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of the
State of Maryland

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

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Chapter 454
(Senate Bill 509)

AN ACT concerning

Prince George's County – Orphans' Court Judges – Salary

FOR the purpose of altering the salaries of the judges of the Orphans' Court for Prince George's County; providing for the application of this Act; and generally relating to judicial salaries.

BY repealing and reenacting, with amendments,

Article – Estates and Trusts
Section 2–108(q)
Annotated Code of Maryland
(2011 Replacement Volume and 2016 Supplement)

~~BY adding to~~

~~Article – Estates and Trusts
Section 2–108(q)
Annotated Code of Maryland
(2011 Replacement Volume and 2016 Supplement)~~

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

Article – Estates and Trusts

2–108.

~~¶(q)~~ The salary of each associate judge of the Court for Prince George's County shall be ~~\$42,000~~ **\$50,000** per annum, and the salary of the Chief Judge shall be ~~\$42,500~~ **\$55,000** per annum.†

~~(q) (1) EACH OF THE JUDGES OF THE COURT FOR PRINCE GEORGE'S COUNTY SHALL RECEIVE AN ANNUAL SALARY OF:~~

~~(I) \$42,000 THROUGH THE END OF CALENDAR YEAR 2018;~~

~~(II) \$43,000 FOR CALENDAR YEAR 2019;~~

~~(III) \$44,000 FOR CALENDAR YEAR 2020; AND~~

~~(IV) \$45,000 FOR CALENDAR YEAR 2021 AND EACH SUBSEQUENT CALENDAR YEAR.~~

~~(2) THE CHIEF JUDGE SHALL RECEIVE AN ADDITIONAL \$500 ANNUALLY.~~

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of a judge of the Orphans' Court for Prince George's County while serving in a term of office beginning before the effective date of this Act, but the provisions of this Act concerning the salary or compensation of a judge of the Orphans' Court for Prince George's County shall take effect at the beginning of the next following term of office. This limitation does not apply to an individual appointed or elected after the effective date of this Act to fill out an unexpired term.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 455

(House Bill 1636)

AN ACT concerning

Prince George's County – School Facilities and Public Safety Surcharges – Maryland Transit Administration Station

PG 430–17

FOR the purpose of establishing ~~reductions from~~ a certain cap on the school facilities surcharge ~~and the public safety surcharge~~ in Prince George's County for certain residential construction that abuts an existing or planned mass transit rail station site operated by the Maryland Transit Administration ~~and from the school facilities surcharge for certain multifamily housing constructed within a certain distance of a Purple Line station under certain circumstances; establishing an exemption from the school facilities surcharge for certain dwelling units that are located within a certain distance of a Purple Line station under certain circumstances;~~ authorizing the Prince George's County Council to reduce the school facilities surcharge by a percentage not exceeding a certain percent for dwelling units in certain housing constructed within a certain distance of a Purple Line station; establishing the Prince George's County Surcharge Exemptions for Projects Near Transit Properties Workgroup; providing for the composition, chair, and staffing of the Workgroup; prohibiting a member of the Workgroup from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Workgroup to study and make recommendations regarding certain matters; requiring the Workgroup to report its findings and

recommendations to the Prince George's County Council, the Prince George's County School Board, and the members of the Prince George's County delegation to the General Assembly on or before a certain date; providing for the termination of certain provisions of this Act; ~~extending the termination date of certain provisions of law that reduce the school facilities surcharge for certain multifamily housing and exempt certain dwelling units from the school facilities surcharge;~~ and generally relating to ~~the applicability and amount of~~ the school facilities surcharge and the public safety surcharge in Prince George's County.

BY repealing and reenacting, without amendments,
The Public Local Laws of Prince George's County
Section 10-192.01(a)(1) ~~and 10-192.11(a)~~
Article 17 – Public Local Laws of Maryland
(2011 Edition, as amended)

BY repealing and reenacting, with amendments,
The Public Local Laws of Prince George's County
Section 10-192.01(b)(1)
Article 17 – Public Local Laws of Maryland
(2011 Edition, as amended)

BY repealing and reenacting, with amendments,
The Public Local Laws of Prince George's County
Section 10-192.01(b-1)
Article 17 – Public Local Laws of Maryland
(2011 Edition, as amended)
(As enacted by Chapter 685 of the Acts of the General Assembly of 2013)

~~BY repealing and reenacting, with amendments,
The Public Local Laws of Prince George's County
Section 10-192.11(b)
Article 17 – Public Local Laws of Maryland
(2011 Edition, as amended)
(As enacted by Chapter 684 of the Acts of the General Assembly of 2013)~~

~~BY repealing and reenacting, with amendments,
Chapter 685 of the Acts of the General Assembly of 2013
Section 2~~

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

Article 17 – Prince George's County

10-192.01.

(a) (1) The County Council, by ordinance, shall impose a school facilities surcharge on new residential construction for which a building permit is issued on or after July 1, 2003.

(b) (1) (A) For Fiscal Year 2004, a school facilities surcharge imposed on a single-family detached dwelling, townhouse, or dwelling unit for any other building containing more than a single dwelling unit shall be in the amount of:

(i) Except as provided in items (ii) and (iii) of this subparagraph, Twelve Thousand Dollars (\$12,000);

(ii) Seven Thousand Dollars (\$7,000) if the building is located between Interstate Highway 495 and the District of Columbia; and

(iii) Seven Thousand Dollars (\$7,000) if the building is included within a Basic Plan or Conceptual Site Plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority **OR BY THE MARYLAND TRANSIT ADMINISTRATION.**

(B) For Fiscal Year 2005 and each succeeding fiscal year, the facilities surcharge established in subparagraph (A) of this paragraph shall be adjusted for inflation in accordance with the Consumer Price Index for all urban consumers published by the United States Department of Labor, for the fiscal year preceding the year for which the amount is being calculated.

(b-1) (1) The school facilities surcharge under this section shall be reduced by 50% for multifamily housing constructed:

(A) Within an approved transit district overlay zone;

(B) Where there is no approved transit district overlay zone, within one-quarter mile of a Metro station ~~OR A PURPLE LINE STATION~~; or

(C) Within the Bowie State MARC Station Community Center Designation Area, as defined in the Approved Bowie State MARC Station Sector Plan and Sectional Map Amendment.

(2) The school facilities surcharge under this section does not apply to a dwelling unit that is a studio apartment or efficiency apartment if the dwelling unit is located:

(A) Within the county urban centers and corridors, as defined in § 27A-106 of the County Code;

(B) Within an approved transit district overlay zone; or

(C) Where there is no approved transit district overlay zone, within one-quarter mile of a Metro station ~~OR A PURPLE LINE STATION.~~

(3) THE COUNTY COUNCIL MAY REDUCE THE SCHOOL FACILITIES SURCHARGE BY A PERCENTAGE NOT EXCEEDING 50% FOR DWELLING UNITS IN MULTIFAMILY HOUSING CONSTRUCTED WHERE THERE IS NO APPROVED TRANSIT DISTRICT OVERLAY ZONE, WITHIN ONE-QUARTER MILE OF A PURPLE LINE STATION.

~~10-192.11.~~

(a) ~~The County Council, by ordinance, may impose a public safety surcharge on new residential construction for which a Preliminary Plan has been approved on or after July 1, 2005.~~

(b) (1) ~~Except as provided in paragraph (3) of this Subsection, a public safety surcharge imposed on a single family detached dwelling, town house, or dwelling unit for any other building containing more than a single dwelling unit shall be in the amount of:~~

(A) ~~Six Thousand Dollars (\$6,000); or~~

(B) ~~Two Thousand Dollars (\$2,000) for construction in:~~

(i) ~~The Developed Tier, as defined by the Maryland National Capital Park and Planning Commission in the Prince George's County approved General Plan; and~~

(ii) ~~An area included in a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority OR BY THE MARYLAND TRANSIT ADMINISTRATION and complies with the requirements of any sector plan, master plan, or overlay zone approved by the Prince George's County District Council.~~

(2) ~~The public safety surcharge does not apply to a single family detached dwelling that is to be built or subcontracted by an individual owner in a minor subdivision and that is intended to be used as the owner's personal residence.~~

(3) ~~The governing body of Prince George's County may waive any surcharge imposed under subsection (b)(1)(B) of this Section.~~

~~Chapter 685 of the Acts of 2013~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013. It shall remain effective for a period of [5] 8 years and, at the end of September 30, [2018] 2021, 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 Prince George's County Surcharge Exemptions for Projects Near Transit Properties Workgroup.

(b) The Workgroup 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) one member of the Prince George's County Council, appointed by the Chair of the County Council;

(4) one member of the Prince George's County School Board, appointed by the Chair of the School Board;

(5) one representative of the Prince George's County Office of the County Executive, appointed by the County Executive;

(6) one member of the public, appointed by the President of the Senate;

(7) one member of the public, appointed by the Speaker of the House of Delegates;

(8) one member of the public, appointed by the Chair of the Prince George's County School Board; and

(9) one member of the public, appointed by the Chair of the Prince George's County Council.

(c) The members of the Workgroup shall select the chair of the Workgroup.

(d) The Maryland–National Capital Park and Planning Commission shall provide staff for the Workgroup.

(e) A member of the Workgroup:

(1) may not receive compensation as a member of the Workgroup; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Workgroup shall:

(1) gather data related to persons who have benefited from:

(i) reductions in or exemptions from the school facilities surcharge under § 10-192.01(b-1) of the Public Local Laws of Prince George's County; or

(ii) a waiver of the public safety surcharge under § 10-192.11(b)(3) of the Public Local Laws of Prince George's County;

(2) study the potential development and fiscal impact of:

(i) retaining existing exemptions from the school facilities surcharge or the public safety surcharge for transit-related development; and

(ii) expanding exemptions from the school facilities surcharge or the public safety surcharge to development related to Purple Line stations or MARC stations;

(3) evaluate the potential value and cost of increasing, decreasing, or otherwise changing the amount and the availability of school facilities surcharge exemptions and public safety surcharge exemptions for transit-related development; and

(4) make any necessary recommendations regarding the findings of the Workgroup.

(g) On or before December 31, 2017, the Workgroup shall report its findings and recommendations to the Prince George's County Council, the Prince George's County School Board, and, in accordance with § 2-1246 of the State Government Article, the members of the Prince George's County delegation to the General Assembly.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2017. Section 2 of this Act shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2018, 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, 2017.

Chapter 456

(House Bill 1551)

AN ACT concerning

Prince George's County Local Management Board – Strategic Plan ~~and~~ Report, and Study

FOR the purpose of requiring the Prince George's County Local Management Board to develop and implement a certain strategic plan and to submit the strategic plan to certain entities on or before a certain date; ~~authorizing the Prince George's County Local Management Board to apply for and accept donations, grants, or other financial assistance from certain entities;~~ requiring the Prince George's County Local Management Board to submit a certain report including certain information to certain entities on or before a certain date each year; requiring Prince George's County to study the feasibility of converting the Prince George's County Local Management Board into a certain quasi-public nonprofit corporation and the leveraging of certain funds by certain quasi-public nonprofit corporations; requiring Prince George's County to report its findings and recommendations to the Prince George's County Executive, the Prince George's County Council, the Prince George's County Senators, and the Prince George's County Delegation on or before a certain date; and generally relating to ~~a strategic plan and report by~~ the Prince George's County Local Management Board.

BY adding to

Article – Human Services
 Section 8–306
 Annotated Code of Maryland
 (2007 Volume and 2016 Supplement)

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

Article – Human Services

8–306.

(A) ON OR BEFORE JANUARY 1, 2018, THE PRINCE GEORGE'S COUNTY LOCAL MANAGEMENT BOARD SHALL:

(1) DEVELOP AND IMPLEMENT A STRATEGIC PLAN TO RAISE REVENUES TO MATCH THE TOTAL FUNDING PROVIDED BY THE GOVERNOR'S OFFICE FOR CHILDREN; AND

(2) SUBMIT THE STRATEGIC PLAN TO:

(I) THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY;

(II) THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY;

(III) THE PRINCE GEORGE'S COUNTY SENATE DELEGATION OF THE GENERAL ASSEMBLY; AND

(IV) THE PRINCE GEORGE'S COUNTY HOUSE DELEGATION OF THE GENERAL ASSEMBLY.

~~(B) THE PRINCE GEORGE'S COUNTY LOCAL MANAGEMENT BOARD MAY APPLY FOR AND ACCEPT DONATIONS, GRANTS, OR OTHER FINANCIAL ASSISTANCE FROM A GOVERNMENTAL ENTITY OR ANY NONPROFIT OR OTHER PRIVATE ORGANIZATION.~~

~~(C)~~ ON OR BEFORE JANUARY 1 EACH YEAR, THE PRINCE GEORGE'S COUNTY LOCAL MANAGEMENT BOARD SHALL SUBMIT A REPORT ON THE TOTAL REVENUE RECEIVED IN THE PREVIOUS FISCAL YEAR AND THE TOTAL REVENUE FROM EACH SOURCE TO:

(1) THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY;

(2) THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY;

(3) THE PRINCE GEORGE'S COUNTY SENATE DELEGATION OF THE GENERAL ASSEMBLY; AND

(4) THE PRINCE GEORGE'S COUNTY HOUSE DELEGATION OF THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That Prince George's County shall:

(1) study the feasibility of converting the Prince George's County Local Management Board into a quasi-public nonprofit corporation that is not an instrumentality of the county government;

(2) study the extent to which the quasi-public nonprofit corporations that have been established under § 8-301(b) of the Human Services Article have been able to leverage funds that are in addition to the total funding provided by the Governor's Office for Children; and

(3) on or before December 1, 2017, report its finding and recommendations, in accordance with § 2-1246 of the State Government Article, to the Prince George's County Executive, the Prince George's County Council, the Prince George's County Senators, and the Prince George's County Delegation.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 457**(House Bill 1574)**

AN ACT concerning

**Prince George's County Pretrial Release, Work Release, and Diversion
Programs Task Force**

PG 305-17

FOR the purpose of establishing the Prince George's County Pretrial Release, Work Release, and Diversion Programs Task Force; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Task Force to study and make recommendations regarding certain matters; requiring the Task Force to report its findings and recommendations to the Governor, members of the Prince George's County Delegation to the General Assembly, and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the Prince George's County Pretrial Release, Work Release, and Diversion Programs Task Force.

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

(a) There is a Prince George's County Pretrial Release, Work Release, and Diversion Programs Task Force.

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

(1) one member of the Senate of Maryland from Prince George's County, appointed by the President of the Senate;

(2) one member of the House of Delegates from Prince George's County, appointed by the Speaker of the House;

(3) the State's Attorney for Prince George's County, or the State's Attorney's designee;

(4) the Prince George's County Health Officer, or the Health Officer's designee;

(5) a representative of the Prince George's County Department of Corrections appointed by the Prince George's County Executive; and

(6) a representative of the Office of the Public Defender in Prince George's County.

- (c) The Senate and House members shall serve as cochairs of the Task Force.
- (d) The Prince George's County Department of Corrections 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) study:
 - (i) how pretrial release programs, work release programs, and diversion programs in other jurisdictions that offer alternatives to detention are organized and operate;
 - (ii) whether the programs would benefit the criminal justice process in Prince George's County;
 - (iii) what type of offenders should be eligible for the programs; and
 - (iv) what would be required to establish the programs in Prince George's County; and
 - (2) make recommendations regarding the establishment of a pretrial release program, work release program, and diversion program in Prince George's County.
- (g) On or before December 1, 2017, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the members of the Prince George's County Delegation to the General Assembly and the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017. It shall remain effective for a period of 1 year and, at the end of June 30, 2018, 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, 2017.

Chapter 458**(House Bill 312)**

AN ACT concerning

Kent County – Deer Hunting – Sundays

FOR the purpose of establishing that the authority of the Department to allow deer hunting on certain Sundays does not apply in Kent County; authorizing the Department of Natural Resources to allow a person to hunt deer on private property on certain Sundays in Kent County, subject to certain provisions of law and certain time restrictions; and generally relating to deer hunting on private property on Sundays in Kent County.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 10–410(a)
Annotated Code of Maryland
(2012 Replacement Volume and 2016 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), (3), (4), (6), (7), (8), [and] (9), **AND (10)** 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;

(iv) Subject to the provisions of § 10–411 of this subtitle, in Calvert, Caroline, Carroll, Charles, Dorchester, Harford, Queen Anne’s, St. Mary’s, Somerset, Talbot, Wicomico, and Worcester counties, a person hunting deer on private property with a bow and arrow or crossbow during open season on the last three Sundays in October and the second Sunday in November;

(v) In Calvert County, Caroline County, Carroll County, Charles County, Dorchester County, and St. Mary’s County, a person hunting turkey on private property on any Sunday during the spring turkey hunting season; and

(vi) In Dorchester County, a person hunting turkey on public land that is designated for hunting by the Department on any Sunday during the spring turkey hunting season.

(3) Subject to the provisions of § 10–415 of this subtitle, in Calvert County, Caroline County, Charles County, Harford County, Queen Anne’s County, St. Mary’s County, Somerset County, and Worcester County, a person may hunt deer on private property on:

- (i) The first Sunday of the bow hunting season in November; and
- (ii) Each Sunday in the deer firearms season.

(4) Provided that the provisions of § 10–415 of this subtitle are met and subject to paragraph (5) 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.

(5) ~~The~~ **SUBJECT TO PARAGRAPH (10) OF THIS SUBSECTION, THE** Sunday deer hunting provisions under paragraph (4) of this subsection do not apply:

- (i) In Baltimore, Howard, **KENT**, and Prince George's counties; and
- (ii) In Baltimore City.

(6) (i) This paragraph applies only in Carroll County.

(ii) Subject to §§ 10–411 and 10–415 of this subtitle, the Department may allow a person to hunt deer on a Sunday on private property from the first Sunday in October through the second Sunday in January of the following year, inclusive.

(7) A person who is 16 years of age or younger may hunt deer with a firearm on a Sunday through participation in the junior deer hunt established under § 10–405(a) of this subtitle.

(8) (i) This paragraph applies only in Allegany County, Garrett County, and Washington County.

(ii) The Department may allow a person to hunt any game bird or game mammal, except migratory game birds and wetland game birds, on a Sunday during the open season for that game bird or game mammal on:

- 1. Private property, subject to § 10–411 of this subtitle; and
- 2. Public land that is designated for Sunday hunting by the

Department.

(9) (i) This paragraph applies only in Frederick County.

(ii) Subject to § 10–415 of this subtitle, the Department may allow a person to hunt deer on a Sunday from the first Sunday in October through the second Sunday in January of the following year, inclusive, on:

- 1. Private property, subject to § 10–411 of this subtitle; and
- 2. Public land that is designated for Sunday hunting by the

Department.

(10) (I) THIS PARAGRAPH APPLIES ONLY IN KENT COUNTY.

(II) SUBJECT TO §§ 10–411 AND 10–415 OF THIS SUBTITLE AND SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE DEPARTMENT MAY ALLOW A PERSON TO HUNT DEER ON A SUNDAY ON PRIVATE PROPERTY THROUGHOUT ALL DEER HUNTING SEASONS.

(III) 1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, DURING FIREARMS SEASON, THE DEPARTMENT MAY ALLOW A PERSON TO HUNT DEER ON A SUNDAY ONLY FROM 30 MINUTES BEFORE SUNRISE UNTIL 10:30 A.M.

2. THE TIME RESTRICTIONS UNDER THIS SUBPARAGRAPH DO NOT APPLY:

A. TO A PARTICIPANT IN THE JUNIOR DEER HUNT UNDER § 10-405(A) OF THIS SUBTITLE; AND

B. ON PRIVATE LAND ONLY ON ONE SUNDAY DESIGNATED BY THE DEPARTMENT DURING THE FIREARMS SEASON.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 459

(House Bill 310)

AN ACT concerning

Montgomery County – Deer Hunting – Sundays

MC 21-17

FOR the purpose of authorizing the Department of Natural Resources to allow a person to hunt deer on certain property during a certain time period on certain Sundays in Montgomery County, subject to certain provisions of law; establishing that the authority of the Department to allow deer hunting on certain Sundays does not apply in Montgomery County; making certain conforming changes; providing for the termination of this Act; and generally relating to Sunday deer hunting in Montgomery County.

BY repealing and reenacting, with amendments,
 Article – Natural Resources
 Section 10-410(a)
 Annotated Code of Maryland
 (2012 Replacement Volume and 2016 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), (3), (4), (6), (7), (8), [and (9)] **(9)**,
AND (10) 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;

(iv) Subject to the provisions of § 10–411 of this subtitle, in Calvert,
Caroline, Carroll, Charles, Dorchester, Harford, Queen Anne’s, St. Mary’s, Somerset,
Talbot, Wicomico, and Worcester counties, a person hunting deer on private property with
a bow and arrow or crossbow during open season on the last three Sundays in October and
the second Sunday in November;

(v) In Calvert County, Caroline County, Carroll County, Charles County, Dorchester County, and St. Mary's County, a person hunting turkey on private property on any Sunday during the spring turkey hunting season; and

(vi) In Dorchester County, a person hunting turkey on public land that is designated for hunting by the Department on any Sunday during the spring turkey hunting season.

(3) Subject to the provisions of § 10–415 of this subtitle, in Calvert County, Caroline County, Charles County, Harford County, Queen Anne's County, St. Mary's County, Somerset County, and Worcester County, a person may hunt deer on private property on:

(i) The first Sunday of the bow hunting season in November; and

(ii) Each Sunday in the deer firearms season.

(4) Provided that the provisions of § 10–415 of this subtitle are met and subject to paragraph (5) 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.

(5) **[The] SUBJECT TO PARAGRAPH (10) OF THIS SUBSECTION, THE** Sunday deer hunting provisions under paragraph (4) of this subsection do not apply:

(i) In Baltimore, Howard, **MONTGOMERY**, and Prince George's counties; and

(ii) In Baltimore City.

(6) (i) This paragraph applies only in Carroll County.

(ii) Subject to §§ 10–411 and 10–415 of this subtitle, the Department may allow a person to hunt deer on a Sunday on private property from the first Sunday in October through the second Sunday in January of the following year, inclusive.

(7) A person who is 16 years of age or younger may hunt deer with a firearm on a Sunday through participation in the junior deer hunt established under § 10–405(a) of this subtitle.

(8) (i) This paragraph applies only in Allegany County, Garrett County, and Washington County.

(ii) The Department may allow a person to hunt any game bird or game mammal, except migratory game birds and wetland game birds, on a Sunday during the open season for that game bird or game mammal on:

1. Private property, subject to § 10–411 of this subtitle; and
2. Public land that is designated for Sunday hunting by the Department.

(9) (i) This paragraph applies only in Frederick County.

(ii) Subject to § 10–415 of this subtitle, the Department may allow a person to hunt deer on a Sunday from the first Sunday in October through the second Sunday in January of the following year, inclusive, on:

1. Private property, subject to § 10–411 of this subtitle; and
2. Public land that is designated for Sunday hunting by the Department.

(10) (I) THIS PARAGRAPH APPLIES ONLY IN MONTGOMERY COUNTY.

(II) SUBJECT TO § 10–415 OF THIS SUBTITLE, THE DEPARTMENT MAY ALLOW A PERSON TO HUNT DEER ON A SUNDAY THROUGHOUT THE DEER HUNTING SEASON ON:

~~1. PRIVATE PRIVATE PROPERTY, SUBJECT TO § 10–411 OF THIS SUBTITLE; AND SUBTITLE.~~

~~2. PUBLIC LAND THAT IS DESIGNATED FOR SUNDAY HUNTING BY THE DEPARTMENT.~~

(III) 1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE DEPARTMENT MAY ALLOW A PERSON TO HUNT DEER ON A SUNDAY UNDER THIS PARAGRAPH ONLY FROM 30 MINUTES BEFORE SUNRISE UNTIL 10:30 A.M.

2. THE TIME RESTRICTIONS UNDER THIS SUBPARAGRAPH DO NOT APPLY TO A:

A. TO A PARTICIPANT IN THE JUNIOR DEER HUNT UNDER § 10–405(A) OF THIS SUBTITLE;

B. ON PRIVATE LAND ONLY ON ONE SUNDAY DESIGNATED BY THE DEPARTMENT DURING DEER BOW HUNTING SEASON; AND

C. ON PRIVATE LAND ONLY ON ONE SUNDAY DESIGNATED BY THE DEPARTMENT DURING THE FIREARMS SEASON.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017. It shall remain effective for a period of 5 years and, at the end of June 30, 2022, 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, 2017.

Chapter 460

(House Bill 788)

AN ACT concerning

Natural Resources – Hunting – Deer Management Permits

FOR the purpose of authorizing a person to hunt deer under a Deer Management Permit on any Sunday throughout the year, including all deer hunting seasons; altering the application of certain provisions of law governing Deer Management Permits in Charles County and St. Mary's County; making certain conforming changes; altering a certain definition; making a certain stylistic change; making this Act an emergency measure; and generally relating to hunting deer under a Deer Management Permit.

BY repealing and reenacting, with amendments,

Article – Natural Resources
Section 10–410(a)(1) and (2) and 10–415(d)(1) and (2)
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,

Article – Natural Resources
Section 10–415(d)(3)
Annotated Code of Maryland
(2012 Replacement Volume and 2016 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 **OTHERWISE** provided in [paragraphs (2), (3), (4), (6), (7), (8), and (9) 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;

(iv) Subject to the provisions of § 10–411 of this subtitle, in Calvert, Caroline, Carroll, Charles, Dorchester, Harford, Queen Anne’s, St. Mary’s, Somerset, Talbot, Wicomico, and Worcester counties, a person hunting deer on private property with a bow and arrow or crossbow during open season on the last three Sundays in October and the second Sunday in November;

(v) In Calvert County, Caroline County, Carroll County, Charles County, Dorchester County, and St. Mary’s County, a person hunting turkey on private property on any Sunday during the spring turkey hunting season; [and]

(vi) In Dorchester County, a person hunting turkey on public land that is designated for hunting by the Department on any Sunday during the spring turkey hunting season; **AND**

(VII) A PERSON HUNTING DEER UNDER A DEER MANAGEMENT PERMIT ON ANY SUNDAY THROUGHOUT THE YEAR, INCLUDING ALL DEER HUNTING SEASONS.

10-415.

(d) (1) In this subsection, “Deer Management Permit” means a permit issued by the Department authorizing the holder **OR AN AGENT OF THE HOLDER** to hunt deer outside of deer hunting season for the purpose of preventing damage to crops.

(2) [(i)] In Charles County and St. Mary’s County, an individual who [holds] **HUNTS DEER UNDER** a Deer Management Permit may:

[1.] (I) Use a shotgun or breech loading center fired rifle approved by the Department to hunt deer throughout the year, including all deer hunting seasons, in the locations and under the conditions set forth in the permit; and

[2.] (II) [If the individual leases] **ON** State land in Charles County or St. Mary’s County **LEASED BY THE PERMIT HOLDER** for the purpose of cultivating crops, hunt deer on the **LEASED** land [leased by the individual] in the locations and under the conditions set forth in the permit.

[(ii)] The Department may authorize an individual in Charles County or St. Mary’s County to hunt deer on Sundays under a Deer Management Permit.]

(3) To protect public safety and welfare, the Department may restrict the lands on which an individual may hunt deer under a Deer Management Permit.

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, 2017.

Chapter 461

(House Bill 68)

AN ACT concerning

Hunting and Fishing – ~~Complimentary~~ Discounted Licenses – Purple Heart Recipients

FOR the purpose of ~~authorizing the Department of Natural Resources to issue a complimentary angler’s license, Chesapeake Bay and coastal sport fishing license, or hunting license and any associated State issued stamps or permits to a State resident who is a recipient requiring the Department of Natural Resources to establish~~ implement certain programs to provide certain discounted angler’s licenses and trout stamps, Chesapeake Bay and coastal sport fishing licenses, and hunting licenses and associated State issued licenses, stamps, and permits to State Maryland residents who are recipients of the Purple Heart award ~~Award~~; requiring the Department to submit a certain report to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; making certain stylistic changes; and generally relating to complimentary discounted hunting and fishing licenses for recipients of the Purple Heart award ~~Award~~.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section ~~4-604(f), 4-607, 4-745(e)~~ 4-745(a) and (e), 10-301(g), and 10-303
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

~~BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 4-745(a)(1)
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)~~

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

Article – Natural Resources

4-604.

(f) (1) [The] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE following annual license fees shall apply:

- (i) Resident \$20.50
- (ii) Subject to paragraph (2)(ii) of this subsection, short-term license valid for 7 consecutive days from date of issuance..... \$7.50
- (iii) Resident and nonresident blind persons..... No fee

(iv) Complimentary license No fee

(2) For a nonresident:

(i) The fee for an annual angler’s license is the greater of:

1. \$30.50; or

2. A fee equal to the fee charged a Maryland resident by the nonresident’s home state for a similar license; and

(ii) The fee for a short-term license valid for 7 consecutive days from the date of issuance is the greater of:

1. \$7.50; or

2. A fee equal to the fee charged a Maryland resident by the nonresident’s home state for a license that permits an equal number of days of fishing or the next higher number of days as permitted by the Maryland license.

(iii) The fee for a short-term license valid for 3 consecutive days from the date of issuance is the greater of:

1. \$5; or

2. A fee equal to the fee charged a Maryland resident by the nonresident’s home state for a license that permits an equal number of days of fishing or the next higher number of days as permitted by the Maryland license.

(3) THE DEPARTMENT SHALL IMPLEMENT A PROGRAM TO PROVIDE DISCOUNTED ANGLER’S LICENSES AND TROUT STAMPS TO MARYLAND RESIDENTS WHO ARE RECIPIENTS OF THE PURPLE HEART AWARD.

(4) (i) All fees collected by the Department under this section may only be used in accordance with § 4-208 of this title.

(ii) The Department shall publicly report annually the amounts collected and the expenditures under this section.

4-607.

(a) (1) The Department may issue annually a complimentary angler’s license to the President of the United States, the governor of any state, and any official of the game and fish department of any other state.

(2) The Department may issue a lifetime complimentary angler’s license to any Maryland resident who certifies that the resident is a former prisoner of war or 100% service connected disabled American veteran.

~~(3) THE DEPARTMENT MAY ISSUE A COMPLIMENTARY ANGLER’S LICENSE AND TROUT STAMP TO A MARYLAND RESIDENT WHO IS A RECIPIENT SHALL ESTABLISH A PROGRAM TO PROVIDE DISCOUNTED ANGLER’S LICENSES AND TROUT STAMPS TO STATE RESIDENTS WHO ARE RECIPIENTS OF THE PURPLE HEART AWARD.~~

(b) Not more than 20 complimentary ANGLER’S licenses for each state other than Maryland shall be outstanding at any time.

(c) A complimentary ANGLER’S license is not transferable and shall be issued without a fee.

(d) For the purposes of this section, “former prisoner of war” means a person who, while serving in the active military, naval, or air service of the United States, was forcibly detained or interned in the line of duty by an enemy government or its agents, or a hostile force, during a period of armed conflict.

4–745.

(a) (1) Except as provided in subsections (c) and (d) of this section and § 4–217 of this title, a person may not fish for finfish in the Chesapeake Bay or in its tributaries up to tidal boundaries or in State waters of the Atlantic Ocean and the Atlantic coastal bays and their tributaries without first obtaining a Chesapeake Bay and coastal sport fishing license or registration issued under subsection (d)(3) of this section and possessing the license or registration.

(2) The license may be obtained from the Department or from any authorized agent of the Department.

(3) [The] SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, THE following annual license fees shall apply:

- (i) Resident \$15*
- (ii) Short-term resident license valid for 7 consecutive days from date of issue.....\$6*
- (iii) For a short-term nonresident license valid for 7 consecutive days from date of issue.....\$12*
- (iv) Nonresident..... \$22.50*

(v) Resident and nonresident blind persons..... No fee

(vi) Complimentary license under subsection (e) of this section.....No fee

(4) THE DEPARTMENT SHALL IMPLEMENT A PROGRAM TO PROVIDE DISCOUNTED CHESAPEAKE BAY AND COASTAL SPORT FISHING LICENSES TO MARYLAND RESIDENTS WHO ARE RECIPIENTS OF THE PURPLE HEART AWARD.

~~[(3)]~~ **(5)** Except as provided in subsection (d)(1) of this section, every Chesapeake Bay and coastal sport fishing license and registration shall be valid for 1 year following the date of issuance.

~~[(4)]~~ **(6)** An applicant for a license issued under this section shall provide all the information requested by the Department.

(e) (1) In this subsection, “former prisoner of war” means a person who, while serving in the active military, naval, or air service of the United States, was forcibly detained or interned in the line of duty by an enemy government or its agents, or a hostile force, during a period of armed conflict.

(2) ~~(H)~~ The Department may issue a lifetime complimentary Chesapeake Bay and coastal sport fishing license to any Maryland resident who certifies that the resident is a former prisoner of war or a 100% service connected disabled American veteran.

~~**(H) THE DEPARTMENT MAY ISSUE A COMPLIMENTARY CHESAPEAKE BAY AND COASTAL SPORT FISHING LICENSE TO A MARYLAND RESIDENT WHO IS A RECIPIENT SHALL ESTABLISH A PROGRAM TO PROVIDE DISCOUNTED CHESAPEAKE BAY AND COASTAL SPORT FISHING LICENSES TO STATE RESIDENTS WHO ARE RECIPIENTS OF THE PURPLE HEART AWARD.**~~

(3) A complimentary **CHESAPEAKE BAY AND COASTAL SPORT FISHING** license is not transferable.

(4) The Department may issue annually a complimentary Chesapeake Bay and coastal sport fishing license to the President of the United States, the governor of any state, and any official of the game and fish department of any other state.

(5) Not more than 20 complimentary **CHESAPEAKE BAY AND COASTAL SPORT FISHING** licenses for each state other than Maryland shall be outstanding at any time.

10-301.

(g) (1) There shall be the following types of hunting licenses in the State:

(i) A resident hunting license that enables the purchaser to hunt all legal game birds and mammals during any appropriate season in Maryland without the purchase of additional stamps, unless the purchaser is hunting migratory game birds or deer during bow and arrow season or black powder season. To hunt migratory game birds the purchaser must also buy a Maryland migratory game bird stamp and to hunt wild waterfowl the purchaser must buy both a Maryland migratory game bird stamp and a federal migratory bird hunting and conservation stamp. To hunt deer during bow and arrow season and black powder season the purchaser must also purchase a bow and arrow or black powder stamp.

(ii) A nonresident hunting license that enables the purchaser to hunt all legal game birds and mammals during any appropriate season without the purchase of additional stamps unless the purchaser is hunting migratory game birds or deer during bow and arrow season or black powder season. This license enables the purchaser to hunt migratory game birds only with the purchase of a Maryland migratory game bird stamp and to hunt wild waterfowl only with the purchase of both a Maryland migratory game bird stamp and a federal migratory bird hunting and conservation stamp. This license enables the purchaser to hunt deer during bow and arrow season and black powder season only with the purchase of a nonresident bow and arrow or black powder stamp.

(iii) A nonresident 3-day hunting license that enables the purchaser to hunt all legal game birds and mammals except deer and turkey for the 3 consecutive legal hunting days in a single season that are specified on the license by the issuing agent. The purchaser must also purchase a Maryland migratory game bird stamp to hunt migratory game birds and a federal migratory bird hunting and conservation stamp to hunt wild waterfowl with this license. Under no circumstance does this license authorize the purchaser to hunt deer and turkey.

(2) Residents and nonresidents may purchase a senior hunting license beginning in the calendar year in which they attain the age of 65.

(3) A nonresident of any age must purchase either a nonresident hunting license or a nonresident 3-day hunting license to hunt in the State.

(4) [The] SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION, THE fees for hunting licenses are according to the following schedule:

<u>(i) Resident, junior, under the age of 16 years.....</u>	<u>\$ 10.50</u>
<u>(ii) Resident, regular, at least 16 years old and under the age of 65 years.....</u>	<u>\$ 24.50</u>
<u>(iii) Resident, senior, at least 65 years old.....</u>	<u>\$ 5.00</u>
<u>(iv) Nonresident, regular, at least 16 years old.....</u>	<u>\$ 130.00</u>

- (v) Nonresident, junior, under the age of 16 years..... \$ 32.50
- (vi) Nonresident, senior, at least 65 years old..... \$ 65.00
- (vii) Complimentary license authorized to be issued under § 10-303 of this subtitle.....No fee
- (viii) Nonresident 3-day hunting license..... \$ 45.00

(5) The fees for individual hunting stamps are according to the following schedule:

- (i) Bow and arrow stamp..... \$ 6.00
- (ii) Nonresident bow and arrow stamp..... \$ 25.00
- (iii) Black powder stamp..... \$ 6.00
- (iv) Nonresident black powder stamp..... \$ 25.00
- (v) Maryland migratory game bird stamp..... \$ 9.00
- (vi) Resident bonus antlered deer stamp..... \$ 10.00
- (vii) Nonresident bonus antlered deer stamp for each type of deer hunting season.....\$ 25

(6) THE DEPARTMENT SHALL ESTABLISH A PROGRAM TO PROVIDE DISCOUNTED HUNTING LICENSES AND ANY ASSOCIATED STATE-ISSUED STAMPS OR PERMITS TO MARYLAND RESIDENTS WHO ARE RECIPIENTS OF THE PURPLE HEART AWARD.

10-303.

(a) (1) The Department annually may issue a complimentary [hunter’s] HUNTING license to the President of the United States, the governor of any state, or an official or an enforcement officer of the game and fish management agency of another state which reciprocally offers complimentary hunting licenses.

(2) (i) The Department may issue a lifetime complimentary [hunter’s] HUNTING license to a Maryland resident who certifies that the resident is a former prisoner of war or 100% service connected disabled American veteran.

(ii) The Department may issue a lifetime complimentary [hunter’s] HUNTING license to an out-of-state person who certifies that the person is a former prisoner of war or a 100% service connected disabled American veteran if the person’s state

of residence extends similar privileges to former prisoners of war or 100% service connected disabled American veterans of this State.

~~(3) THE DEPARTMENT MAY ISSUE A COMPLIMENTARY HUNTING LICENSE AND ANY ASSOCIATED STATE ISSUED STAMP OR PERMIT TO A MARYLAND RESIDENT WHO IS A RECIPIENT SHALL ESTABLISH A PROGRAM TO PROVIDE DISCOUNTED HUNTING LICENSES AND ANY ASSOCIATED STATE ISSUED STAMPS OR PERMITS TO STATE RESIDENTS WHO ARE RECIPIENTS OF THE PURPLE HEART AWARD.~~

~~[(3)] (4)~~ A complimentary license is not transferable.

(b) For the purposes of this section, “former prisoner of war” means a person who, while serving in the active military, naval, or air service of the United States, was forcibly detained or interned in the line of duty by an enemy government or its agents, or a hostile force, during a period of armed conflict.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 31, 2019, the Department of Natural Resources shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on the number of discounted angler’s licenses and trout stamps, Chesapeake Bay and coastal sport fishing licenses, and hunting licenses and associated State-issued stamps and permits issued to recipients of the Purple Heart award under this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017. It shall remain effective for a period of 3 years and, at the end of June 30, 2020, 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, 2017.

Chapter 462

(House Bill 4)

AN ACT concerning

Hunting and Fishing Licenses – Active Military, Former Prisoners of War, ~~Recipients of the Purple Heart Award,~~ and Disabled Veterans

FOR the purpose of authorizing the Department of Natural Resources to issue certain complimentary fishing licenses to an out-of-state person who certifies that the person is a former prisoner of war or a 100% service connected disabled American veteran if the person’s state of residence extends similar privileges to former

prisoners of war or 100% service connected disabled American veterans of this State; altering a certain exemption from the requirement to obtain a trout stamp; making a certain complimentary hunting license subject to certain provisions of law; making conforming changes; ~~requiring the Department to implement certain programs to provide certain discounted licenses to Maryland residents who are recipients of the Purple Heart Award~~ requiring the Department to submit a certain report to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; making stylistic changes; and generally relating to hunting and fishing licenses.

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 4–604(c) ~~and (f)~~, 4–607, 4–614(a)(3), ~~4–745(a), (e)~~, 4–745(c) and (e), ~~10–301(g)~~, and 10–303(a)(2)

Annotated Code of Maryland

(2012 Replacement Volume and 2016 Supplement)

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

Article – Natural Resources

4–604.

(c) An angler’s license is not required of the following:

(1) The owner or tenant of land bordering on nontidal water, his spouse and children, or the spouse of any child who resides on the land with the owner or tenant when he fishes in nontidal water adjoining his land;

(2) Any resident serving in the armed forces of the United States, while on leave in the State, during [his] **THE RESIDENT’S** leave period, if, while angling, [he] **THE RESIDENT** possesses a copy of [his] **THE RESIDENT’S** official leave [orders] **ORDER**;

(3) A person who fishes in nontidal waters of the State on free fishing days designated by the Secretary;

(4) A person holding a current resident consolidated senior sport fishing license issued under § 4–216 of this title;

(5) A person fishing in a free fishing area established under § 4–214(b)(2) of this title; or

(6) A person authorized by a disability exemption issued under § 4–217 of this title.

~~(f) (1) [The] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE following annual license fees shall apply:~~

~~(i) Resident.....\$20.50~~

~~(ii) Subject to paragraph (2)(ii) of this subsection, short term license valid for 7 consecutive days from date of issuance.....\$7.50~~

~~(iii) Resident and nonresident blind persons.....No fee~~

~~(iv) Complimentary license.....No fee~~

~~(2) For a nonresident:~~

~~(i) The fee for an annual angler’s license is the greater of:~~

~~1. \$30.50; or~~

~~2. A fee equal to the fee charged a Maryland resident by the nonresident’s home state for a similar license; and~~

~~(ii) The fee for a short term license valid for 7 consecutive days from the date of issuance is the greater of:~~

~~1. \$7.50; or~~

~~2. A fee equal to the fee charged a Maryland resident by the nonresident’s home state for a license that permits an equal number of days of fishing or the next higher number of days as permitted by the Maryland license.~~

~~(iii) The fee for a short term license valid for 3 consecutive days from the date of issuance is the greater of:~~

~~1. \$5; or~~

~~2. A fee equal to the fee charged a Maryland resident by the nonresident’s home state for a license that permits an equal number of days of fishing or the next higher number of days as permitted by the Maryland license.~~

~~(3) THE DEPARTMENT SHALL IMPLEMENT A PROGRAM TO PROVIDE DISCOUNTED ANGLER’S LICENSES TO MARYLAND RESIDENTS WHO ARE RECIPIENTS OF THE PURPLE HEART AWARD.~~

~~(3)(4) (i) All fees collected by the Department under this section may only be used in accordance with § 4-208 of this title.~~

~~(ii) The Department shall publicly report annually the amounts collected and the expenditures under this section.~~

4-607.

(a) (1) The Department may issue annually a complimentary angler's license to the President of the United States, the governor of any state, and any official of the game and fish department of any other state.

(2) The Department may issue a lifetime complimentary angler's license to any Maryland resident who certifies that the resident is a former prisoner of war or 100% service connected disabled American veteran.

(3) THE DEPARTMENT MAY ISSUE A LIFETIME COMPLIMENTARY ANGLER'S LICENSE TO AN OUT-OF-STATE PERSON WHO CERTIFIES THAT THE PERSON IS A FORMER PRISONER OF WAR OR A 100% SERVICE CONNECTED DISABLED AMERICAN VETERAN IF THE PERSON'S STATE OF RESIDENCE EXTENDS SIMILAR PRIVILEGES TO FORMER PRISONERS OF WAR OR 100% SERVICE CONNECTED DISABLED AMERICAN VETERANS OF THIS STATE.

(b) Not more than 20 complimentary licenses for each state other than Maryland shall be outstanding at any time.

(c) A complimentary license is not transferable and shall be issued without a fee.

(d) For the purposes of this section, "former prisoner of war" means a person who, while serving in the active military, naval, or air service of the United States, was forcibly detained or interned in the line of duty by an enemy government or its agents, or a hostile force, during a period of armed conflict.

4-614.

(a) (3) A trout stamp is not required of the following:

(i) A holder of a current resident consolidated senior sport fishing license issued under § 4-216 of this title;

(ii) A holder of a lifetime complimentary angler's license for 100% service connected disabled American veterans or former prisoners of war issued under § 4-607(a)(2) **OR (3)** of this subtitle;

(iii) A person authorized by a disability exemption issued under § 4-217 of this title;

(iv) **[A] ANY** resident serving in the armed forces of the United States while on leave **[if] IN THE STATE, DURING THE RESIDENT'S LEAVE PERIOD, IF,**

WHILE ANGLING, the resident possesses a copy of the resident’s official leave order [while fishing]; or

- (v) A person under 16 years of age.

4-745.

~~(a) (1) Except as provided in subsections (c) and (d) of this section and § 4-217 of this title, a person may not fish for finfish in the Chesapeake Bay or in its tributaries up to tidal boundaries or in State waters of the Atlantic Ocean and the Atlantic coastal bays and their tributaries without first obtaining a Chesapeake Bay and coastal sport fishing license or registration issued under subsection (d)(3) of this section and possessing the license or registration.~~

~~(2) The license may be obtained from the Department or from any authorized agent of the Department.~~

~~(3) [The] SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, THE following annual license fees shall apply:~~

- ~~(i) Resident.....\$15~~
- ~~(ii) Short term resident license valid for 7 consecutive days from date of issue.....\$6~~
- ~~(iii) For a short term nonresident license valid for 7 consecutive days from date of issue.....\$12~~
- ~~(iv) Nonresident.....\$22.50~~
- ~~(v) Resident and nonresident blind persons.....No fee~~
- ~~(vi) Complimentary license under subsection (e) of this section.....No fee~~

~~(4) THE DEPARTMENT SHALL IMPLEMENT A PROGRAM TO PROVIDE DISCOUNTED CHESAPEAKE BAY AND COASTAL SPORT FISHING LICENSES TO MARYLAND RESIDENTS WHO ARE RECIPIENTS OF THE PURPLE HEART AWARD.~~

~~(3) (5) Except as provided in subsection (d)(1) of this section, every Chesapeake Bay and coastal sport fishing license and registration shall be valid for 1 year following the date of issuance.~~

~~(4) (6) An applicant for a license issued under this section shall provide all the information requested by the Department.~~

(c) A person may fish for finfish in the Chesapeake Bay or its tidal tributaries or in State waters of the Atlantic Ocean and coastal bays and their tributaries without a Chesapeake Bay and coastal sport fishing license if the person:

(1) Is under the age of 16;

(2) Possesses a valid commercial license;

(3) Holds a valid tidal water sport fishing license issued by the State of Virginia, Potomac River Fisheries Commission, or District of Columbia, provided that this exemption shall not take effect until the Secretary has published notice in the Maryland Register of the Secretary's determination that the Virginia, Potomac River Fisheries Commission, or District of Columbia requirements for a tidal water sport fishing license are substantially similar to and reciprocal with the Chesapeake Bay and coastal sport fishing license requirements of this section;

(4) Is fishing pursuant to any special charter boat license issued under subsection (d)(1) of this section;

(5) [(i) Is on active duty with the armed forces of the United States;

(ii) Is a resident of this State;

(iii) Is on leave from the armed forces; and

(iv) Has, while fishing, a copy of the person's official leave orders] **IS A RESIDENT SERVING IN THE ARMED FORCES OF THE UNITED STATES WHILE ON LEAVE IN THE STATE, DURING THE RESIDENT'S LEAVE PERIOD, IF, WHILE FISHING, THE RESIDENT POSSESSES A COPY OF THE RESIDENT'S OFFICIAL LEAVE ORDER;**

(6) Fishes on a free fishing day designated by the Secretary;

(7) Holds a current resident consolidated senior sport fishing license issued under § 4-216 of this title;

(8) Holds a current registration issued under subsection (d)(3) of this section; or

(9) Is fishing on a commercial fishing pier licensed under subsection (d)(4) of this section.

(e) (1) In this subsection, "former prisoner of war" means a person who, while serving in the active military, naval, or air service of the United States, was forcibly detained or interned in the line of duty by an enemy government or its agents, or a hostile force, during a period of armed conflict.

(2) The Department may issue a lifetime complimentary Chesapeake Bay and coastal sport fishing license to any Maryland resident who certifies that the resident is a former prisoner of war or a 100% service connected disabled American veteran.

(3) THE DEPARTMENT MAY ISSUE A LIFETIME COMPLIMENTARY CHESAPEAKE BAY AND COASTAL SPORT FISHING LICENSE TO AN OUT-OF-STATE PERSON WHO CERTIFIES THAT THE PERSON IS A FORMER PRISONER OF WAR OR A 100% SERVICE CONNECTED DISABLED AMERICAN VETERAN IF THE PERSON'S STATE OF RESIDENCE EXTENDS SIMILAR PRIVILEGES TO FORMER PRISONERS OF WAR OR 100% SERVICE CONNECTED DISABLED AMERICAN VETERANS OF THIS STATE.

(4) A complimentary license is not transferable.

~~[(4)]~~ (5) The Department may issue annually a complimentary Chesapeake Bay and coastal sport fishing license to the President of the United States, the governor of any state, and any official of the game and fish department of any other state.

(5) (6) Not more than 20 complimentary licenses for each state other than Maryland shall be outstanding at any time.

~~10-301.~~

~~(g) (1) There shall be the following types of hunting licenses in the State:~~

~~(i) A resident hunting license that enables the purchaser to hunt all legal game birds and mammals during any appropriate season in Maryland without the purchase of additional stamps, unless the purchaser is hunting migratory game birds or deer during bow and arrow season or black powder season. To hunt migratory game birds the purchaser must also buy a Maryland migratory game bird stamp and to hunt wild waterfowl the purchaser must buy both a Maryland migratory game bird stamp and a federal migratory bird hunting and conservation stamp. To hunt deer during bow and arrow season and black powder season the purchaser must also purchase a bow and arrow or black powder stamp.~~

~~(ii) A nonresident hunting license that enables the purchaser to hunt all legal game birds and mammals during any appropriate season without the purchase of additional stamps unless the purchaser is hunting migratory game birds or deer during bow and arrow season or black powder season. This license enables the purchaser to hunt migratory game birds only with the purchase of a Maryland migratory game bird stamp and to hunt wild waterfowl only with the purchase of both a Maryland migratory game bird stamp and a federal migratory bird hunting and conservation stamp. This license enables the purchaser to hunt deer during bow and arrow season and black powder season only with the purchase of a nonresident bow and arrow or black powder stamp.~~

~~(iii) A nonresident 3-day hunting license that enables the purchaser to hunt all legal game birds and mammals except deer and turkey for the 3 consecutive~~

~~legal hunting days in a single season that are specified on the license by the issuing agent. The purchaser must also purchase a Maryland migratory game bird stamp to hunt migratory game birds and a federal migratory bird hunting and conservation stamp to hunt wild waterfowl with this license. Under no circumstance does this license authorize the purchaser to hunt deer and turkey.~~

~~(2) Residents and nonresidents may purchase a senior hunting license beginning in the calendar year in which they attain the age of 65.~~

~~(3) A nonresident of any age must purchase either a nonresident hunting license or a nonresident 3-day hunting license to hunt in the State.~~

~~(4) [The] SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION, THE fees for hunting licenses are according to the following schedule:~~

- ~~(i) Resident, junior, under the age of 16 years..... \$ 10.50~~
- ~~(ii) Resident, regular, at least 16 years old and under the age of 65 years..... \$ 24.50~~
- ~~(iii) Resident, senior, at least 65 years old..... \$ 5.00~~
- ~~(iv) Nonresident, regular, at least 16 years old..... \$ 130.00~~
- ~~(v) Nonresident, junior, under the age of 16 years..... \$ 32.50~~
- ~~(vi) Nonresident, senior, at least 65 years old..... \$ 65.00~~
- ~~(vii) Complimentary license authorized to be issued under § 10-303 of this subtitle..... No fee~~
- ~~(viii) Nonresident 3-day hunting license..... \$ 45.00~~

~~(5) The fees for individual hunting stamps are according to the following schedule:~~

- ~~(i) Bow and arrow stamp..... \$ 6.00~~
- ~~(ii) Nonresident bow and arrow stamp..... \$ 25.00~~
- ~~(iii) Black powder stamp..... \$ 6.00~~
- ~~(iv) Nonresident black powder stamp..... \$ 25.00~~
- ~~(v) Maryland migratory game bird stamp..... \$ 9.00~~
- ~~(vi) Resident bonus antlered deer stamp..... \$ 10.00~~

~~(vii) Nonresident bonus antlered deer stamp for each type of deer hunting season..... \$ 25~~

~~(6) THE DEPARTMENT SHALL ESTABLISH A PROGRAM TO PROVIDE DISCOUNTED HUNTING LICENSES TO MARYLAND RESIDENTS WHO ARE RECIPIENTS OF THE PURPLE HEART AWARD.~~

10-303.

(a) (2) (i) [The] **SUBJECT TO THE REQUIREMENTS OF § 10-301.1 OF THIS SUBTITLE, THE** Department may issue a lifetime complimentary hunter’s license to a Maryland resident who certifies that the resident is a former prisoner of war or 100% service connected disabled American veteran.

(ii) [The] **SUBJECT TO THE REQUIREMENTS OF § 10-301.1 OF THIS SUBTITLE, THE** Department may issue a lifetime complimentary hunter’s license to an out-of-state person who certifies that the person is a former prisoner of war or a 100% service connected disabled American veteran if the person’s state of residence extends similar privileges to former prisoners of war or 100% service connected disabled American veterans of this State.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 31, 2019, the Department of Natural Resources shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on:

(1) the number and identity of any other states that have enacted legislation authorizing the issuance of a lifetime complimentary angler’s license, a recreational salt water sport fishing license, or a hunting license to a Maryland resident who certifies that the resident is a former prisoner of war or a 100% service connected disabled American veteran;

(2) the total number of complimentary angler’s licenses, recreational salt water sport fishing licenses, and hunting licenses issued to Maryland residents under the legislation; and

(3) the total number of complimentary angler’s licenses, Chesapeake Bay and coastal sport fishing licenses, and hunting licenses issued by the Department to out-of-state persons under this Act and § 10-303(a)(2)(ii) of the Natural Resources Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017. It shall remain effective for a period of 3 years and, at the end of June 30, 2020, 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, 2017.

Chapter 463

(Senate Bill 46)

AN ACT concerning

Hunting and Fishing Licenses – Active Military, Former Prisoners of War, Recipients of the Purple Heart Award, and Disabled Veterans

FOR the purpose of authorizing the Department of Natural Resources to issue certain complimentary fishing licenses to an out-of-state person who certifies that the person is a former prisoner of war or a 100% service connected disabled American veteran if the person's state of residence extends similar privileges to former prisoners of war or 100% service connected disabled American veterans of this State; altering a certain exemption from the requirement to obtain a trout stamp; making a certain complimentary hunting license subject to certain provisions of law; making conforming changes; requiring the Department to implement certain programs to provide certain discounted licenses, *stamps, and permits* to Maryland residents who are recipients of the Purple Heart Award; requiring the Department to submit a certain report to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; making stylistic changes; and generally relating to hunting and fishing licenses.

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 4-604(c) and (f), 4-607, 4-614(a)(3), 4-745(a), (c), and (e), 10-301(g), and

~~10-303(a)(2)~~ 10-303(a)(1) and (2)

Annotated Code of Maryland

(2012 Replacement Volume and 2016 Supplement)

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

Article – Natural Resources

4-604.

(c) An angler's license is not required of the following:

(1) The owner or tenant of land bordering on nontidal water, his spouse and children, or the spouse of any child who resides on the land with the owner or tenant when he fishes in nontidal water adjoining his land;

(2) Any resident serving in the armed forces of the United States, while on leave in the State, during [his] **THE RESIDENT'S** leave period, if, while angling, [he] **THE RESIDENT** possesses a copy of [his] **THE RESIDENT'S** official leave [orders] **ORDER**;

(3) A person who fishes in nontidal waters of the State on free fishing days designated by the Secretary;

(4) A person holding a current resident consolidated senior sport fishing license issued under § 4–216 of this title;

(5) A person fishing in a free fishing area established under § 4–214(b)(2) of this title; or

(6) A person authorized by a disability exemption issued under § 4–217 of this title.

(f) (1) **[The] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE** following annual license fees shall apply:

(i) Resident.....\$20.50

(ii) Subject to paragraph (2)(ii) of this subsection, short–term license valid for 7 consecutive days from date of issuance.....\$7.50

(iii) Resident and nonresident blind persons.....No fee

(iv) Complimentary license.....No fee

(2) For a nonresident:

(i) The fee for an annual angler’s license is the greater of:

1. \$30.50; or

2. A fee equal to the fee charged a Maryland resident by the nonresident’s home state for a similar license; and

(ii) The fee for a short–term license valid for 7 consecutive days from the date of issuance is the greater of:

1. \$7.50; or

2. A fee equal to the fee charged a Maryland resident by the nonresident’s home state for a license that permits an equal number of days of fishing or the next higher number of days as permitted by the Maryland license.

(iii) The fee for a short–term license valid for 3 consecutive days from the date of issuance is the greater of:

1. \$5; or

2. A fee equal to the fee charged a Maryland resident by the nonresident's home state for a license that permits an equal number of days of fishing or the next higher number of days as permitted by the Maryland license.

(3) THE DEPARTMENT SHALL IMPLEMENT A PROGRAM TO PROVIDE DISCOUNTED ANGLER'S LICENSES AND TROUT STAMPS TO MARYLAND RESIDENTS WHO ARE RECIPIENTS OF THE PURPLE HEART AWARD.

~~[(3)]~~ (4) (i) All fees collected by the Department under this section may only be used in accordance with § 4-208 of this title.

(ii) The Department shall publicly report annually the amounts collected and the expenditures under this section.

4-607.

(a) (1) The Department may issue annually a complimentary angler's license to the President of the United States, the governor of any state, and any official of the game and fish department of any other state.

(2) The Department may issue a lifetime complimentary angler's license to any Maryland resident who certifies that the resident is a former prisoner of war or 100% service connected disabled American veteran.

(3) THE DEPARTMENT MAY ISSUE A LIFETIME COMPLIMENTARY ANGLER'S LICENSE TO AN OUT-OF-STATE PERSON WHO CERTIFIES THAT THE PERSON IS A FORMER PRISONER OF WAR OR A 100% SERVICE CONNECTED DISABLED AMERICAN VETERAN IF THE PERSON'S STATE OF RESIDENCE EXTENDS SIMILAR PRIVILEGES TO FORMER PRISONERS OF WAR OR 100% SERVICE CONNECTED DISABLED AMERICAN VETERANS OF THIS STATE.

(b) Not more than 20 complimentary ANGLER'S licenses for each state other than Maryland shall be outstanding at any time.

(c) A complimentary ANGLER'S license is not transferable and shall be issued without a fee.

(d) For the purposes of this section, "former prisoner of war" means a person who, while serving in the active military, naval, or air service of the United States, was forcibly detained or interned in the line of duty by an enemy government or its agents, or a hostile force, during a period of armed conflict.

4-614.

(a) (3) A trout stamp is not required of the following:

(i) A holder of a current resident consolidated senior sport fishing license issued under § 4–216 of this title;

(ii) A holder of a lifetime complimentary angler’s license for 100% service connected disabled American veterans or former prisoners of war issued under § 4–607(a)(2) **OR (3)** of this subtitle;

(iii) A person authorized by a disability exemption issued under § 4–217 of this title;

(iv) **[A] ANY** resident serving in the armed forces of the United States while on leave **[if] IN THE STATE, DURING THE RESIDENT’S LEAVE PERIOD, IF, WHILE ANGLING,** the resident possesses a copy of the resident’s official leave order **[while fishing];** or

(v) A person under 16 years of age.

4–745.

(a) (1) Except as provided in subsections (c) and (d) of this section and § 4–217 of this title, a person may not fish for finfish in the Chesapeake Bay or in its tributaries up to tidal boundaries or in State waters of the Atlantic Ocean and the Atlantic coastal bays and their tributaries without first obtaining a Chesapeake Bay and coastal sport fishing license or registration issued under subsection (d)(3) of this section and possessing the license or registration.

(2) The license may be obtained from the Department or from any authorized agent of the Department.

(3) [The] SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, THE following annual license fees shall apply:

- (i) Resident.....\$15
- (ii) Short–term resident license valid for 7 consecutive days from date of issue.....\$6
- (iii) For a short–term nonresident license valid for 7 consecutive days from date of issue.....\$12
- (iv) Nonresident.....\$22.50
- (v) Resident and nonresident blind persons.....No fee

(vi) Complimentary license under subsection (e) of this section.....No fee

(4) THE DEPARTMENT SHALL IMPLEMENT A PROGRAM TO PROVIDE DISCOUNTED CHESAPEAKE BAY AND COASTAL SPORT FISHING LICENSES TO MARYLAND RESIDENTS WHO ARE RECIPIENTS OF THE PURPLE HEART AWARD.

[(3)] (5) Except as provided in subsection (d)(1) of this section, every Chesapeake Bay and coastal sport fishing license and registration shall be valid for 1 year following the date of issuance.

[(4)] (6) An applicant for a license issued under this section shall provide all the information requested by the Department.

(c) A person may fish for finfish in the Chesapeake Bay or its tidal tributaries or in State waters of the Atlantic Ocean and coastal bays and their tributaries without a Chesapeake Bay and coastal sport fishing license if the person:

- (1) Is under the age of 16;
- (2) Possesses a valid commercial license;

(3) Holds a valid tidal water sport fishing license issued by the State of Virginia, Potomac River Fisheries Commission, or District of Columbia, provided that this exemption shall not take effect until the Secretary has published notice in the Maryland Register of the Secretary’s determination that the Virginia, Potomac River Fisheries Commission, or District of Columbia requirements for a tidal water sport fishing license are substantially similar to and reciprocal with the Chesapeake Bay and coastal sport fishing license requirements of this section;

(4) Is fishing pursuant to any special charter boat license issued under subsection (d)(1) of this section;

- (5) **[(i)]** Is on active duty with the armed forces of the United States;
- (ii) Is a resident of this State;
- (iii) Is on leave from the armed forces; and

(iv) Has, while fishing, a copy of the person’s official leave orders] **IS A RESIDENT SERVING IN THE ARMED FORCES OF THE UNITED STATES WHILE ON LEAVE IN THE STATE, DURING THE RESIDENT’S LEAVE PERIOD, IF, WHILE FISHING, THE RESIDENT POSSESSES A COPY OF THE RESIDENT’S OFFICIAL LEAVE ORDER;**

- (6) Fishes on a free fishing day designated by the Secretary;

(7) Holds a current resident consolidated senior sport fishing license issued under § 4–216 of this title;

(8) Holds a current registration issued under subsection (d)(3) of this section; or

(9) Is fishing on a commercial fishing pier licensed under subsection (d)(4) of this section.

(e) (1) In this subsection, “former prisoner of war” means a person who, while serving in the active military, naval, or air service of the United States, was forcibly detained or interned in the line of duty by an enemy government or its agents, or a hostile force, during a period of armed conflict.

(2) The Department may issue a lifetime complimentary Chesapeake Bay and coastal sport fishing license to any Maryland resident who certifies that the resident is a former prisoner of war or a 100% service connected disabled American veteran.

(3) **THE DEPARTMENT MAY ISSUE A LIFETIME COMPLIMENTARY CHESAPEAKE BAY AND COASTAL SPORT FISHING LICENSE TO AN OUT-OF-STATE PERSON WHO CERTIFIES THAT THE PERSON IS A FORMER PRISONER OF WAR OR A 100% SERVICE CONNECTED DISABLED AMERICAN VETERAN IF THE PERSON’S STATE OF RESIDENCE EXTENDS SIMILAR PRIVILEGES TO FORMER PRISONERS OF WAR OR 100% SERVICE CONNECTED DISABLED AMERICAN VETERANS OF THIS STATE.**

(4) A complimentary *CHESAPEAKE BAY AND COASTAL SPORT FISHING* license is not transferable.

[(4)] (5) The Department may issue annually a complimentary Chesapeake Bay and coastal sport fishing license to the President of the United States, the governor of any state, and any official of the game and fish department of any other state.

[(5)] (6) Not more than 20 complimentary *CHESAPEAKE BAY AND COASTAL SPORT FISHING* licenses for each state other than Maryland shall be outstanding at any time.

10–301.

(g) (1) There shall be the following types of hunting licenses in the State:

(i) A resident hunting license that enables the purchaser to hunt all legal game birds and mammals during any appropriate season in Maryland without the purchase of additional stamps, unless the purchaser is hunting migratory game birds or deer during bow and arrow season or black powder season. To hunt migratory game birds the purchaser must also buy a Maryland migratory game bird stamp and to hunt wild waterfowl the purchaser must buy both a Maryland migratory game bird stamp and a

federal migratory bird hunting and conservation stamp. To hunt deer during bow and arrow season and black powder season the purchaser must also purchase a bow and arrow or black powder stamp.

(ii) A nonresident hunting license that enables the purchaser to hunt all legal game birds and mammals during any appropriate season without the purchase of additional stamps unless the purchaser is hunting migratory game birds or deer during bow and arrow season or black powder season. This license enables the purchaser to hunt migratory game birds only with the purchase of a Maryland migratory game bird stamp and to hunt wild waterfowl only with the purchase of both a Maryland migratory game bird stamp and a federal migratory bird hunting and conservation stamp. This license enables the purchaser to hunt deer during bow and arrow season and black powder season only with the purchase of a nonresident bow and arrow or black powder stamp.

(iii) A nonresident 3-day hunting license that enables the purchaser to hunt all legal game birds and mammals except deer and turkey for the 3 consecutive legal hunting days in a single season that are specified on the license by the issuing agent. The purchaser must also purchase a Maryland migratory game bird stamp to hunt migratory game birds and a federal migratory bird hunting and conservation stamp to hunt wild waterfowl with this license. Under no circumstance does this license authorize the purchaser to hunt deer and turkey.

(2) Residents and nonresidents may purchase a senior hunting license beginning in the calendar year in which they attain the age of 65.

(3) A nonresident of any age must purchase either a nonresident hunting license or a nonresident 3-day hunting license to hunt in the State.

(4) [The] **SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION, THE** fees for hunting licenses are according to the following schedule:

- (i) Resident, junior, under the age of 16 years \$ 10.50
- (ii) Resident, regular, at least 16 years old and under the age of 65 years.....\$ 24.50
- (iii) Resident, senior, at least 65 years old.....\$ 5.00
- (iv) Nonresident, regular, at least 16 years old.....\$ 130.00
- (v) Nonresident, junior, under the age of 16 years.....\$ 32.50
- (vi) Nonresident, senior, at least 65 years old.....\$ 65.00
- (vii) Complimentary license authorized to be issued under § 10-303 of this subtitleNo fee

(viii) Nonresident 3–day hunting license.....\$ 45.00

(5) The fees for individual hunting stamps are according to the following schedule:

(i) Bow and arrow stamp.....\$ 6.00

(ii) Nonresident bow and arrow stamp.....\$ 25.00

(iii) Black powder stamp.....\$ 6.00

(iv) Nonresident black powder stamp.....\$ 25.00

(v) Maryland migratory game bird stamp.....\$ 9.00

(vi) Resident bonus antlered deer stamp.....\$ 10.00

(vii) Nonresident bonus antlered deer stamp for each type of deer hunting season..... \$ 25

(6) THE DEPARTMENT SHALL ESTABLISH A PROGRAM TO PROVIDE DISCOUNTED HUNTING LICENSES AND ANY ASSOCIATED STATE–ISSUED STAMPS OR PERMITS TO MARYLAND RESIDENTS WHO ARE RECIPIENTS OF THE PURPLE HEART AWARD.

10–303.

(a) ~~(2)~~ (1) *The Department annually may issue a complimentary [hunter’s] HUNTING license to the President of the United States, the governor of any state, or an official or an enforcement officer of the game and fish management agency of another state which reciprocally offers complimentary hunting licenses.*

(2) (i) [The] **SUBJECT TO THE REQUIREMENTS OF § 10–301.1 OF THIS SUBTITLE, THE** Department may issue a lifetime complimentary ~~hunter’s~~ **HUNTING** license to a Maryland resident who certifies that the resident is a former prisoner of war or 100% service connected disabled American veteran.

(ii) [The] **SUBJECT TO THE REQUIREMENTS OF § 10–301.1 OF THIS SUBTITLE, THE** Department may issue a lifetime complimentary ~~hunter’s~~ **HUNTING** license to an out–of–state person who certifies that the person is a former prisoner of war or a 100% service connected disabled American veteran if the person’s state of residence extends similar privileges to former prisoners of war or 100% service connected disabled American veterans of this State.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 31, 2019, the Department of Natural Resources shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on:

(1) the number of discounted angler's licenses and trout stamps, Chesapeake Bay and coastal sport fishing licenses, and hunting licenses and associated State-issued stamps and permits issued to recipients of the Purple Heart Award under this Act;

(2) the number and identity of any other states that have enacted legislation authorizing the issuance of a lifetime complimentary angler's license, a recreational salt water sport fishing license, or a hunting license to a Maryland resident who certifies that the resident is a former prisoner of war or a 100% service connected disabled veteran;

(3) the total number of complimentary angler's licenses, recreational salt water sport fishing licenses, and hunting licenses issued to Maryland residents under the legislation; and

(4) the total number of complimentary angler's licenses, Chesapeake Bay and coastal sport fishing licenses, and hunting licenses issued by the Department to out-of-state persons under this Act and § 10-303(a)(2)(ii) of the Natural Resources Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017. It shall remain effective for a period of 3 years and, at the end of June 30, 2020, 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, 2017.

Chapter 464

(House Bill 874)

AN ACT concerning

Air Navigation Protection From Hazards Act of 2017

FOR the purpose of creating an exemption under the Forest Conservation Act for the cutting or clearing of trees to comply with a certain provision of law relating to obstructions to air navigation, under certain circumstances; providing that the exemption does not apply to the cutting or clearing of trees to facilitate the expansion or extension of the boundaries of any airport or runway; and generally relating to the applicability of the Forest Conservation Act.

BY repealing and reenacting, with amendments,

Article – Natural Resources
Section 5–1602
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

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

Article – Natural Resources

5–1602.

(a) Except as provided in subsection (b) of this section, this subtitle shall apply to any public or private subdivision plan or application for a grading or sediment control permit by any person, including a unit of State or local government on areas 40,000 square feet or greater.

(b) The provisions of this subtitle do not apply to:

(1) Any construction activity that is subject to § 5–103 of this title;

(2) Any cutting or clearing of forest in areas governed by the Chesapeake Bay Critical Area Protection Law (Title 8, Subtitle 18 of this article);

(3) Commercial logging and timber harvesting operations, including any harvesting conducted under the forest conservation and management program under § 8–211 of the Tax – Property Article:

(i) That were completed before July 1, 1991; or

(ii) That were completed on or after July 1, 1991 on property that is not the subject of an application for a grading permit for development within 5 years after the logging or harvesting operation. However, after this 5–year period, the property shall be subject to this subtitle;

(4) Any agricultural activity that does not result in a change in land use category, including agricultural support buildings and other related structures built using accepted best management practices;

(5) The cutting or clearing of public utility rights-of-way or land for electric generating stations licensed pursuant to § 7–204, § 7–205, § 7–207, or § 7–208 of the Public Utilities Article, provided that:

(i) Any required certificates of public convenience and necessity have been issued in accordance with § 5–1603(f) of this subtitle; and

(ii) The cutting or clearing of the forest is conducted so as to minimize the loss of forest;

(6) Any routine maintenance of public utility rights-of-way;

(7) Any activity conducted on a single lot of any size or a linear project provided that:

(i) The activity does not result in the cutting, clearing, or grading of more than 20,000 square feet of forest; and

(ii) The activity on the lot or linear project will not result in the cutting, clearing, or grading of any forest that is subject to the requirements of a previous forest conservation plan prepared under this subtitle;

(8) Any strip or deep mining of coal regulated under Title 15, Subtitle 5 or Subtitle 6 of the Environment Article and any noncoal surface mining regulated under Title 15, Subtitle 8 of the Environment Article;

(9) Any activity required for the purpose of constructing a dwelling house intended for the use of the owner, or a child of the owner, if the activity does not result in the cutting, clearing, or grading of more than 20,000 square feet of forest;

(10) A county that has and maintains 200,000 acres or more of its land area in forest cover;

(11) The cutting or clearing of trees to comply with the requirements of:

(I) 14 C.F.R. § 77.25 relating to objects affecting navigable airspace, provided that the Federal Aviation Administration has determined that the trees are a hazard to aviation; **OR**

(II) **SUBJECT TO SUBSECTION (C) OF THIS SECTION, § 5-703 OF THE TRANSPORTATION ARTICLE RELATING TO OBSTRUCTIONS TO AIR NAVIGATION, PROVIDED THAT, IF A DISPUTE ARISES REGARDING THE CUTTING OR CLEARING OF TREES, THE MARYLAND AVIATION ADMINISTRATION HAS DETERMINED THAT THE TREES ARE A HAZARD TO AIR NAVIGATION MAKES THE FINAL DETERMINATION WHETHER THE TREES SHOULD BE CUT OR CLEARED;**

(12) Any stream restoration project for which the applicant for a grading or sediment control permit has executed a binding maintenance agreement of at least 5 years with the affected property owner; and

(13) Maintenance or retrofitting of a stormwater management structure that may include clearing of vegetation or removal and trimming of trees, so long as the

maintenance or retrofitting is within the original limits of disturbance for construction of the existing structure, or within any maintenance easement for access to the structure.

