a nonrescindable alternative to regulation under **[**subparagraph**]** **ITEM** (i) of this paragraph.

(b) A political subdivision may not adopt a law, ordinance, rule, or regulation that establishes a standard that is less stringent than rules and regulations adopted under this subtitle.

(c) Except as otherwise provided in this section, this subtitle does not limit the power of a home rule or charter county or Baltimore City to adopt and enforce laws, ordinances, and regulations that are consistent with the purposes of this subtitle, including the power to adopt local licensing and enforcement procedures.

(D) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) "FARMER'S MARKET" MEANS A PUBLIC MARKET IN THE STATE WHERE PRODUCERS OF ~~FRESH~~ RAW AGRICULTURAL PRODUCTS SELL THE PRODUCTS DIRECTLY TO THE PUBLIC.

(III) "RAW AGRICULTURAL PRODUCT" INCLUDES:

1. ~~GRAINS, FLOWERS~~ WHOLE, UNPROCESSED GRAINS, FLOWERS, HERBS, NUTS, FRUITS, AND VEGETABLES SUPPLIED DIRECTLY FROM THE FARM ON WHICH THEY WERE PRODUCED; AND

2. ANY AGRICULTURAL PRODUCTS THE DEPARTMENT IDENTIFIES IN REGULATION.

(2) A LOCAL JURISDICTION MAY NOT REQUIRE A LICENSE FOR THE SALE OF RAW AGRICULTURAL PRODUCTS AT A FARMER'S MARKET.

21–305.

(a) Except as otherwise provided in this subtitle, a person may not operate a food establishment unless the person is licensed by the Department.

(b) (1) A separate license is required for each food establishment that a person owns or operates.

(2) Except in Baltimore City, the provisions of this subsection may require a license for each location where vending machines are operated, but may not require a separate license for each individual vending machine.

(3) Except in Baltimore City, vending machine locations used exclusively for prepackaged and commercially sealed foods that are not potentially hazardous, as defined by regulation, are not required to be licensed.

(4) In Baltimore City, a license may be required for each individual vending machine.

(5) An excluded organization may operate a food establishment without a license unless the excluded organization has been issued a license under § 21–304(a)(2)(ii) of this subtitle.

(6) A license is not required for a person who:

(i) Produces shell eggs;

(ii) Sells the shell eggs directly to the public; and

(iii) Is registered with or inspected by the Secretary of Agriculture under § 4–310 or § 4–311.1 of the Agriculture Article.

(7) **[**Nothing**]** **EXCEPT AS PROVIDED IN § 21–304 OF THIS SUBTITLE, NOTHING** in this subtitle shall preempt the right of a county to require a permit under the authority provided by a local law, ordinance, or regulation if this subtitle does not require the food establishment to obtain a State license.

(c) A license is not transferable:

(1) Except as provided by regulation for transfer of the license on the death of the licensee from person to person; or

(2) From location to location**, EXCEPT FOR A PRODUCER MOBILE FARMER'S MARKET LICENSE UNDER § 21–309.1 OF THIS SUBTITLE**.

21–308.

(c) (1) An on–farm home processing facility may obtain an on–farm home processing plant license for a fee established in regulations.

(2) An on–farm home processing facility that obtains an on–farm home processing plant license may manufacture or process only foods provided for in regulations of the Department.

(3) A LICENSE OR PERMIT IS NOT REQUIRED TO DELIVER PREPACKAGED FOODS TO FILL AN ORDER OF A CUSTOMER.

21–309.

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

(2) "Mobile food service facility" means a food service facility which is a mechanically, electrically, manually, or otherwise propelled vehicle operating on land or water.

(3) "On–farm food service facility" means a food service facility that:

(i) Is located on a farm;

(ii) Serves food as designated by the Department; and

(iii) Operates during a period of time of not more than 30 consecutive days with up to two renewals in a 1–year period.

(4) "Temporary food service facility" means a food service facility which operates during a period of time of not more than 14 consecutive days at a fixed location in conjunction with a fair, carnival, public exhibition, construction project, recreational facility, or similar gathering.

21–309.1.

(A) (1) THE DEPARTMENT SHALL ESTABLISH A PRODUCER MOBILE FARMER'S MARKET LICENSE.

(2) THE FEE FOR A PRODUCER MOBILE FARMER'S MARKET LICENSE:

(I) SHALL BE BASED ON THE ANTICIPATED COST OF LICENSING, INSPECTING, AND REGULATING LICENSEES; AND

(II) MAY NOT EXCEED $100.

(3) A PRODUCER MOBILE FARMER'S MARKET LICENSE SHALL BE VALID FOR A PERIOD OF 1 YEAR.

(B) A PRODUCER MOBILE FARMER'S MARKET LICENSEE MAY TRANSPORT TO AND SELL AT A FARMER'S MARKET:

(1) ~~WHOLE PRODUCTS~~ PRODUCTS WHICH WERE PRODUCED BY THE LICENSEE UNDER AN ON–FARM HOME PROCESSING PLANT LICENSE; ~~OR~~

(2) ~~ANY FARM PRODUCTS~~ PRODUCTS PRODUCED BY THE LICENSEE, AS AUTHORIZED BY THE DEPARTMENT IN REGULATION; OR

(3) FARM PRODUCTS THAT HAVE BEEN INSPECTED, LICENSED, OR CERTIFIED FOR FOOD SAFETY BY THE MARYLAND DEPARTMENT OF AGRICULTURE.

(C) (1) A PRODUCER MOBILE FARMER'S MARKET LICENSE IS VALID IN ALL JURISDICTIONS IN THE STATE.

(2) A COUNTY OR MUNICIPALITY MAY NOT REQUIRE A PRODUCER MOBILE FARMER'S MARKET LICENSEE TO OBTAIN A SEPARATE PERMIT OR LICENSE TO SELL PRODUCTS AUTHORIZED FOR SALE UNDER THE PRODUCER MOBILE FARMER'S MARKET LICENSE.

(D) THE DEPARTMENT SHALL:

(1) ISSUE PRODUCER MOBILE FARMER'S MARKET LICENSES;

(2) AT LEAST ONCE A YEAR, INSPECT EACH MOBILE UNIT THAT OPERATES UNDER A PRODUCER MOBILE FARMER'S MARKET LICENSE; AND

(3) ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

(E) A PRODUCER MOBILE FARMER'S MARKET LICENSE SHALL BE DISPLAYED ON ANY MOBILE UNIT OPERATING UNDER THE LICENSE.

(F) (1) A PERSON IN VIOLATION OF THIS SECTION OR A REGULATION ADOPTED UNDER THIS SECTION IS SUBJECT TO A FINE NOT TO EXCEED $1,000.

(2) A COUNTY HEALTH DEPARTMENT SHALL ENFORCE AND LEVY FINES FOR A VIOLATION OF THIS SECTION OR ANY REGULATIONS ADOPTED UNDER THIS SECTION.

(3) FINES ASSESSED BY A COUNTY HEALTH DEPARTMENT SHALL BE PAID TO THE COUNTY IN WHICH THE VIOLATION OCCURRED.

(4) A COUNTY HEALTH DEPARTMENT SHALL NOTIFY THE DEPARTMENT OF ANY VIOLATIONS OCCURRING IN THE COUNTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 247

(Senate Bill 199)

AN ACT concerning

Seasonal Farmer's Market Producer Sampling License

FOR the purpose of authorizing a county to establish a seasonal farmer's market producer sampling license to allow a producer of a farm product to prepare and offer samples of the product at a farmer's market; requiring the license to be valid at all farmer's markets in the county for a certain time period, for a single fee; limiting a licensee to offer samples only of a product produced by the licensee; requiring the Department of Health and Mental Hygiene to adopt certain regulations; requiring a county issuing the license to adopt certain ordinances; and generally relating to product sampling at farmer's markets.

BY adding to
Article – Health – General
Section 21–309.1
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health – General

21–309.1.

(A) A COUNTY MAY ESTABLISH A SEASONAL FARMER'S MARKET PRODUCER SAMPLING LICENSE TO BE REQUIRED FOR A PRODUCER OF A FARM

PRODUCT TO PREPARE AND OFFER SAMPLES OF THE FARM PRODUCT FOR HUMAN CONSUMPTION AT A FARMER'S MARKET.

(B) A COUNTY SEASONAL FARMER'S MARKET PRODUCER SAMPLING LICENSE ESTABLISHED UNDER THIS SECTION SHALL:

(1) BE VALID AT ALL FARMER'S MARKETS IN THE COUNTY;

(2) BE VALID FOR THE ENTIRE SEASON FOR WHICH IT IS ISSUED; AND

(3) HAVE A SINGLE FEE AS SET BY THE COUNTY.

(C) A SEASONAL FARMER'S MARKET PRODUCER SAMPLING LICENSEE SHALL USE THE LICENSE ONLY TO OFFER SAMPLES OF A FARM PRODUCT THAT HAS BEEN PRODUCED BY THE LICENSEE.

(D) ~~A COUNTY ISSUING A FARMER'S MARKET PRODUCER SAMPLING LICENSE SHALL ADOPT AN ORDINANCE~~ THE DEPARTMENT SHALL ADOPT REGULATIONS THAT:

(1) ~~ESTABLISHES~~ ESTABLISH ELIGIBILITY FOR THE LICENSE;

(2) ~~PROVIDES~~ PROVIDE FOR THE AUTHORIZED USES OF THE LICENSE;

(3) ~~ESTABLISHES~~ ESTABLISH STANDARDS AND APPROVED METHODS UNDER WHICH SAMPLING SHALL BE CONDUCTED;

(4) ~~SPECIFIES~~ SPECIFY THE DURATION OF THE SEASON DURING WHICH THE LICENSE IS VALID; AND

(5) INCLUDE OTHER PROVISIONS THAT ARE NECESSARY TO PROTECT PUBLIC HEALTH AND CONTROL FOODBORNE ILLNESSES.

(E) A COUNTY ISSUING A FARMER'S MARKET PRODUCER SAMPLING LICENSE SHALL ADOPT AN ORDINANCE THAT:

~~(5)~~ (1) SETS THE FEE FOR THE LICENSE;

~~(6)~~ (2) PROVIDES FOR THE ENFORCEMENT OF PROVISIONS OF LAW UNDER WHICH THE LICENSE IS ISSUED; AND

~~(7)~~ (3) PROVIDES PENALTIES FOR VIOLATIONS OF PROVISIONS OF LAW UNDER WHICH THE LICENSE IS ISSUED~~; AND~~

~~(8) INCLUDES OTHER PROVISIONS THAT THE COUNTY DETERMINES ARE NECESSARY TO PROTECT PUBLIC HEALTH AND CONTROL FOODBORNE ILLNESSES~~.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 248

(Senate Bill 204)

AN ACT concerning

Student Stigma Act

FOR the purpose of changing references to emotional disturbance to emotional disability; providing that certain documents may not be used until the use of certain other documents; providing for the intent of this Act; and generally relating to changing references to emotional disturbance to emotional disability.

BY repealing and reenacting, with amendments,
Article – Education
Section 8–401
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

8–401.

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

(2) "Child with a disability" means a child who has been determined through appropriate assessment as having autism, deaf–blindness, hearing impairment, including deafness, **[**emotional disturbance,**]** **EMOTIONAL DISABILITY,** intellectual disability, multiple disabilities, orthopedic impairment, other health

impairment, specific learning disability, speech or language impairment, traumatic brain injury, visual impairment, including blindness, and who because of that impairment needs special education and related services.

(3) "Free appropriate public education" means special education and related services that:

(i) Are provided at public expense, under public supervision and direction, at no cost to the parents;

(ii) Meet the standards of the State Board regulations and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(iii) Includes preschool, elementary, and secondary education; and

(iv) Are provided in conformance with the requirements of the child's individualized education program.

(4) "Special education" means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including:

(i) Instruction in the classroom, in the home, in hospitals and institutions, and in other settings; and

(ii) Instruction in physical education.

(5) (i) "Related services" means transportation and such developmental, corrective, and other supportive services as may be required to assist a child with a disability to benefit from special education.

(ii) "Related services" includes the early identification and assessment of disabling conditions in children.

(iii) "Related services" does not include a surgically implanted medical device or the replacement of the device.

(b) In this subtitle the domicile of a child with a disability is the county in which the parent or guardian who has legal custody of the child is domiciled.

SECTION 2. AND BE IT FURTHER ENACTED, That documents reflecting the renaming of emotional disturbance to be emotional disability may not be used until all documents already in print and reflecting the terminology in use prior to the effective date of this Act have been used.

SECTION 3. AND BE IT FURTHER ENACTED, That nothing in this Act is intended to result in a reduction of federal funds available to the State.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 249

(House Bill 11)

AN ACT concerning

Student Stigma Act

FOR the purpose of changing references to emotional disturbance to emotional disability; providing that certain documents may not be used until the use of certain other documents; providing for the intent of this Act; and generally relating to changing references to emotional disturbance to emotional disability.

BY repealing and reenacting, with amendments,
Article – Education
Section 8–401
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

8–401.

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

(2) "Child with a disability" means a child who has been determined through appropriate assessment as having autism, deaf–blindness, hearing impairment, including deafness, **[**emotional disturbance,**]** **EMOTIONAL DISABILITY,** intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, visual impairment, including blindness, and who because of that impairment needs special education and related services.

(3) "Free appropriate public education" means special education and related services that:

(i) Are provided at public expense, under public supervision and direction, at no cost to the parents;

(ii) Meet the standards of the State Board regulations and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(iii) Includes preschool, elementary, and secondary education; and

(iv) Are provided in conformance with the requirements of the child's individualized education program.

(4) "Special education" means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including:

(i) Instruction in the classroom, in the home, in hospitals and institutions, and in other settings; and

(ii) Instruction in physical education.

(5) (i) "Related services" means transportation and such developmental, corrective, and other supportive services as may be required to assist a child with a disability to benefit from special education.

(ii) "Related services" includes the early identification and assessment of disabling conditions in children.

(iii) "Related services" does not include a surgically implanted medical device or the replacement of the device.

(b) In this subtitle the domicile of a child with a disability is the county in which the parent or guardian who has legal custody of the child is domiciled.

SECTION 2. AND BE IT FURTHER ENACTED, That documents reflecting the renaming of emotional disturbance to be emotional disability may not be used until all documents already in print and reflecting the terminology in use prior to the effective date of this Act have been used.

SECTION 3. AND BE IT FURTHER ENACTED, That nothing in this Act is intended to result in a reduction of federal funds available to the State.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 250

(Senate Bill 208)

AN ACT concerning

State Treasurer – Permissible Investments – Linked Deposit Program

FOR the purpose of altering the permissible investments that the State Treasurer may make with financial institutions participating in the Linked Deposit Program; and generally relating to permissible investments under the Linked Deposit Program.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–211
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Finance and Procurement

6–211.

(a) (1) There is a Linked Deposit Program in the Department of Housing and Community Development.

(2) The purpose of the Linked Deposit Program is to stimulate opportunities for minority business enterprises to have access to credit by assisting these businesses in obtaining loans at lower than market interest rates.

(b) A loan qualifies under the Linked Deposit Program if the loan:

(1) satisfies the financial institution's lending criteria;

(2) has a term not exceeding 10 years;

(3) is made to a minority business enterprise certified under Title 14, Subtitle 3 of this article;

(4) has an interest rate that is 2 percentage points below the interest rate the financial institution would charge for a loan for a similar purpose and a similar term; and

(5) has points or fees charged at loan closing not exceeding 1 percent of the loan amount.

(c) The Department of Housing and Community Development shall:

(1) confirm with the certification agency designated under Title 14, Subtitle 3 of this article that each loan under the Linked Deposit Program is made to a business that is certified as a minority business enterprise;

(2) establish procedures for notification by the certification agency designated under Title 14, Subtitle 3 of this article if a business that has an outstanding balance of a loan under the Linked Deposit Program is no longer certified;

(3) require minority business enterprises and lenders to notify the Department concerning final loan disposition; and

(4) report annually to the Governor, the Treasurer, and, in accordance with § 2–1246 of the State Government Article, the General Assembly on overall performance of the Linked Deposit Program.

(d) The Treasurer may establish the Linked Deposit Program for investment of deposits in any financial institution that:

(1) the Treasurer has designated as a depository for State money; and

(2) makes a loan in accordance with subsection (b) of this section.

(e) (1) The Treasurer may **[**purchase**]** **MAKE** one or more **[**certificates of deposit**]** **INTEREST BEARING DEPOSITS** that are equal to:

(i) the amount of the loan made by the financial institution in accordance with subsection (b) of this section; or

(ii) the aggregate amount of two or more loans made by one or more financial institutions in accordance with subsection (b) of this section.

(2) In **[**purchasing a certificate of deposit**]** **MAKING AN INTEREST BEARING DEPOSIT** under this subsection, the Treasurer may accept a rate that is 2 percentage points below current market rates or an index selected by the Treasurer.

(3) The Treasurer may use up to $50,000,000 to **[**purchase certificates of deposit**]** **MAKE INTEREST BEARING DEPOSITS** in an amount equivalent to the amount financial institutions loan to certified minority business enterprises.

(f) (1) Subject to paragraph (2) of this subsection, on notification by the Department of Housing and Community Development that a minority business enterprise participating in the Linked Deposit Program is no longer certified under Title 14, Subtitle 3 of this article, the Treasurer shall reduce the amount of the **[**certificate of deposit**]** **INTEREST BEARING DEPOSIT** with the participating financial institution by the outstanding balance of the loan made under this section to the decertified minority business enterprise.

(2) A minority business enterprise that loses its certification due to revenue or employee growth may not be considered decertified for purposes of paragraph (1) of this subsection.

(g) (1) A loan assisted by a linked deposit is not a debt of the State or a pledge of the credit of the State.

(2) The Treasurer and the State are not liable to any financial institution for payment of the principal or interest on a loan assisted by a linked deposit.

(h) The Department of Housing and Community Development and the Treasurer may adopt regulations to carry out this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 251

(House Bill 834)

AN ACT concerning

State Treasurer – Permissible Investments – Linked Deposit Program

FOR the purpose of altering the permissible investments that the State Treasurer may make with financial institutions participating in the Linked Deposit Program; and generally relating to permissible investments under the Linked Deposit Program.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–211
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Finance and Procurement

6–211.

(a) (1) There is a Linked Deposit Program in the Department of Housing and Community Development.

(2) The purpose of the Linked Deposit Program is to stimulate opportunities for minority business enterprises to have access to credit by assisting these businesses in obtaining loans at lower than market interest rates.

(b) A loan qualifies under the Linked Deposit Program if the loan:

(1) satisfies the financial institution's lending criteria;

(2) has a term not exceeding 10 years;

(3) is made to a minority business enterprise certified under Title 14, Subtitle 3 of this article;

(4) has an interest rate that is 2 percentage points below the interest rate the financial institution would charge for a loan for a similar purpose and a similar term; and

(5) has points or fees charged at loan closing not exceeding 1 percent of the loan amount.

(c) The Department of Housing and Community Development shall:

(1) confirm with the certification agency designated under Title 14, Subtitle 3 of this article that each loan under the Linked Deposit Program is made to a business that is certified as a minority business enterprise;

(2) establish procedures for notification by the certification agency designated under Title 14, Subtitle 3 of this article if a business that has an outstanding balance of a loan under the Linked Deposit Program is no longer certified;

(3) require minority business enterprises and lenders to notify the Department concerning final loan disposition; and

(4) report annually to the Governor, the Treasurer, and, in accordance with § 2–1246 of the State Government Article, the General Assembly on overall performance of the Linked Deposit Program.

(d) The Treasurer may establish the Linked Deposit Program for investment of deposits in any financial institution that:

(1) the Treasurer has designated as a depository for State money; and

(2) makes a loan in accordance with subsection (b) of this section.

(e) (1) The Treasurer may **[**purchase**]** **MAKE** one or more **[**certificates of deposit**]** **INTEREST BEARING DEPOSITS** that are equal to:

(i) the amount of the loan made by the financial institution in accordance with subsection (b) of this section; or

(ii) the aggregate amount of two or more loans made by one or more financial institutions in accordance with subsection (b) of this section.

(2) In **[**purchasing a certificate of deposit**]** **MAKING AN INTEREST BEARING DEPOSIT** under this subsection, the Treasurer may accept a rate that is 2 percentage points below current market rates or an index selected by the Treasurer.

(3) The Treasurer may use up to $50,000,000 to **[**purchase certificates of deposit**]** **MAKE INTEREST BEARING DEPOSITS** in an amount equivalent to the amount financial institutions loan to certified minority business enterprises.

(f) (1) Subject to paragraph (2) of this subsection, on notification by the Department of Housing and Community Development that a minority business enterprise participating in the Linked Deposit Program is no longer certified under Title 14, Subtitle 3 of this article, the Treasurer shall reduce the amount of the **[**certificate of deposit**]** **INTEREST BEARING DEPOSIT** with the participating financial institution by the outstanding balance of the loan made under this section to the decertified minority business enterprise.

(2) A minority business enterprise that loses its certification due to revenue or employee growth may not be considered decertified for purposes of paragraph (1) of this subsection.

(g) (1) A loan assisted by a linked deposit is not a debt of the State or a pledge of the credit of the State.

(2) The Treasurer and the State are not liable to any financial institution for payment of the principal or interest on a loan assisted by a linked deposit.

(h) The Department of Housing and Community Development and the Treasurer may adopt regulations to carry out this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 252

(Senate Bill 221)

AN ACT concerning

Tax Credits for Qualifying Employees with Disabilities – Sunset ~~Repeal~~ Extension

FOR the purpose of ~~repealing~~ extending certain termination provisions and altering certain dates of applicability for certain tax credits allowed to employers that hire certain qualifying individuals with disabilities; ~~establishing a Task Force to Study Tax Credits that Provide Incentives to Hire Employees; providing for the membership of the Task Force; providing for the designation of a chair of the Task Force; providing for staff for the Task Force; prohibiting a member of the Task Force from receiving compensation as a member; authorizing a member of the Task Force to receive reimbursement for certain expenses; requiring the Task Force to study certain issues; requiring the Task Force to report its findings to the Governor and the General Assembly on or before a certain date; providing for the termination of certain provisions of this Act;~~ and generally relating to certain tax credits allowed to employers that hire certain qualifying employees facing certain employment barriers.

BY repealing and reenacting, with amendments,
Chapter 112 of the Acts of the General Assembly of 1997, as amended by Chapter 614 of the Acts of the General Assembly of 1998, Chapter 448 of the Acts of the General Assembly of 2000, Chapter 454 of the Acts of the General Assembly of 2003, Chapter 394 of the Acts of the General Assembly of 2006, Chapter 370 of the Acts of the General Assembly of 2007, Chapter 658 of the Acts of the General Assembly of 2008, and Chapter 290 of the Acts of the General Assembly of 2009
Section 4 and 6

BY repealing and reenacting, with amendments,
Chapter 113 of the Acts of the General Assembly of 1997, as amended by Chapter 614 of the Acts of the General Assembly of 1998, Chapter 448 of

the Acts of the General Assembly of 2000, Chapter 454 of the Acts of the General Assembly of 2003, Chapter 394 of the Acts of the General Assembly of 2006, Chapter 370 of the Acts of the General Assembly of 2007, Chapter 658 of the Acts of the General Assembly of 2008, and Chapter 290 of the Acts of the General Assembly of 2009

Section 4 and 6

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

Chapter 112 of the Acts of 1997, as amended by Chapter 614 of the Acts of 1998, Chapter 448 of the Acts of 2000, Chapter 454 of the Acts of 2003, Chapter 394 of the Acts of 2006, Chapter 370 of the Acts of 2007, Chapter 658 of the Acts of 2008, and Chapter 290 of the Acts of 2009

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be applicable to all taxable years beginning after December 31, 1996 **[**but before January 1, ~~2013~~ **2014]**; provided, however, that the tax credit under § 21–309 of the Education Article, as enacted under Section 1 of this Act, shall be allowed only for employees hired on or after October 1, 1997 **[**but before July 1, ~~2010~~ **2011**; and provided further that any excess credits under § 21–309 of the Education Article may be carried forward and, subject to the limitations under § 21–309 of the Education Article, may be applied as a credit for taxable years beginning on or after January 1, ~~2013~~ **2014]**.

SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 4 of this Act, this Act shall take effect October 1, 1997. **[**It shall remain in effect for a period of ~~12~~ **13** years and 9 months and at the end of June 30, ~~2010~~ **2011**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.**]**

Chapter 113 of the Acts of 1997, as amended by Chapter 614 of the Acts of 1998, Chapter 448 of the Acts of 2000, Chapter 454 of the Acts of 2003, Chapter 394 of the Acts of 2006, Chapter 370 of the Acts of 2007, Chapter 658 of the Acts of 2008, and Chapter 290 of the Acts of 2009

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be applicable to all taxable years beginning after December 31, 1996 **[**but before January 1, ~~2013~~ **2014]**; provided, however, that the tax credit under § 21–309 of the Education Article, as enacted under Section 1 of this Act, shall be allowed only for employees hired on or after October 1, 1997 **[**but before July 1, ~~2010~~ **2011**; and provided further that any excess credits under § 21–309 of the Education Article may be carried forward and, subject to the limitations under § 21–309 of the Education Article, may be applied as a credit for taxable years beginning on or after January 1, ~~2013~~ **2014]**.

SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 4 of this Act, this Act shall take effect October 1, 1997. **[**It shall remain in

effect for a period of ~~12~~ **13** years and 9 months and at the end of June 30, ~~2010~~ **2011**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~]~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

~~(a) There is a Task Force to Study Tax Credits that Provide Incentives to Hire Employees.~~

~~(b) The Task Force consists of the following members:~~

~~(1) two members of the Senate of Maryland, appointed by the President of the Senate;~~

~~(2) two members of the House of Delegates, appointed by the Speaker of the House;~~

~~(3) the Comptroller, or the Comptroller's designee;~~

~~(4) the Secretary of Business and Economic Development, or the Secretary's designee;~~

~~(5) the Secretary of Disabilities, or the Secretary's designee;~~

~~(6) the Secretary of Labor, Licensing, and Regulation, or the Secretary's designee; and~~

~~(7) the Secretary of Human Resources, or the Secretary's designee.~~

~~(c) The Governor shall designate the chair of the Task Force.~~

~~(d) The Department of Labor, Licensing, and Regulation, in consultation with the Governor's Office of StateStat, shall provide staff for the Task Force.~~

~~(e) A member of the Task Force:~~

~~(1) may not receive compensation as a member of the Task Force; but~~

~~(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.~~

~~(f) The Task Force shall:~~

~~(1) determine the number of jobs created by Maryland tax credits that provide incentives to hire employees; and~~

~~(2) make recommendations regarding simplifying the application process for tax credits that provide incentives to hire employees.~~

~~(g) On or before December 31, 2010, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.~~

SECTION ~~2.~~ ~~3.~~ *2.* AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010. ~~Section 2 of this Act shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2011, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.~~

Approved by the Governor, May 4, 2010.