(c) **AN EXEMPTION UNDER SUBSECTION (B)(11)(II) OF THIS SECTION DOES NOT APPLY TO THE CUTTING OR CLEARING OF TREES TO FACILITATE THE EXPANSION OR EXTENSION OF THE BOUNDARIES OF ANY AIRPORT OR RUNWAY.**

(D) For an application for subdivision or sediment and erosion control or grading for a site with more than 50% of the net tract area governed by Title 8, Subtitle 18 of this article, the Department or local authority may allow an applicant to extend critical area forest protection measures instead of meeting the requirements of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 465

(Senate Bill 1122)

AN ACT concerning

Alcoholic Beverages – Baltimore City – Transfer of License – Hardship Extension

FOR the purpose of authorizing the holder of a certain alcoholic beverages license in Baltimore City or another appropriate interested party to make a written request to the Board of License Commissioners for Baltimore City to extend the time authorized for the transfer of the license due to hardship; authorizing the Board to grant a certain time extension for the transfer of a certain license if the Board makes a certain finding after a hearing; limiting the time period of a certain extension approved by the Board; and generally relating to the transfer of alcoholic beverages licenses in Baltimore City.

BY repealing and reenacting, without amendments,
Article – Alcoholic Beverages
Section 12–102
Annotated Code of Maryland
(2016 Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Alcoholic Beverages
Section 12–1705
Annotated Code of Maryland

(2016 Volume and 2016 Supplement)

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

Article – Alcoholic Beverages

12–102.

This title applies only in Baltimore City.

12–1705.

(A) [A] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A transfer of a license shall be completed on or before 180 days after the Board approves the transfer.**

(B) (1) **WITHIN 180 DAYS AFTER THE BOARD APPROVES THE TRANSFER OF A LICENSE, THE LICENSE HOLDER OR ANOTHER APPROPRIATE INTERESTED PARTY MAY MAKE A WRITTEN REQUEST TO THE BOARD TO EXTEND THE TIME AUTHORIZED TO COMPLETE THE TRANSFER DUE TO HARDSHIP.**

(2) **THE BOARD MAY GRANT THE EXTENSION IF THE BOARD FINDS AFTER A HEARING THAT AN EXISTING HARDSHIP CAUSED THE DELAY IN TRANSFERRING THE LICENSE.**

(3) **AN EXTENSION MAY NOT PROLONG THE PERIOD AUTHORIZED TO COMPLETE THE TRANSFER BEYOND ~~360~~ 270 DAYS AFTER THE BOARD APPROVES THE TRANSFER.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 466

(House Bill 464)

AN ACT concerning

Alcoholic Beverages – Beer, Wine, and Liquor Exhibition Permit

FOR the purpose of altering the national family beer and wine exhibition permit to make it the national beer, wine, and liquor exhibition permit; authorizing the Comptroller to issue the permit to a bona fide alcohol trade association; authorizing the permit holder to exhibit, judge, and taste beer, wine, and liquor under certain circumstances; authorizing the permit holder to receive for use beer, wine, and liquor from certain persons under certain circumstances; authorizing the permit holder to allow a person to possess and consume beer, wine, and liquor under certain circumstances; repealing a certain restriction on the premises for which a permit may be granted; making this Act an emergency measure; and generally relating to national beer, wine, and liquor exhibition permits.

BY repealing and reenacting, with amendments,
Article – Alcoholic Beverages
Section 2–139
Annotated Code of Maryland
(2016 Volume and 2016 Supplement)

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

Article – Alcoholic Beverages

2–139.

- (a) There is a national [family] beer [and], wine, **AND LIQUOR** exhibition permit.
- (b) The Comptroller may issue the permit to a bona fide:
 - (1) national family wine association;
 - (2) national family beer association; or
 - (3) national family beer and wine association] **ALCOHOL TRADE ASSOCIATION.**
- (c)
 - (1) The permit authorizes the holder to conduct [a national family beer and wine] **AN ALCOHOL** exhibition and competition at which the permit holder may exhibit, judge, and taste beer [and], wine, **AND LIQUOR** acquired in accordance with this section at the place designated in the permit application.
 - (2) The permit authorizes the holder to receive for use, exhibition, and tastings at an exhibition:
 - (i) tax-free family produced beer and wine;
 - (ii) tax-paid commercially produced[:

1.] beer [and], wine, **AND LIQUOR** from licensed nonresident dealers or manufacturers through holders of wholesaler's licenses; [or

2. wines from Class 4 wineries;] and

(iii) commercially produced beer [and], wine, **AND LIQUOR** from manufacturers or suppliers licensed by another state and subject to the tax imposed under § 5–102 of the Tax – General Article.

(3) The permit holder may not sell beer [and], wine, **AND LIQUOR** at the exhibition and competition.

(4) Notwithstanding § 6–319 of this article, the permit holder may allow a person to possess and consume beer [and], wine, **AND LIQUOR** on the premises governed by the permit as provided in this section.

(d) An exhibition may not last more than 5 days.

(e) The permit may be granted for:

(1) an unlicensed premises; or

(2) a [Class B, Class C, or Class B–D–7] licensed premises.

(f) Persons authorized to judge or participate at [a national family beer and wine] **AN ALCOHOL** exhibition include a:

(1) manufacturer;

(2) nonresident dealer;

(3) supplier;

(4) wholesaler; and

(5) representative of any of the persons listed in items (1) through (4) of this subsection.

(g) A supplier licensed by another state is not required to have a nonresident dealer's permit to ship beer [and], wine, **AND LIQUOR** to the permit holder.

(h) (1) Within 30 days after the exhibition ends, the permit holder shall:

(i) file a report, on the forms that the Comptroller provides, of the number of gallons of commercially produced beer [and], wine, **AND LIQUOR** that the permit holder received from suppliers that are not licensed; and

(ii) pay the tax required under § 5–102 of the Tax – General Article.

(2) The Comptroller may require the permit holder to prepay an amount sufficient to cover the anticipated tax rather than post a bond.

(i) The permit fee is \$50.

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 ye 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, 2017.

Chapter 467

(Senate Bill 210)

AN ACT concerning

Alcoholic Beverages – Class 8 Farm Brewery License Holders – Food Service

FOR the purpose of ~~repealing~~ altering the restriction on a holder of a Class 8 farm brewery license ~~to sell~~ selling or ~~serve~~ servicing only certain types of food; allowing the holder to sell and serve any food if the holder is licensed to operate a food establishment, subject to certain requirements; and generally relating to holders of Class 8 farm brewery licenses.

BY repealing and reenacting, with amendments,

Article – Alcoholic Beverages

Section 2–210

Annotated Code of Maryland

(2016 Volume and 2016 Supplement)

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

Article – Alcoholic Beverages

2–210.

(a) There is a Class 8 farm brewery license.

(b) (1) Subject to paragraph (2) of this subsection, a license holder may sell and deliver beer manufactured in a facility on the licensed farm or in a facility other than one on the licensed farm to:

- (i) a wholesaler licensed to sell and deliver beer in the State; or
- (ii) a person in another state authorized to acquire beer.

(2) The beer to be sold and delivered under paragraph (1) of this subsection shall be manufactured with an ingredient from a Maryland agricultural product, including hops, grain, and fruit, produced on the licensed farm.

(c) A license holder may:

(1) (i) sell beer produced by the license holder for on-premises consumption;

(ii) in an amount not exceeding 6 fluid ounces per brand, provide samples of beer that the license holder produces to a consumer:

- 1. at no charge; or
- 2. for a fee; ~~and~~

(iii) sell or serve:

- 1. bread and other baked goods;
- 2. chili;
- 3. chocolate;
- 4. crackers;
- 5. cured meat;
- 6. fruits (whole and cut);
- 7. hard and soft cheese (whole and cut);
- 8. salads and vegetables (whole and cut);
- 9. ice cream;

10. jam;
11. jelly;
12. vinegar;
13. pizza;
14. prepackaged sandwiches and other prepackaged foods ready to be eaten;
15. soup; and
16. condiments~~};~~ AND

(IV) SUBJECT TO SUBSECTION (E)(2) OF THIS SECTION, SELL OR SERVE ANY FOOD IF THE LICENSE HOLDER IS LICENSED TO OPERATE A FOOD ESTABLISHMENT UNDER TITLE 21, SUBTITLE 3 OF THE HEALTH – GENERAL ARTICLE;

(2) store on its licensed farm, in a segregated area approved by the Comptroller, beer produced at the licensed farm for sale and delivery to a wholesaler licensed in the State or a person outside the State authorized to acquire the beer;

(3) brew, bottle, or contract for not more than 15,000 barrels of beer each calendar year;

(4) contract with the holder of a Class 2 rectifying license, a Class 5 brewery license, or a Class 7 micro–brewery license to brew and bottle beer from ingredients produced on the licensed farm;

(5) import, export, and transport its beer in accordance with this section;

(6) store beer at a warehouse for which the license holder has been issued an individual storage permit, for sale and delivery to a wholesaler licensed in the State or a person outside the State authorized to acquire the beer, or shipment back to the licensed farm, if:

(i) the license holder does not serve or sell beer at the warehouse;
and

(ii) the Comptroller has full access at all times to the warehouse to enforce this article; and

(7) enter into a temporary delivery agreement with a distributor only for delivery of beer to a beer festival or a wine and beer festival, and the return of any unused beer, if:

(i) the festival is in a sales territory for which the license holder does not have a franchise with a distributor under the Beer Franchise Fair Dealing Act in Title 5, Subtitle 1 of this article; and

(ii) the temporary delivery agreement is in writing.

(d) (1) A Class 8 farm brewery may be located only at the place stated on the license.

(2) The place listed on the license shall be in compliance with § 1–405(b) of this article.

(e) **(1) ~~Notwithstanding~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND NOTWITHSTANDING** any local law, a license holder may exercise the privileges of a Class 8 farm brewery license.

(2) A LICENSE HOLDER WHO SELLS FOODS UNDER SUBSECTION (C)(1)(IV) OF THIS SECTION SHALL MEET THE SAME RATIO OF GROSS RECEIPTS BETWEEN FOOD AND ALCOHOLIC BEVERAGES SALES AS A HOLDER OF A CLASS D BEER AND WINE LICENSE OR AN EQUIVALENT LICENSE IN THE JURISDICTION, AS THE LOCAL LICENSING BOARD DETERMINES.

(f) Subject to subsections (i) and (j) of this section, a license holder may exercise the privileges of the license each day:

(1) from 10 a.m. to 6 p.m., for consumption of beer and sales and service of food at the licensed farm; and

(2) from 10 a.m. to 10 p.m., for:

(i) sampling of beer;

(ii) consumption of beer off the licensed farm if the beer is packaged in sealed or resealable containers, such as growlers; and

(iii) guests who attend a planned promotional event or other organized activity at the licensed farm.

(g) Except as provided in Division II of this article, a Class 8 farm brewery license allows the license holder to operate 7 days a week.

(h) Nothing in this section limits the application of relevant provisions of Title 21 of the Health – General Article, and regulations adopted under that title, to a license holder.

(i) (1) A license holder may sponsor a multibrewery activity at the licensed farm that:

(i) includes the products of other Maryland breweries; and

(ii) provides for the sale of beer by the glass for on–premises consumption only.

(2) In a segregated area approved by the Comptroller on the licensed farm, a license holder may store the products of other Maryland breweries for the multibrewery activity.

(3) The multibrewery activity:

(i) may be held from 10 a.m. to 10 p.m. each day; and

(ii) may not exceed 3 consecutive days.

(j) (1) The Comptroller may issue a brewery promotional event permit to a license holder.

(2) At least 15 days before holding a planned promotional event, the license holder shall obtain a permit from the Comptroller by filing a notice of the promotional event on the form that the Comptroller provides.

(3) The permit authorizes the license holder to conduct at the licensed farm a promotional event at which the license holder may:

(i) provide samples of not more than 6 fluid ounces per brand to consumers; and

(ii) sell beer produced by the license holder to persons who participate in the event.

(4) The beer at the event shall be sold by the glass and for on–premises consumption only.

(5) The license holder may not be issued more than 12 permits in a calendar year.

(6) A single promotional event:

(i) may be held from 10 a.m. to 10 p.m. each day; and

(ii) may not exceed 3 consecutive days.

(7) The permit fee is \$25 per event.

(k) The annual license fee is \$200.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 468

(House Bill 987)

AN ACT concerning

**Alcoholic Beverages – Direct Wine Shipper’s Permit – ~~Qualification Standards~~
Application and Renewal Requirements**

FOR the purpose of requiring an applicant for a direct wine shipper’s permit ~~that is a person licensed outside the State to directly engage in the manufacture of wine in order to qualify for the permit~~ or a direct wine shipper who seeks to renew a permit to identify the wines manufactured by the applicant or direct wine shipper intended for shipment into the State; and generally relating to alcoholic beverages.

BY repealing and reenacting, ~~with~~ without amendments,
Article – Alcoholic Beverages
Section 2–144
Annotated Code of Maryland
(2016 Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Alcoholic Beverages
Section 2–145(a) and 2–149(a)
Annotated Code of Maryland
(2016 Volume and 2016 Supplement)

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

Article – Alcoholic Beverages

2–144.

To qualify for a direct wine shipper's permit, an applicant shall be:

(1) a person licensed outside the State to engage in the manufacture of wine ~~THAT DIRECTLY ENGAGES IN THE MANUFACTURE OF WINE~~; or

(2) a holder of a Class 3 manufacturer's license or a Class 4 manufacturer's license.

2-145.

(a) An applicant for a direct wine shipper's permit shall:

(1) submit to the Comptroller a completed application on a form that the Comptroller provides;

(2) provide to the Comptroller a copy of the applicant's current license;
[and]

(3) IDENTIFY THE WINES MANUFACTURED BY THE APPLICANT THAT THE APPLICANT INTENDS TO SHIP INTO THE STATE; AND

(4) pay a fee of \$200 for initial issuance of the direct wine shipper's permit.

2-149.

(a) A direct wine shipper may renew its direct wine shipper's permit each year if the direct wine shipper:

(1) is otherwise entitled to have a direct wine shipper's permit;

(2) provides to the Comptroller a copy of its current permit; [and]

(3) IDENTIFIES THE WINES MANUFACTURED BY THE DIRECT WINE SHIPPER THAT THE DIRECT WINE SHIPPER INTENDS TO SHIP INTO THE STATE; AND

(4) pays to the Comptroller a renewal fee of \$200.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 469**(Senate Bill 1138)**

AN ACT concerning

Alcoholic Beverages – Family Beer and Wine Facility Permit

FOR the purpose of repealing a provision of law that prohibits a family beer and wine facility permit holder from holding another license simultaneously; and generally relating to family beer and wine facility permits.

BY repealing and reenacting, with amendments,

Article – Alcoholic Beverages

Section 2–138

Annotated Code of Maryland

(2016 Volume and 2016 Supplement)

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

Article – Alcoholic Beverages

2–138.

(a) There is a family beer and wine facility permit.

(b) (1) The permit authorizes the holder to establish a facility to produce family beer or wine by a consumer who:

(i) is of legal drinking age; but

(ii) does not have a license.

(2) The permit authorizes the holder to provide equipment, raw materials, and instructions to a consumer.

(3) Except as provided in paragraph (4) of this subsection, the permit holder may not engage in the production or manufacture of beer or wine.

(4) A permit authorizes the holder to engage in the production or manufacture of beer or wine for:

(i) testing equipment or recipes; and

(ii) sampling, provided that:

1. each patron has no more than five samples;

2. each sample does not exceed 2 ounces; and

3. each sample is consumed on the premises by an individual who has a nonrefundable contract to brew or ferment at the facility.

(c) Family beer and wine produced at a family beer and wine facility:

(1) shall be removed from the premises by the consumer; and

(2) may be used only for home consumption and the personal use of the consumer.

(d) The Comptroller may restrict the permit holder to the production of family-produced beer or family-produced wine.

(e) [The permit holder may not hold another license simultaneously.

(f)] The permit fee is \$400.

[(g)] (F) The Comptroller may adopt regulations regarding any activity relating to the operation of the facility, including limits on the quantities of beer and wine produced and record keeping.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 470

(House Bill 923)

AN ACT concerning

Allegany County – Property Tax Credit Credits – Allegany County Animal Shelter Management Foundation, Inc. Community Organizations and Lions Center

FOR the purpose of authorizing the governing body of Allegany County and of a municipal corporation in Allegany County to grant a property tax credit against the county or municipal corporation property tax imposed on certain property owned by ~~the Allegany County Animal Shelter Management Foundation, Inc.;~~ certain

organizations; providing for the application of this Act; and generally relating to property tax credits for certain organizations in Allegany County.

BY repealing and reenacting, with amendments,
 Article – Tax – Property
 Section 9–302(b)
 Annotated Code of Maryland
 (2012 Replacement Volume and 2016 Supplement)

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

Article – Tax – Property

9–302.

(b) The governing body of Allegany County or of a municipal corporation in Allegany County may grant, by law, a property tax credit under this section against the county or municipal corporation property tax imposed on:

- (1) property that is owned by the Upper Potomac Jaycees, Incorporated;
- (2) property that is owned by the Allegany Beagle Club, Incorporated;
- (3) property that is:
 - (i) leased by Frostburg Community Hospital, Inc.; and
 - (ii) used for hospital purposes;
- (4) property that is owned by the Western Maryland Scenic Railroad;
- (5) property that is owned by the Frostburg Lions Club;
- (6) property that is owned by the Cumberland/Allegany County Industrial Foundation, Inc.;
- (7) property that is owned by the La Vale Lions Club Foundation, Inc.;
- (8) property that is owned by the Carver Community Center, Inc.;
- (9) property that is owned by the Cumberland Cultural Foundation and is known as the Gilchrist Museum;
- (10) property that is owned by the Allegany County Agricultural Expo, Inc.;

[and]

(11) property that is owned by the Allegany County Building Trades Education Foundation, Inc.; ~~AND~~

~~(12) PROPERTY THAT IS OWNED BY THE ALLEGANY COUNTY ANIMAL SHELTER MANAGEMENT FOUNDATION, INC.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017, and shall be applicable to all taxable years beginning after June 30, 2017.~~

(12) PROPERTY THAT IS OWNED BY THE FROSTBURG MUSEUM ASSOCIATION, INC.;

(13) PROPERTY THAT IS OWNED BY THE ALLEGANY COUNTY ANIMAL SHELTER MANAGEMENT FOUNDATION, INC.;

(14) PROPERTY THAT IS OWNED BY THE FAMILY JUNCTION, INC.; AND

(15) PROPERTY THAT IS OWNED BY THE LAVALE SWIM CLUB, INC.;
AND

(16) PROPERTY THAT IS:

(I) OWNED BY:

1. THE LIONS CENTER, LLC;

2. THE LIONS CENTER I, LLC; OR

3. THE LIONS CENTER II, LLC; AND

(II) KNOWN AS THE LIONS CENTER FOR REHABILITATION AND EXTENDED CARE.

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 all taxable years beginning after June 30, 2016.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 471

(Senate Bill 639)

AN ACT concerning

Allegany County – Sheriff’s Deputies – Salary and Duties

FOR the purpose of altering the salary of a Sheriff’s deputy in Allegany County; clarifying that at least one of the Sheriff’s deputies is required to be assigned to certain duties; and generally relating to Sheriff’s deputies in Allegany County.

BY repealing and reenacting, with amendments,
 Article – Courts and Judicial Proceedings
 Section 2–309(b)(2)
 Annotated Code of Maryland
 (2013 Replacement Volume and 2016 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

2–309.

(b) (2) The Sheriff shall appoint not less than five deputies at salaries [of at least \$2,400 each] **DETERMINED BY THE SHERIFF’S BUDGET** who are under the county classified service; **AT LEAST** one of these deputies shall be assigned by the Sheriff to execute process, orders, and directions for the juvenile court, and to perform the other duties the Sheriff assigns.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 472

(House Bill 811)

AN ACT concerning

**Allegany County *and* Prince George’s County – ~~Gaming – Video Lottery~~
~~Operation Licensee~~ Video Lottery Terminal Proceeds – Use of Local Impact
Grants**

~~FOR the purpose of altering the distribution of the proceeds of video lottery terminals located in Allegany County if certain conditions are met; providing a certain distribution from the proceeds of video lottery terminals to a certain licensee in Allegany County to be used for certain purposes; altering the amount of proceeds of video lottery terminals in Allegany County that are required to be used for certain local impact grants; extending a certain distribution formula for the proceeds of video lottery terminals in Allegany County for a certain number for years; and generally relating to the distribution of video lottery terminal proceeds in Allegany County.~~

FOR the purpose of requiring that a certain percentage of the local impact grants distributed to Allegany County from certain proceeds of video lottery terminals be used for certain purposes; *requiring that a certain annual amount of the local impact grants distributed to Prince George's County from certain proceeds of video lottery terminals be used in certain communities in the county*; and generally relating to the use of local impact grants from video lottery terminals in Allegany County and Prince George's County.

~~BY repealing and reenacting, without amendments,
 Article – State Government
 Section 9-1A-21(a)(2)
 Annotated Code of Maryland
 (2014 Replacement Volume and 2016 Supplement)~~

BY repealing and reenacting, with amendments,
 Article – State Government
 Section 9-1A-27(a)(7), (8), and (9) and (c) 9-1A-31(b)(2) *and (4)*
 Annotated Code of Maryland
 (2014 Replacement Volume and 2016 Supplement)

~~BY adding to
 Article – State Government
 Section 9-1A-27(a)(9)
 Annotated Code of Maryland
 (2014 Replacement Volume and 2016 Supplement)~~

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

Article – State Government

9-1A-31.

(b) (2) (I) [In] SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IN Allegany County, local impact grants provided under subsection (a)(3)(i) of this section may be used:

[(i)] 1. for purposes listed in paragraph (1) of this subsection throughout the county; and

[(ii)] 2. to pay down the debt incurred by the county in the construction and related costs for the golf course, lodge, and other improvements in Rocky Gap State Park.

(II) AT LEAST 20% OF THE LOCAL IMPACT GRANTS PROVIDED UNDER SUBSECTION (A)(3)(I) OF THIS SECTION IN ALLEGANY COUNTY SHALL BE USED FOR CAPITAL PROJECTS FOR MUNICIPALITIES AND NONPROFIT ORGANIZATIONS IN THE COUNTY.

(4) (i) 1. Subject to [subparagraph (ii) of this paragraph] SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, in Prince George's County, 40% of local impact grants provided under this section shall be used to address infrastructure needs related to Maryland Route 210 in Prince George's County.

[(ii)] 2. The amount of local impact grants used as provided in [subparagraph (i) of this paragraph] SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH may not exceed \$15,000,000 in a fiscal year.

[(iii)] 3. Prince George's County may be reimbursed by the State for any money used as provided in this [paragraph] SUBPARAGRAPH.

(II) IN PRINCE GEORGE'S COUNTY, \$125,000 OF THE LOCAL IMPACT GRANTS PROVIDED UNDER THIS SECTION SHALL BE PROVIDED ANNUALLY TO BE USED IN COMMUNITIES WITHIN 2.5 MILES NORTHEAST OF THE VIDEO LOTTERY FACILITY IN PRINCE GEORGE'S COUNTY.

~~0-1A-21.~~

~~(a) (2) (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, each video lottery terminal device and the associated equipment and software shall be owned or leased by the video lottery facility.~~

~~(ii) 1. Subject to subsubparagraph 2 of this subparagraph, for a video lottery facility located in Allegany County or Worcester County, each video lottery terminal device and the associated equipment and software shall be owned or leased by the Commission.~~

~~2. A video lottery facility located in Allegany County or Worcester County may apply to the Commission for permission to assume ownership or the right to lease each video lottery terminal device used by the facility.~~

~~(iii) For a video lottery facility located in Anne Arundel County or Cecil County, the Commission shall own each video lottery terminal device and the associated equipment and software through March 31, 2015.~~

~~9-1A-27.~~

~~(a) Except as provided in subsections (b) and (c) of this section and § 9-1A-26(a)(3) of this subtitle, on a properly approved transmittal prepared by the Commission, the Comptroller shall pay the following amounts from the proceeds of video lottery terminals at each video lottery facility:~~

~~(7) (i) except as provided in [item] ITEMS (ii) AND (iii) of this item, 6% to the video lottery operation licensee if the video lottery operation licensee owns or leases each video lottery terminal device and the associated equipment and software; [and]~~

~~(ii) 8% to the video lottery operation licensee in Anne Arundel County; AND~~

~~(iii) 12% TO THE VIDEO LOTTERY OPERATION LICENSEE IN ALLEGANY COUNTY IF THE VIDEO LOTTERY OPERATION LICENSEE ASSUMES OWNERSHIP OR THE RIGHT TO LEASE EACH VIDEO LOTTERY TERMINAL DEVICE AND THE ASSOCIATED EQUIPMENT AND SOFTWARE;~~

~~(8) beginning after the issuance of a video lottery operation license for a video lottery facility in Prince George's County, 8% to the video lottery operation licensee in Anne Arundel County and 7% to the licensee in Baltimore City for:~~

~~(i) marketing, advertising, and promotional costs required under § 9-1A-23 of this subtitle; and~~

~~(ii) capital improvements at the video lottery facilities; [and]~~

~~(9) 2% TO THE VIDEO LOTTERY OPERATION LICENSEE IN ALLEGANY COUNTY FOR MARKETING, ADVERTISING, AND PROMOTIONAL COSTS REQUIRED UNDER § 9-1A-23 OF THIS SUBTITLE; AND~~

~~[(0)] (10) the remainder to the Education Trust Fund established under § 9-1A-30 of this subtitle.~~

~~(e) (1) For the first [10] 15 years of operations at a video lottery facility in Allegany County, on a properly approved transmittal prepared by the Commission, the Comptroller shall pay the following amounts from the proceeds of video lottery terminals at a video lottery facility in Allegany County:~~

~~(i) 2% to the State Lottery and Gaming Control Agency for costs as defined in § 9-1A-01 of this subtitle;~~

~~(ii) to the video lottery operation licensee, the percentage stated in the accepted application for the location, not to exceed 50%;~~

~~(iii) ~~[2.75%]~~ 5.5% in local impact grants, in accordance with § 9-1A-31 of this subtitle;~~

~~(iv) 2.5% to the Purse Dedication Account established under § 9-1A-28 of this subtitle;~~

~~(v) 0.75% to the Small, Minority, and Women Owned Businesses Account established under § 9-1A-35 of this subtitle; and~~

~~(vi) the remainder to the Education Trust Fund established under § 9-1A-30 of this subtitle.~~

~~(2) After the first ~~[10]~~ 15 years of operations at a video lottery facility in Allegany County, the proceeds generated at the facility in Allegany County shall be allocated as provided in subsections (a) and (b) of this section.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 473

(House Bill 716)

AN ACT concerning

Anne Arundel County – Board of Education – ~~Selection of Members~~

FOR the purpose of requiring that, beginning with a certain election, certain members of the Anne Arundel County Board of Education be elected by councilmanic districts ~~and a certain member be elected at large~~; repealing certain provisions of law governing the appointment of members of the county board; establishing the composition of the county board; providing for the residency requirements, terms of office, and filling of a vacancy in the office of certain members of the county board; establishing certain procedures for the election of certain members of the county board; renaming the School Board Nominating Commission of Anne Arundel County to be the School Board Appointment Commission of Anne Arundel County; altering the membership, purpose, and duties of the Commission; providing for the term of office of a certain member of the Commission; repealing certain provisions of law relating to the approval or rejection of the retention of certain members of the county

board by county voters in a certain general election; requiring the affirmative vote of a certain number of members for the approval of any action by the county board; altering the compensation of the members of the county board; altering the amount of the scholarship granted a certain student member of the county board; providing for the removal of, and hearings and appeal procedures for, certain members of the county board; altering the manner of filling a vacancy in the office of certain members of the county board; repealing certain provisions of law establishing and relating to the School Board Appointment Commission of Anne Arundel County; providing for the expiration of the terms of certain appointed members of the county board; making certain conforming changes; providing for the application of this Act; ~~providing for the effective dates of this Act~~ *providing for a delayed effective date for certain provisions of this Act*; and generally relating to ~~the election of the members of~~ the Anne Arundel County Board of Education.

BY renumbering

Article – Education

Section 3–2A–01 through 3–2A–10, respectively, and the subtitle “Subtitle 2A. Baltimore County”

to be Section 3–2B–01 through 3–2B–10, respectively, and the subtitle “Subtitle 2B. Baltimore County”

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Education

Section 3–108(a), 3–110, and 3–114(a)

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,

Article – Education

Section 3–114(g) and (h)

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

BY adding to

Article – Education

Section 3–2A–02, 3–2A–03, 3–2A–06, and 3–2A–08 to be under the new subtitle “Subtitle 2A. Anne Arundel County”

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,

Article – Education

Section 3–2B–01(a)

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

(As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,
 Article – Education
 Section 3–2B–01(b)(2)
 Annotated Code of Maryland
 (2014 Replacement Volume and 2016 Supplement)
 (As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,
 Article – Education
 Section 3–2A–03(c)
 Annotated Code of Maryland
 (2014 Replacement Volume and 2016 Supplement)
 (As enacted by Section 2 of this Act)

BY repealing
 Article – Education
 Section 3–2A–04
 Annotated Code of Maryland
 (2014 Replacement Volume and 2016 Supplement)
 (As enacted by Section 2 of this Act)

BY adding to
 Article – Education
 Section 3–2A–04
 Annotated Code of Maryland
 (2014 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 3–2A–01 through 3–2A–10, respectively, and the subtitle “Subtitle 2A. Baltimore County” of Article – Education of the Annotated Code of Maryland be renumbered to be Section(s) 3–2B–01 through 3–2B–10, respectively, and the subtitle “Subtitle 2B. Baltimore County”.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Education

3–108.

(a) (1) Except as provided in paragraph (2) of this subsection, the Governor shall appoint the members of each county board from the residents of that county.

(2) The members of the following county boards of education shall be selected as follows:

(i) The Baltimore City Board of School Commissioners in accordance with § 3–108.1 of this subtitle;

(ii) The Harford County Board of Education in accordance with § 3–6A–01 of this title;

(iii) The Caroline County Board of Education in accordance with § 3–3A–02 of this title; **AND**

[(iv)] (iv) The Anne Arundel County Board of Education in accordance with § 3–110 of this subtitle; and

[(v)] (IV) The county boards of education in the counties listed in § 3–114 of this subtitle in accordance with the provisions of that section.

3–114.

(a) In the following counties, the members of the county board shall be elected:

(1) Allegany;

(2) ANNE ARUNDEL;

[(2)] (3) Calvert;

[(3)] (4) Carroll;

[(4)] (5) Cecil;

[(5)] (6) Charles;

[(6)] (7) Dorchester;

[(7)] (8) Frederick;

[(8)] (9) Garrett;

[(9)] (10) Howard;

[(10)] (11) Kent;

[(11)] (12) Montgomery;

[(12)] (13) Queen Anne's;

[(13)] (14) St. Mary's;

[(14)] (15) Somerset;

[(15)] (16) Talbot;

[(16)] (17) Washington;

[(17)] (18) Wicomico; and

[(18)] (19) Worcester.

(g) An individual subject to the authority of the county board may not serve as a member of the county board. At the time of filing a certificate of candidacy for election to a county board, a person shall certify to the local board of supervisors of elections whether or not the person is subject to the authority of the county board. The Governor may not issue a commission of election to a person who has certified affirmatively and who is elected to a county board until the member-elect offers proof that the member-elect is no longer subject to the authority of the county board.

(h) The election of the county boards shall be held as provided in Subtitles 2 through 14 of this title and the Election Law Article.

SUBTITLE 2A. ANNE ARUNDEL COUNTY.

[3-110.] 3-2A-01.

(a) [(1)] The Anne Arundel County Board OF EDUCATION consists of [9] members who shall be appointed as follows:

(i) 3 from the county at large;

(ii) 1 each from legislative districts 30, 31, 32, 33, and that portion of legislative district 21 that lies within Anne Arundel County; and

(iii) 1 student member.

(2) Except for the student member, the Governor shall appoint a member of the county board from a list of nominees submitted by the School Board Nominating Commission of Anne Arundel County as provided in subsection (b) of this section.]:

(1) ~~EIGHT~~ SEVEN NONPARTISAN ELECTED MEMBERS; AND

(2) ONE STUDENT MEMBER.

(B) THE ~~EIGHT~~ ELECTED MEMBERS SHALL BE ELECTED AS FOLLOWS:

(1) ONE MEMBER FROM EACH OF THE SEVEN COUNCILMANIC DISTRICTS IN THE COUNTY, ELECTED BY THE VOTERS OF THAT DISTRICT; AND

~~(2) ONE MEMBER AT LARGE, ELECTED BY THE VOTERS OF THE COUNTY~~ AT A GENERAL ELECTION IN ACCORDANCE WITH § 3-2A-03 OF THIS SUBTITLE AND TITLE 8, SUBTITLE 8 OF THE ELECTION LAW ARTICLE.

(C) THE STUDENT MEMBER SHALL BE SELECTED IN ACCORDANCE WITH § 3-2A-05 OF THIS SUBTITLE.

(D) (1) (I) EACH MEMBER OF THE COUNTY BOARD MUST BE A RESIDENT OF ANNE ARUNDEL COUNTY.

(II) A MEMBER ELECTED FROM A COUNCILMANIC DISTRICT MUST BE A RESIDENT OF THAT DISTRICT.

(2) A MEMBER WHO NO LONGER RESIDES IN ANNE ARUNDEL COUNTY MAY NOT CONTINUE AS A MEMBER OF THE COUNTY BOARD.

(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A MEMBER FROM A COUNCILMANIC DISTRICT WHO DOES NOT MAINTAIN RESIDENCY IN THAT DISTRICT MAY NOT CONTINUE AS A MEMBER OF THE COUNTY BOARD AND THE OFFICE SHALL BE DEEMED VACANT.

(II) IF THE BOUNDARY LINE OF A COUNCILMANIC DISTRICT IS CHANGED, THE TERM OF AN INCUMBENT MEMBER OF THE COUNTY BOARD WHO NO LONGER RESIDES IN THAT COUNCILMANIC DISTRICT BECAUSE OF THE CHANGE IS NOT AFFECTED DURING THAT TERM.

3-2A-02.

~~(A) THE ELECTED MEMBERS OF THE COUNTY BOARD SHALL BE ELECTED AT A GENERAL ELECTION IN ACCORDANCE WITH § 3-2A-03 OF THIS SUBTITLE AND TITLE 8, SUBTITLE 8 OF THE ELECTION LAW ARTICLE.~~

~~(B)~~ (A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN ELECTED MEMBER OF THE COUNTY BOARD SERVES FOR A TERM OF 4 YEARS BEGINNING ON THE FIRST MONDAY IN DECEMBER AFTER THE MEMBER'S ELECTION AND UNTIL A SUCCESSOR IS ELECTED AND QUALIFIES.

(2) THE TERM OF OFFICE OF EACH MEMBER ELECTED AT THE GENERAL ELECTION IN 2018 IS 6 YEARS.

~~(C)~~ **(B) EACH ELECTED MEMBER OF THE COUNTY BOARD:**

(1) IS ELIGIBLE FOR REELECTION FOR A SECOND CONSECUTIVE TERM IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE; BUT

(2) MAY NOT BE ELECTED TO SERVE ON THE COUNTY BOARD FOR MORE THAN TWO CONSECUTIVE TERMS.

3-2A-03.

(A) AT THE GENERAL ELECTION FOR THE ELECTED MEMBERS OF THE COUNTY BOARD, THE BALLOT SHALL PROVIDE:

~~(1) THE THE~~ **(1) THE THE** VOTERS OF A COUNCILMANIC DISTRICT WITH THE CHOICE TO CAST A VOTE "FOR" A CANDIDATE FOR ELECTION FROM THAT DISTRICT ONLY;~~AND~~

~~(2) BEGINNING WITH THE GENERAL ELECTION IN 2020, ALL VOTERS THE CHOICE TO CAST A VOTE "FOR" A CANDIDATE FOR ELECTION FROM THE COUNTY AT LARGE.~~

(B) AFTER THE ELECTION RESULTS ARE CERTIFIED, THE STATE BOARD OF ELECTIONS SHALL DECLARE FOR EACH DISTRICT WHETHER A CANDIDATE HAS BEEN ELECTED.

(C) IN ANY ELECTION, IF NO CANDIDATE FILES A CERTIFICATE OF CANDIDACY FOR THE OFFICE OR IF NO INDIVIDUAL OTHERWISE QUALIFIES TO HAVE THE INDIVIDUAL'S NAME PLACED ON THE BALLOT, THE SCHOOL BOARD APPOINTMENT COMMISSION OF ANNE ARUNDEL COUNTY SHALL APPOINT A QUALIFIED INDIVIDUAL TO FILL THAT VACANCY NO LATER THAN 30 DAYS AFTER THE GENERAL ELECTION.

3-2A-04.

[(b)] (A) (1) [(i)] There is a School Board **[(Nominating)] APPOINTMENT** Commission of Anne Arundel County.

[(ii)] (2) The purpose of the Commission is to select **[(nominees to be recommended to the Governor as qualified candidates for appointment to)] AND APPOINT QUALIFIED INDIVIDUALS TO FILL VACANCIES ON** the Anne Arundel County Board of Education.

~~[(iii)]~~ **(3)** The Commission shall hold at least two public hearings on the ~~[selection of nominees]~~ **CANDIDATES** before ~~[recommending to the Governor nominees for]~~ **MAKING AN** appointment to the county board.

~~[(2)]~~ **(B)** **(1)** The Commission consists of the following 13 members:

(i) ~~[Three]~~ **TWO** members appointed by the County Executive of Anne Arundel County from the county at large:

1. One of whom shall be a parent of a child enrolled in the Anne Arundel County public school system; and

2. No more than one of whom may be a current employee of Anne Arundel County;

(ii) One member appointed by the Teachers Association of Anne Arundel County;

(iii) One member appointed by the Annapolis and Anne Arundel County Chamber of Commerce;

(iv) One member appointed by the Anne Arundel County Community College Board of Trustees;

(v) One member appointed by the Association of Educational Leaders (AEL);

(vi) Two members appointed by the Anne Arundel County Council of Parent Teacher Associations who may not:

1. Be affiliated with a teachers' union or association; or

2. Be a current employee of Anne Arundel County;

(vii) One member appointed by the Anne Arundel County Branch of the National Association for the Advancement of Colored People (NAACP);

(viii) One member appointed by CASA de Maryland;

(ix) One member appointed by the Anne Arundel Special Education Citizens' Advisory Committee who is a parent of a child with special needs in the Anne Arundel County public school system; ~~[and]~~

(x) Beginning June 1, 2016, and every 2 years thereafter, one member appointed by a chamber of commerce based in Anne Arundel County on a rotating basis in the following order:

1. The West Anne Arundel County Chamber of Commerce;
2. The Northern Anne Arundel County Chamber of Commerce;
3. The Southern Anne Arundel Chamber of Commerce;
4. The Greater Crofton Chamber of Commerce; and
5. The Greater Severna Park and Arnold Chamber of Commerce; AND

(XI) ONE MEMBER DESIGNATED BY THE CHESAPEAKE REGIONAL ASSOCIATION OF STUDENT COUNCILS WHO IS A STUDENT ENROLLED IN THE ANNE ARUNDEL COUNTY PUBLIC SCHOOL SYSTEM.

[(3)] (2) (i) Each member of the Commission must be a resident of Anne Arundel County.

(ii) Except for the members appointed under paragraph **[(2)(ii) and (v)] (1)(II) AND (V)** of this subsection, a member of the Commission may not be a current employee of a county school board.

[(4)] (3) (i) The Commission shall select a chair from among its members.

(ii) The term of the chair of the Commission is 2 years.

[(5)] (4) (i) Except as provided in subparagraph (ii) of this paragraph, the term of a member of the Commission is 4 years.

(ii) **1.** The term of a member appointed by a chamber of commerce under paragraph **[(2)(x)] (1)(X)** of this subsection is 2 years.

2. THE TERM OF A MEMBER DESIGNATED BY THE CHESAPEAKE REGIONAL ASSOCIATION OF STUDENT COUNCILS UNDER PARAGRAPH (1)(XI) OF THIS SUBSECTION IS 1 YEAR.

(iii) A member may be reappointed but may not serve more than 8 years.

[(6)] (C) The Anne Arundel County Board of Education shall provide staff for the Commission.

[(7) (i)] **(D) (1)** The affirmative vote of at least eight members of the Commission is required for the approval of any action.

[(ii)] **(2)** A member of the Commission may not vote by proxy.

[(8) (i)] **(E) (1)** The Commission shall require each applicant for [nomination] **APPOINTMENT** to complete an application that includes:

[1.] **(I)** The full name and address of the individual;

[2.] **(II)** Any former name used by the individual;

[3.] **(III)** A statement as to whether the individual has any conviction for a crime that:

[A.] **1.** Relates to the responsibilities of a member of the county board; and

[B.] **2.** Has not been expunged or otherwise shielded;

[4.] **(IV)** A statement as to whether the individual has been adjudged bankrupt or insolvent; and

[5.] **(V)** A declaration that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief.

[(ii)] **(2)** The Commission shall consult the Maryland Judiciary Case Search to verify the statements made by the applicant under [subparagraph (i) of this paragraph] **PARAGRAPH (1) OF THIS SUBSECTION**.

[(9) Beginning January 1, 2008, for each nomination to the county board, the Commission shall submit to the Governor a list of nominees that contains:

(i) At least two names for each vacancy; or

(ii) If there are fewer than two applicants for a vacancy, the number of names that is equal to the number of applicants for the vacancy.

(c) (1) Following the appointment of a member of the Anne Arundel County Board of Education by the Governor, a member may serve for the remainder of the member's term, as provided in § 3–108(c) of this subtitle, subject to the approval or rejection of the registered voters of the county at the next general election.

(2) A member of the county board is eligible for nomination and reappointment for a second consecutive term in accordance with the provisions of subsections (a) and (b) of this section.

(3) (i) The approval or rejection of a member of the county board by the registered voters of the county provided for in subparagraph (ii) of this paragraph shall be a vote for the member's retention or removal.

(ii) On receipt of the notice required under § 5-301(h) of the Election Law Article, the name of the member of the county board shall be placed on the appropriate ballot and shown, without opposition, and the voters shall vote for or against the member's retention as a member of the county board.

(4) If the voters reject the retention of the member, or the vote is tied:

(i) The position shall become vacant 10 days after certification of the election returns;

(ii) The member shall resign from the county board effective 10 days after certification of the election returns; and

(iii) The member may not continue to serve on the county board.]

(F) AN INDIVIDUAL WHO TAKES OFFICE TO FILL A VACANCY FOR AN ELECTED OR APPOINTED MEMBER OF THE COUNTY BOARD SERVES FOR THE REMAINDER OF THE TERM FOR WHICH THE APPOINTMENT WAS MADE AND UNTIL A SUCCESSOR IS ELECTED OR APPOINTED.

3-2A-05.

[(d) (1)] **(A)** The student member shall:

[(i)] **(1)** Be a regularly enrolled senior year student of good character and in good standing in an Anne Arundel County public high school;

[(ii)] **(2)** Be selected in the student's junior year by a method selected by the Chesapeake Regional Association of Student Councils of Anne Arundel County;

[(iii) 1.] **(3) (I)** Serve a term of 1 year; and

[2.] (II) Continue to serve after graduation and until a successor is appointed and qualifies.

[(2)] (B) If a vacancy in the position of the student member occurs during the term of the student member, the Chesapeake Regional Association of Student Councils shall:

[(i)] (1) Conduct a special election at its next general meeting; and

[(ii)] (2) By utilizing the same method that it used to select the previous student member of the board, select another student member to fill the vacancy.

[(e)] A board member who does not maintain the residency qualification shall be replaced as a member.

[(f)] If the boundary line of a legislative district changes, an incumbent member of the county board who, because of the change, no longer resides in the legislative district from which the member was appointed may complete the term.]

3-2A-06.

THE AFFIRMATIVE VOTE OF AT LEAST FIVE MEMBERS OF THE COUNTY BOARD IS REQUIRED FOR THE APPROVAL OF ANY ACTION.

3-2A-07.

[(g)] (1) (A) The [President] **PRESIDENT** of the [Anne Arundel County Board of Education] **COUNTY BOARD** is entitled to receive [\$8,000] **\$10,000** annually as compensation, **THE VICE PRESIDENT IS ENTITLED TO RECEIVE \$9,000 ANNUALLY AS COMPENSATION**, and, except for the student member, the other board members are entitled to receive [\$6,000] **\$8,000** each annually as compensation.

[(2)] (B) A student member who completes a full term on the **COUNTY** board shall be granted a scholarship of ~~\$6,000~~ **\$8,000** to be applied toward the student's higher education costs.

3-2A-08.

(A) THE STATE BOARD MAY REMOVE ~~AN ELECTED OR APPOINTED~~ A MEMBER OF THE COUNTY BOARD FOR ANY OF THE FOLLOWING REASONS:

- (1) IMMORALITY;**
- (2) MISCONDUCT IN OFFICE;**
- (3) INCOMPETENCY;**
- (4) WILLFUL NEGLECT OF DUTY; OR**

(5) FAILURE TO ATTEND, WITHOUT GOOD CAUSE, AT LEAST 75% OF THE SCHEDULED MEETINGS OF THE COUNTY BOARD IN ANY 1 CALENDAR YEAR.

(B) BEFORE REMOVING A MEMBER, THE STATE BOARD SHALL SEND THE MEMBER A COPY OF THE CHARGES AGAINST THE MEMBER AND GIVE THE MEMBER AN OPPORTUNITY TO REQUEST A HEARING WITHIN 10 DAYS.

(C) IF THE MEMBER REQUESTS A HEARING WITHIN THE 10-DAY PERIOD:

(1) THE STATE BOARD PROMPTLY SHALL HOLD A HEARING, BUT A HEARING MAY NOT BE SET WITHIN 10 DAYS AFTER THE STATE BOARD SENDS THE MEMBER A NOTICE OF THE HEARING; AND

(2) THE MEMBER SHALL HAVE AN OPPORTUNITY TO BE HEARD PUBLICLY BEFORE THE STATE BOARD IN THE MEMBER'S OWN DEFENSE IN PERSON OR BY COUNSEL.

(D) A MEMBER REMOVED UNDER THIS SECTION HAS THE RIGHT TO A DE NOVO REVIEW OF THE REMOVAL BY THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY.

3-2B-01.

(a) The Baltimore County Board of Education consists of:

- (1) Seven nonpartisan elected members;
- (2) Four appointed members; and
- (3) One student member.

(b) (2) (i) The seven elected members shall be elected at a general election in accordance with [§ 3-2A-02] **§ 3-2B-02** of this subtitle.

(ii) The four appointed members shall be appointed by the Governor from a list of nominees submitted by the Baltimore County School Board Nominating Commission as provided in [§ 3-2A-03] **§ 3-2B-03** of this subtitle:

1. On the expiration of the term of an incumbent appointed member within 30 days after the general election; or

2. Within the 30-day period otherwise required under this subtitle.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Education

3–2A–03.

(c) In any election, if no candidate files a certificate of candidacy for the office or if no individual otherwise qualifies to have the individual's name placed on the ballot, the [School Board Appointment Commission of Anne Arundel County] ~~REMAINING MEMBERS OF THE COUNTY BOARD~~ **COUNTY COUNCIL OF ANNE ARUNDEL COUNTY** shall appoint a qualified individual to fill that vacancy no later than 30 days after the general election.

[3–2A–04.

(a) (1) There is a School Board Appointment Commission of Anne Arundel County.

(2) The purpose of the Commission is to select and appoint qualified individuals to fill vacancies on the Anne Arundel County Board of Education.

(3) The Commission shall hold at least two public hearings on the candidates before making an appointment to the county board.

(b) (1) The Commission consists of the following 13 members:

(i) Two members appointed by the County Executive of Anne Arundel County from the county at large:

1. One of whom shall be a parent of a child enrolled in the Anne Arundel County public school system; and

2. No more than one of whom may be a current employee of Anne Arundel County;

(ii) One member appointed by the Teachers Association of Anne Arundel County;

(iii) One member appointed by the Annapolis and Anne Arundel County Chamber of Commerce;

(iv) One member appointed by the Anne Arundel County Community College Board of Trustees;

(v) One member appointed by the Association of Educational Leaders (AEL);

(vi) Two members appointed by the Anne Arundel County Council of Parent Teacher Associations who may not:

1. Be affiliated with a teachers' union or association; or
2. Be a current employee of Anne Arundel County;

(vii) One member appointed by the Anne Arundel County Branch of the National Association for the Advancement of Colored People (NAACP);

(viii) One member appointed by CASA de Maryland;

(ix) One member appointed by the Anne Arundel Special Education Citizens' Advisory Committee who is a parent of a child with special needs in the Anne Arundel County public school system;

(x) Beginning June 1, 2016, and every 2 years thereafter, one member appointed by a chamber of commerce based in Anne Arundel County on a rotating basis in the following order:

1. The West Anne Arundel County Chamber of Commerce;
2. The Northern Anne Arundel County Chamber of Commerce;
3. The Southern Anne Arundel Chamber of Commerce;
4. The Greater Crofton Chamber of Commerce; and
5. The Greater Severna Park and Arnold Chamber of Commerce; and

(xi) One member designated by the Chesapeake Regional Association of Student Councils who is a student enrolled in the Anne Arundel County public school system.

(2) (i) Each member of the Commission must be a resident of Anne Arundel County.

(ii) Except for the members appointed under paragraph (1)(ii) and (v) of this subsection, a member of the Commission may not be a current employee of a county school board.

(3) (i) The Commission shall select a chair from among its members.

(ii) The term of the chair of the Commission is 2 years.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, the term of a member of the Commission is 4 years.

(ii) 1. The term of a member appointed by a chamber of commerce under paragraph (1)(x) of this subsection is 2 years.

2. The term of a member designated by the Chesapeake Regional Association of Student Councils under paragraph (1)(xi) of this subsection is 1 year.

(iii) A member may be reappointed but may not serve more than 8 years.

(c) The Anne Arundel County Board of Education shall provide staff for the Commission.

(d) (1) The affirmative vote of at least eight members of the Commission is required for the approval of any action.

(2) A member of the Commission may not vote by proxy.

(e) (1) The Commission shall require each applicant for appointment to complete an application that includes:

(i) The full name and address of the individual;

(ii) Any former name used by the individual;

(iii) A statement as to whether the individual has any conviction for a crime that:

1. Relates to the responsibilities of a member of the county board; and

2. Has not been expunged or otherwise shielded;

(iv) A statement as to whether the individual has been adjudged bankrupt or insolvent; and

(v) A declaration that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief.

(2) The Commission shall consult the Maryland Judiciary Case Search to verify the statements made by the applicant under paragraph (1) of this subsection.

(f) An individual who takes office to fill a vacancy for an elected or appointed member of the county board serves for the remainder of the term for which the appointment was made and until a successor is elected or appointed.]

3-2A-04.

THE REMAINING MEMBERS OF THE COUNTY BOARD COUNTY COUNCIL OF ANNE ARUNDEL COUNTY SHALL SELECT A QUALIFIED INDIVIDUAL TO FILL ANY VACANCY IN THE OFFICE OF AN ELECTED MEMBER OF THE COUNTY BOARD FOR THE REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS ELECTED AND QUALIFIES.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) (1) The terms of the following appointed members of the Anne Arundel County Board of Education who are in office on the effective date of this Act, or their successors, shall expire at the end of December 2, 2018:

(i) the member appointed from the county at large whose term is scheduled to expire June 30, 2017;

(ii) the member appointed from that portion of legislative district 21 that lies within Anne Arundel County whose term is scheduled to expire June 30, 2017;

(iii) the member appointed from the county at large whose term is scheduled to expire June 30, 2018; and

(iv) the member appointed from legislative district 32 whose term is scheduled to expire June 30, 2018.

(2) The members elected from councilmanic districts 1, 4, 5, and 7 at the general election in November 2018 shall succeed the appointed members whose terms expire under paragraph (1) of this subsection and shall each serve for a term of 6 years beginning December 3, 2018, until a successor is elected and qualifies.

(b) (1) The terms of the following appointed members of the Anne Arundel County Board of Education who are in office on the effective date of this Act, or their successors, shall expire at the end of December 6, 2020:

(i) the member appointed from the county at large whose term is scheduled to expire June 30, 2019;

(ii) the members appointed from legislative districts 30 and 31 whose terms are scheduled to expire June 30, 2020; and

(iii) the member appointed from legislative district 33 whose term is scheduled to expire June 30, 2021.

(2) The members elected from councilmanic districts 2, 3, and 6 ~~and the one member elected at large~~ at the general election in November 2020 shall succeed the appointed members whose terms expire under paragraph (1) of this subsection and shall each serve for a term of 4 years beginning December 7, 2020, until a successor is elected and qualifies.

SECTION 5. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the president, vice president, or other nonstudent members of the Anne Arundel County Board of Education while serving in a term of office beginning before the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the president, vice president, or other nonstudent members of the Anne Arundel County Board of Education shall take effect at the beginning of the next following term of office. This limitation does not apply to an individual appointed or elected after the effective date of this Act to fill out an unexpired term.

SECTION 6. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect November 1, 2020.

SECTION 7. AND BE IT FURTHER ENACTED, That, except as provided in Section 6 of this Act, this Act shall take effect June 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 474

(House Bill 85)

AN ACT concerning

Anne Arundel County – Charitable Gaming

FOR the purpose of authorizing certain organizations in Anne Arundel County to conduct a card game, card tournament, or casino event under certain circumstances; requiring an organization to obtain a permit from the County Department of Inspections and Permits before conducting a card game, card tournament, or casino event; requiring an organization that seeks a permit to meet certain requirements; specifying that a card game, card tournament, or casino event may be managed and operated by certain organizations; requiring an individual who participates in or volunteers as an operator of a card game, card tournament, or casino event to be of a certain age; specifying that a permit holder may receive a certain maximum number of permits in a calendar year; specifying that a permit is not transferable; requiring that proceeds from a card game, card tournament, or casino event be used for certain purposes and may not be used for certain other purposes; specifying that

the operation of a card game, card tournament, or casino event may be authorized only during certain times; authorizing a permit holder under this Act to charge only a preset entrance fee; requiring participants in a card game, card tournament, or casino event to use tokens and not cash for wagering under certain circumstances; authorizing the serving or sale of alcoholic beverages under certain circumstances; prohibiting a permit holder from exchanging tokens under certain circumstances; authorizing the County Executive and County Council to adopt certain regulations; providing a certain penalty; defining a certain term; and generally relating to gaming in Anne Arundel County.

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 13–401
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 13–404 and 13–408
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

BY adding to
Article – Criminal Law
Section 13–404.1
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

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

Article – Criminal Law

13–401.

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

(b) (1) “Casino event” means any event that involves a card game, dice game, or roulette game.

(2) “Casino event” does not include a card game or dice game that is played for tokens for which no cash prize is offered or awarded.

(c) “Gaming event” means a carnival, bazaar, raffle, or other organized gaming event.

13–404.

[A] EXCEPT AS PROVIDED IN § 13-404.1 OF THIS SUBTITLE, A person may not conduct a casino event in the county.

13-404.1.

(A) IN THIS SECTION, “PERMIT” MEANS A PERMIT TO CONDUCT A CARD GAME, CARD TOURNAMENT, OR CASINO EVENT.

(B) BEFORE AN ORGANIZATION MAY CONDUCT A CARD GAME, CARD TOURNAMENT, OR CASINO EVENT, THE ORGANIZATION SHALL OBTAIN A PERMIT FROM THE COUNTY DEPARTMENT OF INSPECTIONS AND PERMITS.

(C) TO QUALIFY FOR A PERMIT, AN ORGANIZATION SHALL BE:

~~(1) A BONA FIDE:~~

~~(I) AMATEUR ATHLETIC ORGANIZATION THAT IS AN ACCREDITED NONPROFIT;~~

~~(II) CHAMBER OF COMMERCE;~~

~~(III) HOSPITAL FOUNDATION;~~

~~(IV) PARENT TEACHER ASSOCIATION OR ORGANIZATION FOR A SCHOOL IN THE COUNTY;~~

~~(V) CHARITABLE NONPROFIT FOUNDATION THAT PROVIDES SUPPORT TO MILITARY PERSONNEL AND FAMILIES OF MILITARY PERSONNEL;~~

~~(VI) CHARITABLE NONPROFIT ORGANIZATION THAT PROVIDES VOCATIONAL TRAINING FOR DEVELOPMENTALLY DISABLED INDIVIDUALS;~~

~~(VII) VOLUNTEER FIRE COMPANY; OR~~

~~(VIII) WAR VETERANS’ ORGANIZATION; AND~~

~~(2) AN ORGANIZATION THAT HAS BEEN LOCATED IN THE COUNTY FOR AT LEAST 3 YEARS BEFORE THE ORGANIZATION APPLIES FOR A PERMIT UNDER THIS SECTION.~~

(1) A NONPROFIT FOUNDATION THAT PROVIDES SUPPORT TO THE WORK AND PEOPLE OF FORT GEORGE G. MEADE; OR

(2) A CHAMBER OF COMMERCE LOCATED WITHIN ANNE ARUNDEL COUNTY.

(D) (1) A CARD GAME, CARD TOURNAMENT, OR CASINO EVENT MAY BE:

(I) MANAGED AND OPERATED BY THE ORGANIZATION THAT IS THE PERMIT HOLDER; OR

(II) MANAGED BY THE ORGANIZATION THAT IS THE PERMIT HOLDER AND OPERATED BY ANOTHER ORGANIZATION LISTED IN SUBSECTION (C) OF THIS SECTION.

(2) (I) AN OPERATOR OF A CARD GAME, CARD TOURNAMENT, OR CASINO EVENT MAY NOT RECEIVE COMPENSATION.

(II) TO VOLUNTEER AS AN OPERATOR OF A CARD GAME, CARD TOURNAMENT, OR CASINO EVENT, AN INDIVIDUAL SHALL BE AT LEAST 18 YEARS OLD.

(III) TO PARTICIPATE IN A CARD GAME, CARD TOURNAMENT, OR CASINO EVENT, AN INDIVIDUAL SHALL BE AT LEAST 21 YEARS OLD.

(E) AN ORGANIZATION THAT IS THE PERMIT HOLDER MAY RECEIVE NOT MORE THAN ONE PERMIT IN A CALENDAR YEAR.

(F) A PERMIT IS NOT TRANSFERABLE.

(G) PROCEEDS FROM A CARD GAME, CARD TOURNAMENT, OR CASINO EVENT CONDUCTED UNDER THIS SECTION:

(1) SHALL BE USED TO BENEFIT A CHARITY OR TO FURTHER THE PURPOSE OF THE PERMIT HOLDER; AND

(2) MAY NOT BE USED FOR THE FINANCIAL BENEFIT OR PERSONAL USE OF AN INDIVIDUAL OR A GROUP OF INDIVIDUALS.

(H) A PERMIT MAY AUTHORIZE THE OPERATION OF A CARD GAME, CARD TOURNAMENT, OR CASINO EVENT ONLY ON FRIDAY OR SATURDAY BETWEEN 4 P.M. AND MIDNIGHT.

(I) (1) AN ORGANIZATION THAT IS THE PERMIT HOLDER MAY CHARGE ONLY A PRESET ENTRANCE FEE FOR A CARD GAME, CARD TOURNAMENT, OR CASINO EVENT.

(2) PARTICIPANTS IN A CARD GAME, CARD TOURNAMENT, OR CASINO EVENT SHALL RECEIVE TOKENS FOR WAGERING IN EXCHANGE FOR THE ENTRANCE FEE.

(3) A PARTICIPANT MAY PURCHASE ADDITIONAL TOKENS, AT A TOTAL COST NOT EXCEEDING 100% OF THE ENTRANCE FEE, DURING A CARD GAME, CARD TOURNAMENT, OR CASINO EVENT.

(4) AN ORGANIZATION THAT IS THE PERMIT HOLDER MAY NOT ALLOW CASH TO BE USED FOR WAGERING.

(5) A HOLDER OF A PERMIT MAY SERVE OR SELL ALCOHOLIC BEVERAGES AT A CARD GAME, CARD TOURNAMENT, OR CASINO EVENT ONLY IF THE HOLDER IS ISSUED THE PROPER ALCOHOLIC BEVERAGES LICENSE BY THE BOARD OF LICENSE COMMISSIONERS OF ANNE ARUNDEL COUNTY.

(J) AN ORGANIZATION THAT IS THE PERMIT HOLDER MAY NOT EXCHANGE TOKENS USED FOR WAGERING FOR:

(1) AN ITEM OF MERCHANDISE THAT IS WORTH MORE THAN \$500;

(2) MONEY; OR

(3) AN ITEM OF MERCHANDISE HAVING A VALUE THAT IS DIFFERENT FROM THE FAIR MARKET RETAIL VALUE OF THE ITEM OF MERCHANDISE THAT WAS RECEIVED FOR THE TOKENS.

(K) AN ORGANIZATION THAT IS FOUND TO HAVE VIOLATED THIS SECTION IS INELIGIBLE TO RECEIVE A PERMIT UNDER THIS SECTION FOR A PERIOD OF 5 YEARS.

(L) THE COUNTY EXECUTIVE MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION, INCLUDING REGULATIONS TO GOVERN:

(1) THE ISSUING OF PERMITS; AND

(2) THE CONDUCT AND MANAGEMENT OF A CARD GAME, CARD TOURNAMENT, OR CASINO EVENT IN A MANNER TO PREVENT FRAUD AND PROTECT THE PUBLIC.

(M) THE COUNTY COUNCIL MAY ADOPT REGULATIONS TO GOVERN PERMIT FEES UNDER THIS SECTION.

(a) A person may not knowingly operate or attempt to operate a gaming event in the county in violation of § 13–403 [or], § 13–404, **OR § 13–404.1** of 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 \$1,000 or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 475

(House Bill 373)

AN ACT concerning

Biotechnology Investment Tax Credit – Qualified Maryland Biotechnology Company – Definition

FOR the purpose of altering the definition of “qualified Maryland biotechnology company” to extend a certain period of time from a certain date that an active business may claim the biotechnology tax credit; altering the definition of “biotechnology company” to include a company that will be primarily engaged in certain activities within a certain time period; providing for the revocation of a certain tax credit certificate and the recapture of the tax credit under certain circumstances; providing for the application of this Act; and generally relating to credits against certain State taxes based on certain investments in biotechnology companies.

BY repealing and reenacting, without amendments,

Article – Tax – General
Section 10–725(a)(1)
Annotated Code of Maryland
(2016 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Tax – General
Section ~~10–725(a)(7)~~ 10–725(a)(2) and (7)
Annotated Code of Maryland
(2016 Replacement Volume)

BY adding to

Article – Tax – General
Section 10–725(j)
Annotated Code of Maryland

(2016 Replacement Volume)

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

Article – Tax – General

10–725.

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

(2) “Biotechnology company” means a company organized for profit that is primarily engaged in, OR WITHIN 2 MONTHS WILL BE PRIMARILY ENGAGED IN, the research, development, or commercialization of innovative and proprietary technology that comprises, interacts with, or analyzes biological material including biomolecules (DNA, RNA, or protein), cells, tissues, or organs.

(7) (i) “Qualified Maryland biotechnology company” means a biotechnology company that:

1. has its headquarters and base of operations in this State;
2. has fewer than 50 full-time employees;
3. except as provided in subparagraph (ii) of this paragraph, has been in active business no longer than [10] 12 years;
4. does not have its securities publicly traded on any exchange; and
5. has been certified as a biotechnology company by the Department.

(ii) “Qualified Maryland biotechnology company” includes:

1. a company that has been in active business for up to [12] 15 years if the Department determines that the company requires additional time to complete the process of regulatory approval; ~~OR~~
2. [for fiscal years 2012 and 2013 only, a company that has been in active business for up to 15 years; or
- 3.] a company that has been in active business no longer than [10] 12 years from the date the company first received a qualified investment under this section; **OR**

3. A COMPANY THAT, WITHIN 2 MONTHS OF THE RECEIPT OF THE INVESTMENT, HAS MET THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(J) IF A COMPANY RECEIVES AN INVESTMENT UNDER SUBSECTION (A)(7)(II)3 OF THIS SECTION AND FAILS TO SATISFY THE REQUIREMENTS FOR A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY WITHIN 2 MONTHS, THE DEPARTMENT SHALL REVOKE ANY FINAL TAX CREDIT CERTIFICATES THAT HAVE BEEN ISSUED AND RECAPTURE ANY TAX CREDITS ALREADY CLAIMED BY THE QUALIFIED INVESTOR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017, and shall be applicable to all initial credit certificates issued after June 30, 2017.

Approved by the Governor, May 4, 2017.

Chapter 476

(Senate Bill 226)

AN ACT concerning

Biotechnology Investment Tax Credit – Qualified Maryland Biotechnology Company – Definition

FOR the purpose of altering the definition of “qualified Maryland biotechnology company” to extend a certain period of time from a certain date that an active business may claim the biotechnology tax credit; *altering the definition of “biotechnology company” to include a company that will be primarily engaged in certain activities within a certain time period; providing for the revocation of a certain tax credit certificate and the recapture of the tax credit under certain circumstances; ~~altering the definition of “company” to include an entity that becomes duly organized and existing under certain laws and for a certain purpose within a certain time period; providing for the recapture of the credit under certain circumstances;~~* providing for the application of this Act; and generally relating to credits against certain State taxes based on certain investments in biotechnology companies.

BY repealing and reenacting, without amendments,
 Article – Tax – General
 Section 10–725(a)(1)
 Annotated Code of Maryland
 (2016 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Tax – General

~~Section 10-725(a)(7) 10-725(a)(3) and (7) and (f)~~

~~Section 10-725(a)(7) 10-725(a)(2) and (7)~~

Annotated Code of Maryland
(2016 Replacement Volume)

BY adding to

Article – Tax – General

Section 10-725(j)

Annotated Code of Maryland
(2016 Replacement Volume)

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

Article – Tax – General

10-725.

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

(2) *“Biotechnology company” means a company organized for profit that is primarily engaged in, **OR WITHIN 2 MONTHS WILL BE PRIMARILY ENGAGED IN,** the research, development, or commercialization of innovative and proprietary technology that comprises, interacts with, or analyzes biological material including biomolecules (DNA, RNA, or protein), cells, tissues, or organs.*

~~(3) (i) **1.** “Company” means any entity of any form duly organized and existing under the laws of any jurisdiction for the purpose of conducting business for profit.~~

~~**2.** “COMPANY” INCLUDES AN ENTITY THAT BECOMES DULY ORGANIZED AND EXISTING UNDER THE LAWS OF ANY JURISDICTION FOR THE PURPOSE OF CONDUCTING BUSINESS FOR PROFIT WITHIN 4 MONTHS OF RECEIVING A QUALIFIED INVESTMENT.~~

~~(ii) “Company” does not include a sole proprietorship.~~

(7) (i) “Qualified Maryland biotechnology company” means a biotechnology company that:

1. has its headquarters and base of operations in this State;
2. has fewer than 50 full-time employees;

3. except as provided in subparagraph (ii) of this paragraph, has been in active business no longer than [10] 12 years;

4. does not have its securities publicly traded on any exchange; and

5. has been certified as a biotechnology company by the Department.

(ii) “Qualified Maryland biotechnology company” includes:

1. a company that has been in active business for up to [12] 15 years if the Department determines that the company requires additional time to complete the process of regulatory approval; ~~OR~~

2. [for fiscal years 2012 and 2013 only, a company that has been in active business for up to 15 years; or

3.] a company that has been in active business no longer than [10] 12 years from the date the company first received a qualified investment under this section; OR

3. A COMPANY THAT, WITHIN 2 MONTHS OF THE RECEIPT OF THE INVESTMENT, HAS MET THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(J) IF A COMPANY RECEIVES AN INVESTMENT UNDER SUBSECTION (A)(7)(II)3 OF THIS SECTION AND FAILS TO SATISFY THE REQUIREMENTS FOR A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY WITHIN 2 MONTHS, THE DEPARTMENT SHALL REVOKE ANY FINAL TAX CREDIT CERTIFICATES THAT HAVE BEEN ISSUED AND RECAPTURE ANY TAX CREDITS ALREADY CLAIMED BY THE QUALIFIED INVESTOR.

~~(f) (1) The credit claimed under this section shall be recaptured as provided in paragraph (2)(3) of this subsection if within 2 years from the close of the taxable year for which the credit is claimed:~~

~~(i) the qualified investor sells, transfers, or otherwise disposes of the ownership interest in the qualified Maryland biotechnology company that gave rise to the credit; or~~

~~(ii) the qualified Maryland biotechnology company that gave rise to the credit ceases operating as an active business with its headquarters and base of operations in the State.~~

~~(2) THE CREDIT CLAIMED UNDER THIS SECTION SHALL BE RECAPTURED AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION IF, WITHIN 4 MONTHS OF RECEIVING A QUALIFIED INVESTMENT, A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY IS NOT DULY ORGANIZED AND EXISTING UNDER THE LAWS OF ANY JURISDICTION FOR THE PURPOSE OF CONDUCTING BUSINESS FOR PROFIT.~~

~~[(2)](3) The amount required to be recaptured under this subsection is the product of multiplying:~~

~~(i) the total amount of the credit claimed or, in the case of an event described in paragraph (1)(i) of this subsection, the portion of the credit attributable to the ownership interest disposed of; and~~

~~(ii) 1. 100%, if the event requiring recapture of the credit occurs during the taxable year for which the tax credit is claimed;~~

~~2. 67%, if the event requiring recapture of the credit occurs during the first year after the close of the taxable year for which the tax credit is claimed; or~~

~~3. 33%, if the event requiring recapture of the credit occurs more than 1 year but not more than 2 years after the close of the taxable year for which the tax credit is claimed.~~

~~(3)(4) The qualified investor that claimed the credit shall pay the amount to be recaptured as determined under paragraph [(2)](3) of this subsection as taxes payable to the State for the taxable year in which the event requiring recapture of the credit occurs.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017, and shall be applicable to all initial credit certificates issued after June 30, 2017.

Approved by the Governor, May 4, 2017.

Chapter 477

(Senate Bill 50)

AN ACT concerning

Cemeteries – Authority to Maintain and Repair Memorials and Monuments

FOR the purpose of establishing that, ~~except as provided by certain provisions of law,~~ the owner of a burial lot is responsible for the ~~maintenance and repair~~ care of certain memorials and monuments; ~~authorizing providing that this Act does not prohibit a responsible party for a cemetery to maintain or repair from maintaining or repairing a memorial or monument if certain notice is given and a certain person fails to object, requiring a notice under this Act to include certain information, be sent to a certain address, and be published a certain number of times in a certain newspaper, authorizing a certain responsible party to use certain money to carry out certain notice requirements and certain maintenance and repairs; prohibiting a certain responsible party from performing certain maintenance and repair under certain circumstances; providing for the application of this Act under certain circumstances;~~ and generally relating to cemeteries and the maintenance and repair of memorials and monuments.

BY adding to

Article – Business Regulation
 Section 5–503(e) ~~and 5–804~~
 Annotated Code of Maryland
 (2015 Replacement Volume and 2016 Supplement)

~~BY repealing and reenacting, with amendments,~~

~~Article – Business Regulation
 Section 5–603(e)
 Annotated Code of Maryland
 (2015 Replacement Volume and 2016 Supplement)~~

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

Article – Business Regulation

5–503.

(E) (1) ~~EXCEPT AS PROVIDED IN § 5–804 OF THIS TITLE, THE~~ THE OWNER OF A BURIAL LOT IS RESPONSIBLE FOR THE ~~MAINTENANCE AND REPAIR~~ CARE OF A MEMORIAL OR MONUMENT PLACED ON THE BURIAL LOT.

(2) NOTHING IN THIS SECTION MAY BE CONSTRUED TO PROHIBIT A PARTY RESPONSIBLE FOR A CEMETERY FROM MAINTAINING OR REPAIRING A DAMAGED MEMORIAL OR MONUMENT.

~~5–603.~~

~~(e) The income from the perpetual care trust fund:~~

~~(1) shall be used only for the perpetual care of the cemetery, including:~~

~~(i) the maintenance, including the cutting of grass abutting memorials or monuments, administration, supervision, and embellishment of the cemetery and its grounds, roads, and paths; and~~

~~(ii) the repair and renewal of buildings, including columbaria and mausoleums, and the property of the cemetery; and~~

~~(2) EXCEPT AS PROVIDED IN § 5-804 OF THIS TITLE, may not be used to care for memorials or monuments.~~

~~5-804.~~

~~(A) THIS SECTION APPLIES TO A CEMETERY THAT IS:~~

~~(1) A PERPETUAL CARE CEMETERY; OR~~

~~(2) NOT A PERPETUAL CARE CEMETERY.~~

~~(B) (1) THE RESPONSIBLE PARTY FOR A CEMETERY MAY MAINTAIN OR REPAIR A MEMORIAL OR MONUMENT IF NOTICE OF THE INTENDED MAINTENANCE OR REPAIR IS GIVEN TO THE OWNER OF THE BURIAL LOT ON WHICH THE MEMORIAL OR MONUMENT IS PLACED IN ACCORDANCE WITH THIS SUBSECTION AND THE OWNER OR A RELATIVE OF THE OWNER FAILS TO OBJECT TO THE MAINTENANCE OR REPAIR.~~

~~(2) THE NOTICE SHALL BE:~~

~~(I) SENT BY FIRST CLASS MAIL TO THE LAST KNOWN ADDRESS OF THE OWNER OF THE BURIAL LOT ON WHICH THE MEMORIAL OR MONUMENT IS PLACED; AND~~

~~(II) PUBLISHED ONCE A WEEK FOR 3 SUCCESSIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE CEMETERY IS LOCATED.~~

~~(3) THE NOTICE SHALL INCLUDE:~~

~~(I) THE NAME OF THE OWNER OF THE BURIAL LOT ON WHICH THE MEMORIAL OR MONUMENT IS PLACED;~~

~~(II) THE NAME OF THE CEMETERY IN WHICH THE BURIAL LOT IS LOCATED;~~

~~(III) THE NATURE OF THE MAINTENANCE OR REPAIR THAT IS NEEDED;~~

~~(IV) CONTACT INFORMATION FOR THE RESPONSIBLE PARTY FOR THE CEMETERY; AND~~

~~(V) A STATEMENT THAT THE MAINTENANCE OR REPAIR OF THE MEMORIAL OR MONUMENT WILL BE CONDUCTED WITHOUT THE CONSENT OF THE OWNER IF THE OWNER OR A RELATIVE OF THE OWNER DOES NOT OBJECT WITHIN 30 DAYS AFTER THE DATE OF THE FINAL PUBLICATION OF THE NOTICE IN ACCORDANCE WITH PARAGRAPH (2)(II) OF THIS SUBSECTION.~~

~~(c) TO CARRY OUT THE NOTICE REQUIREMENTS OF THIS SECTION AND THE SUBSEQUENT MAINTENANCE AND REPAIR AUTHORIZED UNDER THIS SECTION, A RESPONSIBLE PARTY FOR A CEMETERY MAY USE MONEY FROM:~~

~~(1) A PERPETUAL CARE TRUST FUND; AND~~

~~(2) ANY OTHER MONEY USED BY THE CEMETERY FOR MAINTENANCE OR REPAIR OF THE CEMETERY, INCLUDING MAINTENANCE OR REPAIR OF THE GROUNDS, ROADS, PATHS, BUILDINGS, AND PROPERTY OF THE CEMETERY.~~

~~(d) IF THE OWNER OR A RELATIVE OF THE OWNER OF A BURIAL LOT ON WHICH A MEMORIAL OR MONUMENT IS PLACED OBJECTS TO THE MAINTENANCE OR REPAIR IDENTIFIED IN A NOTICE MADE UNDER THIS SECTION, THE RESPONSIBLE PARTY FOR THE CEMETERY MAY NOT PERFORM THE MAINTENANCE OR REPAIR.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 478

(Senate Bill 636)

AN ACT concerning

Commission on the Commemoration of the 100th Anniversary of the Passage of the 19th Amendment to the United States Constitution

FOR the purpose of altering the membership of the Commission on the Commemoration of the 100th Anniversary of the Passage of the 19th Amendment to the United States

Constitution to include a representative of the Maryland Heritage Women's History Center; and generally relating to the Commission on the Commemoration of the 100th Anniversary of the Passage of the 19th Amendment to the United States Constitution.

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–3001
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

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

Article – State Government

9–3001.

(a) There is a Commission on the Commemoration of the 100th Anniversary of the Passage of the 19th Amendment to the United States Constitution.

(b) The Commission consists of the following members:

- (1) the Governor, or the Governor's designee;
- (2) two members of the Senate of Maryland, appointed by the President of the Senate;
- (3) two members of the House of Delegates, appointed by the Speaker of the House;
- (4) two members of the Maryland Commission for Women, appointed by the chair of the Maryland Commission for Women;
- (5) the Director of the Division of Historical and Cultural Programs in the Department of Housing and Community Development, or the Director's designee;
- (6) the Assistant Secretary for Tourism, Film, and the Arts in the Department of Commerce, or the Assistant Secretary's designee;
- (7) the Executive Director of the Maryland Historical Society, or the Executive Director's designee;
- (8) the State Archivist, or the State Archivist's designee; and
- (9) the following members, appointed by the Governor:

- (i) one representative of the League of Women Voters of Maryland;
- (ii) one representative of the Maryland State Conference of the National Association for the Advancement of Colored People;
- (iii) one representative of the Maryland Democratic Party Women's Diversity Leadership Council; [and]
- (iv) one representative of the Maryland Federation of Republican Women; AND

(V) ONE REPRESENTATIVE OF THE MARYLAND HERITAGE WOMEN'S HISTORY CENTER.

- (c) The Governor shall designate the chair of the Commission.
- (d) The Maryland State Archives shall provide staff for the Commission.
- (e) A member of the Commission:
 - (1) may not receive compensation as a member of the Commission; but
 - (2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.
- (f) The Commission shall:
 - (1) assemble an inventory of sites in Maryland that are significant to the women's suffrage movement and the ratification of the 19th Amendment to the United States Constitution;
 - (2) develop a plan for commemorating the events that occurred in Maryland connected to the women's suffrage movement and the ratification of the 19th Amendment to the United States Constitution;
 - (3) develop a strategy to encourage tourism related to the commemoration;
 - (4) make recommendations concerning facility development and repair related to the commemoration;
 - (5) coordinate with the federal government, local governments in the State, and neighboring jurisdictions regarding the development of plans commemorating the women's suffrage movement and the ratification of the 19th Amendment to the United States Constitution; and

(6) if appropriate, receive testimony from and consult with individuals who are knowledgeable regarding the issues of interest to the Commission.

(g) On or before December 31, 2014, and annually thereafter for the following 5 years, the Commission shall report its activities, 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 October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 479

(Senate Bill 924)

AN ACT concerning

Commissioner of Financial Regulation and State Collection Agency Licensing Board – Surety Bond Requirements for Licensees and Registrants

FOR the purpose of altering and establishing certain surety bond requirements for certain persons licensed or registered by the Commissioner of Financial Regulation and certain persons licensed by the State Collection Agency Licensing Board; requiring a certain applicant for a new license to file, with the application, a surety bond with the Board; requiring the bond to run to the Board, as obligee, for the benefit of the State and certain persons; altering the requirements that a bond filed with the Board must meet; altering and establishing the liability of a surety under certain bonds; authorizing the cancellation of certain bonds under certain circumstances; authorizing the Board, the Commissioner, and certain claimants to file a claim against certain bonds; requiring, under certain circumstances, a surety to pay the amount of a bond to the Board or the Commissioner; requiring certain licensees and registrants to file a new or an additional bond or deposit in lieu of a bond under certain circumstances; authorizing certain penalties to be collected and paid from the proceeds of certain bonds or deposits in lieu of a bond; requiring certain bonds to run to the Commissioner, as obligee, for the benefit of the State and certain persons; altering and establishing the requirements that a bond filed with the Commissioner must meet; repealing a requirement that certain licensees file a bond on renewal of a license; providing that the aggregate principal amount of certain mortgage loans that must be reported in a certain sworn statement by certain mortgage lenders includes loans serviced by the mortgage lenders; authorizing a certain receiver or the Commissioner, under certain circumstances, to reduce a certain bond or a deposit in lieu of a bond to cash and use the cash for a certain purpose; requiring a certain deposit in lieu of a surety to be in a certain amount; requiring the Commissioner to

consider certain factors in setting the amount of a certain deposit in lieu of a surety bond; authorizing the Commissioner to require evidence of an additional deposit in lieu of a surety bond to be filed by a certain licensee under certain circumstances; repealing certain obsolete provisions of law; making certain stylistic, clarifying, and conforming changes; and generally relating to surety bond requirements for licensees and registrants of the Commissioner of Financial Regulation and licensees of the State Collection Agency Licensing Board.

BY repealing and reenacting, with amendments,
 Article – Business Regulation
 Section 7–304
 Annotated Code of Maryland
 (2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
 Article – Financial Institutions
 Section 11–206, 11–508, 11–511, 12–412, 12–914, and 12–1014
 Annotated Code of Maryland
 (2011 Replacement Volume and 2016 Supplement)

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

Article – Business Regulation

7–304.

(a) (1) [An applicant] **WITH AN APPLICATION** for a **NEW** license, **AN APPLICANT** shall [execute] **FILE** a surety bond [for the benefit of any] **WITH THE BOARD**.

(2) THE BOND SHALL RUN TO THE BOARD, AS OBLIGEE, FOR THE BENEFIT OF:

(I) THE STATE; AND

(II) ANY member of the public who has a loss or other damage as a result of a violation of this title or the Maryland Consumer Debt Collection Act by the applicant or an agent or employee of the applicant.

[(2)] (3) The [surety] bond shall be:

[(i)] in a form that the Board approves;

[(ii)] with a surety that the Board approves; and

[(iii)] (I) in the amount of \$5,000;

(II) ISSUED BY A SURETY COMPANY THAT:

- 1. IS AUTHORIZED TO DO BUSINESS IN THE STATE; AND**
- 2. HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE MARYLAND INSURANCE COMMISSIONER; AND**

(III) CONDITIONED THAT THE LICENSEE SHALL COMPLY WITH THE MARYLAND CONSUMER DEBT COLLECTION ACT AND ANY OTHER LAWS APPLICABLE TO CONSUMER DEBT COLLECTION.

[(3)] (4) The [total] liability of [a] THE surety [on a bond under this section may not exceed the amount of the bond, regardless of the number or amount of claims against the bond]:

(I) SHALL BE CONTINUOUS;

(II) MAY NOT BE AGGREGATED OR CUMULATIVE, WHETHER OR NOT THE BOND IS RENEWED, CONTINUED, REPLACED, OR MODIFIED;

(III) MAY NOT BE DETERMINED BY ADDING TOGETHER THE PENAL SUM OF THE BOND, OR ANY PART OF THE PENAL SUM OF THE BOND, IN EXISTENCE AT ANY TWO OR MORE POINTS IN TIME;

(IV) SHALL BE CONSIDERED TO BE ONE CONTINUOUS OBLIGATION, REGARDLESS OF INCREASES OR DECREASES IN THE PENAL SUM OF THE BOND;

(V) MAY NOT BE AFFECTED BY:

- 1. THE INSOLVENCY OR BANKRUPTCY OF THE LICENSEE;**
- 2. ANY MISREPRESENTATION, BREACH OF WARRANTY, FAILURE TO PAY A PREMIUM, OR ANY OTHER ACT OR OMISSION OF THE LICENSEE OR AN AGENT OF THE LICENSEE; OR**
- 3. THE SUSPENSION OF THE LICENSEE'S LICENSE;**

(VI) MAY NOT REQUIRE AN ADMINISTRATIVE ENFORCEMENT ACTION BY THE BOARD AS A PREREQUISITE TO LIABILITY; AND

(VII) SHALL CONTINUE FOR 3 YEARS AFTER THE LATER OF THE DATE ON WHICH:

1. THE BOND IS CANCELED; OR
2. THE LICENSEE, FOR ANY REASON, CEASES TO BE LICENSED.

(5) (I) A BOND MAY BE CANCELED BY THE SURETY OR THE LICENSEE BY GIVING NOTICE OF CANCELLATION TO THE BOARD.

(II) NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

1. BE IN WRITING; AND
2. BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

(III) A CANCELLATION OF A BOND UNDER THIS PARAGRAPH IS NOT EFFECTIVE UNTIL 90 DAYS AFTER RECEIPT OF A NOTICE OF CANCELLATION BY THE BOARD.

(6) A CLAIM AGAINST THE BOND MAY BE FILED WITH THE SURETY BY:

- (I) A CLAIMANT; OR
- (II) THE BOARD FOR THE BENEFIT OF A CLAIMANT OR THE STATE.

[(4)] (7) If the amount of claims against a bond exceeds the amount of the bond, the surety:

- (i) shall pay the amount of the bond to the Board for PRO RATA distribution to claimants; and
- (ii) [then] is relieved of liability under the bond.

(8) IF THE PENAL AMOUNT OF THE BOND IS REDUCED BY PAYMENT OF A CLAIM OR JUDGMENT, THE LICENSEE SHALL FILE A NEW OR ADDITIONAL BOND WITH THE BOARD.

(9) A PENALTY IMPOSED AGAINST A LICENSEE UNDER § 7–205(B) OF THIS TITLE MAY BE COLLECTED AND PAID FROM THE PROCEEDS OF A BOND REQUIRED UNDER THIS SUBSECTION.

(b) The Board shall issue a license to each applicant who meets the requirements of this subtitle.

Article – Financial Institutions

11–206.

(a) (1) To apply for a license, an applicant shall sign and submit to the Commissioner a verified application on the form that the Commissioner requires.

(2) The application shall include:

(i) The applicant's name and address and, if the applicant is not an individual, the names and addresses of each of its principal owners and each of its officers, directors, or members;

(ii) The address at which the business is to be conducted; and

(iii) Any other pertinent information that the Commissioner requires for an investigation and findings under § 11–207 of this subtitle.

(b) With the application, the applicant shall pay to the Commissioner:

(1) An investigation fee of \$100; and

(2) A license fee of:

(i) \$1,700 if the applicant applies for a license to be issued on or after January 1 and on or before December 31 of an even-numbered year; **OR**

(ii) **[Effective January 1, 1999,]** \$850 if the applicant applies for a license to be issued on or after January 1 and on or before December 31 of an odd-numbered year~~];~~ or

(iii) \$1,700 if the applicant applies for a license to be issued on or after October 1, 1997 and on or before December 31, 1997].

(c) (1) With the application, the applicant shall file **A SURETY BOND** with the Commissioner ~~[a surety bond]~~.

(2) The ~~[surety]~~ bond ~~[filed under this subsection]~~ shall run to ~~[this State]~~ **THE COMMISSIONER, AS OBLIGEE**, for the benefit of ~~[this]~~:

(I) **THE** State; and [of any]

(II) **ANY** person who has a cause of action against the applicant under the Maryland Consumer Loan Law.

(3) The [surety] bond shall be:

(i) In an amount equal to twice the amount of the largest loan that may be made under the Maryland Consumer Loan Law;

(ii) [With sureties that the Commissioner approves] **ISSUED BY A SURETY COMPANY THAT:**

1. **IS AUTHORIZED TO DO BUSINESS IN THE STATE;** and

2. **HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE MARYLAND INSURANCE COMMISSIONER; AND**

(iii) Conditioned that the [applicant will comply] **LICENSEE SHALL:**

1. **COMPLY** with the Maryland Consumer Loan Law; and
[will pay]

2. **PAY** to [this] **THE** State or to any person any money that the [applicant] **LICENSEE** may owe to [this] **THE** State or to [that] **THE** person under the Maryland Consumer Loan Law.

(4) **THE LIABILITY OF THE SURETY:**

(I) **SHALL BE CONTINUOUS;**

(II) **MAY NOT BE AGGREGATED OR CUMULATIVE, WHETHER OR NOT THE BOND IS RENEWED, CONTINUED, REPLACED, OR MODIFIED;**

(III) **MAY NOT BE DETERMINED BY ADDING TOGETHER THE PENAL SUM OF THE BOND, OR ANY PART OF THE PENAL SUM OF THE BOND, IN EXISTENCE AT ANY TWO OR MORE POINTS IN TIME;**

(IV) **SHALL BE CONSIDERED TO BE ONE CONTINUOUS OBLIGATION, REGARDLESS OF INCREASES OR DECREASES IN THE PENAL SUM OF THE BOND;**

(V) **MAY NOT BE AFFECTED BY:**

1. THE INSOLVENCY OR BANKRUPTCY OF THE LICENSEE;

2. ANY MISREPRESENTATION, BREACH OF WARRANTY, FAILURE TO PAY A PREMIUM, OR ANY OTHER ACT OR OMISSION OF THE LICENSEE OR AN AGENT OF THE LICENSEE; OR

3. THE SUSPENSION OF THE LICENSEE'S LICENSE;

(VI) MAY NOT REQUIRE AN ADMINISTRATIVE ENFORCEMENT ACTION BY THE COMMISSIONER AS A PREREQUISITE TO LIABILITY; AND

(VII) SHALL CONTINUE FOR 3 YEARS AFTER THE LATER OF THE DATE ON WHICH:

1. THE BOND IS CANCELED; OR

2. THE LICENSEE, FOR ANY REASON, CEASES TO BE LICENSED.

(5) (I) A BOND MAY BE CANCELED BY THE SURETY OR THE LICENSEE BY GIVING NOTICE OF CANCELLATION TO THE COMMISSIONER.

(II) NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

1. BE IN WRITING; AND

2. BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

(III) A CANCELLATION OF A BOND UNDER THIS PARAGRAPH IS NOT EFFECTIVE UNTIL 90 DAYS AFTER RECEIPT OF A NOTICE OF CANCELLATION BY THE COMMISSIONER.

(6) A CLAIM AGAINST THE BOND MAY BE FILED WITH THE SURETY BY:

(I) A CLAIMANT; OR

(II) THE COMMISSIONER FOR THE BENEFIT OF A CLAIMANT OR THE STATE.

(7) IF THE AMOUNT OF CLAIMS AGAINST A BOND EXCEEDS THE AMOUNT OF THE BOND, THE SURETY:

(I) SHALL PAY THE AMOUNT OF THE BOND TO THE COMMISSIONER FOR PRO RATA DISTRIBUTION TO CLAIMANTS; AND

(II) IS RELIEVED OF LIABILITY UNDER THE BOND.

(8) IF THE PENAL AMOUNT OF A BOND IS REDUCED BY PAYMENT OF A CLAIM OR JUDGMENT, THE LICENSEE SHALL FILE A NEW OR ADDITIONAL BOND WITH THE COMMISSIONER.

(9) A PENALTY IMPOSED AGAINST A LICENSEE UNDER § 2-115(B) OF THIS ARTICLE MAY BE COLLECTED AND PAID FROM THE PROCEEDS OF A BOND REQUIRED UNDER THIS SUBSECTION.

(d) For each license for which an applicant applies, the applicant shall:

- (1) Submit a separate application; AND
- (2) Pay a separate investigation fee and license fee[; and
- (3) File a separate bond].

11-508.

(a) [An] **WITH THE APPLICATION FOR A NEW LICENSE, AN** applicant [for a new license or for the renewal of a license] shall file a surety bond with [each original application and any renewal application for the license] **THE COMMISSIONER.**

(b) **(1) The [surety] bond shall[:**

(1) Run] **RUN** to the Commissioner [and be], **AS OBLIGEE**, for the benefit of [any]:

(I) THE STATE; AND

(II) ANY mortgage loan borrower who has been damaged by a violation committed by a licensee of any law or regulation governing the activities of mortgage lenders[;].

(2) [Be issued] **THE BOND SHALL BE:**

(I) IN AN AMOUNT DETERMINED BY THE COMMISSIONER UNDER SUBSECTION (C) OF THIS SECTION;

(II) ISSUED by a surety company THAT:

1. IS authorized to do business in the State; AND

2. HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE MARYLAND INSURANCE COMMISSIONER; AND

[(3)] (III) [Be conditioned] CONDITIONED that the [applicant] LICENSEE shall comply with all Maryland laws regulating the activities of mortgage lenders and mortgage loan lending[]; and

(4) Be approved by the Commissioner].

(3) THE LIABILITY OF THE SURETY:

(I) SHALL BE CONTINUOUS;

(II) MAY NOT BE AGGREGATED OR CUMULATIVE, WHETHER OR NOT THE BOND IS RENEWED, CONTINUED, REPLACED, OR MODIFIED;

(III) MAY NOT BE DETERMINED BY ADDING TOGETHER THE PENAL SUM OF THE BOND, OR ANY PART OF THE PENAL SUM OF THE BOND, IN EXISTENCE AT ANY TWO OR MORE POINTS IN TIME;

(IV) SHALL BE CONSIDERED TO BE ONE CONTINUOUS OBLIGATION, REGARDLESS OF INCREASES OR DECREASES IN THE PENAL SUM OF THE BOND;

(V) MAY NOT BE AFFECTED BY:

1. THE INSOLVENCY OR BANKRUPTCY OF THE LICENSEE;

2. ANY MISREPRESENTATION, BREACH OF WARRANTY, FAILURE TO PAY A PREMIUM, OR ANY OTHER ACT OR OMISSION OF THE LICENSEE OR AN AGENT OF THE LICENSEE; OR

3. THE SUSPENSION OF THE LICENSEE'S LICENSE;

(VI) MAY NOT REQUIRE AN ADMINISTRATIVE ENFORCEMENT ACTION BY THE COMMISSIONER AS A PREREQUISITE TO LIABILITY; AND

(VII) SHALL CONTINUE FOR 3 YEARS AFTER THE LATER OF THE DATE ON WHICH:

1. THE BOND IS CANCELED; OR
2. THE LICENSEE, FOR ANY REASON, CEASES TO BE LICENSED.

(4) (I) A BOND MAY BE CANCELED BY THE SURETY OR THE LICENSEE BY GIVING NOTICE OF CANCELLATION TO THE COMMISSIONER.

(II) NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

1. BE IN WRITING; AND
2. BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

(III) A CANCELLATION OF A BOND UNDER THIS PARAGRAPH IS NOT EFFECTIVE UNTIL 90 DAYS AFTER RECEIPT OF A NOTICE OF CANCELLATION BY THE COMMISSIONER.

(5) A CLAIM AGAINST THE BOND MAY BE FILED WITH THE SURETY BY:

- (I) A CLAIMANT; OR
- (II) THE COMMISSIONER FOR THE BENEFIT OF A CLAIMANT OR THE STATE.

(6) IF THE AMOUNT OF CLAIMS AGAINST A BOND EXCEEDS THE AMOUNT OF THE BOND, THE SURETY:

- (I) SHALL PAY THE AMOUNT OF THE BOND TO THE COMMISSIONER FOR PRO RATA DISTRIBUTION TO CLAIMANTS; AND
- (II) IS RELIEVED OF LIABILITY UNDER THE BOND.

(7) IF THE PENAL AMOUNT OF A BOND IS REDUCED BY PAYMENT OF A CLAIM OR JUDGMENT, THE LICENSEE SHALL FILE A NEW OR ADDITIONAL BOND WITH THE COMMISSIONER.

(8) A PENALTY IMPOSED AGAINST A LICENSEE UNDER § 2–115(B) OF THIS ARTICLE OR § 11–517(C) OF THIS SUBTITLE MAY BE COLLECTED AND PAID FROM THE PROCEEDS OF A BOND REQUIRED UNDER THIS SECTION.

(c) **(1)** If an applicant has not conducted a mortgage lending business any time during the 36 months prior to the filing of an original application for a license, the applicant shall provide a sworn statement setting forth that fact.

[(d) **(1)**] **(2)** If an applicant has conducted a mortgage lending business any time during the 36 months prior to the filing of an original [or renewal] application, the applicant shall provide a sworn statement setting forth the aggregate principal amount of mortgage loans secured or to be secured by property located in Maryland and applied for and accepted **OR SERVICED** or mortgage loans secured or to be secured by property located in Maryland and applied for, procured, and accepted **OR SERVICED** by the mortgage lender during the 12 months immediately preceding the month in which the application is filed.

[(2)] **(3)** If an applicant has conducted a mortgage lending business any time during the 36 months prior to the filing of an original application, but during that time has not acted as a mortgage lender in Maryland, the applicant shall provide with the original application a sworn statement setting forth the aggregate principal amount of loans secured or to be secured by a dwelling or residential real estate located in states other than Maryland and applied for, procured, and accepted **OR SERVICED** by the mortgage lender during the 12 months preceding the month in which the application is filed.

[(3)] **(4)** Except as provided in subsection [(e)] **(D)** of this section, the applicant shall file with the original [or renewal] application:

(i) Where the aggregate principal amount of loans set forth in the sworn statement was \$3,000,000 or less, a surety bond in the amount of \$50,000;

(ii) Where the aggregate principal amount of loans set forth in the sworn statement was more than \$3,000,000 but not more than \$10,000,000, a surety bond in the amount of \$100,000; and

(iii) Where the aggregate principal amount of loans set forth in the sworn statement was more than \$10,000,000, a surety bond in the amount of \$150,000.

[(e)] **(D)** Notwithstanding any other provisions of this section, and subject to approval by the Commissioner, if an applicant files five or more original or renewal applications at the same time, the applicant may provide a blanket surety bond for all licensed offices in the amount of \$750,000.

[(f)] **(E)** Subject to approval by the Commissioner, an applicant for license who files an application for a new license [or for the renewal of a license] may satisfy the bonding requirement under this section by establishing a trust account with or obtaining

an irrevocable letter of credit from a financial institution insured by the Federal Deposit Insurance Corporation in an amount equal to the bond required under this section.

[(g)] (F) (1) The Commissioner may adopt regulations reasonably necessary to assure that the proper surety bond amount established by this section is maintained by each licensee throughout each licensing term.

(2) The regulations may provide for periodic reporting, recalculation, and enforcement of required bond amounts.

(G) IF A MORTGAGE SERVICER IS SUBJECT TO A RECEIVERSHIP PROCEEDING, THE COMMISSIONER OR A RECEIVER APPOINTED UNDER § 7-404.1(B)(2) OR § 7-506(B) OF THE REAL PROPERTY ARTICLE, WITHOUT REGARD TO ANY PRIORITIES, PREFERENCES, OR ADVERSE CLAIMS, MAY:

(1) REDUCE THE BOND OR THE DEPOSIT IN LIEU OF A BOND TO CASH;
AND

(2) USE THE CASH TO DEFRAY THE COSTS ASSOCIATED WITH THE RECEIVERSHIP.

11-511.

(a) Subject to any regulations the Commissioner adopts in connection with the transition to the Nationwide Mortgage Licensing System and Registry, an initial license term shall:

(1) Begin on the day the license is issued; and

(2) Expire on December 31 of the year:

(i) The license is issued, if the license is issued before November 1;

or

(ii) Succeeding the year that the license is issued, if the license is issued on or after November 1.

(b) At least 60 days before its expiration, a license may be renewed if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Commissioner a nonrefundable renewal fee set by the Commissioner; AND

[(3) Files a bond or bond continuation certificate for the amount required under § 11-508 of this subtitle; and]

[(4)] (3) Submits to the Commissioner:

(i) A renewal application on the form that the Commissioner requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirements set by regulations adopted by the Commissioner.

(c) Subject to any regulations the Commissioner adopts in connection with the transition to the Nationwide Mortgage Licensing System and Registry, a renewal term shall:

(1) Be for a period of 1 year;

(2) Begin on January 1 of each year after the initial term; and

(3) Expire on December 31 of the year the renewal term begins.

(d) In addition to the license renewal fee required under subsection (b)(2) of this section, an applicant for a license renewal shall pay to the Nationwide Mortgage Licensing System and Registry any fees that the Nationwide Mortgage Licensing System and Registry imposes in connection with the renewal application.

(e) If a license is surrendered voluntarily, or is suspended or revoked, the Commissioner may not refund any part of the license fee regardless of the time remaining in the license term.

12–412.

(a) In this section, “trust company” has the meaning stated in § 1–101 of the Estates and Trusts Article.

(b) **(1)** With [the] AN application for a new [or renewal] license, [the] AN applicant shall file [evidence of] a surety [device] BOND with the Commissioner [as provided in this section].

[(c) (1)] (2) [A surety] THE bond [purchased to satisfy the provisions of subsection (b) of this section] shall run to [this State] THE COMMISSIONER, AS OBLIGEE, for the benefit of [any]:

(I) THE STATE; AND

(II) ANY individual who has been damaged by a violation of State law or regulation governing the business of money transmission committed by a licensee or an authorized delegate of a licensee.

[(2)] (3) The [surety] bond shall be:

- [and]
- (i) In the amount required under subsection **[(e)] (D)** of this section;
 - (ii) Issued by a [bonding,] surety [, or insurance] company that [is]:
 1. **IS** authorized to do business in [this] **THE State[.]; AND**
 2. **HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE MARYLAND INSURANCE COMMISSIONER; AND**

[(3)] (III) [The surety bond shall be conditioned so] **CONDITIONED** that the licensee and any authorized delegate of the licensee shall [comply]:

1. **COMPLY** with all State and federal laws and regulations governing the business of money transmission; and [shall fulfill]
2. **FULFILL** all obligations to all parties to a money transmission.

(4) The liability of [a] **THE** surety:

- (I) **SHALL BE CONTINUOUS;**
- (II) **MAY NOT BE AGGREGATED OR CUMULATIVE, WHETHER OR NOT THE BOND IS RENEWED, CONTINUED, REPLACED, OR MODIFIED;**
- (III) **MAY NOT BE DETERMINED BY ADDING TOGETHER THE PENAL SUM OF THE BOND, OR ANY PART OF THE PENAL SUM OF THE BOND, IN EXISTENCE AT ANY TWO OR MORE POINTS IN TIME;**
- (IV) **SHALL BE CONSIDERED TO BE ONE CONTINUOUS OBLIGATION, REGARDLESS OF INCREASES OR DECREASES IN THE PENAL SUM OF THE BOND;**

[(i)] (v) [Is] **MAY** not **BE** affected by [the]:

1. **THE** insolvency or bankruptcy of the licensee [or by any];
2. **ANY** misrepresentation, breach of warranty, failure to pay a premium, or **ANY** other act or omission of the licensee; [and] **OR**

3. THE SUSPENSION OF THE LICENSEE'S LICENSE;

(VI) MAY NOT REQUIRE AN ADMINISTRATIVE ENFORCEMENT ACTION BY THE COMMISSIONER AS A PREREQUISITE TO LIABILITY; AND

(VII) SHALL CONTINUE FOR 3 YEARS AFTER THE LATER OF THE DATE ON WHICH:

1. THE BOND IS CANCELED; OR

2. THE LICENSEE, FOR ANY REASON, CEASES TO BE LICENSED.

[(ii) Continues as to all transactions of the licensee or an authorized delegate, for no longer than 5 years after the licensee ceases, for any reason, to be licensed. However, the Commissioner may permit the surety bond to be reduced or eliminated prior to that time if the amount of the licensee's payment instruments outstanding in this State are reduced.]

(5) (I) A [licensee or surety may cancel a surety] bond MAY BE CANCELED BY THE SURETY OR THE LICENSEE by giving NOTICE OF CANCELLATION TO the Commissioner [notice of the cancellation].

(II) NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

1. BE IN WRITING; AND

2. BE SENT by certified mail, return receipt requested[, bearing a postmark from the United States Postal Service].

(III) [However, the cancellation] A CANCELLATION OF A BOND UNDER THIS PARAGRAPH is not effective until 90 days after RECEIPT OF A NOTICE OF CANCELLATION BY the Commissioner [receives the notice].

(6) A CLAIM AGAINST THE BOND MAY BE FILED WITH THE SURETY BY:

(I) A CLAIMANT; OR

(II) THE COMMISSIONER FOR THE BENEFIT OF A CLAIMANT OR THE STATE.

(7) IF THE AMOUNT OF CLAIMS UNDER A BOND EXCEEDS THE AMOUNT OF THE BOND, THE SURETY:

(I) SHALL PAY THE AMOUNT OF THE BOND TO THE COMMISSIONER FOR PRO RATA DISTRIBUTION TO CLAIMANTS; AND

(II) IS RELIEVED OF LIABILITY UNDER THE BOND.

(8) (I) IF THE PENAL AMOUNT OF A BOND IS REDUCED BY PAYMENT OF A CLAIM OR JUDGMENT, THE LICENSEE SHALL FILE A NEW OR ADDITIONAL BOND WITH THE COMMISSIONER.

(II) THE COMMISSIONER MAY PERMIT A BOND TO BE REDUCED OR ELIMINATED IF THE AMOUNT OF THE LICENSEE'S PAYMENT INSTRUMENTS OUTSTANDING IN THE STATE ARE REDUCED.

[(d)] (C) (1) A deposit in lieu of a surety bond made to satisfy the provisions of subsection (b) of this section shall:

(i) Have a market value equal to the amount required under subsection [(e)] (D) of this section; and

(ii) Be held by the Commissioner to secure the same obligations as are required to be secured by a surety bond under subsection [(c)] (B) of this section.

(2) At any time, a licensee may exchange investments for other investments that meet the requirements of this subsection.

(3) The Commissioner may sell or transfer investments and distribute the proceeds on the same basis as provided for claims against a surety bond under paragraph [(c)(1)] (B)(2) of this section.

(4) As long as a licensee is solvent, the licensee is entitled to receive any interest or dividends earned by the investments.

(5) (i) The Commissioner may place the investments in the custody of any qualified trust company in this State.

(ii) The licensee shall pay the compensation of this custodian.

[(e)] (D) (1) The amount of the surety [device] BOND UNDER SUBSECTION (B) OF THIS SECTION OR THE DEPOSIT IN LIEU OF A SURETY BOND UNDER SUBSECTION (C) OF THIS SECTION shall be in an amount of not less than \$150,000 and not more than \$1,000,000, as determined by the Commissioner.

(2) In setting the amount of the surety [device] BOND OR THE DEPOSIT IN LIEU OF A SURETY BOND, the Commissioner shall consider:

- (i) The financial condition of the licensee or applicant;
- (ii) For a licensee, the average monthly outstanding payment instruments or outstanding money transmission liability for the previous 12 months;
- (iii) For an applicant, the projected monthly payment instrument sales and money transmission volume in the State, the business experience, and any other factor deemed appropriate; and
- (iv) The potential loss of buyers and holders of payment instruments or persons for whom or to whom money is transmitted if the applicant or licensee becomes financially impaired.

[(f)] (E) (1) If the **[principal] PENAL** amount of a surety **[device] BOND OR A DEPOSIT IN LIEU OF A SURETY BOND** is reduced by a payment of a claim or judgment, the licensee shall file with the Commissioner evidence of any new or additional surety **[device] BOND OR DEPOSIT IN LIEU OF A SURETY BOND** in the amount that the Commissioner sets.

(2) If the Commissioner at any time believes that the surety **[device] BOND OR THE DEPOSIT IN LIEU OF A SURETY BOND** is insufficient, exhausted, or otherwise unsatisfactory, the Commissioner may require evidence of an additional surety **[device] BOND OR DEPOSIT IN LIEU OF A SURETY BOND** to be filed by the licensee.

(3) Within 30 days after the Commissioner makes a written demand for the new surety **[device] BOND OR DEPOSIT IN LIEU OF A SURETY BOND**, the licensee shall file the evidence of the new surety **[device] BOND OR DEPOSIT IN LIEU OF A SURETY BOND**.

[(g)] (F) A penalty imposed **AGAINST A LICENSEE** under **§ 2-115(B) OF THIS ARTICLE OR § 12-426(e)(2)** of this subtitle may be **[paid and]** collected **AND PAID** from the proceeds of a surety **[device] BOND OR A DEPOSIT IN LIEU OF A SURETY BOND REQUIRED UNDER THIS SECTION**.

12-914.

(a) With the application for a new **[or renewal]** license, **[the] AN** applicant **[or licensee]** shall file a surety bond **[or bond renewal certificate]** with the Commissioner **[as provided in this section]**.

(b) (1) **[A surety] THE** bond **[filed under this section]** shall run to the **[State] COMMISSIONER, AS OBLIGEE**, for the benefit of **[any]**:

(I) THE STATE; AND

(II) ANY consumer who is injured by a violation of this subtitle or a regulation adopted under this subtitle committed by a licensee or an agent of a licensee, including an agent managing a trust account.

(2) The [surety] bond shall be:

(i) In an amount not less than \$10,000 and not more than \$1,000,000, as set by the Commissioner;

(ii) Issued by a [bonding,] surety [, or insurance] company that [is]:

1. IS authorized to do business in the State; and

2. **HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE MARYLAND INSURANCE COMMISSIONER; AND**

(iii) Conditioned [so] that the licensee and its agent shall comply with all State and federal laws and regulations governing the business of providing debt management services.

(3) The liability of [a] THE surety:

(I) **SHALL BE CONTINUOUS;**

(II) **MAY NOT BE AGGREGATED OR CUMULATIVE, WHETHER OR NOT THE BOND IS RENEWED, CONTINUED, REPLACED, OR MODIFIED;**

(III) **MAY NOT BE DETERMINED BY ADDING TOGETHER THE PENAL SUM OF THE BOND, OR ANY PART OF THE PENAL SUM OF THE BOND, IN EXISTENCE AT ANY TWO OR MORE POINTS IN TIME;**

(IV) **SHALL BE CONSIDERED TO BE ONE CONTINUOUS OBLIGATION, REGARDLESS OF INCREASES OR DECREASES IN THE PENAL SUM OF THE BOND;**

[i] (V) [Is] **MAY not BE** affected by [the]:

1. **THE** insolvency or bankruptcy of the licensee or its agent [or by any];

2. **ANY** misrepresentation, breach of warranty, failure to pay a premium, or **ANY** other act or omission of the licensee or its agent; [and] **OR**

3. THE SUSPENSION OF THE LICENSEE'S LICENSE;

(VI) MAY NOT REQUIRE AN ADMINISTRATIVE ENFORCEMENT ACTION BY THE COMMISSIONER AS A PREREQUISITE TO LIABILITY; AND

[(ii)] (VII) [Continues as to all transactions of the licensee, and transactions of its agent on behalf of the licensee, for no longer than 2] SHALL CONTINUE FOR 3 years after the LATER OF THE DATE ON WHICH:

1. THE BOND IS CANCELED; OR

2. THE licensee [ceases], for any reason, CEASES to be licensed.

(4) (I) A BOND MAY BE CANCELED BY THE SURETY OR THE LICENSEE BY GIVING NOTICE OF CANCELLATION TO THE COMMISSIONER.

(II) NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

1. BE IN WRITING; AND

2. BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

(III) A CANCELLATION OF A BOND UNDER THIS PARAGRAPH IS NOT EFFECTIVE UNTIL 90 DAYS AFTER RECEIPT OF A NOTICE OF CANCELLATION BY THE COMMISSIONER.

(5) A CLAIM AGAINST THE BOND MAY BE FILED WITH THE SURETY BY:

(I) A CLAIMANT; OR

(II) THE COMMISSIONER FOR THE BENEFIT OF A CLAIMANT OR THE STATE.

(6) IF THE AMOUNT OF CLAIMS UNDER A BOND EXCEEDS THE AMOUNT OF THE BOND, THE SURETY:

(I) SHALL PAY THE AMOUNT OF THE BOND TO THE COMMISSIONER FOR PRO RATA DISTRIBUTION TO CLAIMANTS; AND

(II) IS RELIEVED OF LIABILITY UNDER THE BOND.

[(4)] (7) The Commissioner may allow the amount of the surety bond to be reduced if the amount of the licensee's outstanding debt management services liabilities in the State is reduced.

[(5)] (8) In setting the amount of the surety bond, the Commissioner shall consider:

(i) The financial condition and business experience of the applicant or licensee and the agent of the applicant or licensee;

(ii) For an applicant, the projected monthly and annual volume of debt management services to be provided in the State;

(iii) For a licensee, the average monthly and annual volume of debt management services provided in the State during the previous 12-month period;

(iv) The potential loss to consumers who remit funds to the applicant or licensee if the applicant or licensee becomes financially impaired; and

(v) Any other factor the Commissioner considers appropriate.

(c) If the **[principal] PENAL** amount of a surety bond is reduced by payment of a claim or judgment, the licensee shall file with the Commissioner any new or additional surety bond in the amount that the Commissioner sets.

(d) The Commissioner may waive the surety bond requirement under this section if the Commissioner determines that the volume of debt management services provided by the applicant or licensee does not warrant the need for a surety bond.

(e) A penalty imposed **AGAINST A LICENSEE** under § 12-928 or § 12-929 of this subtitle may be **[paid and]** collected **AND PAID** from the proceeds of a surety bond required under this section.

12-1014.

(a) A registrant that establishes a dedicated account in accordance with § 12-1010(d) of this subtitle shall file a surety bond with the Commissioner at the time the dedicated account is established.

(b) **(1)** **[A surety] THE** bond **[filed under this section]** shall^{[:}

(1) **Run] RUN** to the Commissioner, **AS OBLIGEE**, for the benefit of **[any]:**

(I) THE STATE; AND

(II) ANY consumer who is injured by a violation of this subtitle committed by a registrant[;].

(2) [Be in] **THE BOND SHALL BE:**

(I) IN the amount of \$50,000;

[(3)] (II) [Be issued] **ISSUED** by a [bonding,] surety [, or insurance] company that [is]:

1. IS authorized to do business in the State; and

2. **HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE MARYLAND INSURANCE COMMISSIONER; AND**

[(4)] (III) [Be conditioned so] **CONDITIONED** that the registrant shall comply with all State and federal laws and regulations governing the business of providing debt settlement services.

(3) **THE LIABILITY OF THE SURETY:**

(I) **SHALL BE CONTINUOUS;**

(II) **MAY NOT BE AGGREGATED OR CUMULATIVE, WHETHER OR NOT THE BOND IS RENEWED, CONTINUED, REPLACED, OR MODIFIED;**

(III) **MAY NOT BE DETERMINED BY ADDING TOGETHER THE PENAL SUM OF THE BOND, OR ANY PART OF THE PENAL SUM OF THE BOND, IN EXISTENCE AT ANY TWO OR MORE POINTS IN TIME;**

(IV) **SHALL BE CONSIDERED TO BE ONE CONTINUOUS OBLIGATION, REGARDLESS OF INCREASES OR DECREASES IN THE PENAL SUM OF THE BOND;**

(V) **MAY NOT BE AFFECTED BY:**

1. **THE INSOLVENCY OR BANKRUPTCY OF THE REGISTRANT;**

2. **ANY MISREPRESENTATION, BREACH OF WARRANTY, FAILURE TO PAY A PREMIUM, OR ANY OTHER ACT OR OMISSION OF THE REGISTRANT OR AN AGENT OF THE REGISTRANT; OR**

3. THE SUSPENSION OF THE REGISTRANT'S REGISTRATION;

(VI) MAY NOT REQUIRE AN ADMINISTRATIVE ENFORCEMENT ACTION BY THE COMMISSIONER AS A PREREQUISITE TO LIABILITY; AND

(VII) SHALL CONTINUE FOR 3 YEARS AFTER THE LATER OF THE DATE ON WHICH:

1. THE BOND IS CANCELED; OR

2. THE REGISTRANT, FOR ANY REASON, CEASES TO BE REGISTERED.

(4) (I) A BOND MAY BE CANCELED BY THE SURETY OR THE REGISTRANT BY GIVING NOTICE OF CANCELLATION TO THE COMMISSIONER.

(II) NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

1. BE IN WRITING; AND

2. BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

(III) A CANCELLATION OF A BOND UNDER THIS PARAGRAPH IS NOT EFFECTIVE UNTIL 90 DAYS AFTER RECEIPT OF A NOTICE OF CANCELLATION BY THE COMMISSIONER.

(5) A CLAIM AGAINST THE BOND MAY BE FILED WITH THE SURETY BY:

(I) A CLAIMANT; OR

(II) THE COMMISSIONER FOR THE BENEFIT OF A CLAIMANT OR THE STATE.

(6) IF THE AMOUNT OF CLAIMS AGAINST A BOND EXCEEDS THE AMOUNT OF THE BOND, THE SURETY:

(I) SHALL PAY THE AMOUNT OF THE BOND TO THE COMMISSIONER FOR PRO RATA DISTRIBUTION TO CLAIMANTS; AND

(II) IS RELIEVED OF LIABILITY UNDER THE BOND.

(7) IF THE PENAL AMOUNT OF A BOND IS REDUCED BY PAYMENT OF A CLAIM OR JUDGMENT, THE REGISTRANT SHALL FILE A NEW OR ADDITIONAL BOND WITH THE COMMISSIONER.

(8) A PENALTY IMPOSED AGAINST A REGISTRANT UNDER § 2-115(B) OF THIS ARTICLE OR § 13-410 OF THE COMMERCIAL LAW ARTICLE MAY BE COLLECTED AND PAID FROM THE PROCEEDS OF A BOND REQUIRED UNDER THIS SECTION.

[(c) If the amount of the surety bond initially filed with the Commissioner must be increased to meet the minimum requirements under subsection (b)(2) of this section, the registrant shall file with the Commissioner evidence of the increased bond amount in a form satisfactory to the Commissioner.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 480

(House Bill 789)

AN ACT concerning

Condominiums and Homeowners Associations – Amendment of Governing Documents

FOR the purpose of altering the minimum percentage of affirmative votes of unit owners required to amend the bylaws of a condominium under certain circumstances; repealing certain provisions concerning the minimum percentage of votes needed to amend a governing document of a homeowners association created before a certain date; establishing the minimum percentage of affirmative votes of lot owners required to amend certain governing documents of a homeowners association under certain circumstances; providing for the application of certain provisions of this Act; defining certain terms; and generally relating to the amendment of the governing documents of condominiums and homeowners associations.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 11-104(e) and 11B-116
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

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

Article – Real Property

11–104.

(e) (1) A corrective amendment to the bylaws may be made in accordance with § 11–103.1 of this title, or as provided in paragraph (2) of this subsection.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, [unless a higher percentage is required in the bylaws,] the bylaws may be amended by the affirmative vote of unit owners [having at least 66 2/3 percent of the votes in the council of unit owners] **AS PROVIDED UNDER PARAGRAPH (6) OF THIS SUBSECTION.**

(ii) The bylaws may be amended by the affirmative vote of unit owners having at least 51% of the votes in the council of unit owners for the purpose of requiring all unit owners to maintain condominium unit owner insurance policies on their units.

(3) (i) Except as provided in paragraph (4) of this subsection, if the declaration or bylaws contain a provision requiring any action on the part of the holder of a mortgage or deed of trust on a unit in order to amend the bylaws, that provision shall be deemed satisfied if the procedures under this paragraph are satisfied.

(ii) If the declaration or bylaws contain a provision described in subparagraph (i) of this paragraph, the council of unit owners shall cause to be delivered to each holder of a mortgage or deed of trust entitled to notice, a copy of the proposed amendment to the bylaws.

(iii) If a holder of the mortgage or deed of trust that receives the proposed amendment fails to object, in writing, to the proposed amendment within 60 days from the date of actual receipt of the proposed amendment, the holder shall be deemed to have consented to the adoption of the amendment.

(4) Paragraph (3) of this subsection does not apply to amendments that:

(i) Alter the priority of the lien of the mortgage or deed of trust;

(ii) Materially impair or affect the unit as collateral; or

(iii) Materially impair or affect the right of the holder of the mortgage or deed of trust to exercise any rights under the mortgage, deed of trust, or applicable law.

(5) Each particular set forth in subsection (b) of this section shall be expressed in the bylaws as amended. An amendment under paragraph (2) of this subsection shall be entitled to be recorded if accompanied by a certificate of the person specified in the

bylaws to count votes at the meeting of the council of unit owners that the amendment was approved by unit owners having the required percentage of the votes and shall be effective on recordation. This certificate shall be conclusive evidence of approval.

(6) (I) IN THIS PARAGRAPH, “IN GOOD STANDING” MEANS NOT BEING:

~~1. MORE MORE THAN 90 DAYS IN ARREARS IN THE PAYMENT OF ANY ASSESSMENT OR CHARGE DUE TO THE CONDOMINIUM; OR.~~

~~2. IN VIOLATION OF THE DECLARATION, BYLAWS, RULES, OR REGULATIONS OF THE CONDOMINIUM FOR WHICH THE UNIT OWNER HAS BEEN PROVIDED NOTICE AND OPPORTUNITY TO CORRECT.~~

(II) NOTWITHSTANDING THE PROVISIONS OF THE BYLAWS, THE COUNCIL OF UNIT OWNERS MAY AMEND THE BYLAWS BY THE AFFIRMATIVE VOTE OF UNIT OWNERS IN GOOD STANDING HAVING AT LEAST ~~55%~~ 60% OF THE VOTES IN THE COUNCIL, OR BY A LOWER PERCENTAGE IF REQUIRED IN THE BYLAWS.

11B-116.

(a) (1) In this section[, “governing] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “GOVERNING document” includes:

[(1)] (I) A declaration;

[(2)] (II) Bylaws;

[(3)] (III) A deed and agreement; and

[(4)] (IV) Recorded covenants and restrictions.

(3) “IN GOOD STANDING” MEANS NOT BEING:

~~(I) MORE MORE THAN 90 DAYS IN ARREARS IN THE PAYMENT OF ANY ASSESSMENT OR CHARGE DUE TO THE HOMEOWNERS ASSOCIATION; OR.~~

~~(II) IN VIOLATION OF THE DECLARATION, BYLAWS, RULES, OR REGULATIONS OF THE HOMEOWNERS ASSOCIATION FOR WHICH THE LOT OWNER HAS BEEN PROVIDED NOTICE AND OPPORTUNITY TO CORRECT.~~

(b) THIS SECTION DOES NOT APPLY TO A HOMEOWNERS ASSOCIATION THAT ISSUES BONDS OR OTHER LONG-TERM DEBT SECURED IN WHOLE OR IN PART BY

ANNUAL CHARGES ASSESSED IN ACCORDANCE WITH A DECLARATION, OR TO A VILLAGE COMMUNITY ASSOCIATION AFFILIATED WITH THE HOMEOWNERS ASSOCIATION.

(C) Notwithstanding the provisions of a governing document, a homeowners association [created before January 1, 1960,] may amend the governing document [once every 5 years, or more frequently if allowed by the governing document,] by the affirmative vote of lot owners **IN GOOD STANDING** having at least [two-thirds] ~~55%~~ **60%** of the votes in the development, or by a lower percentage if required in the governing document.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 481

(Senate Bill 809)

AN ACT concerning

Condominiums and Homeowners Associations – Sales of Common Elements and Common Areas

FOR the purpose of requiring the governing body of a condominium or, under certain circumstances, the developer to provide a certain notice before the sale of any common element in the condominium under certain circumstances; requiring the governing body of a homeowners association or, under certain circumstances, the declarant to provide a certain notice before the sale of any common area owned by the homeowners association under certain circumstances; ~~requiring that when a tax lien is imposed on certain properties, the governing body imposing the lien of a certain condominium or homeowners association or, under certain circumstances, a certain developer or declarant must provide certain notice; defining certain terms; and generally relating to the sale of common elements in condominiums and common areas owned by in homeowners associations.~~

BY repealing and reenacting, without amendments,

Article – Real Property

Section 11-108(a)

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

BY adding to

Article – Real Property

Section 11–108(d) and 11B–106.2
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

~~BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 14–804
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)~~

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

Article – Real Property

11–108.

(a) Subject to the provisions of subsection (c) of this section, the common elements may be used only for the purposes for which they were intended and, except as provided in the declaration, the common elements shall be subject to mutual rights of support, access, use, and enjoyment by all unit owners. However, subject to the provisions of subsection (b) of this section, any portion of the common elements designated as limited common elements shall be used only by the unit owner of the unit to which their use is limited in the declaration or condominium plat.

(D) (1) NOTWITHSTANDING ANY BYLAW, PROVISION OF A CONDOMINIUM PLAT, RULE, OR OTHER PROVISION OF LAW, THE GOVERNING BODY OF A COUNTY CONDOMINIUM OR, IF A CONTROL OF THE GOVERNING BODY IS HAS NOT YET FORMED TRANSITIONED TO THE UNIT OWNERS, THE DEVELOPER SHALL GIVE NOTICE TO EACH UNIT OWNER, IN WRITING, IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION NO LESS THAN 30 DAYS BEFORE THE SALE, INCLUDING A TAX SALE, OF ANY COMMON ELEMENT IN LOCATED ON PROPERTY THAT HAS BEEN TRANSFERRED TO THE CONDOMINIUM.

(2) THE NOTICE REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE SATISFIED BY:

(I) PROVIDING WRITTEN NOTICE ABOUT THE SALE TO EACH UNIT OWNER; OR

(II) 1. POSTING A SIGN ABOUT THE SALE ON THE PROPERTY TO BE SOLD, IN A MANNER SIMILAR TO SIGNAGE REQUIRED FOR A ZONING MODIFICATION; AND

2. IF THE CONDOMINIUM HAS A WEB SITE, PROVIDING NOTICE ABOUT THE SALE ON THE HOME PAGE OF THE WEB SITE OF THE CONDOMINIUM.

11B-106.2.

(A) NOTWITHSTANDING ANY BYLAW, PROVISION OF A DECLARATION, RULE, OR OTHER PROVISION OF LAW, THE GOVERNING BODY OF A COUNTY HOMEOWNERS ASSOCIATION OR, IF A CONTROL OF THE GOVERNING BODY IS HAS NOT YET FORMED TRANSITIONED TO THE LOT OWNERS, THE DECLARANT SHALL GIVE NOTICE TO EACH LOT OWNER, IN WRITING, IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION NO LESS THAN 30 DAYS BEFORE THE SALE, INCLUDING A TAX SALE, OF ANY COMMON AREA OWNED BY LOCATED ON PROPERTY THAT HAS BEEN TRANSFERRED TO THE HOMEOWNERS ASSOCIATION.

(B) THE NOTICE REQUIREMENT UNDER SUBSECTION (A) OF THIS SECTION SHALL BE SATISFIED BY:

(1) PROVIDING WRITTEN NOTICE ABOUT THE SALE TO EACH LOT OWNER; OR

(2) (I) POSTING A SIGN ABOUT THE SALE ON THE PROPERTY TO BE SOLD, IN A MANNER SIMILAR TO SIGNAGE REQUIRED FOR A ZONING MODIFICATION; AND

(II) IF THE HOMEOWNERS ASSOCIATION HAS A WEB SITE, PROVIDING NOTICE ABOUT THE SALE ON THE HOME PAGE OF THE WEB SITE OF THE HOMEOWNERS ASSOCIATION.

~~Article Tax Property~~

~~14-804.~~

~~(a) All unpaid taxes on real property shall be, until paid, liens on the real property in respect to which they are imposed from the date they became or become payable.~~

~~(b) All unpaid tax on personal property is a lien on the personal property and on the real property of the owner of the personal property in the same manner in which taxes on real property are now liens on the real property with respect to which they are imposed in all subdivisions of the State; provided that the lien will attach to the real property only after the notice has been recorded and indexed among the judgment records in the office of the clerk of the circuit court in the county where the land lies, or is recorded and indexed on the tax rolls of the subdivision. Any subdivision, in lieu of recording in the appropriate court, may use a lien reporting system, and any subdivision so doing shall provide, on request, a lien report or memorandum with respect to any particular person.~~

~~(e) The county property tax deferred under § 10-201 of this article is a lien on the property for which the deferral was granted.~~

~~(d) The unpaid balance of a deferral granted under § 10-202 of this article is a lien on the property for which the deferral was granted.~~

~~(E) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(II) “COMMON ELEMENT” HAS THE MEANING STATED IN § 11-101 OF THE REAL PROPERTY ARTICLE.~~

~~(III) “COMMON AREA” HAS THE MEANING STATED IN § 11-101 OF THE REAL PROPERTY ARTICLE.~~

~~(2) WHEN A TAX LIEN IS IMPOSED ON A COMMON ELEMENT OF A CONDOMINIUM OR ON A COMMON AREA OF PROPERTY OWNED BY A HOMEOWNER’S HOMEOWNERS ASSOCIATION, THE GOVERNING BODY IMPOSING THE LIEN OF THE CONDOMINIUM ASSOCIATION OR HOMEOWNERS ASSOCIATION OR, IF A GOVERNING BODY IS NOT YET FORMED, THE DEVELOPER OR DECLARANT SHALL NOTIFY EACH MEMBER OF THE CONDOMINIUM ASSOCIATION OR HOMEOWNER’S HOMEOWNERS ASSOCIATION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 482

(Senate Bill 1027)

AN ACT concerning

Courts – Action for Violation of Collective Bargaining Agreement or Breach of Duty of Fair Representation – Limitations Period

FOR the purpose of establishing a certain limitations period on an action for injunctive relief or damages for a violation of a collective bargaining agreement covering employees of the State or a political subdivision of the State or a breach by an exclusive representative of the duty of fair representation ~~o~~ owed to employees of the State or a political subdivision of the State; providing for the application of this

Act; and generally relating to periods of limitations on actions arising from collective bargaining agreements.

BY adding to

Article – Courts and Judicial Proceedings

Section 5–120

Annotated Code of Maryland

(2013 Replacement Volume and 2016 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

5–120.

(A) THIS SECTION APPLIES TO AN ACTION FOR INJUNCTIVE RELIEF OR DAMAGES FOR:

(1) A VIOLATION OF A COLLECTIVE BARGAINING AGREEMENT COVERING AN EMPLOYEE OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE; OR

(2) A BREACH BY AN EXCLUSIVE REPRESENTATIVE OF THE DUTY OF FAIR REPRESENTATION ~~OF~~ OWED TO AN EMPLOYEE OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

(B) AN ACTION SUBJECT TO THIS SECTION SHALL BE COMMENCED WITHIN 6 MONTHS AFTER THE LATER OF:

(1) THE DATE ON WHICH THE CLAIM ACCRUED; OR

(2) THE DATE ON WHICH THE COMPLAINANT KNEW OR SHOULD REASONABLY HAVE KNOWN OF THE BREACH.

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 cause of action arising before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 483**(House Bill 852)**

AN ACT concerning

**Courts – Action for Violation of Collective Bargaining Agreement or Breach of
Duty of Fair Representation – Limitations Period**

FOR the purpose of establishing a certain limitations period on an action for injunctive relief or damages for a violation of a collective bargaining agreement covering employees of the State or a political subdivision of the State or a breach by an exclusive representative of the duty of fair representation ~~or owed to~~ employees of the State or a political subdivision of the State; providing for the application of this Act; and generally relating to periods of limitations on actions arising from collective bargaining agreements.

BY adding to

Article – Courts and Judicial Proceedings

Section 5–120

Annotated Code of Maryland

(2013 Replacement Volume and 2016 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

5–120.

(A) THIS SECTION APPLIES TO AN ACTION FOR INJUNCTIVE RELIEF OR DAMAGES FOR:

(1) A VIOLATION OF A COLLECTIVE BARGAINING AGREEMENT COVERING AN EMPLOYEE OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE; OR

(2) A BREACH BY AN EXCLUSIVE REPRESENTATIVE OF THE DUTY OF FAIR REPRESENTATION ~~OR OWED TO~~ AN EMPLOYEE OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

(B) AN ACTION SUBJECT TO THIS SECTION SHALL BE COMMENCED WITHIN 6 MONTHS AFTER THE LATER OF:

(1) THE DATE ON WHICH THE CLAIM ACCRUED; OR

(2) THE DATE ON WHICH THE COMPLAINANT KNEW OR SHOULD REASONABLY HAVE KNOWN OF THE BREACH.

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 cause of action arising before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 484

(Senate Bill 392)

AN ACT concerning

Credit Regulation – ~~Revolving and~~ Closed End Credit Loans – Elimination of Duplicative Disclosures

FOR the purpose of providing that a certain disclosure provided by a lender to a borrower in compliance with a certain federal law shall satisfy certain disclosure requirements under certain provisions of law governing certain ~~revolving credit and~~ closed end credit loans secured by a first mortgage or first deed of trust on residential real property; requiring the Commissioner of Financial Regulation to monitor certain federal requirements and notify the Governor and the General Assembly if the Commissioner makes a certain determination; and generally relating to mortgage lending disclosure requirements for ~~revolving credit and~~ closed end credit loans.

BY repealing and reenacting, with amendments,
 Article – Commercial Law
 Section 12-125, ~~12-922~~, and 12-1022
 Annotated Code of Maryland
 (2013 Replacement Volume and 2016 Supplement)

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

Article – Commercial Law

12-125.

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

(2) “Borrower” means a person who makes an application for a loan secured by a first mortgage or first deed of trust on a 1– to 4–family home to be occupied by the borrower as the borrower’s primary residence.

(3) “Commitment” means a written, specific, binding agreement between a borrower and a lender which sets forth the terms of a loan being extended to the borrower.

(4) “Financing agreement” means a written agreement between a borrower and a lender which sets forth the terms of a purchase money loan or a refinancing of an existing loan that:

(i) Results in or is secured by a first mortgage or a first deed of trust on a 1– to 4–family home to be occupied by the borrower; and

(ii) Is offered or extended to the borrower.

(5) (i) “Lender” means a person subject to the licensing requirements of Title 11, Subtitle 5 of the Financial Institutions Article.

(ii) “Lender” does not include a person exempt from licensure under § 11–502 of the Financial Institutions Article.

(6) (i) “Loan application” means any oral or written request for an extension of credit that is made in accordance with procedures established by a lender for the purpose of inducing the lender to seek to procure or make a mortgage loan.

(ii) “Loan application” does not include the use of an account or line of credit to obtain a loan within a previously established credit limit.

(b) (1) A lender who offers to make or procure a loan secured by a first mortgage or first deed of trust on a 1– to 4–family home to be occupied by the borrower shall provide the borrower with a financing agreement executed by the lender within 10 business days after the date the loan application is completed.

(2) The financing agreement shall provide:

(i) The term and principal amount of the loan;

(ii) An explanation of the type of mortgage loan being offered;

(iii) The rate of interest that will apply to the loan and, if the rate is subject to change or is a variable rate or is subject to final determination at a future date based on some objective standard, a specific statement of those facts;

(iv) The points, if any, to be paid by the borrower or the seller, or both; and

(v) The term during which the financing agreement remains in effect.

(3) If all the provisions of the financing agreement are not subject to future determination, change, or alteration during its term, the financing agreement shall constitute the final binding agreement between the parties as to the items covered by the financing agreement.

(4) A DISCLOSURE PROVIDED BY A LENDER TO A BORROWER IN COMPLIANCE WITH 12 C.F.R. § 1026.37 SHALL SATISFY THE REQUIREMENTS OF THIS SUBSECTION.

(c) (1) If any of the provisions of the financing agreement are subject to change or determination after its execution, the lender shall provide the borrower with a commitment, executed by the lender, at least 72 hours before the time of settlement agreed to by the parties, providing:

(i) The effective fixed interest rate or initial interest rate that will be applied to the loan; and

(ii) A restatement of all the remaining unchanged provisions of the financing agreement.

(2) Subsequent to execution of the financing agreement, the borrower may waive in writing the 72-hour advance presentation requirement and accept the commitment at settlement only if compliance with the 72-hour requirement is shown by the lender to be infeasible.

(3) A DISCLOSURE PROVIDED BY A LENDER TO A BORROWER IN COMPLIANCE WITH 12 C.F.R. § 1026.38 SHALL SATISFY THE REQUIREMENTS OF THIS SUBSECTION.

(d) If a lender fails to comply with the requirements of this section, the lender shall be subject to the penalties set forth in § 11-523 of the Financial Institutions Article.

(e) A borrower aggrieved by any violation of this section shall be entitled to bring a civil suit for damages, including reasonable attorney's fees, against the lender.

(f) This section may not be construed to exempt a lender from the provisions of §§ 12-119 through 12-122 of this subtitle.

~~12-922.~~

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

~~(2) “Borrower” means a consumer borrower who makes an application for a loan secured by a first mortgage or first deed of trust on residential real property to be occupied by the borrower as the borrower’s primary residence.~~

~~(3) “Commitment” means a written, specific, binding agreement between a borrower and a lender which sets forth the terms of a loan being extended to the borrower.~~

~~(4) “Financing agreement” means a written agreement between a borrower and a lender which sets forth the terms of a purchase money loan or a refinancing of an existing loan that:~~

~~(i) Results in or is secured by a first mortgage or a first deed of trust on residential real property to be occupied by the borrower; and~~

~~(ii) Is offered or extended to the borrower.~~

~~(5) (i) “Lender” means a credit grantor subject to the licensing requirements of Title 11, Subtitle 5 of the Financial Institutions Article.~~

~~(ii) “Lender” does not include a credit grantor exempt from licensing under § 11-502 of the Financial Institutions Article.~~

~~(6) (i) “Loan application” means any oral or written request for an extension of credit that is made in accordance with procedures established by a lender for the purpose of inducing the lender to seek to procure or make a mortgage loan.~~

~~(ii) “Loan application” does not include the use of an account or line of credit to obtain a loan within a previously established credit limit.~~

~~(b) (1) A lender who offers to make or procure a loan secured by a first mortgage or first deed of trust on residential real property to be occupied by the borrower shall provide the borrower with a financing agreement executed by the lender within 10 business days after the date the loan application is completed.~~

~~(2) The financing agreement shall provide:~~

~~(i) The term and principal amount of the loan;~~

~~(ii) An explanation of the type of mortgage loan being offered;~~

~~(iii) The rate of interest that will apply to the loan and, if the rate is subject to change or is a variable rate or is subject to final determination at a future date based on some objective standard, a specific statement of those facts;~~

~~(iv) The points, if any, to be paid by the borrower or the seller, or both; and~~

~~(v) The term during which the financing agreement remains in effect.~~

~~(3) If all the provisions of the financing agreement are not subject to future determination, change, or alteration during its term, the financing agreement shall constitute the final binding agreement between the parties as to the items covered by the financing agreement.~~

~~(4) A DISCLOSURE PROVIDED BY A LENDER TO A BORROWER IN COMPLIANCE WITH 12 C.F.R. § 1026.37 SHALL SATISFY THE REQUIREMENTS OF THIS SUBSECTION.~~

~~(e) (1) If any of the provisions of the financing agreement are subject to change or determination after its execution, the lender shall provide the borrower with a commitment, executed by the lender, at least 72 hours before the time of settlement agreed to by the parties, providing:~~

~~(i) The effective fixed interest rate or initial interest rate that will be applied to the loan; and~~

~~(ii) A restatement of all the remaining unchanged provisions of the financing agreement.~~

~~(2) Subsequent to execution of the financing agreement, the borrower may waive in writing the 72-hour advance presentation requirement and accept the commitment at settlement only if compliance with the 72-hour requirement is shown by the lender to be infeasible.~~

~~(3) A DISCLOSURE PROVIDED BY A LENDER TO A BORROWER IN COMPLIANCE WITH 12 C.F.R. § 1026.38 SHALL SATISFY THE REQUIREMENTS OF THIS SUBSECTION.~~

~~(d) (1) A borrower aggrieved by any violation of this section shall be entitled to bring a civil suit for damages, including reasonable attorney's fees, against the lender.~~

~~(2) The penalties set out under § 12-918 of this subtitle do not apply to any violation of this section.~~

12-1022.

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

(2) "Borrower" means a consumer borrower who makes an application for a loan secured by a first mortgage or first deed of trust on residential real property to be occupied by the borrower as the borrower's primary residence.

(3) “Commitment” means a written, specific, binding agreement between a borrower and a lender which sets forth the terms of a loan being extended to the borrower.

(4) “Financing agreement” means a written agreement between a borrower and a lender which sets forth the terms of a purchase money loan or a refinancing of an existing loan that:

(i) Results in or is secured by a first mortgage or a first deed of trust on residential real property to be occupied by the borrower; and

(ii) Is offered or extended to the borrower.

(5) (i) “Lender” means a credit grantor subject to the licensing requirements of Title 11, Subtitle 5 of the Financial Institutions Article.

(ii) “Lender” does not include a credit grantor exempt from licensing under § 11–502 of the Financial Institutions Article.

(6) (i) “Loan application” means any oral or written request for an extension of credit that is made in accordance with procedures established by a lender for the purpose of inducing the lender to seek to procure or make a mortgage loan.

(ii) “Loan application” does not include the use of an account or line of credit to obtain a loan within a previously established credit limit.

(b) (1) A lender who offers to make or procure a loan secured by a first mortgage or first deed of trust on residential real property to be occupied by the borrower shall provide the borrower with a financing agreement executed by the lender within 10 business days after the date the loan application is completed.

(2) The financing agreement shall provide:

(i) The term and principal amount of the loan;

(ii) An explanation of the type of mortgage loan being offered;

(iii) The rate of interest that will apply to the loan and, if the rate is subject to change or is a variable rate or is subject to final determination at a future date based on some objective standard, a specific statement of those facts;

(iv) The points, if any, to be paid by the borrower or the seller, or both; and

(v) The term during which the financing agreement remains in effect.

(3) If all the provisions of the financing agreement are not subject to future determination, change, or alteration during its term, the financing agreement shall constitute the final binding agreement between the parties as to the items covered by the financing agreement.

(4) A DISCLOSURE PROVIDED BY A LENDER TO A BORROWER IN COMPLIANCE WITH 12 C.F.R. § 1026.37 SHALL SATISFY THE REQUIREMENTS OF THIS SUBSECTION.

(c) (1) If any of the provisions of the financing agreement are subject to change or determination after its execution, the lender shall provide the borrower with a commitment, executed by the lender, at least 72 hours before the time of settlement agreed to by the parties, providing:

(i) The effective fixed interest rate or initial interest rate that will be applied to the loan; and

(ii) A restatement of all the remaining unchanged provisions of the financing agreement.

(2) Subsequent to execution of the financing agreement, the borrower may waive in writing the 72-hour advance presentation requirement and accept the commitment at settlement only if compliance with the 72-hour requirement is shown by the lender to be infeasible.

(3) A DISCLOSURE PROVIDED BY A LENDER TO A BORROWER IN COMPLIANCE WITH 12 C.F.R. § 1026.38 SHALL SATISFY THE REQUIREMENTS OF THIS SUBSECTION.

(d) If a lender fails to comply with the requirements of this section, the lender shall be subject to the penalties set forth in § 11-523 of the Financial Institutions Article.

(e) (1) A borrower aggrieved by any violation of this section shall be entitled to bring a civil suit for damages, including reasonable attorney's fees, against the lender.

(2) The penalties set out under § 12-1018 of this subtitle do not apply to any violation of this section.

(f) This section may not be construed to exempt a lender from the provisions of §§ 12-1027 and 12-1028 of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That the Commissioner of Financial Regulation shall:

(1) monitor the requirements implemented by the federal Consumer Financial Protection Bureau relating to disclosures provided to borrowers of mortgage loans under the “Know Before You Owe” mortgage disclosure rule, including:

(i) the Loan Estimate Disclosure under 12 C.F.R. § 1026.37, which includes information on closing and loan costs and the terms of a loan and must be provided to a borrower within 3 days after application for a mortgage loan; and

(ii) the Closing Disclosure under 12 C.F.R. § 1026.38, which includes information that binds a lender to the loan terms and must be provided to a borrower at least 3 days before the closing of a mortgage loan; and

(2) notify the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly if the Commissioner determines that the federal disclosure requirements described in item (1) of this section are proposed to be modified or have been modified to be less stringent or less consumer friendly.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 485

(Senate Bill 781)

AN ACT concerning

Criminal Procedure – Testing – HIV and Hepatitis C

FOR the purpose of including hepatitis C as a disease for which a certain person charged with causing a prohibited exposure to a victim may be tested under certain circumstances; authorizing a certain judge to issue ~~a search warrant~~ an emergency order to obtain a certain sample from a person to be tested for the presence of HIV under certain circumstances; requiring a certain application for ~~a search warrant~~ an emergency order to meet certain requirements; requiring the Court of Appeals to adopt certain rules; requiring a certain law enforcement officer to deliver a certain sample to a local health official or certain health care provider to be tested for the presence of HIV; requiring a certain test to be performed within a certain period of time; requiring a local health official or certain health care provider to provide notice of a certain test result to certain persons; establishing a certain disclosure restriction and evidentiary limitation for a test result; requiring the Department of Health and Mental Hygiene to adopt certain regulations; requiring a certain health care provider to adopt certain procedures; defining a certain term; altering a certain definition;

making conforming changes; and generally relating to testing for HIV and hepatitis C.