Chapter 253

(Senate Bill 224)

AN ACT concerning

Real Property – ~~Restrictions – Clotheslines or Other Similar Laundry Drying Devices~~ *Installation and Use of Clotheslines on Residential Property*

FOR the purpose of ~~authorizing a homeowner or tenant of certain residential property to use a clothesline or other similar laundry drying device on the property of the homeowner or tenant notwithstanding the terms of any contract, deed, covenant, restriction, instrument, declaration, rule, bylaw, lease agreement, rental agreement, or any other document concerning the use of clotheslines or other similar laundry drying devices on the property under certain circumstances; prohibiting the terms of any contract, deed, covenant, restriction, instrument, declaration, rule, bylaw, lease agreement, rental agreement, or any other document concerning the use of clotheslines or other similar laundry drying devices by a homeowner or tenant from prohibiting or restricting the right of a homeowner or tenant to use clotheslines or other similar laundry drying devices under certain circumstances; authorizing the governing body of a condominium, homeowners association, or housing cooperative or a landlord to adopt reasonable rules and regulations regarding the timing, placement, and manner of use of clotheslines and other similar laundry drying devices; requiring the governing body of a condominium, homeowners association, or housing cooperative, or a landlord to hold an open meeting and provide advance notice of the open meeting before adopting proposed rules and regulations regarding the timing, placement, and manner of use of clotheslines and other similar laundry drying devices;~~ *providing that a contract, deed, covenant, restriction, instrument, declaration, rule, bylaw, lease*

agreement, rental agreement, or any other document concerning the installation or use of clotheslines on certain residential property may not prohibit a homeowner or tenant from installing or using clotheslines on certain residential property; providing that a homeowner or tenant may not be prohibited from installing or using clotheslines on certain residential property, regardless of the terms in any contract, deed, covenant, restriction, instrument, declaration, rule, bylaw, lease agreement, rental agreement, or any other document concerning the installation or use of clotheslines on certain residential property; providing that this Act does not prohibit reasonable restrictions, for certain purposes, on the dimensions, placement, or appearance of clotheslines; requiring a landlord or the governing body of a condominium, homeowners association, or housing cooperative to hold a certain open meeting and provide certain advance notice of the open meeting before adopting a restriction concerning the installation or use of clotheslines on single–family property; providing for the application of this Act; *defining certain terms;* and generally relating to the ~~use of clotheslines and other similar laundry drying devices by homeowners and tenants~~ *installation and use of clotheslines on residential property*.

BY adding to
Article – Real Property
Section ~~14–128.1~~ *14–130*
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

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

Article – Real Property

~~**14–128.1.**~~

~~**(A) (1) EXCEPT AS PROVIDED IN SUBSECTION (A)(2) OF THIS SECTION, THIS SECTION APPLIES TO ANY SINGLE-FAMILY RESIDENTIAL DWELLING OR TOWNHOUSE, INCLUDING PROPERTY THAT IS SUBJECT TO THE PROVISIONS OF:**~~

~~**(I) TITLE 8, TITLE 8A, TITLE 11, TITLE 11A, OR TITLE 11B OF THIS ARTICLE; OR**~~

~~**(II) TITLE 5, SUBTITLE 6B OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.**~~

~~**(2) THIS SECTION DOES NOT APPLY TO A BUILDING THAT:**~~

~~**(I) CONTAINS MORE THAN FOUR DWELLING UNITS; AND**~~

~~(II) IS USED EXCLUSIVELY FOR RENTAL PURPOSES.~~

~~(B) NOTWITHSTANDING THE TERMS OF ANY CONTRACT, DEED, COVENANT, RESTRICTION, INSTRUMENT, DECLARATION, RULE, BYLAW, LEASE AGREEMENT, RENTAL AGREEMENT, OR ANY OTHER DOCUMENT CONCERNING THE USE OF A CLOTHESLINE OR OTHER SIMILAR LAUNDRY DRYING DEVICE BY A HOMEOWNER OR TENANT ON RESIDENTIAL PROPERTY, A HOMEOWNER OR TENANT MAY USE A CLOTHESLINE OR OTHER SIMILAR LAUNDRY DRYING DEVICE ON THE PROPERTY OF THE HOMEOWNER OR TENANT SUBJECT TO REASONABLE RULES AND REGULATIONS ADOPTED UNDER SUBSECTION (D) OF THIS SECTION.~~

~~(C) THE TERMS OF ANY CONTRACT, DEED, COVENANT, RESTRICTION, INSTRUMENT, DECLARATION, RULE, BYLAW, LEASE AGREEMENT, RENTAL AGREEMENT, OR ANY OTHER DOCUMENT CONCERNING THE USE OF A CLOTHESLINE OR OTHER SIMILAR LAUNDRY DRYING DEVICE BY A HOMEOWNER OR TENANT ON RESIDENTIAL PROPERTY MAY NOT PROHIBIT OR RESTRICT THE RIGHT OF A HOMEOWNER OR TENANT TO USE A CLOTHESLINE OR OTHER SIMILAR LAUNDRY DRYING DEVICE ON THE PROPERTY OF THE HOMEOWNER OR TENANT, SUBJECT TO REASONABLE RULES AND REGULATIONS ADOPTED UNDER SUBSECTION (D) OF THIS SECTION.~~

~~(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE GOVERNING BODY OF A CONDOMINIUM, HOMEOWNERS ASSOCIATION, OR HOUSING COOPERATIVE OR A LANDLORD MAY ADOPT REASONABLE RULES AND REGULATIONS REGARDING TIMING, PLACEMENT, AND MANNER OF USE OF CLOTHESLINES AND OTHER SIMILAR LAUNDRY DRYING DEVICES ON THE PROPERTY OF A HOMEOWNER OR TENANT.~~

~~(2) BEFORE ADOPTING ANY RULES AND REGULATIONS UNDER THIS SUBSECTION, THE GOVERNING BODY OF THE CONDOMINIUM, HOMEOWNERS ASSOCIATION, OR HOUSING COOPERATIVE OR THE LANDLORD SHALL:~~

~~(I) HOLD AN OPEN MEETING ON THE PROPOSED RULES AND REGULATIONS FOR THE PURPOSE OF PROVIDING AFFECTED HOMEOWNERS AND TENANTS AN OPPORTUNITY TO BE HEARD; AND~~

~~(II) PROVIDE ADVANCE NOTICE OF THE TIME AND PLACE OF THE OPEN MEETING BY PUBLISHING THE NOTICE IN A COMMUNITY NEWSLETTER, ON A COMMUNITY BULLETIN BOARD, BY MEANS PROVIDED IN THE DOCUMENTS GOVERNING THE CONDOMINIUM, HOMEOWNERS ASSOCIATION, OR HOUSING COOPERATIVE, OR IN THE LEASE, OR BY OTHER MEANS REASONABLY CALCULATED TO INFORM THE AFFECTED HOMEOWNERS AND TENANTS.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect, regardless of the date of adoption or effectiveness, any contract, deed, covenant, restriction, instrument, declaration, rule, bylaw, lease agreement, rental agreement, or any other document limiting the use of clotheslines or other similar laundry drying devices by a homeowner or tenant on residential property with four or fewer dwelling units.~~

14–130.

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

(2) (I) "SINGLE–FAMILY PROPERTY" INCLUDES:

1. A SINGLE–FAMILY DETACHED HOME;

2. A TOWNHOUSE; AND

3. A PROPERTY THAT IS SUBJECT TO:

A. TITLE 11 OF THIS ARTICLE;

B. TITLE 11B OF THIS ARTICLE; OR

C. TITLE 5, SUBTITLE 6B OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

(II) "SINGLE–FAMILY PROPERTY" DOES NOT INCLUDE PROPERTY THAT CONTAINS MORE THAN FOUR DWELLING UNITS.

(3) "TOWNHOUSE" MEANS A SINGLE–FAMILY DWELLING UNIT THAT IS CONSTRUCTED IN A HORIZONTAL SERIES OF ATTACHED UNITS WITH PROPERTY LINES SEPARATING THE UNITS.

(B) THIS SECTION DOES NOT APPLY TO A RESTRICTION CONCERNING THE INSTALLATION OR USE OF CLOTHESLINES ON HISTORIC PROPERTY THAT IS LISTED IN, OR DETERMINED BY THE DIRECTOR OF THE MARYLAND HISTORICAL TRUST TO BE ELIGIBLE FOR INCLUSION IN, THE MARYLAND REGISTER OF HISTORIC PROPERTIES.

(C) A CONTRACT, DEED, COVENANT, RESTRICTION, INSTRUMENT, DECLARATION, RULE, BYLAW, LEASE AGREEMENT, RENTAL AGREEMENT, OR ANY OTHER DOCUMENT CONCERNING THE INSTALLATION OR USE OF CLOTHESLINES

ON SINGLE–FAMILY PROPERTY MAY NOT PROHIBIT A HOMEOWNER OR TENANT FROM INSTALLING OR USING CLOTHESLINES ON SINGLE–FAMILY PROPERTY.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR THE TERMS OF ANY CONTRACT, DEED, COVENANT, RESTRICTION, INSTRUMENT, DECLARATION, RULE, BYLAW, LEASE AGREEMENT, RENTAL AGREEMENT, OR ANY OTHER DOCUMENT CONCERNING THE INSTALLATION OR USE OF CLOTHESLINES ON SINGLE–FAMILY PROPERTY, A HOMEOWNER OR TENANT MAY NOT BE PROHIBITED FROM INSTALLING OR USING CLOTHESLINES ON SINGLE–FAMILY PROPERTY.

(E) THIS SECTION DOES NOT PROHIBIT REASONABLE RESTRICTIONS ON:

(1) THE DIMENSIONS, PLACEMENT, OR APPEARANCE OF CLOTHESLINES FOR THE PURPOSE OF PROTECTING AESTHETIC VALUES; OR

(2) THE PLACEMENT OF CLOTHESLINES FOR THE PURPOSE OF PROTECTING PERSONS OR PROPERTY IN THE EVENT OF FIRE OR OTHER EMERGENCIES.

(F) BEFORE ADOPTING ANY RESTRICTION CONCERNING THE INSTALLATION OR USE OF CLOTHESLINES ON SINGLE–FAMILY PROPERTY, A LANDLORD OR THE GOVERNING BODY OF A CONDOMINIUM, HOMEOWNERS ASSOCIATION, OR HOUSING COOPERATIVE SHALL:

(1) HOLD AN OPEN MEETING ON THE PROPOSED RESTRICTION FOR THE PURPOSE OF PROVIDING AFFECTED HOMEOWNERS AND TENANTS AN OPPORTUNITY TO BE HEARD; AND

(2) PROVIDE ADVANCE NOTICE OF THE TIME AND PLACE OF THE OPEN MEETING BY PUBLISHING THE NOTICE:

(I) IN A COMMUNITY NEWSLETTER;

(II) ON A COMMUNITY BULLETIN BOARD;

(III) BY MEANS PROVIDED IN THE LEASE OR GOVERNING DOCUMENTS OF THE CONDOMINIUM, HOMEOWNERS ASSOCIATION, OR HOUSING COOPERATIVE; OR

(IV) BY OTHER MEANS REASONABLY CALCULATED TO INFORM THE AFFECTED HOMEOWNERS AND TENANTS.

SECTION ~~3.~~ *2.* AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 254

(Senate Bill 230)

AN ACT concerning

Education – Instruction of Blind and Visually Impaired Students – Use of Braille

FOR the purpose of requiring the State Board of Education to establish standards for ~~the use of braille for~~ mastery of braille for use in instruction in certain subjects for blind and visually impaired students on or before a certain date; requiring the State Board and the Professional Standards and Teacher Education Board to review and, as appropriate, modify certain certification and recertification requirements for certain teachers; and generally relating to the use of braille for instruction of blind and visually impaired students.

BY repealing and reenacting, with amendments,
Article – Education
Section 8–408
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

Preamble

WHEREAS, The ability to read, write, and compute is a basic requirement for full participation in the social and economic life of the State; and

WHEREAS, It is the policy of this State that blind and visually impaired students have the same access to achieving ~~English, language arts, and mathematics skills~~ literacy as their sighted peers; and

WHEREAS, If most blind and visually impaired students are to acquire literacy, which includes the requisite English, language arts, and mathematics skills, they must be provided with instruction in these subjects in braille; now, therefore,

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

Article – Education

8–408.

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

(2) "Child who is blind or visually impaired" means a child who:

(i) Has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees;

(ii) Has a medically indicated expectation of visual deterioration; or

(iii) Has a medically diagnosed limitation in visual functioning that restricts the child's ability to read and write standard print at levels expected of other children of comparable ability and grade level.

(3) "Braille" means the system of reading and writing through touch commonly known as Standard English Contracted Braille.

(4) "Individualized education program" and "IEP team" have the same meaning as provided by the Individuals with Disabilities Education Act.

(5) "National Instructional Materials Access Center" means the center established under § 674(e) of the federal Individuals with Disabilities Education Improvement Act of 2004.

(6) "NIMAS" means the National Instructional Materials Accessibility Standard established by the federal Secretary for Education under 20 U.S.C. 1412 to be used in the preparation of electronic files suitable and used solely for efficient conversion into specialized formats.

(7) "Print instructional materials" means printed textbooks and related printed core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by the Department or county board for use by students in the classroom.

(8) "Specialized formats" means braille, large print, audio, or digital text that is used by blind or visually impaired individuals.

(b) (1) In developing the individualized education program for a child who is blind or visually impaired, provisions shall be made for instruction in braille and the use of braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media, including an evaluation of the child's future needs for instruction in braille or the use of braille, that such instruction or use is not appropriate for the child.

(2) A child may not be denied the opportunity for instruction in braille reading and writing solely because the child has some remaining vision.

(3) This section does not require the exclusive use of braille if other reading and writing media are appropriate to the child's educational needs. The use of other reading and writing media does not preclude the use of braille or the instruction of braille.

(c) For the purpose of achieving successful implementation of this section, the State Board and the Professional Standards and Teacher Education Board shall adopt certification standards for teachers of blind and visually impaired students.

(d) (1) The Department shall collaborate with and provide support to the Instructional Resources Center to develop procedures to coordinate the statewide availability of textbooks and supplementary instructional materials that may be accessed using specialized formats that use NIMAS.

(2) (i) The procedures developed under paragraph (1) of this subsection shall require the Department and a county board to include, in any procurement contract or other document or agreement used to purchase print instructional materials from a publisher, a provision that requires the publisher to:

1. On or before the delivery of the print instructional materials, prepare and provide the National Instructional Materials Access Center electronic files containing the contents of the print instructional materials using NIMAS; or

2. Purchase instructional materials from that publisher that are produced in, or may be rendered in, specialized formats.

(ii) A publisher may not be required to provide an electronic copy of any instructional material copyrighted before July 1, 2007.

(3) The State Board shall coordinate with the National Instructional Materials Access Center to facilitate the timely transfer to the Instructional Resources Center of:

1. Electronic files or instructional materials sent by publishers for the Instructional Resources Center to convert the instructional materials into specialized formats; and

2. Electronic files or instructional materials purchased from a publisher in a specialized format.

(4) Beginning on July 1, 2007, the Instructional Resources Center shall make reasonable efforts to provide the instructional materials in specialized

formats to students who are blind or visually impaired for use on the first day of classes each year or in a timely manner.

(e) Beginning in fiscal year 2008 and annually thereafter, the Governor shall include $150,000 in the annual budget submission for the Instructional Resources Center established by the Department.

(f) The State Board shall adopt regulations consistent with § 7–910 of this article to implement the provisions of this section.

(G) ON OR BEFORE SEPTEMBER 1, 2012, THE STATE BOARD SHALL ESTABLISH STANDARDS FOR ~~THE USE OF BRAILLE FOR~~ THE MASTERY OF BRAILLE FOR USE IN ENGLISH, LANGUAGE ARTS, AND MATHEMATICS INSTRUCTION OF BLIND AND VISUALLY IMPAIRED STUDENTS IN PRE–KINDERGARTEN THROUGH GRADE 12.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before September 1, 2013, to ensure the full implementation of the use of braille for English, language arts, and mathematics instruction of blind and visually impaired students in pre–kindergarten through grade 12, the State Board of Education and the Professional Standards and Teacher Education Board shall review and, as appropriate, modify certification and recertification requirements for teachers of blind and visually impaired students.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 255

(House Bill 413)

AN ACT concerning

Education – Instruction of Blind and Visually Impaired Students – Use of Braille

FOR the purpose of requiring the State Board of Education to establish standards for ~~the~~ mastery of braille for *use in* instruction in certain subjects for blind and visually impaired students on or before a certain date; requiring the State Board and the Professional Standards and Teacher Education Board to review and, as appropriate, modify certain certification and recertification

requirements for certain teachers; and generally relating to the use of braille for instruction of blind and visually impaired students.

BY repealing and reenacting, with amendments,
Article – Education
Section 8–408
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

Preamble

WHEREAS, The ability to read, write, and compute is a basic requirement for full participation in the social and economic life of the State; and

WHEREAS, It is the policy of this State that blind and visually impaired students have the same access to *achieving* literacy as their sighted peers; and

WHEREAS, If most blind and visually impaired students are to acquire literacy, *which includes the requisite English, language arts, and mathematics skills,* they must be provided with instruction in these subjects in braille; now, therefore,

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

Article – Education

8–408.

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

(2) "Child who is blind or visually impaired" means a child who:

(i) Has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees;

(ii) Has a medically indicated expectation of visual deterioration; or

(iii) Has a medically diagnosed limitation in visual functioning that restricts the child's ability to read and write standard print at levels expected of other children of comparable ability and grade level.

(3) "Braille" means the system of reading and writing through touch commonly known as Standard English Contracted Braille.

(4) "Individualized education program" and "IEP team" have the same meaning as provided by the Individuals with Disabilities Education Act.

(5) "National Instructional Materials Access Center" means the center established under § 674(e) of the federal Individuals with Disabilities Education Improvement Act of 2004.

(6) "NIMAS" means the National Instructional Materials Accessibility Standard established by the federal Secretary for Education under 20 U.S.C. 1412 to be used in the preparation of electronic files suitable and used solely for efficient conversion into specialized formats.

(7) "Print instructional materials" means printed textbooks and related printed core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by the Department or county board for use by students in the classroom.

(8) "Specialized formats" means braille, large print, audio, or digital text that is used by blind or visually impaired individuals.

(b) (1) In developing the individualized education program for a child who is blind or visually impaired, provisions shall be made for instruction in braille and the use of braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media, including an evaluation of the child's future needs for instruction in braille or the use of braille, that such instruction or use is not appropriate for the child.

(2) A child may not be denied the opportunity for instruction in braille reading and writing solely because the child has some remaining vision.

(3) This section does not require the exclusive use of braille if other reading and writing media are appropriate to the child's educational needs. The use of other reading and writing media does not preclude the use of braille or the instruction of braille.

(c) For the purpose of achieving successful implementation of this section, the State Board and the Professional Standards and Teacher Education Board shall adopt certification standards for teachers of blind and visually impaired students.

(d) (1) The Department shall collaborate with and provide support to the Instructional Resources Center to develop procedures to coordinate the statewide availability of textbooks and supplementary instructional materials that may be accessed using specialized formats that use NIMAS.

(2) (i) The procedures developed under paragraph (1) of this subsection shall require the Department and a county board to include, in any

procurement contract or other document or agreement used to purchase print instructional materials from a publisher, a provision that requires the publisher to:

1. On or before the delivery of the print instructional materials, prepare and provide the National Instructional Materials Access Center electronic files containing the contents of the print instructional materials using NIMAS; or

2. Purchase instructional materials from that publisher that are produced in, or may be rendered in, specialized formats.

(ii) A publisher may not be required to provide an electronic copy of any instructional material copyrighted before July 1, 2007.

(3) The State Board shall coordinate with the National Instructional Materials Access Center to facilitate the timely transfer to the Instructional Resources Center of:

1. Electronic files or instructional materials sent by publishers for the Instructional Resources Center to convert the instructional materials into specialized formats; and

2. Electronic files or instructional materials purchased from a publisher in a specialized format.

(4) Beginning on July 1, 2007, the Instructional Resources Center shall make reasonable efforts to provide the instructional materials in specialized formats to students who are blind or visually impaired for use on the first day of classes each year or in a timely manner.

(e) Beginning in fiscal year 2008 and annually thereafter, the Governor shall include $150,000 in the annual budget submission for the Instructional Resources Center established by the Department.

(f) The State Board shall adopt regulations consistent with § 7–910 of this article to implement the provisions of this section.

(G) ON OR BEFORE SEPTEMBER 1, 2012, THE STATE BOARD SHALL ESTABLISH STANDARDS FOR THE MASTERY OF BRAILLE FOR USE IN ENGLISH, LANGUAGE ARTS, AND MATHEMATICS INSTRUCTION OF BLIND AND VISUALLY IMPAIRED STUDENTS IN PRE–KINDERGARTEN THROUGH GRADE 12.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before September 1, 2013, to ensure the full implementation of the use of braille for English, language arts, and mathematics instruction of blind and visually impaired students in pre–kindergarten through grade 12, the State Board of Education and the Professional

Standards and Teacher Education Board shall review and, as appropriate, modify certification and recertification requirements for teachers of blind and visually impaired students.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 256

(Senate Bill 231)

AN ACT concerning

Maryland Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act

FOR the purpose of establishing the Maryland Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act; authorizing a court of this State to treat a foreign country as if the country were a state for the purpose of applying *certain provisions of* this Act; *prohibiting a court of this State from treating a foreign country as if the country were a state for the purposes of applying certain provisions of this Act unless a court of this State makes a certain finding;* authorizing a court of this State to make a certain request of an appropriate court of another state in a certain guardianship or protective proceeding in this State and to grant a certain request from an appropriate court of another state in a certain guardianship or protective proceeding in that state; authorizing the offer of testimony by deposition or certain other means in a certain guardianship or protective proceeding; requiring a court of this State to cooperate with courts of other states in designating an appropriate location for a deposition or testimony in a certain guardianship or protective proceeding; establishing that a court of this State has jurisdiction to appoint a guardian or issue a protective order for a certain respondent under certain circumstances; establishing that a court of this State that lacks certain jurisdiction under this Act has special jurisdiction to take certain steps; requiring a court in this State to dismiss a certain proceeding at the request of a certain court in another state under certain circumstances; establishing that a court that has appointed a guardian or issued a protective order consistent with this Act has exclusive and continuing jurisdiction over the proceeding until the proceeding is terminated by the court or the appointment or order expires by the terms of the appointment or order; authorizing a court to decline to exercise jurisdiction under certain circumstances; requiring a court that declines jurisdiction to take certain steps in certain circumstances; authorizing a court to take certain steps if a certain determination is made; requiring a certain petitioner to provide

certain notice to certain persons; authorizing a court to proceed or requiring the court to take certain steps on the filing of a certain petition under certain circumstances; authorizing a certain guardian or conservator to petition a court to transfer a guardianship or conservatorship to another state under certain circumstances; providing that a certain notice of a petition to transfer a guardianship or conservatorship to another state be given under certain circumstances; requiring a court to hold a hearing on a certain petition under certain circumstances; requiring a court to issue a provisional order granting a petition to transfer a guardianship or conservatorship to another state on a certain finding; requiring a guardian or conservator to petition a court in this State to accept a certain guardianship or conservatorship under certain circumstances; providing that a certain notice of a petition to accept a guardianship or conservatorship be given under certain circumstances; requiring a court to hold a hearing on a certain petition under certain circumstances; requiring a court to issue a provisional order approving a certain petition unless a certain objection is made; requiring a court to recognize a guardianship or conservatorship order from another state under certain circumstances; establishing that the denial of a petition to accept a guardianship or conservatorship from another state does not affect the ability of a certain person to seek a certain court appointment; authorizing a guardian appointed in another state to register a certain guardianship order in this State as a foreign judgment under certain circumstances; authorizing a conservator appointed in another state to register a certain conservatorship order in this State as a foreign judgment under certain circumstances; authorizing, with certain exceptions, a certain guardian or conservator to exercise certain powers in this State; authorizing a court in this State to grant certain relief to enforce a certain registered order; providing for the application of this Act; establishing that this Act modifies, limits, and supersedes certain provisions of federal law; making certain technical corrections; defining certain terms; and generally relating to adult guardianship and protective proceedings.

BY repealing and reenacting, without amendments,
Article – Estates and Trusts
Section 13–101(a), (e), and (h), 13–201 through 13–206, 13–208 through 13–221, and 13–705 through 13–713
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 13–105, 13–207, 13–222, and 13–704
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

BY adding to
Article – Estates and Trusts

Section 13.5–101 through 13.5–504 to be under the new title "Title 13.5. Maryland Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act"
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

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

Article – Estates and Trusts

13–101.

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

(e) "Disabled person" means a person other than a minor who:

(1) (i) Has been judged by a court to be unable to manage his property for reasons listed in § 13–201(c)(1) of this title; and

(ii) As a result of this inability requires a guardian of his property; or

(2) (i) Has been judged by a court to be unable to provide for his daily needs sufficiently to protect his health or safety for reasons listed in § 13–705(b) of this title; and

(ii) As a result of this inability requires a guardian of the person.

(h) "Guardian" means a guardian of an estate appointed by a court under Subtitle 2 of this title to manage the property of a disabled person or minor or a guardian of a person appointed by a court under Subtitle 7 of this title, according to the context in which it is used.

13–105.

(a) (1) The orphans' courts and the circuit courts have concurrent jurisdiction over guardians of the person of a minor and over protective proceedings for minors.

(2) Upon petition of an interested person, a matter initiated in the orphans' court may be transferred to the circuit court.

(b) **[**The**]** **SUBJECT TO TITLE 13.5 OF THIS ARTICLE, THE** circuit courts have exclusive jurisdiction over protective proceedings for disabled persons.

(c) (1) An orphans' court may exercise jurisdiction over guardianship of the person of a minor if the presiding judge of the orphans' court is a member of the bar, regardless of whether the minor who is the subject of the petition for guardianship of the person has property, may inherit property, or is destitute.