BY repealing and reenacting, without amendments,
Article – Criminal Procedure
Section 11–107(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 11–107(e) and (f), 11–109, 11–110, 11–112(a), 11–113(a), and 11–117 to be
under the amended part “Part II. Right to HIV and Hepatitis C Testing”
Annotated Code of Maryland
(2008 Replacement Volume and 2016 Supplement)

BY adding to
Article – Criminal Procedure
Section 11–110.1
Annotated Code of Maryland
(2008 Replacement Volume and 2016 Supplement)

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

Article – Criminal Procedure

Part II. Right to HIV AND HEPATITIS C Testing.

11–107.

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

(e) (1) “Prohibited exposure” means a crime or delinquent act that may have caused or resulted in exposure to **HIV OR HEPATITIS C**.

(2) “Prohibited exposure” includes:

(i) contact that occurs on penetration, however slight, between the penis and the vulva or anus; and

(ii) contact between the mouth and the penis, vulva, or anus.

(f) (1) “Victim” means the victim of a prohibited exposure.

(2) “Victim” includes:

(i) a law enforcement officer who is exposed to **HIV OR HEPATITIS C** while acting in the performance of duty;

(ii) a paid or volunteer firefighter, an emergency medical technician, or rescue squad member who is exposed to **HIV OR HEPATITIS C** while acting in the performance of duty; ~~and~~

(iii) a forensic scientist, working under the direction of a law enforcement agency, who is exposed to **HIV OR HEPATITIS C** while acting in the performance of duty; AND

(IV) AN INDIVIDUAL WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED TO PROVIDE HEALTH CARE UNDER THE HEALTH OCCUPATIONS ARTICLE WHO IS EXPOSED TO HIV OR HEPATITIS C WHILE WORKING UNDER THE DIRECTION OF A LAW ENFORCEMENT AGENCY OR WHILE PERFORMING A SEXUAL ASSAULT MEDICAL EVIDENCE COLLECTION EXAMINATION.

11-109.

(a) In this section, “body fluids” has the meaning stated in § 18-338.1 of the Health – General Article.

(b) Exposure to **HIV OR HEPATITIS C** between a victim and a person charged with a prohibited exposure occurs:

(1) by percutaneous or mucocutaneous contact with blood or body fluids;

(2) by contact for a prolonged period with blood or body fluids of an open wound, including dermatitis, exudative lesions, and chapped skin;

(3) by intact skin contact for a prolonged period with large amounts of blood or body fluids; or

(4) under any other condition or circumstance under which a person may be exposed to **HIV OR HEPATITIS C**.

11-110.

In addition to testing allowed under § 11-112 of this subtitle, the court may order a person charged with a prohibited exposure to give a blood sample to be tested for the presence of **HIV OR HEPATITIS C** if:

(1) the person is charged with a prohibited exposure within 1 year after the prohibited exposure occurred;

(2) a victim or victim's representative requests the testing in writing to the State's Attorney in the county where the prohibited exposure occurred; and

(3) the court finds probable cause to believe that a prohibited exposure occurred.

11-110.1.

(A) IN THIS SECTION, "HEALTH CARE PROVIDER" HAS THE MEANING STATED IN § 18-336 OF THE HEALTH - GENERAL ARTICLE.

(B) (1) A CIRCUIT COURT JUDGE OR A DISTRICT COURT JUDGE MAY ~~ISSUE A SEARCH WARRANT AN EMERGENCY ORDER TO OBTAIN A BUCCAL~~ ORAL SWAB FROM A PERSON TO BE TESTED FOR THE PRESENCE OF HIV WHENEVER IT IS MADE TO APPEAR TO A JUDGE, BY APPLICATION AS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION, THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PERSON HAS CAUSED PROHIBITED EXPOSURE TO A VICTIM.

(2) AN APPLICATION FOR ~~A SEARCH WARRANT~~ AN EMERGENCY ORDER SHALL BE:

(I) ~~BE~~ MADE AS SOON AS POSSIBLE AFTER THE ALLEGED PROHIBITED EXPOSURE, AND IN NO EVENT LATER THAN ~~24~~ 72 HOURS AFTER THE ALLEGED PROHIBITED EXPOSURE;

(II) ~~MEET THE REQUIREMENTS UNDER § 1-203 OF THIS ARTICLE; AND~~ IN WRITING, SIGNED AND SWORN TO BY THE APPLICANT, AND ACCOMPANIED BY AN AFFIDAVIT THAT SETS FORTH THE BASIS TO BELIEVE THAT THE PERSON FROM WHOM AN ORAL SWAB IS REQUESTED HAS CAUSED A PROHIBITED EXPOSURE TO A VICTIM;

(III) ~~BE~~ SEALED; AND

(IV) SUBJECT TO RULES DEVELOPED BY THE COURT OF APPEALS.

(3) ~~A SEARCH WARRANT AN EMERGENCY ORDER~~ ISSUED UNDER THIS SUBSECTION SHALL MEET THE REQUIREMENTS UNDER § 1-203 OF THIS ARTICLE.

(4) THE COURT OF APPEALS SHALL ADOPT RULES TO CARRY OUT THE REQUIREMENTS OF THIS SUBSECTION.

(C) (1) A LAW ENFORCEMENT OFFICER WHO HAS OBTAINED A ~~BUCCAL~~ ORAL SWAB FROM A PERSON PURSUANT TO ~~A SEARCH WARRANT AN EMERGENCY~~

ORDER ISSUED IN ACCORDANCE WITH THIS SECTION SHALL DELIVER THE ~~BUCCAL~~ ORAL SWAB TO A LOCAL HEALTH OFFICIAL OR HEALTH CARE PROVIDER TO BE TESTED FOR THE PRESENCE OF HIV.

(2) A TEST FOR THE PRESENCE OF HIV SHALL BE IMMEDIATELY PERFORMED ON THE SAMPLE.

(D) AFTER RECEIVING THE RESULTS OF A TEST CONDUCTED UNDER SUBSECTION (C) OF THIS SECTION, THE LOCAL HEALTH OFFICER OR HEALTH CARE PROVIDER IMMEDIATELY SHALL PROVIDE THE RESULTS TO:

(1) THE VICTIM OR VICTIM’S REPRESENTATIVE; AND

(2) THE PERSON FROM WHOM THE ~~BUCCAL~~ ORAL SWAB WAS TAKEN.

(E) THE RESULTS OF A TEST CONDUCTED UNDER SUBSECTION (C) OF THIS SECTION ARE:

(1) SUBJECT TO THE DISCLOSURE RESTRICTION IN § 11–114 OF THIS SUBTITLE; AND

(2) NOT ADMISSIBLE AS EVIDENCE OF GUILT OR INNOCENCE IN A CRIMINAL PROCEEDING ARISING OUT OF THE ALLEGED PROHIBITED EXPOSURE.

(F) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL ADOPT REGULATIONS TO CARRY OUT THE REQUIREMENTS OF SUBSECTIONS (C) THROUGH (G) OF THIS SECTION.

(G) A HEALTH CARE PROVIDER THAT OFFERS THE IMMEDIATE TESTING OF A SAMPLE UNDER SUBSECTION (C) OF THIS SECTION SHALL ADOPT PROCEDURES TO MEET THE REQUIREMENTS UNDER THIS SECTION.

11–112.

(a) Within 10 days of a written request of a victim or victim’s representative to the State’s Attorney in the county where a prohibited exposure occurred, the court shall order a test of a blood sample for HIV and any other identified causative agent of AIDS OR HEPATITIS C.

11–113.

(a) (1) After conviction or a finding of a prohibited exposure, a finding of probable cause under § 11–110(3) of this subtitle, or a granting of probation before judgment under § 11–112 of this subtitle, the State’s Attorney shall within 3 days notify

the local health officer of the written request by the victim or victim's representative for testing.

(2) On receipt of a court order for testing issued under § 11–110(3) or § 11–112 of this subtitle, the local health officer or the local health officer's designee from any other governmental unit shall:

(i) collect the blood sample within 7 days from the person who is charged with, convicted of, or found to have committed a prohibited exposure;

(ii) test the blood sample; and

(iii) **IF THE TEST IS CONDUCTED FOR THE PRESENCE OF HIV**, give pretest and posttest counseling to the victim or victim's representative and the person subject to testing in accordance with Title 18, Subtitle 3, Part VI of the Health – General Article.

11–117.

The Department of Health and Mental Hygiene shall adopt regulations to carry out Part II of this subtitle, including regulations on:

(1) the confidentiality of **HIV OR HEPATITIS C** test results; and

(2) giving the victim or victim's representative counseling regarding HIV disease **OR HEPATITIS C**, **HIV OR HEPATITIS C** testing, and referral for appropriate health care and support services.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 486

(House Bill 1375)

AN ACT concerning

Criminal Procedure – Testing – HIV and Hepatitis C

FOR the purpose of including hepatitis C as a disease for which a certain person charged with causing a prohibited exposure to a victim may be tested under certain circumstances; authorizing a certain judge to issue ~~a search warrant~~ an emergency order to obtain a certain sample from a person to be tested for the presence of HIV

under certain circumstances; requiring a certain application for ~~a search warrant~~ an emergency order to meet certain requirements; ~~requiring~~ authorizing the Court of Appeals to adopt certain rules; requiring a certain law enforcement officer to deliver a certain sample to a local health official or certain health care provider to be tested for the presence of HIV; requiring a certain test to be performed within a certain period of time; requiring a local health official or certain health care provider to provide notice of a certain test result to certain persons; establishing a certain disclosure restriction and evidentiary limitation for a test result; requiring the Department of Health and Mental Hygiene to adopt certain regulations; requiring a certain health care provider to adopt certain procedures; defining a certain term; altering a certain definition; making conforming changes; and generally relating to testing for HIV and hepatitis C.

BY repealing and reenacting, without amendments,

Article – Criminal Procedure

Section 11–107(a)

Annotated Code of Maryland

(2008 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Procedure

Section 11–107(e) and (f), 11–109, 11–110, 11–112(a), 11–113(a), and 11–117 to be under the amended part “Part II. Right to HIV and Hepatitis C Testing”

Annotated Code of Maryland

(2008 Replacement Volume and 2016 Supplement)

BY adding to

Article – Criminal Procedure

Section 11–110.1

Annotated Code of Maryland

(2008 Replacement Volume and 2016 Supplement)

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

Article – Criminal Procedure

Part II. Right to HIV AND HEPATITIS C Testing.

11–107.

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

(e) (1) “Prohibited exposure” means a crime or delinquent act that may have caused or resulted in exposure to **HIV OR HEPATITIS C**.

(2) “Prohibited exposure” includes:

(i) contact that occurs on penetration, however slight, between the penis and the vulva or anus; and

(ii) contact between the mouth and the penis, vulva, or anus.

(f) (1) “Victim” means the victim of a prohibited exposure.

(2) “Victim” includes:

(i) a law enforcement officer who is exposed to **HIV OR HEPATITIS C** while acting in the performance of duty;

(ii) a paid or volunteer firefighter, an emergency medical technician, or rescue squad member who is exposed to **HIV OR HEPATITIS C** while acting in the performance of duty; ~~and~~

(iii) a forensic scientist, working under the direction of a law enforcement agency, who is exposed to **HIV OR HEPATITIS C** while acting in the performance of duty; AND

(IV) AN INDIVIDUAL WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED TO PROVIDE HEALTH CARE UNDER THE HEALTH OCCUPATIONS ARTICLE WHO IS EXPOSED TO HIV OR HEPATITIS C WHILE WORKING UNDER THE DIRECTION OF A LAW ENFORCEMENT AGENCY OR WHILE PERFORMING A SEXUAL ASSAULT MEDICAL EVIDENCE COLLECTION EXAMINATION.

11–109.

(a) In this section, “body fluids” has the meaning stated in § 18–338.1 of the Health – General Article.

(b) Exposure to **HIV OR HEPATITIS C** between a victim and a person charged with a prohibited exposure occurs:

(1) by percutaneous or mucocutaneous contact with blood or body fluids;

(2) by contact for a prolonged period with blood or body fluids of an open wound, including dermatitis, exudative lesions, and chapped skin;

(3) by intact skin contact for a prolonged period with large amounts of blood or body fluids; or

(4) under any other condition or circumstance under which a person may be exposed to **HIV OR HEPATITIS C**.

11–110.

In addition to testing allowed under § 11–112 of this subtitle, the court may order a person charged with a prohibited exposure to give a blood sample to be tested for the presence of HIV OR HEPATITIS C if:

- (1) the person is charged with a prohibited exposure within 1 year after the prohibited exposure occurred;
- (2) a victim or victim’s representative requests the testing in writing to the State’s Attorney in the county where the prohibited exposure occurred; and
- (3) the court finds probable cause to believe that a prohibited exposure occurred.

11–110.1.

(A) IN THIS SECTION, “HEALTH CARE PROVIDER” HAS THE MEANING STATED IN § 18–336 OF THE HEALTH – GENERAL ARTICLE.

(B) (1) A CIRCUIT COURT JUDGE OR A DISTRICT COURT JUDGE MAY ISSUE ~~A SEARCH WARRANT~~ AN EMERGENCY ORDER TO OBTAIN ~~A AN BUCCAL ORAL SWAB FROM A PERSON TO BE TESTED FOR THE PRESENCE OF HIV WHENEVER IT IS MADE TO APPEAR TO A JUDGE, BY APPLICATION AS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION, THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PERSON HAS CAUSED PROHIBITED EXPOSURE TO A VICTIM.~~

(2) AN APPLICATION FOR ~~A SEARCH WARRANT~~ AN EMERGENCY ORDER SHALL BE:

(I) ~~BE~~ MADE AS SOON AS POSSIBLE AFTER THE ALLEGED PROHIBITED EXPOSURE, AND IN NO EVENT LATER THAN ~~24~~ 72 HOURS AFTER THE ALLEGED PROHIBITED EXPOSURE;

(II) ~~MEET THE REQUIREMENTS UNDER § 1-203 OF THIS ARTICLE; AND~~ IN WRITING, SIGNED AND SWORN TO BY THE APPLICANT, AND ACCOMPANIED BY AN AFFIDAVIT THAT SETS FORTH THE BASIS TO BELIEVE THAT THE PERSON FROM WHOM AN ORAL SWAB IS REQUESTED HAS CAUSED A PROHIBITED EXPOSURE TO A VICTIM;

(III) ~~BE~~ SEALED; AND

(IV) SUBJECT TO RULES DEVELOPED BY THE COURT OF APPEALS.

(3) ~~A SEARCH WARRANT~~ AN EMERGENCY ORDER ISSUED UNDER THIS SUBSECTION SHALL MEET THE REQUIREMENTS UNDER § 1-203 OF THIS ARTICLE.

(4) THE COURT OF APPEALS SHALL MAY ADOPT RULES TO CARRY OUT THE REQUIREMENTS OF THIS SUBSECTION.

(C) (1) A LAW ENFORCEMENT OFFICER WHO HAS OBTAINED A ~~BUCCAL ORAL~~ SWAB FROM A PERSON PURSUANT TO ~~A SEARCH WARRANT~~ AN EMERGENCY ORDER ISSUED IN ACCORDANCE WITH THIS SECTION SHALL DELIVER THE ~~BUCCAL ORAL~~ SWAB TO A LOCAL HEALTH OFFICIAL OR HEALTH CARE PROVIDER TO BE TESTED FOR THE PRESENCE OF HIV.

(2) A TEST FOR THE PRESENCE OF HIV SHALL BE IMMEDIATELY PERFORMED ON THE SAMPLE.

(D) AFTER RECEIVING THE RESULTS OF A TEST CONDUCTED UNDER SUBSECTION (C) OF THIS SECTION, THE LOCAL HEALTH OFFICER OR HEALTH CARE PROVIDER IMMEDIATELY SHALL PROVIDE THE RESULTS TO:

(1) THE VICTIM OR VICTIM'S REPRESENTATIVE; AND

(2) THE PERSON FROM WHOM THE ~~BUCCAL~~ ORAL SWAB WAS TAKEN.

(E) THE RESULTS OF A TEST CONDUCTED UNDER SUBSECTION (C) OF THIS SECTION ARE:

(1) SUBJECT TO THE DISCLOSURE RESTRICTION IN § 11-114 OF THIS SUBTITLE; AND

(2) NOT ADMISSIBLE AS EVIDENCE OF GUILT OR INNOCENCE IN A CRIMINAL PROCEEDING ARISING OUT OF THE ALLEGED PROHIBITED EXPOSURE.

(F) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL ADOPT REGULATIONS TO CARRY OUT THE REQUIREMENTS OF SUBSECTIONS (C) THROUGH (G) OF THIS SECTION.

(G) A HEALTH CARE PROVIDER THAT OFFERS THE IMMEDIATE TESTING OF A SAMPLE UNDER SUBSECTION (C) OF THIS SECTION SHALL ADOPT PROCEDURES TO MEET THE REQUIREMENTS UNDER THIS SECTION.

11-112.

(a) Within 10 days of a written request of a victim or victim's representative to the State's Attorney in the county where a prohibited exposure occurred, the court shall

order a test of a blood sample for HIV and any other identified causative agent of AIDS **OR HEPATITIS C**.

11–113.

(a) (1) After conviction or a finding of a prohibited exposure, a finding of probable cause under § 11–110(3) of this subtitle, or a granting of probation before judgment under § 11–112 of this subtitle, the State’s Attorney shall within 3 days notify the local health officer of the written request by the victim or victim’s representative for testing.

(2) On receipt of a court order for testing issued under § 11–110(3) or § 11–112 of this subtitle, the local health officer or the local health officer’s designee from any other governmental unit shall:

(i) collect the blood sample within 7 days from the person who is charged with, convicted of, or found to have committed a prohibited exposure;

(ii) test the blood sample; and

(iii) **IF THE TEST IS CONDUCTED FOR THE PRESENCE OF HIV**, give pretest and posttest counseling to the victim or victim’s representative and the person subject to testing in accordance with Title 18, Subtitle 3, Part VI of the Health – General Article.

11–117.

The Department of Health and Mental Hygiene shall adopt regulations to carry out Part II of this subtitle, including regulations on:

(1) the confidentiality of **HIV OR HEPATITIS C** test results; and

(2) giving the victim or victim’s representative counseling regarding HIV disease **OR HEPATITIS C**, **HIV OR HEPATITIS C** testing, and referral for appropriate health care and support services.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 487

(Senate Bill 982)

AN ACT concerning

~~Juveniles – Strip Search – Limitations~~
Department of Juvenile Services – Implementation of Task Force
Recommendations – Report

FOR the purpose of requiring ~~that the Department of Juvenile Services adopt regulations applicable to certain facilities that prohibit the strip search of a child except under certain circumstances; permitting the strip search of a child at a facility under certain circumstances; requiring facility staff to exhaust certain alternatives before the strip search of a child; authorizing the strip search of a child on admission to a certain facility under certain circumstances; requiring that a certain authorization for a strip search of a child be made in writing and include certain information; requiring the Department to make a certain report; and generally relating to juvenile strip searches~~ the Department of Juvenile Services to report on the status of the implementation of certain recommendations of the Task Force to Study the Restraint, Searches, and Needs of Children in the Juvenile Justice System; specifying certain recommendations on which the Department must report; requiring the Department to submit a certain report to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the Task Force to Study the Restraint, Searches, and Needs of Children in the Juvenile Justice System and the Department of Juvenile Services.

~~BY repealing and reenacting, without amendments,~~

~~Article – Human Services
 Section 9-227(a) and (b)(3)
 Annotated Code of Maryland
 (2007 Volume and 2016 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article – Human Services
 Section 9-227(b)(2) and 9-237
 Annotated Code of Maryland
 (2007 Volume and 2016 Supplement)~~

~~BY adding to~~

~~Article – Human Services
 Section 9-247
 Annotated Code of Maryland
 (2007 Volume and 2016 Supplement)~~

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

(a) (1) The Department of Juvenile Services shall prepare a progress report on the status of the implementation of the recommendations of the Task Force to Study the

Restraint, Searches, and Needs of Children in the Juvenile Justice System that was established by Chapter 655 of the Acts of the General Assembly of 2016.

(2) In preparing the report required under this section, the Department shall compile information on:

use of:

(i) changes to Department policies and procedures regarding the

1. visual body searches; and

2. mechanical restraints during transportation;

(ii) the collection of data related to the use of visual body searches, including:

1. the number of searches conducted;

2. the circumstances leading to the searches;

3. ~~a detailed description of each item recovered from the child, including from where the item was recovered;~~

4. ~~the gender, race, and age of each child; and~~

5. ~~the date, time, and location of the search whether contraband was removed as a result of the searches; and~~

4. the type of contraband recovered;

(iii) the collection of data related to the use of mechanical restraints during transportation, including:

1. ~~the number of times mechanical restraints are used during transportation;~~

2. ~~the travel date, start and end times, and address of the original destination; and~~

3. ~~the gender, race, and age of each child.~~

1. the number of times youth are transported in mechanical restraints:

A. from a staff-secure placement;

B. while being released on an earned home pass; or

C. while being released back to the community; and

2. an evaluation of the potential for creating a nonsecure transportation unit, including both the fiscal and operational impact; and

(iv) the ages, race, and gender of youth in each facility operated by the Department.

(b) On or before December 1, 2017, the Department of Juvenile Services shall submit to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly the report on the implementation of the recommendations of the Task Force and the information specified in paragraph (a)(2) of this section.

~~Article — Human Services~~

~~9-227.~~

~~(a) Each facility described in § 9-226 of this subtitle shall operate under the control and general management of the Department.~~

~~(b) The Department shall:~~

~~(2) adopt regulations applicable to residential facilities it operates that:~~

~~(i) prohibit the use of locked door seclusion and restraints as punishment and describe the circumstances under which locked door seclusion and restraints may be used; [and]~~

~~(ii) prohibit abuse of a child; and~~

~~(iii) EXCEPT AS PROVIDED IN § 9-247 OF THIS ARTICLE, PROHIBIT THE STRIP SEARCH OF A CHILD; AND~~

~~(3) adopt regulations that require each State residential program to provide:~~

~~(i) medical and mental health assessment services;~~

~~(ii) alcohol abuse and drug abuse assessment services;~~

~~(iii) either alcohol abuse and drug abuse referral services or an alcohol abuse and drug abuse treatment program that has been certified in accordance with the requirements of Title 8 of the Health — General Article; and~~

~~(iv) a safe, humane, and caring environment.~~

~~9-237.~~

~~(a) The Department shall adopt regulations that set standards for juvenile detention facilities operated by the Department and by private agencies under contract with the Department.~~

~~(b) The standards shall reflect the following central purposes of juvenile detention:~~

~~(1) to protect the public;~~

~~(2) to provide a safe, humane, and caring environment for children; and~~

~~(3) to provide access to required services for children.~~

~~(c) The standards shall include provisions establishing:~~

~~(1) a policy that eliminates the unnecessary use of detention and that prioritizes diversion and appropriate nonsecure alternatives;~~

~~(2) criteria for the placement of a child in a particular juvenile detention facility;~~

~~(3) population limits for each juvenile detention facility that may not be exceeded except in emergency circumstances;~~

~~(4) a requirement that staffing ratios and levels of services be maintained during emergencies;~~

~~(5) specifications for the architectural structure of a juvenile detention facility;~~

~~(6) staff qualifications and training, including training in recognizing and reporting child abuse and neglect;~~

~~(7) the ratio of staff to children in a juvenile detention facility;~~

~~(8) the rights of children in a juvenile detention facility, including the right to privacy, visitors, telephone use, and mail delivery;~~

~~(9) prohibitions against the use of excessive force against a child;~~

~~(10) internal auditing and monitoring of programs and facilities in the juvenile services system; [and]~~

~~(11) prohibitions against the use of physical restraints on an individual known to be in the third trimester of pregnancy or during labor, delivery, or postpartum~~

~~recovery, including during all transports, unless a facility superintendent or the facility superintendent's designee determines that a physical restraint is necessary to protect the individual from harming herself or others or to prevent the individual's escape from custody; AND~~

~~(12) EXCEPT AS PROVIDED IN § 9-247 OF THIS ARTICLE, PROHIBITIONS AGAINST THE STRIP SEARCH OF A CHILD.~~

~~(d) The standards shall be consistent with this title and Title 3, Subtitle 8A of the Courts Article.~~

~~9-247.~~

~~(A) A CHILD IN ANY FACILITY MAY BE STRIP SEARCHED IF:~~

~~(1) THERE IS REASONABLE AND ARTICULABLE BELIEF THAT THE CHILD IS CONCEALING DRUGS OR AN OBJECT THAT CAN BE USED AS A WEAPON OR TO ESCAPE; AND~~

~~(2) THE SEARCH IS AUTHORIZED BY THE FACILITY SUPERINTENDENT, THE FACILITY ADMINISTRATOR, OR A DESIGNEE OF EITHER.~~

~~(B) BEFORE A CHILD IS STRIP SEARCHED AT A FACILITY, FACILITY STAFF SHALL EXHAUST ALL OTHER AVAILABLE ALTERNATIVES, INCLUDING:~~

~~(1) ORALLY INTERVIEWING THE CHILD;~~

~~(2) CONDUCTING A PAT-DOWN SEARCH; OR~~

~~(3) USING A HANDHELD METAL DETECTOR WAND.~~

~~(C) (1) NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF THIS SECTION AND EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A CHILD MAY BE STRIP SEARCHED ON ADMISSION TO A DETENTION FACILITY OR A HARDWARE SECURE FACILITY.~~

~~(2) A CHILD MAY NOT BE STRIP SEARCHED ON ADMISSION IF THE CHILD IS BEING TRANSFERRED FROM A DETENTION FACILITY OR A HARDWARE SECURE FACILITY TO ANOTHER DETENTION FACILITY OR HARDWARE SECURE FACILITY AND THE CHILD WAS UNDER THE DIRECT AND CONTINUOUS SUPERVISION OF FACILITY STAFF DURING THE TRANSFER.~~

~~(D) AN AUTHORIZATION FOR A STRIP SEARCH OF A CHILD UNDER SUBSECTION (A) OF THIS SECTION BY A FACILITY SUPERVISOR, FACILITY~~

~~ADMINISTRATOR, OR A DESIGNEE OF EITHER, SHALL BE MADE IN WRITING AND INCLUDE:~~

- ~~(1) THE NAME, GENDER, RACE, AND AGE OF THE CHILD;~~
- ~~(2) THE DATE, TIME, AND LOCATION OF THE STRIP SEARCH;~~
- ~~(3) THE NAME AND GENDER OF ANY PERSON CONDUCTING OR ASSISTING IN THE STRIP SEARCH;~~
- ~~(4) THE NAME AND POSITION OF THE AUTHORIZING OFFICIAL;~~
- ~~(5) A DETAILED STATEMENT OF THE REASONABLE AND ARTICULABLE BELIEF FOR THE STRIP SEARCH; AND~~
- ~~(6) A DETAILED DESCRIPTION OF EACH ITEM RECOVERED FROM THE CHILD, INCLUDING FROM WHERE THE ITEM WAS RECOVERED.~~

~~(E) ON OR BEFORE SEPTEMBER 30 EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON EACH STRIP SEARCH CONDUCTED WITHIN THE DEPARTMENT'S FACILITIES, INCLUDING THE INFORMATION REQUIRED UNDER SUBSECTION (D) OF THIS SECTION, EXCEPT FOR THE NAME OF ANY CHILD, FACILITY STAFF, OR FACILITY OFFICIAL.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2017. It shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2018, 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, 2017.

Chapter 488

(Senate Bill 799)

AN ACT concerning

Driver's Driver Improvement Program and Failure to Pay Child Support – Driver's License Suspensions – Penalties and Assessment of Points

FOR the purpose of ~~repealing the term of imprisonment for a person convicted of driving a vehicle on a highway or certain property while the person's driver's license or~~

~~privilege to drive is suspended in the State; reducing the number of points assessed to a person convicted of driving a vehicle on a highway or certain property while the person's driver's license or privilege to drive is suspended in the State; repealing the term of imprisonment for a person convicted of driving a vehicle on a highway or certain property while the person's driver's license issued by another state is suspended under the laws of the State or the traffic laws or regulations of another state under certain circumstances; reducing the number of points assessed to a person convicted of driving a vehicle on a highway or certain property while the person's driver's license issued by another state is suspended under the laws of the State or the traffic laws or regulations of another state under certain circumstances; altering the assessment of points and the penalties associated with the suspension of a driver's license or privilege to drive for failure to attend a certain driver improvement program or make certain child support payments; making conforming changes; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to penalties for driver's license suspensions for failure to attend a certain driver improvement program or make certain child support payments.~~

BY repealing and reenacting, without amendments,

Article – Transportation

Section 16–203(b), 16–206(a)(2), and 16–402(a)(14)

Annotated Code of Maryland

(2012 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Transportation

Section 16–303, ~~16–402(a)(14) and (34), 27–101(e)(12) through (26) and (h), and~~

~~27–111(e)(1) and (3)(i)~~

Annotated Code of Maryland

(2012 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, ~~with~~ without amendments,

Article – Transportation

Section 27–101(gg)

Annotated Code of Maryland

(2012 Replacement Volume and 2016 Supplement)

(As enacted by Chapter 515 of the Acts of the General Assembly of 2016)

~~BY repealing and reenacting, with amendments,~~

~~Article – Transportation~~

~~Section 16–303(k)~~

~~Annotated Code of Maryland~~

~~(2012 Replacement Volume and 2016 Supplement)~~

~~(As enacted by Chapter (S.B. 165) of the Acts of the General Assembly of 2017)~~

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

Article – Transportation

16–203.

(b) On notification by the Child Support Enforcement Administration in accordance with § 10–119 of the Family Law Article that an obligor is 60 days or more out of compliance with the most recent order of the court in making child support payments, the Administration:

(1) Shall suspend an obligor’s license or privilege to drive in the State; and

(2) May issue a work–restricted license or work–restricted privilege to drive.

16–206.

(a) (2) The Administration may suspend a license to drive of an individual who fails to attend:

(i) A driver improvement program or an alcohol education program required under § 16–212 of this subtitle; or

(ii) A private alternative program or an alternative program that is provided by a political subdivision of this State under § 16–212 of this subtitle.

16–303.

(a) A person may not drive a motor vehicle on any highway or on any property specified in § 21–101.1 of this article while the person’s license or privilege to drive is refused in this State or any other state.

(b) A person may not drive a motor vehicle on any highway or on any property specified in § 21–101.1 of this article while the person’s license or privilege to drive is canceled in this State.

(c) ~~¶~~A person may not drive a motor vehicle on any highway or on any property specified in § 21–101.1 of this article while the person’s license or privilege to drive is suspended in this State.

(d)~~¶~~ A person may not drive a motor vehicle on any highway or on any property specified in § 21–101.1 of this article while the person’s license or privilege to drive is revoked in this State.

~~¶(e) (D)~~ A person may not drive a motor vehicle on any highway or on any property specified in § 21–101.1 of this article while the person’s license issued by any other state is canceled.

~~¶~~(f) A person may not drive a motor vehicle on any highway or on any property specified in § 21-101.1 of this article while the person's license issued by any other state is suspended.

~~¶~~(g) ~~(E)~~ A person may not drive a motor vehicle on any highway or on any property specified in § 21-101.1 of this article while the person's license issued by any other state is revoked.

~~¶~~(h) ~~(F)~~ A person may not drive a motor vehicle on any highway or on any property specified in § 21-101.1 of this article while:

~~(1) [the] THE person's license or privilege to drive is suspended [under § 16-203, § 16-206(A)(2) FOR FAILURE TO ATTEND A DRIVER IMPROVEMENT PROGRAM, § 17-106, § 26-204, § 26-206, or § 27-103 of this article] IN THIS STATE;~~

~~(2) THE PERSON'S LICENSE ISSUED BY ANY OTHER STATE IS SUSPENDED; OR~~

~~(3) THE PERSON'S LICENSE OR PRIVILEGE TO DRIVE IS SUSPENDED UNDER THE TRAFFIC LAWS OR REGULATIONS OF ANY OTHER STATE FOR:~~

~~(I) FAILURE TO COMPLY WITH A NOTICE TO APPEAR IN A COURT OF THAT STATE CONTAINED IN A TRAFFIC CITATION ISSUED TO THE PERSON; OR~~

~~(II) FAILURE TO PAY A FINE FOR A VIOLATION OF ANY TRAFFIC LAWS OR REGULATIONS OF THAT STATE.~~

~~¶~~(i) (1) This subsection applies only to a person whose license or privilege to drive is suspended under the traffic laws or regulations of another state for:

(i) Failure to comply with a notice to appear in a court of that state contained in a traffic citation issued to the person; or

(ii) Failure to pay a fine for a violation of any traffic laws or regulations of that state.

(2) A person may not drive a motor vehicle on any highway or on any property specified in § 21-101.1 of this article while the person's license or privilege to drive is suspended under the traffic laws or regulations of any other state as described in paragraph (1) of this subsection.

~~(j)~~ ~~(G)~~ (1) Except as provided in paragraph (2) of this subsection, any individual who violates a provision of this section shall be assessed the points as provided for in § 16-402(a)(34) of this title.

(2) Any individual who violates a provision of subsection ~~(h)~~ or subsection ~~(i)~~ ~~(F)~~ of this section shall be assessed the points as provided for in § 16-402(a)(14) of this title.

16-402.

(a) After the conviction of an individual for a violation of Title 2, Subtitle 5, § 2-209, § 3-211, or § 10-110 of the Criminal Law Article, or of the vehicle laws or regulations of this State or of any local authority, points shall be assessed against the individual as of the date of violation and as follows:

(14) Any violation of ~~§~~ 16-303(h) or ~~(i)~~ ~~§ 16-303(F)~~ of this title...3 points

27-101.

(gg) A person who is convicted of a violation of § 16-303(h) (“Licenses suspended under certain provisions of Code”) or § 16-303(i) (“Licenses suspended under certain provisions of the traffic laws or regulations of another state”) of this article:

(1) Is subject to a fine of not more than \$500;

(2) Must appear in court; and

(3) May not prepay the fine.

~~(34) Any violation of § 16-303 of this title, excluding ~~§ 16-303(h) or (i)~~ ~~§ 16-303(F)~~..... 12 points~~

~~27-111.~~

~~(e) (1) As a sentence, a part of a sentence, or a condition of probation, a court may order, for not more than 180 days, the impoundment or immobilization of a solely owned vehicle used in the commission of a violation of § 16-303(e) or ~~[(d)] (F)(1)~~ of this article if, at the time of the violation:~~

~~(i) The owner of the vehicle was driving the vehicle; and~~

~~(ii) The owner’s license was suspended or revoked under § 16-205 of this article.~~

~~(3) (i) Subject to the provisions of subparagraph (ii) of this paragraph, impoundment or immobilization of a vehicle may not be ordered under this section, if the~~

~~registered owner of the vehicle made a bona fide sale, gift, or other transfer of the vehicle to another person before the date of the finding of a violation of § 16-303(e) or [(d)] (F)(1) of this article.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article — Transportation~~

~~27-101.~~

~~(e) Any person who is convicted of a violation of any of the provisions of the following sections of this article is subject to a fine of not more than \$500 or imprisonment for not more than 2 months or both:~~

~~(12) [§ 16-303(h) (“Licenses suspended under certain provisions of Code”);~~

~~(13) § 16-303(i) (“Licenses suspended under certain provisions of the traffic laws or regulations of another state”);~~

~~(14) Repealed.~~

~~[(15)] § 20-103 (“Driver to remain at scene — Accidents resulting only in damage to attended vehicle or property”);~~

~~[(16)] (13) § 20-104 (“Duty to give information and render aid”);~~

~~[(17)] (14) § 20-105 (“Duty on striking unattended vehicle or other property”);~~

~~[(18)] (15) § 20-108 (“False reports prohibited”);~~

~~[(19)] (16) § 21-206 (“Interference with traffic control devices or railroad signs and signals”);~~

~~[(20)] (17) As to a pedestrian in a marked crosswalk, § 21-502(a) (“Pedestrians’ right of way in crosswalks: In general”), if the violation contributes to an accident;~~

~~[(21)] (18) As to another vehicle stopped at a marked crosswalk, § 21-502(e) (“Passing of vehicle stopped for pedestrian prohibited”), if the violation contributes to an accident;~~

~~[(22)] (19) Except as provided in subsections (f) and (g) of this section, § 21-902(b) (“Driving while impaired by alcohol”);~~

~~[(23)] (20) Except as provided in subsections (f) and (g) of this section, § 21-902(e) (“Driving while impaired by drugs or drugs and alcohol”);~~

~~[(24)] (21) § 21-902.1 (“Driving within 12 hours after arrest”);~~

~~[(25)] (22) Title 21, Subtitle 10A (“Towing or Removal of Vehicles from Parking Lots”); or~~

~~[(26)] (23) § 27-107(d), (e), (f), or (g) (“Prohibited acts – Ignition interlock systems”);~~

~~(h) Any person who is convicted of a violation of any of the provisions of § 16-113(k) of this article (“Ignition Interlock System Program participant driving vehicle without ignition interlock”), § 16-303(a), (b), (e), (d), OR (e)[, (f), or (g)] of this article (“Driving while license is canceled, [suspended,] refused, or revoked”), § 17-107 of this article (“Prohibitions”), or § 17-110 of this article (“Providing false evidence of required security”) is subject to:~~

~~(1) For a first offense, a fine of not more than \$1,000, or imprisonment for not more than 1 year, or both; and~~

~~(2) For any subsequent offense, a fine of not more than \$1,000, or imprisonment for not more than 2 years, or both.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article – Transportation~~

~~27-101.~~

~~(h) Any person who is convicted of a violation of any of the provisions of § 16-113(k) of this article (“Ignition Interlock System Program participant driving vehicle without ignition interlock”), § 16-303(a), (b), (e), (d), OR (e)[, (f), or (g)] of this article (“Driving while license is canceled, [suspended,] refused, or revoked”), § 17-107 of this article (“Prohibitions”), or § 17-110 of this article (“Providing false evidence of required security”) is subject to:~~

~~(1) For a first offense, a fine of not more than \$1,000, or imprisonment for not more than 1 year, or both; and~~

~~(2) For any subsequent offense, a fine of not more than \$1,000, or imprisonment for not more than 2 years, or both.~~

~~(gg) A person who is convicted of a violation of [§ 16-303(h)] § 16-303(f) (“Licenses suspended under certain provisions of Code”) [or § 16-303(i) (“Licenses~~

~~suspended under certain provisions of the traffic laws or regulations of another state”)] of this article:~~

- ~~(1) Is subject to a fine of not more than \$500;~~
- ~~(2) Must appear in court; and~~
- ~~(3) May not prepay the fine.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article — Transportation~~

~~16-303.~~

~~[(k)] (H) (1) Except as provided in paragraph (2) of this subsection, a person convicted of a violation of this section is subject to:~~

~~(i) For a first offense, imprisonment not exceeding 1 year or a fine not exceeding \$1,000 or both; and~~

~~(ii) For a second or subsequent offense, imprisonment not exceeding 2 years or a fine not exceeding \$1,000 or both.~~

~~(2) A person convicted of a violation of subsection [(h) or (i)] (F) of this section:~~

- ~~(i) Is subject to a fine not exceeding \$500;~~
- ~~(ii) Must appear in court; and~~
- ~~(iii) May not prepay the fine.~~

~~SECTION 5. AND BE IT FURTHER ENACTED, That, if Section 3 or 4 of this Act takes effect, Section 2 of this Act shall be abrogated and of no further force and effect.~~

~~SECTION 6. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect October 1, 2017, the effective date of Section 4 of Chapter 515 of the Acts of the General Assembly of 2016. If the effective date of Section 4 of Chapter 515 is amended, Section 3 of this Act shall take effect on the taking effect of Section 4 of Chapter 515. If Section 4 of Chapter 515 does not take effect or if Section 4 of this Act takes effect, Section 3 of this Act shall be abrogated and of no further force and effect.~~

~~SECTION 7. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall take effect October 1, 2017, the effective date of Chapter (S.B. 165) of the Acts of the General Assembly of 2017. If the effective date of Chapter (S.B. 165) is amended, Section 4 of this~~

~~Act shall take effect on the taking effect of Chapter (S.B. 165). If Chapter (S.B. 165) does not take effect, Section 4 of this Act shall be abrogated and of no further force and effect.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That, subject to the provisions of Sections 5, 6, and 7 of this Act, this Act shall take effect October 1, 2017.~~

Approved by the Governor, May 4, 2017.

Chapter 489

(Senate Bill 873)

AN ACT concerning

Economic Development – Job Creation Tax Credit – Alteration

FOR the purpose of altering the definitions of “qualified position” and “State priority funding area” for purposes of the job creation tax credit program; altering a requirement related to the number of positions a person is required to create in order to be eligible for the tax credit; authorizing the Department of Commerce to require that certain information be verified by the Department of Labor, Licensing, and Regulation rather than by an independent auditor; requiring the Department of Commerce to certify the amount of the tax credit for which a qualified business entity is eligible; altering the calculation of the credits earned under the program; prohibiting the Department of Commerce from certifying tax credits in a taxable year in excess of a certain amount; altering the manner in which the tax credit shall be claimed; repealing an authorization allowing the Department of Commerce to require that certain information be verified by a certain independent auditor; altering the contents of a certain report that the Department of Commerce is required to submit; requiring the Maryland Insurance Commissioner to submit a certain report; making a conforming change; providing for the application of this Act; and generally relating to the job creation tax credit program.

BY repealing and reenacting, without amendments,

Article – Economic Development

Section 6–301(a)

Annotated Code of Maryland

(2008 Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Economic Development

Section 6–301(d)(1) and (f), 6–303(b) and (e), 6–304, 6–305(c), 6–307, and 6–309

Annotated Code of Maryland

(2008 Volume and 2016 Supplement)

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

Article – Economic Development

6–301.

- (a) In this subtitle the following words have the meanings indicated.
- (d) (1) “Qualified position” means a position that:
 - (i) is full-time and of indefinite duration;
 - (ii) pays at least ~~150%~~ 120% of the [federal] **STATE** minimum wage;
 - (iii) is located in the State;
 - (iv) is newly created as a result of the establishment or expansion of a business facility in a single location in the State; and
 - (v) is filled.
- (f) “State priority funding area” means:
 - (1) a municipal corporation;
 - (2) Baltimore City;
 - (3) a sustainable community, as defined in § 6–301 of the Housing and Community Development Article;
 - (4) an enterprise zone designated by the Secretary under § 5–704 of this article;
 - (5) an enterprise zone designated by the United States government under 42 U.S.C. §§ 11501 through 11505;
 - (6) those areas of the State located between Interstate Highway 495 and the District of Columbia;
 - (7) those areas of the State located between Interstate Highway 695 and Baltimore City;
 - (8) [no more than one] **ANY** area in a county designated by the county as a priority funding area under § 5–7B–03(c) of the State Finance and Procurement Article; and

(9) that portion of the Port Land Use Development Zone, as defined in § 6–501 of the Transportation Article, that has been designated as an area appropriate for growth in a county comprehensive master plan.

6–303.

(b) To be eligible for a tax credit under this subtitle, a person shall establish or expand a business facility in the State that:

(1) during any 24-month period creates at least:

(i) 60 qualified positions;

(ii) [30 qualified positions if the aggregate payroll for the qualified positions is greater than a threshold amount equal to the product of multiplying 60 times the State’s average annual salary, as determined by the Department; or

(iii)] 25 qualified positions if the business facility established or expanded is located in a State priority funding area; **OR**

(III) 10 QUALIFIED POSITIONS IN A COUNTY WITH ~~A POPULATION UNDER 50,000:~~

1. AN ANNUAL AVERAGE EMPLOYMENT THAT IS LESS THAN 75,000; OR

2. A MEDIAN HOUSEHOLD INCOME THAT IS LESS THAN TWO-THIRDS OF THE STATEWIDE MEDIAN HOUSEHOLD INCOME; and

(2) is primarily engaged in:

(i) manufacturing or mining;

(ii) transportation or communications;

(iii) agriculture, forestry, or fishing;

(iv) research, development, or testing;

(v) biotechnology;

(vi) computer programming, information technology, or other computer-related services;

(vii) central services for a business entity engaged in financial services, real estate services, or insurance services;

- (viii) the operation of central administrative offices;
- (ix) the operation of a company headquarters other than the headquarters of a professional sports organization;
- (x) the operation of a public utility;
- (xi) warehousing;
- (xii) business services, if the business facility established or expanded is located in a State priority funding area; or
- (xiii) entertainment, recreation, cultural, or tourism-related activities in a multi-use facility located within a revitalization area if the facility:
 1. generates a minimum of 1,000 new full-time equivalent filled positions in a 24-month period; and
 2. is not primarily used by a professional sports franchise or for gaming.

(e) The Department may require that any information provided under subsection (c) of this section be verified by [an independent auditor that the qualified business entity selects] **THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.**

6-304.

(a) (1) A qualified business entity may claim a tax credit in the amount determined under this section.

(2) **THE DEPARTMENT SHALL CERTIFY THE AMOUNT OF THE TAX CREDIT FOR WHICH A QUALIFIED BUSINESS ENTITY IS ELIGIBLE UNDER THIS SECTION.**

(3) **[A] THE** qualified business entity shall submit to the appropriate State units, with the tax return on which the credit is claimed, certification from the Department that the business entity has met the requirements of this subtitle and is eligible for the credit **IN THE AMOUNT CERTIFIED BY THE DEPARTMENT.**

(b) (1) Except as provided in this section, the credit earned under this section:

- (i) for qualified employees working in a facility not located in a revitalization area, is ~~the lesser of:~~

~~1. \$1,000~~ **\$3,000** multiplied by the number of qualified employees employed by the qualified business entity during the credit year; and

~~2. 2.5% of the wages paid by the qualified business entity during the credit year to the qualified employees; and~~

(ii) for qualified employees working in a facility located in a revitalization area, is ~~the lesser of:~~

~~1. \$1,500~~ **\$5,000** multiplied by the number of qualified employees employed by the qualified business entity during the credit year; ~~and~~

~~2. 5% of the wages paid by the qualified business entity during the credit year to the qualified employees.~~

(2) The credit earned by a qualified business entity under this subtitle may not exceed \$1,000,000 for any credit year.

(3) THE TOTAL AMOUNT OF CREDITS CERTIFIED BY THE DEPARTMENT FOR QUALIFIED BUSINESS ENTITIES IN A TAXABLE YEAR MAY NOT EXCEED \$4,000,000.

(c) (1) [The credit earned under subsection (b) of this section shall be taken over a 2-year period, with one-half of the credit amount allowed each year beginning with the credit year.

(2)] The same credit cannot be applied more than once against different taxes by the same taxpayer.

[(3)] **(2)** If the credit allowed under this subtitle exceeds the total tax otherwise due from a qualified business entity in a taxable year, the qualified business entity may apply the excess as a credit for succeeding taxable years until the earlier of:

(i) the full amount of the excess is used; or

(ii) the expiration of the 5th taxable year from the credit year.

[(4)] **(3)** The credit under this subtitle may not be carried back to a preceding taxable year.

6-305.

(c) [(1)] During the 3 taxable years after the credit year, a qualified business entity shall provide any information required by the Department in regulation to verify that the qualified business entity is not subject to subsection (a) or (b) of this section.

[(2) The Department may require that any information provided under this subsection be verified by an independent auditor that the qualified business entity selects.]

6-307.

(A) In accordance with § 2.5-109 of this article, the Department shall submit a report on:

(1) [the] EACH business [entities] ENTITY certified as eligible for job creation tax credits in the preceding [fiscal] TAXABLE year;

(2) WHETHER THE CREDITS FOR WHICH THE BUSINESS ENTITY WAS CERTIFIED RESULTED FROM THE ENTITY'S ESTABLISHMENT, EXPANSION, OR RELOCATION;

(3) WHETHER THE BUSINESS ENTITY HAD A PRESENCE IN THE STATE BEFORE CLAIMING THE CREDIT;

(4) THE TOTAL NUMBER OF EMPLOYEES OF THE BUSINESS ENTITY;
AND

(5) THE TOTAL NUMBER OF YEARS THAT THE BUSINESS ENTITY HAS BEEN IN BUSINESS.

(B) IN ACCORDANCE WITH § 2-110 OF THE INSURANCE ARTICLE, THE MARYLAND INSURANCE COMMISSIONER SHALL SUBMIT A REPORT ON:

(1) EACH INSURER CLAIMING THE CREDIT AGAINST THE INSURANCE PREMIUM TAX UNDER § 6-114 OF THE INSURANCE ARTICLE;

(2) THE TOTAL AMOUNT OF CREDITS CLAIMED BY INSURERS UNDER § 6-114 OF THE INSURANCE ARTICLE; AND

(3) THE NUMBER OF INSURERS CLAIMING THE CREDIT.

6-309.

(a) Subject to subsection (b) of this section, this subtitle and the tax credit authorized under it shall terminate on January 1, 2020.

(b) After termination of this subtitle:

(1) a business entity may be considered for eligibility for the tax credit authorized under this subtitle based on positions filled before termination of this subtitle, provided that the other requirements of the subtitle are satisfied; and

(2) tax credits earned [may be allowed ratably over a 2–year period,] may be carried forward[,] and are subject to recapture in accordance with § 6–305 of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017, and shall be applicable to job creation tax credits certified after December 31, 2017.

Approved by the Governor, May 4, 2017.

Chapter 490

(House Bill 293)

AN ACT concerning

Family Law – Divorce – Domestic Violence Order

FOR the purpose of repealing a provision providing that an order or a decision in a domestic violence proceeding is inadmissible as evidence in a divorce proceeding; repealing a provision prohibiting a court from considering compliance with a domestic violence order as grounds for granting a decree of limited or absolute divorce; and generally relating to the admissibility and consideration of domestic violence orders in divorce proceedings.

BY repealing

Article – Family Law

Section 7–103.1

Annotated Code of Maryland

(2012 Replacement Volume and 2016 Supplement)

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

Article – Family Law

[7–103.1.

(a) An order or decision in a proceeding under Title 4, Subtitle 5 of this article is inadmissible as evidence in a proceeding under this title.

(b) In a proceeding under this title, a court may not consider compliance with an order issued under Title 4, Subtitle 5 of this article as grounds for granting a decree of limited or absolute divorce.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 491

(Senate Bill 85)

AN ACT concerning

Family Law – Treatment Foster Care Homes – Siblings

FOR the purpose of authorizing the placement of ~~a certain number of~~ more than two children in a treatment foster care home in order to place siblings together if certain children are siblings and if it is in the siblings' best interests ~~the local department makes a certain written finding and notifies the Administration of the placement;~~ the local department makes a certain written finding and notifies the Administration of the placement; ~~defining a certain term~~ terms; and generally relating to the placement of siblings in foster care.

BY repealing and reenacting, with amendments,
 Article – Family Law
 Section 5–525.2
 Annotated Code of Maryland
 (2012 Replacement Volume and 2016 Supplement)

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

Article – Family Law

5–525.2.

(a) **(1) IN THIS SECTION, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) “SIBLING” MEANS A BROTHER OR SISTER OF THE WHOLE OR HALF BLOOD OR BY ADOPTION.

(3) “~~TREATMENT~~ TREATMENT FOSTER CARE HOME” MEANS AN OUT-OF-HOME PLACEMENT FACILITY THAT IS PART OF A PROGRAM DESIGNED AND IMPLEMENTED BY A CHILD PLACEMENT AGENCY TO PROVIDE INTENSIVE CASEWORK AND TREATMENT IN A FAMILY SETTING TO CHILDREN WITH SPECIAL PHYSICAL, EMOTIONAL, OR BEHAVIORAL NEEDS.

(B) (1) A local department shall place together siblings who are in an out-of-home placement under § 5-525 of this subtitle if:

- (i) it is in the best interests of the siblings to be placed together; and
- (ii) placement of the siblings together does not conflict with a specific health or safety regulation.

(2) If placement of the siblings together conflicts with a specific health or safety regulation, the local department may place the siblings together if the local department makes a written finding describing how placement of the siblings together serves the best interests of the siblings.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN ORDER TO PLACE SIBLINGS TOGETHER THE LOCAL DEPARTMENT MAY PLACE UP TO THREE MORE THAN TWO CHILDREN WHO REQUIRE TREATMENT IN AN ELIGIBLE TREATMENT FOSTER CARE HOME IF:

~~**(i) AT LEAST TWO OF THE CHILDREN ARE SIBLINGS; AND**~~

~~**(ii) IT IS IN THE BEST INTERESTS OF THE SIBLINGS TO BE PLACED TOGETHER.**~~

(i) THE LOCAL DEPARTMENT MAKES A WRITTEN FINDING EXPLAINING WHY PLACEMENT OF THE SIBLINGS TOGETHER:

1. IS IN THE BEST INTERESTS OF THE SIBLINGS; AND

2. WILL NOT HARM OTHER CHILDREN PLACED AT THE SAME TREATMENT FOSTER CARE HOME; AND

(ii) THE LOCAL DEPARTMENT NOTIFIES THE ADMINISTRATION OF THE PLACEMENT.

[(b)] (C) (1) Any siblings who are separated due to a foster care or adoptive placement may petition a court, including a juvenile court with jurisdiction over one or more of the siblings, for reasonable sibling visitation rights.

(2) If a petitioner under this subsection petitions a court to issue a visitation decree or to amend an order, the court:

- (i) may hold a hearing to determine whether visitation is in the best interest of the children;

(ii) shall weigh the relative interests of each child and base its decision on the best interests of the children promoting the greatest welfare and least harm to the children; and

(iii) may issue an appropriate order or decree.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 492

(House Bill 1207)

AN ACT concerning

Family Law – Treatment Foster Care Homes – Siblings

FOR the purpose of authorizing the placement of more than two children in a treatment foster care home in order to place siblings together if the local department makes a certain written finding and notifies the Administration of the placement; defining a certain ~~term~~ terms; and generally relating to the placement of siblings in foster care.

BY repealing and reenacting, with amendments,
 Article – Family Law
 Section 5–525.2
 Annotated Code of Maryland
 (2012 Replacement Volume and 2016 Supplement)

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

Article – Family Law

5–525.2.

(a) **(1) IN THIS SECTION, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) “SIBLING” MEANS A BROTHER OR SISTER OF THE WHOLE OR HALF BLOOD OR BY ADOPTION.

(3) “~~TREATMENT~~ TREATMENT FOSTER CARE HOME” MEANS AN OUT-OF-HOME PLACEMENT FACILITY THAT IS PART OF A PROGRAM DESIGNED AND IMPLEMENTED BY A CHILD PLACEMENT AGENCY TO PROVIDE INTENSIVE CASEWORK AND TREATMENT IN A FAMILY SETTING TO CHILDREN WITH SPECIAL PHYSICAL, EMOTIONAL, OR BEHAVIORAL NEEDS.

(B) (1) A local department shall place together siblings who are in an out-of-home placement under § 5-525 of this subtitle if:

- (i) it is in the best interests of the siblings to be placed together; and
- (ii) placement of the siblings together does not conflict with a specific health or safety regulation.

(2) If placement of the siblings together conflicts with a specific health or safety regulation, the local department may place the siblings together if the local department makes a written finding describing how placement of the siblings together serves the best interests of the siblings.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN ORDER TO PLACE SIBLINGS TOGETHER THE LOCAL DEPARTMENT MAY PLACE MORE THAN TWO CHILDREN WHO REQUIRE TREATMENT IN AN ELIGIBLE TREATMENT FOSTER CARE HOME IF:

(I) THE LOCAL DEPARTMENT MAKES A WRITTEN FINDING EXPLAINING WHY PLACEMENT OF THE SIBLINGS TOGETHER:

- 1. IS IN THE BEST INTERESTS OF THE SIBLINGS; AND
- 2. WILL NOT HARM OTHER CHILDREN PLACED AT THE SAME TREATMENT FOSTER CARE ~~HOMES~~ HOME; AND

(II) THE LOCAL DEPARTMENT NOTIFIES THE ADMINISTRATION OF THE PLACEMENT.

[(b)] (C) (1) Any siblings who are separated due to a foster care or adoptive placement may petition a court, including a juvenile court with jurisdiction over one or more of the siblings, for reasonable sibling visitation rights.

(2) If a petitioner under this subsection petitions a court to issue a visitation decree or to amend an order, the court:

- (i) may hold a hearing to determine whether visitation is in the best interest of the children;

(ii) shall weigh the relative interests of each child and base its decision on the best interests of the children promoting the greatest welfare and least harm to the children; and

(iii) may issue an appropriate order or decree.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 493

(House Bill 179)

AN ACT concerning

Frederick County – Beer and Wine Licenses – Barbershops

FOR the purpose of establishing in Frederick County a barbershop beer and wine license; requiring a recipient of the license to be a holder of a barbershop permit; authorizing a holder of the license to provide beer and wine by the glass for consumption by a certain customer when a certain service is provided or a certain fund-raising event is held; prohibiting the license from being transferred to another location; specifying the hours that the license privilege may be exercised; specifying an annual license fee; providing that an establishment for which the license is issued is subject to certain alcohol awareness training requirements; and generally relating to alcoholic beverages licenses in Frederick County.

BY repealing and reenacting, without amendments,

Article – Alcoholic Beverages
Section 20–102
Annotated Code of Maryland
(2016 Volume and 2016 Supplement)

BY adding to

Article – Alcoholic Beverages
Section 20–1001.2
Annotated Code of Maryland
(2016 Volume and 2016 Supplement)

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

Article – Alcoholic Beverages

20–102.

This title applies only in Frederick County.

20–1001.2.

(A) THERE IS A BARBERSHOP BEER AND WINE LICENSE.

(B) THE BOARD MAY ISSUE THE LICENSE TO A HOLDER OF A BARBERSHOP PERMIT UNDER § 4–501 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

(C) THE LICENSE AUTHORIZES THE LICENSE HOLDER TO PROVIDE NO MORE THAN 5 OUNCES OF BEER OR WINE BY THE GLASS FOR ON–PREMISES CONSUMPTION BY A BARBERSHOP CUSTOMER:

(1) WHEN THE CUSTOMER IS PROVIDED A SERVICE DESCRIBED IN § 4–101(L) OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE; OR

(2) WHILE THE CUSTOMER IS ATTENDING A FUND–RAISING EVENT AT THE BARBERSHOP FOR WHICH THE DEPARTMENT OF PERMITS AND INSPECTIONS, IF REQUIRED, HAS ISSUED A PERMIT.

(D) THE LICENSE MAY NOT BE TRANSFERRED TO ANOTHER LOCATION.

(E) THE LICENSE HOLDER MAY PROVIDE BEER AND WINE FOR ON–PREMISES CONSUMPTION DURING NORMAL BUSINESS HOURS BUT NOT LATER THAN 9 P.M.

(F) THE ESTABLISHMENT FOR WHICH A BARBERSHOP LICENSE IS ISSUED IS SUBJECT TO THE ALCOHOL AWARENESS TRAINING REQUIREMENTS UNDER § 4–505 OF THIS ARTICLE, SUBJECT TO § 20–1903 OF THIS TITLE.

(G) THE ANNUAL LICENSE FEE IS \$100.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 494**(Senate Bill 519)**

AN ACT concerning

Frederick County – Hunting – Nongame Birds and Mammals

FOR the purpose of repealing a prohibition in Frederick County against hunting or attempting to hunt nongame birds and mammals without first obtaining a hunting license; making certain stylistic changes; and generally relating to hunting nongame birds and mammals in Frederick County.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 10–301(b)
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

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

Article – Natural Resources

10–301.

(b) (1) To provide a fund to pay the expense of protecting and managing wildlife, and preventing unauthorized persons from hunting them, a person may not hunt or attempt to hunt during open season and in any permitted manner any game birds and mammals in the State without first having procured either a resident or nonresident hunter's license.

(2) A person may not hunt or attempt to hunt nongame birds and mammals in Baltimore County [or Frederick County] without first obtaining a license.

(3) A permanent resident of a government reservation may obtain a resident hunter's license.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 495**(House Bill 1182)**

AN ACT concerning

Frederick County – State’s Attorney – Annual Salary

FOR the purpose of altering the annual salary of the State’s Attorney for Frederick County; requiring the salary of the State’s Attorney for Frederick County to increase annually by a certain amount; providing for the application of this Act; and generally relating to the State’s Attorney for Frederick County.

BY repealing and reenacting, without amendments,
Article – Criminal Procedure
Section 15–411(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 15–411(b)
Annotated Code of Maryland
(2008 Replacement Volume and 2016 Supplement)

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

Article – Criminal Procedure

15–411.

(a) This section applies only in Frederick County.

(b) (1) The State’s Attorney’s annual salary is [equal to the salary of a circuit court judge] **\$188,777**.

(2) **THE STATE’S ATTORNEY’S SALARY SHALL BE INCREASED ANNUALLY IN A PERCENTAGE EQUAL TO THE AVERAGE ANNUAL INCREMENT AND SALARY ADJUSTMENT GIVEN TO FREDERICK COUNTY EMPLOYEES OVER THE STATE’S ATTORNEY’S PRIOR 4–YEAR TERM.**

(3) The county commissioners shall:

(i) provide an office in the courthouse for the State’s Attorney;

(ii) pay the office expenses, including general operating expenses and the cost of equipment; and

(iii) pay the reasonable salary of a stenographer to be appointed by the State's Attorney.

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the State's Attorney for Frederick County while serving in a term of office beginning before the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the State's Attorney for Frederick County shall take effect at the beginning of the next following term of office. This limitation does not apply to an individual appointed or elected after the effective date of this Act to fill out an unexpired term.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 496

(Senate Bill 88)

AN ACT concerning

General Provisions – State Designations – Great Seal

FOR the purpose of repealing a certain statutory translation of the Calvert family motto depicted on the Great Seal of the State; establishing a certain meaning for the Calvert family motto; and generally relating to the Great Seal of the State.

BY repealing and reenacting, with amendments,
 Article – General Provisions
 Section 7–102(b)(1)
 Annotated Code of Maryland
 (2014 Volume and 2016 Supplement)

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

Article – General Provisions

7–102.

(b) (1) The reverse of the Great Seal of Maryland depicts:

(i) the family coat of arms for Lord Baltimore, as described in paragraph (2) of this subsection;

(ii) an Earl's coronet placed above the shield indicating George Calvert's status as an earl or a count palatine in Maryland, though only a baron in England;

(iii) above the Earl's coronet, a helmet set full-faced;

(iv) above the helmet, the Calvert crest, which consists of two pennons, or pennants, supported by gules (red) staffs, issuing from the ducal coronet:

1. the dexter (right) pennon, of or (gold); and

2. the other pennon, of sable (black);

(v) a plowman wearing a high-crowned, broad-brimmed beaver hat and holding one side of the shield with his left hand and a spade in his right hand;

(vi) a fisherman wearing a knitted cap somewhat resembling a stocking cap and holding one side of the shield with his right hand and in his left hand a fish that is not specific to any species; and

(vii) at the feet of the plowman and fisherman, a ribbon containing, in Italian, the Calvert family motto, "Fatti maschii parole femine", [loosely translated as "Manly deeds, womanly words"] **WHICH GENERALLY MEANS "STRONG DEEDS, GENTLE WORDS"**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 497

(Senate Bill 1177)

AN ACT concerning

**Harford County – Alcoholic Beverages – ~~Interest in More Than One License~~
Common Direct or Indirect Sharing of Profit**

FOR the purpose of ~~specifying that a percentage rent provision in a commercial lease does not constitute an interest in an alcoholic beverages license in Harford County;~~

repealing in Harford County a provision of law stating that a condition of a common direct or indirect sharing between certain persons of profit from the sale of alcoholic beverages gives rise to a presumption of indirect ownership interest in an alcoholic beverages license; and generally relating to alcoholic beverages in Harford County.

BY repealing and reenacting, without amendments,
Article – Alcoholic Beverages
Section 22–102 and 22–1501
Annotated Code of Maryland
(2016 Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Alcoholic Beverages
Section 22–1503
Annotated Code of Maryland
(2016 Volume and 2016 Supplement)

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

Article – Alcoholic Beverages

22–102.

This title applies only in Harford County.

22–1501.

(a) The following sections of Title 4, Subtitle 2 (“Issuance or Denial of Local Licenses”) of Division I of this article apply in the county without exception or variation:

- (1) § 4–205 (“Chain store, supermarket, or discount house”);
- (2) § 4–206 (“Limitations on retail sales floor space”);
- (3) § 4–207 (“Licenses issued to minors”);
- (4) § 4–209 (“Hearing”);
- (5) § 4–213 (“Replacement licenses”); and
- (6) § 4–214 (“Waiting periods after denial of license applications”).

(b) The following sections of Title 4, Subtitle 2 (“Issuance or Denial of Local Licenses”) of Division I of this article apply in the county:

(1) § 4–202 (“Authority of local licensing boards”), subject to § 22–1502 of this subtitle;

(2) § 4–203 (“Prohibition against issuing multiple licenses to individual or for use of entity”), subject to §§ 22–1503 and 22–1504 of this subtitle and Subtitle 13, Part III and Subtitle 16, Part II of this title;

(3) § 4–204 (“Prohibition against issuing multiple licenses for same premises”), subject to §§ 22–1503 and 22–1504 of this subtitle and Subtitle 13, Part III of this title;

(4) § 4–208 (“Notice of license application required”), subject to § 22–1505 of this subtitle;

(5) § 4–210 (“Approval or denial of license application”), subject to §§ 22–1506 and 22–1507 of this subtitle;

(6) § 4–211 (“License forms; effective date; expiration”), subject to § 22–1508 of this subtitle; and

(7) § 4–212 (“License not property”), in addition to § 22–1509 of this subtitle.

22–1503.

(a) (1) Except as otherwise provided in this title, a person may not have interest in more than one license.

(2) Paragraph (1) of this subsection applies whether the license is held or controlled by direct or indirect ownership, by franchise operation, by stock ownership, by interlocking directors or interlocking stock ownership, or in any other manner, directly or indirectly.

(b) Under subsection (a) of this section, an indirect ownership interest is presumed to exist between any combination of individuals, corporations, limited liability companies, partnerships, limited partnerships, joint ventures, associations, or other persons if any of the following conditions exist between them:

- (1) a common parent company;
- (2) a franchise agreement;
- (3) a licensing agreement;
- (4) a concession agreement;

(5) dual membership in a chain of businesses commonly owned and operated;

(6) a sharing of directors, stockholders, partners, or members, or a sharing of directors, stockholders, partners, or members of parents or subsidiaries; **OR**

(7) ~~common direct or indirect sharing of profit from the sale of alcoholic beverages; or~~

~~(8)~~ a sharing of a common trade name, trademark, logo, or theme, or mode of operation identifiable by the public.

~~(C) A PERCENTAGE RENT PROVISION IN A COMMERCIAL LEASE DOES NOT CONSTITUTE AN INTEREST IN A LICENSE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 498

(House Bill 795)

AN ACT concerning

Harford County – Alcoholic Beverages – Waiver From School Distance Restrictions

FOR the purpose of altering the circumstances under which the Board of License Commissioners for Harford County may issue a waiver from certain school distance restrictions for certain alcoholic beverages licenses; requiring certain hearings to be held, certain recommendations to be made, and certain recommendations and comments to be considered before a certain waiver can be issued; and generally relating to alcoholic beverages in Harford County.

BY repealing and reenacting, without amendments,

Article – Alcoholic Beverages

Section 22–102

Annotated Code of Maryland

(2016 Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Alcoholic Beverages

Section 22–1602

Annotated Code of Maryland
(2016 Volume and 2016 Supplement)

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

Article – Alcoholic Beverages

22–102.

This title applies only in Harford County.

22–1602.

(a) This section does not apply to:

(1) a license in effect on July 1, 1975, or the issuance or transfer of a Class B (on-sale) beer, wine, and liquor license for use on any premises licensed on July 1, 1975;

(2) a license in effect on July 1, 1977;

(3) the renewal, transfer, or upgrading of a license, unless the license is transferred to a new location; and

(4) the issuance of:

(i) a 1-day license that is to be used on the premises of a place of worship or school;

(ii) a Class GC (golf course) license; and

(iii) a Class CCFA (continuing care facility) license.

(b) (1) (i) Except as provided in paragraph (2) of this subsection, the Board may not issue a license for an establishment that is within 300 feet of a place of worship.

(ii) The distance from the establishment to the place of worship is to be measured from the nearest point of the building of the establishment to the nearest point of the building of the place of worship.

(2) Paragraph (1) of this subsection does not apply to the issuance of:

(i) a 1-day license for use in a building;

(ii) a license issued to a hotel, motel, restaurant, club, or caterer in a municipality; and

(iii) a Class H beer, wine, and liquor license issued to a caterer for use in a banquet facility in an establishment if:

1. the construction of the establishment was completed after July 1, 1991; and
2. the establishment is used for emergency operations by a volunteer fire company.

(c) (1) (i) Except as provided in paragraph (2) of this subsection, the Board may not issue a license to a business establishment that is within 1,000 feet of a public or private school building.

(ii) The distance from the establishment to the public or private school is to be measured from the nearest point of the building of the establishment to the nearest point of the building of the school.

(2) The Board may issue a license to a business establishment in Harford County and in a municipality in Harford County if the business establishment is not located within 300 feet of a public or private school.

(3) A decision of the County Board of Education to locate a public school building within 1,000 feet of the premises of a license holder may not be the basis to revoke or deny the renewal, transfer, or upgrading of the license.

(d) **(1) ~~The SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE~~** Board may waive the distance restrictions from a public or private school building and issue a Class B (on-sale) restaurant license [if:

- (1) the restaurant is located in a community shopping center that contains:
 - (i) six or more retail uses;
 - (ii) six or more retail and service uses; or
 - (iii) a gross floor area of more than 20,000 square feet; and

(2) the Board takes into account comments received from parents whose children attend the public or private school] **OR A CLASS B CAFE LICENSE ON A CASE-BY-CASE BASIS.**

(2) BEFORE THE BOARD DECIDES WHETHER TO WAIVE THE DISTANCE RESTRICTIONS FROM A PUBLIC OR PRIVATE SCHOOL BUILDING UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) A PUBLIC HEARING SHALL BE HELD BY THE GOVERNING BODY OF:

1. IF THE RESTAURANT IS LOCATED IN A MUNICIPALITY, THE MUNICIPALITY WHERE THE RESTAURANT IS LOCATED; OR

2. IF THE RESTAURANT IS LOCATED OUTSIDE THE BOUNDARIES OF A MUNICIPALITY, THE COUNTY WHERE THE RESTAURANT IS LOCATED;

(II) THE GOVERNING BODY SHALL MAKE A RECOMMENDATION TO THE BOARD REGARDING WHETHER THE DISTANCE RESTRICTIONS SHOULD BE WAIVED; AND

(III) AFTER RECEIVING THE RECOMMENDATION, THE BOARD SHALL HOLD A PUBLIC HEARING.

(3) IN MAKING A DECISION WHETHER TO WAIVE THE DISTANCE RESTRICTIONS FROM A PUBLIC OR PRIVATE SCHOOL BUILDING, THE BOARD SHALL TAKE INTO CONSIDERATION:

(I) THE RECOMMENDATION FROM THE GOVERNING BODY;

(II) COMMENTS RECEIVED FROM PARENTS WHOSE CHILDREN ATTEND THE PUBLIC OR PRIVATE SCHOOL; AND

(III) COMMENTS MADE AT THE PUBLIC HEARING HELD BY THE BOARD.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 499

(Senate Bill 503)

AN ACT concerning

**Health Occupations Boards – Racial and Ethnic Health Disparities –
~~Information Campaigns – Reporting~~**

FOR the purpose of requiring each health occupations board established under the Health Occupations Article to report an update on ~~the status of certain information campaigns designed~~ *certain efforts* to educate certain individuals regarding racial and ethnic health disparities to certain committees of the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to racial and ethnic health disparities.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, on or before January 1, 2018, each health occupations board established under the Health Occupations Article shall report, in accordance with § 2-1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Government Operations Committee an update on the ~~status of information campaigns and other outreach~~ efforts ~~designed~~ to educate individuals regulated under the health occupations board regarding:

- (1) reducing and eliminating racial and ethnic health disparities;
- (2) improving health literacy;
- (3) improving cultural and linguistic competency; and
- (4) achieving the goal of racial and ethnic health equity.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017. It shall remain effective for a period of 1 year and, at the end of May 31, 2018, 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, 2017.