(2) An orphans' court that exercises jurisdiction or is requested to exercise jurisdiction under this subsection may:

(i) Transfer the matter to the circuit court on a finding that the best interests of the child require utilization of the equitable powers of the circuit court; and

(ii) Waive the costs, if any, of a transfer under this paragraph.

13–201.

(a) Upon petition, and after any notice or hearing prescribed by law or the Maryland Rules, the court may appoint a guardian of the property of a minor or a disabled person.

(b) A guardian shall be appointed if the court determines that:

(1) A minor owns or is entitled to property that requires management or protection; or

(2) Funds are needed for his support, care, welfare, and education and protection is necessary or desirable to obtain or provide funds.

(c) A guardian shall be appointed if the court determines that:

(1) The person is unable to manage his property and affairs effectively because of physical or mental disability, disease, habitual drunkenness, addiction to drugs, imprisonment, compulsory hospitalization, confinement, detention by a foreign power, or disappearance; and

(2) The person has or may be entitled to property or benefits which require proper management.

13–202.

Venue in proceedings under this subtitle shall be as provided by the Maryland Rules.

13–203.

(a) While a petition for appointment of a guardian or other protective order is pending, the court may preserve and apply the property of the alleged disabled person or minor as may be required. The court need not give notice to other persons.

(b) The court may not exercise the power conferred by subsection (a) unless it appears from specific facts shown by affidavit that immediate, substantial, and irreparable injury will result to the applicant or to the minor or disabled person before an adversary hearing can be held. The court may communicate informally with the minor or disabled person prior to taking action. Any order shall be served immediately on the minor or disabled person.

(c) (1) Except for the limitations contained in § 13–106 of this title, after appointment of the guardian, the court has all the powers over the property of the minor or disabled person that the person could exercise if not disabled or a minor.

(2) The powers that a circuit court has under paragraph (1) of this subsection include the power to authorize or direct the guardian to:

(i) Make gifts from the principal and income of the estate; and

(ii) Disclaim on behalf of the minor or disabled person, in whole or in part, the right of succession or transfer to that person of any property or interest in any property.

(3) The powers that a circuit court has under paragraph (2) of this subsection are in addition to and may not limit the power:

(i) Conferred upon the guardian to make distributions under § 13–214 of this subtitle; and

(ii) Conferred upon the guardian or the circuit court, without appointing a guardian, to disclaim or authorize or direct a disclaimer on behalf of a minor or disabled person under § 9–201(c) of this article.

(d) A guardian or any other interested person may invoke the jurisdiction of the court at any time to resolve questions concerning the estate or its administration.

13–204.

(a) If a basis exists as described in § 13–201 of this subtitle for assuming jurisdiction over the property of a minor or disabled person, the circuit court, without appointing a guardian, may authorize or direct a transaction with respect to the property, service, or care arrangement of the minor or disabled person. These transactions include but are not limited to:

(1) Payment, delivery, deposit, or retention of funds or property;

(2) Sale, mortgage, lease, or other transfer of property;

(3) Purchase of contracts for an annuity, life care, training, or education; or

(4) Any other transaction described in:

(i) § 13–203(c)(2) of this subtitle;

(ii) Title 9, Subtitle 2 of this article; or

(iii) § 15–102 of this article.

(b) Before approving a transaction or arrangement under this section, the court shall consider the interests of creditors and dependents of the minor or disabled person and whether the property of the minor or disabled person needs the continuing protection provided by a guardian.

13–205.

An adjudication under this subtitle shall have no bearing on the issue of capacity of the alleged disabled person to care for his own person.

13–206.

(a) Subject to the provisions of § 13–207 of this subtitle, the court may appoint as guardian of the estate of a minor or disabled person:

(1) Any individual;

(2) Any trust company; or

(3) Any other corporation authorized by law to serve as a trustee.

(b) The appointed guardian shall qualify by filing any required bond.

(c) (1) The appointment and qualification of a guardian vests in him title to all property of the minor or protected person that is held at the time of appointment or acquired later. The appointment is not a transfer or alienation within the meaning of any federal or State statute or regulation, insurance policy, pension plan, contract, will, or trust instrument that imposes restrictions on or penalties for transfer or alienation by the minor or disabled person of his rights or interest. A guardian shall utilize powers conferred by this subtitle to perform the services, exercise his discretion, and discharge his duties for the best interest of the minor or disabled person or his dependents.

(2) If a trust company is appointed guardian, a court may order any money paid to the court for the benefit of the minor or disabled person to be deposited with the trust company.

(d) The guardian is the statutory agent of the minor or disabled person for the purpose of filing all government reports and returns.

13–207.

(a) Persons are entitled to appointment as guardian for a minor or disabled person according to the following priorities:

(1) A conservator, committee, guardian of property, or other like fiduciary appointed by any appropriate court of any foreign jurisdiction in which the minor or disabled person resides;

(2) A person or corporation nominated by the minor or disabled person if the designation was signed by the minor or disabled person after his 16th birthday, and, in the opinion of the court, he had sufficient mental capacity to make an intelligent choice at the time he executed the designation;

(3) His spouse;

(4) His parents;

(5) A person or corporation nominated by the will of a deceased parent;

(6) His children;

(7) The persons who would be his heirs if he were dead;

(8) A person or corporation nominated by a person who, or institution, organization, or public agency which, is caring for him;

(9) A person or corporation nominated by a governmental agency which is paying benefits to him; **AND**

(10) Any other person considered appropriate by the court.

(b) A person specified in a priority in subsection (a)(1), (3), (4), (6) or (7) may waive and nominate in writing a person or corporation to serve in his stead. A nominee of a person holding a priority has the same priority as the person making the nomination.

(c) Among persons with equal priority, the court shall select the one best qualified of those willing to serve. For good cause the court may pass over a person with priority and appoint a person with less priority or no priority.

(d) Nonresidence does not disqualify any person from serving as guardian. Any nonresident who is appointed cannot qualify until he has on file with the register or clerk an irrevocable designation by him of an appropriate person who resides in the State on whom service of process may be made in the same manner and with the effect as if it were served personally in the State on the nonresident.

(e) The court may not name an official or employee of a local department of social services, the State Department of Human Resources, a local area agency on aging as defined in § 10–101 of the Human Services Article, or the Department of Aging as guardian of the estate.

13–208.

(a) Where the instrument nominating a guardian excuses a noncorporate guardian from furnishing bond, the court shall not require a bond unless exceptional circumstances are shown to exist which make it necessary to require a bond for the safety of those interested in the administration of the estate.

(b) A corporate guardian shall not be required to furnish bond.

(c) In the case of a noncorporate guardian, including a substituted or successor or reinstated guardian nominated by the court or nominated under an instrument which is silent as to bond, the court may, subject to subsection (d) of this section, require a bond if, in its discretion, it finds it necessary for the safety of those interested in the administration of the estate.

(d) In a guardian estate consisting entirely of cash, deposited as provided in the rules, securities or real property, or any combination of them which cannot be transferred by the guardian without the approval of the court, not exceeding $10,000, the court shall not require a guardian to furnish or continue in effect a bond, unless exceptional circumstances are shown to exist.

(e) The penalty of the bond shall not be greater than the aggregate value of the property of the estate under the control of the guardian, less the value of securities or money deposited in a financial institution as defined in § 13–301(h) of this title under arrangements requiring an order of the court for their removal, and the value of any land which the guardian, by express limitation of power, lacks power to sell or convey without court authorization. The court may, in lieu of sureties on a bond, accept other security for the performance of the bond, including a pledge of securities or a mortgage of land. The court may at any time, subject to the maximum penalty provided by this section, require the amount of the bond, or the type or value of security, to be changed. The approval of a new bond shall not discharge a bond filed previously from any liability which may have accrued before approval.

(f) The terms of any bond shall be as provided by the Maryland Rules.

13–209.

Inventory and accounting in proceedings under this subtitle shall be as provided by the Maryland Rules.

13–210.

(a) An interested person may file a petition for an order:

(1) Requiring bond, security, additional bond, or security in an estate where bond can be required;

(2) Requiring an accounting of the administration of the estate;

(3) Directing distribution;

(4) Removing the guardian and appointing a successor guardian; or

(5) Granting other appropriate relief.

(b) A guardian may petition the appointing court for permission to act in any matter relating to the administration of the estate.

(c) Upon hearing after notice and upon good cause shown, the court may issue an appropriate order.

13–211.

(a) There shall be no jury trial in protective proceedings. Procedures for notice to interested persons, the forms of petitions, and the conduct of and requirements at hearings are as provided in the Maryland Rules.

(b) Unless the alleged disabled person has counsel of his own choice, the court shall appoint an attorney to represent him in the proceeding.

13–212.

In the administration of the estate and the exercise of his powers, a guardian shall exercise the care and skill of a man of ordinary prudence dealing with his own property.

13–213.

All the provisions of § 15–102 of this article with respect to the powers of a fiduciary and the manner of exercise of those powers are applicable to a guardian.

13–214.

(a) A guardian may distribute or disburse property without court authorization or confirmation in accordance with this section.

(b) (1) A guardian of a minor may pay or apply income and principal from the estate as needed for the clothing, support, care, protection, welfare, and education of the minor.

(2) A guardian of a disabled person may pay or apply income and principal from the estate as needed for the clothing, support, care, protection, welfare, and rehabilitation of the disabled person. He shall give consideration to the support and care of the disabled person during the probable period of the estate and the needs of persons dependent upon the disabled person.

(3) Income and principal also may be paid or applied for the benefit of persons legally dependent upon the minor or disabled person and, with the approval of the court, for the benefit of other persons maintained and supported in whole or in part by the disabled person prior to the appointment of a guardian.

(c) (1) When a minor attains his majority, his guardian, after meeting all prior claims and expenses of administration, shall distribute the estate to the former minor as soon as possible, unless the minor is then disabled. The distribution normally shall be in kind.

(2) If the guardian is satisfied that the disability of the disabled person has ceased or if the court has found in a proceeding under § 13–221 of this subtitle that the disability has ceased, the guardian, after meeting all prior claims and expenses of administration, shall distribute the estate to the former disabled person as soon as possible. The distribution normally shall be in kind.

(3) When a minor or disabled person dies, the guardian shall deliver to the appropriate probate court for safekeeping any will of the deceased person in his possession, inform the personal representative or a beneficiary named in it that he has done so, and retain the estate for delivery to an appointed personal representative of the decedent or other person entitled to it.

(4) If a guardianship is terminated for reasons other than the attainment of majority, cessation of disability, or death of the protected person, the guardian shall distribute the estate in accordance with the order of the court terminating the guardianship.

13–215.

Any limitation on the powers of a guardian contained in a will or other instrument which nominated a guardian should ordinarily be imposed by the court on the guardian. If the court limits any power conferred on the guardian by § 13–214 of this subtitle or § 15–102 of this article, the limitation shall be endorsed upon his letters of appointment.

13–216.

(a) If the exercise of a power is improper, the guardian is liable for breach of his fiduciary duty to the minor or disabled person or to interested persons for resulting damage or loss to the same extent as a trustee of an express trust.

(b) The rights of purchasers and others dealing with a guardian shall be determined as provided in § 13–219 and are not necessarily affected by the fact that the guardian breached his fiduciary duty in the transaction.

13–217.

(a) Letters of guardianship may be recorded in the land records of the county of residence of the minor or disabled person and of any other county where there is real estate in which the estate has an interest. The recordation has the same effect as notice as recording a conveyance from the minor or disabled person to the guardian.

(b) Orders of the court modifying or terminating letters of guardianship or authorizing making a conveyance or doing any other act with respect to interests in real estate constituting part of the estate may be recorded in a similar manner and with similar effect.

13–218.

Except in unusual circumstances, the guardian is entitled to the same compensation and reimbursement for actual and necessary expenses as the trustee of a trust. No petition or hearing is required to entitle the guardian to compensation and expenses. Upon the petition of any interested person and upon a finding by the court that unusual circumstances exist, the court may increase or decrease compensation.

13–219.

In the absence of actual knowledge or of reasonable cause to inquire whether the guardian is improperly exercising his power, a person dealing with the guardian need not inquire whether the guardian is exercising it properly, and is protected as if the guardian properly exercised the power, except that every person is charged with actual knowledge of any limitations endorsed on the letters of guardianship. A person need not see to the proper application of estate assets paid or delivered to a guardian.

13–220.

(a) The appointment of a guardian terminates when the guardianship terminates under § 13–221 and may be terminated sooner by his death, disability, resignation, or removal.

(b) Termination of appointment of a guardian has the effects provided in this section.

(1) Termination ends the right and power pertaining to the office of guardian. Unless otherwise ordered by the court, a guardian whose appointment has been terminated shall perform acts necessary to protect the estate and deliver the property to the successor guardian.

(2) Subject to the provisions of the Maryland Rules, termination does not discharge a guardian from liability for transactions or omissions occurring before termination, or relieve him of the duty to preserve, account for, and deliver to his successor property subject to his control.

(3) All lawful acts of a guardian before the termination of his appointment shall remain valid and effective.

(c) The death of a guardian or the decree of a court of competent jurisdiction that he is under legal disability shall terminate his appointment. The personal representative of a deceased guardian or the person appointed to protect the estate of a guardian under legal disability shall have the duty to protect property belonging to the estate being administered by the deceased or disabled guardian.

(1) He shall have the power to perform acts necessary for the protection of property.

(2) He shall immediately account for and deliver the property to a successor guardian.

(3) He shall apply immediately to the court for the appointment of a successor guardian to carry on the administration of the estate which was being administered by the deceased or disabled guardian in accordance with the Maryland Rules.

(d) A guardian who desires to resign his office may do so in accordance with the provisions of the same Maryland Rules by which a fiduciary may resign his office.

13–221.

(a) The minor or disabled person, his personal representative, the guardian, or any other interested person may petition the court to terminate the guardianship proceedings.

(b) A guardianship proceeding shall terminate upon:

(1) The cessation of the minority or disability;

(2) The death or presumptive death of the minor or disabled person;

(3) Transfer of all the assets of the estate to a foreign fiduciary; or

(4) Other good cause for termination as may be shown to the satisfaction of the court.

(c) Termination and final distribution of the estate of a former minor or disabled person shall be made in compliance with the provisions of the Maryland Rules, applying to a fiduciary.

13–222.

(a) **[**When no guardianship proceeding is pending in the state, a**]** **A** guardian, conservator, committee, or other similar fiduciary, appointed by the appropriate court of another jurisdiction to manage the property of a protected person who is a resident of that jurisdiction, may exercise in the state all powers of his office, including the power to sell, purchase, or mortgage real estate in the state, collect, receipt for, and take possession of money due, tangible personal property, or an instrument evidencing a debt, obligation, stock, or chose in action located in the state, and remove it to the other jurisdiction. Subject to any statute or rule relating to nonresidents, he may sue and be sued in the state.

(b) Before receiving actual notice of the pendency of a guardianship proceeding in the state, a person who has changed his position by relying on the powers granted by this section may not be prejudiced by the pendency of the proceeding.

13–704.

The court may superintend and direct the care of a disabled person, appoint a guardian of the person, and pass orders and decrees respecting the person as seems proper, including an order directing the disabled person to be sent to a hospital. Procedures in these cases shall be as prescribed by the Maryland Rules and in accordance with the provisions of this subtitle **AND TITLE 13.5 OF THIS ARTICLE**.

13–705.

(a) On petition and after any notice or hearing prescribed by law or the Maryland Rules, a court may appoint a guardian of the person of a disabled person.

(b) A guardian of the person shall be appointed if the court determines from clear and convincing evidence that a person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person, including

provisions for health care, food, clothing, or shelter, because of any mental disability, disease, habitual drunkenness, or addiction to drugs, and that no less restrictive form of intervention is available which is consistent with the person's welfare and safety.

(c) (1) Procedures and venue in these cases shall be as described by Title 10, Chapters 100 and 200 of the Maryland Rules.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, a petition for guardianship of a disabled person shall include signed and verified certificates of competency from the following health care professionals:

(i) Two licensed physicians who have examined the disabled person; or

(ii) 1. One licensed physician who has examined the disabled person; and

2. A. One licensed psychologist who has evaluated the disabled person; or

B. One licensed certified social worker–clinical who has evaluated the disabled person.

(3) An examination or evaluation by at least one of the health care professionals under paragraph (2) of this subsection shall occur within 21 days before filing a petition for guardianship of a disabled person.

(d) (1) Subject to paragraph (2) of this subsection, unless the alleged disabled person has counsel of his own choice, the court shall appoint an attorney to represent him in the proceeding. If the person is indigent, the State shall pay a reasonable attorney's fee.

(2) 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, unless the court finds that it would not be in the best interests of the alleged disabled person, the court shall:

(i) Appoint an attorney who has contracted with the Department of Human Resources to provide those services, in accordance with the terms of the contract; and

(ii) In an action in which an attorney has previously been appointed, strike the appearance of the attorney previously appointed and appoint the attorney who is currently under contract with the Department of Human Resources, in accordance with the terms of the contract.

(e) The person alleged to be disabled is entitled to be present at the hearing unless he has knowingly and voluntarily waived the right to be present or cannot be present because of physical or mental incapacity. Waiver or incapacity may not be presumed from nonappearance but shall be determined on the basis of factual information supplied to the court by counsel or a representative appointed by the court. The person alleged to be disabled is also entitled to present evidence and to cross–examine witnesses. The issue may be determined at a closed hearing without a jury if the person alleged to be disabled or his counsel so requests and all hearings herein shall be confidential and sealed unless otherwise ordered by a court of competent jurisdiction for good cause shown.

(f) The court shall hear and rule on a petition seeking appointment of a guardian of the person of a disabled person in connection with medical treatment on an expedited basis.

13–706.

(a) An adjudication of a disability for purposes of appointing a guardian of a person may not be the basis for commitment of the disabled person to a mental institution.

(b) Appointment of a guardian of the person:

(1) Is not evidence of incompetency of the disabled person; and

(2) Does not modify any civil right of the disabled person unless the court orders, including any civil service ranking, appointment, and rights relating to licensure, permit, privilege, or benefit under any law.

13–707.

(a) Persons are entitled to appointment as guardian of the person according to the following priorities:

(1) A person, agency, or corporation nominated by the disabled person if the disabled person was 16 years old or older when the disabled person signed the designation and, in the opinion of the court, the disabled person had sufficient mental capacity to make an intelligent choice at the time the disabled person executed the designation;

(2) A health care agent appointed by the disabled person in accordance with Title 5, Subtitle 6 of the Health – General Article;

(3) The disabled person's spouse;

(4) The disabled person's parents;

(5) A person, agency, or corporation nominated by the will of a deceased parent;

(6) The disabled person's children;

(7) Adult persons who would be the disabled person's heirs if the disabled person were dead;

(8) A person, agency, or corporation nominated by a person caring for the disabled person;

(9) Any other person, agency, or corporation considered appropriate by the court; and

(10) For adults less than 65 years old, the director of the local department of social services or, for adults 65 years old or older, the Secretary of Aging or the director of the area agency on aging, except in those cases where the department of social services has been appointed guardian of the person prior to age 65. Upon appointment as guardian, directors of local departments of social services, directors of area agencies on aging, and the Secretary of Aging may delegate responsibilities of guardianship to staff persons whose names and positions have been registered with the court.

(b) A person specified in a priority in subsection (a)(2), (3), (5), or (6) may waive and nominate in writing a person, agency or corporation to serve in his stead. A nominee of a person holding priority has the same priority as the person making the nomination.

(c) (1) Among persons with equal priority the court shall select the one best qualified of those willing to serve. For good cause, the court may pass over a person with priority and appoint a person with a lower priority.

(2) If a guardian of the estate has been appointed, the court may select him to be guardian of the person, regardless of priority.

(d) Nonresidence does not disqualify any person from serving as guardian of the person. However, a nonresident who is appointed may not qualify until he has on file with the register or clerk an irrevocable designation by him of an appropriate person who resides in the State on whom service of process may be made in the same manner and with the same effect as if it were served personally in the State on the nonresident.

(e) A local department of social services, local office on aging, or the Secretary of Aging, may be appointed as a guardian of a person regardless of whether that person resides in a State or private residential facility.

13–708.

(a) (1) The court may grant to a guardian of a person only those powers necessary to provide for the demonstrated need of the disabled person.

(2) The court may appoint a guardian of the person of a disabled person for the limited purpose of making one or more decisions related to the health care of that person.

(b) Subject to subsection (a) of this section, the rights, duties, and powers which the court may order include, but are not limited to:

(1) The same rights, powers, and duties that a parent has with respect to an unemancipated minor child, except that the guardian is not liable solely by reason of the guardianship to third persons for any act of the disabled person;

(2) The right to custody of the disabled person and to establish his place of abode within and without the State, provided there is court authorization for any change in the classification of abode, except that no one may be committed to a mental facility without an involuntary commitment proceeding as provided by law;

(3) The duty to provide for care, comfort, and maintenance, including social, recreational, and friendship requirements, and, if appropriate, for training and education of the disabled person;

(4) The duty to take reasonable care of the clothing, furniture, vehicles, and other personal effects of the disabled person, and, if other property requires protection, the power to commence protective proceedings;

(5) If a guardian of the estate of the disabled person has not been appointed, the right to commence proceedings to compel performance by any person of his duty to support the disabled person, and to apply the estate to the support, care, and education of the disabled person, except that the guardian of the person may not obtain funds from the estate for room and board that the guardian, his spouse, parent, or child provide without a court order approving the charge, and the duty to exercise care to conserve any excess estate for the needs of the disabled person;

(6) If a guardian of the estate has been appointed, the duty to control the custody and care of the disabled person, to receive reasonable sums for room and board provided to the disabled person, and to account to the guardian of the estate for funds expended, and the right to ask the guardian of the estate to expend the estate in payment of third persons for care and maintenance of the disabled person;

(7) The duty to file an annual report with the court indicating the present place of residence and health status of the ward, the guardian's plan for preserving and maintaining the future well–being of the ward, and the need for continuance or cessation of the guardianship or for any alteration in the powers of the guardian. The court shall renew the appointment of the guardian if it is satisfied that

the grounds for the original appointment stated in § 13–705(b) above continue to exist. If the court believes such grounds may not exist, it shall hold a hearing, similar to that provided for in § 13–705 above, at which the guardian shall be required to prove that such grounds exist. If the court does not make these findings, it shall order the discontinuance of the guardianship of the person. If the guardian declines to participate in the hearing, the court may appoint another guardian to replace him pursuant to the priorities in § 13–707(a); and

(8) The power to give necessary consent or approval for:

(i) Medical or other professional care, counsel, treatment, or service, including admission to a hospital or nursing home or transfer from one medical facility to another;

(ii) Withholding medical or other professional care, counsel, treatment, or service; and

(iii) Withdrawing medical or other professional care, counsel, treatment, or service.

(c) (1) Notwithstanding the powers conferred to a guardian under subsection (b)(8) of this section, and except as provided in paragraph (2) of this subsection, where a medical procedure involves, or would involve, a substantial risk to the life of a disabled person, the court must authorize a guardian's consent or approval for:

(i) The medical procedure;

(ii) Withholding the medical procedure; or

(iii) Withdrawing the medical procedure that involves, or would involve, a substantial risk to the life of the disabled person.

(2) The court may, upon such conditions as the court considers appropriate, authorize a guardian to make a decision regarding medical procedures that involve a substantial risk to life without further court authorization, if:

(i) The disabled person has executed an advance directive in accordance with Title 5, Subtitle 6 of the Health – General Article that authorizes the guardian to consent to the provision, withholding or withdrawal of a medical procedure that involves a substantial risk to life but does not appoint a health care agent; or

(ii) The guardian is:

1. Within a class of individuals specified in § 5–605(a)(2) of the Health – General Article as authorized to make health care decisions for the disabled person; and

2. Determined by the court to be familiar with the personal beliefs, values, and medical situation of the disabled person.

(3) A petition seeking the authorization of a court that a life–sustaining procedure be withheld or withdrawn is subject to the provisions of §§ 13–711 through 13–713 of this subtitle.

(d) (1) Notwithstanding subsection (a) of this section, and in addition to the rights, duties, and powers which the court may order under subsection (b) of this section, the court may order the relief provided under this subsection.

(2) (i) If a guardian of the estate has been appointed, a guardian of the person may ask the guardian of the estate to expend the estate in payment of care and maintenance services provided directly to the disabled person by the guardian of the person at the rate of reimbursement established under this subsection.

(ii) The guardian of the person shall maintain appropriate records to document the care and maintenance services provided directly to the disabled person to receive any payment under this subsection.

(3) To implement the provisions of this subsection, the court may:

(i) Adopt guidelines for the rate of reimbursement for care and maintenance services provided directly by the guardian of the person to a disabled person;

(ii) Establish appropriate procedures for records, inspections, audits, or other requirements to monitor care and maintenance services provided directly by the guardian of the person for which the guardian of the person is reimbursed; and

(iii) Order any act necessary for the best interests of the disabled person.

13–709.

(a) When, from personal observation of a law enforcement officer, it appears probable that an adult will suffer immediate and serious physical injury or death if not immediately placed in a health care facility, that the adult is incapable of giving consent, and that it is not possible to follow the procedures of this section, the officer shall transport the person to an appropriate medical facility which shall immediately notify the next of kin and the director. This medical care may not be rendered in a State mental hospital other than, in an appropriate case, the Walter P. Carter

Community Mental Health and Retardation Center and the Highland Health Facility unless authorized by the courts in a civil commitment proceeding. The director shall file a petition pursuant to subsection (b) of this section within 24 hours after the transfer of the person has taken place. The court shall hold a hearing on the petition and render its decision within 48 hours after the transfer has occurred.

(b) Upon petition by an interested person, a court may issue an order authorizing the provision of protective services on an emergency basis to an adult after finding on the record, based on clear and convincing evidence, that:

(1) For the purpose of this section the person lacks capacity under the standards enumerated in § 13–705(b) of this subtitle;

(2) An emergency exists, as defined in § 13–101 of this title; and

(3) No person authorized by law or court order to give consent for the person is available to consent to emergency services.