Chapter 500

(Senate Bill 178)

AN ACT concerning

**~~Horse Racing – Bowie Race Course Training Center – State Purchase or
Condemnation Racetrack Facility Renewal Account – Eligibility and Capital
Expenditures~~**

FOR the purpose of ~~authorizing the State to acquire, by purchase or condemnation for public use with just compensation, private property relating to the Bowie Race Course Training Center if the owner of the Bowie Race Course Training Center does not meet certain requirements; requiring that all proceedings for condemnation for public use or private property as authorized under this Act are to be in accordance~~

~~with certain provisions of law and certain rules of procedure altering certain conditions of eligibility for funding from the Racetrack Facility Renewal Account by specifying certain minimum amounts to be spent on capital maintenance and expenditures by certain race tracks; authorizing *the Maryland Racing Commission to grant certain funding for the Bowie Race Course Training Center from the Account under certain conditions; authorizing the Maryland Racing Commission to consider certain expenditures made by the owner of the Bowie Race Course Training Center as part of a certain matching fund requirement for funds from the Account providing for the termination of certain provisions of this Act;* and generally relating to ~~the~~ authority of the State to purchase or condemn certain private property relating to ~~the Bowie Race Course Training Center~~ horse racing and the Racetrack Facility Renewal Account.~~

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 11–519(a)
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

~~BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 11–521
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)~~

BY repealing and reenacting, without amendments,
Article – State Government
Section 9–1A–09(a)
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–1A–09(b) and 9–1A–29(d)
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

BY adding to
Article – State Government
Section 9–1A–09(f)
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

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

Article – Business Regulation

11-519.

(a) The owner of the Bowie Race Course Training Center shall operate the Center as a thoroughbred training facility to provide more stall space for a race meeting that a licensee holds.

~~11-521.~~

~~(a) In addition to the other provisions of this subtitle, in accordance with the sovereign power of the State and the provisions of Article III, §§ 40 and 40A of the Maryland Constitution, and subject to subsections [(b) and (c)] (C) AND (D) of this section, the State may acquire by purchase or condemnation for public use with just compensation some or all of the following real, tangible, and intangible private property, including any contractual interests or intellectual property:~~

~~(1) Pimlico Race Course, a racetrack located in Baltimore City, including any and all property or property rights associated with it wherever located, whether tangible, intangible, real, personal, or mixed, and any business entity that owns it;~~

~~(2) Laurel Park, a racetrack located in Anne Arundel County, including any and all property or property rights associated with it wherever located, whether tangible, intangible, real, personal, or mixed, and any business entity that owns it;~~

~~(3) Bowie Race Course Training Center, a training center located in Prince George's County, including any and all property or property rights associated with it wherever located, whether tangible, intangible, real, personal, or mixed, and any business entity that owns it;~~

~~(4) the Preakness Stakes trophy that is known as the Woodlawn Vase, including any and all property or property rights associated with it, whether tangible, intangible, real, personal, or mixed, and any business entity that owns it;~~

~~(5) the name, common law and statutory copyrights, service marks, trademarks, trade names, contracts, horse racing events, and other intangible and intellectual property that are associated with the Preakness Stakes and the Woodlawn Vase;~~

~~(6) all property of the Maryland Jockey Club of Baltimore City, Inc., or its successors and assigns, including stock and equity interests in it, and including any and all property or property rights associated with it, whether tangible, intangible, real, personal, or mixed; and~~

~~(7) all property of the Laurel Racing Assoc., Inc., the Laurel Racing Association Limited Partnership, or their respective successors and assigns, including stock and equity interests, and including any and all property or property rights associated with them, whether tangible, intangible, real, personal, or mixed.~~

~~(b) IF THE OWNER OF THE BOWIE RACE COURSE TRAINING CENTER DOES NOT COMPLY WITH § 11-519(A) OF THIS SUBTITLE, IN ACCORDANCE WITH THE SOVEREIGN POWER OF THE STATE AND THE PROVISIONS OF ARTICLE III, § 40 OF THE MARYLAND CONSTITUTION, AND SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE STATE MAY ACQUIRE BY PURCHASE OR CONDEMNATION FOR PUBLIC USE WITH JUST COMPENSATION THE BOWIE RACE COURSE TRAINING CENTER, INCLUDING ANY AND ALL PROPERTY OR PROPERTY RIGHTS ASSOCIATED WITH IT, WHETHER TANGIBLE, INTANGIBLE, REAL, PERSONAL, OR MIXED.~~

~~(C) All proceedings for the condemnation for public use of the private property described under [subsection (a)] SUBSECTIONS (A) AND (B) of this section shall be in accordance with the provisions of Title 12 of the Real Property Article and Title 12, Chapter 200 of the Maryland Rules.~~

~~[(e)] (D) Pursuant to the provisions of Article III, § 40A of the Maryland Constitution, as applicable, the private property described under subsection (a) of this section may be taken immediately on payment for the property consistent with the procedures of §§ 8-334 through 8-339 of the Transportation Article.~~

Article – State Government

9-1A-09.

(a) In this section, “racing licensee” means the holder of a license issued by the State Racing Commission to hold a race meeting in the State under Title 11 of the Business Regulation Article.

(b) As a condition of eligibility for funding under § 9-1A-29 of this subtitle, a racing licensee shall:

(1) (i) for Laurel Park and Pimlico Race Course, conduct a minimum of 220 annual live racing days combined between Laurel Park and Pimlico Race Course unless otherwise agreed to by the racing licensee and the organization that represents the majority of licensed thoroughbred owners and trainers in the State or unless the racing licensee is prevented by weather, acts of God, or other circumstances beyond the racing licensee’s control;

(ii) for Rosecroft Raceway, conduct a minimum of 90 annual live racing days unless otherwise agreed to by the racing licensee and the organization that represents the majority of licensed standardbred owners and trainers in the State or unless the racing licensee is prevented by weather, acts of God, or other circumstances beyond the racing licensee’s control; and

(iii) for Ocean Downs Racetrack, conduct a minimum of 40 annual live racing days unless otherwise agreed to by the racing licensee and the organization that

represents the majority of licensed standardbred owners and trainers in the State or unless the racing licensee is prevented by weather, acts of God, or other circumstances beyond the racing licensee's control;

(2) if the racing licensee holds the racing license for Pimlico Race Course, retain in the State of Maryland the name, common law and statutory copyrights, service marks, trademarks, trade names, and horse racing events that are associated with the Preakness Stakes and the Woodlawn Vase;

(3) if the racing licensee holds the racing license for the Pimlico Race Course, promote and conduct the Preakness Stakes each year at:

(i) the Pimlico Race Course; or

(ii) if the Pimlico Race Course no longer exists, the Preakness Stakes Race is prevented from being conducted at the Pimlico Race Course, or the State Racing Commission, under § 11-513 of the Business Regulation Article, deems an emergency exists, another track located in the State that is approved by the State Racing Commission;

(4) if the racing licensee holds the racing license for Laurel Park, permit the event known as the Maryland Million to be run annually at Laurel Park unless:

(i) the racing licensee is prevented from doing so by weather, acts of God, or other circumstances beyond the control of the racing licensee; or

(ii) the racing licensee and the Maryland Million LLC agree to another location that is approved by the State Racing Commission;

(5) develop and submit to the State Racing Commission a multiyear plan to improve the quality and marketing of horse racing at racetrack locations owned or operated by the racing licensee in Maryland, which shall include:

(i) goals, indicators, and timelines for specific actions that will be taken by the racing licensee to improve the quality and marketing of the horse racing industry in Maryland; and

(ii) a master plan for capital improvements that reflects, at a minimum:

1. commitments that have been made to the State Racing Commission; and

2. an ongoing investment in capital maintenance and improvements in the horse racing facilities [of at least \$1,500,000 annually, which may include amounts provided as a matching fund as required under § 9-1A-29(e)(2) of this subtitle]; [and]

(6) develop with other racing industry representatives a multiyear plan to improve the quality and marketing of the horse racing industry in Maryland, which shall include goals, indicators, and timelines for specific actions that will be taken by the thoroughbred and harness racing industries to improve the quality and marketing of the horse racing industry in Maryland, including joint marketing efforts; AND

(7) FOR EACH YEAR THAT FUNDING IS REQUESTED, SPEND AT LEAST THE FOLLOWING MINIMUM AMOUNTS FOR CAPITAL MAINTENANCE AND IMPROVEMENTS, WHICH MAY INCLUDE AMOUNTS PROVIDED AS A MATCHING FUND AS REQUIRED UNDER § 9-1A-29(E)(2) OF THIS SUBTITLE:

(I) FOR LAUREL PARK AND PIMLICO RACE COURSE, A COMBINED TOTAL OF \$1,500,000;

(II) FOR ROSECROFT RACEWAY, \$300,000; AND

(III) FOR OCEAN DOWNS RACETRACK, \$300,000.

~~(F) AS A CONDITION OF ELIGIBILITY FOR FUNDING UNDER § 9-1A-29 OF THIS SUBTITLE, THE BOWIE RACE COURSE TRAINING CENTER SHALL SUBMIT A CAPITAL IMPROVEMENT REQUEST TO THE STATE RACING COMMISSION FOR APPROVAL.~~

~~9-1A-29.~~

~~(d) The amount of funds made available from the Racetrack Facility Renewal Account shall be allocated as follows:~~

~~(1) 80% to the Pimlico Race Course, Laurel Park, THE BOWIE RACE COURSE TRAINING CENTER, and the racecourse at Timonium; and~~

~~(2) 20% to Rosecroft Raceway and Ocean Downs Race Course.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the State Racing Commission may consider, as part or all of the required matching funds for a project to be approved at the Bowie Race Course Training Center under § 9-1A-29(e)(2) of the State Government Article, capital expenditures made by the owner of the Center prior to the effective date of this Act.~~

~~SECTION 2.3. AND BE IT FURTHER ENACTED, That this Act shall take effect October July 1, 2017.~~

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the provisions of § 9-1A-29 of the State Government Article, the Maryland Racing Commission may grant a one-time request for capital improvement funds not to exceed \$150,000 from the funds available in the Racetrack Facility Renewal Account under § 9-1A-29(d)(1) of the

State Government Article for a capital improvement project at the Bowie Race Course Training Center, provided that:

(1) the project relates to the security, maintenance, and upkeep of the Center;
and

(2) the owner of the Center provides a matching fund that consists of expenditures made by the owner on or after April 1, 2017, for the project for which funding is requested.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017. Section 2 of this Act shall remain effective for a period of 1 year and 7 months and, at the end of December 31, 2018, 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, 2017.

Chapter 501

(House Bill 3)

AN ACT concerning

Income Tax – Subtraction Modification – Olympic, ~~and Paralympic~~ Paralympic, Special Olympic, and Deaflympic Games Medals and Prizes

FOR the purpose of providing a subtraction modification under the Maryland income tax for the value of certain medals awarded by certain committees and the amount of any prize money or honoraria that is received from a certain committee that is the result of a performance at ~~the Olympic Games or the Paralympic Games~~ certain international sporting events; providing for the application of this Act; and generally relating to a subtraction modification under the Maryland income tax for prizes attributable to a performance at ~~the Olympic Games or Paralympic Games~~ certain international sporting events.

BY repealing and reenacting, without amendments,

Article – Tax – General

Section 10–207(a)

Annotated Code of Maryland

~~(2010 Replacement Volume and 2016 Supplement)~~ (2016 Replacement Volume)

BY adding to

Article – Tax – General

Section 10–207(ee)

Annotated Code of Maryland

~~(2010 Replacement Volume and 2016 Supplement)~~ (2016 Replacement Volume)

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

Article – Tax – General

10–207.

(a) To the extent included in federal adjusted gross income, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(EE) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES:

~~**(1) THE VALUE OF ANY MEDAL GIVEN BY THE INTERNATIONAL OLYMPIC COMMITTEE OR THE INTERNATIONAL PARALYMPIC COMMITTEE; AND**~~

(1) THE VALUE OF ANY MEDAL GIVEN BY:

(i) THE INTERNATIONAL OLYMPIC COMMITTEE;

(ii) THE INTERNATIONAL PARALYMPIC COMMITTEE;

(iii) THE SPECIAL OLYMPICS INTERNATIONAL COMMITTEE; OR

(iv) THE INTERNATIONAL COMMITTEE OF SPORTS FOR THE DEAF; AND

(2) ANY PRIZE MONEY OR HONORARIA RECEIVED FROM THE UNITED STATES OLYMPIC COMMITTEE THAT IS THE RESULT OF A PERFORMANCE AT THE OLYMPIC GAMES ~~OR~~, THE PARALYMPIC GAMES, THE SPECIAL OLYMPIC GAMES, OR THE DEAFLYMPIC GAMES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017, and shall be applicable to all taxable years beginning after December 31, 2016.

Approved by the Governor, May 4, 2017.

Chapter 502

(Senate Bill 57)

AN ACT concerning

Income Tax Credit – Class F Vehicles – Modification and Extension

FOR the purpose of ~~altering the taxable years for which an individual or a corporation may claim a State income tax credit for the expense of registering certain qualified vehicles in the State; repealing certain obsolete language; making certain modifications to the State income tax credit for the expense of registering certain qualified vehicles in the State; requiring a taxpayer to obtain a tax credit certificate from the Motor Vehicle Administration to receive the credit; requiring the Administration to issue tax credit certificates of a certain amount for each qualified vehicle in a certain manner; limiting the aggregate amount of tax credit certificates the Administration may issue to any one taxpayer and to all taxpayers in a taxable year; providing that the credit may not exceed the State income tax for a taxable year and may not be carried over to any other taxable year; requiring the Administration to report certain information to the Comptroller annually on or before a certain date; requiring the Administration, in consultation with the Comptroller, to adopt regulations to carry out the tax credit; providing for the application of this Act; defining certain terms;~~ and generally relating to a State income tax credit for the expense of registering certain qualified vehicles in the State.

~~BY repealing and reenacting, without amendments,
Article – Tax – General
Section 10-734
Annotated Code of Maryland
(2010 Replacement Volume and 2014 Supplement)~~

~~BY repealing and reenacting, with amendments,
Chapter 425 of the Acts of the General Assembly of 2013
Section 22~~

BY adding to
Article – Tax – General
Section 10-734.1
Annotated Code of Maryland
(2016 Replacement Volume)

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

Article – Tax – General

~~10-734.~~

(a) ~~In this section, “qualified vehicle” means a Class F (tractor) vehicle described under § 13-923 of the Transportation Article that is titled and registered in the State.~~

~~(b) Subject to the limitations of this section, an individual or a corporation may claim a credit against the State income tax for the expense of registering a qualified vehicle in the State.~~

~~(e) (1) For any taxable year, the credit allowed under this section may not exceed the lesser of:~~

~~(i) \$400 for each qualified vehicle; or~~

~~(ii) the State income tax for that taxable year.~~

~~(2) The unused amount of the credit may not be carried over to any other taxable year.~~

~~Chapter 425 of the Acts of 2013~~

~~SECTION 22. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall take effect September 1, 2013, and shall be applicable to all taxable years beginning after December 31, 2013, but before January 1, [2017, contingent on the taking effect of an increased toll structure at Maryland toll facilities. If an increased toll structure at Maryland toll facilities does not take effect on or before September 1, 2013, Section 4 of this Act shall be null and void without the necessity of further action by the General Assembly] 2020.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.~~

10-734.1.

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

(2) "ADMINISTRATION" MEANS THE MOTOR VEHICLE ADMINISTRATION.

(3) "QUALIFIED VEHICLE" MEANS A CLASS F (TRACTOR) VEHICLE DESCRIBED UNDER § 13-923 OF THE TRANSPORTATION ARTICLE THAT IS TITLED AND REGISTERED IN THE STATE.

(B) SUBJECT TO THE LIMITATIONS OF THIS SECTION, AN INDIVIDUAL OR A CORPORATION THAT OBTAINS A TAX CREDIT CERTIFICATE FROM THE ADMINISTRATION MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX FOR THE EXPENSE OF REGISTERING A QUALIFIED VEHICLE IN THE STATE DURING THE TAXABLE YEAR.

(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ON APPLICATION BY A TAXPAYER, THE ADMINISTRATION SHALL ISSUE A TAX CREDIT CERTIFICATE IN THE AMOUNT OF \$400 FOR EACH QUALIFIED VEHICLE REGISTERED BY THE TAXPAYER DURING THE TAXABLE YEAR.

(2) FOR ANY TAXABLE YEAR, THE ADMINISTRATION MAY NOT ISSUE AN AGGREGATE AMOUNT OF TAX CREDIT CERTIFICATES TOTALING MORE THAN:

(I) \$10,000 TO ANY ONE TAXPAYER; OR

(II) \$500,000 TO ALL TAXPAYERS.

(D) THE ADMINISTRATION SHALL APPROVE ALL APPLICATIONS THAT QUALIFY FOR A TAX CREDIT CERTIFICATE:

(1) ON A FIRST-COME, FIRST-SERVED BASIS; AND

(2) IN A TIMELY MANNER.

(E) (1) FOR ANY TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED THE STATE INCOME TAX FOR THAT TAXABLE YEAR.

(2) THE UNUSED AMOUNT OF THE CREDIT MAY NOT BE CARRIED OVER TO ANY OTHER TAXABLE YEAR.

(F) ON OR BEFORE JANUARY 31 EACH TAXABLE YEAR, THE ADMINISTRATION SHALL REPORT TO THE COMPTROLLER ON THE TAX CREDIT CERTIFICATES ISSUED UNDER THIS SECTION DURING THE PRIOR TAXABLE YEAR.

(G) THE ADMINISTRATION, IN CONSULTATION WITH THE COMPTROLLER, SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017, and shall be applicable to all taxable years beginning after December 31, 2016, but before January 1, 2020.

Approved by the Governor, May 4, 2017.

Chapter 503

(House Bill 1104)

Inheritance Tax – Exemption – Evidence of Domestic Partnership

FOR the purpose of establishing that a certain affidavit ~~is not required~~ or certain other proof may be provided as evidence of a domestic partnership to qualify for an exemption from the inheritance tax on the receipt of an interest in certain real property held in joint tenancy that passes from a decedent to a domestic partner; altering a certain definition; and generally relating to the inheritance tax.

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 7–203(l)

Annotated Code of Maryland

(2016 Replacement Volume)

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

Article – Tax – General

7–203.

(l) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Domestic partner” means an individual with whom another individual has established a domestic partnership.

(iii) “Domestic partnership” means a relationship between two individuals that is a domestic partnership within the meaning of § ~~[6–101]~~ **6–101(A)** of the Health – General Article.

(2) If the domestic partner of a decedent provides ~~evidence of the domestic partnership as described in § [6–101(b)]~~ **THE AFFIDAVIT DESCRIBED IN § 6–101(B)(1) OF THE HEALTH – GENERAL ARTICLE OR ANY TWO OF THE PROOFS OF DOMESTIC PARTNERSHIP LISTED UNDER § 6–101(B)(2)** of the Health – General Article, the inheritance tax does not apply to the receipt of an interest in a joint primary residence that:

(i) at the time of death was held in joint tenancy by the decedent and the domestic partner; and

(ii) passes from the decedent to or for the use of the domestic partner.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 504

(Senate Bill 15)

AN ACT concerning

Insurance – Charitable Gift Annuities – Special Permit Holders – Required Financial Statements

FOR the purpose of requiring a holder of a special permit needed to make agreements with donors for annuity payments to certain entities to submit to the Maryland Insurance Commissioner ~~a certain financial statement~~ statements instead of an annual report; requiring the financial ~~statement~~ statements to be ~~prepared~~ audited by a certain individual and presented in a certain manner; authorizing the Commissioner to waive the requirement to submit the financial ~~statement~~ statements under certain circumstances; making clarifying and conforming changes; and generally relating to special permit holders and charitable gift annuities.

BY repealing and reenacting, with amendments,
 Article – Insurance
 Section 16–114
 Annotated Code of Maryland
 (2011 Replacement Volume and 2016 Supplement)

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

Article – Insurance

16–114.

(a) In this section, “community foundation” means a nonprofit organization that is:

(1) formed to receive contributions and distribute money to meet cultural, educational, charitable, environmental, civic, or other similar needs of a community; and

(2) governed by a board of private citizens who reside in the community.

(b) An educational or religious organization, hospital, or community foundation may not make or issue in the State agreements for annuity payments with donors until it has obtained from the Commissioner a special permit issued in accordance with this section.

(c) (1) On application, the Commissioner may issue a special permit to make agreements for annuity payments with donors to an educational or religious organization

not conducted for profit and engaged in bona fide educational or religious activities, to a hospital in the State, or to a community foundation if the educational or religious organization, hospital, or community foundation:

(i) except as provided in paragraph (2) of this subsection, has been in active operation in the State for at least 10 years before issuance of the special permit; and

(ii) has been granted exemption from federal income taxation under § 501 of the Internal Revenue Code.

(2) The Commissioner may issue a special permit to a community foundation that has been in existence for at least 5 years but less than 10 years if the community foundation maintains [admitted] assets in an amount up to 100% of the contributions made to the community foundation, as determined by the Commissioner.

(d) (1) Each special permit holder shall have and maintain [admitted] assets at least equal to adequate reserves on its outstanding agreements for annuity payments with donors as indicated by its [annual report] ~~CERTIFIED AUDITED FISCAL YEAR-END FINANCIAL STATEMENT STATEMENTS~~.

(2) In determining the reserves of a special permit holder on outstanding agreements for annuity payments with donors, a deduction shall be made for all or part of an annuity risk that is reinsured by an authorized life insurer.

(3) (I) [A] SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, A special permit holder shall submit [an annual report] ~~ANNUALLY A CERTIFIED AUDITED FISCAL YEAR-END FINANCIAL STATEMENT STATEMENTS~~ to the Commissioner within ~~90~~ 180 days after the end of the special permit holder's fiscal year.

(II) ~~THE FINANCIAL STATEMENT STATEMENTS REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE:~~

1. ~~PREPARED BY A CERTIFIED PUBLIC ACCOUNTANT;~~
~~AND~~

~~2. PRESENTED IN CONFORMITY WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; AND~~

2. AUDITED BY A CERTIFIED PUBLIC ACCOUNTANT.

(4) The [annual reports] ~~CERTIFIED AUDITED FISCAL YEAR-END FINANCIAL STATEMENT STATEMENTS~~ shall be treated as confidential by the Commissioner and ~~are~~ is not available for public inspection.

(5) ON APPLICATION BY THE SPECIAL PERMIT HOLDER, THE COMMISSIONER:

(I) MAY WAIVE THE REQUIREMENT OF ~~A-CERTIFIED~~ AUDITED FISCAL YEAR-END FINANCIAL STATEMENT STATEMENTS; AND

(II) MAY REQUIRE INSTEAD ADDITIONAL DOCUMENTS OR INFORMATION THAT THE COMMISSIONER CONSIDERS NECESSARY.

(e) A special permit issued under this section authorizes the special permit holder to receive gifts of money or other property conditional on, or in consideration of, the special permit holder's agreement to pay an annuity to the donor or the donor's nominee and to make and carry out agreements for annuity payments with donors.

(f) A special permit is in effect only as long as the special permit holder is exempt from federal income taxation under § 501 of the Internal Revenue Code.

(g) (1) If the Commissioner finds, after notice and hearing, that a special permit holder has failed to comply with the requirements of this section or is not exempt from federal income taxation under § 501 of the Internal Revenue Code, the Commissioner may:

(i) revoke or suspend the special permit; or

(ii) order the special permit holder to stop making new agreements for annuity payments with donors until the requirements have been satisfied.

(2) In case of revocation or suspension, outstanding agreements for annuity payments with donors shall remain in force.

(3) The action of the Commissioner under this subsection is subject to judicial review under § 2-215 of this article.

(h) (1) Except as otherwise provided in this section, a special permit holder is exempt from the provisions of this article with respect to issuing annuities.

(2) Special permit holders are not subject to a law enacted after June 1, 1957, unless they are expressly designated in the law.

(i) (1) Other than by agreements for annuity payments with donors, an educational or religious organization, hospital, or community foundation may agree to:

(i) accept conditional donations; and

(ii) pay to the donor or the donor's nominee a specified return established with reference to the actual net earnings of the particular donation or with reference to the actual or estimated earnings of a specified fund of the donee organization.

(2) An educational or religious organization, hospital, or community foundation that accepts conditional donations and pays a specified return to donors under paragraph (1) of this subsection is exempt from this section and all other provisions of this article with respect to issuing annuities.

(3) Educational or religious organizations, hospitals, or community foundations that accept conditional donations and pay specified returns to donors under this subsection are not subject to any law enacted after June 1, 1957, unless they are expressly designated in the law.

(j) Notwithstanding the absence of express power in the charter of a domestic educational, religious, or hospital corporation or community foundation, the corporation or community foundation may make the agreements for annuity payments with donors or other agreements with respect to conditional donations that are expressly allowed by this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 505

(House Bill 1277)

AN ACT concerning

Insurance – Producer Licensing – Examinations

FOR the purpose of altering the number of days an applicant for a license to act as an insurance producer who fails a certain examination must wait before retaking the examination; and generally relating to examination requirements for insurance producers.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 10–108 and 10–109

Annotated Code of Maryland

(2011 Replacement Volume and 2016 Supplement)

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

Article – Insurance

10–108.

(a) An individual applicant who otherwise qualifies for a license for insurance other than life insurance, health insurance, or annuities is entitled to be examined as provided in this section.

(b) To determine the competence of an individual applicant as to the kind or subdivision of insurance for which the applicant wants to become licensed, the applicant shall pass a written examination that relates to that kind or subdivision of insurance.

(c) The Commissioner shall adopt reasonable regulations that specify:

(1) the scope, type, conduct, and grading of the written examinations;

(2) the frequency, times, and locations within the State where the written examinations will be held; and

(3) the educational requirements for an individual applicant to be eligible to take a written examination.

(d) Before taking a written examination, an individual applicant shall:

(1) (i) demonstrate to the Commissioner that the applicant has completed the educational requirements set out by the Commissioner; or

(ii) submit to the Commissioner at the time of the examination an affidavit from the employer of the applicant stating facts that show compliance with the applicable requirements of § 10–104(e)(2) or (3) of this subtitle, if the applicant qualifies by meeting the experience requirements of § 10–104(e)(2) or (3) of this subtitle; and

(2) pay the application fee required under § 2–112(a)(6)(vi) of this article.

(e) All written examinations shall be graded within 30 days following the date of the examination.

(f) An individual applicant who fails an examination may not take another examination until at least [14 days] ~~1 DAY~~ 4 DAYS after the date of the last examination that the applicant failed.

10–109.

(a) An individual applicant who otherwise qualifies for a license for life insurance, health insurance, annuities, nonprofit health service plans, dental plan organizations, or health maintenance organizations is entitled to be examined as provided in this section.

(b) (1) Each individual applicant must pass a personal written examination to determine:

(i) the competence of the applicant as to life insurance, health insurance, or annuities or to any subdivision of them, including contracts for nonprofit health service plans, vision plans, dental plan organizations, and health maintenance organizations; and

(ii) the familiarity of the applicant with the applicable laws of the State.

(2) Each examination must be graded within 30 days after the date of the examination.

(c) An individual applicant who fails an examination may not take another examination until at least [14 days] ~~1 DAY~~ 4 DAYS after the date of the last examination that the applicant failed.

(d) The Commissioner shall adopt reasonable regulations that specify:

(1) the scope, type, conduct, and grading of the written examinations;

(2) the frequency, times, and places in the State where the written examinations will be held; and

(3) subject to § 10–105(e) of this subtitle, the educational requirements for an individual applicant to be eligible to take a written examination.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 506

(House Bill 112)

AN ACT concerning

Interest Rate on Tax Deficiencies and Refunds – Rounding

FOR the purpose of repealing a requirement that the Comptroller, when setting the annual interest rate for tax deficiencies and refunds, round the interest rate to the nearest whole number; and generally relating to the annual interest rate on tax deficiencies and refunds.

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 13–604

Annotated Code of Maryland

~~(2010 Replacement Volume and 2016 Supplement)~~ (2016 Replacement Volume)

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

Article – Tax – General

13–604.

(a) The rate of interest for each month or fraction of a month is the percent equal to one–twelfth of the annual interest rate that the Comptroller sets for the calendar year under subsection (b) of this section.

(b) On or before October 1 of each year, the Comptroller shall set the annual interest rate for the next calendar year on refunds and money owed to the State as the percent[, rounded to the nearest whole number, that is at the percent] that equals the greater of:

- (1) (i) 13% for 2016;
- (ii) 12% for 2017;
- (iii) 11.5% for 2018;
- (iv) 11% for 2019;
- (v) 10.5% for 2020;
- (vi) 10% for 2021;
- (vii) 9.5% for 2022; and
- (viii) 9% for 2023 and each year thereafter; or

(2) 3 percentage points above the average prime rate of interest quoted by commercial banks to large businesses during the State’s previous fiscal year, based on determination by the Board of Governors of the Federal Reserve Bank.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 507

(House Bill 236)

AN ACT concerning

Legal Advice to Corporations – Clarification

FOR the purpose of altering an exception to the requirement that an individual be admitted to the Maryland Bar before the individual may practice law in the State by authorizing an individual who is admitted to the bar of any other state to provide legal advice to the individual's employer or the employer's organizational affiliates; defining certain terms; and generally relating to the provision of legal advice to employers by individuals not admitted to the Maryland Bar.

BY repealing and reenacting, without amendments,
Article – Business Occupations and Professions
Section 10–206(a)
Annotated Code of Maryland
(2010 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 10–206(d)
Annotated Code of Maryland
(2010 Replacement Volume and 2016 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

10–206.

(a) Except as otherwise provided by law, before an individual may practice law in the State, the individual shall:

- (1) be admitted to the Bar; and
- (2) meet any requirement that the Court of Appeals may set by rule.

(d) (1) **(I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(II) “AFFILIATE” MEANS A PERSON THAT, DIRECTLY OR INDIRECTLY THROUGH ONE OR MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH AN EMPLOYER.

(III) “CONTROL” MEANS THE POSSESSION, DIRECTLY OR INDIRECTLY, OF THE POWER TO DIRECT OR CAUSE THE DIRECTION OF, WHETHER THROUGH THE OWNERSHIP OF VOTING SECURITIES, BY CONTRACT, OR BY SOME OTHER MEANS, THE MANAGEMENT AND POLICIES OF A PERSON.

(2) Subject to paragraph ~~(2)~~ **(3)** of this subsection, this section does not apply to an individual **WHO IS ADMITTED TO THE BAR OF ANY OTHER STATE**, while giving legal advice **TO THE INDIVIDUAL’S EMPLOYER OR THE EMPLOYER’S ORGANIZATIONAL AFFILIATES** [to a corporation in this State if the individual is:

- (i) employed by the corporation; and
- (ii) admitted to the bar of any other state].

~~(2)~~ **(3)** An individual who gives legal advice under this subsection:

- (i) is subject to disciplinary proceedings as the Maryland Rules provide; and
- (ii) may not appear before a unit of the State government or of a political subdivision unless a court grants the individual a special admission in accordance with § 10–215 of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 508

(Senate Bill 794)

AN ACT concerning

Legal Advice to Corporations – Clarification

FOR the purpose of altering an exception to the requirement that an individual be admitted to the Maryland Bar before the individual may practice law in the State by authorizing an individual who is admitted to the bar of any other state to provide legal advice to the individual's employer or the employer's organizational affiliates; defining certain terms; and generally relating to the provision of legal advice to employers by individuals not admitted to the Maryland Bar.

BY repealing and reenacting, without amendments,
Article – Business Occupations and Professions
Section 10–206(a)
Annotated Code of Maryland
(2010 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 10–206(d)
Annotated Code of Maryland
(2010 Replacement Volume and 2016 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

10–206.

(a) Except as otherwise provided by law, before an individual may practice law in the State, the individual shall:

- (1) be admitted to the Bar; and
- (2) meet any requirement that the Court of Appeals may set by rule.

(d) (1) **(I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(II) “AFFILIATE” MEANS A PERSON THAT, DIRECTLY OR INDIRECTLY THROUGH ONE OR MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH AN EMPLOYER.

(III) “CONTROL” MEANS THE POSSESSION, DIRECTLY OR INDIRECTLY, OF THE POWER TO DIRECT OR CAUSE THE DIRECTION OF, WHETHER THROUGH THE OWNERSHIP OF VOTING SECURITIES, BY CONTRACT, OR BY SOME OTHER MEANS, THE MANAGEMENT AND POLICIES OF A PERSON.

(2) Subject to paragraph ~~(2)~~ **(3)** of this subsection, this section does not apply to an individual **WHO IS ADMITTED TO THE BAR OF ANY OTHER STATE**, while giving legal advice **TO THE INDIVIDUAL'S EMPLOYER OR THE EMPLOYER'S ORGANIZATIONAL AFFILIATES** [to a corporation in this State if the individual is:

- (i) employed by the corporation; and
- (ii) admitted to the bar of any other state].

~~(2)~~ **(3)** An individual who gives legal advice under this subsection:

- (i) is subject to disciplinary proceedings as the Maryland Rules provide; and
- (ii) may not appear before a unit of the State government or of a political subdivision unless a court grants the individual a special admission in accordance with § 10-215 of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 509

(Senate Bill 910)

AN ACT concerning

Maryland Automobile Insurance Fund – Operations

FOR the purpose of repealing ~~an exception for a provision of law~~ subjecting the Maryland Automobile Insurance Fund from certain provisions of law governing to the imposition of a certain premium tax; altering the scope of certain provisions of law governing prior approval rate making to exclude the Fund from prior approval rate making; providing that certain provisions of law governing competitive rating rate making apply to the Fund under certain circumstances; repealing a provision of law that makes the Fund subject to the provisions of the Open Meetings Act; removing the Executive Director of the Fund as a member of a certain audit committee; clarifying that, under certain circumstances, the Board of Trustees of the Fund adopts policies and not regulations; clarifying that, with respect to certain provisions of law, the Fund is subject to the Administrative Procedure Act; authorizing the Fund to sell, issue, and deliver a policy that provides a certain security to a person that has had a motor vehicle liability insurance policy but has been uninsured for a

~~certain continuous period of time immediately preceding the effective date of the Fund policy and meets certain other requirements; authorizing the Fund to reinstate a canceled policy without a lapse in coverage under certain circumstances and in a certain manner; authorizing the Fund to charge a policyholder a certain reinstatement fee not to exceed a certain amount; authorizing a certain fund producer to charge a policyholder a certain reinstatement fee not to exceed a certain amount~~ requiring the Maryland Insurance Commissioner to require the Fund to file certain reports with the Commissioner on or before certain dates; requiring the Commissioner to review the Fund's reports and make certain determinations; requiring the Commissioner to report the Commissioner's findings to certain committees of the General Assembly on or before certain dates; providing for the effective dates of this Act; providing for the termination of certain provisions of this Act; making conforming and clarifying changes; and generally relating to the Maryland Automobile Insurance Fund.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 6–101(a), 11–303, 20–201(d), 20–304(a), 20–502(a), 20–507(a), (b), and (d), 20–509(a) and (b), 20–513, ~~20–514, and 20–516~~ and 20–514

Annotated Code of Maryland

(2011 Replacement Volume and 2016 Supplement)

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

Article – Insurance

6–101.

(a) The following persons are subject to taxation under this subtitle:

(1) a person engaged as principal in the business of writing insurance contracts, surety contracts, guaranty contracts, or annuity contracts;

(2) a managed care organization authorized by Title 15, Subtitle 1 of the Health – General Article;

(3) a for-profit health maintenance organization authorized by Title 19, Subtitle 7 of the Health – General Article;

(4) an attorney in fact for a reciprocal insurer; AND

(5) [the Maryland Automobile Insurance Fund; and

(6)] a credit indemnity company.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Insurance

11–303.

(a) Notwithstanding Subtitle 2 of this title, this subtitle applies to the establishment of rates for all types of insurance except:

- (1) life insurance;
- (2) annuities;
- (3) health insurance;
- (4) marine insurance described in § 11–202(b)(2) of this title;
- (5) aircraft insurance described in § 11–202(b)(3) of this title;
- (6) reinsurance;
- (7) [insurance provided under the Maryland Automobile Insurance Fund;
- (8)] insurance provided under the Chesapeake Employers' Insurance Company;
- [(9)] (8) title insurance;
- [(10)] (9) medical malpractice insurance;
- [(11)] (10) any form or plan of insurance regulated under § 27–217 of this article; and
- [(12)] (11) surety insurance.

(b) If and to the extent that the Commissioner finds that the application of any or all of the provisions of this subtitle is unnecessary to achieve the purposes of this subtitle, the Commissioner by rule may exempt a person or class of persons or a line or lines of insurance from any or all of those provisions.

20–201.

(d) (1) Except as otherwise provided by law, the Fund is subject to the provisions of this article.

(2) Except as provided in paragraph (3) of this subsection, the Fund is not subject to any law, including § 6–106 of the State Government Article, that affects governmental units.

(3) The Fund is subject to:

- (i) Title 4 of the General Provisions Article;
- (ii) [Title 3 of the General Provisions Article;
- (iii)] the Maryland Public Ethics Law;

(III) TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE WITH RESPECT TO REGULATIONS ADOPTED UNDER SUBTITLE 6 OF THIS TITLE;

- (iv) Title 12 of the State Government Article; and
- (v) Title 5, Subtitle 3 of the State Personnel and Pensions Article.

(4) Paragraph (2) of this subsection does not affect the exemption from property tax under § 7–210 of the Tax – Property Article.

20–304.

(a) (1) An audit committee, composed of members of the Board of Trustees [and the Executive Director], shall require the Fund’s internal auditor to conduct fiscal compliance and fiscal audits of the accounts and transactions of the Fund each year.

(2) A fiscal compliance audit shall:

- (i) examine financial transactions and records and internal controls;
- (ii) evaluate compliance with applicable laws and regulations; and
- (iii) examine electronic data processing operations.

20–502.

(a) On payment of the premium set by the Fund, the Fund is authorized to and shall sell, issue, and deliver a policy that provides the security required under § 17–103 of the Transportation Article to a person:

(1) that owns a covered vehicle registered with the Motor Vehicle Administration, has a license issued by the Motor Vehicle Administration to drive a covered

vehicle, or is a lessee under a “lease not intended as security”, as defined in § 11–127.1(b) of the Transportation Article;

(2) that does not owe to the Fund:

(i) an unpaid premium with respect to a policy that has expired or been canceled; or

(ii) a claim payment obtained by fraud;

(3) that:

(i) has attempted in good faith to obtain a policy that provides the security required under § 17–103 of the Transportation Article from at least two Association members and has been rejected or refused the policy by two Association members for any reason other than nonpayment of premiums; [or]

(ii) has had a policy that provides the security required under § 17–103 of the Transportation Article canceled or nonrenewed by an Association member for any reason other than nonpayment of premiums; **OR**

(III) HAS HAD A MOTOR VEHICLE LIABILITY INSURANCE POLICY BUT HAS BEEN UNINSURED FOR A CONTINUOUS PERIOD OF ~~6~~ 12 MONTHS OR MORE IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THE FUND POLICY, AS VERIFIED BY A COMMERCIAL THIRD-PARTY DATABASE OR A STATE AGENCY; and

(4) that meets the requirements of subsection (b) of this section.

20–507.

(a) Subject to the [approval] **AUTHORITY** of the Commissioner **TO DETERMINE WHETHER RATES ARE EXCESSIVE, INADEQUATE, OR UNFAIRLY DISCRIMINATORY, AS PROVIDED IN TITLE 11, SUBTITLE 3 OF THIS ARTICLE**, the Executive Director shall determine the premiums to be charged on policies issued by the Fund.

(b) (1) Except as provided in subsection (c) of this section, the provisions of Title 11, Subtitle **[2] 3** of this article apply to the determination of premiums by the Executive Director **AND THE FILING OF RATES WITH THE COMMISSIONER**.

(2) Notwithstanding Title 11, Subtitle **[2] 3** of this article or any other provision of this title, the Executive Director may base premiums on one or both of the following items:

(i) the number of points accumulated by an insured or applicant for insurance under the point system provided for in Title 16, Subtitle 4 of the Transportation Article; or

(ii) the prior claims experience of an insured or applicant for insurance.

(d) In reviewing rates filed by the Fund, the Commissioner shall consider not only the rating principles under Title 11, Subtitle [2] 3 of this article but also the statutory purpose of the Fund under § 20–301 of this title.

20–509.

(a) (1) Subject to this section and the [regulations] **POLICIES ADOPTED BY THE BOARD OF TRUSTEES** that relate to the binding of coverage, a fund producer may bind the minimum required coverage for an applicant in the Fund if the applicant submits an application to the fund producer and pays the appropriate premium.

(2) To effect coverage, the fund producer must receive payment of the appropriate premium required under the [regulations] **POLICIES ADOPTED BY THE BOARD OF TRUSTEES** that relate to the binding of coverage.

(3) Payment of the appropriate premium does not occur so as to effect coverage if payment of all or part of the premium is made by an instrument that is later dishonored.

(b) (1) The Board of Trustees shall adopt and make available to each fund producer reasonable [regulations] **POLICIES** that relate to the authority of fund producers to bind coverage.

(2) The [regulations] **POLICIES** shall include:

(i) the amount of premium to be collected;

(ii) the evidence necessary to establish the qualification of an applicant to be insured by the Fund;

(iii) procedures for notifying the Fund of the binding of coverage; and

(iv) the time within which the fund producer is to give notice.

20–513.

The Fund may refuse to accept further applications from a fund producer or may terminate the authority of the fund producer to bind coverage or both if:

(1) the Fund finds that the fund producer has engaged in the practice of binding coverage in the Fund in violation of [regulations] **POLICIES** adopted by the Board of Trustees; or

(2) after demand has been made by the Fund, the fund producer fails to pay money owed the Fund as a result of:

(i) the binding or change of coverage; or

(ii) a commission paid to the fund producer on a policy that is canceled after the effective date of coverage.

20-514.

(a) Except as provided in subsection (b) of this section, the Fund shall give prior written notice to a fund producer of its intended action under § 20-513 of this subtitle and give the fund producer an opportunity for a hearing before taking the action.

(b) (1) The Fund may exercise immediately any option under § 20-513 of this subtitle if the Fund determines that there is a likelihood of substantial and immediate harm to the Fund, its policyholders, or others because of:

(i) a violation of a [regulation] **POLICY ADOPTED BY THE BOARD OF TRUSTEES** that relates to the binding of coverage; or

(ii) a failure to pay money owed.

(2) After taking an action under § 20-513 of this subtitle, the Fund promptly shall give notice to the fund producer and hold a hearing within 10 working days before a member of the Board of Trustees.

(c) The Board of Trustees shall adopt [regulations] **POLICIES** to provide procedures for notice and hearings under this section.

~~20-516.~~

~~(a) Subject to § 20-517 of this subtitle, the Fund:~~

~~(1) may reject an application of insurance if the applicant owes to the Fund an unpaid premium on an expired or canceled policy;~~

~~(2) at any time may cancel a policy for nonpayment of premiums; or~~

~~(3) may reject an application of insurance or at any time may cancel a policy if it is found that the driver's license of the applicant or policyholder is:~~

~~(i) suspended, unless the suspension is for a first offense under § 16-205.1 of the Transportation Article for driving with an alcohol concentration of 0.08 or more; or~~

~~(ii) revoked.~~

~~(b) The Fund shall notify the applicant or policyholder promptly after the Fund rejects an application or cancels a policy.~~

~~(c) If a person does not have a valid license or other privilege to drive a covered vehicle in the State, or is otherwise ineligible to be insured by the Fund, the Fund may issue the appropriate policy with an excluded driver endorsement under § 27-609 of this article.~~

~~(d) (1) The Fund may cancel a policy if:~~

~~(i) the temporary registration issued for the covered vehicle under § 13-405 or § 23-107(b) of the Transportation Article has expired; and~~

~~(ii) the covered vehicle is not otherwise validly registered in the State.~~

~~(2) The cancellation may not take effect until the day after the temporary registration of the covered vehicle expires.~~

~~(E) (1) THE FUND MAY REINSTATE A CANCELED POLICY WITHOUT A LAPSE IN COVERAGE PROVIDED THAT A POLICYHOLDER CERTIFIES IN A MANNER SPECIFIED BY THE FUND THAT THERE HAVE NOT BEEN ANY LOSSES ATTRIBUTABLE TO THE POLICY ON OR AFTER THE EFFECTIVE DATE OF THE CANCELLATION.~~

~~(2) TO EFFECTUATE THE REINSTATEMENT:~~

~~(I) THE FUND MAY CHARGE THE POLICYHOLDER A REINSTATEMENT FEE NOT TO EXCEED \$10; AND~~

~~(II) THE FUND PRODUCER REQUESTING THE REINSTATEMENT OF THE CANCELED POLICY MAY CHARGE THE POLICYHOLDER A REINSTATEMENT FEE NOT TO EXCEED \$15.~~

SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland Insurance Commissioner shall:

(1) require the Maryland Automobile Insurance Fund to file a premium tax exemption report with the Commissioner on or before October 1, 2019, October 1, 2020, and October 1, 2021, that specifies, since the premium tax exemption provided for in § 6-101 of the Insurance Article, as enacted by Section 1 of this Act, became effective:

(i) the amount of the premium tax subject to the exemption;

(ii) the year-over-year change in the Fund's surplus;

structure;

and

- (iii) the increase or decrease in the Fund's overall premium rate
- (iv) the impact of the premium tax exemption on the Fund's surplus;
- (v) the surplus to assessment threshold ratio;

(2) review the Fund's premium tax exemption reports and determine whether, since the premium tax exemption provided for in § 6–101 of the Insurance Article, as enacted, by Section 1 of this Act, became effective:

- (i) the Fund's surplus has increased or decreased;
- (ii) any additions to the Fund's surplus due to the premium tax exemption has allowed the surplus to become excessive;
- (iii) the Fund has decreased its overall premium rate structure; and
- (iv) the Fund's premium rates have been subsidized by the premium tax exemption; and

(3) report the findings to the Senate Finance Committee and the House Economic Matters Committee on or before December 1, 2019, December 1, 2020, and December 1, 2021.

SECTION 4. AND BE IT FURTHER ENACTED, That Sections 1 and 3 of this Act shall take effect January 1, 2018. Sections 1 and 3 of this Act shall remain effective for a period of 4 years and 6 months and, at the end of June 30, 2022, with no further action required by the General Assembly, Sections 1 and 3 of this Act shall be abrogated and of no further force and effect.

SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect ~~October~~ July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 510
(House Bill 1579)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2016 – Baltimore County – Morning Star Family Life Center

FOR the purpose of amending the Maryland Consolidated Capital Bond Loan of 2016 to add an additional grantee to certain grants; making this Act an emergency measure; and generally relating to amending the Maryland Consolidated Capital Bond Loan of 2016.

BY repealing and reenacting, with amendments,
Chapter 27 of the Acts of the General Assembly of 2016
Section 1(3) Item ZA02(AB) and ZA03(AD)

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

Chapter 27 of the Acts of 2016

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

(3) ZA02 LOCAL SENATE INITIATIVES

(AB)	<p>Morning Star Family Life Center. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the Board of Directors of MSBC Five Star Program, Inc., AND THE BOARD OF TRUSTEES OF THE MORNING STAR BAPTIST CHURCH OF BALTIMORE COUNTY for the acquisition, planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Morning Star Family Life Center, located in Baltimore County. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act (Baltimore County)</p>	125,000
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ZA03 LOCAL HOUSE OF DELEGATES INITIATIVES

(AD)	<p>Morning Star Family Life Center. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the Board of Directors of MSBC Five Star Program, Inc., AND THE BOARD OF TRUSTEES OF THE MORNING STAR BAPTIST CHURCH OF BALTIMORE COUNTY for the acquisition, planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Morning Star Family Life Center, located in Baltimore County. Notwithstanding Section 1(5) of this Act, the matching fund</p>
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may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act (Baltimore County)	125,000
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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 ye 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, 2017.

Chapter 511

(Senate Bill 1099)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2016 – Baltimore County – Morning Star Family Life Center

FOR the purpose of amending the Maryland Consolidated Capital Bond Loan of 2016 to add an additional grantee to certain grants; making this Act an emergency measure; and generally relating to amending the Maryland Consolidated Capital Bond Loan of 2016.

BY repealing and reenacting, with amendments,
 Chapter 27 of the Acts of the General Assembly of 2016
 Section 1(3) Item ZA02(AB) and ZA03(AD)

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

Chapter 27 of the Acts of 2016

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

(3) ZA02 LOCAL SENATE INITIATIVES

(AB) Morning Star Family Life Center. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the Board of Directors of MSBC Five Star Program, Inc., **AND THE BOARD OF TRUSTEES OF THE MORNING STAR BAPTIST CHURCH OF BALTIMORE COUNTY** for the

acquisition, planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Morning Star Family Life Center, located in Baltimore County. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act (Baltimore County) 125,000

ZA03 LOCAL HOUSE OF DELEGATES INITIATIVES

(AD) Morning Star Family Life Center. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the Board of Directors of MSBC Five Star Program, Inc., **AND THE BOARD OF TRUSTEES OF THE MORNING STAR BAPTIST CHURCH OF BALTIMORE COUNTY** for the acquisition, planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Morning Star Family Life Center, located in Baltimore County. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act (Baltimore County) 125,000

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, 2017.

Chapter 512

(Senate Bill 2)

AN ACT concerning

Maryland Heritage Areas Authority – Revision of Boundaries and Boundary Maps

FOR the purpose of altering the process by which the Maryland Heritage Areas Authority may amend or revise the boundaries of a recognized heritage area by allowing publication in the Maryland Register of a revised Uniform Resource Locator (URL) to a geographical information system file in addition to publication of a revised drawing or boundary description; requiring the Authority to send a copy of each

boundary map for a recognized heritage area to the county clerk where the heritage area is located; repealing a provision of law requiring certain boundary maps to be kept on file at certain county clerks' offices; defining the term "geographical information system file"; and generally relating to the Maryland Heritage Areas Authority, heritage area boundaries, and boundary maps.

BY repealing and reenacting, with amendments,
 Article – Financial Institutions
 Section 13–1101 and 13–1110(d)
 Annotated Code of Maryland
 (2011 Replacement Volume and 2016 Supplement)

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

Article – Financial Institutions

13–1101.

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

(b) "Authority" means the Maryland Heritage Areas Authority established under § 13–1103 of this subtitle.

(c) "Bonds" means revenue bonds, including refunding bonds or revenue anticipation notes, issued by the Authority.

(d) "Certified heritage area" means a heritage area designated in accordance with § 13–1111 of this subtitle.

(e) "Fund" means the Maryland Heritage Areas Authority Financing Fund established under § 13–1114 of this subtitle.

(f) **"GEOGRAPHICAL INFORMATION SYSTEM FILE" MEANS A COMPUTER FILE THAT:**

(1) CAPTURES, STORES, AND DISPLAYS VARIOUS TYPES OF SPATIAL AND ATTRIBUTE DATA ON A MAP;

(2) DEPICTS THE BOUNDARIES OF A RECOGNIZED HERITAGE AREA;

(3) INCLUDES THE DATE OF APPROVAL OF THE BOUNDARIES BY THE AUTHORITY; AND

(4) IS POSTED ON A WEB SITE HOSTED BY THE STATE.

(G) “Heritage area” means a developed area of public and private uses that:

(1) Ranges in size from a portion of a county or municipal corporation to a regional area with a special coherence;

(2) Is distinguished by physical and cultural resources which have played a vital role in the historic life and development of the community and contribute to the public through interpretive, educational, and recreational use;

(3) Is composed of contiguous or noncontiguous geographic areas; and

(4) May include traditional parks and historic places or property on the national or State register of historic properties.

[(g)] (H) (1) “Local plan” means the policies, statements, goals, and interrelated plans for private and public land use, transportation, and community facilities documented in texts and maps which constitute the guide for the area’s future development.

(2) “Local plan” includes a general plan, master plan, comprehensive plan, community plan, and the like as adopted in accordance with Title 1, Subtitle 4 or Title 3 of the Land Use Article.

[(h)] (I) “Management plan” means a document prepared in accordance with § 13–1111 of this subtitle that includes a comprehensive statement in words, maps, illustrations, or other media of communication of the objectives, policies, and standards to guide public and private action for the preservation, interpretation, development, and use of the cultural, historic, natural, and architectural resources of a certified heritage area.

[(i)] (J) “Recognized heritage area” means a heritage area that:

(1) The local jurisdictions within the heritage area have nominated for designation as a recognized heritage area under § 13–1110 of this subtitle; and

(2) The Heritage Areas Authority has designated as eligible to apply for designation as a certified heritage area under § 13–1111 of this subtitle.

[(j)] (K) “Target investment zone” means a specific area:

(1) Located within a certified heritage area;

(2) Identified in a management plan approved by the Authority or through a process specified by the Authority; and

(3) Intended to attract significant private investment to the area in order to encourage demonstrable results and return on public investment within the area in a relatively short period of time.

13-1110.

(d) (1) The boundaries for each recognized heritage area are the boundaries depicted on the map accompanying each proposal as approved by the Authority.

(2) After initial approval by the Authority of the boundaries of a recognized heritage area, the Authority may amend or revise the boundaries:

(i) With the approval of all of the local jurisdictions where the property to be added or removed is located; and

(ii) On publication **IN THE MARYLAND REGISTER** of a revised drawing [or], boundary description [in the Maryland Register], **OR UNIFORM RESOURCE LOCATOR (URL) TO A GEOGRAPHICAL INFORMATION SYSTEM FILE.**

(3) Boundary maps for each recognized heritage area shall be kept on file at the Authority [and at].

(4) THE AUTHORITY SHALL SEND A COPY OF EACH BOUNDARY MAP TO the office of the county clerk where the recognized heritage area is located.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 513

(House Bill 1513)

AN ACT concerning

Maryland Historic Trust Grant Fund Improvement Act

FOR the purpose of authorizing the Maryland Historic Trust Grant Fund to be used to pay for certain reasonable and necessary administrative costs, not to exceed a certain amount; requiring the Governor, beginning in a certain fiscal year, to include a certain appropriation to the Fund in the annual State budget bill, subject to certain limitations; limiting the amount of grants from the Fund that may be awarded to historic properties owned by the Maryland Historic Trust; requiring the Trust to include certain information in a certain annual report; and generally relating to the Maryland Historic Grant Fund.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 5A–328
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

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

Article – State Finance and Procurement

5A–328.

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

(2) “MHT Grant Fund” means the Historic Preservation and Historical and Cultural Museum Assistance Grant Fund of the Trust.

(3) “MHT Grant Program” means the Historic Preservation Grant Program of the Trust.

(b) (1) There is an MHT Grant Program in the Trust.

(2) The purposes of the MHT Grant Program are to:

(i) implement and encourage the preservation of historic properties;
and

(ii) promote interest in and study of historic properties and their preservation.

(c) (1) The Trust shall administer the MHT Grant Program and coordinate the MHT Grant Program with federal and State programs that complement or facilitate the MHT Grant Program.

(2) The Trust shall ensure that a grant awarded under the MHT Grant Program to acquire, restore, or rehabilitate a historic property is used only if the historic property is listed in or is eligible to be listed in the Historic Register.

(3) (i) The Trust shall require a grantee under the MHT Grant Program to enter into an agreement to preserve and maintain the property.

(ii) If the property is real property, the agreement shall be a recordable historic preservation easement.

(iii) The Secretary may waive the agreement requirement if the Secretary determines that an agreement is impracticable.

(d) (1) The Department shall adopt regulations to carry out the purposes of the MHT Grant Program.

(2) The regulations shall include:

(i) application procedures;

(ii) procedures to give adequate notice to the public of assistance available under the MHT Grant Program;

(iii) provisions for the review of plans and specifications;

(iv) provisions for the inspection of projects during construction; and

(v) selection criteria the Trust must consider when evaluating applications for grants, including:

1. the relative historical or cultural significance of, and the urgency of need for, the project to be financed by the grant;

2. any proposed contribution by the appropriate political subdivision to the project;

3. the geographic distribution of grant assistance from the MHT Grant Fund under subsection (e) of this section; and

4. other relevant factors.

(e) (1) There is an MHT Grant Fund in the Trust.

(2) The MHT Grant Fund may be used:

(i) for the purposes set forth in § 5A-353 of this subtitle;

(ii) to make grants to nonprofit organizations, political subdivisions, business entities, and individuals to acquire, rehabilitate, or restore historic properties;

(iii) to make grants to nonprofit organizations and political subdivisions to pay costs, including preparation costs, that are directly related to a rehabilitation or restoration project;

(iv) to make grants to nonprofit organizations and political subdivisions for historic preservation education and promotion, including the research, survey, and evaluation of historic properties and the preparation of historic preservation planning documents and educational materials;

(v) to purchase or acquire historic properties or interests in historic properties for the Trust's authorized purposes or for resale or lease with appropriate preservation covenants;

(vi) to pay costs, including preparation costs, that are directly related to restoring or rehabilitating historic properties that the Trust owns for use in accordance with the Trust's authorized purposes or for resale or lease subject to appropriate preservation covenants; [and]

(vii) to pay for historic preservation education and promotion conducted by the Trust, and for the research, survey, and evaluation of historic properties and the preparation of historic preservation planning documents and educational materials; AND

(VIII) TO PAY FOR REASONABLE AND NECESSARY ADMINISTRATIVE COSTS DIRECTLY RELATED TO THE ADMINISTRATION OF THE MHT GRANT FUND, NOT TO EXCEED 5% OF THE ANNUAL GENERAL FUND APPROPRIATION TO THE MHT GRANT FUND.

(f) The Trust shall administer the MHT Grant Fund.

(g) (1) The MHT Grant Fund is a continuing, nonlapsing special fund that is not subject to § 7–302 of this article.

(2) The Treasurer shall hold and the Comptroller shall account for the MHT Grant Fund.

(h) The MHT Grant Fund consists of:

(1) money appropriated in the State budget to the MHT Grant Program or the Historical and Cultural Museum Assistance Program under § 5A–352 of this subtitle;

(2) the proceeds from the resale or lease of any properties originally acquired by the Trust from the MHT Grant Fund or the Capital Grant Fund for Historic Preservation;

(3) money received from other public or private sources for the benefit of the MHT Grant Fund; and

(4) money received from the sale of State general obligation bonds.

(i) ~~FOR~~ **SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET, FOR FISCAL YEAR 2018 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL STATE BUDGET BILL AN APPROPRIATION OF \$1,500,000 TO THE MHT GRANT FUND.**

(J) Money in the MHT Grant Fund shall be invested in the same manner as other State money.

~~[(j)]~~ (K) (1) The trustees shall review and make recommendations to the Secretary about grant applications and expenditure requests from the MHT Grant Fund.

(2) The trustees shall base their grant recommendations on a competitive selection process.

(3) In any fiscal year, the Secretary may hold up to 20% of the money in the MHT Grant Fund in reserve for emergency use in accordance with subsection (e) of this section.

(4) Grants to business entities may not exceed 10% of all grants awarded from the MHT Grant Fund under this section.

(5) GRANTS TO HISTORIC PROPERTIES OWNED BY THE TRUST MAY NOT EXCEED 10% OF ALL GRANTS AWARDED FROM THE MHT GRANT FUND UNDER THIS SECTION.

~~[(k)]~~ (L) (1) To the extent required by regulations adopted by the Secretary and approved by the Board of Public Works, the Secretary shall submit to the Board of Public Works for approval grants or expenditures from the MHT Grant Fund to be financed through the sale of State general obligation bonds.

(2) Except for an expenditure under subsection (e)(2)(v) and (vi) of this section, grants and expenditures from the MHT Grant Fund are not subject to Titles 4 and 5 of this article.

~~[(l)]~~ (M) (1) On or before December 31 of each year, the Trust shall report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly on the financial status and the activities of the MHT Grant Program and the MHT Grant Fund for the preceding fiscal year.

(2) IN THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE TRUST SHALL INCLUDE INFORMATION ON:

(I) THE AMOUNT OF THE MHT GRANT FUND THAT IS USED FOR ADMINISTRATIVE PURPOSES; AND

(II) THE AMOUNT OF GRANTS MADE TO HISTORIC PROPERTIES OWNED BY THE TRUST.

~~[(m)]~~ (N) (1) A person may not knowingly make or cause to be made a material false statement of fact, including an understatement or overstatement of financial

condition, in a statement or report in or regarding an application for a grant or affecting an existing grant.

(2) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding \$5,000 or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 514

(Senate Bill 289)

AN ACT concerning

**Maryland Insurance ~~Commissioner~~ Administration – Rate Making for
Automobile and Homeowner’s Insurance – ~~Reports~~**

FOR the purpose of repealing provisions of law that require the Maryland Insurance Commissioner to provide to the Governor and the General Assembly certain reports on the effect of competitive rating on the insurance markets in the State; repealing provisions of law that require the Commissioner, on or before a certain date each year, to submit a report to the General Assembly about the use of territory as a factor in establishing private passenger automobile insurance rates by insurers and the Maryland Automobile Insurance Fund; requiring the Maryland Insurance Administration to continue to collect and analyze data relating to the competitiveness of certain insurance markets and notify the Governor and the General Assembly if there are certain changes; requiring the Administration to continue to review and analyze certain information regarding the use of a certain factor in establishing certain rates and notify the Governor and the General Assembly if there are certain changes; requiring the Administration, on request, to make certain information available in accordance with certain provisions of law; and generally relating to ~~reports by the Maryland Insurance Commissioner~~ rate making for private passenger automobile and homeowner’s insurance.

BY repealing

Article – Insurance

Section 11–338 and 11–339

Annotated Code of Maryland

(2011 Replacement Volume and 2016 Supplement)

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

Article – Insurance

[11–338.

(a) The Commissioner shall provide detailed reports on a current continuing basis to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly on the effect of competitive rating on the insurance markets in the State.

(b) The reports required under this section shall be submitted on or before December 1 of each year.]

[11–339.

(a) On or before July 1 of each year, the Commissioner shall submit a report, in accordance with § 2–1246 of the State Government Article, to the General Assembly about the use of territory as a factor in establishing private passenger automobile insurance rates by insurers and the Maryland Automobile Insurance Fund.

(b) The report shall provide information on:

(1) the number of insurers actively engaged in providing private passenger automobile insurance coverage in the State; and

(2) the number of insurers that use territory as a factor in establishing private passenger automobile insurance rates.]

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Insurance Administration shall:

(1) continue to collect and analyze data relating to the competitiveness of the private passenger automobile insurance and homeowner’s insurance markets in the State and notify the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly if there are any notable changes;

(2) continue to review and analyze the information provided by private passenger automobile insurance carriers under § 11–216 of the Insurance Article regarding the use of territory as a factor in establishing rates for private passenger automobile insurance and notify the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly if there are any notable changes; and

(3) on request, make information gathered under items (1) and (2) of this section available in accordance with applicable provisions of the Insurance Article and the Public Information Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 515

(House Bill 482)

AN ACT concerning

Maryland Nurse Practice Act – Revisions

FOR the purpose of altering the membership of the State Board of Nursing; requiring that certain petitions for membership on the Board have at least a certain number of signatures of support from nurses with a certain license; altering the requirements for the election of Board officers; requiring the Board to hold a special election within a certain time period to fill a certain vacancy under certain circumstances; altering the requirements for a quorum of the Board; authorizing the Board to employ a deputy director; authorizing the Board to set standards for the practice of advanced practice registered nursing, electrology, and direct-entry midwifery; altering the requirement that the Board keep a list of certain nurses and other professionals regulated by the Board; authorizing the Board to appoint certain committees of the Board, to delegate certain duties to the executive director, and to hold the executive director accountable to the Board; renaming the Rehabilitation Program to be the Safe Practice Program; renaming the Rehabilitation Committee to be the Safe Practice Committee; repealing the authority of a certain committee to review and designate certain treatment facilities and services to which certain individuals may be referred; altering the reporting requirements of the Safe Practice Committee; requiring the Program to transfer to the Board certain records; authorizing the Board to summarily suspend the license or certificate of certain licensees and certificate holders; requiring a certain nursing education program in another state or country to be substantially equivalent to an education program in this State at the time of the applicant's graduation for a certain purpose; requiring certain applicants to demonstrate written and oral competency in the English language as part of the Board's examination and licensing procedures; repealing certain testing requirements relating to a certain English language competency requirement for certain applicants; repealing certain references to nurse psychotherapists; repealing the requirement that the Board determine certain matters relating to certain licensing examinations; repealing an obsolete date by which the Board was required to begin requiring criminal history records checks; repealing the authority of the Board to issue a temporary practice letter to certain nurses under certain circumstances; altering the grounds for denying an applicant or licensee a license, reprimanding a licensee, placing a licensee on probation, or suspending or revoking the license of an applicant or licensee if the individual has a substance use disorder;

requiring the Board to determine the Maryland passing rate for a certain examination; requiring certain advanced practice registered nurses to report certain information relating to knowledge of certain nurses with a substance use disorder; repealing the requirement that the Board, in consultation with the State Board of Pharmacy and the State Board of Physicians, establish a certain drug formulary for the practice of nurse midwifery; repealing the Board's authority to issue a certain replacement registration certificate and to set a certain fee; repealing the Board's authority to deny the issuance of a certain temporary practice certificate to a certain applicant under certain circumstances; requiring the Board to consider certain information before the Board initiates a disciplinary action against a certain certificate holder or licensee based on information received from a criminal history records check at the time of renewal of a certain certificate or license; prohibiting the Board from renewing a certain certificate without certain documentation that a certain applicant has submitted to a criminal history records check; providing that members of a certain advisory committee are entitled to receive certain compensation and reimbursement for certain expenses; requiring an applicant for a license to practice electrology to take a certain written examination; authorizing the Board or a designee of the Board to give clinical examinations and reexaminations to certain applicants; requiring the Board to provide a certain notice and determine the passing score for a certain examination; repealing the authority of the Board to take certain action against a certain licensee for failing to display a certain notice; repealing the requirement that an electrologist display a certain notice; prohibiting an individual from representing to the public that the individual is authorized to practice advanced practice registered nursing unless authorized to practice advanced practice registered nursing; prohibiting an individual from practicing advanced practice registered nursing under color of a fraudulent diploma, license, certificate, or record; prohibiting an individual from knowingly employing an individual to practice advanced practice registered nursing if the individual is not authorized to practice advanced practice registered nursing; defining certain terms; altering certain defined terms and definitions of certain terms; updating certain terminology; repealing an obsolete provision of law; making conforming and stylistic changes; and generally relating to revisions to the Maryland Nurse Practice Act.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 8–101, 8–202(a) through (d), 8–203, 8–204, 8–205(a), 8–208, 8–302, 8–304, 8–305, 8–306, 8–312(g), 8–315, 8–316(a), 8–401, 8–505, 8–601, 8–6A–07, 8–6A–08(k), 8–6A–10(a), 8–6B–10, 8–6B–14(k), 8–6B–18, 8–701 through 8–703, 8–705(a) and (b), and 8–706

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

BY adding to

Article – Health Occupations

Section 8–302.1 and 8–6A–13(g)

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 8–6A–13(a)
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

BY repealing
Article – Health Occupations
Section 8–6B–26
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

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) “Advanced practice **REGISTERED** nurse” means an individual who:

(1) **(I)** Is licensed by the Board to practice registered nursing; **OR**

(II) HAS A MULTISTATE LICENSURE PRIVILEGE TO PRACTICE REGISTERED NURSING UNDER THE NURSE LICENSURE COMPACT; and

(2) Is certified by the Board to practice as:

(i) A nurse practitioner;

(ii) A nurse anesthetist;

(iii) A nurse midwife; **OR**

(iv) **[A nurse psychotherapist; or**

(v)] A clinical nurse specialist.

(c) “Applicant” means, unless the context requires otherwise:

(1) An individual applying for an initial license by examination or endorsement;

(2) A licensee applying for renewal of a license; [or]

(3) AN INDIVIDUAL APPLYING FOR AN INITIAL ADVANCED PRACTICE REGISTERED NURSE CERTIFICATION;

(4) A LICENSEE APPLYING FOR RENEWAL OF AN ADVANCED PRACTICE REGISTERED NURSE CERTIFICATION; OR

[(3)] (5) An individual applying for reinstatement of a license in accordance with § 8–319 of this title.

(d) “Board” means the State Board of Nursing.

(e) “Expired license” means, unless the context requires otherwise, a license that was not renewed before the expiration date of the license as established under § 8–312(a) of this title.

(f) “Lapsed license” means, unless the context requires otherwise, a license that was not renewed because a licensee failed to renew the license or otherwise did not meet the renewal requirements of this title.

(g) “License” means, unless the context requires otherwise, a license issued by the Board to practice:

(1) Registered nursing; [or]

(2) Licensed practical nursing; **OR**

(3) ADVANCED PRACTICE REGISTERED NURSING.

(h) “Licensed practical nurse” means, unless the context requires otherwise, an individual who [is]:

(1) IS licensed by the Board to practice licensed practical nursing; OR

(2) HAS A MULTISTATE LICENSURE PRIVILEGE TO PRACTICE LICENSED PRACTICAL NURSING UNDER THE NURSE LICENSURE COMPACT.

(i) “Licensee” means, unless the context requires otherwise, a registered nurse or licensed practical nurse who has:

(1) An active license;

(2) An inactive license;

(3) A temporary license;

- (4) An expired temporary license;
- (5) An expired license;
- (6) A lapsed license;
- (7) A suspended license; [or]
- (8) A license subject to a reprimand, probation, or suspension; **OR**

(9) A MULTISTATE LICENSURE PRIVILEGE TO PRACTICE REGISTERED NURSING OR LICENSED PRACTICAL NURSING UNDER THE NURSE LICENSURE COMPACT.

(j) “Mentor” means a certified **REGISTERED** nurse practitioner or a licensed physician:

- (1) Who has 3 or more years of clinical practice experience; and
- (2) With whom an individual applying for certification as a certified nurse practitioner will consult and collaborate with as needed in accordance with § 8–302(b)(5)(i) of this title.

[(k) “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.]

(K) “PRACTICE ADVANCED PRACTICE REGISTERED NURSING” MEANS TO PRACTICE REGISTERED NURSING WITHIN THE SCOPE OF PRACTICE IN THE AREA OF SPECIALTY FOR WHICH THE INDIVIDUAL HOLDS A CERTIFICATION FROM A NATIONALLY RECOGNIZED CERTIFYING BODY RECOGNIZED BY THE BOARD.

- (l) “Practice as a **REGISTERED** nurse practitioner” means to independently:
- (1) Perform an act under subsection (n) of this section;
 - (2) Conduct a comprehensive physical assessment of an individual;
 - (3) Establish a medical diagnosis for common chronic stable or short-term 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) Consult and collaborate with, or refer an individual to, an appropriate licensed physician or any other health care provider as needed; and
- (8) Provide emergency care.

(m) “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.

(n) (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.

(o) “Registered nurse” means, unless the context requires otherwise, an individual who [is]:

(1) IS licensed by the Board to practice registered nursing; OR

(2) HAS A MULTISTATE LICENSURE PRIVILEGE TO PRACTICE REGISTERED NURSING UNDER THE NURSE LICENSURE COMPACT.

(P) “REGISTERED NURSE PRACTITIONER” MEANS AN INDIVIDUAL WHO:

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

(II) HAS A MULTISTATE LICENSURE PRIVILEGE TO PRACTICE REGISTERED NURSING UNDER THE NURSE LICENSURE COMPACT; AND

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

8–202.

(a) (1) The Board consists of ~~13~~ **14** members.

(2) Of the ~~13~~ **14** Board members:

(i) **[8] 9** shall be registered nurses;

(II) 1 SHALL BE A LICENSED NURSE WHO IS EITHER A LICENSED PRACTICAL NURSE, A REGISTERED NURSE, OR AN ADVANCED PRACTICE REGISTERED NURSE;

~~(ii)~~ **(III) [3] 2** shall be licensed practical nurses; and

~~(iii)~~ **(IV) 2** shall be consumers.

(3) Of the [8] **9** registered nurse members:

(i) [1] **2** shall be [certified in an] advanced practice [nursing specialty that rotates with each vacancy among the following specialties:

1. Nurse anesthetist;
2. Nurse practitioner;
3. Nurse midwife; and

4. Nurse psychotherapist] **REGISTERED NURSES, —OF WHICH 1 SHALL BE A REGISTERED NURSE PRACTITIONER;**

(ii) 1 shall be a baccalaureate nursing educator with, at least, a master's degree in nursing or education;

(iii) 1 shall be an associate degree nursing educator with, at least, a master's degree in nursing or education;

(iv) 1 shall be a practical nursing educator with, at least, a [bachelor of science] **MASTER'S** degree in nursing or education;

(v) 1 shall be a nurse administrator with, at least, a master's degree in nursing administration, business administration, business management, education, or public health;

(vi) 1 shall be a nurse clinician with at least a master's degree in nursing or public health;

(vii) 1 shall be a currently practicing nurse, who has practiced acute care for at least 5 years, with a bachelor of science degree in nursing; and

(viii) 1 shall be a currently practicing nurse who has practiced as a delegating nurse in a supervised group living setting, as defined in COMAR [10.27.11.02(20)] **10.27.11.02(21)**, for at least 5 years.