(c) In issuing an emergency order, the court shall adhere to the following limitations:

(1) Only such protective services as are necessary to remove the conditions creating the emergency shall be ordered; the court shall specifically designate the approved services in its order;

(2) Protective services authorized by an emergency order shall not include hospitalization or a change of residence unless the court specifically finds such action is necessary and gives specific approval for such action in its order;

(3) Protective services may be provided under an initial emergency order for not more than 144 hours, and the initial order may be renewed as provided in paragraph (5) of this subsection;

(4) In its order the court shall appoint the petitioner, another interested person, the director, or the Secretary of Aging as temporary guardian of the person with responsibility for the person's welfare and authority to give consent for the person for the approved protective services until the expiration of the order;

(5) Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, the court may extend the terms of the emergency order and the appointment of the temporary guardian until appointment of a guardian of the person pursuant to § 13–705 of this subtitle, upon petition of the temporary guardian, the director, or the Secretary of Aging, as appropriate, and after a showing that the conditions found to exist in subsection (b) of this section will probably continue beyond the expiration of the extended emergency order. Such petition shall be filed before the expiration of the six–day period provided for in paragraph (3) of this subsection and shall be accompanied by a petition for appointment of a guardian of the person

pursuant to § 13–705 of this subtitle. Such petition for appointment of a guardian of the person shall be heard on an expedited basis no more than 60 days after the filing of the petition;

(6) The issuance of an emergency order and the appointment of a temporary guardian shall not deprive the person of any rights except to the extent provided for in the order or appointment; and

(7) To implement an emergency order, the court may authorize forcible entry of the premises of the person for the purpose of rendering protective services or transporting the person to another location for the provision of such services only after a showing to the court that attempts to gain voluntary access to the premises have failed and forcible entry is necessary. Persons making authorized forcible entry shall be accompanied by a law enforcement officer, the director or his representative, and if appropriate, a representative of the local department of health.

(d) The petition for an emergency order shall set forth the name, address, and interest of the petitioner; the name, age, and address of the person in need of protective services; the nature of the person's disability, if determinable; the proposed protective services; the petitioner's reasonable belief, together with facts supportive thereof, as to the existence of the facts stated in subsection (b)(1) through (3) of this section; and facts showing petitioner's attempts to obtain the person's consent to the services and the outcomes of such attempts.

(e) Notice of the filing of such petition shall be given as required in the Maryland Rules and to the director. Such notice shall be given in language reasonably understandable by the intended recipients at least 24 hours prior to the hearing for emergency intervention. The court may waive the 24–hour notice requirement upon a showing that (1) immediate and reasonably foreseeable physical harm to the person or others will result from the 24–hour delay, and (2) reasonable attempts have been made to give such notice. Notice of the court's final order shall be given to the same parties.

(f) (1) The hearing on a petition for an emergency order for protective services shall be held under the following conditions:

(i) The person shall be present unless he has knowingly and voluntarily waived the right to be present or cannot be present because of physical or mental incapacity. Waiver or incapacity may not be presumed from nonappearance but shall be determined on the basis of factual information supplied to the court by counsel or a representative appointed by the court.

(ii) The person has the right to counsel whether or not he is present at the hearing. Subject to paragraph (2) of this subsection, if the person is indigent or lacks the capacity to waive counsel, the court shall appoint counsel. Where the person is indigent, the State shall pay reasonable attorney's fees.

(iii) The person may present evidence and cross–examine witnesses. This hearing shall be held no earlier than 24 hours after the notice required in subsection (e) of this section has been given, unless such notice has been waived by the court.

(2) In any action in which payment for the services of a court–appointed attorney for the person is the responsibility of the local department of social services, unless the court finds that it would not be in the best interests of the person, the court shall:

(i) Appoint an attorney who has contracted with the Department of Human Resources to provide those services, in accordance with the terms of the contract; and

(ii) In an action in which an attorney has previously been appointed, strike the appearance of the attorney previously appointed and appoint the attorney who is currently under contract with the Department of Human Resources, in accordance with the terms of the contract.

(g) The court shall issue for the record a statement of its findings in support of any order for emergency protective services.

(h) The person, the temporary guardian, or any interested person may petition the court to have the emergency order set aside or modified at any time, notwithstanding any prior findings by the court that the person is disabled.

(i) Where protective services are rendered on the basis of an emergency order, the temporary guardian shall submit a report describing the circumstances including the name, place, date, and nature of the services, and the use of forcible entry, if any, to the court and the director. This report shall become part of the court record.

(j) The person or the guardian of the person may appeal any findings of a court under subsection (b) of this section. Such appeal shall be handled on an expedited basis by the appellate court.

13–710.

(a) Any person filing a petition, participating in the making of a good–faith report, or participating in an investigation or in a judicial proceeding resulting therefrom, pursuant to § 13–705 or § 13–709 of this article or Title 14, Subtitle 3 of the Family Law Article, shall have the immunity from civil liability or criminal penalty described under § 5–618(a) of the Courts and Judicial Proceedings Article.

(b) A law enforcement officer who transports an adult to an appropriate medical facility under § 13–709 of this article shall have the immunity from civil or

criminal liability described under § 5–618(b) of the Courts and Judicial Proceedings Article.

13–711.

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

(b) "Best interest" means that the benefits to the disabled person resulting from a treatment outweigh the burdens to the disabled person resulting from that treatment, taking into account:

(1) The effect of the treatment on the physical, emotional, and cognitive functions of the disabled person;

(2) The degree of physical pain or discomfort caused to the disabled person by the treatment, or the withholding or withdrawal of the treatment;

(3) The degree to which the disabled person's medical condition, the treatment, or the withholding or withdrawal of treatment, result in a severe and continuing impairment of the dignity of the disabled person by subjecting the individual to a condition of extreme humiliation and dependency;

(4) The effect of the treatment on the life expectancy of the disabled person;

(5) The prognosis of the disabled person for recovery, with and without the treatment;

(6) The risks, side effects, and benefits of the treatment or the withholding or withdrawal of the treatment; and

(7) The religious beliefs and basic values of the disabled person receiving treatment, to the extent these may assist the decision maker in determining best interest.

(c) "Life–sustaining procedure" means any medical procedure, treatment, or intervention used to sustain, restore, supplement, or supplant a spontaneous vital function in order to prevent or postpone the death of a disabled person.

(d) "Substituted judgment" means a determination by a court that a disabled person would, if competent, make the same health care decision regarding a life–sustaining procedure taking into account any information that may be relevant to the decision, including:

(1) The current diagnosis, prognosis with and without the life–sustaining procedure, and life expectancy of the disabled person;

(2) Any expressed preferences of the disabled person regarding the provision of, or the withholding or withdrawal of, the life–sustaining procedure at issue;

(3) Any expressed preferences of the disabled person about the provision of, or the withholding or withdrawal of, life–sustaining procedures generally;

(4) Any religious or moral beliefs or personal values of the disabled person in relation to the provision of, or the withholding or withdrawal of, life–sustaining procedures;

(5) Any behavioral or other manifestations of the attitude of the disabled person toward the provision of, or the withholding or withdrawal of, the life–sustaining procedure;

(6) Any consistent pattern of conduct by the disabled person regarding prior decisions about health care;

(7) Any reactions of the disabled person to the provision of, or the withholding or withdrawal of, a comparable life–sustaining procedure for another individual; and

(8) Any expressed concerns of the disabled person about the effect on the family or intimate friends of the disabled person if a life–sustaining procedure were provided, withheld, or withdrawn.

13–712.

(a) The court may approve a request for the withholding or withdrawal of a life–sustaining procedure from a disabled person on the basis of a substituted judgment.

(b) The court may make a substituted judgment under subsection (a) of this section only on the basis of clear and convincing evidence that the disabled person would, if competent, decide to withhold or withdraw a life–sustaining procedure under the circumstances.

(c) Evidence of the intentions or wishes of the disabled person regarding the withholding or withdrawal of a life–sustaining procedure that might otherwise be inadmissible may be admitted, in the discretion of the court, if it is:

(1) Material and probative; and

(2) The best evidence available.

13–713.

(a) If the court is unable to make a substituted judgment under § 13–712 of this subtitle, the court may approve a request for the withholding or withdrawal of a life–sustaining procedure from the disabled person if the court determines, on the basis of clear and convincing evidence, that the withholding or withdrawal is in the best interest of the disabled person.

(b) The decision of whether life–sustaining procedures should be provided, withheld, or withdrawn shall not be based, in whole or in part, on either a patient's preexisting, long–term mental or physical disability, or a patient's economic disadvantage.

TITLE 13.5. MARYLAND UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT.

SUBTITLE 1. GENERAL PROVISIONS.

13.5–101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "CONSERVATOR" MEANS A PERSON APPOINTED BY A COURT TO ADMINISTER THE PROPERTY OF AN ADULT, INCLUDING A PERSON APPOINTED AS GUARDIAN UNDER TITLE 13, SUBTITLE 2 OF THIS ARTICLE TO MANAGE THE PROPERTY OF A DISABLED PERSON.

(C) "EMERGENCY" MEANS A CIRCUMSTANCE THAT LIKELY WILL RESULT IN A SUBSTANTIAL HARM TO THE HEALTH, SAFETY, OR WELFARE OF A RESPONDENT, AND FOR WHICH THE APPOINTMENT OF A GUARDIAN IS NECESSARY BECAUSE NO OTHER PERSON HAS AUTHORITY AND IS WILLING TO ACT ON BEHALF OF THE RESPONDENT.

(D) "GUARDIAN" MEANS A PERSON APPOINTED BY A COURT TO MAKE DECISIONS REGARDING THE PERSON OF AN ADULT, INCLUDING A PERSON APPOINTED UNDER TITLE 13, SUBTITLE 7 OF THIS ARTICLE.

(E) "GUARDIANSHIP ORDER" MEANS AN ORDER APPOINTING A GUARDIAN.

(F) "GUARDIANSHIP PROCEEDING" MEANS A PROCEEDING IN WHICH AN ORDER FOR THE APPOINTMENT OF A GUARDIAN IS SOUGHT OR HAS BEEN ISSUED.

(G) "HOME STATE" MEANS THE STATE IN WHICH THE RESPONDENT WAS PHYSICALLY PRESENT FOR AT LEAST 6 CONSECUTIVE MONTHS, INCLUDING A PERIOD OF TEMPORARY ABSENCE, IMMEDIATELY BEFORE THE FILING OF A PETITION FOR THE APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER.

(H) "INCAPACITATED PERSON" MEANS AN ADULT FOR WHOM A GUARDIAN HAS BEEN APPOINTED, INCLUDING A "DISABLED PERSON" AS DEFINED IN § 13–101 OF THIS ARTICLE.

(I) "PARTY" MEANS THE RESPONDENT, PETITIONER, GUARDIAN, CONSERVATOR, OR ANY OTHER PERSON ALLOWED BY THE COURT TO PARTICIPATE IN A GUARDIANSHIP OR PROTECTIVE PROCEEDING.

(J) "PROTECTED PERSON" MEANS AN ADULT FOR WHOM A PROTECTIVE ORDER HAS BEEN MADE.

(K) "PROTECTIVE ORDER" MEANS AN ORDER APPOINTING A CONSERVATOR OR A GUARDIAN OF THE PROPERTY IN ACCORDANCE WITH TITLE 13, SUBTITLE 2 OF THIS ARTICLE, OR ANOTHER COURT ORDER RELATED TO MANAGEMENT OF AN ADULT'S PROPERTY.

(L) "PROTECTIVE PROCEEDING" MEANS A JUDICIAL PROCEEDING IN WHICH A PROTECTIVE ORDER IS SOUGHT OR HAS BEEN ISSUED.

(M) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

(N) "RESPONDENT" MEANS AN ADULT FOR WHOM A PROTECTIVE ORDER OR THE APPOINTMENT OF A GUARDIAN IS SOUGHT.

(O) (1) "SIGNIFICANT–CONNECTION STATE" MEANS A STATE, OTHER THAN THE HOME STATE, WITH WHICH A RESPONDENT HAS A SIGNIFICANT CONNECTION OTHER THAN MERE PHYSICAL PRESENCE AND IN WHICH SUBSTANTIAL EVIDENCE CONCERNING THE RESPONDENT IS AVAILABLE.

(2) DETERMINATION OF WHETHER A RESPONDENT HAS A SIGNIFICANT CONNECTION WITH A PARTICULAR STATE SHALL INCLUDE CONSIDERATION OF THE FOLLOWING FACTORS:

(I) THE LOCATION OF THE FAMILY OF THE RESPONDENT AND OTHERS REQUIRED TO BE NOTIFIED OF THE GUARDIANSHIP OR PROTECTIVE PROCEEDING;

(II) THE LENGTH OF TIME THE RESPONDENT AT ANY TIME WAS PHYSICALLY PRESENT IN THE STATE AND THE DURATION OF ANY ABSENCES;

(III) THE LOCATION OF THE RESPONDENT'S PROPERTY; AND

(IV) THE EXTENT TO WHICH THE RESPONDENT HAS OTHER TIES TO THE STATE SUCH AS VOTING REGISTRATION, FILING OF STATE OR LOCAL TAX RETURNS, VEHICLE REGISTRATION, DRIVER'S LICENSE, SOCIAL RELATIONSHIPS, AND RECEIPT OF SERVICES.

(P) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, A FEDERALLY RECOGNIZED INDIAN TRIBE, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

13.5–102.

(A) ~~A~~ *SUBJECT TO SUBSECTION (B) OF THIS SECTION, A* COURT OF THIS STATE MAY TREAT A FOREIGN COUNTRY AS IF THE COUNTRY WERE A STATE FOR THE PURPOSE OF APPLYING SUBTITLES 1, 2, 3, AND 5 OF THIS TITLE.

(B) UNLESS A COURT OF THIS STATE FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT A FOREIGN COUNTRY APPLIES AND FOLLOWS SUBSTANTIVE AND PROCEDURAL DUE PROCESS CONSISTENT WITH THE PRACTICES AND POLICIES OF THE STATE OF MARYLAND, THE COURT:

(1) MAY NOT REQUEST A COURT IN THE FOREIGN COUNTRY TO ISSUE AN ORDER OR HOLD A HEARING;

(2) MAY NOT DECLINE TO EXERCISE JURISDICTION IF, BY DECLINING JURISDICTION IN THIS STATE, A COURT IN THE FOREIGN COUNTRY MAY OBTAIN JURISDICTION;

(3) MAY NOT DISMISS OR STAY A PROCEEDING IN THIS STATE REQUESTED OR ORDERED BY A COURT IN THE FOREIGN COUNTRY;

(4) MAY NOT DETERMINE THAT A COURT IN THE FOREIGN COUNTRY IS AN APPROPRIATE FORUM;

(5) MAY DECLINE TO COMPLY WITH NOTICE REQUIREMENTS OF THE FOREIGN COUNTRY OR THIS TITLE;

(6) MAY PROCEED WITH THE CASE IF THIS STATE IS OTHERWISE AN APPROPRIATE FORUM;

(7) MAY NOT ISSUE AN ORDER OR PROVISIONAL ORDER TO TRANSFER A GUARDIANSHIP OR CONSERVATORSHIP TO THE FOREIGN COUNTRY; AND

(8) MAY NOT RECOGNIZE UNDER ANY PROVISION OF LAW A GUARDIANSHIP OR CONSERVATORSHIP ORDER FROM THE FOREIGN COUNTRY.

13.5–103.

(A) (1) A COURT OF THIS STATE MAY COMMUNICATE WITH A COURT IN ANOTHER STATE CONCERNING A PROCEEDING ARISING UNDER THIS TITLE.

(2) THE COURT MAY ALLOW THE PARTIES TO PARTICIPATE IN A COMMUNICATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(3) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE COURT SHALL MAKE A RECORD OF THE COMMUNICATION.

(II) A RECORD DESCRIBED IN THIS PARAGRAPH MAY BE LIMITED TO THE FACT THAT THE COMMUNICATION OCCURRED.

(B) A COURT COMMUNICATING WITH A COURT IN ANOTHER STATE UNDER THIS SECTION MAY COMMUNICATE CONCERNING SCHEDULES, CALENDARS, COURT RECORDS, AND OTHER ADMINISTRATIVE MATTERS WITHOUT MAKING A RECORD.

13.5–104.

(A) IN A GUARDIANSHIP OR PROTECTIVE PROCEEDING IN THIS STATE, A COURT OF THIS STATE MAY REQUEST THE APPROPRIATE COURT OF ANOTHER STATE TO:

(1) HOLD AN EVIDENTIARY HEARING;

(2) ORDER A PERSON IN THE OTHER STATE TO PRODUCE OR GIVE EVIDENCE IN ACCORDANCE WITH PROCEDURES OF THAT STATE;

(3) ORDER THAT AN EVALUATION OR ASSESSMENT BE MADE OF THE RESPONDENT, OR ORDER AN APPROPRIATE INVESTIGATION OF A PERSON INVOLVED IN A PROCEEDING;

(4) FORWARD TO THE COURT OF THIS STATE A CERTIFIED COPY OF THE TRANSCRIPT OR OTHER RECORD OF A HEARING UNDER ITEM (1) OF THIS SUBSECTION OR ANY OTHER PROCEEDING, EVIDENCE OTHERWISE PRESENTED UNDER ITEM (2) OF THIS SUBSECTION, AND ANY EVALUATION OR ASSESSMENT PREPARED IN COMPLIANCE WITH A REQUEST UNDER ITEM (3) OF THIS SUBSECTION;

(5) ISSUE ANY OTHER ORDER NECESSARY TO ENSURE THE APPEARANCE OF A PERSON NECESSARY TO MAKE A DETERMINATION, INCLUDING THE RESPONDENT OR THE INCAPACITATED OR PROTECTED PERSON; AND

(6) ISSUE AN ORDER AUTHORIZING THE RELEASE OF MEDICAL, FINANCIAL, CRIMINAL, OR OTHER RELEVANT INFORMATION IN THE OTHER STATE, INCLUDING PROTECTED HEALTH INFORMATION AS DEFINED IN 45 C.F.R. § 164.504.

(B) IF A COURT OF ANOTHER STATE IN WHICH A GUARDIANSHIP OR PROTECTIVE PROCEEDING IS PENDING REQUESTS ASSISTANCE OF THE KIND PROVIDED IN SUBSECTION (A) OF THIS SECTION, A COURT OF THIS STATE HAS JURISDICTION FOR THE LIMITED PURPOSE OF GRANTING THE REQUEST OR MAKING REASONABLE EFFORTS TO COMPLY WITH THE REQUEST.

13.5–105.

(A) (1) IN A GUARDIANSHIP PROCEEDING OR PROTECTIVE PROCEEDING, IN ADDITION TO OTHER PROCEDURES THAT MAY BE AVAILABLE, TESTIMONY OF WITNESSES WHO ARE LOCATED IN ANOTHER STATE MAY BE OFFERED BY DEPOSITION OR OTHER MEANS ALLOWABLE IN THIS STATE FOR TESTIMONY TAKEN IN THE OTHER STATE.

(2) THE COURT ON ITS OWN MOTION MAY ORDER THAT THE TESTIMONY OF A WITNESS BE TAKEN IN ANOTHER STATE AND MAY PRESCRIBE THE MANNER IN WHICH AND THE TERMS ON WHICH THE TESTIMONY IS TO BE TAKEN.

(B) (1) IN A GUARDIANSHIP PROCEEDING OR PROTECTIVE PROCEEDING, A COURT IN THIS STATE MAY PERMIT A WITNESS LOCATED IN ANOTHER STATE TO BE DEPOSED OR TO TESTIFY BY TELEPHONE OR AUDIOVISUAL OR OTHER ELECTRONIC MEANS.

(2) A COURT OF THIS STATE SHALL COOPERATE WITH COURTS OF OTHER STATES IN DESIGNATING AN APPROPRIATE LOCATION FOR A

DEPOSITION OR TESTIMONY IN A GUARDIANSHIP PROCEEDING OR PROTECTIVE PROCEEDING UNDER THIS SECTION.

SUBTITLE 2. JURISDICTION.

13.5–201.

A COURT OF THIS STATE HAS JURISDICTION TO APPOINT A GUARDIAN OR ISSUE A PROTECTIVE ORDER FOR A RESPONDENT IF:

(1) THIS STATE IS THE HOME STATE OF THE RESPONDENT;

(2) ON THE DATE THE PETITION IS FILED, THIS STATE IS A SIGNIFICANT–CONNECTION STATE AND:

(I) THE RESPONDENT DOES NOT HAVE A HOME STATE OR A COURT OF THE HOME STATE OF THE RESPONDENT HAS DECLINED TO EXERCISE JURISDICTION BECAUSE THIS STATE IS A MORE APPROPRIATE FORUM; OR

(II) THE RESPONDENT HAS A HOME STATE, A PETITION FOR THE APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER IS NOT PENDING IN A COURT OF THAT STATE OR ANOTHER SIGNIFICANT–CONNECTION STATE, AND, BEFORE THE COURT MAKES THE APPOINTMENT OR ISSUES THE ORDER:

1. A PETITION FOR AN APPOINTMENT OR ORDER IS NOT FILED IN THE HOME STATE OF THE RESPONDENT;

2. AN OBJECTION TO THE JURISDICTION OF THE COURT IS NOT FILED BY A PERSON REQUIRED TO BE NOTIFIED OF THE PROCEEDING; AND

3. THE COURT CONCLUDES THAT THE COURT IS AN APPROPRIATE FORUM UNDER THE FACTORS SET FORTH IN § 13.5–204 OF THIS SUBTITLE;

(3) (I) THIS STATE DOES NOT HAVE JURISDICTION UNDER ITEM (1) OR (2) OF THIS SUBSECTION; ~~OR~~ AND

(II) THE HOME STATE OF THE RESPONDENT AND ALL SIGNIFICANT–CONNECTION STATES HAVE DECLINED TO EXERCISE JURISDICTION BECAUSE:

1. THIS STATE IS THE MORE APPROPRIATE FORUM; AND

2. JURISDICTION IN THIS STATE IS CONSISTENT WITH THE CONSTITUTIONS OF THIS STATE AND THE UNITED STATES; OR

(4) THE REQUIREMENTS FOR SPECIAL JURISDICTION UNDER § 13.5–202 OF THIS SUBTITLE ARE MET.

13.5–202.

(A) A COURT OF THIS STATE LACKING JURISDICTION UNDER § 13.5–201 OF THIS SUBTITLE HAS SPECIAL JURISDICTION TO DO ANY OF THE FOLLOWING:

(1) APPOINT A GUARDIAN IN AN EMERGENCY IN ACCORDANCE WITH § 13–709 OF THIS ARTICLE FOR A TERM NOT EXCEEDING 60 DAYS FOR A RESPONDENT WHO IS PHYSICALLY LOCATED IN THIS STATE;

(2) ISSUE A PROTECTIVE ORDER WITH RESPECT TO REAL OR TANGIBLE PERSONAL PROPERTY LOCATED IN THIS STATE; AND

(3) APPOINT A GUARDIAN OR CONSERVATOR FOR AN INCAPACITATED OR PROTECTED PERSON FOR WHOM A PROVISIONAL ORDER TO TRANSFER THE PROCEEDING FROM ANOTHER STATE HAS BEEN ISSUED AS PROVIDED IN § 13.5–301 OF THIS TITLE.

(B) IF A PETITION FOR THE APPOINTMENT OF A GUARDIAN IN AN EMERGENCY IS BROUGHT IN THIS STATE IN ACCORDANCE WITH § 13–709 OF THIS ARTICLE AND THIS STATE WAS NOT THE HOME STATE OF THE RESPONDENT ON THE DATE THE PETITION WAS FILED, THE COURT SHALL DISMISS THE PROCEEDING AT THE REQUEST OF THE COURT IN THE OTHER STATE, IF ANY, WHETHER DISMISSAL IS REQUESTED BEFORE OR AFTER THE EMERGENCY APPOINTMENT.

13.5–203.

EXCEPT AS OTHERWISE PROVIDED IN § 13.5–202 OF THIS SUBTITLE, A COURT THAT HAS APPOINTED A GUARDIAN OR ISSUED A PROTECTIVE ORDER CONSISTENT WITH THIS TITLE HAS EXCLUSIVE AND CONTINUING JURISDICTION OVER THE PROCEEDING UNTIL THE PROCEEDING IS TERMINATED BY THE COURT OR THE APPOINTMENT OR ORDER EXPIRES BY THE TERMS OF THE APPOINTMENT OR ORDER.

13.5–204.

(A) A COURT OF THIS STATE HAVING JURISDICTION UNDER § 13.5–201 OF THIS SUBTITLE TO APPOINT A GUARDIAN OR ISSUE A PROTECTIVE ORDER MAY DECLINE TO EXERCISE JURISDICTION IF THE COURT DETERMINES AT ANY TIME THAT A COURT OF ANOTHER STATE IS A MORE APPROPRIATE FORUM.

(B) (1) IF A COURT OF THIS STATE DECLINES JURISDICTION OVER A GUARDIANSHIP PROCEEDING OR PROTECTIVE PROCEEDING UNDER SUBSECTION (A) OF THIS SECTION, THE COURT SHALL EITHER DISMISS THE PROCEEDING OR STAY THE PROCEEDING.

(2) A COURT UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY IMPOSE ANY OTHER CONDITION THE COURT CONSIDERS JUST AND PROPER, INCLUDING THE CONDITION THAT A PETITION FOR THE APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER BE PROMPTLY FILED IN ANOTHER STATE.

(C) IN DETERMINING WHETHER THE COURT IS AN APPROPRIATE FORUM, A COURT SHALL CONSIDER ALL RELEVANT FACTORS, INCLUDING:

(1) AN EXPRESSED PREFERENCE OF THE RESPONDENT;

(2) WHETHER ABUSE, NEGLECT, OR EXPLOITATION OF THE RESPONDENT HAS OCCURRED OR IS LIKELY TO OCCUR AND WHICH STATE COULD BEST PROTECT THE RESPONDENT FROM THE ABUSE, NEGLECT, OR EXPLOITATION;

(3) THE LENGTH OF TIME THE RESPONDENT WAS PHYSICALLY LOCATED IN OR WAS A LEGAL RESIDENT OF THIS STATE OR ANOTHER STATE;

(4) THE DISTANCE OF THE RESPONDENT FROM THE COURT IN EACH STATE;

(5) THE FINANCIAL CIRCUMSTANCES OF THE ESTATE OF THE RESPONDENT;

(6) THE NATURE AND LOCATION OF THE EVIDENCE;

(7) THE ABILITY OF THE COURT IN EACH STATE TO DECIDE THE ISSUE EXPEDITIOUSLY AND THE PROCEDURES NECESSARY TO PRESENT EVIDENCE;

(8) THE FAMILIARITY OF THE COURT OF EACH STATE WITH THE FACTS AND ISSUES IN THE PROCEEDING; AND

(9) IF AN APPOINTMENT WERE MADE, THE ABILITY OF THE COURT TO MONITOR THE CONDUCT OF THE GUARDIAN OR CONSERVATOR.

13.5–205.

(A) IF AT ANY TIME A COURT OF THIS STATE DETERMINES THAT THE COURT ACQUIRED JURISDICTION TO APPOINT A GUARDIAN OR ISSUE A PROTECTIVE ORDER BECAUSE OF UNJUSTIFIABLE CONDUCT, THE COURT MAY:

(1) DECLINE TO EXERCISE JURISDICTION;

(2) EXERCISE JURISDICTION FOR THE LIMITED PURPOSE OF FASHIONING AN APPROPRIATE REMEDY TO ENSURE THE HEALTH, SAFETY, AND WELFARE OF THE RESPONDENT OR THE PROTECTION OF THE PROPERTY OF THE RESPONDENT OR PREVENT A REPETITION OF THE UNJUSTIFIABLE CONDUCT, INCLUDING STAYING THE PROCEEDING UNTIL A PETITION FOR THE APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER IS FILED IN A COURT OF ANOTHER STATE HAVING JURISDICTION; OR

(3) CONTINUE TO EXERCISE JURISDICTION AFTER CONSIDERING:

(I) THE EXTENT TO WHICH THE RESPONDENT AND ALL PERSONS REQUIRED TO BE NOTIFIED OF THE PROCEEDINGS HAVE ACQUIESCED IN THE EXERCISE OF THE JURISDICTION OF THE COURT;

(II) WHETHER THE COURT IS A MORE APPROPRIATE FORUM THAN THE COURT OF ANY OTHER STATE UNDER THE FACTORS SET FORTH IN § 13.5–204(C) OF THIS SUBTITLE; AND

(III) WHETHER THE COURT OF ANY OTHER STATE WOULD HAVE JURISDICTION UNDER FACTUAL CIRCUMSTANCES IN SUBSTANTIAL CONFORMITY WITH THE JURISDICTIONAL STANDARDS OF § 13.5–201 OF THIS SUBTITLE.

(B) (1) IF A COURT OF THIS STATE DETERMINES THAT IT ACQUIRED JURISDICTION TO APPOINT A GUARDIAN OR ISSUE A PROTECTIVE ORDER BECAUSE A PARTY SEEKING TO INVOKE THE JURISDICTION OF THE COURT ENGAGED IN UNJUSTIFIABLE CONDUCT, THE COURT MAY ASSESS AGAINST THAT PARTY NECESSARY AND REASONABLE EXPENSES, INCLUDING ATTORNEY'S FEES, INVESTIGATIVE FEES, COURT COSTS, COMMUNICATION EXPENSES, WITNESS FEES AND EXPENSES, AND TRAVEL EXPENSES.

(2) THE COURT MAY NOT ASSESS FEES, COSTS, OR EXPENSES OF ANY KIND AGAINST THIS STATE OR A GOVERNMENTAL SUBDIVISION, AGENCY,

OR INSTRUMENTALITY OF THIS STATE UNLESS AUTHORIZED BY LAW OTHER THAN THIS TITLE.

13.5–206.

(A) IF A PETITION FOR THE APPOINTMENT OF A GUARDIAN OR ISSUANCE OF A PROTECTIVE ORDER IS BROUGHT IN THIS STATE AND THIS STATE IS NOT THE HOME STATE OF THE RESPONDENT ON THE DATE THE PETITION IS FILED, IN ADDITION TO COMPLYING WITH THE NOTICE REQUIREMENTS OF THIS STATE, NOTICE OF THE PETITION SHALL BE GIVEN BY THE PETITIONER TO THOSE PERSONS WHO WOULD BE ENTITLED TO NOTICE OF THE PETITION IF THE PROCEEDING WERE BROUGHT IN THE HOME STATE OF THE RESPONDENT.

(B) THE NOTICE DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL BE GIVEN IN THE SAME MANNER AS NOTICE IS GIVEN IN THIS STATE.

13.5–207.

EXCEPT FOR A PETITION FOR THE APPOINTMENT OF A GUARDIAN IN AN EMERGENCY OR A PROTECTIVE ORDER LIMITED TO PROPERTY LOCATED IN THIS STATE AS PROVIDED IN § 13.5–202 OF THIS SUBTITLE, IF A PETITION FOR THE APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER IS FILED IN THIS STATE AND ANOTHER STATE AND NEITHER PETITION HAS BEEN DISMISSED OR WITHDRAWN, THE FOLLOWING RULES APPLY:

(1) IF THE COURT IN THIS STATE HAS JURISDICTION UNDER § 13.5–201 OF THIS SUBTITLE, THE COURT MAY PROCEED WITH THE CASE UNLESS A COURT IN ANOTHER STATE ACQUIRES JURISDICTION UNDER § 13.5–201 OF THIS SUBTITLE BEFORE THE APPOINTMENT OR ISSUANCE OF THE ORDER; OR

(2) (I) IF THE COURT IN THIS STATE DOES NOT HAVE JURISDICTION UNDER § 13.5–201 OF THIS SUBTITLE, WHETHER AT THE TIME THE PETITION IS FILED OR AT ANY TIME BEFORE THE APPOINTMENT OR ISSUANCE OF THE ORDER, THE COURT SHALL STAY THE PROCEEDING AND COMMUNICATE WITH THE COURT IN THE OTHER STATE; AND

(II) IF THE COURT IN THE OTHER STATE DOES NOT DETERMINE THAT THE COURT IN THIS STATE IS A MORE APPROPRIATE FORUM, THE COURT IN THIS STATE SHALL DISMISS THE PETITION.

SUBTITLE 3. TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP TO ANOTHER STATE.

13.5–301.

(A) FOLLOWING THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR, THE GUARDIAN OR CONSERVATOR MAY PETITION THE COURT TO TRANSFER THE GUARDIANSHIP OR CONSERVATORSHIP TO ANOTHER STATE.

(B) NOTICE OF A PETITION TO TRANSFER A GUARDIANSHIP OR CONSERVATORSHIP UNDER SUBSECTION (A) OF THIS SECTION SHALL BE GIVEN BY THE PETITIONER TO THOSE PERSONS THAT WOULD BE ENTITLED TO NOTICE OF A PETITION IN THIS STATE FOR THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR.

(C) ON THE MOTION OF THE COURT OR ON REQUEST OF THE INCAPACITATED PERSON OR PROTECTED PERSON, OR ANOTHER INTERESTED PERSON, A COURT SHALL HOLD A HEARING ON A PETITION FILED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.

(D) THE COURT SHALL ISSUE A PROVISIONAL ORDER GRANTING A PETITION TO TRANSFER A GUARDIANSHIP IF THE COURT FINDS THAT:

(1) THE INCAPACITATED PERSON IS PHYSICALLY LOCATED IN OR IS REASONABLY EXPECTED TO MOVE PERMANENTLY TO THE OTHER STATE;

(2) AN OBJECTION TO THE TRANSFER HAS NOT BEEN MADE OR, IF AN OBJECTION HAS BEEN MADE, THE OBJECTOR HAS NOT ESTABLISHED THAT THE TRANSFER WOULD BE CONTRARY TO THE INTERESTS OF THE INCAPACITATED PERSON;

(3) THE COURT IS SATISFIED THAT PLANS FOR CARE AND SERVICES FOR THE INCAPACITATED PERSON IN THE OTHER STATE ARE REASONABLE AND SUFFICIENT; AND

(4) THE COURT IS SATISFIED THAT THE GUARDIANSHIP WILL BE ACCEPTED BY THE COURT TO WHICH THE PROCEEDING WILL BE TRANSFERRED.

(E) THE COURT SHALL ISSUE A PROVISIONAL ORDER GRANTING A PETITION TO TRANSFER A CONSERVATORSHIP IF THE COURT FINDS THAT:

(1) THE PROTECTED PERSON IS PHYSICALLY LOCATED IN OR IS REASONABLY EXPECTED TO MOVE PERMANENTLY TO THE OTHER STATE, OR THE PROTECTED PERSON HAS A SIGNIFICANT CONNECTION TO THE OTHER STATE, CONSIDERING THE FACTORS SET FORTH IN § 13.5–101(O) OF THIS TITLE;

(2) AN OBJECTION TO THE TRANSFER HAS NOT BEEN MADE OR, IF AN OBJECTION HAS BEEN MADE, THE OBJECTOR HAS NOT ESTABLISHED THAT THE TRANSFER WOULD BE CONTRARY TO THE INTERESTS OF THE PROTECTED PERSON;

(3) THE COURT IS SATISFIED THAT ADEQUATE ARRANGEMENTS WILL BE MADE FOR MANAGEMENT OF THE PROPERTY OF THE PROTECTED PERSON; AND

(4) THE COURT IS SATISFIED THAT THE CONSERVATORSHIP WILL BE ACCEPTED BY THE COURT TO WHICH THE PROCEEDING WILL BE TRANSFERRED.

13.5–302.

(A) (1) ON ISSUANCE OF A PROVISIONAL ORDER IN ANOTHER STATE TO TRANSFER A GUARDIANSHIP OR CONSERVATORSHIP TO THIS STATE UNDER PROCEDURES SIMILAR TO THOSE IN § 13.5–301 OF THIS SUBTITLE, THE GUARDIAN OR CONSERVATOR SHALL PETITION THE COURT IN THIS STATE TO ACCEPT THE GUARDIANSHIP OR CONSERVATORSHIP.

(2) THE PETITION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE A CERTIFIED COPY OF THE PROVISIONAL ORDER OF THE OTHER STATE.

(B) (1) NOTICE OF A PETITION UNDER SUBSECTION (A) OF THIS SECTION TO ACCEPT A GUARDIANSHIP OR CONSERVATORSHIP FROM ANOTHER STATE SHALL BE GIVEN BY THE PETITIONER TO THOSE PERSONS THAT WOULD BE ENTITLED TO NOTICE IF THE PETITION WERE A PETITION FOR THE APPOINTMENT OF A GUARDIAN OR ISSUANCE OF A PROTECTIVE ORDER IN BOTH THE TRANSFERRING STATE AND THIS STATE.

(2) THE NOTICE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE GIVEN IN THE SAME MANNER AS NOTICE IS GIVEN IN THIS STATE.

(C) ON THE MOTION OF THE COURT OR ON REQUEST OF THE INCAPACITATED PERSON OR PROTECTED PERSON, OR ANOTHER INTERESTED PERSON, A COURT SHALL HOLD A HEARING ON A PETITION FILED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION TO ACCEPT A GUARDIANSHIP OR CONSERVATORSHIP FROM ANOTHER STATE.

(D) THE COURT SHALL ISSUE A PROVISIONAL ORDER APPROVING A PETITION FILED UNDER SUBSECTION (A) OF THIS SECTION UNLESS AN

OBJECTION IS MADE AND THE OBJECTOR ESTABLISHES THAT TRANSFER OF THE PROCEEDING WOULD BE CONTRARY TO THE INTERESTS OF THE INCAPACITATED PERSON OR PROTECTED PERSON.

(E) IN APPROVING A PETITION UNDER THIS SECTION, THE COURT SHALL RECOGNIZE A GUARDIANSHIP OR CONSERVATORSHIP ORDER FROM THE OTHER STATE, INCLUDING THE DETERMINATION OF THE INCAPACITY OF THE INCAPACITATED PERSON OR PROTECTED PERSON AND THE APPOINTMENT OF THE GUARDIAN OR CONSERVATOR, IF THE GUARDIAN OR CONSERVATOR IS ELIGIBLE TO ACT IN THIS STATE.

(F) THE DENIAL OF A PETITION FILED UNDER SUBSECTION (A) OF THIS SECTION TO ACCEPT A GUARDIANSHIP OR CONSERVATORSHIP FROM ANOTHER STATE DOES NOT AFFECT THE ABILITY OF A GUARDIAN OR CONSERVATOR APPOINTED BY A COURT IN ANOTHER STATE TO SEEK APPOINTMENT AS GUARDIAN OF THE PERSON OR PROPERTY OF THE DISABLED PERSON UNDER TITLE 13 OF THIS ARTICLE.

SUBTITLE 4. REGISTRATION AND RECOGNITION OF ORDERS FROM OTHER STATES.

13.5–401.

IF A GUARDIAN HAS NOT BEEN APPOINTED IN THIS STATE AND A PETITION FOR THE APPOINTMENT OF A GUARDIAN IS NOT PENDING IN THIS STATE, A GUARDIAN APPOINTED IN ANOTHER STATE, AFTER GIVING NOTICE TO THE APPOINTING COURT OF AN INTENT TO REGISTER, MAY REGISTER THE GUARDIANSHIP ORDER IN THIS STATE BY FILING, AS A FOREIGN JUDGMENT IN A COURT IN ANY APPROPRIATE COUNTY OF THIS STATE, CERTIFIED COPIES OF THE ORDER AND LETTERS OF OFFICE.

13.5–402.

IF A CONSERVATOR HAS NOT BEEN APPOINTED IN THIS STATE AND A PETITION FOR A PROTECTIVE ORDER IS NOT PENDING IN THIS STATE, A CONSERVATOR APPOINTED IN ANOTHER STATE, AFTER GIVING NOTICE TO THE APPOINTING COURT OF AN INTENT TO REGISTER, MAY REGISTER THE PROTECTIVE ORDER IN THIS STATE BY FILING AS A FOREIGN JUDGMENT IN A COURT OF THIS STATE, IN ANY COUNTY IN WHICH PROPERTY BELONGING TO THE PROTECTED PERSON IS LOCATED, CERTIFIED COPIES OF THE ORDER, AND LETTERS OF OFFICE AND OF ANY BOND.

13.5–403.

(A) ON REGISTRATION OF A GUARDIANSHIP OR PROTECTIVE ORDER FROM ANOTHER STATE, THE GUARDIAN OR CONSERVATOR MAY EXERCISE IN THIS STATE ALL POWERS AUTHORIZED IN THE ORDER OF APPOINTMENT EXCEPT AS PROHIBITED UNDER THE LAWS OF THIS STATE, INCLUDING MAINTAINING ACTIONS AND PROCEEDINGS IN THIS STATE AND, IF THE GUARDIAN OR CONSERVATOR IS NOT A RESIDENT OF THIS STATE, SUBJECT TO ANY CONDITIONS IMPOSED ON NONRESIDENT PARTIES.

(B) A COURT OF THIS STATE MAY GRANT ANY RELIEF AVAILABLE UNDER THIS TITLE AND OTHER LAW OF THIS STATE TO ENFORCE A REGISTERED ORDER.

SUBTITLE 5. MISCELLANEOUS PROVISIONS.

13.5–501.

IN APPLYING AND CONSTRUING THIS TITLE, WHICH IS A UNIFORM ACT, CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO THE SUBJECT MATTER OF THE LAW AMONG THE STATES THAT ENACT THE LAW.

13.5–502.

THIS TITLE MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 U.S.C. § 7001 ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE § 101(C) OF THAT ACT, 15 U.S.C. § 7001, OR AUTHORIZE ELECTRONIC DELIVERY OF THE NOTICES DESCRIBED IN § 103(B) OF THAT ACT, 15 U.S.C. § 7003(B).

13.5–503.

THIS TITLE APPLIES TO GUARDIANSHIP AND PROTECTIVE PROCEEDINGS BEGINNING ON OR AFTER OCTOBER 1, 2010.

13.5–504.

THIS TITLE MAY BE CITED AS THE MARYLAND UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 257

(House Bill 1275)

AN ACT concerning

Maryland Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act

FOR the purpose of establishing the Maryland Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act; authorizing a court of this State to treat a foreign country as if the country were a state for the purpose of applying certain provisions of this Act; prohibiting a court of this State from treating a foreign country as if the country were a state for the purposes of applying certain provisions of this Act unless a court of this State makes a certain finding; authorizing a court of this State to make a certain request of an appropriate court of another state in a certain guardianship or protective proceeding in this State and to grant a certain request from an appropriate court of another state in a certain guardianship or protective proceeding in that state; authorizing the offer of testimony by deposition or certain other means in a certain guardianship or protective proceeding; requiring a court of this State to cooperate with courts of other states in designating an appropriate location for a deposition or testimony in a certain guardianship or protective proceeding; establishing that a court of this State has jurisdiction to appoint a guardian or issue a protective order for a certain respondent under certain circumstances; establishing that a court of this State that lacks certain jurisdiction under this Act has special jurisdiction to take certain steps; requiring a court in this State to dismiss a certain proceeding at the request of a certain court in another state under certain circumstances; establishing that a court that has appointed a guardian or issued a protective order consistent with this Act has exclusive and continuing jurisdiction over the proceeding until the proceeding is terminated by the court or the appointment or order expires by the terms of the appointment or order; authorizing a court to decline to exercise jurisdiction under certain circumstances; requiring a court that declines jurisdiction to take certain steps in certain circumstances; authorizing a court to take certain steps if a certain determination is made; requiring a certain petitioner to provide certain notice to certain persons; authorizing a court to proceed or requiring the court to take certain steps on the filing of a certain petition under certain circumstances; authorizing a certain guardian or conservator to petition a court to transfer a guardianship or conservatorship to another state under certain circumstances; providing that a certain notice of a petition to transfer a guardianship or conservatorship to another state be given under certain circumstances; requiring a court to hold a hearing on a certain petition under certain circumstances; requiring a court to issue a provisional order granting a petition to transfer a guardianship or conservatorship to another state on a certain finding; requiring a guardian or conservator to petition a court in this

State to accept a certain guardianship or conservatorship under certain circumstances; providing that a certain notice of a petition to accept a guardianship or conservatorship be given under certain circumstances; requiring a court to hold a hearing on a certain petition under certain circumstances; requiring a court to issue a provisional order approving a certain petition unless a certain objection is made; requiring a court to recognize a guardianship or conservatorship order from another state under certain circumstances; establishing that the denial of a petition to accept a guardianship or conservatorship from another state does not affect the ability of a certain person to seek a certain court appointment; authorizing a guardian appointed in another state to register a certain guardianship order in this State as a foreign judgment under certain circumstances; authorizing a conservator appointed in another state to register a certain conservatorship order in this State as a foreign judgment under certain circumstances; authorizing, with certain exceptions, a certain guardian or conservator to exercise certain powers in this State; authorizing a court in this State to grant certain relief to enforce a certain registered order; providing for the application of this Act; establishing that this Act modifies, limits, and supersedes certain provisions of federal law; making certain technical corrections; defining certain terms; and generally relating to adult guardianship and protective proceedings.

BY repealing and reenacting, without amendments,
Article – Estates and Trusts
Section 13–101(a), (e), and (h), 13–201 through 13–206, 13–208 through 13–221, and 13–705 through 13–713
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 13–105, 13–207, 13–222, and 13–704
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

BY adding to
Article – Estates and Trusts
Section 13.5–101 through 13.5–504 to be under the new title "Title 13.5. Maryland Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act"
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

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

Article – Estates and Trusts

13–101.

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

(e) "Disabled person" means a person other than a minor who:

(1) (i) Has been judged by a court to be unable to manage his property for reasons listed in § 13–201(c)(1) of this title; and

(ii) As a result of this inability requires a guardian of his property; or

(2) (i) Has been judged by a court to be unable to provide for his daily needs sufficiently to protect his health or safety for reasons listed in § 13–705(b) of this title; and

(ii) As a result of this inability requires a guardian of the person.

(h) "Guardian" means a guardian of an estate appointed by a court under Subtitle 2 of this title to manage the property of a disabled person or minor or a guardian of a person appointed by a court under Subtitle 7 of this title, according to the context in which it is used.

13–105.

(a) (1) The orphans' courts and the circuit courts have concurrent jurisdiction over guardians of the person of a minor and over protective proceedings for minors.

(2) Upon petition of an interested person, a matter initiated in the orphans' court may be transferred to the circuit court.

(b) **[**The**]** **SUBJECT TO TITLE 13.5 OF THIS ARTICLE, THE** circuit courts have exclusive jurisdiction over protective proceedings for disabled persons.

(c) (1) An orphans' court may exercise jurisdiction over guardianship of the person of a minor if the presiding judge of the orphans' court is a member of the bar, regardless of whether the minor who is the subject of the petition for guardianship of the person has property, may inherit property, or is destitute.

(2) An orphans' court that exercises jurisdiction or is requested to exercise jurisdiction under this subsection may:

(i) Transfer the matter to the circuit court on a finding that the best interests of the child require utilization of the equitable powers of the circuit court; and

(ii) Waive the costs, if any, of a transfer under this paragraph.

13–201.

(a) Upon petition, and after any notice or hearing prescribed by law or the Maryland Rules, the court may appoint a guardian of the property of a minor or a disabled person.

(b) A guardian shall be appointed if the court determines that:

(1) A minor owns or is entitled to property that requires management or protection; or

(2) Funds are needed for his support, care, welfare, and education and protection is necessary or desirable to obtain or provide funds.

(c) A guardian shall be appointed if the court determines that:

(1) The person is unable to manage his property and affairs effectively because of physical or mental disability, disease, habitual drunkenness, addiction to drugs, imprisonment, compulsory hospitalization, confinement, detention by a foreign power, or disappearance; and

(2) The person has or may be entitled to property or benefits which require proper management.

13–202.

Venue in proceedings under this subtitle shall be as provided by the Maryland Rules.

13–203.

(a) While a petition for appointment of a guardian or other protective order is pending, the court may preserve and apply the property of the alleged disabled person or minor as may be required. The court need not give notice to other persons.

(b) The court may not exercise the power conferred by subsection (a) unless it appears from specific facts shown by affidavit that immediate, substantial, and irreparable injury will result to the applicant or to the minor or disabled person before an adversary hearing can be held. The court may communicate informally with the minor or disabled person prior to taking action. Any order shall be served immediately on the minor or disabled person.

(c) (1) Except for the limitations contained in § 13–106 of this title, after appointment of the guardian, the court has all the powers over the property of the minor or disabled person that the person could exercise if not disabled or a minor.

(2) The powers that a circuit court has under paragraph (1) of this subsection include the power to authorize or direct the guardian to:

(i) Make gifts from the principal and income of the estate; and

(ii) Disclaim on behalf of the minor or disabled person, in whole or in part, the right of succession or transfer to that person of any property or interest in any property.

(3) The powers that a circuit court has under paragraph (2) of this subsection are in addition to and may not limit the power:

(i) Conferred upon the guardian to make distributions under § 13–214 of this subtitle; and

(ii) Conferred upon the guardian or the circuit court, without appointing a guardian, to disclaim or authorize or direct a disclaimer on behalf of a minor or disabled person under § 9–201(c) of this article.

(d) A guardian or any other interested person may invoke the jurisdiction of the court at any time to resolve questions concerning the estate or its administration.

13–204.

(a) If a basis exists as described in § 13–201 of this subtitle for assuming jurisdiction over the property of a minor or disabled person, the circuit court, without appointing a guardian, may authorize or direct a transaction with respect to the property, service, or care arrangement of the minor or disabled person. These transactions include but are not limited to:

(1) Payment, delivery, deposit, or retention of funds or property;

(2) Sale, mortgage, lease, or other transfer of property;

(3) Purchase of contracts for an annuity, life care, training, or education; or

(4) Any other transaction described in:

(i) § 13–203(c)(2) of this subtitle;

(ii) Title 9, Subtitle 2 of this article; or

(iii) § 15–102 of this article.

(b) Before approving a transaction or arrangement under this section, the court shall consider the interests of creditors and dependents of the minor or disabled person and whether the property of the minor or disabled person needs the continuing protection provided by a guardian.

13–205.

An adjudication under this subtitle shall have no bearing on the issue of capacity of the alleged disabled person to care for his own person.

13–206.

(a) Subject to the provisions of § 13–207 of this subtitle, the court may appoint as guardian of the estate of a minor or disabled person:

(1) Any individual;

(2) Any trust company; or

(3) Any other corporation authorized by law to serve as a trustee.

(b) The appointed guardian shall qualify by filing any required bond.

(c) (1) The appointment and qualification of a guardian vests in him title to all property of the minor or protected person that is held at the time of appointment or acquired later. The appointment is not a transfer or alienation within the meaning of any federal or State statute or regulation, insurance policy, pension plan, contract, will, or trust instrument that imposes restrictions on or penalties for transfer or alienation by the minor or disabled person of his rights or interest. A guardian shall utilize powers conferred by this subtitle to perform the services, exercise his discretion, and discharge his duties for the best interest of the minor or disabled person or his dependents.

(2) If a trust company is appointed guardian, a court may order any money paid to the court for the benefit of the minor or disabled person to be deposited with the trust company.

(d) The guardian is the statutory agent of the minor or disabled person for the purpose of filing all government reports and returns.

13–207.

(a) Persons are entitled to appointment as guardian for a minor or disabled person according to the following priorities:

(1) A conservator, committee, guardian of property, or other like fiduciary appointed by any appropriate court of any foreign jurisdiction in which the minor or disabled person resides;

(2) A person or corporation nominated by the minor or disabled person if the designation was signed by the minor or disabled person after his 16th birthday, and, in the opinion of the court, he had sufficient mental capacity to make an intelligent choice at the time he executed the designation;

(3) His spouse;

(4) His parents;

(5) A person or corporation nominated by the will of a deceased parent;

(6) His children;

(7) The persons who would be his heirs if he were dead;

(8) A person or corporation nominated by a person who, or institution, organization, or public agency which, is caring for him;

(9) A person or corporation nominated by a governmental agency which is paying benefits to him; **AND**

(10) Any other person considered appropriate by the court.

(b) A person specified in a priority in subsection (a)(1), (3), (4), (6) or (7) may waive and nominate in writing a person or corporation to serve in his stead. A nominee of a person holding a priority has the same priority as the person making the nomination.

(c) Among persons with equal priority, the court shall select the one best qualified of those willing to serve. For good cause the court may pass over a person with priority and appoint a person with less priority or no priority.

(d) Nonresidence does not disqualify any person from serving as guardian. Any nonresident who is appointed cannot qualify until he has on file with the register or clerk an irrevocable designation by him of an appropriate person who resides in the State on whom service of process may be made in the same manner and with the effect as if it were served personally in the State on the nonresident.

(e) The court may not name an official or employee of a local department of social services, the State Department of Human Resources, a local area agency on aging as defined in § 10–101 of the Human Services Article, or the Department of Aging as guardian of the estate.

13–208.

(a) Where the instrument nominating a guardian excuses a noncorporate guardian from furnishing bond, the court shall not require a bond unless exceptional circumstances are shown to exist which make it necessary to require a bond for the safety of those interested in the administration of the estate.