(4) Of the [3] **2** licensed practical nurse members, at least 1 shall practice in a long-term care nursing facility.

(b) (1) The Governor shall appoint:

(i) The **ADVANCED PRACTICE** registered nurse [member certified in an advanced practice nursing specialty] **MEMBERS**, with the advice of the Secretary, from a list of qualified individuals jointly developed in accordance with the requirements

of subsection (a)(3)(i) of this section and submitted to the Secretary and the Governor by the:

1. Maryland Association of Nurse Anesthetists, Inc.;
 2. Nurse Practitioners Association of Maryland, Inc.;
 3. Maryland ~~Coalition of Nurse Practitioners~~ ACADEMY OF ADVANCED PRACTICE CLINICIANS, Inc.;
 4. Maryland Chapter, American College of Nurse–Midwives;
- and
5. Psychiatric Advance Practice Nurses of Maryland; and

(ii) The other registered nurse members, with the advice of the Secretary, from:

- and the Governor by:
1. A list of qualified individuals submitted to the Secretary
 - A. The Maryland Nurses Association, Inc.; or
 - B. Any other professional nursing organization that represents at least 25 licensed registered nurses; or
 2. A valid petition submitted to the Secretary and the Governor by a registered nurse with an active license under this title.

(2) The Governor shall appoint the licensed practical nurse members, with the advice of the Secretary, from:

- Governor by:
- (i) A list of qualified individuals submitted to the Secretary and the Governor by:
 1. The Maryland Licensed Practical Nurse Association, Inc.;or
 2. Any other professional nursing organization representing at least 25 licensed practical nurses; or

(ii) A valid petition submitted to the Secretary and the Governor by a licensed practical nurse with an active license under this title.

(3) A list submitted to the Secretary and the Governor under this subsection shall be 5 times the number of vacancies.

(4) A petition submitted to the Secretary and **THE** Governor under this subsection shall:

(I) FOR A REGISTERED NURSE MEMBER VACANCY, have at least 25 signatures of support from REGISTERED nurses with active licenses in the State;

(II) FOR AN ADVANCED PRACTICE REGISTERED NURSE MEMBER VACANCY, HAVE AT LEAST 25 SIGNATURES OF SUPPORT FROM ADVANCED PRACTICE REGISTERED NURSES WITH ACTIVE LICENSES IN THE STATE; AND

(III) FOR A LICENSED PRACTICAL NURSE MEMBER VACANCY, HAVE AT LEAST 25 SIGNATURES OF SUPPORT FROM LICENSED PRACTICAL NURSES WITH ACTIVE LICENSES IN THE STATE.

(5) The Board shall provide notice of a vacancy on the Board to:

(i) All **REGISTERED NURSES, ADVANCED PRACTICE REGISTERED NURSES, AND LICENSED PRACTICAL** nurses with an active license in the State; and

(ii) All appropriate professional nursing organizations.

(6) The Governor may request an additional list of 5 nominees for each vacancy from the appropriate professional nursing organizations.

(7) The Governor shall make the appointment for each vacancy from the lists or petitions submitted under this subsection.

(8) The Governor shall appoint the consumer members with the advice of the Secretary and the advice and consent of the Senate.

(9) To the extent practicable, the members appointed to the Board shall reasonably reflect the geographic, racial, ethnic, cultural, and gender diversity of the State.

(c) Each member of the Board shall be:

(1) A citizen of the United States; and

(2) A resident of this State.

(d) (1) A registered nurse member of the Board shall:

(i) Have graduated from an approved school of nursing or its equivalent; and

(ii) Have at least 5 years of experience in nursing administration, education, or practice, which includes at least the 3 years immediately before the appointment.

(2) A member of the Board who is [a] **AN ADVANCED PRACTICE** registered nurse [certified in an advanced practice nursing specialty] shall:

(i) Hold a current license to practice registered nursing in this State;

(ii) Hold a current certification in an advanced practice **REGISTERED** nursing specialty in this State; and

(iii) Have at least 5 years of experience in an advanced practice **REGISTERED** nursing education **PROGRAM** or practice, including at least the 3 years immediately before the appointment.

8–203.

(a) **(1) [From] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FROM among its members, the Board shall elect a president and a secretary once every 2 years in [July] JUNE OR AS REQUIRED BY SUBSECTION (C) OF THIS SECTION.**

(2) THE PRESIDENT OF THE BOARD SHALL BE A REGISTERED NURSE.

(3) THE PRESIDENT SHALL SERVE A 2–YEAR TERM UNLESS:

(I) THE TERM OF THE MEMBER SERVING AS THE PRESIDENT EXPIRES BEFORE THE END OF THE MEMBER’S TERM AS PRESIDENT; OR

(II) THE PRESIDENT RESIGNS.

(b) The Board shall determine:

(1) The manner of election of officers; and

(2) The duties of each officer.

(C) IF A VACANCY OCCURS UNDER SUBSECTION (A)(3)(II) OF THIS SECTION, THE BOARD SHALL HOLD A SPECIAL ELECTION TO ELECT A PRESIDENT TO COMPLETE THE TERM OF THE VACATING PRESIDENT WITHIN 30 DAYS OF THE DATE OF THE VACANCY.

8–204.

(a) [(1) Except as provided in paragraph (2) of this subsection, a] **A** majority of the [full authorized membership of] **APPOINTED MEMBERS SERVING ON** the Board [that includes at least one officer] is a quorum.

[(2) In addition to the requirements of paragraph (1) of this subsection, on a matter concerning licensing or disciplining of an individual, a quorum shall include:

(i) At least three registered nurse members if a registered nurse or an applicant for a license as a registered nurse is involved; or

(ii) At least two licensed practical nurse members if a licensed practical nurse or an applicant for a license as a licensed practical nurse is involved.]

(b) In addition to the other meeting requirements of this title, the Board shall meet:

(1) At the request of the Secretary; or

(2) If necessary to transact its business.

(c) In accordance with the State budget, each member of the Board is entitled to:

(1) Compensation, at a rate determined by the Board, for each day on which the member is engaged in the duties of the member's office; and

(2) Reimbursement for expenses under the Standard State Travel Regulations.

(d) The Board may:

(1) Employ a staff in accordance with the State budget;

(2) Define the duties of its staff; and

(3) Employ [an]:

(I) AN executive director who shall be a registered nurse with a minimum of a master's degree in nursing or the equivalent, in the judgment of the Board, in professional education and administrative experience; **AND**

(II) A DEPUTY DIRECTOR WHO SHALL ASSUME THE DUTIES AND AUTHORITY OF THE EXECUTIVE DIRECTOR IN THE ABSENCE OF THE EXECUTIVE DIRECTOR.

(a) In addition to the powers and duties set forth elsewhere in this title, the Board has the following powers and duties:

(1) To adopt rules and regulations to carry out the provisions of this title;

(2) To set standards for the practice of registered nursing, **ADVANCED PRACTICE REGISTERED NURSING**, licensed practical nursing, certified nursing assistants, [and] certified medication technicians, **ELECTROLOGY, AND DIRECT-ENTRY MIDWIFERY**;

(3) To adopt rules and regulations for the performance of delegated medical functions that are recognized jointly by the State Board of Physicians and the State Board of Nursing, under § 14-306(d) of this article;

(4) To adopt rules and regulations for the performance of additional nursing acts that:

(i) May be performed under any condition authorized by the Board, including emergencies; and

(ii) Require education and clinical experience;

(5) To adopt rules and regulations for registered nurses to perform independent nursing functions that:

(i) Require formal education and clinical experience; and

(ii) May be performed under any condition authorized by the Board, including emergencies;

(6) To adopt rules and regulations for licensed practical nurses to perform additional acts in the practice of registered nursing that:

(i) Require formal education and clinical experience;

(ii) May be performed under any condition authorized by the Board, including emergencies; and

(iii) Are recognized by the Nursing Board as proper for licensed practical nurses to perform;

(7) To keep a record of its proceedings;

(8) To submit to the Governor, the Secretary, and, in accordance with § 2-1246 of the State Government Article, the General Assembly, an annual report that includes the following data calculated on a fiscal year basis:

- issued;
- (i) The number of initial and renewal licenses and certificates issued;
 - (ii) The number of positive and negative criminal history records checks results received;
 - (iii) The number of individuals denied initial or renewal licensure or certification due to positive criminal history records checks results;
 - (iv) The number of individuals denied licensure or certification due to reasons other than a positive criminal history records check;
 - (v) The number of new complaints received;
 - (vi) The number of complaints carried over from year to year;
 - (vii) The most common grounds for complaints; and
 - (viii) The number and types of disciplinary actions taken by the Board;
- (9) To enforce the employment record requirements of this title;
- (10) To keep separate lists, which lists are open to reasonable public inspection, of all:
- (i) Registered nurses licensed under this title;
 - (ii) Licensed practical nurses licensed under this title;
 - (iii) Nurse midwives certified under this title;
 - (iv) Nurse practitioners certified under this title; [and]
 - (V) NURSE ANESTHETISTS CERTIFIED UNDER THIS TITLE;**
 - (VI) CLINICAL NURSE SPECIALISTS CERTIFIED UNDER THIS TITLE;**
 - (VII) CERTIFIED MEDICATION TECHNICIANS CERTIFIED UNDER THIS TITLE;**
 - (VIII) ELECTROLOGISTS LICENSED UNDER THIS TITLE;**
 - (IX) DIRECT-ENTRY MIDWIVES LICENSED UNDER THIS TITLE;**

AND

~~[(v)]~~ **(X)** Other licensees with a nursing specialty that is certified under this title;

(11) To collect any funds of the Board;

(12) To report any alleged violation of this title to the State's Attorney of the county where the alleged violation occurred;

(13) In accordance with the State budget, to incur any necessary expense for prosecution of an alleged violation of this title;

(14) On receipt of a written and signed complaint, including a referral from the Commissioner of Labor and Industry, conduct an unannounced inspection of the office of a nurse in independent practice, other than an office of a nurse in independent practice in a hospital, related institution, freestanding medical facility, or a freestanding birthing center, to determine compliance at that office with the Centers for Disease Control and Prevention's guidelines on universal precautions; **[and]**

(15) To maintain a nurse aide registry that complies with federal law;

(16) TO APPOINT STANDING AND AD HOC COMMITTEES FROM AMONG BOARD MEMBERS AS NECESSARY; AND

(17) TO DELEGATE TO THE EXECUTIVE DIRECTOR OF THE BOARD THE AUTHORITY TO DISCHARGE BOARD DUTIES DEEMED APPROPRIATE AND NECESSARY BY THE BOARD AND TO HOLD THE EXECUTIVE DIRECTOR ACCOUNTABLE TO THE BOARD.

8–208.

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

(2) “Applicant” means an individual who has submitted an application to the Board to be licensed as a registered nurse, licensed practical nurse, electrologist, or licensed direct–entry midwife or to be certified as **AN ADVANCED PRACTICE REGISTERED NURSE**, a nursing assistant, or medication technician in this State.

(3) “PARTICIPANT” MEANS A REGISTERED NURSE, AN ADVANCED PRACTICE REGISTERED NURSE, A LICENSED PRACTICAL NURSE, A NURSING ASSISTANT, A MEDICATION TECHNICIAN, AN ELECTROLOGIST, A LICENSED DIRECT–ENTRY MIDWIFE, OR AN APPLICANT ENROLLED IN THE SAFE PRACTICE PROGRAM.

~~[(3)]~~ **(4)** “Program” means the ~~[rehabilitation]~~ **SAFE PRACTICE** program.

(5) “**SUBSTANCE USE DISORDER**” MEANS A DISORDER THAT OCCURS WHEN AN INDIVIDUAL EXHIBITS A PATTERN OF BEHAVIORS RANGING FROM THE MISUSE OF, DEPENDENCE ON, OR ADDICTION TO DRUGS, ALCOHOL, OR OTHER CHEMICALS.

(b) (1) There is a [Rehabilitation] **SAFE PRACTICE** Committee in the Board.

(2) The Board may create [1] **ONE** or more [rehabilitation] **SAFE PRACTICE** committees.

(c) (1) The Committee shall consist of 6 members.

(2) Of the 6 Committee members:

(i) 3 shall be licensed registered nurses, who have demonstrated expertise in the field of [chemical dependency] **SUBSTANCE USE DISORDERS** or psychiatric nursing;

(ii) 1 shall be a registered nurse, who has demonstrated expertise in the area of pain management;

(iii) 1 shall be a licensed practical nurse; and

(iv) 1 shall be a consumer member, who is knowledgeable in the field of [chemical dependency] **SUBSTANCE USE DISORDERS**.

(d) (1) The Board shall determine the term of a member of the Committee.

(2) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(3) A Committee 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) The Board may remove a Committee member for incompetence or misconduct.

(e) (1) The Committee shall elect a chairperson and a vice-chairperson.

(2) The manner of election of officers shall be as the Committee determines.

(f) A majority of the members then serving on the Committee [Board] is a quorum.

(g) The Committee shall determine the times and places of its meetings.

(h) Each member of the Committee is entitled to:

(1) Compensation in accordance with the State budget; and

(2) Reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(i) The Board may employ a staff to carry out the activities of the Committee in accordance with the State budget.

(j) In addition to the powers set forth elsewhere in this subtitle, the Committee may:

(1) Evaluate those **REGISTERED** nurses, **ADVANCED PRACTICE REGISTERED NURSES, LICENSED PRACTICAL NURSES**, nursing assistants, medication technicians, electrologists, licensed direct–entry midwives, or applicants who request participation in the program according to the guidelines prescribed by the Board and consider the recommendations for admission into the program;

(2) [Review and designate those treatment facilities and services to which nurses, nursing assistants, medication technicians, electrologists, licensed direct–entry midwives, or applicants in the program may be referred;

(3) Receive and review information concerning a [nurse, nursing assistant, medication technician, electrologist, licensed direct–entry midwife, or applicant participating] **PARTICIPANT** in the program;

[(4)] **(3)** Consider in the case of each [nurse, nursing assistant, medication technician, electrologist, licensed direct–entry midwife, or applicant participating in a program whether the nurse, nursing assistant, medication technician, electrologist, licensed direct–entry midwife, or applicant] **PARTICIPANT WHETHER THE PARTICIPANT** may [with safety] **SAFELY** continue or resume [the] **TO** practice [of nursing or delegated nursing functions, electrology, or licensed direct–entry midwifery] **OR QUALIFY FOR LICENSURE OR CERTIFICATION TO PRACTICE**; and

[(5)] **(4)** Have meetings as necessary to consider the requests of **REGISTERED** nurses, **ADVANCED PRACTICE REGISTERED NURSES, LICENSED PRACTICAL NURSES**, nursing assistants, medication technicians, electrologists, licensed direct–entry midwives, or applicants to participate in the program, and consider reports regarding [nurses, nursing assistants, medication technicians, electrologists, licensed direct–entry midwives, or applicants participating in the program] **PARTICIPANTS**.

(k) In addition to the duties set forth elsewhere in this subtitle, the Committee shall:

(1) Prepare reports to be submitted to the Board; and

(2) Set forth in writing for each [nurse, nursing assistant, medication technician, electrologist, licensed direct-entry midwife, or applicant participating] **PARTICIPANT** in the program a [rehabilitation program established] **PLAN OR AGREEMENT THAT ESTABLISHES** for that [nurse, nursing assistant, medication technician, electrologist, licensed direct-entry midwife, or applicant, including] **PARTICIPANT** the requirements for supervision and [surveillance] **MONITORING**.

(l) The Committee shall inform each [nurse, nursing assistant, medication technician, electrologist, licensed direct-entry midwife,] **LICENSEE, CERTIFICATE HOLDER,** or applicant who requests participation in the program of:

(1) The procedures followed in the program;

(2) The rights and responsibilities of [the nurse, nursing assistant, medication technician, electrologist, licensed direct-entry midwife, or applicant] **A PARTICIPANT** in the program; and

(3) The possible results of noncompliance with the program.

(m) (1) Each [nurse, nursing assistant, medication technician, electrologist, licensed direct-entry midwife] **LICENSEE, CERTIFICATE HOLDER,** or applicant who requests to participate in the program shall agree to cooperate with the individual [rehabilitation program] **PLAN OR AGREEMENT** designed by the Committee.

(2) Any failure to comply with the [provisions of a rehabilitation program] **CONDITIONS OF A PLAN OR AGREEMENT** may result in [termination of the nurse's, nursing assistant's, medication technician's, electrologist's, licensed direct-entry midwife's, or applicant's participation in] **THE PARTICIPANT BEING EXPELLED FROM** the program.

(3) **(I)** The Committee shall report **TO THE BOARD** the name and license number of a **REGISTERED** nurse, **LICENSED PRACTICAL NURSE,** electrologist, or licensed direct-entry midwife, the name and certificate number of **AN ADVANCED PRACTICE REGISTERED NURSE,** a nursing assistant, or medication technician, or the name of an applicant who is expelled from the program for failure to comply with the conditions of [the program] **A PLAN OR AGREEMENT**.

(II) THE PROGRAM SHALL TRANSFER TO THE BOARD ALL RECORDS OF ANY PARTICIPANT EXPELLED FROM THE PROGRAM.

(4) **(i)** The program shall transfer to the Board all the records of any nurse, nursing assistant, medication technician, electrologist, licensed direct-entry midwife, or applicant] **IF A PARTICIPANT IS** expelled from the program[.

(ii) The], **THE** Board may [initiate]:

(I) **INITIATE** disciplinary action [based on the failure of the nurse, nursing assistant, medication technician, electrologist, licensed direct–entry midwife, or applicant to comply with the conditions of the program] in accordance with the provisions of §§ 8–316 and 8–317, §§ **8–6A–10 AND 8–6A–10.1**, §§ 8–6B–18 and 8–6B–19, or [§] §§ **8–6C–20 AND 8–6C–20.1** of this title; **AND**

(II) **SUMMARILY SUSPEND THE LICENSE OR CERTIFICATE OF ANY LICENSEE OR CERTIFICATE HOLDER IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.**

(n) After the Committee has determined that [a nurse, nursing assistant, medication technician, electrologist, licensed direct–entry midwife, or applicant has been rehabilitated] **A PARTICIPANT NO LONGER REQUIRES MONITORING AND MAY PRACTICE SAFELY**, the Committee shall purge and destroy all records [concerning a nurse’s, nursing assistant’s, medication technician’s, electrologist’s, licensed direct–entry midwife’s, or applicant’s] **RELATING TO THE PARTICIPANT’S** participation in the program.

(o) All Board and Committee records [of a proceeding] concerning [the rehabilitation of a nurse, nursing assistant, medication technician, electrologist, licensed direct–entry midwife, or applicant] **A PARTICIPANT** in the program are confidential and are not subject to discovery or subpoena in any civil or criminal action **OR DISCLOSURE UNDER TITLE 4 OF THE GENERAL PROVISIONS ARTICLE.**

(p) The Board shall provide for the representation of any [person] **INDIVIDUAL** making reports to the Committee or the Board under this section in any action for defamation directly resulting from reports or information given to the Committee or the Board regarding a [nurse’s, nursing assistant’s, medication technician’s, electrologist’s, licensed direct–entry midwife’s, or applicant’s] **PARTICIPANT’S** participation in the program.

(q) **(1)** [Beginning July 1, 1990, and on a regular basis thereafter, the Board shall require reports from the Committee.] **THE COMMITTEE SHALL SUBMIT TO THE BOARD A REPORT EACH YEAR AND AT THE REQUEST OF THE BOARD.**

(2) The reports shall include:

[(1)] **(I)** Information concerning the number of cases accepted, denied, or terminated with compliance or noncompliance; and

[(2)] **(II)** A cost analysis of the program.

(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 an advanced practice nurse shall:

- (i) Be a registered nurse;
- (ii) Complete an education program approved by the Board;
- (iii) Submit to the Board:

1. A completed application for certification as a nurse practitioner, nurse anesthetist, nurse midwife, nurse psychotherapist, or clinical nurse specialist 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 advanced practice nursing for nurse practitioners, nurse anesthetists, nurse midwives, nurse psychotherapists, or clinical nurse specialists; and

4. Documentation of certification as a nurse practitioner, nurse anesthetist, nurse midwife, nurse psychotherapist, or clinical nurse specialist by a nationally recognized certifying body approved by the Board; and

(iv) Meet any other requirements that the Board sets.

(2) (i) An individual certified as a nurse practitioner 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.

(ii) An individual certified as a nurse anesthetist, nurse midwife, nurse psychotherapist, or clinical nurse specialist who is certified by the Board and in good standing prior to October 1, 2012, 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, nurse anesthetist, nurse midwife, nurse psychotherapist, or clinical nurse specialist 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) An applicant for initial certification as a nurse practitioner who has not been certified by the Board or any other board of nursing shall identify on the application for certification a mentor who will consult and collaborate with the applicant for 18 months beginning on the date the application for certification is received by the Board.

(ii) A certified nurse practitioner shall practice in accordance with the standards of practice of the American Association of Nurse Practitioners or any other national certifying body recognized by the Board.

(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.

(7) Unless authorized to practice as a nurse anesthetist under this title, a person may not:

(i) Practice nurse anesthesia unless certified by the Board in accordance with this section; or

(ii) Use the title “certified nurse anesthetist,” “nurse anesthetist,” or any other words, letters, or symbols with the intent to represent that the person practices as a nurse anesthetist.

(8) Unless authorized to practice as a nurse midwife under this title, a person may not:

(i) Practice nurse midwifery unless certified by the Board in accordance with this section; or

(ii) Use the title “certified nurse midwife”, “nurse midwife”, or any other words, letters, or symbols with the intent to represent that the person practices as a nurse midwife.

(9) Unless authorized to practice as a nurse psychotherapist under this title, a person may not:

(i) Practice as a nurse psychotherapist unless certified by the Board in accordance with this section; or

(ii) Use the title “advanced practice nurse”, “certified nurse psychotherapist”, “registered nurse/psychiatric mental health”, “nurse psychotherapist”, or any other words, letters, or symbols with the intent to represent that the person practices as a nurse psychotherapist.

(10) Unless authorized to practice as a clinical nurse specialist under this title, a person may not:

(i) Practice as a clinical nurse specialist unless certified by the Board in accordance with this section; or

(ii) Use the title “certified clinical nurse specialist”, “clinical nurse specialist”, “clinical registered nurse specialist”, “clinical nurse specialist graduate”, or any other words, letters, or symbols with the intent to represent that the person practices as a clinical nurse specialist.】

[(c)] (B) 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 **EDUCATION** program in this State **AT THE TIME OF THE APPLICANT’S GRADUATION**.

[(d)] (C) 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 **EDUCATION** program in this State **AT THE TIME OF THE APPLICANT’S GRADUATION**.

[(e)] (D) Except as otherwise provided in this title, the applicant shall pass an examination developed by the National Council of State Boards of Nursing and administered at a testing site approved by the National Council.

[(f)] (E) (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] A WRITTEN AND** oral competency in the English language.

(2) Acceptable proof of proficiency in the **[oral]** communication of the English language under this section includes:

(i) After at least 3 years of enrollment, graduation from a recognized English-speaking undergraduate school;

(ii) Graduation from a recognized English-speaking professional school; or

(iii) Completion of at least 5 years of practicing nursing in another state or English-speaking territory of the United States.

(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] COMMUNICATING IN** 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] ENGLISH LANGUAGE** competency.

[(5)] (4) 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] ENGLISH LANGUAGE** competency component as part of its examination or licensing procedures.

[(6)] (5) (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)] (F) An applicant for a license **[or certification]** under this section shall be of good moral character.

8-302.1.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, TO QUALIFY FOR ADVANCED PRACTICE CERTIFICATION, AN APPLICANT SHALL:

(1) BE OF GOOD MORAL CHARACTER;

(2) SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 8-303 OF THIS SUBTITLE; AND

(3) MEET THE REQUIREMENTS OF THIS SECTION.

(B) AN APPLICANT FOR CERTIFICATION AS AN ADVANCED PRACTICE REGISTERED NURSE SHALL:

(1) (I) BE A REGISTERED NURSE; OR

(II) HAVE A MULTISTATE LICENSURE PRIVILEGE TO PRACTICE REGISTERED NURSING UNDER THE NURSE LICENSURE COMPACT;

(2) COMPLETE AN EDUCATION PROGRAM APPROVED BY THE BOARD;

(3) SUBMIT TO THE BOARD:

(I) A COMPLETED APPLICATION FOR CERTIFICATION AS AN ADVANCED PRACTICE REGISTERED NURSE FOR EACH AREA IN WHICH CERTIFICATION IS SOUGHT;

(II) DOCUMENTATION OF:

1. AN ACTIVE LICENSE IN GOOD STANDING AS A REGISTERED NURSE IN THE STATE; OR

2. A MULTISTATE LICENSURE PRIVILEGE TO PRACTICE REGISTERED NURSING UNDER THE NURSE LICENSURE COMPACT;

(III) DOCUMENTATION THAT THE APPLICANT HAS GRADUATED FROM A GRADUATE LEVEL ACCREDITED PROGRAM FOR ADVANCED PRACTICE REGISTERED NURSING; AND

(IV) DOCUMENTATION OF CERTIFICATION AS AN ADVANCED PRACTICE REGISTERED NURSE BY A NATIONAL CERTIFYING BODY RECOGNIZED BY THE BOARD;

(4) MEET THE ENGLISH LANGUAGE COMPETENCY REQUIREMENTS UNDER § 8-302(E) OF THIS SUBTITLE; AND

(5) MEET ANY OTHER REQUIREMENTS SET BY THE BOARD.

(C) AN INDIVIDUAL CERTIFIED AS A CLINICAL NURSE SPECIALIST WHO WAS CERTIFIED BY A NATIONAL CERTIFYING BODY RECOGNIZED BY THE BOARD BEFORE OCTOBER 1, 2012, SHALL BE DEEMED TO MEET THE REQUIREMENTS FOR CERTIFICATION UNDER SUBSECTION (B) OF THIS SECTION WHILE THE INDIVIDUAL REMAINS CERTIFIED AND IN GOOD STANDING.

(D) (1) AN APPLICANT FOR INITIAL CERTIFICATION AS A REGISTERED NURSE PRACTITIONER WHO HAS NOT BEEN CERTIFIED BY THE BOARD OR ANY OTHER BOARD OF NURSING SHALL IDENTIFY ON THE APPLICATION FOR CERTIFICATION A MENTOR WHO WILL CONSULT AND COLLABORATE WITH THE APPLICANT FOR 18 MONTHS BEGINNING ON THE DATE THE APPLICATION FOR CERTIFICATION IS RECEIVED BY THE BOARD.

(2) A CERTIFIED REGISTERED NURSE PRACTITIONER SHALL PRACTICE IN ACCORDANCE WITH THE STANDARDS OF PRACTICE OF THE AMERICAN ASSOCIATION OF NURSE PRACTITIONERS OR ANY OTHER NATIONAL CERTIFYING BODY RECOGNIZED BY THE BOARD.

8-304.

To apply for a license to practice registered nursing or licensed practical nursing, an applicant shall:

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

(2) Submit to the Board:

- (i) An application on the form that the Board requires, including a current address;
 - (ii) Written, verified evidence that the requirement of item (1) of this [subsection] SECTION is being met or has been met;
 - (iii) Written, verified evidence of completion of the appropriate education requirements of § 8–302 of this subtitle; and
 - (iv) Written, verified evidence satisfactory to the Board that the applicant’s primary state of residence is Maryland or a state that is not a party state to the Nurse [Multistate] Licensure Compact set forth in Subtitle 7A of this title; and
- (3) Pay to the Board the application fee set by the Board.

8–305.

(a) Except as otherwise provided in subsections (b) and (c) of this section, an applicant who otherwise qualifies for a license as a registered nurse or as a licensed practical nurse is entitled to be examined for that license as provided in this section.

(b) An applicant whose primary state of residence is a party state to the Nurse [Multistate] Licensure Compact set forth in Subtitle 7A of this title, other than Maryland, is not entitled to be examined for a license as a registered nurse or licensed practical nurse in the State.

(c) Subject to the hearing provisions of § 8–317 of this subtitle, the Board may deny the right to be examined for a license as a registered nurse or as a licensed practical nurse to any applicant who is found to have violated any provision of § 8–316 of this subtitle.

(d) [The Board shall determine the subjects, scope, form, and passing score for each examination given under this title.

(e)] (1) In this subsection, “preceptorship program” means:

(i) An organized system of clinical experience that pairs a nursing student enrolled in a nursing education program that is recognized by the Board with a registered nurse who meets the qualifications as a preceptor for the purpose of attaining specified learning objectives; or

(ii) An individualized and supervised clinical experience offered by an institution employing nurses that complies with the requirements for temporary licensure for the purpose of facilitating an inactive licensee to return to active practice in accordance with the requirements of paragraph (2) of this subsection.

(2) An applicant whose nursing education program was completed 5 or more years prior to passing the licensure examination and who has not practiced for at least 1,000 hours in the previous 5 years may only be issued an inactive license until submission to the Board of satisfactory evidence that the applicant has successfully completed:

- (i) A nursing review course approved by the Board; or
- (ii) A preceptorship program approved by the Board.

[(f) (E)] (1) Except as provided in paragraph (2) of this subsection, an applicant who fails an examination may retake the examination if the applicant pays the reexamination fee set by the Board for each reexamination.

(2) The Board, by rule or regulation, may limit the number of times that an applicant may be reexamined after two failures and may limit the interval of time between reexaminations.

8–306.

An applicant qualifies for certification as **[a certified nurse practitioner]** **AN ADVANCED PRACTICE REGISTERED NURSE** only if the applicant passes a Board–approved **NATIONAL** examination **FOR ADVANCED PRACTICE REGISTERED NURSES**.

8–312.

(g) (1) (i) **[Beginning July 2009, the Board shall begin a process requiring]** **A** criminal history records **[checks]** **CHECK IS REQUIRED** in accordance with § 8–303 of this subtitle on:

1. Selected annual renewal applicants as determined by regulations adopted by the Board; and

2. Each licensee who files for reinstatement under § 8–313 of this subtitle after failing to renew the license for a period of 1 year or more.

(ii) An additional criminal history records check shall be performed every 12 years thereafter.

(2) On receipt of the criminal history record information of a licensee forwarded to the Board in accordance with § 8–303 of this subtitle, in determining whether to **[renew a license]** **INITIATE A DISCIPLINARY ACTION AGAINST A LICENSEE BASED ON THE INFORMATION RECEIVED**, the Board shall consider:

- (i) The age at which the crime was committed;

- (ii) The circumstances surrounding the crime;
- (iii) The length of time that has passed since the crime;
- (iv) Subsequent work history;
- (v) Employment and character references; and
- (vi) Other evidence that demonstrates whether the licensee poses a threat to the public health or safety.

(3) The Board may not renew a license [if the criminal history record information] **WITHOUT WRITTEN DOCUMENTATION THAT THE APPLICANT HAS SUBMITTED TO A CRIMINAL HISTORY RECORDS CHECK** required under § 8–303 of this subtitle [has not been received].

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)
 - (i) Is licensed by any other state; or
 - (ii) Has taken and passed an examination under this title, but is waiting for the completion of the criminal history records check;
 - (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 or who has taken and passed an examination under this title 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 or who has taken and passed an

examination under this title 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
- (ii) Is authorized to practice as a registered nurse.

(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.

(d) (1) [Except as provided in this subtitle, a] 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)] (D) 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.

8–316.

(a) Subject to the hearing provisions of § 8–317 of this subtitle, the Board may deny a license or grant a license, including a license subject to a reprimand, probation, or suspension, to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke the license of a licensee if the applicant or licensee:

(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or for another;

- (2) Fraudulently or deceptively uses a license;
- (3) Is disciplined by a licensing, military, or disciplinary authority in this State or in any other state or country or convicted or disciplined by a court in this State or in any other state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;
- (4) Is convicted of or pleads 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;
- (5) Willfully and knowingly:
 - (i) Files a false report or record of an individual under the licensee's care;
 - (ii) Gives any false or misleading information about a material matter in an employment application;
 - (iii) Fails to file or record any health record that is required by law;
 - (iv) Obstructs the filing or recording of any health record as required by law; or
 - (v) Induces another [person] **INDIVIDUAL** to fail to file or record any health record as required by law;
- (6) Knowingly does any act that has been determined by the Board, in its rules and regulations, to exceed the scope of practice authorized to the individual under this title;
- (7) Provides professional services while:
 - (i) Under the influence of alcohol; or
 - (ii) Using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (8) Does an act that is inconsistent with generally accepted professional standards in the practice of registered nursing or licensed practical nursing;
- (9) Is grossly negligent in the practice of registered nursing or licensed practical nursing;
- (10) Has violated any provision of this title;

- (11) Submits a false statement to collect a fee;
- (12) Is physically or mentally incompetent;
- (13) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article;
- (14) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;
- (15) Except in an emergency life–threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control and Prevention’s guidelines on universal precautions;
- (16) Is in independent practice and fails to display the notice required under § 8–506 of this title;
- (17) Is in breach of a service obligation resulting from the applicant’s or licensee’s receipt of State or federal funding for the applicant’s or licensee’s nursing education;
- (18) [Is habitually intoxicated] **HAS A SUBSTANCE USE DISORDER**;
- (19) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5–101 of the Criminal Law Article;
- (20) Fails to cooperate with a lawful investigation conducted by the Board;
- (21) Is expelled from the [rehabilitation] **SAFE PRACTICE** program established pursuant to § 8–208 of this title for failure to comply with the conditions of the program;
- (22) Delegates nursing acts or responsibilities to an individual that the applicant or licensee knows or has reason to know lacks the ability or knowledge to perform;
- (23) Delegates to an unlicensed individual nursing acts or responsibilities the applicant or licensee knows or has reason to know are to be performed only by a registered nurse or licensed practical nurse;
- (24) Fails to properly supervise individuals to whom nursing acts or responsibilities have been delegated;
- (25) Engages in conduct that violates the professional code of ethics;
- (26) Is professionally incompetent;

(27) Practices registered nursing or licensed practical nursing without a license before obtaining or renewing a license, including any period when practicing registered nursing or licensed practical nursing on an expired license or a lapsed license;

(28) When holding an expired license or a lapsed license or after a temporary license has expired in accordance with § 8–315(d) of this subtitle, commits any act that would be grounds for disciplinary action under this section;

(29) Practices registered nursing or licensed practical nursing on a nonrenewed license for a period of 16 months or longer;

(30) Violates regulations adopted by the Board or an order from the Board;

(31) Performs an act that is beyond the licensee's knowledge and skills;

(32) Fails to submit to a criminal history records check in accordance with § 8–303 of this subtitle;

(33) When acting in a supervisory position, directs another nurse to perform an act that is beyond the nurse's knowledge and skills;

(34) When acting in a supervisory position, directs another nurse to delegate a nursing task to an individual when that nurse reasonably believes:

(i) The individual lacks the knowledge and skills to perform the task; or

(ii) The patient's condition does not allow delegation of the nursing task; or

(35) Has misappropriated the property of a patient or a facility.

8–401.

(a) The Board may approve any registered nursing or licensed practical nursing education program at an institution in this State.

(b) The Board shall:

(1) Keep a list of institutions in this State that currently have an approved registered nursing or licensed practical nursing education program;

(2) Set standards for approval of education programs for registered nurses and licensed practical nurses at institutions in this State;

(3) DETERMINE THE MARYLAND PASSING RATE FOR THE NATIONAL NURSE LICENSURE EXAMINATION EACH YEAR;

~~[(3)] (4)~~ Evaluate the need for an education program for registered nurses or licensed practical nurses in the geographic area in which the program is proposed to be located; and

~~[(4)] (5)~~ Survey approved nursing education programs as it considers necessary.

8–505.

(a) Except as provided in subsection (b) of this section, the following applies:

(1) If a nursing administrator, A registered nurse, **AN ADVANCED PRACTICE REGISTERED NURSE**, A licensed practical nurse, or A certified nursing assistant knows of an action or condition that might be grounds for action under § 8–316 or Subtitle 6A of this title, the nursing administrator, registered nurse, **ADVANCED PRACTICE REGISTERED NURSE**, licensed practical nurse, or certified nursing assistant shall report the action or condition to the Board; and

(2) An individual shall have the immunity from liability described under § 5–709 of the Courts and Judicial Proceedings Article for making a report as required by this subsection.

(b) If a nurse administrator, A registered nurse, **AN ADVANCED PRACTICE REGISTERED NURSE**, A licensed practical nurse, or A certified nursing assistant has reason to know that a licensee or certificate holder has committed an action or has a condition that might be grounds for reprimand or probation of the licensee or certificate holder or suspension or revocation of the license under § 8–316 or § 8–6A–10 of this title because the licensee or certificate holder **[is alcohol impaired or drug impaired] HAS A SUBSTANCE USE DISORDER**, the nurse administrator, registered nurse, **ADVANCED PRACTICE REGISTERED NURSE**, licensed practical nurse, or certified nursing assistant is not required to report the licensee or certificate holder to the Board if:

(1) The nurse administrator, registered nurse, **ADVANCED PRACTICE REGISTERED NURSE**, licensed practical nurse, or certified nursing assistant knows that the licensee or certificate holder is in an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations, is certified by the Department, or is under the care of a health care practitioner who is competent and capable of dealing with **[alcoholism and drug abuse] SUBSTANCE USE DISORDER**;

(2) The nurse administrator, registered nurse, **ADVANCED PRACTICE REGISTERED NURSE**, licensed practical nurse, or certified nursing assistant is able to verify that the licensee or certificate holder remains in the treatment program until discharge; and

(3) The action or condition of the licensee or certificate holder has not caused injury to any [person] **INDIVIDUAL** while the licensee is practicing registered nursing or licensed practical nursing or the certificate holder is working as **AN ADVANCED PRACTICE REGISTERED NURSE OR** a nursing assistant.

(c) [A person] **AN INDIVIDUAL** is not required under this section to make any report that would be in violation of any federal or State law, rule, or regulation concerning the confidentiality of [alcohol and drug abuse] patient **SUBSTANCE USE DISORDER** records.

8-601.

In this subtitle:

(1) “Practice nurse midwifery” means the management and care of essentially normal newborns and of essentially normal women antepartally, intrapartally and postpartally.

(2) “Practice nurse midwifery” includes:

(i) Family planning and well woman reproductive care;

(ii) The prescribing of substances commonly used in the practice of nurse midwifery [as determined by the Board in consultation with the State Board of Pharmacy and the State Board of Physicians];

(iii) The prescribing of controlled substances on Schedules II, III, IV, and V commonly used in the practice of nurse midwifery [as determined by the Board in consultation with the State Board of Pharmacy and the State Board of Physicians]; and

(iv) The dispensing of the substances prescribed in accordance with the provisions of subparagraphs (ii) and (iii) of this paragraph in the course of treating a patient at:

1. A medical facility or clinic that is operated on a nonprofit basis;

2. A health center that operates on a campus of an institution of higher education; or

3. A public health facility, a medical facility under contract with a State or local health department, or a facility funded with public funds.

8-6A-07.

(a) Subject to [subsection (g)] **SUBSECTION (F)** of this section, the Board shall certify any applicant who meets the requirements of this subtitle.

(b) (1) The Board shall:

(i) Issue each new certified nursing assistant or medication technician a certificate number and registration certificate that indicates the initial certificate was issued by the Board; and

(ii) Electronically record each certificate in the Board's database and on the Board's Web site.

(2) Each certificate shall include:

(i) Any expiration date;

(ii) The type of certificate; and

(iii) Any specific category of nursing assistant.

(c) An individual who has met the requirements for a certified nursing assistant shall be certified with the title of "certified nursing assistant".

(d) An individual who routinely performs nursing tasks delegated by a registered nurse or licensed practical nurse for compensation and has also completed a Board-approved course in medication administration shall be certified with the title of "certified medicine aide".

(e) An individual who has met the requirements for a certified medication technician shall be certified with the title of "certified medication technician".

(f) [The Board may issue a registration certificate to replace a lost, destroyed, or mutilated certificate, if the certificate holder pays the certificate replacement fee set by the Board.

(g)] (1) The Board may issue a temporary practice certificate to an applicant who:

(i) Has met the appropriate certification requirements of this subtitle to the satisfaction of the Board; **AND**

(ii) Does not have a criminal record and has not been the subject of a health professional disciplinary action in this State or another jurisdiction[; and

(iii) Does not have a criminal charge or a health professional disciplinary action pending in this State or another jurisdiction].

(2) Unless the Board suspends or revokes a temporary practice certificate, the temporary practice certificate expires 90 days after issuance.

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

[(h)] (G) A medication technician graduate may practice for no more than 90 days from the date of completion of a medication technician training program without certification by the Board.

[(i)] (H) (1) On receipt of the criminal history record information of an applicant for certification as a certified nursing assistant forwarded to the Board in accordance with § 8–303 of this title, in determining whether to grant a certificate, the Board shall consider:

- (i) The age at which the crime was committed;
- (ii) The circumstances surrounding the crime;
- (iii) The length of time that has passed since the crime;
- (iv) Subsequent work history;
- (v) Employment and character references; and
- (vi) Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(2) The Board may not issue a certificate if the criminal history record information required under § 8–303 of this title has not been received.

8–6A–08.

(k) (1) (i) The Board shall require criminal history records checks in accordance with § 8–303 of this title on:

1. Selected applicants for certification as a certified nursing assistant who renew their certificates every 2 years as determined by regulations adopted by the Board; and

2. Each former certified nursing assistant who files for reinstatement under subsection (g) of this section after failing to renew the certificate for a period of 1 year or more.

(ii) An additional criminal history records check shall be performed every 12 years thereafter.

(2) On receipt of the criminal history record information of a certificate holder forwarded to the Board in accordance with § 8–303 of this title, in determining whether to [renew the certificate] **INITIATE DISCIPLINARY ACTION AGAINST THE CERTIFICATE HOLDER BASED ON THE INFORMATION RECEIVED**, the Board shall consider:

- (i) The age at which the crime was committed;
- (ii) The circumstances surrounding the crime;
- (iii) The length of time that has passed since the crime;
- (iv) Subsequent work history;
- (v) Employment and character references; and

(vi) Other evidence that demonstrates whether the certificate holder poses a threat to the public health or safety.

(3) The Board may not renew a certificate [if the] **WITHOUT WRITTEN DOCUMENTATION THAT THE APPLICANT HAS SUBMITTED TO A criminal history [record information] RECORDS CHECK AS** required under § 8–303 of this title [has not been received].

8–6A–10.

(a) Subject to the hearing provisions of § 8–317 of this title and § 8–6A–10.1 of this subtitle, the Board may deny a certificate or grant a certificate, including a certificate subject to a reprimand, probation, or suspension, to any applicant, reprimand any certificate holder, place any certificate holder on probation, or suspend or revoke the certificate of a certificate holder, if the applicant or certificate holder:

(1) Fraudulently or deceptively obtains or attempts to obtain a certificate for the applicant or for another;

(2) Fraudulently or deceptively uses a certificate;

(3) Is disciplined by a licensing, military, or disciplinary authority in this State or in any other state or country or convicted or disciplined by a court in this State or in any other state or country for an act that would be grounds for disciplinary action under the Board’s disciplinary statutes;

(4) Is convicted of or pleads 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;

- (5) Files a false report or record of an individual under the certificate holder's care;
- (6) Gives any false or misleading information about a material matter in an employment application;
- (7) Fails to file or record any health record that is required by law;
- (8) Induces another [person] **INDIVIDUAL** to fail to file or record any health record that is required by law;
- (9) Has violated any order, rule, or regulation of the Board relating to the practice or certification of a nursing assistant or medication technician;
- (10) Provides services as a nursing assistant or medication technician while:
 - (i) Under the influence of alcohol; or
 - (ii) Using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (11) [Is habitually intoxicated] **HAS A SUBSTANCE USE DISORDER**;
- (12) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5–101 of the Criminal Law Article;
- (13) Has acted in a manner inconsistent with the health or safety of [a person] **AN INDIVIDUAL** under the applicant or certificate holder's care;
- (14) Has practiced as a nursing assistant or medication technician in a manner which fails to meet generally accepted standards for the practice of a nursing assistant or medication technician;
- (15) Has physically, verbally, or psychologically abused, neglected, or otherwise harmed [a person] **AN INDIVIDUAL** under the applicant or certificate holder's care;
- (16) Has a physical or mental condition which renders the applicant or certificate holder unable to practice as a certified nursing assistant or certified medication technician with reasonable skill and safety to the patients and which may endanger the health or safety of [persons] **INDIVIDUALS** under the care of the applicant or certificate holder;

- (17) Has violated the confidentiality of information or knowledge as prescribed by law concerning any patient;
- (18) Has misappropriated patient or facility property;
- (19) Performs certified nursing assistant or certified medication technician functions incompetently;
- (20) Has violated any provision of this title or has aided or knowingly permitted any [person] **INDIVIDUAL** to violate any provision of this title;
- (21) Submits a false statement to collect a fee;
- (22) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the applicant or certificate holder is certified and qualified to render because the individual is HIV positive;
- (23) Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control and Prevention's guidelines on universal precautions;
- (24) Fails to cooperate with a lawful investigation conducted by the Board;
- (25) Fails to comply with instructions and directions of the supervising registered nurse or licensed practical nurse;
- (26) When holding an expired certificate or a lapsed certificate, commits any act that would be grounds for disciplinary action under this section;
- (27) Practices as a nursing assistant or medication technician before obtaining or renewing the certificate, including any time period when practicing as a nursing assistant or medication technician on an expired certificate or a lapsed certificate;
- (28) Impersonates another individual:
 - (i) Licensed under the provisions of this title; or
 - (ii) Who holds a certificate issued under the provisions of this title;
- (29) Engages in conduct that violates the code of ethics;
- (30) Performs activities that exceed the education and training of the certified nursing assistant or certified medication technician;
- (31) Is expelled from the [rehabilitation] **SAFE PRACTICE** program established pursuant to § 8-208 of this title for failure to comply with the conditions of the program;

(32) Fails to submit to a criminal history records check in accordance with § 8–303 of this title as required under § 8–6A–05(c)(2) of this subtitle;

(33) Abandons a patient; or

(34) Is a director of nursing, or acts in the capacity of a director of nursing and knowingly employs an individual who is not authorized to perform delegated nursing duties under this subtitle.

8–6A–13.

(a) The Board shall appoint an advisory committee consisting of at least 15 members appointed by the Board.

(G) A MEMBER OF THE ADVISORY COMMITTEE IS ENTITLED TO RECEIVE:

(1) COMPENSATION, AS DETERMINED BY THE BOARD; AND

(2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

8–6B–10.

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

(B) AN APPLICANT SHALL TAKE A WRITTEN EXAMINATION APPROVED BY THE BOARD.

[(b)] (C) (1) The Board OR THE BOARD’S DESIGNEE shall give CLINICAL examinations to applicants.

(2) The Board OR THE BOARD’S DESIGNEE may give reexaminations to applicants who fail [all or part of an] THE CLINICAL examination.

[(c)] (D) The Board OR THE BOARD’S DESIGNEE shall notify each qualified applicant of the time and place of examination FOR THE WRITTEN AND CLINICAL EXAMINATIONS.

[(d)] (E) Except as otherwise provided under this subtitle, the Board shall determine the [subjects, scope, form, and] passing score for examinations given under this subtitle.

[(e)] (F) (1) An applicant may retake [an] A **WRITTEN** examination or a failed section of [an] A **WRITTEN** examination after paying a reexamination fee set by the Board **OR THE ADMINISTRATOR OF A NATIONAL EXAMINATION**.

(2) An applicant who fails two reexaminations may retake the **WRITTEN** examination only if the applicant:

- (i) Retakes the entire examination;
- (ii) Pays the full examination fee; and
- (iii) Completes an education program that the Board requires.

8–6B–14.

(k) (1) (i) [Beginning January 2011, the] **THE** Board shall [begin a process requiring] **REQUIRE A** criminal history records [checks] **CHECK** on selected annual renewal applicants as determined by regulations adopted by the Board in accordance with § 8–303 of this title.

(ii) An additional criminal history records check shall be performed every 12 years thereafter.

(2) On receipt of the criminal history record information of a licensee forwarded to the Board in accordance with § 8–303 of this title, in determining whether to [renew a license] **INITIATE DISCIPLINARY ACTION AGAINST A LICENSEE BASED ON THE INFORMATION RECEIVED**, the Board shall consider:

- (i) The age at which the crime was committed;
- (ii) The circumstances surrounding the crime;
- (iii) The length of time that has passed since the crime;
- (iv) Subsequent work history;
- (v) Employment and character references; and
- (vi) Other evidence that demonstrates that the licensee does not pose a threat to the public health or safety.

(3) The Board may not renew a license [if] **WITHOUT WRITTEN DOCUMENTATION THAT THE APPLICANT HAS SUBMITTED TO** the criminal history [record information] **RECORDS CHECK** required under § 8–303 of this title [has not been received].

8-6B-18.

(a) Subject to the hearing provisions of § 8-317 of this title and § 8-6B-19 of this subtitle, the Board may deny a license to an applicant, grant a license, including a license subject to a reprimand, probation, or suspension, to an applicant, reprimand a licensee, place a licensee on probation, or suspend or revoke a 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) As part of the practice of electrology, knowingly does an act that exceeds the scope of the practice of electrology;

(4) Is grossly negligent in practicing or teaching an electrology education program;

(5) Acts in a manner inconsistent with generally accepted standards for the practice of electrology;

(6) Is convicted of or pleads 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;

(7) Is disciplined by a licensing or disciplinary authority of any state or country, convicted or disciplined by a court of any state or country, or disciplined by any branch of the United States uniformed services or the Veterans Administration for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(8) Provides professional services while:

(i) Under the influence of alcohol; or

(ii) Using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;

(9) Uses types of instruments or procedures in the practice of electrology that are not approved by the Board;

(10) Advertises in a manner that violates this subtitle;

(11) Uses a title not authorized by § 8-6B-23 of this subtitle;

(12) Is currently adjudicated as being a disabled individual under Title 13 of the Estates and Trusts Article;

- (13) Practices electrology with an unauthorized individual or supervises or aids an unauthorized individual in the practice of electrology;
- (14) Willfully makes or files a false report or record in the practice of electrology;
- (15) Willfully fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;
- (16) Submits a false statement to collect a fee;
- (17) Violates a provision of this subtitle or a rule or regulation adopted by the Board;
- (18) Uses or promotes or causes the use of a misleading, deceiving, or untruthful advertising matter, promotional literature, or testimonial;
- (19) Is professionally, physically, or mentally incompetent;
- (20) Promotes the sale of devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (21) Behaves immorally in the practice of electrology;
- (22) Commits an act of unprofessional conduct in the practice of electrology;
- (23) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;
- (24) Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control and Prevention's guidelines on universal precautions;
- (25) [Fails to display the notice required under § 8-6B-26 of this subtitle;
- (26)] Fails to submit to a criminal history records check in accordance with § 8-303 of this title;
- [(27)] **(26)** Fails to allow an inspection under § 8-6B-06(10) and (11) of this subtitle;
- [(28)] **(27)** Fails to cooperate with a lawful investigation conducted by the Board;

[(29)] **(28)** Practices electrology without a license before obtaining or renewing a license, including any period when practicing electrology on an expired license or a lapsed license; or

[(30)] **(29)** After failing to renew a license, commits any act that would be grounds for disciplinary action under this section.

(b) In addition to any sanction authorized under this section, the Board may require a licensee to comply with specified terms and conditions determined by the Board.

[8-6B-26.

If an electrologist is engaged in the private practice of electrology in the State, the electrologist shall display the notice developed under § 1-207 of this article conspicuously in each office where the electrologist is engaged in practice.]

8-701.

(a) Except as otherwise provided in this title, [a person] **AN INDIVIDUAL** may not practice, attempt to practice, or offer to practice registered nursing, [registered nursing as an] advanced practice [nurse] **REGISTERED NURSING**, or licensed practical nursing in this State unless licensed by the Board to practice registered nursing, [registered nursing as an] advanced practice [nurse] **REGISTERED NURSING**, or licensed practical nursing, respectively.

(b) Except as otherwise provided in this title, [a person] **AN INDIVIDUAL** may not practice, attempt to practice, or offer to practice electrology in this State unless licensed by the Board to practice electrology.

(c) (1) Except as otherwise provided in this title, [a person] **AN INDIVIDUAL** may not practice, attempt to practice, or offer to practice as a certified nursing assistant unless certified by the Board as a certified nursing assistant.

(2) Except as otherwise provided in this title, [a person] **AN INDIVIDUAL** may not practice, attempt to practice, or offer to practice as a certified nursing assistant in a specific category unless certified by the Board as a certified nursing assistant in that category.

(d) Except as otherwise provided in this title, [a person] **AN INDIVIDUAL** may not practice, attempt to practice, or offer to practice as a certified medication technician in this State unless certified by the Board to practice as a certified medication technician.

(e) Except as otherwise provided in this title, [a person] **AN INDIVIDUAL** may not practice, attempt to practice, or offer to practice as a certified medicine aide unless certified by the Board to practice as a certified medicine aide.

(e-1) Except as otherwise provided in this title, an individual may not practice, attempt to practice, or offer to practice as a licensed direct-entry midwife unless licensed by the Board to practice as a licensed direct-entry midwife.

(f) [A person] **AN INDIVIDUAL** may not require a licensee to perform an act that is beyond the licensee's knowledge and skills.

(g) [A person] **AN INDIVIDUAL** may not direct a licensee to delegate a nursing task to a nurse when the [person] **INDIVIDUAL** reasonably believes:

(1) The nurse lacks the knowledge and skills to perform the nursing task;
or

(2) The patient's condition does not allow delegation of the nursing task.

8-702.

Except as otherwise provided in this title, [a person] **AN INDIVIDUAL** may not practice, attempt to practice, or offer to practice registered nursing, **ADVANCED PRACTICE REGISTERED NURSING**, or licensed practical nursing beyond the scope of the license **OR CERTIFICATE** issued to that [person] **INDIVIDUAL**.

8-703.

(a) (1) Unless authorized to practice registered nursing under this title, [a person] **AN INDIVIDUAL** may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the [person] **INDIVIDUAL** is authorized to practice registered nursing in this State.

(2) UNLESS AUTHORIZED TO PRACTICE ADVANCED PRACTICE REGISTERED NURSING UNDER THIS TITLE, AN INDIVIDUAL MAY NOT REPRESENT TO THE PUBLIC BY TITLE, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE INDIVIDUAL IS AUTHORIZED TO PRACTICE ADVANCED PRACTICE REGISTERED NURSING IN THIS STATE.

[(2)] (3) Unless authorized to practice licensed practical nursing under this title, [a person] **AN INDIVIDUAL** may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the [person] **INDIVIDUAL** is authorized to practice licensed practical nursing in this State.

[(3)] (4) Unless authorized to provide patient care as a certified nursing assistant or medication assistant under this title, [a person] **AN INDIVIDUAL** may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the [person] **INDIVIDUAL** is authorized to provide care as a certified nursing assistant or medication assistant in this State.

[(4)] (5) Unless authorized to provide patient care in a specific category of certified nursing assistant, [a person] **AN INDIVIDUAL** may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the [person] **INDIVIDUAL** is authorized to provide care as a certified nursing assistant in a specific category in this State.

[(5)] (6) Unless authorized to administer medication as a medication technician under this title, [a person] **AN INDIVIDUAL** may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the [person] **INDIVIDUAL** is authorized to administer medication as a certified medication technician in this State.

[(6)] (7) Unless authorized to administer medication as a medicine aide under this title, [a person] **AN INDIVIDUAL** may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the [person] **INDIVIDUAL** is authorized to administer medication as a certified medicine aide in this State.

(b) Unless authorized to practice registered nursing, **ADVANCED PRACTICE REGISTERED NURSING**, or licensed practical nursing under this title, [a person] **AN INDIVIDUAL** may not use the word “nurse” to describe the profession of the [person] **INDIVIDUAL**.

(c) Unless authorized to practice registered nursing under this title, [a person] **AN INDIVIDUAL** may not use the words or terms “registered nurse”, the abbreviations “R.N.”, or any other title, symbol, abbreviation, sign, card, device, or other representation with the intent to represent that the [person] **INDIVIDUAL** practices registered nursing.

(D) UNLESS AUTHORIZED TO PRACTICE ADVANCED PRACTICE REGISTERED NURSING UNDER THIS TITLE, AN INDIVIDUAL MAY NOT USE THE WORDS OR TERMS “NURSE PRACTITIONER”, “NURSE ANESTHETIST”, “NURSE MIDWIFE”, “CLINICAL NURSE SPECIALIST”, OR “ADVANCED PRACTICE REGISTERED NURSE”, THE ABBREVIATIONS “NP”, “CRNA”, “CNS”, “A.P.R.N.”, OR ANY OTHER TITLE, SYMBOL, ABBREVIATION, SIGN, CARD, DEVICE, OR OTHER REPRESENTATION WITH THE INTENT TO REPRESENT THAT THE INDIVIDUAL PRACTICES ADVANCED PRACTICE REGISTERED NURSING.

[(d)] (E) Unless authorized to practice licensed practical nursing under this title, [a person] **AN INDIVIDUAL** may not use the words or terms “licensed practical nurse”, the abbreviation “L.P.N.”, or any other title, symbol, abbreviation, sign, card, device, or other representation with the intent to represent that the [person] **INDIVIDUAL** practices licensed practical nursing.

[(e)] (F) Unless authorized to practice as a nursing graduate under this title, [a person] **AN INDIVIDUAL** may not use the words “nursing graduate”, the abbreviation “NG”, or any other title, symbol, abbreviation, sign, card, device, or other representation with the intent to represent that the [person] **INDIVIDUAL** practices as a nursing graduate.

[(f)] (G) Unless authorized to practice as a certified nursing assistant under this title, [a person] **AN INDIVIDUAL** may not use the words or terms “nursing assistant” or “certified nursing assistant”, the abbreviation “CNA”, or any other title, symbol, abbreviation, sign, card, device, or other representation with the intent to represent that the [person] **INDIVIDUAL** practices as a certified nursing assistant.

[(g)] (H) Unless authorized to practice as a certified medication technician under this title, [a person] **AN INDIVIDUAL** may not use the words or terms “medication technician” or “certified medication technician”, the abbreviation “MT”, or any other title, symbol, abbreviation, sign, card, device, or other representation with the intent to represent that the [person] **INDIVIDUAL** practices as a certified medication technician.

[(h)] (I) Unless authorized to practice as a certified medicine aide under this title, [a person] **AN INDIVIDUAL** may not use the words or terms “medicine aide” or “certified medicine aide” or any other title, symbol, abbreviation, sign, card, device, or other representation with the intent to represent that the [person] **INDIVIDUAL** practices as a certified medicine aide.

8–705.

(a) [A person] **AN INDIVIDUAL** may not practice registered nursing **OR ADVANCED PRACTICE REGISTERED NURSING** under color of any diploma, license, **CERTIFICATION**, or record that is:

- (1) Illegally or fraudulently obtained; or
- (2) Signed or issued unlawfully or by fraudulent representation.

(b) [A person] **AN INDIVIDUAL** may not practice licensed practical nursing under color of any diploma, license, or record that is:

- (1) Illegally or fraudulently obtained; or
- (2) Signed or issued unlawfully or by fraudulent representation.

8–706.

(a) [A person] **AN INDIVIDUAL** may not knowingly employ to practice registered nursing any [person] **INDIVIDUAL** who is not authorized to practice registered nursing under this title.

(B) AN INDIVIDUAL MAY NOT KNOWINGLY EMPLOY TO PRACTICE ADVANCED PRACTICE REGISTERED NURSING ANY INDIVIDUAL WHO IS NOT AUTHORIZED TO PRACTICE ADVANCED PRACTICE REGISTERED NURSING UNDER THIS TITLE.

[(b)] (C) [A person] AN INDIVIDUAL may not knowingly employ to practice licensed practical nursing any **[person] INDIVIDUAL** who is not authorized to practice licensed practical nursing under this **[subtitle] TITLE**.

[(c)] (D) [A person] AN INDIVIDUAL may not knowingly employ any individual who is not authorized to perform delegated nursing duties under this **[subtitle] TITLE**.

[(d)] (E) [A person] AN INDIVIDUAL may not knowingly employ to practice as a certified nursing assistant any **[person] INDIVIDUAL** who is not authorized to practice as a certified nursing assistant under this title.

[(e)] (F) [A person] AN INDIVIDUAL may not knowingly employ to practice as a certified medication technician any **[person] INDIVIDUAL** who is not authorized to practice as a certified medication technician under this title.

[(f)] (G) [A person] AN INDIVIDUAL may not knowingly employ to practice as a certified medicine aide any **[person] INDIVIDUAL** who is not authorized to practice as a certified medicine aide under this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 516

(Senate Bill 385)

AN ACT concerning

Maryland Nurse Practice Act – Revisions

FOR the purpose of altering the membership of the State Board of Nursing; requiring that certain petitions for membership on the Board have at least a certain number of signatures of support from nurses with a certain license; altering the requirements for the election of Board officers; requiring the Board to hold a special election within a certain time period to fill a certain vacancy under certain circumstances; altering the requirements for a quorum of the Board; authorizing the Board to employ a deputy director; authorizing the Board to set standards for the practice of advanced

practice registered nursing, electrology, and direct-entry midwifery; altering the requirement that the Board keep a list of certain nurses and other professionals regulated by the Board; authorizing the Board to appoint certain committees of the Board, to delegate certain duties to the executive director, and to hold the executive director accountable to the Board; renaming the Rehabilitation Program to be the Safe Practice Program; renaming the Rehabilitation Committee to be the Safe Practice Committee; repealing the authority of a certain committee to review and designate certain treatment facilities and services to which certain individuals may be referred; altering the reporting requirements of the Safe Practice Committee; requiring the Program to transfer to the Board certain records; authorizing the Board to summarily suspend the license or certificate of certain licensees and certificate holders; requiring a certain nursing education program in another state or country to be substantially equivalent to an education program in this State at the time of the applicant's graduation for a certain purpose; requiring certain applicants to demonstrate written and oral competency in the English language as part of the Board's examination and licensing procedures; repealing certain testing requirements relating to a certain English language competency requirement for certain applicants; repealing certain references to nurse psychotherapists; repealing the requirement that the Board determine certain matters relating to certain licensing examinations; repealing an obsolete date by which the Board was required to begin requiring criminal history records checks; repealing the authority of the Board to issue a temporary practice letter to certain nurses under certain circumstances; altering the grounds for denying an applicant or licensee a license, reprimanding a licensee, placing a licensee on probation, or suspending or revoking the license of an applicant or licensee if the individual has a substance use disorder; requiring the Board to determine the Maryland passing rate for a certain examination; requiring certain advanced practice registered nurses to report certain information relating to knowledge of certain nurses with a substance use disorder; repealing the requirement that the Board, in consultation with the State Board of Pharmacy and the State Board of Physicians, establish a certain drug formulary for the practice of nurse midwifery; repealing the Board's authority to issue a certain replacement registration certificate and to set a certain fee; repealing the Board's authority to deny the issuance of a certain temporary practice certificate to a certain applicant under certain circumstances; requiring the Board to consider certain information before the Board initiates a disciplinary action against a certain certificate holder or licensee based on information received from a criminal history records check at the time of renewal of a certain certificate or license; prohibiting the Board from renewing a certain certificate without certain documentation that a certain applicant has submitted to a criminal history records check; providing that members of a certain advisory committee are entitled to receive certain compensation and reimbursement for certain expenses; requiring an applicant for a license to practice electrology to take a certain written examination; authorizing the Board or a designee of the Board to give clinical examinations and reexaminations to certain applicants; requiring the Board to provide a certain notice and determine the passing score for a certain examination; repealing the authority of the Board to take certain action against a certain licensee for failing to display a certain notice; repealing the requirement that an electrologist display a certain notice; prohibiting

an individual from representing to the public that the individual is authorized to practice advanced practice registered nursing unless authorized to practice advanced practice registered nursing; prohibiting an individual from practicing advanced practice registered nursing under color of a fraudulent diploma, license, certificate, or record; prohibiting an individual from knowingly employing an individual to practice advanced practice registered nursing if the individual is not authorized to practice advanced practice registered nursing; defining certain terms; altering certain defined terms and definitions of certain terms; updating certain terminology; repealing an obsolete provision of law; making conforming and stylistic changes; and generally relating to revisions to the Maryland Nurse Practice Act.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 8–101, 8–202(a) through (d), 8–203, 8–204, 8–205(a), 8–208, 8–302, 8–304, 8–305, 8–306, 8–312(g), 8–315, 8–316(a), 8–401, 8–505, 8–601, 8–6A–07, 8–6A–08(k), 8–6A–10(a), 8–6B–10, 8–6B–14(k), 8–6B–18, 8–701 through 8–703, 8–705(a) and (b), and 8–706

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

BY adding to

Article – Health Occupations

Section 8–302.1 and 8–6A–13(g)

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 8–6A–13(a)

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

BY repealing

Article – Health Occupations

Section 8–6B–26

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

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) “Advanced practice **REGISTERED** nurse” means an individual who:

(1) **(I)** Is licensed by the Board to practice registered nursing; **OR**

(II) HAS A MULTISTATE LICENSURE PRIVILEGE TO PRACTICE REGISTERED NURSING UNDER THE NURSE LICENSURE COMPACT; and

(2) Is certified by the Board to practice as:

(i) A nurse practitioner;

(ii) A nurse anesthetist;

(iii) A nurse midwife; **OR**

(iv) [A nurse psychotherapist; or

(v)] A clinical nurse specialist.

(c) “Applicant” means, unless the context requires otherwise:

(1) An individual applying for an initial license by examination or endorsement;

(2) A licensee applying for renewal of a license; [or]

(3) AN INDIVIDUAL APPLYING FOR AN INITIAL ADVANCED PRACTICE REGISTERED NURSE CERTIFICATION;

(4) A LICENSEE APPLYING FOR RENEWAL OF AN ADVANCED PRACTICE REGISTERED NURSE CERTIFICATION; OR

[(3)] (5) An individual applying for reinstatement of a license in accordance with § 8–319 of this title.

(d) “Board” means the State Board of Nursing.

(e) “Expired license” means, unless the context requires otherwise, a license that was not renewed before the expiration date of the license as established under § 8–312(a) of this title.

(f) “Lapsed license” means, unless the context requires otherwise, a license that was not renewed because a licensee failed to renew the license or otherwise did not meet the renewal requirements of this title.

(g) “License” means, unless the context requires otherwise, a license issued by the Board to practice:

- (1) Registered nursing; [or]
- (2) Licensed practical nursing; **OR**
- (3) ADVANCED PRACTICE REGISTERED NURSING.**

(h) “Licensed practical nurse” means, unless the context requires otherwise, an individual who [is]:

- (1) IS licensed by the Board to practice licensed practical nursing; OR**
- (2) HAS A MULTISTATE LICENSURE PRIVILEGE TO PRACTICE LICENSED PRACTICAL NURSING UNDER THE NURSE LICENSURE COMPACT.**

(i) “Licensee” means, unless the context requires otherwise, a registered nurse or licensed practical nurse who has:

- (1) An active license;
- (2) An inactive license;
- (3) A temporary license;
- (4) An expired temporary license;
- (5) An expired license;
- (6) A lapsed license;
- (7) A suspended license; [or]
- (8) A license subject to a reprimand, probation, or suspension; **OR**
- (9) A MULTISTATE LICENSURE PRIVILEGE TO PRACTICE REGISTERED NURSING OR LICENSED PRACTICAL NURSING UNDER THE NURSE LICENSURE COMPACT.**

(j) “Mentor” means a certified **REGISTERED** nurse practitioner or a licensed physician:

- (1) Who has 3 or more years of clinical practice experience; and

(2) With whom an individual applying for certification as a certified nurse practitioner will consult and collaborate with as needed in accordance with § 8–302(b)(5)(i) of this title.

[(k) “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.]

(K) “PRACTICE ADVANCED PRACTICE REGISTERED NURSING” MEANS TO PRACTICE REGISTERED NURSING WITHIN THE SCOPE OF PRACTICE IN THE AREA OF SPECIALTY FOR WHICH THE INDIVIDUAL HOLDS A CERTIFICATION FROM A NATIONALLY RECOGNIZED CERTIFYING BODY RECOGNIZED BY THE BOARD.

(l) “Practice as a **REGISTERED** nurse practitioner” means to independently:

(1) Perform an act under subsection (n) of this section;

(2) Conduct a comprehensive physical assessment of an individual;

(3) Establish a medical diagnosis for common chronic stable or short-term 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) Consult and collaborate with, or refer an individual to, an appropriate licensed physician or any other health care provider as needed; and

(8) Provide emergency care.

(m) “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.

(n) (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.

(o) “Registered nurse” means, unless the context requires otherwise, an individual who [is]:

(1) IS licensed by the Board to practice registered nursing; OR

(2) HAS A MULTISTATE LICENSURE PRIVILEGE TO PRACTICE REGISTERED NURSING UNDER THE NURSE LICENSURE COMPACT.

(P) “REGISTERED NURSE PRACTITIONER” MEANS AN INDIVIDUAL WHO:

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

(II) HAS A MULTISTATE LICENSURE PRIVILEGE TO PRACTICE REGISTERED NURSING UNDER THE NURSE LICENSURE COMPACT; AND

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

8–202.

(a) (1) The Board consists of ~~13~~ 14 members.

(2) Of the ~~13~~ 14 Board members:

(i) [8] 9 shall be registered nurses;

(II) 1 SHALL BE A LICENSED NURSE WHO IS EITHER A LICENSED PRACTICAL NURSE, A REGISTERED NURSE, OR AN ADVANCED PRACTICE REGISTERED NURSE;

~~(ii)~~ (III) [3] 2 shall be licensed practical nurses; and

~~(iii)~~ (IV) 2 shall be consumers.

(3) Of the [8] 9 registered nurse members:

(i) [1] 2 shall be [certified in an] advanced practice [nursing specialty that rotates with each vacancy among the following specialties:

1. Nurse anesthetist;

2. Nurse practitioner;

3. Nurse midwife; and

4. Nurse psychotherapist] REGISTERED NURSES, OF WHICH 1 SHALL BE A REGISTERED NURSE PRACTITIONER NURSE ANESTHETIST;

(ii) 1 shall be a baccalaureate nursing educator with, at least, a master’s degree in nursing or education;

(iii) 1 shall be an associate degree nursing educator with, at least, a master's degree in nursing or education;

(iv) 1 shall be a practical nursing educator with, at least, a [bachelor of science] **MASTER'S** degree in nursing or education;

(v) 1 shall be a nurse administrator with, at least, a master's degree in nursing administration, business administration, business management, education, or public health;

(vi) 1 shall be a nurse clinician with at least a master's degree in nursing or public health;

(vii) 1 shall be a currently practicing nurse, who has practiced acute care for at least 5 years, with a bachelor of science degree in nursing; and

(viii) 1 shall be a currently practicing nurse who has practiced as a delegating nurse in a supervised group living setting, as defined in COMAR [10.27.11.02(20)] **10.27.11.02(21)**, for at least 5 years.

(4) Of the [3] **2** licensed practical nurse members, at least 1 shall practice in a long-term care nursing facility.

(b) (1) The Governor shall appoint:

(i) The **ADVANCED PRACTICE** registered nurse [member certified in an advanced practice nursing specialty] **MEMBERS**, with the advice of the Secretary, from a list of qualified individuals jointly developed in accordance with the requirements of subsection (a)(3)(i) of this section and submitted to the Secretary and the Governor by the:

1. Maryland Association of Nurse Anesthetists, Inc.;
2. Nurse Practitioners Association of Maryland, Inc.;
3. ~~Maryland Coalition of Nurse Practitioners, Inc.~~
MARYLAND ACADEMY OF ADVANCED PRACTICE CLINICIANS;
4. Maryland Chapter, American College of Nurse-Midwives;
5. Psychiatric Advance Practice Nurses of Maryland; and

and

(ii) The other registered nurse members, with the advice of the Secretary, from:

and the Governor by:

1. A list of qualified individuals submitted to the Secretary

- A. The Maryland Nurses Association, Inc.; or

- B. Any other professional nursing organization that represents at least 25 licensed registered nurses; or

2. A valid petition submitted to the Secretary and the Governor by a registered nurse with an active license under this title.

(2) The Governor shall appoint the licensed practical nurse members, with the advice of the Secretary, from:

- (i) A list of qualified individuals submitted to the Secretary and the Governor by:

1. The Maryland Licensed Practical Nurse Association, Inc.;

or

2. Any other professional nursing organization representing at least 25 licensed practical nurses; or

- (ii) A valid petition submitted to the Secretary and the Governor by a licensed practical nurse with an active license under this title.