(b) A corporate guardian shall not be required to furnish bond.

(c) In the case of a noncorporate guardian, including a substituted or successor or reinstated guardian nominated by the court or nominated under an instrument which is silent as to bond, the court may, subject to subsection (d) of this section, require a bond if, in its discretion, it finds it necessary for the safety of those interested in the administration of the estate.

(d) In a guardian estate consisting entirely of cash, deposited as provided in the rules, securities or real property, or any combination of them which cannot be transferred by the guardian without the approval of the court, not exceeding $10,000, the court shall not require a guardian to furnish or continue in effect a bond, unless exceptional circumstances are shown to exist.

(e) The penalty of the bond shall not be greater than the aggregate value of the property of the estate under the control of the guardian, less the value of securities or money deposited in a financial institution as defined in § 13–301(h) of this title under arrangements requiring an order of the court for their removal, and the value of any land which the guardian, by express limitation of power, lacks power to sell or convey without court authorization. The court may, in lieu of sureties on a bond, accept other security for the performance of the bond, including a pledge of securities or a mortgage of land. The court may at any time, subject to the maximum penalty provided by this section, require the amount of the bond, or the type or value of security, to be changed. The approval of a new bond shall not discharge a bond filed previously from any liability which may have accrued before approval.

(f) The terms of any bond shall be as provided by the Maryland Rules.

13–209.

Inventory and accounting in proceedings under this subtitle shall be as provided by the Maryland Rules.

13–210.

(a) An interested person may file a petition for an order:

(1) Requiring bond, security, additional bond, or security in an estate where bond can be required;

(2) Requiring an accounting of the administration of the estate;

(3) Directing distribution;

(4) Removing the guardian and appointing a successor guardian; or

(5) Granting other appropriate relief.

(b) A guardian may petition the appointing court for permission to act in any matter relating to the administration of the estate.

(c) Upon hearing after notice and upon good cause shown, the court may issue an appropriate order.

13–211.

(a) There shall be no jury trial in protective proceedings. Procedures for notice to interested persons, the forms of petitions, and the conduct of and requirements at hearings are as provided in the Maryland Rules.

(b) Unless the alleged disabled person has counsel of his own choice, the court shall appoint an attorney to represent him in the proceeding.

13–212.

In the administration of the estate and the exercise of his powers, a guardian shall exercise the care and skill of a man of ordinary prudence dealing with his own property.

13–213.

All the provisions of § 15–102 of this article with respect to the powers of a fiduciary and the manner of exercise of those powers are applicable to a guardian.

13–214.

(a) A guardian may distribute or disburse property without court authorization or confirmation in accordance with this section.

(b) (1) A guardian of a minor may pay or apply income and principal from the estate as needed for the clothing, support, care, protection, welfare, and education of the minor.

(2) A guardian of a disabled person may pay or apply income and principal from the estate as needed for the clothing, support, care, protection, welfare, and rehabilitation of the disabled person. He shall give consideration to the support

and care of the disabled person during the probable period of the estate and the needs of persons dependent upon the disabled person.

(3) Income and principal also may be paid or applied for the benefit of persons legally dependent upon the minor or disabled person and, with the approval of the court, for the benefit of other persons maintained and supported in whole or in part by the disabled person prior to the appointment of a guardian.

(c) (1) When a minor attains his majority, his guardian, after meeting all prior claims and expenses of administration, shall distribute the estate to the former minor as soon as possible, unless the minor is then disabled. The distribution normally shall be in kind.

(2) If the guardian is satisfied that the disability of the disabled person has ceased or if the court has found in a proceeding under § 13–221 of this subtitle that the disability has ceased, the guardian, after meeting all prior claims and expenses of administration, shall distribute the estate to the former disabled person as soon as possible. The distribution normally shall be in kind.

(3) When a minor or disabled person dies, the guardian shall deliver to the appropriate probate court for safekeeping any will of the deceased person in his possession, inform the personal representative or a beneficiary named in it that he has done so, and retain the estate for delivery to an appointed personal representative of the decedent or other person entitled to it.

(4) If a guardianship is terminated for reasons other than the attainment of majority, cessation of disability, or death of the protected person, the guardian shall distribute the estate in accordance with the order of the court terminating the guardianship.

13–215.

Any limitation on the powers of a guardian contained in a will or other instrument which nominated a guardian should ordinarily be imposed by the court on the guardian. If the court limits any power conferred on the guardian by § 13–214 of this subtitle or § 15–102 of this article, the limitation shall be endorsed upon his letters of appointment.

13–216.

(a) If the exercise of a power is improper, the guardian is liable for breach of his fiduciary duty to the minor or disabled person or to interested persons for resulting damage or loss to the same extent as a trustee of an express trust.

(b) The rights of purchasers and others dealing with a guardian shall be determined as provided in § 13–219 and are not necessarily affected by the fact that the guardian breached his fiduciary duty in the transaction.

13–217.

(a) Letters of guardianship may be recorded in the land records of the county of residence of the minor or disabled person and of any other county where there is real estate in which the estate has an interest. The recordation has the same effect as notice as recording a conveyance from the minor or disabled person to the guardian.

(b) Orders of the court modifying or terminating letters of guardianship or authorizing making a conveyance or doing any other act with respect to interests in real estate constituting part of the estate may be recorded in a similar manner and with similar effect.

13–218.

Except in unusual circumstances, the guardian is entitled to the same compensation and reimbursement for actual and necessary expenses as the trustee of a trust. No petition or hearing is required to entitle the guardian to compensation and expenses. Upon the petition of any interested person and upon a finding by the court that unusual circumstances exist, the court may increase or decrease compensation.

13–219.

In the absence of actual knowledge or of reasonable cause to inquire whether the guardian is improperly exercising his power, a person dealing with the guardian need not inquire whether the guardian is exercising it properly, and is protected as if the guardian properly exercised the power, except that every person is charged with actual knowledge of any limitations endorsed on the letters of guardianship. A person need not see to the proper application of estate assets paid or delivered to a guardian.

13–220.

(a) The appointment of a guardian terminates when the guardianship terminates under § 13–221 and may be terminated sooner by his death, disability, resignation, or removal.

(b) Termination of appointment of a guardian has the effects provided in this section.

(1) Termination ends the right and power pertaining to the office of guardian. Unless otherwise ordered by the court, a guardian whose appointment has been terminated shall perform acts necessary to protect the estate and deliver the property to the successor guardian.

(2) Subject to the provisions of the Maryland Rules, termination does not discharge a guardian from liability for transactions or omissions occurring before

termination, or relieve him of the duty to preserve, account for, and deliver to his successor property subject to his control.

(3) All lawful acts of a guardian before the termination of his appointment shall remain valid and effective.

(c) The death of a guardian or the decree of a court of competent jurisdiction that he is under legal disability shall terminate his appointment. The personal representative of a deceased guardian or the person appointed to protect the estate of a guardian under legal disability shall have the duty to protect property belonging to the estate being administered by the deceased or disabled guardian.

(1) He shall have the power to perform acts necessary for the protection of property.

(2) He shall immediately account for and deliver the property to a successor guardian.

(3) He shall apply immediately to the court for the appointment of a successor guardian to carry on the administration of the estate which was being administered by the deceased or disabled guardian in accordance with the Maryland Rules.

(d) A guardian who desires to resign his office may do so in accordance with the provisions of the same Maryland Rules by which a fiduciary may resign his office.

13–221.

(a) The minor or disabled person, his personal representative, the guardian, or any other interested person may petition the court to terminate the guardianship proceedings.

(b) A guardianship proceeding shall terminate upon:

(1) The cessation of the minority or disability;

(2) The death or presumptive death of the minor or disabled person;

(3) Transfer of all the assets of the estate to a foreign fiduciary; or

(4) Other good cause for termination as may be shown to the satisfaction of the court.

(c) Termination and final distribution of the estate of a former minor or disabled person shall be made in compliance with the provisions of the Maryland Rules, applying to a fiduciary.

13–222.

(a) **[**When no guardianship proceeding is pending in the state, a**]** **A** guardian, conservator, committee, or other similar fiduciary, appointed by the appropriate court of another jurisdiction to manage the property of a protected person who is a resident of that jurisdiction, may exercise in the state all powers of his office, including the power to sell, purchase, or mortgage real estate in the state, collect, receipt for, and take possession of money due, tangible personal property, or an instrument evidencing a debt, obligation, stock, or chose in action located in the state, and remove it to the other jurisdiction. Subject to any statute or rule relating to nonresidents, he may sue and be sued in the state.

(b) Before receiving actual notice of the pendency of a guardianship proceeding in the state, a person who has changed his position by relying on the powers granted by this section may not be prejudiced by the pendency of the proceeding.

13–704.

The court may superintend and direct the care of a disabled person, appoint a guardian of the person, and pass orders and decrees respecting the person as seems proper, including an order directing the disabled person to be sent to a hospital. Procedures in these cases shall be as prescribed by the Maryland Rules and in accordance with the provisions of this subtitle **AND TITLE 13.5 OF THIS ARTICLE**.

13–705.

(a) On petition and after any notice or hearing prescribed by law or the Maryland Rules, a court may appoint a guardian of the person of a disabled person.

(b) A guardian of the person shall be appointed if the court determines from clear and convincing evidence that a person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person, including provisions for health care, food, clothing, or shelter, because of any mental disability, disease, habitual drunkenness, or addiction to drugs, and that no less restrictive form of intervention is available which is consistent with the person's welfare and safety.

(c) (1) Procedures and venue in these cases shall be as described by Title 10, Chapters 100 and 200 of the Maryland Rules.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, a petition for guardianship of a disabled person shall include signed and verified certificates of competency from the following health care professionals:

(i) Two licensed physicians who have examined the disabled person; or

(ii) 1. One licensed physician who has examined the disabled person; and

2. A. One licensed psychologist who has evaluated the disabled person; or

B. One licensed certified social worker–clinical who has evaluated the disabled person.

(3) An examination or evaluation by at least one of the health care professionals under paragraph (2) of this subsection shall occur within 21 days before filing a petition for guardianship of a disabled person.

(d) (1) Subject to paragraph (2) of this subsection, unless the alleged disabled person has counsel of his own choice, the court shall appoint an attorney to represent him in the proceeding. If the person is indigent, the State shall pay a reasonable attorney's fee.

(2) 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, unless the court finds that it would not be in the best interests of the alleged disabled person, the court shall:

(i) Appoint an attorney who has contracted with the Department of Human Resources to provide those services, in accordance with the terms of the contract; and

(ii) In an action in which an attorney has previously been appointed, strike the appearance of the attorney previously appointed and appoint the attorney who is currently under contract with the Department of Human Resources, in accordance with the terms of the contract.

(e) The person alleged to be disabled is entitled to be present at the hearing unless he has knowingly and voluntarily waived the right to be present or cannot be present because of physical or mental incapacity. Waiver or incapacity may not be presumed from nonappearance but shall be determined on the basis of factual information supplied to the court by counsel or a representative appointed by the court. The person alleged to be disabled is also entitled to present evidence and to cross–examine witnesses. The issue may be determined at a closed hearing without a jury if the person alleged to be disabled or his counsel so requests and all hearings herein shall be confidential and sealed unless otherwise ordered by a court of competent jurisdiction for good cause shown.

(f) The court shall hear and rule on a petition seeking appointment of a guardian of the person of a disabled person in connection with medical treatment on an expedited basis.

13–706.

(a) An adjudication of a disability for purposes of appointing a guardian of a person may not be the basis for commitment of the disabled person to a mental institution.

(b) Appointment of a guardian of the person:

(1) Is not evidence of incompetency of the disabled person; and

(2) Does not modify any civil right of the disabled person unless the court orders, including any civil service ranking, appointment, and rights relating to licensure, permit, privilege, or benefit under any law.

13–707.

(a) Persons are entitled to appointment as guardian of the person according to the following priorities:

(1) A person, agency, or corporation nominated by the disabled person if the disabled person was 16 years old or older when the disabled person signed the designation and, in the opinion of the court, the disabled person had sufficient mental capacity to make an intelligent choice at the time the disabled person executed the designation;

(2) A health care agent appointed by the disabled person in accordance with Title 5, Subtitle 6 of the Health – General Article;

(3) The disabled person's spouse;

(4) The disabled person's parents;

(5) A person, agency, or corporation nominated by the will of a deceased parent;

(6) The disabled person's children;

(7) Adult persons who would be the disabled person's heirs if the disabled person were dead;

(8) A person, agency, or corporation nominated by a person caring for the disabled person;

(9) Any other person, agency, or corporation considered appropriate by the court; and

(10) For adults less than 65 years old, the director of the local department of social services or, for adults 65 years old or older, the Secretary of Aging or the director of the area agency on aging, except in those cases where the department of social services has been appointed guardian of the person prior to age 65. Upon appointment as guardian, directors of local departments of social services, directors of area agencies on aging, and the Secretary of Aging may delegate responsibilities of guardianship to staff persons whose names and positions have been registered with the court.

(b) A person specified in a priority in subsection (a)(2), (3), (5), or (6) may waive and nominate in writing a person, agency or corporation to serve in his stead. A nominee of a person holding priority has the same priority as the person making the nomination.

(c) (1) Among persons with equal priority the court shall select the one best qualified of those willing to serve. For good cause, the court may pass over a person with priority and appoint a person with a lower priority.

(2) If a guardian of the estate has been appointed, the court may select him to be guardian of the person, regardless of priority.

(d) Nonresidence does not disqualify any person from serving as guardian of the person. However, a nonresident who is appointed may not qualify until he has on file with the register or clerk an irrevocable designation by him of an appropriate person who resides in the State on whom service of process may be made in the same manner and with the same effect as if it were served personally in the State on the nonresident.

(e) A local department of social services, local office on aging, or the Secretary of Aging, may be appointed as a guardian of a person regardless of whether that person resides in a State or private residential facility.

13–708.

(a) (1) The court may grant to a guardian of a person only those powers necessary to provide for the demonstrated need of the disabled person.

(2) The court may appoint a guardian of the person of a disabled person for the limited purpose of making one or more decisions related to the health care of that person.

(b) Subject to subsection (a) of this section, the rights, duties, and powers which the court may order include, but are not limited to:

(1) The same rights, powers, and duties that a parent has with respect to an unemancipated minor child, except that the guardian is not liable solely by reason of the guardianship to third persons for any act of the disabled person;

(2) The right to custody of the disabled person and to establish his place of abode within and without the State, provided there is court authorization for any change in the classification of abode, except that no one may be committed to a mental facility without an involuntary commitment proceeding as provided by law;

(3) The duty to provide for care, comfort, and maintenance, including social, recreational, and friendship requirements, and, if appropriate, for training and education of the disabled person;

(4) The duty to take reasonable care of the clothing, furniture, vehicles, and other personal effects of the disabled person, and, if other property requires protection, the power to commence protective proceedings;

(5) If a guardian of the estate of the disabled person has not been appointed, the right to commence proceedings to compel performance by any person of his duty to support the disabled person, and to apply the estate to the support, care, and education of the disabled person, except that the guardian of the person may not obtain funds from the estate for room and board that the guardian, his spouse, parent, or child provide without a court order approving the charge, and the duty to exercise care to conserve any excess estate for the needs of the disabled person;

(6) If a guardian of the estate has been appointed, the duty to control the custody and care of the disabled person, to receive reasonable sums for room and board provided to the disabled person, and to account to the guardian of the estate for funds expended, and the right to ask the guardian of the estate to expend the estate in payment of third persons for care and maintenance of the disabled person;

(7) The duty to file an annual report with the court indicating the present place of residence and health status of the ward, the guardian's plan for preserving and maintaining the future well–being of the ward, and the need for continuance or cessation of the guardianship or for any alteration in the powers of the guardian. The court shall renew the appointment of the guardian if it is satisfied that the grounds for the original appointment stated in § 13–705(b) above continue to exist. If the court believes such grounds may not exist, it shall hold a hearing, similar to that provided for in § 13–705 above, at which the guardian shall be required to prove that such grounds exist. If the court does not make these findings, it shall order the discontinuance of the guardianship of the person. If the guardian declines to participate in the hearing, the court may appoint another guardian to replace him pursuant to the priorities in § 13–707(a); and

(8) The power to give necessary consent or approval for:

(i) Medical or other professional care, counsel, treatment, or service, including admission to a hospital or nursing home or transfer from one medical facility to another;

(ii) Withholding medical or other professional care, counsel, treatment, or service; and

(iii) Withdrawing medical or other professional care, counsel, treatment, or service.

(c) (1) Notwithstanding the powers conferred to a guardian under subsection (b)(8) of this section, and except as provided in paragraph (2) of this subsection, where a medical procedure involves, or would involve, a substantial risk to the life of a disabled person, the court must authorize a guardian's consent or approval for:

(i) The medical procedure;

(ii) Withholding the medical procedure; or

(iii) Withdrawing the medical procedure that involves, or would involve, a substantial risk to the life of the disabled person.

(2) The court may, upon such conditions as the court considers appropriate, authorize a guardian to make a decision regarding medical procedures that involve a substantial risk to life without further court authorization, if:

(i) The disabled person has executed an advance directive in accordance with Title 5, Subtitle 6 of the Health – General Article that authorizes the guardian to consent to the provision, withholding or withdrawal of a medical procedure that involves a substantial risk to life but does not appoint a health care agent; or

(ii) The guardian is:

1. Within a class of individuals specified in § 5–605(a)(2) of the Health – General Article as authorized to make health care decisions for the disabled person; and

2. Determined by the court to be familiar with the personal beliefs, values, and medical situation of the disabled person.

(3) A petition seeking the authorization of a court that a life–sustaining procedure be withheld or withdrawn is subject to the provisions of §§ 13–711 through 13–713 of this subtitle.

(d) (1) Notwithstanding subsection (a) of this section, and in addition to the rights, duties, and powers which the court may order under subsection (b) of this section, the court may order the relief provided under this subsection.

(2) (i) If a guardian of the estate has been appointed, a guardian of the person may ask the guardian of the estate to expend the estate in payment of care and maintenance services provided directly to the disabled person by the guardian of the person at the rate of reimbursement established under this subsection.

(ii) The guardian of the person shall maintain appropriate records to document the care and maintenance services provided directly to the disabled person to receive any payment under this subsection.

(3) To implement the provisions of this subsection, the court may:

(i) Adopt guidelines for the rate of reimbursement for care and maintenance services provided directly by the guardian of the person to a disabled person;

(ii) Establish appropriate procedures for records, inspections, audits, or other requirements to monitor care and maintenance services provided directly by the guardian of the person for which the guardian of the person is reimbursed; and

(iii) Order any act necessary for the best interests of the disabled person.

13–709.

(a) When, from personal observation of a law enforcement officer, it appears probable that an adult will suffer immediate and serious physical injury or death if not immediately placed in a health care facility, that the adult is incapable of giving consent, and that it is not possible to follow the procedures of this section, the officer shall transport the person to an appropriate medical facility which shall immediately notify the next of kin and the director. This medical care may not be rendered in a State mental hospital other than, in an appropriate case, the Walter P. Carter Community Mental Health and Retardation Center and the Highland Health Facility unless authorized by the courts in a civil commitment proceeding. The director shall file a petition pursuant to subsection (b) of this section within 24 hours after the transfer of the person has taken place. The court shall hold a hearing on the petition and render its decision within 48 hours after the transfer has occurred.

(b) Upon petition by an interested person, a court may issue an order authorizing the provision of protective services on an emergency basis to an adult after finding on the record, based on clear and convincing evidence, that:

(1) For the purpose of this section the person lacks capacity under the standards enumerated in § 13–705(b) of this subtitle;

(2) An emergency exists, as defined in § 13–101 of this title; and

(3) No person authorized by law or court order to give consent for the person is available to consent to emergency services.

(c) In issuing an emergency order, the court shall adhere to the following limitations:

(1) Only such protective services as are necessary to remove the conditions creating the emergency shall be ordered; the court shall specifically designate the approved services in its order;

(2) Protective services authorized by an emergency order shall not include hospitalization or a change of residence unless the court specifically finds such action is necessary and gives specific approval for such action in its order;

(3) Protective services may be provided under an initial emergency order for not more than 144 hours, and the initial order may be renewed as provided in paragraph (5) of this subsection;

(4) In its order the court shall appoint the petitioner, another interested person, the director, or the Secretary of Aging as temporary guardian of the person with responsibility for the person's welfare and authority to give consent for the person for the approved protective services until the expiration of the order;

(5) Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, the court may extend the terms of the emergency order and the appointment of the temporary guardian until appointment of a guardian of the person pursuant to § 13–705 of this subtitle, upon petition of the temporary guardian, the director, or the Secretary of Aging, as appropriate, and after a showing that the conditions found to exist in subsection (b) of this section will probably continue beyond the expiration of the extended emergency order. Such petition shall be filed before the expiration of the six–day period provided for in paragraph (3) of this subsection and shall be accompanied by a petition for appointment of a guardian of the person pursuant to § 13–705 of this subtitle. Such petition for appointment of a guardian of the person shall be heard on an expedited basis no more than 60 days after the filing of the petition;

(6) The issuance of an emergency order and the appointment of a temporary guardian shall not deprive the person of any rights except to the extent provided for in the order or appointment; and

(7) To implement an emergency order, the court may authorize forcible entry of the premises of the person for the purpose of rendering protective services or transporting the person to another location for the provision of such services only after a showing to the court that attempts to gain voluntary access to the premises have failed and forcible entry is necessary. Persons making authorized forcible entry shall be accompanied by a law enforcement officer, the director or his representative, and if appropriate, a representative of the local department of health.

(d) The petition for an emergency order shall set forth the name, address, and interest of the petitioner; the name, age, and address of the person in need of protective services; the nature of the person's disability, if determinable; the proposed protective services; the petitioner's reasonable belief, together with facts supportive thereof, as to the existence of the facts stated in subsection (b)(1) through (3) of this section; and facts showing petitioner's attempts to obtain the person's consent to the services and the outcomes of such attempts.

(e) Notice of the filing of such petition shall be given as required in the Maryland Rules and to the director. Such notice shall be given in language reasonably understandable by the intended recipients at least 24 hours prior to the hearing for emergency intervention. The court may waive the 24–hour notice requirement upon a showing that (1) immediate and reasonably foreseeable physical harm to the person or others will result from the 24–hour delay, and (2) reasonable attempts have been made to give such notice. Notice of the court's final order shall be given to the same parties.

(f) (1) The hearing on a petition for an emergency order for protective services shall be held under the following conditions:

(i) The person shall be present unless he has knowingly and voluntarily waived the right to be present or cannot be present because of physical or mental incapacity. Waiver or incapacity may not be presumed from nonappearance but shall be determined on the basis of factual information supplied to the court by counsel or a representative appointed by the court.

(ii) The person has the right to counsel whether or not he is present at the hearing. Subject to paragraph (2) of this subsection, if the person is indigent or lacks the capacity to waive counsel, the court shall appoint counsel. Where the person is indigent, the State shall pay reasonable attorney's fees.

(iii) The person may present evidence and cross–examine witnesses. This hearing shall be held no earlier than 24 hours after the notice required in subsection (e) of this section has been given, unless such notice has been waived by the court.

(2) In any action in which payment for the services of a court–appointed attorney for the person is the responsibility of the local department of social services, unless the court finds that it would not be in the best interests of the person, the court shall:

(i) Appoint an attorney who has contracted with the Department of Human Resources to provide those services, in accordance with the terms of the contract; and

(ii) In an action in which an attorney has previously been appointed, strike the appearance of the attorney previously appointed and appoint the attorney who is currently under contract with the Department of Human Resources, in accordance with the terms of the contract.

(g) The court shall issue for the record a statement of its findings in support of any order for emergency protective services.

(h) The person, the temporary guardian, or any interested person may petition the court to have the emergency order set aside or modified at any time, notwithstanding any prior findings by the court that the person is disabled.

(i) Where protective services are rendered on the basis of an emergency order, the temporary guardian shall submit a report describing the circumstances including the name, place, date, and nature of the services, and the use of forcible entry, if any, to the court and the director. This report shall become part of the court record.

(j) The person or the guardian of the person may appeal any findings of a court under subsection (b) of this section. Such appeal shall be handled on an expedited basis by the appellate court.

13–710.

(a) Any person filing a petition, participating in the making of a good–faith report, or participating in an investigation or in a judicial proceeding resulting therefrom, pursuant to § 13–705 or § 13–709 of this article or Title 14, Subtitle 3 of the Family Law Article, shall have the immunity from civil liability or criminal penalty described under § 5–618(a) of the Courts and Judicial Proceedings Article.

(b) A law enforcement officer who transports an adult to an appropriate medical facility under § 13–709 of this article shall have the immunity from civil or criminal liability described under § 5–618(b) of the Courts and Judicial Proceedings Article.

13–711.

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

(b) "Best interest" means that the benefits to the disabled person resulting from a treatment outweigh the burdens to the disabled person resulting from that treatment, taking into account:

(1) The effect of the treatment on the physical, emotional, and cognitive functions of the disabled person;

(2) The degree of physical pain or discomfort caused to the disabled person by the treatment, or the withholding or withdrawal of the treatment;

(3) The degree to which the disabled person's medical condition, the treatment, or the withholding or withdrawal of treatment, result in a severe and continuing impairment of the dignity of the disabled person by subjecting the individual to a condition of extreme humiliation and dependency;

(4) The effect of the treatment on the life expectancy of the disabled person;

(5) The prognosis of the disabled person for recovery, with and without the treatment;

(6) The risks, side effects, and benefits of the treatment or the withholding or withdrawal of the treatment; and

(7) The religious beliefs and basic values of the disabled person receiving treatment, to the extent these may assist the decision maker in determining best interest.

(c) "Life–sustaining procedure" means any medical procedure, treatment, or intervention used to sustain, restore, supplement, or supplant a spontaneous vital function in order to prevent or postpone the death of a disabled person.

(d) "Substituted judgment" means a determination by a court that a disabled person would, if competent, make the same health care decision regarding a life–sustaining procedure taking into account any information that may be relevant to the decision, including:

(1) The current diagnosis, prognosis with and without the life–sustaining procedure, and life expectancy of the disabled person;

(2) Any expressed preferences of the disabled person regarding the provision of, or the withholding or withdrawal of, the life–sustaining procedure at issue;

(3) Any expressed preferences of the disabled person about the provision of, or the withholding or withdrawal of, life–sustaining procedures generally;

(4) Any religious or moral beliefs or personal values of the disabled person in relation to the provision of, or the withholding or withdrawal of, life–sustaining procedures;

(5) Any behavioral or other manifestations of the attitude of the disabled person toward the provision of, or the withholding or withdrawal of, the life–sustaining procedure;

(6) Any consistent pattern of conduct by the disabled person regarding prior decisions about health care;

(7) Any reactions of the disabled person to the provision of, or the withholding or withdrawal of, a comparable life–sustaining procedure for another individual; and

(8) Any expressed concerns of the disabled person about the effect on the family or intimate friends of the disabled person if a life–sustaining procedure were provided, withheld, or withdrawn.

13–712.

(a) The court may approve a request for the withholding or withdrawal of a life–sustaining procedure from a disabled person on the basis of a substituted judgment.

(b) The court may make a substituted judgment under subsection (a) of this section only on the basis of clear and convincing evidence that the disabled person would, if competent, decide to withhold or withdraw a life–sustaining procedure under the circumstances.

(c) Evidence of the intentions or wishes of the disabled person regarding the withholding or withdrawal of a life–sustaining procedure that might otherwise be inadmissible may be admitted, in the discretion of the court, if it is:

(1) Material and probative; and

(2) The best evidence available.

13–713.

(a) If the court is unable to make a substituted judgment under § 13–712 of this subtitle, the court may approve a request for the withholding or withdrawal of a life–sustaining procedure from the disabled person if the court determines, on the basis of clear and convincing evidence, that the withholding or withdrawal is in the best interest of the disabled person.

(b) The decision of whether life–sustaining procedures should be provided, withheld, or withdrawn shall not be based, in whole or in part, on either a patient's preexisting, long–term mental or physical disability, or a patient's economic disadvantage.

TITLE 13.5. MARYLAND UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT.

SUBTITLE 1. GENERAL PROVISIONS.

13.5–101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "CONSERVATOR" MEANS A PERSON APPOINTED BY A COURT TO ADMINISTER THE PROPERTY OF AN ADULT, INCLUDING A PERSON APPOINTED AS GUARDIAN UNDER TITLE 13, SUBTITLE 2 OF THIS ARTICLE TO MANAGE THE PROPERTY OF A DISABLED PERSON.

(C) "EMERGENCY" MEANS A CIRCUMSTANCE THAT LIKELY WILL RESULT IN A SUBSTANTIAL HARM TO THE HEALTH, SAFETY, OR WELFARE OF A RESPONDENT, AND FOR WHICH THE APPOINTMENT OF A GUARDIAN IS NECESSARY BECAUSE NO OTHER PERSON HAS AUTHORITY AND IS WILLING TO ACT ON BEHALF OF THE RESPONDENT.

(D) "GUARDIAN" MEANS A PERSON APPOINTED BY A COURT TO MAKE DECISIONS REGARDING THE PERSON OF AN ADULT, INCLUDING A PERSON APPOINTED UNDER TITLE 13, SUBTITLE 7 OF THIS ARTICLE.

(E) "GUARDIANSHIP ORDER" MEANS AN ORDER APPOINTING A GUARDIAN.

(F) "GUARDIANSHIP PROCEEDING" MEANS A PROCEEDING IN WHICH AN ORDER FOR THE APPOINTMENT OF A GUARDIAN IS SOUGHT OR HAS BEEN ISSUED.

(G) "HOME STATE" MEANS THE STATE IN WHICH THE RESPONDENT WAS PHYSICALLY PRESENT FOR AT LEAST 6 CONSECUTIVE MONTHS, INCLUDING A PERIOD OF TEMPORARY ABSENCE, IMMEDIATELY BEFORE THE FILING OF A PETITION FOR THE APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER.

(H) "INCAPACITATED PERSON" MEANS AN ADULT FOR WHOM A GUARDIAN HAS BEEN APPOINTED, INCLUDING A "DISABLED PERSON" AS DEFINED IN § 13–101 OF THIS ARTICLE.

(I) "PARTY" MEANS THE RESPONDENT, PETITIONER, GUARDIAN, CONSERVATOR, OR ANY OTHER PERSON ALLOWED BY THE COURT TO PARTICIPATE IN A GUARDIANSHIP OR PROTECTIVE PROCEEDING.

(J) "PROTECTED PERSON" MEANS AN ADULT FOR WHOM A PROTECTIVE ORDER HAS BEEN MADE.

(K) "PROTECTIVE ORDER" MEANS AN ORDER APPOINTING A CONSERVATOR OR A GUARDIAN OF THE PROPERTY IN ACCORDANCE WITH TITLE 13, SUBTITLE 2 OF THIS ARTICLE, OR ANOTHER COURT ORDER RELATED TO MANAGEMENT OF AN ADULT'S PROPERTY.

(L) "PROTECTIVE PROCEEDING" MEANS A JUDICIAL PROCEEDING IN WHICH A PROTECTIVE ORDER IS SOUGHT OR HAS BEEN ISSUED.

(M) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

(N) "RESPONDENT" MEANS AN ADULT FOR WHOM A PROTECTIVE ORDER OR THE APPOINTMENT OF A GUARDIAN IS SOUGHT.

(O) (1) "SIGNIFICANT–CONNECTION STATE" MEANS A STATE, OTHER THAN THE HOME STATE, WITH WHICH A RESPONDENT HAS A SIGNIFICANT CONNECTION OTHER THAN MERE PHYSICAL PRESENCE AND IN WHICH SUBSTANTIAL EVIDENCE CONCERNING THE RESPONDENT IS AVAILABLE.

(2) DETERMINATION OF WHETHER A RESPONDENT HAS A SIGNIFICANT CONNECTION WITH A PARTICULAR STATE SHALL INCLUDE CONSIDERATION OF THE FOLLOWING FACTORS:

(I) THE LOCATION OF THE FAMILY OF THE RESPONDENT AND OTHERS REQUIRED TO BE NOTIFIED OF THE GUARDIANSHIP OR PROTECTIVE PROCEEDING;

(II) THE LENGTH OF TIME THE RESPONDENT AT ANY TIME WAS PHYSICALLY PRESENT IN THE STATE AND THE DURATION OF ANY ABSENCES;

(III) THE LOCATION OF THE RESPONDENT'S PROPERTY; AND

(IV) THE EXTENT TO WHICH THE RESPONDENT HAS OTHER TIES TO THE STATE SUCH AS VOTING REGISTRATION, FILING OF STATE OR LOCAL TAX RETURNS, VEHICLE REGISTRATION, DRIVER'S LICENSE, SOCIAL RELATIONSHIPS, AND RECEIPT OF SERVICES.

(P) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, A FEDERALLY RECOGNIZED INDIAN TRIBE, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

13.5–102.

(A) ~~A~~ SUBJECT TO SUBSECTION (B) OF THIS SECTION, A COURT OF THIS STATE MAY TREAT A FOREIGN COUNTRY AS IF THE COUNTRY WERE A STATE FOR THE PURPOSE OF APPLYING SUBTITLES 1, 2, 3, AND 5 OF THIS TITLE.

(B) UNLESS A COURT OF THIS STATE FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT A FOREIGN COUNTRY APPLIES AND FOLLOWS SUBSTANTIVE AND PROCEDURAL DUE PROCESS CONSISTENT WITH THE PRACTICES AND POLICIES OF THE STATE OF MARYLAND, THE COURT:

(1) MAY NOT REQUEST A COURT IN THE FOREIGN COUNTRY TO ISSUE AN ORDER OR HOLD A HEARING;

(2) MAY NOT DECLINE TO EXERCISE JURISDICTION IF, BY DECLINING JURISDICTION IN THIS STATE, A COURT IN THE FOREIGN COUNTRY MAY OBTAIN JURISDICTION;

(3) MAY NOT DISMISS OR STAY A PROCEEDING IN THIS STATE REQUESTED OR ORDERED BY A COURT IN THE FOREIGN COUNTRY;

(4) MAY NOT DETERMINE THAT A COURT IN THE FOREIGN COUNTRY IS AN APPROPRIATE FORUM;

(5) MAY DECLINE TO COMPLY WITH NOTICE REQUIREMENTS OF THE FOREIGN COUNTRY OR THIS TITLE;

(6) MAY PROCEED WITH THE CASE IF THIS STATE IS OTHERWISE AN APPROPRIATE FORUM;

(7) MAY NOT ISSUE AN ORDER OR PROVISIONAL ORDER TO TRANSFER A GUARDIANSHIP OR CONSERVATORSHIP TO THE FOREIGN COUNTRY; AND

(8) MAY NOT RECOGNIZE UNDER ANY PROVISION OF LAW A GUARDIANSHIP OR CONSERVATORSHIP ORDER FROM THE FOREIGN COUNTRY.

13.5–103.

(A) (1) A COURT OF THIS STATE MAY COMMUNICATE WITH A COURT IN ANOTHER STATE CONCERNING A PROCEEDING ARISING UNDER THIS TITLE.

(2) THE COURT MAY ALLOW THE PARTIES TO PARTICIPATE IN A COMMUNICATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(3) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE COURT SHALL MAKE A RECORD OF THE COMMUNICATION.

(II) A RECORD DESCRIBED IN THIS PARAGRAPH MAY BE LIMITED TO THE FACT THAT THE COMMUNICATION OCCURRED.

(B) A COURT COMMUNICATING WITH A COURT IN ANOTHER STATE UNDER THIS SECTION MAY COMMUNICATE CONCERNING SCHEDULES, CALENDARS, COURT RECORDS, AND OTHER ADMINISTRATIVE MATTERS WITHOUT MAKING A RECORD.

13.5–104.

(A) IN A GUARDIANSHIP OR PROTECTIVE PROCEEDING IN THIS STATE, A COURT OF THIS STATE MAY REQUEST THE APPROPRIATE COURT OF ANOTHER STATE TO:

(1) HOLD AN EVIDENTIARY HEARING;

(2) ORDER A PERSON IN THE OTHER STATE TO PRODUCE OR GIVE EVIDENCE IN ACCORDANCE WITH PROCEDURES OF THAT STATE;

(3) ORDER THAT AN EVALUATION OR ASSESSMENT BE MADE OF THE RESPONDENT, OR ORDER AN APPROPRIATE INVESTIGATION OF A PERSON INVOLVED IN A PROCEEDING;

(4) FORWARD TO THE COURT OF THIS STATE A CERTIFIED COPY OF THE TRANSCRIPT OR OTHER RECORD OF A HEARING UNDER ITEM (1) OF THIS SUBSECTION OR ANY OTHER PROCEEDING, EVIDENCE OTHERWISE PRESENTED UNDER ITEM (2) OF THIS SUBSECTION, AND ANY EVALUATION OR ASSESSMENT PREPARED IN COMPLIANCE WITH A REQUEST UNDER ITEM (3) OF THIS SUBSECTION;

(5) ISSUE ANY OTHER ORDER NECESSARY TO ENSURE THE APPEARANCE OF A PERSON NECESSARY TO MAKE A DETERMINATION, INCLUDING THE RESPONDENT OR THE INCAPACITATED OR PROTECTED PERSON; AND

(6) ISSUE AN ORDER AUTHORIZING THE RELEASE OF MEDICAL, FINANCIAL, CRIMINAL, OR OTHER RELEVANT INFORMATION IN THE OTHER

STATE, INCLUDING PROTECTED HEALTH INFORMATION AS DEFINED IN 45 C.F.R. § 164.504.

(B) IF A COURT OF ANOTHER STATE IN WHICH A GUARDIANSHIP OR PROTECTIVE PROCEEDING IS PENDING REQUESTS ASSISTANCE OF THE KIND PROVIDED IN SUBSECTION (A) OF THIS SECTION, A COURT OF THIS STATE HAS JURISDICTION FOR THE LIMITED PURPOSE OF GRANTING THE REQUEST OR MAKING REASONABLE EFFORTS TO COMPLY WITH THE REQUEST.

13.5–105.

(A) (1) IN A GUARDIANSHIP PROCEEDING OR PROTECTIVE PROCEEDING, IN ADDITION TO OTHER PROCEDURES THAT MAY BE AVAILABLE, TESTIMONY OF WITNESSES WHO ARE LOCATED IN ANOTHER STATE MAY BE OFFERED BY DEPOSITION OR OTHER MEANS ALLOWABLE IN THIS STATE FOR TESTIMONY TAKEN IN THE OTHER STATE.

(2) THE COURT ON ITS OWN MOTION MAY ORDER THAT THE TESTIMONY OF A WITNESS BE TAKEN IN ANOTHER STATE AND MAY PRESCRIBE THE MANNER IN WHICH AND THE TERMS ON WHICH THE TESTIMONY IS TO BE TAKEN.

(B) (1) IN A GUARDIANSHIP PROCEEDING OR PROTECTIVE PROCEEDING, A COURT IN THIS STATE MAY PERMIT A WITNESS LOCATED IN ANOTHER STATE TO BE DEPOSED OR TO TESTIFY BY TELEPHONE OR AUDIOVISUAL OR OTHER ELECTRONIC MEANS.

(2) A COURT OF THIS STATE SHALL COOPERATE WITH COURTS OF OTHER STATES IN DESIGNATING AN APPROPRIATE LOCATION FOR A DEPOSITION OR TESTIMONY IN A GUARDIANSHIP PROCEEDING OR PROTECTIVE PROCEEDING UNDER THIS SECTION.

SUBTITLE 2. JURISDICTION.

13.5–201.

A COURT OF THIS STATE HAS JURISDICTION TO APPOINT A GUARDIAN OR ISSUE A PROTECTIVE ORDER FOR A RESPONDENT IF:

(1) THIS STATE IS THE HOME STATE OF THE RESPONDENT;

(2) ON THE DATE THE PETITION IS FILED, THIS STATE IS A SIGNIFICANT–CONNECTION STATE AND:

(I) THE RESPONDENT DOES NOT HAVE A HOME STATE OR A COURT OF THE HOME STATE OF THE RESPONDENT HAS DECLINED TO EXERCISE JURISDICTION BECAUSE THIS STATE IS A MORE APPROPRIATE FORUM; OR

(II) THE RESPONDENT HAS A HOME STATE, A PETITION FOR THE APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER IS NOT PENDING IN A COURT OF THAT STATE OR ANOTHER SIGNIFICANT–CONNECTION STATE, AND, BEFORE THE COURT MAKES THE APPOINTMENT OR ISSUES THE ORDER:

1. A PETITION FOR AN APPOINTMENT OR ORDER IS NOT FILED IN THE HOME STATE OF THE RESPONDENT;

2. AN OBJECTION TO THE JURISDICTION OF THE COURT IS NOT FILED BY A PERSON REQUIRED TO BE NOTIFIED OF THE PROCEEDING; AND

3. THE COURT CONCLUDES THAT THE COURT IS AN APPROPRIATE FORUM UNDER THE FACTORS SET FORTH IN § 13.5–204 OF THIS SUBTITLE;

(3) (I) THIS STATE DOES NOT HAVE JURISDICTION UNDER ITEM (1) OR (2) OF THIS SUBSECTION; ~~OR~~ AND

(II) THE HOME STATE OF THE RESPONDENT AND ALL SIGNIFICANT–CONNECTION STATES HAVE DECLINED TO EXERCISE JURISDICTION BECAUSE:

1. THIS STATE IS THE MORE APPROPRIATE FORUM; AND

2. JURISDICTION IN THIS STATE IS CONSISTENT WITH THE CONSTITUTIONS OF THIS STATE AND THE UNITED STATES; OR

(4) THE REQUIREMENTS FOR SPECIAL JURISDICTION UNDER § 13.5–202 OF THIS SUBTITLE ARE MET.

13.5–202.

(A) A COURT OF THIS STATE LACKING JURISDICTION UNDER § 13.5–201 OF THIS SUBTITLE HAS SPECIAL JURISDICTION TO DO ANY OF THE FOLLOWING:

(1) APPOINT A GUARDIAN IN AN EMERGENCY IN ACCORDANCE WITH § 13–709 OF THIS ARTICLE FOR A TERM NOT EXCEEDING 60 DAYS FOR A RESPONDENT WHO IS PHYSICALLY LOCATED IN THIS STATE;

(2) ISSUE A PROTECTIVE ORDER WITH RESPECT TO REAL OR TANGIBLE PERSONAL PROPERTY LOCATED IN THIS STATE; AND

(3) APPOINT A GUARDIAN OR CONSERVATOR FOR AN INCAPACITATED OR PROTECTED PERSON FOR WHOM A PROVISIONAL ORDER TO TRANSFER THE PROCEEDING FROM ANOTHER STATE HAS BEEN ISSUED AS PROVIDED IN § 13.5–301 OF THIS TITLE.

(B) IF A PETITION FOR THE APPOINTMENT OF A GUARDIAN IN AN EMERGENCY IS BROUGHT IN THIS STATE IN ACCORDANCE WITH § 13–709 OF THIS ARTICLE AND THIS STATE WAS NOT THE HOME STATE OF THE RESPONDENT ON THE DATE THE PETITION WAS FILED, THE COURT SHALL DISMISS THE PROCEEDING AT THE REQUEST OF THE COURT IN THE OTHER STATE, IF ANY, WHETHER DISMISSAL IS REQUESTED BEFORE OR AFTER THE EMERGENCY APPOINTMENT.

13.5–203.

EXCEPT AS OTHERWISE PROVIDED IN § 13.5–202 OF THIS SUBTITLE, A COURT THAT HAS APPOINTED A GUARDIAN OR ISSUED A PROTECTIVE ORDER CONSISTENT WITH THIS TITLE HAS EXCLUSIVE AND CONTINUING JURISDICTION OVER THE PROCEEDING UNTIL THE PROCEEDING IS TERMINATED BY THE COURT OR THE APPOINTMENT OR ORDER EXPIRES BY THE TERMS OF THE APPOINTMENT OR ORDER.

13.5–204.

(A) A COURT OF THIS STATE HAVING JURISDICTION UNDER § 13.5–201 OF THIS SUBTITLE TO APPOINT A GUARDIAN OR ISSUE A PROTECTIVE ORDER MAY DECLINE TO EXERCISE JURISDICTION IF THE COURT DETERMINES AT ANY TIME THAT A COURT OF ANOTHER STATE IS A MORE APPROPRIATE FORUM.

(B) (1) IF A COURT OF THIS STATE DECLINES JURISDICTION OVER A GUARDIANSHIP PROCEEDING OR PROTECTIVE PROCEEDING UNDER SUBSECTION (A) OF THIS SECTION, THE COURT SHALL EITHER DISMISS THE PROCEEDING OR STAY THE PROCEEDING.

(2) A COURT UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY IMPOSE ANY OTHER CONDITION THE COURT CONSIDERS JUST AND PROPER, INCLUDING THE CONDITION THAT A PETITION FOR THE APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER BE PROMPTLY FILED IN ANOTHER STATE.

(C) IN DETERMINING WHETHER THE COURT IS AN APPROPRIATE FORUM, A COURT SHALL CONSIDER ALL RELEVANT FACTORS, INCLUDING:

(1) AN EXPRESSED PREFERENCE OF THE RESPONDENT;

(2) WHETHER ABUSE, NEGLECT, OR EXPLOITATION OF THE RESPONDENT HAS OCCURRED OR IS LIKELY TO OCCUR AND WHICH STATE COULD BEST PROTECT THE RESPONDENT FROM THE ABUSE, NEGLECT, OR EXPLOITATION;

(3) THE LENGTH OF TIME THE RESPONDENT WAS PHYSICALLY LOCATED IN OR WAS A LEGAL RESIDENT OF THIS STATE OR ANOTHER STATE;

(4) THE DISTANCE OF THE RESPONDENT FROM THE COURT IN EACH STATE;

(5) THE FINANCIAL CIRCUMSTANCES OF THE ESTATE OF THE RESPONDENT;

(6) THE NATURE AND LOCATION OF THE EVIDENCE;

(7) THE ABILITY OF THE COURT IN EACH STATE TO DECIDE THE ISSUE EXPEDITIOUSLY AND THE PROCEDURES NECESSARY TO PRESENT EVIDENCE;

(8) THE FAMILIARITY OF THE COURT OF EACH STATE WITH THE FACTS AND ISSUES IN THE PROCEEDING; AND

(9) IF AN APPOINTMENT WERE MADE, THE ABILITY OF THE COURT TO MONITOR THE CONDUCT OF THE GUARDIAN OR CONSERVATOR.

13.5–205.

(A) IF AT ANY TIME A COURT OF THIS STATE DETERMINES THAT THE COURT ACQUIRED JURISDICTION TO APPOINT A GUARDIAN OR ISSUE A PROTECTIVE ORDER BECAUSE OF UNJUSTIFIABLE CONDUCT, THE COURT MAY:

(1) DECLINE TO EXERCISE JURISDICTION;

(2) EXERCISE JURISDICTION FOR THE LIMITED PURPOSE OF FASHIONING AN APPROPRIATE REMEDY TO ENSURE THE HEALTH, SAFETY, AND WELFARE OF THE RESPONDENT OR THE PROTECTION OF THE PROPERTY OF THE RESPONDENT OR PREVENT A REPETITION OF THE UNJUSTIFIABLE CONDUCT, INCLUDING STAYING THE PROCEEDING UNTIL A PETITION FOR THE

APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER IS FILED IN A COURT OF ANOTHER STATE HAVING JURISDICTION; OR

(3) CONTINUE TO EXERCISE JURISDICTION AFTER CONSIDERING:

(I) THE EXTENT TO WHICH THE RESPONDENT AND ALL PERSONS REQUIRED TO BE NOTIFIED OF THE PROCEEDINGS HAVE ACQUIESCED IN THE EXERCISE OF THE JURISDICTION OF THE COURT;

(II) WHETHER THE COURT IS A MORE APPROPRIATE FORUM THAN THE COURT OF ANY OTHER STATE UNDER THE FACTORS SET FORTH IN § 13.5–204(C) OF THIS SUBTITLE; AND

(III) WHETHER THE COURT OF ANY OTHER STATE WOULD HAVE JURISDICTION UNDER FACTUAL CIRCUMSTANCES IN SUBSTANTIAL CONFORMITY WITH THE JURISDICTIONAL STANDARDS OF § 13.5–201 OF THIS SUBTITLE.

(B) (1) IF A COURT OF THIS STATE DETERMINES THAT IT ACQUIRED JURISDICTION TO APPOINT A GUARDIAN OR ISSUE A PROTECTIVE ORDER BECAUSE A PARTY SEEKING TO INVOKE THE JURISDICTION OF THE COURT ENGAGED IN UNJUSTIFIABLE CONDUCT, THE COURT MAY ASSESS AGAINST THAT PARTY NECESSARY AND REASONABLE EXPENSES, INCLUDING ATTORNEY'S FEES, INVESTIGATIVE FEES, COURT COSTS, COMMUNICATION EXPENSES, WITNESS FEES AND EXPENSES, AND TRAVEL EXPENSES.

(2) THE COURT MAY NOT ASSESS FEES, COSTS, OR EXPENSES OF ANY KIND AGAINST THIS STATE OR A GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY OF THIS STATE UNLESS AUTHORIZED BY LAW OTHER THAN THIS TITLE.

13.5–206.

(A) IF A PETITION FOR THE APPOINTMENT OF A GUARDIAN OR ISSUANCE OF A PROTECTIVE ORDER IS BROUGHT IN THIS STATE AND THIS STATE IS NOT THE HOME STATE OF THE RESPONDENT ON THE DATE THE PETITION IS FILED, IN ADDITION TO COMPLYING WITH THE NOTICE REQUIREMENTS OF THIS STATE, NOTICE OF THE PETITION SHALL BE GIVEN BY THE PETITIONER TO THOSE PERSONS WHO WOULD BE ENTITLED TO NOTICE OF THE PETITION IF THE PROCEEDING WERE BROUGHT IN THE HOME STATE OF THE RESPONDENT.

(B) THE NOTICE DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL BE GIVEN IN THE SAME MANNER AS NOTICE IS GIVEN IN THIS STATE.

13.5–207.

EXCEPT FOR A PETITION FOR THE APPOINTMENT OF A GUARDIAN IN AN EMERGENCY OR A PROTECTIVE ORDER LIMITED TO PROPERTY LOCATED IN THIS STATE AS PROVIDED IN § 13.5–202 OF THIS SUBTITLE, IF A PETITION FOR THE APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER IS FILED IN THIS STATE AND ANOTHER STATE AND NEITHER PETITION HAS BEEN DISMISSED OR WITHDRAWN, THE FOLLOWING RULES APPLY:

(1) IF THE COURT IN THIS STATE HAS JURISDICTION UNDER § 13.5–201 OF THIS SUBTITLE, THE COURT MAY PROCEED WITH THE CASE UNLESS A COURT IN ANOTHER STATE ACQUIRES JURISDICTION UNDER § 13.5–201 OF THIS SUBTITLE BEFORE THE APPOINTMENT OR ISSUANCE OF THE ORDER; OR

(2) (I) IF THE COURT IN THIS STATE DOES NOT HAVE JURISDICTION UNDER § 13.5–201 OF THIS SUBTITLE, WHETHER AT THE TIME THE PETITION IS FILED OR AT ANY TIME BEFORE THE APPOINTMENT OR ISSUANCE OF THE ORDER, THE COURT SHALL STAY THE PROCEEDING AND COMMUNICATE WITH THE COURT IN THE OTHER STATE; AND

(II) IF THE COURT IN THE OTHER STATE DOES NOT DETERMINE THAT THE COURT IN THIS STATE IS A MORE APPROPRIATE FORUM, THE COURT IN THIS STATE SHALL DISMISS THE PETITION.

SUBTITLE 3. TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP TO ANOTHER STATE.

13.5–301.

(A) FOLLOWING THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR, THE GUARDIAN OR CONSERVATOR MAY PETITION THE COURT TO TRANSFER THE GUARDIANSHIP OR CONSERVATORSHIP TO ANOTHER STATE.

(B) NOTICE OF A PETITION TO TRANSFER A GUARDIANSHIP OR CONSERVATORSHIP UNDER SUBSECTION (A) OF THIS SECTION SHALL BE GIVEN BY THE PETITIONER TO THOSE PERSONS THAT WOULD BE ENTITLED TO NOTICE OF A PETITION IN THIS STATE FOR THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR.

(C) ON THE MOTION OF THE COURT OR ON REQUEST OF THE INCAPACITATED PERSON OR PROTECTED PERSON, OR ANOTHER INTERESTED PERSON, A COURT SHALL HOLD A HEARING ON A PETITION FILED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.