(3) A list submitted to the Secretary and the Governor under this subsection shall be 5 times the number of vacancies.

(4) A petition submitted to the Secretary and **THE** Governor under this subsection shall:

- (I) **FOR A REGISTERED NURSE MEMBER VACANCY**, have at least 25 signatures of support from **REGISTERED** nurses with active licenses in the State;

- (II) **FOR AN ADVANCED PRACTICE REGISTERED NURSE MEMBER VACANCY, HAVE AT LEAST 25 SIGNATURES OF SUPPORT FROM ADVANCED PRACTICE REGISTERED NURSES WITH ACTIVE LICENSES IN THE STATE; AND**

- (III) **FOR A LICENSED PRACTICAL NURSE MEMBER VACANCY, HAVE AT LEAST 25 SIGNATURES OF SUPPORT FROM LICENSED PRACTICAL NURSES WITH ACTIVE LICENSES IN THE STATE.**

(5) The Board shall provide notice of a vacancy on the Board to:

(i) All **REGISTERED NURSES, ADVANCED PRACTICE REGISTERED NURSES, AND LICENSED PRACTICAL** nurses with an active license in the State; and

(ii) All appropriate professional nursing organizations.

(6) The Governor may request an additional list of 5 nominees for each vacancy from the appropriate professional nursing organizations.

(7) The Governor shall make the appointment for each vacancy from the lists or petitions submitted under this subsection.

(8) The Governor shall appoint the consumer members with the advice of the Secretary and the advice and consent of the Senate.

(9) To the extent practicable, the members appointed to the Board shall reasonably reflect the geographic, racial, ethnic, cultural, and gender diversity of the State.

(c) Each member of the Board shall be:

(1) A citizen of the United States; and

(2) A resident of this State.

(d) (1) A registered nurse member of the Board shall:

(i) Have graduated from an approved school of nursing or its equivalent; and

(ii) Have at least 5 years of experience in nursing administration, education, or practice, which includes at least the 3 years immediately before the appointment.

(2) A member of the Board who is [a] **AN ADVANCED PRACTICE** registered nurse [certified in an advanced practice nursing specialty] shall:

(i) Hold a current license to practice registered nursing in this State;

(ii) Hold a current certification in an advanced practice **REGISTERED** nursing specialty in this State; and

(iii) Have at least 5 years of experience in an advanced practice **REGISTERED** nursing education **PROGRAM** or practice, including at least the 3 years immediately before the appointment.

8–203.

(a) **(1) [From] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FROM among its members, the Board shall elect a president and a secretary once every 2 years in [July] JUNE OR AS REQUIRED BY SUBSECTION (C) OF THIS SECTION.**

(2) THE PRESIDENT OF THE BOARD SHALL BE A REGISTERED NURSE.

(3) THE PRESIDENT SHALL SERVE A 2–YEAR TERM UNLESS:

(I) THE TERM OF THE MEMBER SERVING AS THE PRESIDENT EXPIRES BEFORE THE END OF THE MEMBER’S TERM AS PRESIDENT; OR

(II) THE PRESIDENT RESIGNS.

(b) The Board shall determine:

(1) The manner of election of officers; and

(2) The duties of each officer.

(C) IF A VACANCY OCCURS UNDER SUBSECTION (A)(3)(II) OF THIS SECTION, THE BOARD SHALL HOLD A SPECIAL ELECTION TO ELECT A PRESIDENT TO COMPLETE THE TERM OF THE VACATING PRESIDENT WITHIN 30 DAYS OF THE DATE OF THE VACANCY.

8–204.

(a) **[(1) Except as provided in paragraph (2) of this subsection, a] A majority of the [full authorized membership of] APPOINTED MEMBERS SERVING ON the Board [that includes at least one officer] is a quorum.**

[(2) In addition to the requirements of paragraph (1) of this subsection, on a matter concerning licensing or disciplining of an individual, a quorum shall include:

(i) At least three registered nurse members if a registered nurse or an applicant for a license as a registered nurse is involved; or

(ii) At least two licensed practical nurse members if a licensed practical nurse or an applicant for a license as a licensed practical nurse is involved.]

(b) In addition to the other meeting requirements of this title, the Board shall meet:

(1) At the request of the Secretary; or

(2) If necessary to transact its business.

(c) In accordance with the State budget, each member of the Board is entitled to:

(1) Compensation, at a rate determined by the Board, for each day on which the member is engaged in the duties of the member's office; and

(2) Reimbursement for expenses under the Standard State Travel Regulations.

(d) The Board may:

(1) Employ a staff in accordance with the State budget;

(2) Define the duties of its staff; and

(3) Employ [an]:

(I) AN executive director who shall be a registered nurse with a minimum of a master's degree in nursing or the equivalent, in the judgment of the Board, in professional education and administrative experience; AND

(II) A DEPUTY DIRECTOR WHO SHALL ASSUME THE DUTIES AND AUTHORITY OF THE EXECUTIVE DIRECTOR IN THE ABSENCE OF THE EXECUTIVE DIRECTOR.

8-205.

(a) In addition to the powers and duties set forth elsewhere in this title, the Board has the following powers and duties:

(1) To adopt rules and regulations to carry out the provisions of this title;

(2) To set standards for the practice of registered nursing, **ADVANCED PRACTICE REGISTERED NURSING**, licensed practical nursing, certified nursing assistants, [and] certified medication technicians, **ELECTROLOGY, AND DIRECT-ENTRY MIDWIFERY**;

(3) To adopt rules and regulations for the performance of delegated medical functions that are recognized jointly by the State Board of Physicians and the State Board of Nursing, under § 14-306(d) of this article;

(4) To adopt rules and regulations for the performance of additional nursing acts that:

(i) May be performed under any condition authorized by the Board, including emergencies; and

(ii) Require education and clinical experience;

(5) To adopt rules and regulations for registered nurses to perform independent nursing functions that:

(i) Require formal education and clinical experience; and

(ii) May be performed under any condition authorized by the Board, including emergencies;

(6) To adopt rules and regulations for licensed practical nurses to perform additional acts in the practice of registered nursing that:

(i) Require formal education and clinical experience;

(ii) May be performed under any condition authorized by the Board, including emergencies; and

(iii) Are recognized by the Nursing Board as proper for licensed practical nurses to perform;

(7) To keep a record of its proceedings;

(8) To submit to the Governor, the Secretary, and, in accordance with § 2-1246 of the State Government Article, the General Assembly, an annual report that includes the following data calculated on a fiscal year basis:

(i) The number of initial and renewal licenses and certificates issued;

(ii) The number of positive and negative criminal history records checks results received;

(iii) The number of individuals denied initial or renewal licensure or certification due to positive criminal history records checks results;

(iv) The number of individuals denied licensure or certification due to reasons other than a positive criminal history records check;

(v) The number of new complaints received;

(vi) The number of complaints carried over from year to year;

(vii) The most common grounds for complaints; and

- (viii) The number and types of disciplinary actions taken by the Board;
- (9) To enforce the employment record requirements of this title;
- (10) To keep separate lists, which lists are open to reasonable public inspection, of all:
 - (i) Registered nurses licensed under this title;
 - (ii) Licensed practical nurses licensed under this title;
 - (iii) Nurse midwives certified under this title;
 - (iv) Nurse practitioners certified under this title; [and]
 - (V) NURSE ANESTHETISTS CERTIFIED UNDER THIS TITLE;**
 - (VI) CLINICAL NURSE SPECIALISTS CERTIFIED UNDER THIS TITLE;**
 - (VII) CERTIFIED MEDICATION TECHNICIANS CERTIFIED UNDER THIS TITLE;**
 - (VIII) ELECTROLOGISTS LICENSED UNDER THIS TITLE;**
 - (IX) DIRECT-ENTRY MIDWIVES LICENSED UNDER THIS TITLE;**
- AND**
- ~~(v)~~ **(X)** Other licensees with a nursing specialty that is certified under this title;
 - (11) To collect any funds of the Board;
 - (12) To report any alleged violation of this title to the State's Attorney of the county where the alleged violation occurred;
 - (13) In accordance with the State budget, to incur any necessary expense for prosecution of an alleged violation of this title;
 - (14) On receipt of a written and signed complaint, including a referral from the Commissioner of Labor and Industry, conduct an unannounced inspection of the office of a nurse in independent practice, other than an office of a nurse in independent practice in a hospital, related institution, freestanding medical facility, or a freestanding birthing center, to determine compliance at that office with the Centers for Disease Control and Prevention's guidelines on universal precautions; [and]

(15) To maintain a nurse aide registry that complies with federal law;

(16) TO APPOINT STANDING AND AD HOC COMMITTEES FROM AMONG BOARD MEMBERS AS NECESSARY; AND

(17) TO DELEGATE TO THE EXECUTIVE DIRECTOR OF THE BOARD THE AUTHORITY TO DISCHARGE BOARD DUTIES DEEMED APPROPRIATE AND NECESSARY BY THE BOARD AND TO HOLD THE EXECUTIVE DIRECTOR ACCOUNTABLE TO THE BOARD.

8–208.

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

(2) “Applicant” means an individual who has submitted an application to the Board to be licensed as a registered nurse, licensed practical nurse, electrologist, or licensed direct–entry midwife or to be certified as **AN ADVANCED PRACTICE REGISTERED NURSE**, a nursing assistant, or medication technician in this State.

(3) “PARTICIPANT” MEANS A REGISTERED NURSE, AN ADVANCED PRACTICE REGISTERED NURSE, A LICENSED PRACTICAL NURSE, A NURSING ASSISTANT, A MEDICATION TECHNICIAN, AN ELECTROLOGIST, A LICENSED DIRECT–ENTRY MIDWIFE, OR AN APPLICANT ENROLLED IN THE SAFE PRACTICE PROGRAM.

[3] (4) “Program” means the [rehabilitation] SAFE PRACTICE program.

(5) “SUBSTANCE USE DISORDER” MEANS A DISORDER THAT OCCURS WHEN AN INDIVIDUAL EXHIBITS A PATTERN OF BEHAVIORS RANGING FROM THE MISUSE OF, DEPENDENCE ON, OR ADDICTION TO DRUGS, ALCOHOL, OR OTHER CHEMICALS.

(b) (1) There is a **[Rehabilitation] SAFE PRACTICE** Committee in the Board.

(2) The Board may create **[1] ONE** or more **[rehabilitation] SAFE PRACTICE** committees.

(c) (1) The Committee shall consist of 6 members.

(2) Of the 6 Committee members:

(i) 3 shall be licensed registered nurses, who have demonstrated expertise in the field of **[chemical dependency] SUBSTANCE USE DISORDERS** or psychiatric nursing;

(ii) 1 shall be a registered nurse, who has demonstrated expertise in the area of pain management;

(iii) 1 shall be a licensed practical nurse; and

(iv) 1 shall be a consumer member, who is knowledgeable in the field of [chemical dependency] **SUBSTANCE USE DISORDERS**.

(d) (1) The Board shall determine the term of a member of the Committee.

(2) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(3) A Committee 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) The Board may remove a Committee member for incompetence or misconduct.

(e) (1) The Committee shall elect a chairperson and a vice-chairperson.

(2) The manner of election of officers shall be as the Committee determines.

(f) A majority of the members then serving on the Committee [Board] is a quorum.

(g) The Committee shall determine the times and places of its meetings.

(h) Each member of the Committee is entitled to:

(1) Compensation in accordance with the State budget; and

(2) Reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(i) The Board may employ a staff to carry out the activities of the Committee in accordance with the State budget.

(j) In addition to the powers set forth elsewhere in this subtitle, the Committee may:

(1) Evaluate those **REGISTERED** nurses, **ADVANCED PRACTICE REGISTERED NURSES, LICENSED PRACTICAL NURSES**, nursing assistants, medication technicians, electrologists, licensed direct-entry midwives, or applicants who request participation in the program according to the guidelines prescribed by the Board and consider the recommendations for admission into the program;

(2) [Review and designate those treatment facilities and services to which nurses, nursing assistants, medication technicians, electrologists, licensed direct–entry midwives, or applicants in the program may be referred;

(3)] Receive and review information concerning a [nurse, nursing assistant, medication technician, electrologist, licensed direct–entry midwife, or applicant participating] **PARTICIPANT** in the program;

[(4)] **(3)** Consider in the case of each [nurse, nursing assistant, medication technician, electrologist, licensed direct–entry midwife, or applicant participating in a program whether the nurse, nursing assistant, medication technician, electrologist, licensed direct–entry midwife, or applicant] **PARTICIPANT WHETHER THE PARTICIPANT** may [with safety] **SAFELY** continue or resume [the] **TO** practice [of nursing or delegated nursing functions, electrology, or licensed direct–entry midwifery] **OR QUALIFY FOR LICENSURE OR CERTIFICATION TO PRACTICE**; and

[(5)] **(4)** Have meetings as necessary to consider the requests of **REGISTERED** nurses, **ADVANCED PRACTICE REGISTERED NURSES, LICENSED PRACTICAL NURSES,** nursing assistants, medication technicians, electrologists, licensed direct–entry midwives, or applicants to participate in the program, and consider reports regarding [nurses, nursing assistants, medication technicians, electrologists, licensed direct–entry midwives, or applicants participating in the program] **PARTICIPANTS**.

(k) In addition to the duties set forth elsewhere in this subtitle, the Committee shall:

(1) Prepare reports to be submitted to the Board; and

(2) Set forth in writing for each [nurse, nursing assistant, medication technician, electrologist, licensed direct–entry midwife, or applicant participating] **PARTICIPANT** in the program a [rehabilitation program established] **PLAN OR AGREEMENT THAT ESTABLISHES** for that [nurse, nursing assistant, medication technician, electrologist, licensed direct–entry midwife, or applicant, including] **PARTICIPANT** the requirements for supervision and [surveillance] **MONITORING**.

(l) The Committee shall inform each [nurse, nursing assistant, medication technician, electrologist, licensed direct–entry midwife,] **LICENSEE, CERTIFICATE HOLDER,** or applicant who requests participation in the program of:

(1) The procedures followed in the program;

(2) The rights and responsibilities of [the nurse, nursing assistant, medication technician, electrologist, licensed direct–entry midwife, or applicant] **A PARTICIPANT** in the program; and

(3) The possible results of noncompliance with the program.

(m) (1) Each [nurse, nursing assistant, medication technician, electrologist, licensed direct–entry midwife] **LICENSEE, CERTIFICATE HOLDER**, or applicant who requests to participate in the program shall agree to cooperate with the individual [rehabilitation program] **PLAN OR AGREEMENT** designed by the Committee.

(2) Any failure to comply with the [provisions of a rehabilitation program] **CONDITIONS OF A PLAN OR AGREEMENT** may result in [termination of the nurse’s, nursing assistant’s, medication technician’s, electrologist’s, licensed direct–entry midwife’s, or applicant’s participation in] **THE PARTICIPANT BEING EXPELLED FROM** the program.

(3) **(I)** The Committee shall report **TO THE BOARD** the name and license number of a **REGISTERED** nurse, **LICENSED PRACTICAL NURSE**, electrologist, or licensed direct–entry midwife, the name and certificate number of **AN ADVANCED PRACTICE REGISTERED NURSE**, a nursing assistant, or medication technician, or the name of an applicant who is expelled from the program for failure to comply with the conditions of [the program] **A PLAN OR AGREEMENT**.

(II) THE PROGRAM SHALL TRANSFER TO THE BOARD ALL RECORDS OF ANY PARTICIPANT EXPELLED FROM THE PROGRAM.

(4) [(i) The program shall transfer to the Board all the records of any nurse, nursing assistant, medication technician, electrologist, licensed direct–entry midwife, or applicant] **IF A PARTICIPANT IS** expelled from the program[.

(ii) The], **THE** Board may [initiate]:

(I) INITIATE disciplinary action [based on the failure of the nurse, nursing assistant, medication technician, electrologist, licensed direct–entry midwife, or applicant to comply with the conditions of the program] in accordance with the provisions of §§ 8–316 and 8–317, **§§ 8–6A–10 AND 8–6A–10.1**, §§ 8–6B–18 and 8–6B–19, or **[§] §§ 8–6C–20 AND 8–6C–20.1** of this title; **AND**

(II) SUMMARILY SUSPEND THE LICENSE OR CERTIFICATE OF ANY LICENSEE OR CERTIFICATE HOLDER IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(n) After the Committee has determined that [a nurse, nursing assistant, medication technician, electrologist, licensed direct–entry midwife, or applicant has been rehabilitated] **A PARTICIPANT NO LONGER REQUIRES MONITORING AND MAY PRACTICE SAFELY**, the Committee shall purge and destroy all records [concerning a nurse’s, nursing assistant’s, medication technician’s, electrologist’s, licensed direct–entry

midwife's, or applicant's] **RELATING TO THE PARTICIPANT'S** participation in the program.

(o) All Board and Committee records [of a proceeding] concerning [the rehabilitation of a nurse, nursing assistant, medication technician, electrologist, licensed direct-entry midwife, or applicant] **A PARTICIPANT** in the program are confidential and are not subject to discovery or subpoena in any civil or criminal action **OR DISCLOSURE UNDER TITLE 4 OF THE GENERAL PROVISIONS ARTICLE.**

(p) The Board shall provide for the representation of any [person] **INDIVIDUAL** making reports to the Committee or the Board under this section in any action for defamation directly resulting from reports or information given to the Committee or the Board regarding a [nurse's, nursing assistant's, medication technician's, electrologist's, licensed direct-entry midwife's, or applicant's] **PARTICIPANT'S** participation in the program.

(q) **(1)** [Beginning July 1, 1990, and on a regular basis thereafter, the Board shall require reports from the Committee.] **THE COMMITTEE SHALL SUBMIT TO THE BOARD A REPORT EACH YEAR AND AT THE REQUEST OF THE BOARD.**

(2) The reports shall include:

[(1)] (I) Information concerning the number of cases accepted, denied, or terminated with compliance or noncompliance; and

[(2)] (II) A cost analysis of the program.

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 an advanced practice nurse shall:

(i) Be a registered nurse;

(ii) Complete an education program approved by the Board;

(iii) Submit to the Board:

1. A completed application for certification as a nurse practitioner, nurse anesthetist, nurse midwife, nurse psychotherapist, or clinical nurse specialist 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 advanced practice nursing for nurse practitioners, nurse anesthetists, nurse midwives, nurse psychotherapists, or clinical nurse specialists; and

4. Documentation of certification as a nurse practitioner, nurse anesthetist, nurse midwife, nurse psychotherapist, or clinical nurse specialist by a nationally recognized certifying body approved by the Board; and

(iv) Meet any other requirements that the Board sets.

(2) (i) An individual certified as a nurse practitioner 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.

(ii) An individual certified as a nurse anesthetist, nurse midwife, nurse psychotherapist, or clinical nurse specialist who is certified by the Board and in good standing prior to October 1, 2012, 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, nurse anesthetist, nurse midwife, nurse psychotherapist, or clinical nurse specialist 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) An applicant for initial certification as a nurse practitioner who has not been certified by the Board or any other board of nursing shall identify on the application for certification a mentor who will consult and collaborate with the applicant

for 18 months beginning on the date the application for certification is received by the Board.

(ii) A certified nurse practitioner shall practice in accordance with the standards of practice of the American Association of Nurse Practitioners or any other national certifying body recognized by the Board.

(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.

(7) Unless authorized to practice as a nurse anesthetist under this title, a person may not:

(i) Practice nurse anesthesia unless certified by the Board in accordance with this section; or

(ii) Use the title “certified nurse anesthetist”, “nurse anesthetist”, or any other words, letters, or symbols with the intent to represent that the person practices as a nurse anesthetist.

(8) Unless authorized to practice as a nurse midwife under this title, a person may not:

(i) Practice nurse midwifery unless certified by the Board in accordance with this section; or

(ii) Use the title “certified nurse midwife”, “nurse midwife”, or any other words, letters, or symbols with the intent to represent that the person practices as a nurse midwife.

(9) Unless authorized to practice as a nurse psychotherapist under this title, a person may not:

(i) Practice as a nurse psychotherapist unless certified by the Board in accordance with this section; or

(ii) Use the title “advanced practice nurse”, “certified nurse psychotherapist”, “registered nurse/psychiatric mental health”, “nurse psychotherapist”, or any other words, letters, or symbols with the intent to represent that the person practices as a nurse psychotherapist.

(10) Unless authorized to practice as a clinical nurse specialist under this title, a person may not:

(i) Practice as a clinical nurse specialist unless certified by the Board in accordance with this section; or

(ii) Use the title “certified clinical nurse specialist”, “clinical nurse specialist”, “clinical registered nurse specialist”, “clinical nurse specialist graduate”, or any other words, letters, or symbols with the intent to represent that the person practices as a clinical nurse specialist.]

[(c)] (B) 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 **EDUCATION** program in this State **AT THE TIME OF THE APPLICANT’S GRADUATION**.

[(d)] (C) 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 **EDUCATION** program in this State **AT THE TIME OF THE APPLICANT’S GRADUATION**.

[(e)] (D) Except as otherwise provided in this title, the applicant shall pass an examination developed by the National Council of State Boards of Nursing and administered at a testing site approved by the National Council.

[(f)] (E) (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] A WRITTEN AND** oral competency in the English language.

(2) Acceptable proof of proficiency in the [oral] communication of the English language under this section includes:

(i) After at least 3 years of enrollment, graduation from a recognized English-speaking undergraduate school;

(ii) Graduation from a recognized English-speaking professional school; or

(iii) Completion of at least 5 years of practicing nursing in another state or English-speaking territory of the United States.

(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] **COMMUNICATING IN** 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] **ENGLISH LANGUAGE** competency.

[(5)] (4) 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] **ENGLISH LANGUAGE** competency component as part of its examination or licensing procedures.

[(6)] (5) (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)] (F) An applicant for a license [or certification] under this section shall be of good moral character.

8-302.1.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, TO QUALIFY FOR ADVANCED PRACTICE CERTIFICATION, AN APPLICANT SHALL:

- (1) BE OF GOOD MORAL CHARACTER;
 - (2) SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 8-303 OF THIS SUBTITLE; AND
 - (3) MEET THE REQUIREMENTS OF THIS SECTION.
- (B) AN APPLICANT FOR CERTIFICATION AS AN ADVANCED PRACTICE REGISTERED NURSE SHALL:
- (1) (I) BE A REGISTERED NURSE; OR

(II) HAVE A MULTISTATE LICENSURE PRIVILEGE TO PRACTICE REGISTERED NURSING UNDER THE NURSE LICENSURE COMPACT;
 - (2) COMPLETE AN EDUCATION PROGRAM APPROVED BY THE BOARD;
 - (3) SUBMIT TO THE BOARD:

 - (I) A COMPLETED APPLICATION FOR CERTIFICATION AS AN ADVANCED PRACTICE REGISTERED NURSE FOR EACH AREA IN WHICH CERTIFICATION IS SOUGHT;
 - (II) DOCUMENTATION OF:

 1. AN ACTIVE LICENSE IN GOOD STANDING AS A REGISTERED NURSE IN THE STATE; OR
 2. A MULTISTATE LICENSURE PRIVILEGE TO PRACTICE REGISTERED NURSING UNDER THE NURSE LICENSURE COMPACT;
 - (III) DOCUMENTATION THAT THE APPLICANT HAS GRADUATED FROM A GRADUATE LEVEL ACCREDITED PROGRAM FOR ADVANCED PRACTICE REGISTERED NURSING; AND
 - (IV) DOCUMENTATION OF CERTIFICATION AS AN ADVANCED PRACTICE REGISTERED NURSE BY A NATIONAL CERTIFYING BODY RECOGNIZED BY THE BOARD;
 - (4) MEET THE ENGLISH LANGUAGE COMPETENCY REQUIREMENTS UNDER § 8-302(E) OF THIS SUBTITLE; AND
 - (5) MEET ANY OTHER REQUIREMENTS SET BY THE BOARD.

(C) AN INDIVIDUAL CERTIFIED AS A CLINICAL NURSE SPECIALIST WHO WAS CERTIFIED BY A NATIONAL CERTIFYING BODY RECOGNIZED BY THE BOARD BEFORE OCTOBER 1, 2012, SHALL BE DEEMED TO MEET THE REQUIREMENTS FOR CERTIFICATION UNDER SUBSECTION (B) OF THIS SECTION WHILE THE INDIVIDUAL REMAINS CERTIFIED AND IN GOOD STANDING.

(D) (1) AN APPLICANT FOR INITIAL CERTIFICATION AS A REGISTERED NURSE PRACTITIONER WHO HAS NOT BEEN CERTIFIED BY THE BOARD OR ANY OTHER BOARD OF NURSING SHALL IDENTIFY ON THE APPLICATION FOR CERTIFICATION A MENTOR WHO WILL CONSULT AND COLLABORATE WITH THE APPLICANT FOR 18 MONTHS BEGINNING ON THE DATE THE APPLICATION FOR CERTIFICATION IS RECEIVED BY THE BOARD.

(2) A CERTIFIED REGISTERED NURSE PRACTITIONER SHALL PRACTICE IN ACCORDANCE WITH THE STANDARDS OF PRACTICE OF THE AMERICAN ASSOCIATION OF NURSE PRACTITIONERS OR ANY OTHER NATIONAL CERTIFYING BODY RECOGNIZED BY THE BOARD.

8–304.

To apply for a license to practice registered nursing or licensed practical nursing, an applicant shall:

- (1) Submit to a criminal history records check in accordance with § 8–303 of this subtitle;
- (2) Submit to the Board:
 - (i) An application on the form that the Board requires, including a current address;
 - (ii) Written, verified evidence that the requirement of item (1) of this [subsection] SECTION is being met or has been met;
 - (iii) Written, verified evidence of completion of the appropriate education requirements of § 8–302 of this subtitle; and
 - (iv) Written, verified evidence satisfactory to the Board that the applicant's primary state of residence is Maryland or a state that is not a party state to the Nurse [Multistate] Licensure Compact set forth in Subtitle 7A of this title; and
- (3) Pay to the Board the application fee set by the Board.

8–305.

(a) Except as otherwise provided in subsections (b) and (c) of this section, an applicant who otherwise qualifies for a license as a registered nurse or as a licensed practical nurse is entitled to be examined for that license as provided in this section.

(b) An applicant whose primary state of residence is a party state to the Nurse [Multistate] Licensure Compact set forth in Subtitle 7A of this title, other than Maryland, is not entitled to be examined for a license as a registered nurse or licensed practical nurse in the State.

(c) Subject to the hearing provisions of § 8–317 of this subtitle, the Board may deny the right to be examined for a license as a registered nurse or as a licensed practical nurse to any applicant who is found to have violated any provision of § 8–316 of this subtitle.

(d) [The Board shall determine the subjects, scope, form, and passing score for each examination given under this title.

(e)] (1) In this subsection, “preceptorship program” means:

(i) An organized system of clinical experience that pairs a nursing student enrolled in a nursing education program that is recognized by the Board with a registered nurse who meets the qualifications as a preceptor for the purpose of attaining specified learning objectives; or

(ii) An individualized and supervised clinical experience offered by an institution employing nurses that complies with the requirements for temporary licensure for the purpose of facilitating an inactive licensee to return to active practice in accordance with the requirements of paragraph (2) of this subsection.

(2) An applicant whose nursing education program was completed 5 or more years prior to passing the licensure examination and who has not practiced for at least 1,000 hours in the previous 5 years may only be issued an inactive license until submission to the Board of satisfactory evidence that the applicant has successfully completed:

(i) A nursing review course approved by the Board; or

(ii) A preceptorship program approved by the Board.

[(f)] (E) (1) Except as provided in paragraph (2) of this subsection, an applicant who fails an examination may retake the examination if the applicant pays the reexamination fee set by the Board for each reexamination.

(2) The Board, by rule or regulation, may limit the number of times that an applicant may be reexamined after two failures and may limit the interval of time between reexaminations.

An applicant qualifies for certification as [a certified nurse practitioner] **AN ADVANCED PRACTICE REGISTERED NURSE** only if the applicant passes a Board-approved **NATIONAL** examination **FOR ADVANCED PRACTICE REGISTERED NURSES**.

8–312.

(g) (1) (i) [Beginning July 2009, the Board shall begin a process requiring] **A** criminal history records [checks] **CHECK IS REQUIRED** in accordance with § 8–303 of this subtitle on:

1. Selected annual renewal applicants as determined by regulations adopted by the Board; and

2. Each licensee who files for reinstatement under § 8–313 of this subtitle after failing to renew the license for a period of 1 year or more.

(ii) An additional criminal history records check shall be performed every 12 years thereafter.

(2) On receipt of the criminal history record information of a licensee forwarded to the Board in accordance with § 8–303 of this subtitle, in determining whether to [renew a license] **INITIATE A DISCIPLINARY ACTION AGAINST A LICENSEE BASED ON THE INFORMATION RECEIVED**, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates whether the licensee poses a threat to the public health or safety.

(3) The Board may not renew a license [if the criminal history record information] **WITHOUT WRITTEN DOCUMENTATION THAT THE APPLICANT HAS SUBMITTED TO A CRIMINAL HISTORY RECORDS CHECK** required under § 8–303 of this subtitle [has not been received].

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) (i) Is licensed by any other state; or

(ii) Has taken and passed an examination under this title, but is waiting for the completion of the criminal history records check;

(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 or who has taken and passed an examination under this title 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 or who has taken and passed an examination under this title 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

(ii) Is authorized to practice as a registered nurse.

(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.

(d) (1) [Except as provided in this subtitle, a] 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) (D)] 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.

8–316.

(a) Subject to the hearing provisions of § 8–317 of this subtitle, the Board may deny a license or grant a license, including a license subject to a reprimand, probation, or suspension, to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke the license of a licensee if the applicant or licensee:

(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or for another;

(2) Fraudulently or deceptively uses a license;

(3) Is disciplined by a licensing, military, or disciplinary authority in this State or in any other state or country or convicted or disciplined by a court in this State or in any other state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(4) Is convicted of or pleads 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;

(5) Willfully and knowingly:

(i) Files a false report or record of an individual under the licensee's care;

- (ii) Gives any false or misleading information about a material matter in an employment application;
 - (iii) Fails to file or record any health record that is required by law;
 - (iv) Obstructs the filing or recording of any health record as required by law; or
 - (v) Induces another [person] **INDIVIDUAL** to fail to file or record any health record as required by law;
- (6) Knowingly does any act that has been determined by the Board, in its rules and regulations, to exceed the scope of practice authorized to the individual under this title;
- (7) Provides professional services while:
- (i) Under the influence of alcohol; or
 - (ii) Using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (8) Does an act that is inconsistent with generally accepted professional standards in the practice of registered nursing or licensed practical nursing;
- (9) Is grossly negligent in the practice of registered nursing or licensed practical nursing;
- (10) Has violated any provision of this title;
- (11) Submits a false statement to collect a fee;
- (12) Is physically or mentally incompetent;
- (13) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article;
- (14) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;
- (15) Except in an emergency life–threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control and Prevention’s guidelines on universal precautions;

- (16) Is in independent practice and fails to display the notice required under § 8–506 of this title;
- (17) Is in breach of a service obligation resulting from the applicant's or licensee's receipt of State or federal funding for the applicant's or licensee's nursing education;
- (18) [Is habitually intoxicated] **HAS A SUBSTANCE USE DISORDER**;
- (19) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5–101 of the Criminal Law Article;
- (20) Fails to cooperate with a lawful investigation conducted by the Board;
- (21) Is expelled from the [rehabilitation] **SAFE PRACTICE** program established pursuant to § 8–208 of this title for failure to comply with the conditions of the program;
- (22) Delegates nursing acts or responsibilities to an individual that the applicant or licensee knows or has reason to know lacks the ability or knowledge to perform;
- (23) Delegates to an unlicensed individual nursing acts or responsibilities the applicant or licensee knows or has reason to know are to be performed only by a registered nurse or licensed practical nurse;
- (24) Fails to properly supervise individuals to whom nursing acts or responsibilities have been delegated;
- (25) Engages in conduct that violates the professional code of ethics;
- (26) Is professionally incompetent;
- (27) Practices registered nursing or licensed practical nursing without a license before obtaining or renewing a license, including any period when practicing registered nursing or licensed practical nursing on an expired license or a lapsed license;
- (28) When holding an expired license or a lapsed license or after a temporary license has expired in accordance with § 8–315(d) of this subtitle, commits any act that would be grounds for disciplinary action under this section;
- (29) Practices registered nursing or licensed practical nursing on a nonrenewed license for a period of 16 months or longer;
- (30) Violates regulations adopted by the Board or an order from the Board;
- (31) Performs an act that is beyond the licensee's knowledge and skills;

(32) Fails to submit to a criminal history records check in accordance with § 8–303 of this subtitle;

(33) When acting in a supervisory position, directs another nurse to perform an act that is beyond the nurse's knowledge and skills;

(34) When acting in a supervisory position, directs another nurse to delegate a nursing task to an individual when that nurse reasonably believes:

(i) The individual lacks the knowledge and skills to perform the task; or

(ii) The patient's condition does not allow delegation of the nursing task; or

(35) Has misappropriated the property of a patient or a facility.

8–401.

(a) The Board may approve any registered nursing or licensed practical nursing education program at an institution in this State.

(b) The Board shall:

(1) Keep a list of institutions in this State that currently have an approved registered nursing or licensed practical nursing education program;

(2) Set standards for approval of education programs for registered nurses and licensed practical nurses at institutions in this State;

(3) DETERMINE THE MARYLAND PASSING RATE FOR THE NATIONAL NURSE LICENSURE EXAMINATION EACH YEAR;

~~[(3)]~~ (4) Evaluate the need for an education program for registered nurses or licensed practical nurses in the geographic area in which the program is proposed to be located; and

~~[(4)]~~ (5) Survey approved nursing education programs as it considers necessary.

8–505.

(a) Except as provided in subsection (b) of this section, the following applies:

(1) If a nursing administrator, A registered nurse, AN ADVANCED PRACTICE REGISTERED NURSE, A licensed practical nurse, or A certified nursing

assistant knows of an action or condition that might be grounds for action under § 8–316 or Subtitle 6A of this title, the nursing administrator, registered nurse, **ADVANCED PRACTICE REGISTERED NURSE**, licensed practical nurse, or certified nursing assistant shall report the action or condition to the Board; and

(2) An individual shall have the immunity from liability described under § 5–709 of the Courts and Judicial Proceedings Article for making a report as required by this subsection.

(b) If a nurse administrator, **A** registered nurse, **AN ADVANCED PRACTICE REGISTERED NURSE**, **A** licensed practical nurse, or **A** certified nursing assistant has reason to know that a licensee or certificate holder has committed an action or has a condition that might be grounds for reprimand or probation of the licensee or certificate holder or suspension or revocation of the license under § 8–316 or § 8–6A–10 of this title because the licensee or certificate holder **[is alcohol impaired or drug impaired]** **HAS A SUBSTANCE USE DISORDER**, the nurse administrator, registered nurse, **ADVANCED PRACTICE REGISTERED NURSE**, licensed practical nurse, or certified nursing assistant is not required to report the licensee or certificate holder to the Board if:

(1) The nurse administrator, registered nurse, **ADVANCED PRACTICE REGISTERED NURSE**, licensed practical nurse, or certified nursing assistant knows that the licensee or certificate holder is in an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations, is certified by the Department, or is under the care of a health care practitioner who is competent and capable of dealing with **[alcoholism and drug abuse]** **SUBSTANCE USE DISORDER**;

(2) The nurse administrator, registered nurse, **ADVANCED PRACTICE REGISTERED NURSE**, licensed practical nurse, or certified nursing assistant is able to verify that the licensee or certificate holder remains in the treatment program until discharge; and

(3) The action or condition of the licensee or certificate holder has not caused injury to any **[person]** **INDIVIDUAL** while the licensee is practicing registered nursing or licensed practical nursing or the certificate holder is working as **AN ADVANCED PRACTICE REGISTERED NURSE OR** a nursing assistant.

(c) **[A person]** **AN INDIVIDUAL** is not required under this section to make any report that would be in violation of any federal or State law, rule, or regulation concerning the confidentiality of **[alcohol and drug abuse]** patient **SUBSTANCE USE DISORDER** records.

8–601.

In this subtitle:

(1) “Practice nurse midwifery” means the management and care of essentially normal newborns and of essentially normal women antepartally, intrapartally and postpartally.

(2) “Practice nurse midwifery” includes:

(i) Family planning and well woman reproductive care;

(ii) The prescribing of substances commonly used in the practice of nurse midwifery [as determined by the Board in consultation with the State Board of Pharmacy and the State Board of Physicians];

(iii) The prescribing of controlled substances on Schedules II, III, IV, and V commonly used in the practice of nurse midwifery [as determined by the Board in consultation with the State Board of Pharmacy and the State Board of Physicians]; and

(iv) The dispensing of the substances prescribed in accordance with the provisions of subparagraphs (ii) and (iii) of this paragraph in the course of treating a patient at:

1. A medical facility or clinic that is operated on a nonprofit basis;

2. A health center that operates on a campus of an institution of higher education; or

3. A public health facility, a medical facility under contract with a State or local health department, or a facility funded with public funds.

8-6A-07.

(a) Subject to [subsection (g)] **SUBSECTION (F)** of this section, the Board shall certify any applicant who meets the requirements of this subtitle.

(b) (1) The Board shall:

(i) Issue each new certified nursing assistant or medication technician a certificate number and registration certificate that indicates the initial certificate was issued by the Board; and

(ii) Electronically record each certificate in the Board’s database and on the Board’s Web site.

(2) Each certificate shall include:

- (i) Any expiration date;
- (ii) The type of certificate; and
- (iii) Any specific category of nursing assistant.

(c) An individual who has met the requirements for a certified nursing assistant shall be certified with the title of “certified nursing assistant”.

(d) An individual who routinely performs nursing tasks delegated by a registered nurse or licensed practical nurse for compensation and has also completed a Board–approved course in medication administration shall be certified with the title of “certified medicine aide”.

(e) An individual who has met the requirements for a certified medication technician shall be certified with the title of “certified medication technician”.

(f) [The Board may issue a registration certificate to replace a lost, destroyed, or mutilated certificate, if the certificate holder pays the certificate replacement fee set by the Board.

(g) (1) The Board may issue a temporary practice certificate to an applicant who:

(i) Has met the appropriate certification requirements of this subtitle to the satisfaction of the Board; **AND**

(ii) Does not have a criminal record and has not been the subject of a health professional disciplinary action in this State or another jurisdiction[; and

(iii) Does not have a criminal charge or a health professional disciplinary action pending in this State or another jurisdiction].

(2) Unless the Board suspends or revokes a temporary practice certificate, the temporary practice certificate expires 90 days after issuance.

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

[(h)] (G) A medication technician graduate may practice for no more than 90 days from the date of completion of a medication technician training program without certification by the Board.

[(i)] (H) (1) On receipt of the criminal history record information of an applicant for certification as a certified nursing assistant forwarded to the Board in

accordance with § 8–303 of this title, in determining whether to grant a certificate, the Board shall consider:

- (i) The age at which the crime was committed;
- (ii) The circumstances surrounding the crime;
- (iii) The length of time that has passed since the crime;
- (iv) Subsequent work history;
- (v) Employment and character references; and
- (vi) Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(2) The Board may not issue a certificate if the criminal history record information required under § 8–303 of this title has not been received.

8–6A–08.

(k) (1) (i) The Board shall require criminal history records checks in accordance with § 8–303 of this title on:

1. Selected applicants for certification as a certified nursing assistant who renew their certificates every 2 years as determined by regulations adopted by the Board; and

2. Each former certified nursing assistant who files for reinstatement under subsection (g) of this section after failing to renew the certificate for a period of 1 year or more.

(ii) An additional criminal history records check shall be performed every 12 years thereafter.

(2) On receipt of the criminal history record information of a certificate holder forwarded to the Board in accordance with § 8–303 of this title, in determining whether to [renew the certificate] **INITIATE DISCIPLINARY ACTION AGAINST THE CERTIFICATE HOLDER BASED ON THE INFORMATION RECEIVED**, the Board shall consider:

- (i) The age at which the crime was committed;
- (ii) The circumstances surrounding the crime;
- (iii) The length of time that has passed since the crime;

- (iv) Subsequent work history;
- (v) Employment and character references; and
- (vi) Other evidence that demonstrates whether the certificate holder poses a threat to the public health or safety.

(3) The Board may not renew a certificate [if the] **WITHOUT WRITTEN DOCUMENTATION THAT THE APPLICANT HAS SUBMITTED TO A** criminal history [record information] **RECORDS CHECK AS** required under § 8–303 of this title [has not been received].

8–6A–10.

(a) Subject to the hearing provisions of § 8–317 of this title and § 8–6A–10.1 of this subtitle, the Board may deny a certificate or grant a certificate, including a certificate subject to a reprimand, probation, or suspension, to any applicant, reprimand any certificate holder, place any certificate holder on probation, or suspend or revoke the certificate of a certificate holder, if the applicant or certificate holder:

- (1) Fraudulently or deceptively obtains or attempts to obtain a certificate for the applicant or for another;
- (2) Fraudulently or deceptively uses a certificate;
- (3) Is disciplined by a licensing, military, or disciplinary authority in this State or in any other state or country or convicted or disciplined by a court in this State or in any other state or country for an act that would be grounds for disciplinary action under the Board’s disciplinary statutes;
- (4) Is convicted of or pleads 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;
- (5) Files a false report or record of an individual under the certificate holder’s care;
- (6) Gives any false or misleading information about a material matter in an employment application;
- (7) Fails to file or record any health record that is required by law;
- (8) Induces another [person] **INDIVIDUAL** to fail to file or record any health record that is required by law;

- (9) Has violated any order, rule, or regulation of the Board relating to the practice or certification of a nursing assistant or medication technician;
- (10) Provides services as a nursing assistant or medication technician while:
 - (i) Under the influence of alcohol; or
 - (ii) Using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (11) [Is habitually intoxicated] **HAS A SUBSTANCE USE DISORDER**;
- (12) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5–101 of the Criminal Law Article;
- (13) Has acted in a manner inconsistent with the health or safety of [a person] **AN INDIVIDUAL** under the applicant or certificate holder's care;
- (14) Has practiced as a nursing assistant or medication technician in a manner which fails to meet generally accepted standards for the practice of a nursing assistant or medication technician;
- (15) Has physically, verbally, or psychologically abused, neglected, or otherwise harmed [a person] **AN INDIVIDUAL** under the applicant or certificate holder's care;
- (16) Has a physical or mental condition which renders the applicant or certificate holder unable to practice as a certified nursing assistant or certified medication technician with reasonable skill and safety to the patients and which may endanger the health or safety of [persons] **INDIVIDUALS** under the care of the applicant or certificate holder;
- (17) Has violated the confidentiality of information or knowledge as prescribed by law concerning any patient;
- (18) Has misappropriated patient or facility property;
- (19) Performs certified nursing assistant or certified medication technician functions incompetently;
- (20) Has violated any provision of this title or has aided or knowingly permitted any [person] **INDIVIDUAL** to violate any provision of this title;
- (21) Submits a false statement to collect a fee;

(22) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the applicant or certificate holder is certified and qualified to render because the individual is HIV positive;

(23) Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control and Prevention's guidelines on universal precautions;

(24) Fails to cooperate with a lawful investigation conducted by the Board;

(25) Fails to comply with instructions and directions of the supervising registered nurse or licensed practical nurse;

(26) When holding an expired certificate or a lapsed certificate, commits any act that would be grounds for disciplinary action under this section;

(27) Practices as a nursing assistant or medication technician before obtaining or renewing the certificate, including any time period when practicing as a nursing assistant or medication technician on an expired certificate or a lapsed certificate;

(28) Impersonates another individual:

(i) Licensed under the provisions of this title; or

(ii) Who holds a certificate issued under the provisions of this title;

(29) Engages in conduct that violates the code of ethics;

(30) Performs activities that exceed the education and training of the certified nursing assistant or certified medication technician;

(31) Is expelled from the [rehabilitation] **SAFE PRACTICE** program established pursuant to § 8-208 of this title for failure to comply with the conditions of the program;

(32) Fails to submit to a criminal history records check in accordance with § 8-303 of this title as required under § 8-6A-05(c)(2) of this subtitle;

(33) Abandons a patient; or

(34) Is a director of nursing, or acts in the capacity of a director of nursing and knowingly employs an individual who is not authorized to perform delegated nursing duties under this subtitle.

(a) The Board shall appoint an advisory committee consisting of at least 15 members appointed by the Board.

(G) A MEMBER OF THE ADVISORY COMMITTEE IS ENTITLED TO RECEIVE:

(1) COMPENSATION, AS DETERMINED BY THE BOARD; AND

(2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

8-6B-10.

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

(B) AN APPLICANT SHALL TAKE A WRITTEN EXAMINATION APPROVED BY THE BOARD.

[(b)] (C) (1) The Board OR THE BOARD'S DESIGNEE shall give CLINICAL examinations to applicants.

(2) The Board OR THE BOARD'S DESIGNEE may give reexaminations to applicants who fail [all or part of an] THE CLINICAL examination.

[(c)] (D) The Board OR THE BOARD'S DESIGNEE shall notify each qualified applicant of the time and place of examination FOR THE WRITTEN AND CLINICAL EXAMINATIONS.

[(d)] (E) Except as otherwise provided under this subtitle, the Board shall determine the [subjects, scope, form, and] passing score for examinations given under this subtitle.

[(e)] (F) (1) An applicant may retake [an] A WRITTEN examination or a failed section of [an] A WRITTEN examination after paying a reexamination fee set by the Board OR THE ADMINISTRATOR OF A NATIONAL EXAMINATION.

(2) An applicant who fails two reexaminations may retake the WRITTEN examination only if the applicant:

(i) Retakes the entire examination;

(ii) Pays the full examination fee; and

(iii) Completes an education program that the Board requires.

8–6B–14.

(k) (1) (i) [Beginning January 2011, the] **THE** Board shall [begin a process requiring] **REQUIRE A** criminal history records [checks] **CHECK** on selected annual renewal applicants as determined by regulations adopted by the Board in accordance with § 8–303 of this title.

(ii) An additional criminal history records check shall be performed every 12 years thereafter.

(2) On receipt of the criminal history record information of a licensee forwarded to the Board in accordance with § 8–303 of this title, in determining whether to [renew a license] **INITIATE DISCIPLINARY ACTION AGAINST A LICENSEE BASED ON THE INFORMATION RECEIVED**, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates that the licensee does not pose a threat to the public health or safety.

(3) The Board may not renew a license [if] **WITHOUT WRITTEN DOCUMENTATION THAT THE APPLICANT HAS SUBMITTED TO** the criminal history [record information] **RECORDS CHECK** required under § 8–303 of this title [has not been received].

8–6B–18.

(a) Subject to the hearing provisions of § 8–317 of this title and § 8–6B–19 of this subtitle, the Board may deny a license to an applicant, grant a license, including a license subject to a reprimand, probation, or suspension, to an applicant, reprimand a licensee, place a licensee on probation, or suspend or revoke a 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) As part of the practice of electrology, knowingly does an act that exceeds the scope of the practice of electrology;
- (4) Is grossly negligent in practicing or teaching an electrology education program;
- (5) Acts in a manner inconsistent with generally accepted standards for the practice of electrology;
- (6) Is convicted of or pleads 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;
- (7) Is disciplined by a licensing or disciplinary authority of any state or country, convicted or disciplined by a court of any state or country, or disciplined by any branch of the United States uniformed services or the Veterans Administration for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;
- (8) Provides professional services while:
 - (i) Under the influence of alcohol; or
 - (ii) Using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (9) Uses types of instruments or procedures in the practice of electrology that are not approved by the Board;
- (10) Advertises in a manner that violates this subtitle;
- (11) Uses a title not authorized by § 8–6B–23 of this subtitle;
- (12) Is currently adjudicated as being a disabled individual under Title 13 of the Estates and Trusts Article;
- (13) Practices electrology with an unauthorized individual or supervises or aids an unauthorized individual in the practice of electrology;
- (14) Willfully makes or files a false report or record in the practice of electrology;
- (15) Willfully fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;
- (16) Submits a false statement to collect a fee;

(17) Violates a provision of this subtitle or a rule or regulation adopted by the Board;

(18) Uses or promotes or causes the use of a misleading, deceiving, or untruthful advertising matter, promotional literature, or testimonial;

(19) Is professionally, physically, or mentally incompetent;

(20) Promotes the sale of devices, appliances, or goods to a patient so as to exploit the patient for financial gain;

(21) Behaves immorally in the practice of electrology;

(22) Commits an act of unprofessional conduct in the practice of electrology;

(23) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;

(24) Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control and Prevention's guidelines on universal precautions;

(25) [Fails to display the notice required under § 8-6B-26 of this subtitle;

(26)] Fails to submit to a criminal history records check in accordance with § 8-303 of this title;

[(27)] **(26)** Fails to allow an inspection under § 8-6B-06(10) and (11) of this subtitle;

[(28)] **(27)** Fails to cooperate with a lawful investigation conducted by the Board;

[(29)] **(28)** Practices electrology without a license before obtaining or renewing a license, including any period when practicing electrology on an expired license or a lapsed license; or

[(30)] **(29)** After failing to renew a license, commits any act that would be grounds for disciplinary action under this section.

(b) In addition to any sanction authorized under this section, the Board may require a licensee to comply with specified terms and conditions determined by the Board.

[8-6B-26.

If an electrologist is engaged in the private practice of electrology in the State, the electrologist shall display the notice developed under § 1–207 of this article conspicuously in each office where the electrologist is engaged in practice.]

8–701.

(a) Except as otherwise provided in this title, [a person] **AN INDIVIDUAL** may not practice, attempt to practice, or offer to practice registered nursing, [registered nursing as an] advanced practice [nurse] **REGISTERED NURSING**, or licensed practical nursing in this State unless licensed by the Board to practice registered nursing, [registered nursing as an] advanced practice [nurse] **REGISTERED NURSING**, or licensed practical nursing, respectively.

(b) Except as otherwise provided in this title, [a person] **AN INDIVIDUAL** may not practice, attempt to practice, or offer to practice electrology in this State unless licensed by the Board to practice electrology.

(c) (1) Except as otherwise provided in this title, [a person] **AN INDIVIDUAL** may not practice, attempt to practice, or offer to practice as a certified nursing assistant unless certified by the Board as a certified nursing assistant.

(2) Except as otherwise provided in this title, [a person] **AN INDIVIDUAL** may not practice, attempt to practice, or offer to practice as a certified nursing assistant in a specific category unless certified by the Board as a certified nursing assistant in that category.

(d) Except as otherwise provided in this title, [a person] **AN INDIVIDUAL** may not practice, attempt to practice, or offer to practice as a certified medication technician in this State unless certified by the Board to practice as a certified medication technician.

(e) Except as otherwise provided in this title, [a person] **AN INDIVIDUAL** may not practice, attempt to practice, or offer to practice as a certified medicine aide unless certified by the Board to practice as a certified medicine aide.

(e–1) Except as otherwise provided in this title, an individual may not practice, attempt to practice, or offer to practice as a licensed direct–entry midwife unless licensed by the Board to practice as a licensed direct–entry midwife.

(f) [A person] **AN INDIVIDUAL** may not require a licensee to perform an act that is beyond the licensee’s knowledge and skills.

(g) [A person] **AN INDIVIDUAL** may not direct a licensee to delegate a nursing task to a nurse when the [person] **INDIVIDUAL** reasonably believes:

- (1) The nurse lacks the knowledge and skills to perform the nursing task;
or
- (2) The patient's condition does not allow delegation of the nursing task.

8–702.

Except as otherwise provided in this title, [a person] **AN INDIVIDUAL** may not practice, attempt to practice, or offer to practice registered nursing, **ADVANCED PRACTICE REGISTERED NURSING**, or licensed practical nursing beyond the scope of the license **OR CERTIFICATE** issued to that [person] **INDIVIDUAL**.

8–703.

(a) (1) Unless authorized to practice registered nursing under this title, [a person] **AN INDIVIDUAL** may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the [person] **INDIVIDUAL** is authorized to practice registered nursing in this State.

(2) UNLESS AUTHORIZED TO PRACTICE ADVANCED PRACTICE REGISTERED NURSING UNDER THIS TITLE, AN INDIVIDUAL MAY NOT REPRESENT TO THE PUBLIC BY TITLE, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE INDIVIDUAL IS AUTHORIZED TO PRACTICE ADVANCED PRACTICE REGISTERED NURSING IN THIS STATE.

[(2)] (3) Unless authorized to practice licensed practical nursing under this title, [a person] **AN INDIVIDUAL** may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the [person] **INDIVIDUAL** is authorized to practice licensed practical nursing in this State.

[(3)] (4) Unless authorized to provide patient care as a certified nursing assistant or medication assistant under this title, [a person] **AN INDIVIDUAL** may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the [person] **INDIVIDUAL** is authorized to provide care as a certified nursing assistant or medication assistant in this State.

[(4)] (5) Unless authorized to provide patient care in a specific category of certified nursing assistant, [a person] **AN INDIVIDUAL** may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the [person] **INDIVIDUAL** is authorized to provide care as a certified nursing assistant in a specific category in this State.

[(5)] (6) Unless authorized to administer medication as a medication technician under this title, [a person] **AN INDIVIDUAL** may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the [person]

INDIVIDUAL is authorized to administer medication as a certified medication technician in this State.

[(6)] (7) Unless authorized to administer medication as a medicine aide under this title, **[a person] AN INDIVIDUAL** may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the **[person] INDIVIDUAL** is authorized to administer medication as a certified medicine aide in this State.

(b) Unless authorized to practice registered nursing, **ADVANCED PRACTICE REGISTERED NURSING**, or licensed practical nursing under this title, **[a person] AN INDIVIDUAL** may not use the word “nurse” to describe the profession of the **[person] INDIVIDUAL**.

(c) Unless authorized to practice registered nursing under this title, **[a person] AN INDIVIDUAL** may not use the words or terms “registered nurse”, the abbreviations “R.N.”, or any other title, symbol, abbreviation, sign, card, device, or other representation with the intent to represent that the **[person] INDIVIDUAL** practices registered nursing.

(D) UNLESS AUTHORIZED TO PRACTICE ADVANCED PRACTICE REGISTERED NURSING UNDER THIS TITLE, AN INDIVIDUAL MAY NOT USE THE WORDS OR TERMS “NURSE PRACTITIONER”, “NURSE ANESTHETIST”, “NURSE MIDWIFE”, “CLINICAL NURSE SPECIALIST”, OR “ADVANCED PRACTICE REGISTERED NURSE”, THE ABBREVIATIONS “NP”, “CRNA”, “CNS”, “A.P.R.N.”, OR ANY OTHER TITLE, SYMBOL, ABBREVIATION, SIGN, CARD, DEVICE, OR OTHER REPRESENTATION WITH THE INTENT TO REPRESENT THAT THE INDIVIDUAL PRACTICES ADVANCED PRACTICE REGISTERED NURSING.

[(d)] (E) Unless authorized to practice licensed practical nursing under this title, **[a person] AN INDIVIDUAL** may not use the words or terms “licensed practical nurse”, the abbreviation “L.P.N.”, or any other title, symbol, abbreviation, sign, card, device, or other representation with the intent to represent that the **[person] INDIVIDUAL** practices licensed practical nursing.

[(e)] (F) Unless authorized to practice as a nursing graduate under this title, **[a person] AN INDIVIDUAL** may not use the words “nursing graduate”, the abbreviation “NG”, or any other title, symbol, abbreviation, sign, card, device, or other representation with the intent to represent that the **[person] INDIVIDUAL** practices as a nursing graduate.

[(f)] (G) Unless authorized to practice as a certified nursing assistant under this title, **[a person] AN INDIVIDUAL** may not use the words or terms “nursing assistant” or “certified nursing assistant”, the abbreviation “CNA”, or any other title, symbol, abbreviation, sign, card, device, or other representation with the intent to represent that the **[person] INDIVIDUAL** practices as a certified nursing assistant.

[(g)] (H) Unless authorized to practice as a certified medication technician under this title, **[a person] AN INDIVIDUAL** may not use the words or terms “medication technician” or “certified medication technician”, the abbreviation “MT”, or any other title, symbol, abbreviation, sign, card, device, or other representation with the intent to represent that the **[person] INDIVIDUAL** practices as a certified medication technician.

[(h)] (I) Unless authorized to practice as a certified medicine aide under this title, **[a person] AN INDIVIDUAL** may not use the words or terms “medicine aide” or “certified medicine aide” or any other title, symbol, abbreviation, sign, card, device, or other representation with the intent to represent that the **[person] INDIVIDUAL** practices as a certified medicine aide.

8–705.

(a) **[A person] AN INDIVIDUAL** may not practice registered nursing **OR ADVANCED PRACTICE REGISTERED NURSING** under color of any diploma, license, **CERTIFICATION**, or record that is:

- (1) Illegally or fraudulently obtained; or
- (2) Signed or issued unlawfully or by fraudulent representation.

(b) **[A person] AN INDIVIDUAL** may not practice licensed practical nursing under color of any diploma, license, or record that is:

- (1) Illegally or fraudulently obtained; or
- (2) Signed or issued unlawfully or by fraudulent representation.

8–706.

(a) **[A person] AN INDIVIDUAL** may not knowingly employ to practice registered nursing any **[person] INDIVIDUAL** who is not authorized to practice registered nursing under this title.

(B) AN INDIVIDUAL MAY NOT KNOWINGLY EMPLOY TO PRACTICE ADVANCED PRACTICE REGISTERED NURSING ANY INDIVIDUAL WHO IS NOT AUTHORIZED TO PRACTICE ADVANCED PRACTICE REGISTERED NURSING UNDER THIS TITLE.

[(b)] (C) **[A person] AN INDIVIDUAL** may not knowingly employ to practice licensed practical nursing any **[person] INDIVIDUAL** who is not authorized to practice licensed practical nursing under this **[subtitle] TITLE**.

[(c)] (D) [A person] AN INDIVIDUAL may not knowingly employ any individual who is not authorized to perform delegated nursing duties under this [subtitle] TITLE.

[(d)] (E) [A person] AN INDIVIDUAL may not knowingly employ to practice as a certified nursing assistant any [person] INDIVIDUAL who is not authorized to practice as a certified nursing assistant under this title.

[(e)] (F) [A person] AN INDIVIDUAL may not knowingly employ to practice as a certified medication technician any [person] INDIVIDUAL who is not authorized to practice as a certified medication technician under this title.

[(f)] (G) [A person] AN INDIVIDUAL may not knowingly employ to practice as a certified medicine aide any [person] INDIVIDUAL who is not authorized to practice as a certified medicine aide under this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 517

(Senate Bill 818)

AN ACT concerning

Maryland Occupational Safety and Health Act – Voluntary Protection Program

FOR the purpose of establishing a certain Voluntary Protection Program in the Division of Labor and Industry; requiring the Commissioner of Labor and Industry to recognize certain employers under the Program; specifying the purpose of the Program; requiring an employer who wishes to participate in the Program to submit a certain application; requiring the Commissioner to establish the contents of the application form as well as certain other documentation; authorizing the Commissioner to conduct certain evaluations for certain purposes; providing that an employer's continued participation in the Program is contingent on certain factors; exempting a place of employment that participates in the Program from certain inspections to the extent allowed under certain provisions of law, except under certain circumstances; requiring the Commissioner to adopt certain regulations to implement the Program; authorizing a certain place of employment to continue participation in the Program under certain circumstances; defining a certain term; and generally relating to a Voluntary Protection Program under the Maryland Occupational Safety and Health Act.

BY adding to

Article – Labor and Employment

Section 5–1001 through 5–1004 to be under the new subtitle “Subtitle 10. Voluntary Protection Program”

Annotated Code of Maryland

(2016 Replacement Volume)

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

Article – Labor and Employment

SUBTITLE 10. VOLUNTARY PROTECTION PROGRAM.

5–1001.

IN THIS SUBTITLE, “PROGRAM” MEANS THE VOLUNTARY PROTECTION PROGRAM ESTABLISHED UNDER § 5–1002 OF THIS SUBTITLE.

5–1002.

(A) (1) THERE IS A VOLUNTARY PROTECTION PROGRAM IN THE DIVISION OF LABOR AND INDUSTRY.

(2) UNDER THE PROGRAM, THE COMMISSIONER SHALL RECOGNIZE EMPLOYERS WITH PLACES OF EMPLOYMENT IN WHICH AN EXEMPLARY, VOLUNTARILY IMPLEMENTED WORKER SAFETY AND HEALTH MANAGEMENT SYSTEM HAS BEEN IMPLEMENTED THAT EXCEEDS BASIC COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH LAWS AND REGULATIONS.

(B) THE PURPOSE OF THE PROGRAM IS TO ENCOURAGE PARTICIPATING EMPLOYERS TO HAVE EXEMPLARY WORKER SAFETY AND HEALTH PROGRAMS.

(C) AN EMPLOYER WHO WISHES TO PARTICIPATE IN THE PROGRAM SHALL SUBMIT AN APPLICATION TO THE COMMISSIONER FOR APPROVAL.

(D) THE COMMISSIONER SHALL ESTABLISH THE CONTENTS OF THE APPLICATION FORM, AS WELL AS OTHER DOCUMENTATION THAT THE COMMISSIONER MAY REQUIRE.

5–1003.

(A) IN EVALUATING AN EMPLOYER’S APPLICATION FOR PARTICIPATION IN THE PROGRAM, THE COMMISSIONER MAY CONDUCT AN ON–SITE EVALUATION OF THE EMPLOYER’S PLACE OF EMPLOYMENT.

(B) AFTER THE APPROVAL OF AN EMPLOYER'S APPLICATION FOR PARTICIPATION, THE EMPLOYER'S CONTINUED PARTICIPATION IN THE PROGRAM IS CONTINGENT ON THE EMPLOYER'S COMPLIANCE WITH THE REGULATIONS ADOPTED BY THE COMMISSIONER UNDER § 5-1004 OF THIS SUBTITLE, AS DETERMINED BY PERIODIC ON-SITE EVALUATIONS BY THE COMMISSIONER.

(C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, DURING THE PERIOD IN WHICH THE EMPLOYER IS A PARTICIPANT IN THE PROGRAM, THE EMPLOYER'S PLACE OF EMPLOYMENT IS EXEMPT FROM OCCUPATIONAL SAFETY AND HEALTH INSPECTIONS CONDUCTED BY THE COMMISSIONER UNDER TITLE 5, SUBTITLE 2 OF ~~THE LABOR AND EMPLOYMENT ARTICLE~~ THIS ARTICLE, TO THE EXTENT ALLOWED BY FEDERAL LAW AND REGULATIONS.

(D) NOTWITHSTANDING AN EMPLOYER'S PARTICIPATION IN THE PROGRAM, A PLACE OF EMPLOYMENT IS NOT EXEMPT FROM INSPECTIONS OR INVESTIGATIONS THAT ARISE FROM COMPLAINTS, REFERRALS, CATASTROPHES, FATALITIES, ACCIDENTS, OR SIGNIFICANT TOXIC CHEMICAL RELEASES.

5-1004.

(A) THE COMMISSIONER SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROGRAM.

(B) THE REGULATIONS ADOPTED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION SHALL INCLUDE REQUIREMENTS FOR:

(1) EVIDENCE OF SENIOR MANAGEMENT LEADERSHIP IN THE AREA OF OCCUPATIONAL SAFETY AND HEALTH, ALONG WITH ACTIVE AND MEANINGFUL EMPLOYEE INVOLVEMENT;

(2) COMPREHENSIVE HAZARD PREVENTION, MITIGATION, AND CONTROL PROGRAMS;

(3) SYSTEMATIC ASSESSMENT OF OCCUPATIONAL HAZARDS;

(4) EMPLOYEE SAFETY AND HEALTH TRAINING; AND

(5) SAFETY AND HEALTH PROGRAM EVALUATION.

SECTION 2. AND BE IT FURTHER ENACTED, That a place of employment participating in the Voluntary Protection Program within the Division of Labor and Industry on September 30, 2017, may continue its participation in the Voluntary Protection Program administered under this Act without having to submit an application as required under § 5-1002(c) of the Labor and Employment Article, as enacted by Section 1 of this Act,

or undergoing an on-site evaluation as required under § 5-1003(a) of the Labor and Employment Article, as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 518

(House Bill 974)

AN ACT concerning

Maryland Personal Information Protection Act – Revisions

FOR the purpose of requiring a certain business, when destroying an employee's or a former employee's records that contain certain personal information of the employee or former employee, to take certain steps to protect against unauthorized access to or use of the information; altering the circumstances under which a certain business that owns, licenses, or maintains computerized data that includes certain personal information of an individual residing in the State must conduct a certain investigation and notify certain persons of a breach of the security of a system; specifying the time at which certain notice must be given; authorizing a certain business to provide a certain required notice in a certain manner under certain circumstances; providing that a certain business and a certain affiliate that comply with a certain federal law shall be deemed to be in compliance with certain provisions of law; defining a certain term terms term; altering certain definitions; providing for a delayed effective date; and generally relating to the protection of personal information contained in the records of businesses, owned or licensed by businesses, or included in computerized data owned, licensed, or maintained by businesses.

BY repealing and reenacting, with amendments,

Article – Commercial Law

Section 14-3501, 14-3502, 14-3504, ~~and 14-3506~~, and 14-3507

Annotated Code of Maryland

(2013 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,

Article – Commercial Law

Section 14-3503, 14-3505, ~~14-3507~~, 14-3506, and 14-3508

Annotated Code of Maryland

(2013 Replacement Volume and 2016 Supplement)

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

Article – Commercial Law

14–3501.

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

(b) (1) “Business” means a sole proprietorship, partnership, corporation, association, or any other business entity, whether or not organized to operate at a profit.

(2) “Business” includes a financial institution organized, chartered, licensed, or otherwise authorized under the laws of this State, any other state, the United States, or any other country, and the parent or subsidiary of a financial institution.

(c) “Encrypted” means the [transformation of data through the use of an algorithmic process into a form in which there is a low probability of assigning meaning without use of a confidential process or key] **PROTECTION OF DATA IN ELECTRONIC OR OPTICAL FORM, IN STORAGE OR IN TRANSIT, USING AN ENCRYPTION TECHNOLOGY THAT:**

~~(1) HAS BEEN ADOPTED OR APPROVED BY AN ESTABLISHED STANDARDS SETTING BODY OF THE FEDERAL GOVERNMENT, INCLUDING THE FEDERAL INFORMATION PROCESSING STANDARDS ISSUED BY THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY; AND~~

~~(2) RENDERS~~ **RENDERS** THE DATA INDECIPHERABLE WITHOUT AN ASSOCIATED CRYPTOGRAPHIC KEY NECESSARY TO ENABLE DECRYPTION OF THE DATA.

~~(D) “HEALTH INFORMATION” HAS THE MEANING STATED IN 45 C.F.R. § 160.103~~ **MEANS ANY INFORMATION CREATED BY AN ENTITY COVERED BY THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 REGARDING AN INDIVIDUAL’S MEDICAL HISTORY, MEDICAL CONDITION, OR MEDICAL TREATMENT OR DIAGNOSIS.**

~~(d)~~ **(E)** (1) “Personal information” means ~~an~~:

(I) **AN** individual’s first name or first initial and last name in combination with any one or more of the following data elements, when the name or the data elements are not encrypted, redacted, or otherwise protected by another method that renders the information unreadable or unusable:

~~(i)~~ **1.** A Social Security number, AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER, A PASSPORT NUMBER, OR OTHER IDENTIFICATION NUMBER ISSUED BY THE FEDERAL GOVERNMENT;

~~(ii)~~ **2.** A driver's license number OR STATE IDENTIFICATION CARD NUMBER;

~~(iii)~~ **3.** ~~A financial~~ AN account number, ~~including~~ a credit card number, or A debit card number, ~~that~~ in combination with any required security code, access code, or password, ~~would permit~~ THAT PERMITS access to an individual's financial account; [or]

~~(iv)~~ **4.** [An Individual Taxpayer Identification Number] ~~MEDICAL~~ HEALTH INFORMATION, INCLUDING INFORMATION ABOUT AN INDIVIDUAL'S MENTAL HEALTH;

~~(v)~~ **5.** A HEALTH INSURANCE POLICY OR CERTIFICATE NUMBER OR HEALTH INSURANCE SUBSCRIBER IDENTIFICATION NUMBER ~~THAT~~, IN COMBINATION WITH A UNIQUE IDENTIFIER USED BY AN INSURER OR AN EMPLOYER THAT IS SELF-INSURED, ~~WOULD PERMIT~~ THAT PERMITS ACCESS TO AN INDIVIDUAL'S ~~MEDICAL~~ HEALTH INFORMATION; OR

~~(vi)~~ ~~A USER NAME OR E-MAIL ADDRESS THAT, IN COMBINATION WITH A PASSWORD OR SECURITY QUESTION AND ANSWER, WOULD PERMIT~~ PERMITS ACCESS TO AN INDIVIDUAL'S ONLINE ~~E-MAIL ACCOUNT OR FINANCIAL ACCOUNT; OR~~

~~(vii)~~ **6.** ~~ANY BIOMETRIC~~ BIOMETRIC DATA OF AN INDIVIDUAL, ~~INCLUDING DATA~~ GENERATED BY AUTOMATIC MEASUREMENTS OF AN INDIVIDUAL'S BIOLOGICAL CHARACTERISTICS SUCH AS A FINGERPRINT, VOICE PRINT, GENETIC PRINT, ~~OR~~ RETINA OR IRIS IMAGE, OR OTHER UNIQUE BIOLOGICAL CHARACTERISTIC, THAT CAN BE USED TO ~~IDENTIFY THE INDIVIDUAL~~ UNIQUELY AUTHENTICATE THE INDIVIDUAL'S IDENTITY WHEN THE INDIVIDUAL ACCESSES A SYSTEM OR ACCOUNT; OR

(II) A USER NAME OR E-MAIL ADDRESS IN COMBINATION WITH A PASSWORD OR SECURITY QUESTION AND ANSWER THAT PERMITS ACCESS TO AN INDIVIDUAL'S E-MAIL ACCOUNT.

(2) "Personal information" does not include:

(i) Publicly available information that is lawfully made available to the general public from federal, State, or local government records;

(ii) Information that an individual has consented to have publicly disseminated or listed; or

(iii) Information that is disseminated or listed in accordance with the federal Health Insurance Portability and Accountability Act.

~~(E) (F) "REASONABLE SECURITY PROCEDURES AND PRACTICES" MEANS DATA SECURITY PROCEDURES AND PRACTICES THAT:~~

~~(1) ARE DEVELOPED IN GOOD FAITH; AND SET~~

~~(2) ARE SET FORTH IN A WRITTEN INFORMATION SECURITY POLICY; THAT CLEARLY DEMONSTRATES THAT THE PROCEDURES AND PRACTICES:~~

~~(1) (3) COORDINATE DESIGNATE ONE OR MORE EMPLOYEES OR CONTRACTORS TO COORDINATE AN INFORMATION SECURITY PROGRAM;~~

~~(2) (4) REQUIRE A RISK ASSESSMENT TO IDENTIFY REASONABLY FORESEEABLE INTERNAL AND EXTERNAL RISKS TO THE SECURITY, CONFIDENTIALITY, AND INTEGRITY OF PERSONAL INFORMATION AND TO ASSESS THE SUFFICIENCY OF ANY EXISTING SAFEGUARDS IN PLACE TO CONTROL THE IDENTIFIED RISKS;~~

~~(3) (5) ONCE A RISK ASSESSMENT IS COMPLETED, INCLUDE DESIGN SAFEGUARDS TO CONTROL ADDRESS THE IDENTIFIED RISKS AND TO REGULARLY MONITOR THE EFFECTIVENESS OF THE CONTROLS;~~

~~(4) (6) ENSURE, IN ANY CONTRACT WITH A SERVICE PROVIDER ENTERED INTO ON OR AFTER JANUARY 1, 2018, THAT THE SERVICE PROVIDER IS CAPABLE OF PROVIDING APPROPRIATE SAFEGUARDS FOR THE PERSONAL INFORMATION; AND~~

~~(5) (7) EVALUATE AND ADJUST THE INFORMATION SECURITY PROGRAM PERIODICALLY BASED ON:~~

~~(I) THE FINDINGS OF THE REGULAR MONITORING AND TESTING OF INFORMATION SAFEGUARDS;~~

~~(II) MATERIAL CHANGES TO OPERATIONS OR BUSINESS ARRANGEMENTS; OR~~

~~(III) (II) CIRCUMSTANCES NEW CIRCUMSTANCES THAT THE BUSINESS KNOWS OR HAS REASON TO KNOW SHOULD KNOW MAY HAVE A MATERIAL IMPACT ON THE INFORMATION SECURITY PROGRAM OF THE BUSINESS.~~

[(e)] ~~(F)~~ ~~(G)~~ **(F)** “Records” 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.