(D) THE COURT SHALL ISSUE A PROVISIONAL ORDER GRANTING A PETITION TO TRANSFER A GUARDIANSHIP IF THE COURT FINDS THAT:

(1) THE INCAPACITATED PERSON IS PHYSICALLY LOCATED IN OR IS REASONABLY EXPECTED TO MOVE PERMANENTLY TO THE OTHER STATE;

(2) AN OBJECTION TO THE TRANSFER HAS NOT BEEN MADE OR, IF AN OBJECTION HAS BEEN MADE, THE OBJECTOR HAS NOT ESTABLISHED THAT THE TRANSFER WOULD BE CONTRARY TO THE INTERESTS OF THE INCAPACITATED PERSON;

(3) THE COURT IS SATISFIED THAT PLANS FOR CARE AND SERVICES FOR THE INCAPACITATED PERSON IN THE OTHER STATE ARE REASONABLE AND SUFFICIENT; AND

(4) THE COURT IS SATISFIED THAT THE GUARDIANSHIP WILL BE ACCEPTED BY THE COURT TO WHICH THE PROCEEDING WILL BE TRANSFERRED.

(E) THE COURT SHALL ISSUE A PROVISIONAL ORDER GRANTING A PETITION TO TRANSFER A CONSERVATORSHIP IF THE COURT FINDS THAT:

(1) THE PROTECTED PERSON IS PHYSICALLY LOCATED IN OR IS REASONABLY EXPECTED TO MOVE PERMANENTLY TO THE OTHER STATE, OR THE PROTECTED PERSON HAS A SIGNIFICANT CONNECTION TO THE OTHER STATE, CONSIDERING THE FACTORS SET FORTH IN § 13.5–101(O) OF THIS TITLE;

(2) AN OBJECTION TO THE TRANSFER HAS NOT BEEN MADE OR, IF AN OBJECTION HAS BEEN MADE, THE OBJECTOR HAS NOT ESTABLISHED THAT THE TRANSFER WOULD BE CONTRARY TO THE INTERESTS OF THE PROTECTED PERSON;

(3) THE COURT IS SATISFIED THAT ADEQUATE ARRANGEMENTS WILL BE MADE FOR MANAGEMENT OF THE PROPERTY OF THE PROTECTED PERSON; AND

(4) THE COURT IS SATISFIED THAT THE CONSERVATORSHIP WILL BE ACCEPTED BY THE COURT TO WHICH THE PROCEEDING WILL BE TRANSFERRED.

13.5–302.

(A) (1) ON ISSUANCE OF A PROVISIONAL ORDER IN ANOTHER STATE TO TRANSFER A GUARDIANSHIP OR CONSERVATORSHIP TO THIS STATE UNDER

PROCEDURES SIMILAR TO THOSE IN § 13.5–301 OF THIS SUBTITLE, THE GUARDIAN OR CONSERVATOR SHALL PETITION THE COURT IN THIS STATE TO ACCEPT THE GUARDIANSHIP OR CONSERVATORSHIP.

(2) THE PETITION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE A CERTIFIED COPY OF THE PROVISIONAL ORDER OF THE OTHER STATE.

(B) (1) NOTICE OF A PETITION UNDER SUBSECTION (A) OF THIS SECTION TO ACCEPT A GUARDIANSHIP OR CONSERVATORSHIP FROM ANOTHER STATE SHALL BE GIVEN BY THE PETITIONER TO THOSE PERSONS THAT WOULD BE ENTITLED TO NOTICE IF THE PETITION WERE A PETITION FOR THE APPOINTMENT OF A GUARDIAN OR ISSUANCE OF A PROTECTIVE ORDER IN BOTH THE TRANSFERRING STATE AND THIS STATE.

(2) THE NOTICE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE GIVEN IN THE SAME MANNER AS NOTICE IS GIVEN IN THIS STATE.

(C) ON THE MOTION OF THE COURT OR ON REQUEST OF THE INCAPACITATED PERSON OR PROTECTED PERSON, OR ANOTHER INTERESTED PERSON, A COURT SHALL HOLD A HEARING ON A PETITION FILED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION TO ACCEPT A GUARDIANSHIP OR CONSERVATORSHIP FROM ANOTHER STATE.

(D) THE COURT SHALL ISSUE A PROVISIONAL ORDER APPROVING A PETITION FILED UNDER SUBSECTION (A) OF THIS SECTION UNLESS AN OBJECTION IS MADE AND THE OBJECTOR ESTABLISHES THAT TRANSFER OF THE PROCEEDING WOULD BE CONTRARY TO THE INTERESTS OF THE INCAPACITATED PERSON OR PROTECTED PERSON.

(E) IN APPROVING A PETITION UNDER THIS SECTION, THE COURT SHALL RECOGNIZE A GUARDIANSHIP OR CONSERVATORSHIP ORDER FROM THE OTHER STATE, INCLUDING THE DETERMINATION OF THE INCAPACITY OF THE INCAPACITATED PERSON OR PROTECTED PERSON AND THE APPOINTMENT OF THE GUARDIAN OR CONSERVATOR, IF THE GUARDIAN OR CONSERVATOR IS ELIGIBLE TO ACT IN THIS STATE.

(F) THE DENIAL OF A PETITION FILED UNDER SUBSECTION (A) OF THIS SECTION TO ACCEPT A GUARDIANSHIP OR CONSERVATORSHIP FROM ANOTHER STATE DOES NOT AFFECT THE ABILITY OF A GUARDIAN OR CONSERVATOR APPOINTED BY A COURT IN ANOTHER STATE TO SEEK APPOINTMENT AS GUARDIAN OF THE PERSON OR PROPERTY OF THE DISABLED PERSON UNDER TITLE 13 OF THIS ARTICLE.

SUBTITLE 4. REGISTRATION AND RECOGNITION OF ORDERS FROM OTHER STATES.

13.5–401.

IF A GUARDIAN HAS NOT BEEN APPOINTED IN THIS STATE AND A PETITION FOR THE APPOINTMENT OF A GUARDIAN IS NOT PENDING IN THIS STATE, A GUARDIAN APPOINTED IN ANOTHER STATE, AFTER GIVING NOTICE TO THE APPOINTING COURT OF AN INTENT TO REGISTER, MAY REGISTER THE GUARDIANSHIP ORDER IN THIS STATE BY FILING, AS A FOREIGN JUDGMENT IN A COURT IN ANY APPROPRIATE COUNTY OF THIS STATE, CERTIFIED COPIES OF THE ORDER AND LETTERS OF OFFICE.

13.5–402.

IF A CONSERVATOR HAS NOT BEEN APPOINTED IN THIS STATE AND A PETITION FOR A PROTECTIVE ORDER IS NOT PENDING IN THIS STATE, A CONSERVATOR APPOINTED IN ANOTHER STATE, AFTER GIVING NOTICE TO THE APPOINTING COURT OF AN INTENT TO REGISTER, MAY REGISTER THE PROTECTIVE ORDER IN THIS STATE BY FILING AS A FOREIGN JUDGMENT IN A COURT OF THIS STATE, IN ANY COUNTY IN WHICH PROPERTY BELONGING TO THE PROTECTED PERSON IS LOCATED, CERTIFIED COPIES OF THE ORDER, AND LETTERS OF OFFICE AND OF ANY BOND.

13.5–403.

(A) ON REGISTRATION OF A GUARDIANSHIP OR PROTECTIVE ORDER FROM ANOTHER STATE, THE GUARDIAN OR CONSERVATOR MAY EXERCISE IN THIS STATE ALL POWERS AUTHORIZED IN THE ORDER OF APPOINTMENT EXCEPT AS PROHIBITED UNDER THE LAWS OF THIS STATE, INCLUDING MAINTAINING ACTIONS AND PROCEEDINGS IN THIS STATE AND, IF THE GUARDIAN OR CONSERVATOR IS NOT A RESIDENT OF THIS STATE, SUBJECT TO ANY CONDITIONS IMPOSED ON NONRESIDENT PARTIES.

(B) A COURT OF THIS STATE MAY GRANT ANY RELIEF AVAILABLE UNDER THIS TITLE AND OTHER LAW OF THIS STATE TO ENFORCE A REGISTERED ORDER.

SUBTITLE 5. MISCELLANEOUS PROVISIONS.

13.5–501.

IN APPLYING AND CONSTRUING THIS TITLE, WHICH IS A UNIFORM ACT, CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO THE SUBJECT MATTER OF THE LAW AMONG THE STATES THAT ENACT THE LAW.

13.5–502.

THIS TITLE MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 U.S.C. § 7001 ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE § 101(C) OF THAT ACT, 15 U.S.C. § 7001, OR AUTHORIZE ELECTRONIC DELIVERY OF THE NOTICES DESCRIBED IN § 103(B) OF THAT ACT, 15 U.S.C. § 7003(B).

13.5–503.

THIS TITLE APPLIES TO GUARDIANSHIP AND PROTECTIVE PROCEEDINGS BEGINNING ON OR AFTER OCTOBER 1, 2010.

13.5–504.

THIS TITLE MAY BE CITED AS THE MARYLAND UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 258

(Senate Bill 235)

AN ACT concerning

Real Property – Mobile Home Parks – Plans for Dislocated Residents

FOR the purpose of requiring a copy of a certain notice of termination to be sent to a certain local governing body if the use of land of a mobile home park is to be changed; applying statewide a certain provision that prohibits an application for a land use change of a mobile home park from being approved until certain conditions are met; applying statewide a certain requirement for the contents of a relocation plan for mobile home park residents; requiring the plan to include ~~the payment of~~ *a budget reflecting the amount of* certain relocation assistance

allocated by the mobile home park owner to be given to each park household under certain circumstances; providing that the plan include certain information; providing that a mobile home park owner shall not incur liability and may not be estopped from obtaining possession of certain premises under certain circumstances; prohibiting a relocation plan from including certain conditions under certain circumstances; requiring *certain* relocation assistance to be paid to residents who will be dislocated when a mobile home park is closed *under certain circumstances*; establishing the method of calculating relocation assistance; establishing conditions under which a mobile home park owner is not required to pay relocation assistance; establishing a time table for paying relocation assistance; providing that, under certain circumstances, a resident may forfeit receiving relocation assistance; establishing that a certain local governing body may provide additional relocation assistance to dislocated residents and that the payments are not the responsibility of the mobile home park owner; and generally relating to plans for dislocated residents in mobile home parks.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 8A–202(c)(3) and 8A–1201
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

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

Article – Real Property

8A–202.

(c) (3) **[**(i)**]** If the use of land is **[**changed, all**]** **CHANGED:**

(I) **ALL** residents shall be entitled to a 1–year prior written notice of termination notwithstanding the provisions of a longer term in a rental **[**agreement.**]** **AGREEMENT; AND**

(ii) **[**In St. Mary's County, if the use of land is changed, the**]** **THE** park owner shall send to the **[**County Commissioners**]** **LOCAL GOVERNING BODY OF THE COUNTY OR MUNICIPAL CORPORATION IN WHICH THE PARK IS LOCATED** a copy of the written notice of termination sent to the residents under **[**subparagraph**]** **ITEM** (i) of this paragraph.

8A–1201.

(a) When a mobile home park owner submits an application for a change in the land use of a park, the owner shall submit, as part of the application, a **[**plan for

alternative arrangements for each resident to**]** **RELOCATION PLAN FOR PARK RESIDENTS WHO WILL** be dislocated as a result of the change.

(b) (1) **[**This subsection applies only in St. Mary's County.

(2)**]** If a mobile home park owner does not submit a **[**plan for alternative arrangements**]** **RELOCATION PLAN** for the park residents or does not comply with the terms of an approved plan, the mobile home park owner is in default of the plan and the application for change of land use submitted under subsection (a) of this section may not be approved until the owner submits and complies with a plan.

[(3)**]** **(2)** A **[**plan for alternative arrangements**]** **RELOCATION PLAN** for park residents shall include:

(i) A complete list of park residents, including household sizes, addresses, and contact information for residents;

(ii) A relocation calendar or timeline and written monthly updates on the progress of the relocation;

(iii) **[**A**]** **IF THE PLAN IS FOR CLOSING ~~THE~~ *A* PARK *WITH MORE THAN 38 SITES*, A** budget reflecting the amount of **[**money**]** **RELOCATION ASSISTANCE** allocated by the mobile home park owner to be given to each **[**resident to cover the costs associated with moving the resident's mobile home, including:

1. Moving the trailer;

2. Disconnecting and reconnecting utilities; and

3. Removing and reattaching axles, decks, railings, and side skirting; and**]** **HOUSEHOLD AS DESCRIBED IN SUBSECTION (C)(1) OF THIS SECTION;**

(iv) **A DESCRIPTION OF THE REQUIREMENT THAT A RESIDENT PROVIDE WRITTEN NOTICE OF THE RESIDENT'S INTENTION TO VACATE THE PARK AND THE TIME TABLE FOR THE OWNER TO PAY RELOCATION ASSISTANCE, AS PROVIDED UNDER SUBSECTION ~~(C)(1)~~ *(C)(2)* OF THIS SECTION;**

(V) A list of area mobile home parks with vacancies**; AND**

(VI) A LIST OF AREA COMPANIES THAT RELOCATE MOBILE HOMES.

(3) IF A MOBILE HOME PARK OWNER UNDERTAKES A REASONABLE, GOOD FAITH INQUIRY TO OBTAIN THE INFORMATION REQUIRED

UNDER PARAGRAPH (2) OF THIS SUBSECTION AND THE INFORMATION IN THE RELOCATION PLAN IS BASED ON THE OWNER'S REASONABLE, GOOD FAITH INQUIRY, THE OWNER SHALL NOT INCUR ANY LIABILITY AND MAY NOT BE ESTOPPED FROM OBTAINING POSSESSION OF THE PREMISES BECAUSE OF A FAILURE TO PROVIDE ACCURATE INFORMATION IN THE RELOCATION PLAN.

(4) A RELOCATION PLAN MAY NOT REQUIRE, AS A CONDITION OF APPROVAL BY THE LOCAL GOVERNING BODY OF THE PLAN OR THE CHANGE IN LAND USE SUBMITTED UNDER SUBSECTION (A) OF THIS SECTION, THAT:

(I) RELOCATION ASSISTANCE BE PAID UNLESS THE MOBILE HOME PARK OWNER SENDS A NOTICE OF PARK CLOSURE TO EACH RESIDENT;

(II) THE AMOUNT OF RELOCATION ASSISTANCE EXCEED THE AMOUNT DESCRIBED IN SUBSECTION (C)(1) OF THIS SECTION;

(III) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, ANY AMOUNT OF RELOCATION ASSISTANCE BE PAID TO A RESIDENT BEFORE POSSESSION OF THE PREMISES IS RETURNED TO THE OWNER; OR

(IV) THE OWNER ASSURE THE RELOCATION OF ANY RESIDENT.

(5) IF AN OWNER RESCINDS A NOTICE OF PARK CLOSURE, THE OWNER IS NOT REQUIRED TO PAY RELOCATION ASSISTANCE AFTER THE DATE THE NOTICE OF RESCISSION IS SENT TO THE RESIDENTS.

(6) AN OWNER IS NOT REQUIRED TO PAY RELOCATION ASSISTANCE TO ANY POTENTIAL RESIDENT WHO, AFTER RECEIVING WRITTEN NOTICE OF THE APPLICATION FOR CHANGE IN LAND USE OR WRITTEN NOTICE OF PARK CLOSURE, SIGNS AN AGREEMENT TO RENT PREMISES IN THE PARK.

(C) (1) IF A MOBILE HOME PARK *WITH MORE THAN 38 SITES* IS CLOSED, THE RELOCATION ASSISTANCE PAID TO EACH HOUSEHOLD SHALL EQUAL THE AMOUNT OF RENT FOR THE PREMISES, EXCLUDING TAXES AND UTILITIES, PAID FOR THE 10 MONTHS IMMEDIATELY PRECEDING THE DATE THE RESIDENT VACATES THE PREMISES.

(2) THE RELOCATION ASSISTANCE SHALL BE PAID IN THE FOLLOWING MANNER:

(I) ONE HALF OF THE RELOCATION ASSISTANCE SHALL BE PAID TO A RESIDENT WITHIN 30 DAYS AFTER THE MOBILE HOME PARK OWNER RECEIVES WRITTEN NOTICE OF:

1. THE RESIDENT'S INTENTION TO VACATE THE PARK; AND

2. THE DATE ON WHICH THE RESIDENT WILL RETURN POSSESSION OF THE PREMISES TO THE OWNER; AND

(II) ONE HALF OF THE RELOCATION ASSISTANCE SHALL BE PAID TO A RESIDENT WITHIN 30 DAYS AFTER THE RESIDENT RETURNS POSSESSION OF THE PREMISES TO THE OWNER.

(3) IF A RESIDENT FAILS TO RETURN POSSESSION OF THE PREMISES BY REMOVING THE MOBILE HOME FROM THE PREMISES ON OR BEFORE THE DATE SPECIFIED IN THE RESIDENT'S NOTICE OF INTENTION TO VACATE, THE RESIDENT SHALL FORFEIT THE BALANCE OF ANY RELOCATION ASSISTANCE DUE UNLESS THE MOBILE HOME PARK OWNER AGREES IN WRITING TO A DIFFERENT DATE.

(D) (1) THE LOCAL GOVERNING BODY OF THE COUNTY OR MUNICIPAL CORPORATION IN WHICH A MOBILE HOME PARK IS LOCATED MAY PROVIDE ADDITIONAL RELOCATION ASSISTANCE TO RESIDENTS.

(2) A MOBILE HOME PARK OWNER IS NOT RESPONSIBLE FOR ANY PAYMENTS MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

Chapter 259

(House Bill 103)

AN ACT concerning

Real Property – Mobile Home Parks – Plans for Dislocated Residents

FOR the purpose of requiring a copy of a certain notice of termination to be sent to a certain local governing body if the use of land of a mobile home park is to be changed; applying statewide a certain provision that prohibits an application for a land use change of a mobile home park from being approved until certain conditions are met; applying statewide a certain requirement for the contents of

a relocation plan for mobile home park residents; requiring the plan to include ~~the payment of~~ a budget reflecting the amount of certain relocation assistance allocated by the mobile home park owner to be given to each park household under certain circumstances; providing that the plan include certain information; providing that a mobile home park owner shall not incur liability and may not be estopped from obtaining possession of certain premises under certain circumstances; prohibiting a relocation plan from including certain conditions under certain circumstances; requiring certain relocation assistance to be paid to residents who will be dislocated when a mobile home park is closed *under certain circumstances*; establishing the method of calculating relocation assistance; establishing conditions under which a mobile home park owner is not required to pay relocation assistance; establishing a time table for paying relocation assistance; providing that, under certain circumstances, a resident may forfeit receiving relocation assistance; establishing that a certain local governing body may provide additional relocation assistance to dislocated residents and that the payments are not the responsibility of the mobile home park owner; and generally relating to plans for dislocated residents in mobile home parks.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 8A–202(c)(3) and 8A–1201
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

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

Article – Real Property

8A–202.

(c) (3) **[**(i)**]** If the use of land is **[**changed, all**]** **CHANGED:**

(I) **ALL** residents shall be entitled to a 1–year prior written notice of termination notwithstanding the provisions of a longer term in a rental **[**agreement.**]** **AGREEMENT; AND**

(ii) **[**In St. Mary's County, if the use of land is changed, the**]** **THE** park owner shall send to the **[**County Commissioners**]** **LOCAL GOVERNING BODY OF THE COUNTY OR MUNICIPAL CORPORATION IN WHICH THE PARK IS LOCATED** a copy of the written notice of termination sent to the residents under **[**subparagraph**]** **ITEM** (i) of this paragraph.

8A–1201.

(a) When a mobile home park owner submits an application for a change in the land use of a park, the owner shall submit, as part of the application, a **[**plan for alternative arrangements for each resident to**]** **RELOCATION PLAN FOR PARK RESIDENTS WHO WILL** be dislocated as a result of the change.

(b) (1) **[**This subsection applies only in St. Mary's County.

(2)**]** If a mobile home park owner does not submit a **[**plan for alternative arrangements**]** **RELOCATION PLAN** for the park residents or does not comply with the terms of an approved plan, the mobile home park owner is in default of the plan and the application for change of land use submitted under subsection (a) of this section may not be approved until the owner submits and complies with a plan.

[(3)**]** **(2)** A **[**plan for alternative arrangements**]** **RELOCATION PLAN** for park residents shall include:

(i) A complete list of park residents, including household sizes, addresses, and contact information for residents;

(ii) A relocation calendar or timeline and written monthly updates on the progress of the relocation;

(iii) **[**A**]** **IF THE PLAN IS FOR CLOSING ~~THE~~ *A* PARK *WITH MORE THAN 38 SITES*, A** budget reflecting the amount of **[**money**]** **RELOCATION ASSISTANCE** allocated by the mobile home park owner to be given to each **[**resident to cover the costs associated with moving the resident's mobile home, including:

1. Moving the trailer;

2. Disconnecting and reconnecting utilities; and

3. Removing and reattaching axles, decks, railings, and side skirting; and**]** **HOUSEHOLD AS DESCRIBED IN SUBSECTION (C)(1) OF THIS SECTION;**

(iv) **A DESCRIPTION OF THE REQUIREMENT THAT A RESIDENT PROVIDE WRITTEN NOTICE OF THE RESIDENT'S INTENTION TO VACATE THE PARK AND THE TIME TABLE FOR THE OWNER TO PAY RELOCATION ASSISTANCE, AS PROVIDED UNDER SUBSECTION ~~(C)(1)~~ (C)(2) OF THIS SECTION;**

(V) A list of area mobile home parks with vacancies**; AND**

(VI) A LIST OF AREA COMPANIES THAT RELOCATE MOBILE HOMES.

(3) IF A MOBILE HOME PARK OWNER UNDERTAKES A REASONABLE, GOOD FAITH INQUIRY TO OBTAIN THE INFORMATION REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION AND THE INFORMATION IN THE RELOCATION PLAN IS BASED ON THE OWNER'S REASONABLE, GOOD FAITH INQUIRY, THE OWNER SHALL NOT INCUR ANY LIABILITY AND MAY NOT BE ESTOPPED FROM OBTAINING POSSESSION OF THE PREMISES BECAUSE OF A FAILURE TO PROVIDE ACCURATE INFORMATION IN THE RELOCATION PLAN.

(4) A RELOCATION PLAN MAY NOT REQUIRE, AS A CONDITION OF APPROVAL BY THE LOCAL GOVERNING BODY OF THE PLAN OR THE CHANGE IN LAND USE SUBMITTED UNDER SUBSECTION (A) OF THIS SECTION, THAT:

(I) RELOCATION ASSISTANCE BE PAID UNLESS THE MOBILE HOME PARK OWNER SENDS A NOTICE OF PARK CLOSURE TO EACH RESIDENT;

(II) THE AMOUNT OF RELOCATION ASSISTANCE EXCEED THE AMOUNT DESCRIBED IN SUBSECTION (C)(1) OF THIS SECTION;

(III) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, ANY AMOUNT OF RELOCATION ASSISTANCE BE PAID TO A RESIDENT BEFORE POSSESSION OF THE PREMISES IS RETURNED TO THE OWNER; OR

(IV) THE OWNER ASSURE THE RELOCATION OF ANY RESIDENT.

(5) IF AN OWNER RESCINDS A NOTICE OF PARK CLOSURE, THE OWNER IS NOT REQUIRED TO PAY RELOCATION ASSISTANCE AFTER THE DATE THE NOTICE OF RESCISSION IS SENT TO THE RESIDENTS.

(6) AN OWNER IS NOT REQUIRED TO PAY RELOCATION ASSISTANCE TO ANY POTENTIAL RESIDENT WHO, AFTER RECEIVING WRITTEN NOTICE OF THE APPLICATION FOR CHANGE IN LAND USE OR WRITTEN NOTICE OF PARK CLOSURE, SIGNS AN AGREEMENT TO RENT PREMISES IN THE PARK.

(C) (1) IF A MOBILE HOME PARK *WITH MORE THAN 38 SITES* IS CLOSED, THE RELOCATION ASSISTANCE PAID TO EACH HOUSEHOLD SHALL EQUAL THE AMOUNT OF RENT FOR THE PREMISES, EXCLUDING TAXES AND UTILITIES, ~~PAID FOR~~ ~~THAT:~~

~~(I)~~ ~~FOR A MOBILE HOME PARK WITH MORE THAN 75 SITES, WAS~~ PAID FOR THE 10 MONTHS IMMEDIATELY PRECEDING THE DATE THE RESIDENT VACATES THE PREMISES~~; OR~~

~~(II) FOR A MOBILE HOME PARK WITH 75 OR FEWER SITES, WAS PAID FOR THE 5 MONTHS IMMEDIATELY PRECEDING THE DATE THE RESIDENT VACATES THE PREMISES~~.

(2) THE RELOCATION ASSISTANCE SHALL BE PAID IN THE FOLLOWING MANNER:

(I) ONE HALF OF THE RELOCATION ASSISTANCE SHALL BE PAID TO A RESIDENT WITHIN 30 DAYS AFTER THE MOBILE HOME PARK OWNER RECEIVES WRITTEN NOTICE OF:

1. THE RESIDENT'S INTENTION TO VACATE THE PARK; AND

2. THE DATE ON WHICH THE RESIDENT WILL RETURN POSSESSION OF THE PREMISES TO THE OWNER; AND

(II) ONE HALF OF THE RELOCATION ASSISTANCE SHALL BE PAID TO A RESIDENT WITHIN 30 DAYS AFTER THE RESIDENT RETURNS POSSESSION OF THE PREMISES TO THE OWNER.

(3) IF A RESIDENT FAILS TO RETURN POSSESSION OF THE PREMISES BY REMOVING THE MOBILE HOME FROM THE PREMISES ON OR BEFORE THE DATE SPECIFIED IN THE RESIDENT'S NOTICE OF INTENTION TO VACATE, THE RESIDENT SHALL FORFEIT THE BALANCE OF ANY RELOCATION ASSISTANCE DUE UNLESS THE MOBILE HOME PARK OWNER AGREES IN WRITING TO A DIFFERENT DATE.

(D) (1) THE LOCAL GOVERNING BODY OF THE COUNTY OR MUNICIPAL CORPORATION IN WHICH A MOBILE HOME PARK IS LOCATED MAY PROVIDE ADDITIONAL RELOCATION ASSISTANCE TO RESIDENTS.

(2) A MOBILE HOME PARK OWNER IS NOT RESPONSIBLE FOR ANY PAYMENTS MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.