14–3502.

(a) In this section, “customer” means an individual residing in the State who provides personal information to a business for the purpose of purchasing or leasing a product or obtaining a service from the business.

(b) When a business is destroying a customer’s, **AN EMPLOYEE’S, OR A FORMER EMPLOYEE’S** records that contain personal information of the customer, **EMPLOYEE, OR FORMER EMPLOYEE**, the business shall take reasonable steps to protect against unauthorized access to or use of the personal information, taking into account:

- (1) The sensitivity of the records;
- (2) The nature and size of the business and its operations;
- (3) The costs and benefits of different destruction methods; and
- (4) Available technology.

14–3503.

(a) To protect personal information from unauthorized access, use, modification, or disclosure, a business that owns or licenses personal information of an individual residing in the State shall implement and maintain reasonable security procedures and practices that are appropriate to the nature of the personal information owned or licensed and the nature and size of the business and its operations.

(b) (1) A business that uses a nonaffiliated third party as a service provider to perform services for the business and discloses personal information about an individual residing in the State under a written contract with the third party shall require by contract that the third party implement and maintain reasonable security procedures and practices that:

(i) Are appropriate to the nature of the personal information disclosed to the nonaffiliated third party; and

(ii) Are reasonably designed to help protect the personal information from unauthorized access, use, modification, disclosure, or destruction.

(2) This subsection shall apply to a written contract that is entered into on or after January 1, 2009.

14–3504.

(a) In this section:

(1) “Breach of the security of a system” means the unauthorized ~~ACCESSING OR~~ acquisition of computerized data that compromises the security, confidentiality, or integrity of the personal information maintained by a business; and

(2) “Breach of the security of a system” does not include the good faith ~~ACCESSING OR~~ acquisition of personal information by an employee or agent of a business for the purposes of the business, provided that the personal information is not used or subject to further unauthorized disclosure.

(b) (1) A business that owns or licenses computerized data that includes personal information of an individual residing in the State, when it discovers or is notified of a breach of the security of a system, shall conduct in good faith a reasonable and prompt investigation to determine ~~[the likelihood that]~~ ~~WHETHER THERE IS A REASONABLE LIKELIHOOD THAT AN UNAUTHORIZED ACCESSING OR ACQUISITION OF THE~~ personal information of the individual has ~~[been or will be misused]~~ ~~OCCURRED OR WILL OCCUR~~ ~~BEEN OR WILL BE MISUSED~~ as a result of the breach ~~]~~ ~~OCCURRED~~.

(2) If, after the investigation is concluded, the business determines ~~that~~ ~~[misuse]~~ ~~AN UNAUTHORIZED ACCESSING OR ACQUISITION~~ of the individual’s personal information has occurred or is reasonably likely to occur as a result of a breach of the security of a system THAT THE BREACH OF THE SECURITY OF THE SYSTEM CREATES A LIKELIHOOD THAT PERSONAL INFORMATION HAS BEEN OR WILL BE MISUSED, the business shall notify the individual of the breach.

(3) Except as provided in subsection (d) of this section, the notification required under paragraph (2) of this subsection shall be given as soon as reasonably practicable, **BUT NOT LATER THAN 30 45 DAYS** after the business [conducts] ~~CONCLUDES~~ the investigation required under paragraph (1) of this subsection.

(4) If after the investigation required under paragraph (1) of this subsection is concluded, the business determines that notification under paragraph (2) of this subsection is not required, the business shall maintain records that reflect its determination for 3 years after the determination is made.

(c) (1) A business that maintains computerized data that includes personal information OF AN INDIVIDUAL RESIDING IN THE STATE that the business does not own or license, WHEN IT DISCOVERS OR IS NOTIFIED OF A BREACH OF THE SECURITY OF A SYSTEM, shall notify, AS SOON AS PRACTICABLE, the owner or licensee of the personal information of ~~a~~ THE breach of the security of a system ~~if it is likely that the breach has resulted or will result in the~~ ~~[misuse]~~ ~~ACCESSING OR ACQUISITION~~ of personal information of an individual residing in the State.

(2) Except as provided in subsection (d) of this section, the notification required under paragraph (1) of this subsection shall be given as soon as reasonably practicable, **BUT NOT LATER THAN ~~30~~ 45 DAYS** after the business discovers or is notified of the breach of the security of a system.

(3) A business that is required to notify an owner or licensee of personal information of a breach of the security of a system under paragraph (1) of this subsection shall share with the owner or licensee information relative to the breach.

(d) (1) The notification required under subsections (b) and (c) of this section may be delayed:

(i) If a law enforcement agency determines that the notification will impede a criminal investigation or jeopardize homeland or national security; or

(ii) To determine the scope of the breach of the security of a system, identify the individuals affected, or restore the integrity of the system.

(2) If notification is delayed under paragraph (1)(i) of this subsection, notification shall be given as soon as reasonably practicable, **BUT NOT LATER THAN 30 DAYS** after the law enforcement agency determines that it will not impede a criminal investigation and will not jeopardize homeland or national security.

(e) The notification required under ~~subsections (b) and (c)~~ **SUBSECTION (B)** of this section may be given:

(1) By written notice sent to the most recent address of the individual in the records of the business;

(2) By electronic mail to the most recent electronic mail address of the individual in the records of the business, if:

(i) The individual has expressly consented to receive electronic notice; or

(ii) The business conducts its business primarily through Internet account transactions or the Internet;

(3) By telephonic notice, to the most recent telephone number of the individual in the records of the business; or

(4) By substitute notice as provided in subsection (f) of this section, if:

(i) The business demonstrates that the cost of providing notice would exceed \$100,000 or that the affected class of individuals to be notified exceeds 175,000; or

(ii) The business does not have sufficient contact information to give notice in accordance with item (1), (2), or (3) of this subsection.

(f) Substitute notice under subsection (e)(4) of this section shall consist of:

(1) Electronically mailing the notice to an individual entitled to notification under subsection (b) of this section, if the business has an electronic mail address for the individual to be notified;

(2) Conspicuous posting of the notice on the Web site of the business, if the business maintains a Web site; and

(3) Notification to statewide media.

(g) ~~The~~ **EXCEPT AS PROVIDED IN SUBSECTION (I) OF THIS SECTION, THE** notification required under subsection (b) of this section shall include:

(1) To the extent possible, a description of the categories of information that were, or are reasonably believed to have been, acquired by an unauthorized person, including which of the elements of personal information were, or are reasonably believed to have been, acquired;

(2) Contact information for the business making the notification, including the business' address, telephone number, and toll-free telephone number if one is maintained;

(3) The toll-free telephone numbers and addresses for the major consumer reporting agencies; and

(4) (i) The toll-free telephone numbers, addresses, and Web site addresses for:

1. The Federal Trade Commission; and
2. The Office of the Attorney General; and

(ii) A statement that an individual can obtain information from these sources about steps the individual can take to avoid identity theft.

(h) Prior to giving the notification required under subsection (b) of this section and subject to subsection (d) of this section, a business shall provide notice of a breach of the security of a system to the Office of the Attorney General.

(I) (1) IN THE CASE OF A BREACH OF THE SECURITY OF A SYSTEM INVOLVING PERSONAL INFORMATION THAT PERMITS ACCESS TO AN INDIVIDUAL'S E-MAIL ACCOUNT UNDER § 14-3501(E)(1)(II) OF THIS SUBTITLE AND NO OTHER

PERSONAL INFORMATION UNDER § 14-3501(E)(1)(I) OF THIS SUBTITLE, THE BUSINESS MAY COMPLY WITH THE NOTIFICATION REQUIREMENT UNDER SUBSECTION (B) OF THIS SECTION BY PROVIDING THE NOTIFICATION IN ELECTRONIC OR OTHER FORM THAT DIRECTS THE INDIVIDUAL WHOSE PERSONAL INFORMATION HAS BEEN BREACHED PROMPTLY TO:

(I) CHANGE THE INDIVIDUAL'S PASSWORD AND SECURITY QUESTION OR ANSWER, AS APPLICABLE; OR

(II) TAKE OTHER STEPS APPROPRIATE TO PROTECT THE E-MAIL ACCOUNT WITH THE BUSINESS AND ALL OTHER ONLINE ACCOUNTS FOR WHICH THE INDIVIDUAL USES THE SAME USER NAME OR E-MAIL AND PASSWORD OR SECURITY QUESTION OR ANSWER.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE NOTIFICATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE GIVEN TO THE INDIVIDUAL BY ANY METHOD DESCRIBED IN THIS SECTION.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE NOTIFICATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE GIVEN TO THE INDIVIDUAL BY SENDING NOTIFICATION BY E-MAIL TO THE E-MAIL ACCOUNT AFFECTED BY THE BREACH.

(II) THE NOTIFICATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE GIVEN BY A CLEAR AND CONSPICUOUS NOTICE DELIVERED TO THE INDIVIDUAL ONLINE WHILE THE INDIVIDUAL IS CONNECTED TO THE AFFECTED E-MAIL ACCOUNT FROM AN INTERNET PROTOCOL ADDRESS OR ONLINE LOCATION FROM WHICH THE BUSINESS KNOWS THE INDIVIDUAL CUSTOMARILY ACCESSES THE ACCOUNT.

⊕ **(J)** A waiver of any provision of this section is contrary to public policy and is void and unenforceable.

⊕ **(K)** Compliance with this section does not relieve a business from a duty to comply with any other requirements of federal law relating to the protection and privacy of personal information.

14-3505.

The provisions of this subtitle are exclusive and shall preempt any provision of local law.

14-3506.

(a) If a business is required under § 14–3504 of this subtitle to give notice of a breach of the security of a system to 1,000 or more individuals, the business also shall notify, ~~[without unreasonable delay] NOT LATER THAN 30 DAYS AFTER NOTICE OF A BREACH IS GIVEN TO INDIVIDUALS~~, each consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, as defined by 15 U.S.C. § 1681a(p), of the timing, distribution, and content of the notices.

(b) This section does not require the inclusion of the names or other personal identifying information of recipients of notices of the breach of the security of a system.

14–3507.

(a) In this section, “affiliate” means a company that controls, is controlled by, or is under common control with a business described in subsection (c)(1) **OR (D)(1)** of this section.

(b) A business that complies with the requirements for notification procedures, the protection or security of personal information, or the destruction of personal information under the rules, regulations, procedures, or guidelines established by the primary or functional federal or State regulator of the business shall be deemed to be in compliance with this subtitle.

(c) (1) A business that is subject to and in compliance with § 501(b) of the federal Gramm–Leach–Bliley Act, 15 U.S.C. § 6801, § 216 of the federal Fair and Accurate Credit Transactions Act, 15 U.S.C. § 1681w, the federal Interagency Guidelines Establishing Information Security Standards, and the federal Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice, and any revisions, additions, or substitutions, shall be deemed to be in compliance with this subtitle.

(2) An affiliate that complies with § 501(b) of the federal Gramm–Leach–Bliley Act, 15 U.S.C. § 6801, § 216 of the federal Fair and Accurate Credit Transactions Act, 15 U.S.C. § 1681w, the federal Interagency Guidelines Establishing Information Security Standards, and the federal Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice, and any revisions, additions, or substitutions, shall be deemed to be in compliance with this subtitle.

(D) (1) A BUSINESS THAT IS SUBJECT TO AND IN COMPLIANCE WITH THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 SHALL BE DEEMED TO BE IN COMPLIANCE WITH THIS SUBTITLE.

(2) AN AFFILIATE THAT IS IN COMPLIANCE WITH THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 SHALL BE DEEMED TO BE IN COMPLIANCE WITH THIS SUBTITLE.

14–3508.

A violation of this subtitle:

- (1) Is an unfair or deceptive trade practice within the meaning of Title 13 of this article; and
- (2) 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~~ January 1, 2017 ~~2018~~.

Approved by the Governor, May 4, 2017.

Chapter 519

(House Bill 1386)

AN ACT concerning

Maryland Public Ethics Law – Members and Employees of Boards of License Commissioners and Liquor Control Boards

FOR the purpose of making State restrictions and requirements of the Maryland Public Ethics Law apply to members and employees of certain boards of license commissioners and liquor control boards by adding the members and employees of the boards to a certain list of public officials; establishing an exception for certain counties; altering a or repealing certain definition provisions to remove members and employees of boards of license commissioners from the scope of certain provisions of law that apply to counties and municipal corporations; and generally relating to members and employees of boards of license commissioners and the Maryland Public Ethics Law.

BY repealing and reenacting, without amendments,
Article – General Provisions
Section 5–101(a)
Annotated Code of Maryland
(2014 Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – General Provisions
Section ~~5–101(y) and 5–103(b)~~ 5–101(m)(2) and (y), 5–103(b), 5–601(d), and 5–801
Annotated Code of Maryland
(2014 Volume and 2016 Supplement)

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

Article – General Provisions

5–101.

(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) (2) “Executive unit” includes:

(i) a county health department unless the officials and employees of the department are expressly designated as local officials in § 5–801 of this title;

(ii) the office of the sheriff in each county; AND

(iii) the office of the State’s Attorney in each county]; and

(iv) the Liquor Control Board for Somerset County].

(y) [(1)] “Local official”, subject to § 5–801 of this title, means an official, officer, or employee of a county or municipal corporation that the governing body of the county or municipal corporation determines is subject to Subtitle 8, Part II of this title.

[(2)] “Local official”, subject to § 5–801 of this title, includes each member and employee of a board of license commissioners that the applicable governing body determines is subject to Subtitle 8, Part II of this title.]

5–103.

(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 § 5–208 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 an individual with decision–making 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 an individual with decision-making 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; AND

(6) EXCEPT IN COUNTIES IN WHICH A COUNTY COUNCIL OR BOARD OF COUNTY COMMISSIONERS SITS AS A BOARD OF LICENSE COMMISSIONERS OR A LIQUOR CONTROL BOARD, A MEMBER OR EMPLOYEE OF A BOARD OF LICENSE COMMISSIONERS OR A LIQUOR CONTROL BOARD.

5-601.

(d) [(1) An individual who is a public official only as a member of a board and who receives annual compensation that is less than 25% of the lowest annual compensation at State grade level 16 shall file the statement required by subsection (a) of this section in accordance with § 5-609 of this subtitle.

[(2) A member of the Harford County Liquor Control Board shall file the statement required by subsection (a) of this section in accordance with § 5-609 of this subtitle.]

5-801.

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

(b) “Lobbying” means performing acts, of a nature comparable to acts requiring registration under Subtitle 7 of this title, before the local government involved.

(c) (1) In Baltimore City, “local official” includes:

Department;

(i) city employees and officials of the Baltimore City Health

(ii) employees and members of the Baltimore City Board of Liquor License Commissioners;

(iii) the Police Commissioner of Baltimore City and the civilian employees and police officers of the Police Department of Baltimore City; and

[(iv)] (III) members and employees of the Civilian Review Board.

(2) In Baltimore County, “local official” includes:

(i) board members and the chief executive of the Baltimore County Revenue Authority; and

(ii) for the purpose of the financial disclosure provisions enacted by the governing body of Baltimore County, except for a member of the Baltimore County Board of Education, members of a board of a State agency that is wholly or partly funded by Baltimore County, regardless of whether a member is compensated.

(3) In Montgomery County, “local official” includes:

(i) members and employees of the Montgomery County Revenue Authority;

(ii) commissioners and employees of the Montgomery County Housing Opportunities Commission; and

(iii) county employees of the Montgomery County Department of Health and Human Services.

(4) [In Prince George’s County, “local official” includes:

(i) members of the Board of License Commissioners;

(ii) inspectors of the Board of License Commissioners, including the chief inspector;

(iii) the administrator of the Board of License Commissioners; and

(iv) the attorney to the Board of License Commissioners.

(5) In St. Mary’s County, “local official” includes commissioners and employees of the St. Mary’s County Metropolitan Commission.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 520

(House Bill 595)

AN ACT concerning

**Mortgages and Deeds of Trust – ~~Certification Requirement for Recordation~~ –
~~Repeal~~ Prerequisites to Recording**

FOR the purpose of repealing the requirement that a mortgage or deed of trust bear a certain ~~attorney~~ certification ~~or a certification~~ that the instrument was prepared by a certain ~~party~~ person in order to be recorded; providing that a deed other than a mortgage, deed of trust, or an assignment or release of a mortgage or deed of trust may not be recorded unless the instrument bears certain certification of preparation; providing that a mortgage, deed of trust, or an assignment or release of a mortgage or deed prepared by any attorney or one of the parties named in the instrument may be recorded without certain certification; making a certain stylistic change; defining a certain term; and generally relating to the recording of mortgages and deeds of trust.

BY repealing and reenacting, without amendments,

Article – Real Property

Section 1–101(a), (c), (d), (e), (h), and (i)

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Real Property

Section 3–104(f)(1)

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

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

Article – Real Property

1–101.

(a) In this article the following words have the meanings indicated unless otherwise apparent from context.

(c) “Deed” includes any deed, grant, mortgage, deed of trust, lease, assignment, and release, pertaining to land or property or any interest therein or appurtenant thereto, including an interest in rents and profits from rents.

(d) “Deed of trust” means only a deed of trust which secures a debt or the performance of an obligation, and does not include a voluntary grant unrelated to security purposes.

(e) “Grant” includes conveyance, assignment, and transfer.

(h) “Lease” means any oral or written agreement, express or implied, creating a landlord and tenant relationship, including any “sublease” and any further sublease.

(i) “Mortgage” means any mortgage, including a deed in the nature of mortgage.

3-104.

(f) (1) **(I) IN THIS PARAGRAPH, “UNDER THE ATTORNEY’S SUPERVISION” INCLUDES REVIEW OF AN INSTRUMENT BY THE CERTIFYING ATTORNEY.**

(II) ~~No deed, mortgage, or deed of trust~~ may A DEED OTHER THAN A MORTGAGE, DEED OF TRUST, OR AN ASSIGNMENT OR RELEASE OF A MORTGAGE OR DEED OF TRUST MAY NOT be recorded unless it bears:

1. ~~the~~ THE certification of an attorney [at law] ADMITTED TO THE BAR OF THIS STATE that the instrument has been prepared by ~~an~~ **THE** attorney or under ~~an~~ **THE** attorney’s supervision, ~~or a~~; **OR**

2. A certification BY A PARTY NAMED IN THE INSTRUMENT that the instrument was prepared by ~~one of the parties named in the instrument~~ **THAT PARTY.**

(III) A MORTGAGE, DEED OF TRUST, OR AN ASSIGNMENT OR RELEASE OF A MORTGAGE OR DEED OF TRUST PREPARED BY ANY ATTORNEY OR ONE OF THE PARTIES NAMED IN THE INSTRUMENT MAY BE RECORDED WITHOUT THE CERTIFICATION REQUIRED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 521

(Senate Bill 376)

AN ACT concerning

~~**Mortgages and Deeds of Trust – Certification Requirement for Recordation –
Repeal Real Property – Certification Requirement for Recordation**~~
Mortgages and Deeds of Trust – Prerequisites to Recording

FOR the purpose of repealing the requirement that a mortgage or deed of trust bear a certain ~~attorney~~ certification ~~or a certification~~ that the instrument was prepared by a certain ~~party~~ *person* in order to be recorded; ~~requiring that a deed or lease bear a certain attorney certification or a certification that the instrument was prepared by a certain party in order to be recorded; providing that the clerk of the circuit court may record a mortgage or deed of trust prepared by one of the parties named in the instrument without a certain certification~~ *providing that a deed other than a mortgage, deed of trust, or an assignment or release of a mortgage or deed of trust may not be recorded unless the instrument bears certain certification of preparation; providing that a mortgage, deed of trust, or an assignment or release of a mortgage or deed prepared by any attorney or one of the parties named in the instrument may be recorded without certain certification*; making a certain stylistic change; ~~defining a certain ~~terms~~ term~~; and generally relating to the recording of mortgages and deeds of trust.

BY repealing and reenacting, without amendments,

Article – Real Property

Section 1–101(a), (c), (d), (e), (h), and (i)

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Real Property

Section 3–104(f)(1)

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

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

Article – Real Property

1–101.

(a) In this article the following words have the meanings indicated unless otherwise apparent from context.

(c) “Deed” includes any deed, grant, mortgage, deed of trust, lease, assignment, and release, pertaining to land or property or any interest therein or appurtenant thereto, including an interest in rents and profits from rents.

(d) “Deed of trust” means only a deed of trust which secures a debt or the performance of an obligation, and does not include a voluntary grant unrelated to security purposes.

(e) “Grant” includes conveyance, assignment, and transfer.

(h) “Lease” means any oral or written agreement, express or implied, creating a landlord and tenant relationship, including any “sublease” and any further sublease.

(i) “Mortgage” means any mortgage, including a deed in the nature of mortgage.

3-104.

(f) (1) ~~(I) 1. IN THIS PARAGRAPH THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~2. A. “DEED” MEANS A WRITTEN INSTRUMENT THAT CONVEYS LEGAL TITLE TO PROPERTY.~~

~~B. “DEED” DOES NOT INCLUDE:~~

~~I. A DEED OF TRUST;~~

~~II. A MORTGAGE;~~

~~III. AN INSTRUMENT OR THE ASSIGNMENT OF AN INSTRUMENT THAT CREATES OR GIVES NOTICE OF A SECURITY INTEREST IN PROPERTY; OR~~

~~IV. AN INSTRUMENT THAT TERMINATES OR PARTIALLY TERMINATES A LIEN CREATED BY A DEED OF TRUST, A MORTGAGE, OR AN INSTRUMENT THAT CREATES OR GIVES NOTICE OF A SECURITY INTEREST.~~

~~3. “UNDER, “UNDER THE ATTORNEY’S SUPERVISION” INCLUDES REVIEW OF AN INSTRUMENT BY THE CERTIFYING ATTORNEY.~~

~~(II) No deed[, mortgage, or deed of trust] OR LEASE may be recorded~~

(II) A DEED OTHER THAN A MORTGAGE, DEED OF TRUST, OR AN ASSIGNMENT OR RELEASE OF A MORTGAGE OR DEED OF TRUST MAY NOT BE RECORDED unless it bears:

1. ~~the~~ **THE** certification of an attorney [at law] **ADMITTED TO THE BAR OF THIS STATE** that the instrument has been prepared by ~~an~~ **THE** attorney or under ~~an~~ **THE** attorney's supervision, ~~or a~~; **OR**

2. **A** certification **BY A PARTY NAMED IN THE INSTRUMENT** that the instrument was prepared by ~~one of the parties named in the instrument~~ **THAT PARTY.**

~~(III) THE CLERK OF THE CIRCUIT COURT MAY RECORD A MORTGAGE OR DEED OF TRUST PREPARED BY A MORTGAGE, DEED OF TRUST, OR AN ASSIGNMENT OR RELEASE OF A MORTGAGE OR DEED OF TRUST PREPARED BY ANY ATTORNEY OR ONE OF THE PARTIES NAMED IN THE INSTRUMENT MAY BE RECORDED WITHOUT THE CERTIFICATION REQUIRED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 522

(House Bill 627)

AN ACT concerning

Motor Fuel Tax Refund – Demand Response Trips

FOR the purpose of adding certain vehicles used to provide certain services to those vehicles that qualify for a certain motor fuel tax refund; ~~limiting the amount of a motor fuel tax refund for certain vehicles used to provide certain services to a certain percentage of motor fuel tax paid;~~ defining a certain term; and generally relating to claims for motor fuel tax refunds.

BY repealing and reenacting, with amendments,

Article – Tax – General
Section 13–101 and 13–901(f)
Annotated Code of Maryland
(2016 Replacement Volume)

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

Article – Tax – General

13–101.

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

(b) **(1) “DEMAND RESPONSE TRIP” MEANS THE CARRIAGE OF A PASSENGER WHO IS UNABLE TO USE REGULAR SCHEDULE, FIXED TERMINI SERVICES.**

(2) “DEMAND RESPONSE TRIP” INCLUDES A TRIP THAT IS REQUIRED UNDER THE FEDERAL AMERICANS WITH DISABILITIES ACT.

(c) “Governmental unit” means:

(1) this State or a political subdivision, unit, or instrumentality of this State;

(2) another state or a political subdivision, unit, or instrumentality of that state; and

(3) a unit or instrumentality of a political subdivision of this State or of another state.

[(c)] (D) (1) “Tax collector” means the person or governmental unit responsible for collecting a tax.

(2) “Tax collector” includes:

(i) the Comptroller;

(ii) the Department, with respect to:

1. the financial institution franchise tax; and

2. the public service company franchise tax; and

(iii) the registers of wills, with respect to the inheritance tax.

13–901.

(f) (1) Except as provided in paragraph (3) of this subsection, a claim for refund of motor fuel tax may be filed by a claimant who pays the tax on:

(i) aviation fuel, as defined in § 9–101 of this article, that is:

1. dispensed to aircraft by an aircraft manufacturing company located in the State; or

2. used:

A. by a person who engages in agricultural activities; and

B. in an aircraft that is used for agricultural purposes at least 70% of the time that the aircraft is used; or

(ii) motor fuel, as defined in § 9–101 of this article, that:

1. is used to operate:

A. a bus that is used only in the operation of a transportation system of a political subdivision of the State to transport the public on regular schedules between fixed termini, as defined in Title 11 of the Transportation Article;

B. farm equipment that is used for an agricultural purpose and is not registered to operate on a public highway;

C. fire or rescue apparatus or vehicles by a volunteer fire company or nonprofit volunteer rescue company incorporated in the State;

D. an internal combustion engine that is installed permanently at a fixed location; [or]

E. a vehicle that is owned and used by a Maryland chapter of the American Red Cross or a bona fide unit of a national veterans' organization; **OR**

F. A VEHICLE THAT IS USED ONLY IN THE OPERATION OF A TRANSPORTATION SYSTEM OF A POLITICAL SUBDIVISION OF THE STATE TO TRANSPORT THE PUBLIC ON DEMAND RESPONSE TRIPS;

2. is bought by:

A. the United States or a unit of the United States government;

B. the Department of General Services for use by State agencies;

C. a county board of education for use in a school bus owned by a county board of education;

D. a school bus operator under contract with a county board of education for use in a school bus used to transport the county's public school students; or

E. a person who is required to pay a tax on the same fuel to another state;

3. except for any operation of a motor vehicle on a public highway in the State, is used for a commercial purpose, including:

A. the operation of a vessel used only for commercial purposes;

B. commercial cleaning; or

C. commercial dyeing;

4. is used in any of the following vehicles that have pumping or other equipment mechanically or hydraulically driven by the engine that propels the vehicle:

A. a concrete mixing motor vehicle or concrete pump truck;

B. a motor fuel delivery vehicle;

C. a solid waste compacting vehicle;

D. a well-drilling vehicle; or

E. farm equipment registered as a vehicle for highway use that is designed or adapted solely and used exclusively for bulk farm spreading of agriculture liming materials, chemicals, or fertilizer;

5. is used by a system of transportation based in the State, in a vehicle that is used to provide transportation to elderly or low income individuals, or individuals with disabilities, if the system is operated by a nonprofit organization for purposes relating to the charge for which the nonprofit organization was established and the nonprofit organization:

A. is exempt for federal income tax purposes under § 501(c) of the Internal Revenue Code;

B. is funded to provide transportation to elderly or low income individuals, or individuals with disabilities;

C. receives part of its operating funding from the Maryland Department of Transportation or the Maryland Department of Health and Mental Hygiene;

D. has stated in its charter or bylaws that operating transportation services for elderly or low income individuals, or individuals with disabilities, is one of the purposes for which it was established; and

E. is actively operating a system of transportation for elderly or low income individuals, or individuals with disabilities; or

6. is lost as a result of fire, collision, or other casualty, except for loss in ordinary transportation and storage.

(2) A refund based on a claim under paragraph (1)(ii)4 of this subsection may not exceed the following percentages of the motor fuel tax paid:

(i) 35% for a concrete mixing vehicle or concrete pump truck;

(ii) 55% for farm equipment, registered as a vehicle for highway use, that is designed or adapted solely and used exclusively for bulk spreading of agriculture liming materials, chemicals, or fertilizers;

(iii) 10% for a motor fuel delivery vehicle;

(iv) 15% for a solid waste compacting vehicle; and

(v) 80% for a well-drilling vehicle.

(3) A person may not make a claim for a refund of motor fuel tax under paragraph (1)(ii)1B of this subsection for motor fuel used to operate a farm truck under the provisions of § 8-602(c) of the Transportation Article.

~~(4) A REFUND BASED ON A CLAIM UNDER PARAGRAPH (1)(II)1F OF THIS SUBSECTION MAY NOT EXCEED 20% OF THE MOTOR FUEL TAX PAID.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 523

(House Bill 1345)

AN ACT concerning

National Capital Strategic Economic Development Fund

FOR the purpose of establishing the National Capital Strategic Economic Development Fund as a special, nonlapsing fund; specifying the purpose of the Fund; requiring the Department of Housing and Community Development to administer the Fund; requiring the State Treasurer to hold the Fund and the Comptroller to account for the Fund; specifying the contents of the Fund; specifying the purpose for which the Fund may be used; specifying certain eligibility criteria for awarding grants from the Fund; requiring interest earnings of the Fund to be credited to the Fund; requiring an appropriation to the Fund to be allocated in a certain manner; exempting the Fund from a certain provision of law requiring interest on State money in special funds to accrue to the General Fund of the State; defining a certain term; and generally relating to the National Capital Strategic Economic Development Fund.

BY adding to

Article – Housing and Community Development
Section 4–510
Annotated Code of Maryland
(2006 Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement
Section 6–226(a)(2)(i)
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement
Section 6–226(a)(2)(ii)94. and 95.
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY adding to

Article – State Finance and Procurement
Section 6–226(a)(2)(ii)96.
Annotated Code of Maryland
(2015 Replacement Volume and 2016 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

4–510.

(A) IN THIS SECTION, “FUND” MEANS THE NATIONAL CAPITAL STRATEGIC ECONOMIC DEVELOPMENT FUND.

(B) THERE IS A NATIONAL CAPITAL STRATEGIC ECONOMIC DEVELOPMENT FUND.

(C) THE PURPOSE OF THE FUND IS TO PROVIDE GRANTS ~~AND LOANS~~ TO ASSIST IN PREDEVELOPMENT ACTIVITIES FOR COMMERCIAL AND RESIDENTIAL DEVELOPMENT, INCLUDING SITE ACQUISITION, LAND ASSEMBLY, ARCHITECTURE AND ENGINEERING, AND SITE DEVELOPMENT FOR REVITALIZATION ~~PROJECTS~~ IN DESIGNATED AREAS OF THE STATE.

(D) THE DEPARTMENT SHALL ADMINISTER THE FUND.

(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF:

(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(2) INTEREST EARNINGS OF THE FUND; AND

(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(G) (1) (I) THE FUND MAY BE USED ONLY TO PROVIDE GRANTS TO GOVERNMENT AGENCIES AND NONPROFIT COMMUNITY DEVELOPMENT ORGANIZATIONS FOR COMMERCIAL OR RESIDENTIAL DEVELOPMENT PROJECTS FOR SITE ACQUISITION, LAND ASSEMBLY, ARCHITECTURE AND ENGINEERING, AND SITE DEVELOPMENT FOR REVITALIZATION ~~PROJECTS~~ IN AN AREA DESIGNATED AS A SUSTAINABLE COMMUNITY.

(II) COMMERCIAL AND RESIDENTIAL DEVELOPMENT PROJECTS INCLUDE:

1. RENOVATION AND REHABILITATION OF SINGLE FAMILY HOMES;

2. ACQUISITION AND REHABILITATION OF VACANT HOMES FOR RESALE TO NEW HOMEBUYERS;

3. IMPROVEMENTS TO BUSINESS PROPERTIES;

4. ENHANCEMENT OF COMMUNITY OPEN SPACE OR PUBLIC INFRASTRUCTURE; AND

5. WORKFORCE AND EMPLOYMENT DEVELOPMENT PROGRAMS.

(2) (I) FOR FISCAL YEAR 2019 AND EACH FISCAL YEAR THEREAFTER, TO BE ELIGIBLE FOR A GRANT FROM THE FUND, A GOVERNMENT AGENCY OR NONPROFIT COMMUNITY DEVELOPMENT ORGANIZATION SHALL PROVIDE EVIDENCE OF A MATCHING FUND THAT IS EQUAL TO \$1 FOR EVERY \$4 IN STATE FUNDING THAT THE AGENCY OR ORGANIZATION IS APPLYING FOR FROM THE FUND.

(II) THE MATCHING FUND REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY INCLUDE:

1. MONEY FROM THE FEDERAL GOVERNMENT, LOCAL GOVERNMENT, OR ANY OTHER PUBLIC OR PRIVATE SOURCE;
2. REAL PROPERTY;
3. IN-KIND CONTRIBUTIONS; AND
4. FUNDS EXPENDED BEFORE THE DATE THE GRANT IS AWARDED.

(3) THE DEPARTMENT SHALL AWARD GRANTS FROM THE FUND ON A COMPETITIVE BASIS.

(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

(J) IF THE GOVERNOR INCLUDES IN THE ANNUAL BUDGET BILL AN APPROPRIATION TO THE FUND, THE APPROPRIATION SHALL BE ALLOCATED AS FOLLOWS:

(1) 85% FOR PROJECTS IN THOSE AREAS OF THE STATE LOCATED BETWEEN INTERSTATE HIGHWAY 495 AND THE DISTRICT OF COLUMBIA; AND

(2) 15% FOR PROJECTS THROUGHOUT THE STATE.**Article – State Finance and Procurement**

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

94. the Community Program Fund; [and]

95. the Maryland Corps Program Fund; AND

96. THE NATIONAL CAPITAL STRATEGIC ECONOMIC DEVELOPMENT FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 524

(House Bill 792)

AN ACT concerning

Office of Legislative Audits – Performance Audits of Boards of License Commissioners – Required – Local Alcoholic Beverages Licensing Boards

FOR the purpose of requiring the Office of Legislative Audits, at ~~least once every certain number of years~~ any time on request of certain officers, to conduct a certain performance audit of the ~~Board of License Commissioners~~ local alcoholic beverages licensing board for each a county and or the City of Annapolis, rather than for only Baltimore City; altering the frequency with which the Office is required to audit the Board of License Commissioners for Baltimore City; authorizing the employees and

authorized representatives of the Office of Legislative Audits to have access to certain records for a certain purpose; exempting certain audit reports from the requirement that the Legislative Auditor send copies of audit reports to certain individuals; requiring certain audit reports to be sent to certain persons; and generally relating to performance audits conducted by the Office of Legislative Audits.

BY repealing and reenacting, with amendments,
 Article – State Government
 Section 2–1220(f), *2–1223(a), and 2–1224(a), (d), and (e)*
 Annotated Code of Maryland
 (2014 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 2–1224(b) and (c)
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

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

Article – State Government

2–1220.

(f) (1) At least once every ~~4~~ 6 years, the Office of Legislative Audits shall conduct a performance audit of the Board of ~~Liquor~~ License Commissioners ~~for Baltimore City~~ ~~FOR EACH COUNTY AND THE CITY OF ANNAPOLIS~~ to evaluate the effectiveness and efficiency of the management practices of ~~the Board~~ ~~EACH BOARD~~ and of the economy with which ~~the Board~~ ~~EACH BOARD~~ uses resources.

(2) AT ANY TIME ON REQUEST OF THE PRESIDENT AND THE SPEAKER, THE OFFICE SHALL CONDUCT A PERFORMANCE AUDIT OF THE LOCAL LICENSING BOARD, AS DEFINED IN § 1–101 OF THE ALCOHOLIC BEVERAGES ARTICLE, FOR A COUNTY OR FOR THE CITY OF ANNAPOLIS TO EVALUATE THE EFFECTIVENESS AND EFFICIENCY OF THE MANAGEMENT PRACTICES OF THE BOARD AND OF THE ECONOMY WITH WHICH THE BOARD USES RESOURCES.

~~(2)~~ (3) The performance audit shall focus on operations relating to liquor inspections, licensing, disciplinary procedures, and management oversight.

2–1223.

(a) (1) Except as prohibited by the federal Internal Revenue Code, during an examination, the employees or authorized representatives of the Office of Legislative Audits shall have access to and may inspect the records, including those that are confidential by

law, of any unit of the State government or of a person or other body receiving State funds, with respect to any matter under the jurisdiction of the Office of Legislative Audits.

(2) In conjunction with an examination authorized under this subtitle, the access required by paragraph (1) of this subsection shall include the records of contractors and subcontractors that perform work under State contracts.

(3) The employees or authorized representatives of the Office of Legislative Audits shall have access to and may inspect the records, including those that are confidential by law, of:

(i) any local school system to perform the audits authorized under § 2-1220 of this subtitle or in accordance with a request for information as provided in § 5-114(d) of the Education Article; [and]

(ii) the Board of Liquor License Commissioners for Baltimore City to perform the audits authorized under [§ 2-1220(f)] § 2-1220(F)(1) of this subtitle; AND

(III) THE BOARD OF LICENSE COMMISSIONERS FOR A COUNTY OR FOR THE CITY OF ANNAPOLIS TO PERFORM THE AUDITS AUTHORIZED UNDER § 2-1220(F)(2) OF THIS SUBTITLE.

2-1224.

(a) In this section, “unit” includes:

(1) the Board of Liquor License Commissioners for Baltimore City; AND

(2) THE BOARD OF LICENSE COMMISSIONERS FOR A COUNTY OR FOR THE CITY OF ANNAPOLIS SUBJECT TO AN AUDIT UNDER § 2-1220(F)(2) OF THIS SUBTITLE.

(b) Except with the written approval of the Legislative Auditor, an employee or authorized representative of the Office of Legislative Audits shall submit any report of findings only to the Legislative Auditor.

(c) (1) On the completion of each examination, the Legislative Auditor shall submit a full and detailed report to the Joint Audit Committee.

(2) A report shall include:

(i) the findings;

(ii) any appropriate recommendations for changes in record keeping or in other conduct of the unit or body that is the subject of the report; and

(iii) any response of that unit or body, subject to procedures approved by the Joint Audit Committee.

(d) The Legislative Auditor shall send a copy of the report to:

(1) the President of the Senate and the Speaker of the House of Delegates;

(2) the Chairmen of the Senate Budget and Taxation and House Appropriations Committees;

(3) members of the General Assembly, subject to § 2-1246 of this subtitle;

(4) the Governor, unless the report is of the Board of Liquor License Commissioners for Baltimore City OR THE BOARD OF LICENSE COMMISSIONERS FOR A COUNTY OR FOR THE CITY OF ANNAPOLIS SUBJECT TO AN AUDIT UNDER § 2-1220(F)(2) OF THIS SUBTITLE;

(5) the Comptroller;

(6) the State Treasurer, unless the report is of the Board of Liquor License Commissioners for Baltimore City OR THE BOARD OF LICENSE COMMISSIONERS FOR A COUNTY OR FOR THE CITY OF ANNAPOLIS SUBJECT TO AN AUDIT UNDER § 2-1220(F)(2) OF THIS SUBTITLE;

(7) the Attorney General, unless the report is of the Board of Liquor License Commissioners for Baltimore City OR THE BOARD OF LICENSE COMMISSIONERS FOR A COUNTY OR FOR THE CITY OF ANNAPOLIS SUBJECT TO AN AUDIT UNDER § 2-1220(F)(2) OF THIS SUBTITLE;

(8) the unit or body that is the subject of the report;

(9) the Secretary of Budget and Management, unless the report is of the Board of Liquor License Commissioners for Baltimore City OR THE BOARD OF LICENSE COMMISSIONERS FOR A COUNTY OR FOR THE CITY OF ANNAPOLIS SUBJECT TO AN AUDIT UNDER § 2-1220(F)(2) OF THIS SUBTITLE;

(10) the Executive Director; and

(11) any other person whom the Joint Audit Committee specifies.

(e) In addition to the requirements of subsection (d) of this section, each report of:

(1) a local school system shall be distributed to the chair of the House Ways and Means Committee and the cochairs of the Joint Committee on the Management of Public Funds; [and]

(2) the Board of Liquor License Commissioners for Baltimore City shall be distributed to the chair of the Baltimore City delegation and the chair of the Baltimore City senators; AND

(3) THE BOARD OF LICENSE COMMISSIONERS FOR A COUNTY OR FOR THE CITY OF ANNAPOLIS SUBJECT TO AN AUDIT UNDER § 2-1220(F)(2) OF THIS SUBTITLE SHALL BE DISTRIBUTED TO:

(I) THE GOVERNING BODY, AS DEFINED IN § 1-101 OF THE LOCAL GOVERNMENT ARTICLE, OF THE COUNTY OR THE CITY OF ANNAPOLIS;

(II) THE CHAIR OF THE COUNTY'S HOUSE DELEGATION TO THE GENERAL ASSEMBLY; AND

(III) THE CHAIR OF THE COUNTY'S SENATE DELEGATION TO THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 525

(House Bill 880)

AN ACT concerning

Open Meetings Act – ~~Required Training for Members of Public Bodies~~ Annual Reporting Requirement, Web Site Postings, and Training

FOR the purpose of ~~repealing the requirement that a public body designate a certain individual to receive training on the Open Meetings Act and forward a certain list to the Open Meetings Compliance Board; requiring that certain individuals complete certain classes or submit a letter stating certain information to the Board within a certain period of time after becoming a member of a public body; requiring an individual who is a member of a public body on the effective date of this Act to comply with certain provisions of this Act on or before a certain date except under certain circumstances; and generally relating to required training for members of public bodies regarding~~ requiring the *State Open Meetings Law Compliance Board*, in conjunction with the Office of the Attorney General, to distribute certain educational materials to the staff and attorneys for certain entities; adding the Maryland Association of Boards of Education to the entities the Board, in conjunction with the Office of the Attorney General, is required to develop and conduct certain educational

programs for; altering the annual reporting requirement of the ~~State Open Meetings Law Compliance~~ Board to require that certain information on certain violations be reported; requiring the Board to post certain information on a certain Web site; repealing a requirement that certain public bodies forward a certain list to the Board; prohibiting a public body from meeting in a closed session unless the public body designates at least a certain number of members to receive the training; requiring that certain designated individuals attend certain meetings or that certain public bodies include a certain checklist in certain minutes; requiring the Board, the University of Maryland's Institute for Governmental Service and Research, and the Academy for Excellence in Local Governance in the University of Maryland's School of Public ~~Health~~ Policy to collaborate with certain entities to determine a certain cost-benefit analysis, develop a certain list of contacts, and report to certain committees of the General Assembly on or before a certain date; defining a certain term; and generally relating to the annual reporting requirement, Web site postings, and training under the Open Meetings Act.

BY adding to

Article – General Provisions
Section 3-101(d-1)
Annotated Code of Maryland
(2014 Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
 Article – General Provisions
 Section 3-204(d) and (e), 3-211, and 3-213
 Annotated Code of Maryland
 (2014 Volume and 2016 Supplement)

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

Article – General Provisions

3-101.

(D-1) “CLASS ON THE OPEN MEETINGS LAW” MEANS:

(1) AN ONLINE CLASS ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW OFFERED BY THE OFFICE OF THE ATTORNEY GENERAL AND THE UNIVERSITY OF MARYLAND’S INSTITUTE FOR GOVERNMENTAL SERVICE AND RESEARCH;

(2) A CLASS ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW OFFERED BY THE MARYLAND ASSOCIATION OF COUNTIES OR THE MARYLAND MUNICIPAL LEAGUE THROUGH THE ACADEMY FOR EXCELLENCE IN LOCAL GOVERNANCE; OR

(3) A CLASS ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW OFFERED BY THE MARYLAND ASSOCIATION OF BOARDS OF EDUCATION THROUGH THE BOARDSMANSHIP ACADEMY PROGRAM.

3-204.

(d) The Board, in conjunction with the Office of the Attorney General and other interested organizations or persons, shall develop and conduct educational programs AND DISTRIBUTE EDUCATIONAL MATERIALS on the requirements of the open meetings law for the staffs and attorneys of:

- (1) public bodies;
- (2) the Maryland Municipal League; [and]
- (3) the Maryland Association of Counties; AND
- (4) THE MARYLAND ASSOCIATION OF BOARDS OF EDUCATION.

(e) (1) On or before October 1 of each year, the Board shall submit an annual report to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly.

(2) The report shall:

- (i) describe the activities of the Board;
- (ii) describe the opinions of the Board;

(iii) state the number and nature of complaints filed with the Board and discuss complaints that reasonable notice of a meeting was not given; [and]

(IV) IDENTIFY THE PROVISIONS OF THIS TITLE THAT THE BOARD HAS FOUND A PUBLIC BODY TO HAVE VIOLATED AND THE NUMBER OF TIMES EACH PROVISION HAS BEEN VIOLATED;

(V) IDENTIFY EACH PUBLIC BODY THAT THE BOARD HAS FOUND TO HAVE VIOLATED A PROVISION OF THIS TITLE; AND

[(iv)](VI) recommend any improvements to this title.

3-211.

(A) THIS SECTION DOES NOT APPLY TO A PUBLIC BODY THAT IS:

(1) IN THE JUDICIAL BRANCH OF STATE GOVERNMENT; OR

(2) SUBJECT TO GOVERNANCE BY RULES ADOPTED BY THE COURT OF APPEALS.

[(a)](B) If the Board determines that a violation of this title has occurred:

(1) at the next open meeting of the public body after the Board has issued its opinion, a member of the public body shall announce the violation and orally summarize the opinion; and

(2) a majority of the members of the public body shall sign a copy of the opinion and return the signed copy to the Board.

[(b)](C) The public body may not designate its counsel or another representative to provide the announcement and summary.

[(c)](D) Compliance by a public body or a member of a public body with subsections [(a) and (b)] (B) AND (C) of this section:

(1) is not an admission to a violation of this title by the public body; and

(2) may not be used as evidence in a proceeding conducted in accordance with § 3-401 of this title.

(E) IF THE BOARD DETERMINES THAT A PUBLIC BODY HAS VIOLATED A PROVISION OF THIS TITLE, THE BOARD SHALL POST ON THE MARYLAND OPEN MEETINGS ACT PAGE OF THE OFFICE OF THE ATTORNEY GENERAL WEB SITE THE NAME OF THE PUBLIC BODY AND THE OPINION THAT DESCRIBES THE VIOLATION.

3-213.

(A) THIS SECTION DOES NOT APPLY TO A PUBLIC BODY THAT IS:

(1) IN THE JUDICIAL BRANCH OF STATE GOVERNMENT; OR

(2) SUBJECT TO GOVERNANCE BY RULES ADOPTED BY THE COURT OF APPEALS.

~~[(a)]~~ **(B)** Each public body shall:

~~(1)~~ designate at least one individual who is an employee, an officer, or a member of the public body to receive training on the requirements of the open meetings law; ~~and~~

~~(2) forward a list of the individuals designated under item (1) of this subsection to the Board.~~

~~(b)~~ **(C)** Within 90 days after ~~being~~ designated under subsection ~~(a)(1)~~ **(B)** of this section, ~~BECOMING A MEMBER OF A PUBLIC BODY~~, an individual shall:

~~(1) complete:~~

~~[(1)] (I) an online class on the requirements of the open meetings law offered by the Office of the Attorney General and the University of Maryland's Institute for Governmental Service and Research; or~~

~~[(2)] (II) a class on the requirements of the open meetings law offered by the Maryland Association of Counties or the Maryland Municipal League through the Academy for Excellence in Local Governance; OR~~

~~(2) SUBMIT A LETTER TO THE BOARD STATING THAT THE INDIVIDUAL IS UNABLE OR UNWILLING TO COMPLETE A CLASS AS DESCRIBED IN ITEM (1) OF THIS SUBSECTION. COMPLETE A CLASS ON THE OPEN MEETINGS LAW.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That an individual who is a member of a public body on the effective date of this Act shall comply with § 3-213 of the General Provisions Article, as enacted by Section 1 of this Act, on or before January 1, 2018, unless the individual completed a class as described in § 3-213 of the General Provisions Article, as enacted by Section 1 of this Act, on or before September 30, 2017.~~

(D) (1) THIS SUBSECTION APPLIES TO A PUBLIC BODY THAT MEETS IN A CLOSED SESSION ON OR AFTER OCTOBER 1, 2017.

(2) A PUBLIC BODY MAY NOT MEET IN A CLOSED SESSION UNLESS THE PUBLIC BODY HAS DESIGNATED AT LEAST ONE MEMBER OF THE PUBLIC BODY TO RECEIVE TRAINING ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT LEAST ONE INDIVIDUAL DESIGNATED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE PRESENT AT EACH OPEN MEETING OF THE PUBLIC BODY.

(II) IF AN INDIVIDUAL DESIGNATED UNDER PARAGRAPH (2) OF THIS SUBSECTION CANNOT BE PRESENT AT AN OPEN MEETING OF THE PUBLIC BODY, THE PUBLIC BODY SHALL COMPLETE THE COMPLIANCE CHECKLIST FOR MEETINGS SUBJECT TO THE MARYLAND OPEN MEETINGS ACT DEVELOPED BY THE OFFICE OF THE ATTORNEY GENERAL AND INCLUDE THE COMPLETED CHECKLIST IN THE MINUTES FOR THE MEETING.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2017, the State Open Meetings Law Compliance Board, the University of Maryland's Institute for Governmental Service and Research, and the Academy for Excellence in Local Governance in the University of Maryland's School of Public Policy shall:

(1) collaborate with the Maryland Association of Counties, the Maryland Municipal League, the Maryland Association of Boards of Education, Maryland Common Cause, and the Maryland–Delaware–District of Columbia Press Association to determine a cost–benefit analysis of:

(i) the costs to the State associated with tracking the names of individuals who complete a class on the open meetings law as required by § 3–213 of the General Provisions Article, as enacted by Section 1 of this Act, including the public body with which the individual is affiliated, including the cost to the University of Maryland's Institute for Governmental Service and Research to collect information on individuals who take the online course offered by the Institute; and

(ii) the benefits to the State of tracking the names of individuals who complete a class on the open meetings law as required by § 3–213 of the General Provisions Article, as enacted by Section 1 of this Act, including the public body with which the individual is affiliated;

(2) collaborate with the Maryland Association of Counties, the Maryland Municipal League, and the Maryland Association of Boards of Education to develop a list of contacts for public bodies to which the Board may send educational materials, the Compliance Checklist for Meetings Subject to the Maryland Open Meetings Act, the Board's annual report, and any other information the Board determines would be useful to a public body in assisting compliance with the Open Meetings Act; and

(3) 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:

(i) the findings of the results of the cost–benefit analysis required by item (1) of this section and any resulting recommendations for legislation; and

(ii) the status of developing the information required under item (2) of this section.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 526**(Senate Bill 450)**

AN ACT concerning

Open Meetings Act – ~~Required Training for Members of Public Bodies~~ Annual Reporting Requirement, Web Site Postings, and Training

FOR the purpose of ~~repealing the requirement that a public body designate a certain individual to receive training on the Open Meetings Act and forward a certain list to the Open Meetings Compliance Board; requiring that certain individuals complete certain classes or submit a letter stating certain information to the Board within a certain period of time after becoming a member of a public body; requiring an individual who is a member of a public body on the effective date of this Act to comply with certain provisions of this Act on or before a certain date except under certain circumstances; and generally relating to required training for members of public bodies regarding~~ requiring the State Open Meetings Law Compliance Board, in conjunction with the Office of the Attorney General, to distribute certain educational materials to the staff and attorneys for certain entities; adding the Maryland Association of Boards of Education to the entities the Board, in conjunction with the Office of the Attorney General, is required to develop and conduct certain educational programs for; altering the annual reporting requirement of the State Open Meetings Law Compliance Board to require that certain information on certain violations be reported; requiring the Board to post certain information on a certain Web site; repealing a requirement that certain public bodies forward a certain list to the Board; prohibiting a public body from meeting in a closed session unless the public body designates at least a certain number of members to receive the training; requiring that certain designated individuals attend certain meetings or that certain public bodies include a certain checklist in certain minutes; requiring the Board, the University of Maryland's Institute for Governmental Service and Research, and the Academy for Excellence in Local Governance in the University of Maryland's School of Public Health Policy to collaborate with certain entities to determine a certain cost-benefit analysis, develop a certain list of contacts, and report to certain committees of the General Assembly on or before a certain date; defining a certain term; and generally relating to the annual reporting requirement, Web site postings, and training under the Open Meetings Act.

BY adding to

Article – General Provisions
Section 3-101(d-1)
Annotated Code of Maryland
(2014 Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – General Provisions
Section 3-204(d) and (e), 3-211, and 3-213

Annotated Code of Maryland
(2014 Volume and 2016 Supplement)

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

Article – General Provisions

3–101.

(D–1) “CLASS ON THE OPEN MEETINGS LAW” MEANS:

(1) AN ONLINE CLASS ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW OFFERED BY THE OFFICE OF THE ATTORNEY GENERAL AND THE UNIVERSITY OF MARYLAND’S INSTITUTE FOR GOVERNMENTAL SERVICE AND RESEARCH;

(2) A CLASS ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW OFFERED BY THE MARYLAND ASSOCIATION OF COUNTIES OR THE MARYLAND MUNICIPAL LEAGUE THROUGH THE ACADEMY FOR EXCELLENCE IN LOCAL GOVERNANCE; OR

(3) A CLASS ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW OFFERED BY THE MARYLAND ASSOCIATION OF BOARDS OF EDUCATION THROUGH THE BOARDSMANSHIP ACADEMY PROGRAM.

3–204.

(d) The Board, in conjunction with the Office of the Attorney General and other interested organizations or persons, shall develop and conduct educational programs AND DISTRIBUTE EDUCATIONAL MATERIALS on the requirements of the open meetings law for the staffs and attorneys of:

(1) public bodies;

(2) the Maryland Municipal League; [and]

(3) the Maryland Association of Counties; AND

(4) THE MARYLAND ASSOCIATION OF BOARDS OF EDUCATION.

(e) (1) On or before October 1 of each year, the Board shall submit an annual report to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly.

(2) The report shall:

(i) describe the activities of the Board;

(ii) describe the opinions of the Board;

(iii) state the number and nature of complaints filed with the Board and discuss complaints that reasonable notice of a meeting was not given; [and]

(IV) IDENTIFY THE PROVISIONS OF THIS TITLE THAT THE BOARD HAS FOUND A PUBLIC BODY TO HAVE VIOLATED AND THE NUMBER OF TIMES EACH PROVISION HAS BEEN VIOLATED;

(V) IDENTIFY EACH PUBLIC BODY THAT THE BOARD HAS FOUND TO HAVE VIOLATED A PROVISION OF THIS TITLE; AND

~~[(iv)]~~**(VI) recommend any improvements to this title.**

3-211.

(A) THIS SECTION DOES NOT APPLY TO A PUBLIC BODY THAT IS:

(1) IN THE JUDICIAL BRANCH OF STATE GOVERNMENT; OR

(2) SUBJECT TO GOVERNANCE BY RULES ADOPTED BY THE COURT OF APPEALS.

~~[(a)]~~ **(B) If the Board determines that a violation of this title has occurred:**

(1) at the next open meeting of the public body after the Board has issued its opinion, a member of the public body shall announce the violation and orally summarize the opinion; and

(2) a majority of the members of the public body shall sign a copy of the opinion and return the signed copy to the Board.

~~[(b)]~~ **(C) The public body may not designate its counsel or another representative to provide the announcement and summary.**

~~[(c)]~~ **(D) Compliance by a public body or a member of a public body with subsections [(a) and (b)] (B) AND (C) of this section:**

(1) is not an admission to a violation of this title by the public body; and

(2) may not be used as evidence in a proceeding conducted in accordance with § 3-401 of this title.

(E) IF THE BOARD DETERMINES THAT A PUBLIC BODY HAS VIOLATED A PROVISION OF THIS TITLE, THE BOARD SHALL POST ON THE MARYLAND OPEN MEETINGS ACT PAGE OF THE OFFICE OF THE ATTORNEY GENERAL WEB SITE THE NAME OF THE PUBLIC BODY AND THE OPINION THAT DESCRIBES THE VIOLATION.

3-213.

(A) THIS SECTION DOES NOT APPLY TO A PUBLIC BODY THAT IS:

(1) IN THE JUDICIAL BRANCH OF STATE GOVERNMENT; OR

(2) SUBJECT TO GOVERNANCE BY RULES ADOPTED BY THE COURT OF APPEALS.

~~**(a) (B)**~~ Each public body shall:

~~**(1)**~~ designate at least one individual who is an employee, an officer, or a member of the public body to receive training on the requirements of the open meetings law; ~~and~~

~~**(2)**~~ forward a list of the individuals designated under item (1) of this subsection to the Board.

~~**(b) (C)**~~ Within 90 days after ~~being~~ designated under subsection ~~(a)(1)~~ **(B)** of this section, ~~BECOMING A MEMBER OF A PUBLIC BODY~~, an individual shall:

~~**(1)**~~ complete:

~~**(1) (I)**~~ an online class on the requirements of the open meetings law offered by the Office of the Attorney General and the University of Maryland's Institute for Governmental Service and Research; or

~~**(2) (II)**~~ a class on the requirements of the open meetings law offered by the Maryland Association of Counties or the Maryland Municipal League through the Academy for Excellence in Local Governance; **OR**

~~**(2)**~~ **SUBMIT A LETTER TO THE BOARD STATING THAT THE INDIVIDUAL IS UNABLE OR UNWILLING TO COMPLETE A CLASS AS DESCRIBED IN ITEM (1) OF THIS SUBSECTION; COMPLETE A CLASS ON THE OPEN MEETINGS LAW.**

~~SECTION 2. AND BE IT FURTHER ENACTED, That an individual who is a member of a public body on the effective date of this Act shall comply with § 3-213 of the General Provisions Article, as enacted by Section 1 of this Act, on or before January 1, 2018,~~

~~unless the individual completed a class as described in § 3-213 of the General Provisions Article, as enacted by Section 1 of this Act, on or before September 30, 2017.~~

(D) (1) THIS SUBSECTION APPLIES TO A PUBLIC BODY THAT MEETS IN A CLOSED SESSION ON OR AFTER OCTOBER 1, 2017.

(2) A PUBLIC BODY MAY NOT MEET IN A CLOSED SESSION UNLESS THE PUBLIC BODY HAS DESIGNATED AT LEAST ONE MEMBER OF THE PUBLIC BODY TO RECEIVE TRAINING ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT LEAST ONE INDIVIDUAL DESIGNATED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE PRESENT AT EACH OPEN MEETING OF THE PUBLIC BODY.

(II) IF AN INDIVIDUAL DESIGNATED UNDER PARAGRAPH (2) OF THIS SUBSECTION CANNOT BE PRESENT AT AN OPEN MEETING OF THE PUBLIC BODY, THE PUBLIC BODY SHALL COMPLETE THE COMPLIANCE CHECKLIST FOR MEETINGS SUBJECT TO THE MARYLAND OPEN MEETINGS ACT DEVELOPED BY THE OFFICE OF THE ATTORNEY GENERAL AND INCLUDE THE COMPLETED CHECKLIST IN THE MINUTES FOR THE MEETING.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2017, the *State Open Meetings Law Compliance Board*, the University of Maryland's Institute for Governmental Service and Research, and the Academy for Excellence in Local Governance in the University of Maryland's School of Public Policy shall:

(1) collaborate with the Maryland Association of Counties, the Maryland Municipal League, the Maryland Association of Boards of Education, Maryland Common Cause, and the Maryland-Delaware-District of Columbia Press Association to determine a cost-benefit analysis of:

(i) the costs to the State associated with tracking the names of individuals who complete a class on the open meetings law as required by § 3-213 of the General Provisions Article, as enacted by Section 1 of this Act, including the public body with which the individual is affiliated, including the cost to the University of Maryland's Institute for Governmental Service and Research to collect information on individuals who take the online course offered by the Institute; and

(ii) the benefits to the State of tracking the names of individuals who complete a class on the open meetings law as required by § 3-213 of the General Provisions Article, as enacted by Section 1 of this Act, including the public body with which the individual is affiliated;

(2) collaborate with the Maryland Association of Counties, the Maryland Municipal League, and the Maryland Association of Boards of Education to develop a list

of contacts for public bodies to which the Board may send educational materials, the Compliance Checklist for Meetings Subject to the Maryland Open Meetings Act, the Board's annual report, and any other information the Board determines would be useful to a public body in assisting compliance with the Open Meetings Act; and

(3) 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:

(i) the findings of the results of the cost-benefit analysis required by item (1) of this section and any resulting recommendations for legislation; and

(ii) the status of developing the information required under item (2) of this section.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 527

(House Bill 304)

AN ACT concerning

Optional Retirement Program – Annuity Contracts – Employee Rights

FOR the purpose of repealing a certain requirement that annuity contracts purchased under the optional retirement program shall be issued to and become the property of certain employees; clarifying that, in accordance with the Internal Revenue Code, the rights of certain employees who purchase annuity contracts under the program are fully vested and not subject to forfeit; authorizing the Board of Trustees for the State Retirement and Pension System to transfer existing balances of participating employees in the optional retirement program to a new annuity contract under certain circumstances; authorizing a participating employee in the optional retirement program to select certain annuity contracts for the transfer of existing balances; establishing that, under certain circumstances, a certain election is deemed to have been made by a participating employee in the optional retirement program; providing for the application of this Act; and generally relating to the rights of employees to annuity contracts purchased under the optional retirement program.

BY repealing and reenacting, without amendments,
 Article – State Personnel and Pensions
 Section 30-101(a), (b), (d), (f), and (h)

Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 30–206 and 30–208
Annotated Code of Maryland
(2015 Replacement Volume and 2016 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

30–101.

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

(b) (1) “Annuity contract” means a fixed or variable annuity contract or combination of fixed or variable annuity contracts authorized under § 403(a) or (b) of the Internal Revenue Code.

(2) “Annuity contract” includes a custodial account to be invested in regulated investment company stock as provided in § 401(f) or § 403(b)(7) of the Internal Revenue Code.

(d) “Eligible employee” means an individual eligible to participate in the program.

(f) “Participating employee” means an eligible employee who elects to participate in the program.

(h) “Program” means the optional retirement program established under § 30–201 of this title.

30–206.

~~[Annuity] IN ACCORDANCE WITH THE INTERNAL REVENUE CODE, THE RIGHTS OF PARTICIPATING EMPLOYEES TO ANNUITY contracts purchased under the program [shall be issued to and become the property of the participating employees] ARE NOT SUBJECT TO FORFEIT.~~

IN ACCORDANCE WITH § 403(B) OF THE INTERNAL REVENUE CODE, A PARTICIPATING EMPLOYEE’S RIGHTS TO BENEFITS UNDER AN ANNUITY CONTRACT PURCHASED UNDER THE PROGRAM SHALL BE FULLY VESTED AND NONFORFEITABLE.

30-208.

(a) Every 3 years the Board of Trustees shall review the performance, form, and contents of the annuity contracts offered under the program.

(b) After a review under subsection (a) of this section, the Board of Trustees may:

(1) eliminate a designated company from participation in the program; or

(2) withdraw approval for a type of annuity contract offered by a designated company under the program.

(c) **(1)** If a designated company is eliminated from the program or approval for a type of annuity contract is withdrawn, [:

(1)] the Board of Trustees:

(I) TO THE EXTENT PERMITTED UNDER AN ANNUITY CONTRACT, MAY DIRECT THE TRANSFER OF EXISTING BALANCES OF PARTICIPATING EMPLOYEES TO A NEW ANNUITY CONTRACT; AND

(II) shall give [the relevant] participating employees an opportunity to select an annuity contract WITH A DESIGNATED COMPANY for future contributions AND EXISTING BALANCES SUBJECT TO TRANSFER under the [program; and] PROGRAM, IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(2) [if] IF a participating employee does not make a [change] SELECTION UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION within a period specified by the Board of Trustees, the participating employee shall be deemed to have elected for future contributions AND EXISTING BALANCES SUBJECT TO TRANSFER an annuity contract and a designated company specified by the Board of Trustees.

(d) All eligible employees shall have access to the information compiled for the purpose of conducting the review required under this section and shall be notified of the availability of the information by the Board of Trustees.

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 annuity contract with a designated company that was eliminated from participation in the optional retirement program before the effective date of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 528**(Senate Bill 353)**

AN ACT concerning

Optional Retirement Program – Annuity Contracts – Employee Rights

FOR the purpose of repealing a certain requirement that annuity contracts purchased under the optional retirement program shall be issued to and become the property of certain employees; clarifying that, in accordance with the Internal Revenue Code, the rights of certain employees who purchase annuity contracts under the program are fully vested and not subject to forfeit; authorizing the Board of Trustees for the State Retirement and Pension System to transfer existing balances of participating employees in the optional retirement program to a new annuity contract under certain circumstances; authorizing a participating employee in the optional retirement program to select certain annuity contracts for the transfer of existing balances; establishing that, under certain circumstances, a certain election is deemed to have been made by a participating employee in the optional retirement program; providing for the application of this Act; and generally relating to the rights of employees to annuity contracts purchased under the optional retirement program.

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 30–101(a), (b), (d), (f), and (h)
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 30–206 and 30–208
Annotated Code of Maryland
(2015 Replacement Volume and 2016 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

30–101.

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

(b) (1) “Annuity contract” means a fixed or variable annuity contract or combination of fixed or variable annuity contracts authorized under § 403(a) or (b) of the Internal Revenue Code.

(2) “Annuity contract” includes a custodial account to be invested in regulated investment company stock as provided in § 401(f) or § 403(b)(7) of the Internal Revenue Code.

(d) “Eligible employee” means an individual eligible to participate in the program.

(f) “Participating employee” means an eligible employee who elects to participate in the program.

(h) “Program” means the optional retirement program established under § 30-201 of this title.

30-206.

~~[Annuity] IN ACCORDANCE WITH THE INTERNAL REVENUE CODE, THE RIGHTS OF PARTICIPATING EMPLOYEES TO ANNUITY contracts purchased under the program [shall be issued to and become the property of the participating employees] ARE NOT SUBJECT TO FORFEIT.~~

IN ACCORDANCE WITH § 403(B) OF THE INTERNAL REVENUE CODE, A PARTICIPATING EMPLOYEE’S RIGHTS TO BENEFITS UNDER AN ANNUITY CONTRACT PURCHASED UNDER THE PROGRAM SHALL BE FULLY VESTED AND NONFORFEITABLE.

30-208.

(a) Every 3 years the Board of Trustees shall review the performance, form, and contents of the annuity contracts offered under the program.

(b) After a review under subsection (a) of this section, the Board of Trustees may:

(1) eliminate a designated company from participation in the program; or

(2) withdraw approval for a type of annuity contract offered by a designated company under the program.

(c) (1) If a designated company is eliminated from the program or approval for a type of annuity contract is withdrawn, [:

(1) the Board of Trustees:

(1) TO THE EXTENT PERMITTED UNDER AN ANNUITY CONTRACT, MAY DIRECT THE TRANSFER OF EXISTING BALANCES OF PARTICIPATING EMPLOYEES TO A NEW ANNUITY CONTRACT; AND

(II) shall give [the relevant] participating employees an opportunity to select an annuity contract WITH A DESIGNATED COMPANY for future contributions AND EXISTING BALANCES SUBJECT TO TRANSFER under the [program; and] PROGRAM, IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(2) [if] IF a participating employee does not make a [change] SELECTION UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION within a period specified by the Board of Trustees, the participating employee shall be deemed to have elected for future contributions AND EXISTING BALANCES SUBJECT TO TRANSFER an annuity contract and a designated company specified by the Board of Trustees.

(d) All eligible employees shall have access to the information compiled for the purpose of conducting the review required under this section and shall be notified of the availability of the information by the Board of Trustees.

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 annuity contract with a designated company that was eliminated from participation in the optional retirement program before the effective date of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 529

(House Bill 1394)

AN ACT concerning

Property Tax – Reassessment After Appeal

FOR the purpose of ~~prohibiting the supervisor or the State Department of Assessments and Taxation from automatically resetting the assessment of a property to its value before an appeal during a subsequent reassessment; authorizing the supervisor or the Department to increase the assessment of a property above the level determined during an appeal only if circumstances arising after the appeal justify an increase in the assessment; prohibiting the supervisor or the State Department of Assessments and Taxation from automatically eliminating a reduction in the assessment of a property that was granted by a property tax assessment appeal board or the Maryland Tax Court during a subsequent reassessment; authorizing the supervisor or the Department to eliminate a reduction in the assessment granted by a property tax assessment appeal board or the Maryland Tax Court if the specific reason for the~~

reduction no longer applies; and generally relating to reassessments of properties after appeals.

BY repealing and reenacting, with amendments,
 Article – Tax – Property
 Section 8–205
 Annotated Code of Maryland
 (2012 Replacement Volume and 2016 Supplement)

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

Article – Tax – Property

8–205.

(a) When a property assessment is changed as the result of an appeal of its value, the supervisor or the Department shall consider the facts and reasons stated in the decision on the appeal when next reviewing the assessment of the property.

(B) WHEN CONDUCTING SUBSEQUENT REASSESSMENTS OF THE PROPERTY, THE SUPERVISOR OR THE DEPARTMENT:

~~(1) MAY NOT AUTOMATICALLY RESET THE ASSESSMENT OF THE PROPERTY TO ITS VALUE BEFORE THE APPEAL; AND~~

~~(2) MAY INCREASE THE ASSESSMENT OF THE PROPERTY ABOVE THE LEVEL DETERMINED DURING THE APPEAL ONLY IF CIRCUMSTANCES ARISING AFTER THE APPEAL JUSTIFY AN INCREASE IN THE ASSESSMENT.~~

(1) MAY NOT AUTOMATICALLY ELIMINATE A REDUCTION IN THE ASSESSMENT OF THE PROPERTY THAT WAS GRANTED BY A PROPERTY TAX ASSESSMENT APPEAL BOARD OR THE MARYLAND TAX COURT; AND

(2) MAY ELIMINATE A REDUCTION IN THE ASSESSMENT OF THE PROPERTY GRANTED BY A PROPERTY TAX ASSESSMENT APPEAL BOARD OR THE MARYLAND TAX COURT IF THE SPECIFIC REASON FOR THE REDUCTION NO LONGER APPLIES.

[(b)] (C) If the value or classification of real property is appealed as provided by Title 14, Subtitle 5 of this article, the appeal shall be noted in the assessment worksheet or card that relates to the property whose value or classification was appealed.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 530

(House Bill 1402)

AN ACT concerning

Property Tax Appeals – Payment of Refunds – Deadline *and Notice*

FOR the purpose of requiring a tax collector to issue a refund of excess property tax to a taxpayer within a certain period of time after the State Department of Assessments and Taxation notifies ~~provides to the tax collector~~ *certain notice* that a certain appeal authority ~~issues~~ has issued a decision reducing the taxpayer's assessment; *specifying the contents of the notice*; defining a certain term; and generally relating to ~~the deadline for~~ paying refunds in property tax appeals.

BY adding to

Article – Tax – Property

Section 14–516

Annotated Code of Maryland

(2012 Replacement Volume and 2016 Supplement)

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

Article – Tax – Property

14–516.

(A) IN THIS SECTION, “APPEAL AUTHORITY” INCLUDES:

(1) A SUPERVISOR;

(2) THE DEPARTMENT;

(3) A PROPERTY TAX ASSESSMENT APPEAL BOARD;

(4) THE MARYLAND TAX COURT; AND

(5) ANY OTHER COURT AUTHORIZED TO HEAR PROPERTY TAX APPEALS UNDER THIS SUBTITLE.

(B) (1) ~~WITHIN SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, WITHIN 21 30 DAYS AFTER THE DEPARTMENT NOTIFIES THE PROVIDES NOTICE TO A TAX COLLECTOR TO WHOM PROPERTY TAX WAS PAID THAT AN APPEAL AUTHORITY ISSUES HAS ISSUED A DECISION THAT REDUCES THE ASSESSED VALUE OF PROPERTY, THE TAX COLLECTOR TO WHOM PROPERTY TAX WAS PAID SHALL PAY TO THE TAXPAYER A FULL REFUND OF THE EXCESS TAX PAID.~~

(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE A LIST OF ALL PROPERTIES FOR WHICH AN APPEAL AUTHORITY HAS CALCULATED THAT A TAXPAYER IS DUE A REFUND AS A RESULT OF A DECISION BY THE APPEAL AUTHORITY TO REDUCE THE ASSESSED VALUE OF THE PROPERTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 531

(Senate Bill 817)

AN ACT concerning

Public Safety – Agritourism – Permit Exemption

FOR the purpose of adding Cecil County and Garrett County to the list of counties that exempt agricultural buildings engaged in agritourism from a certain permit requirement; providing for the number of people allowed to occupy a building engaged in agritourism in Cecil County and Garrett County under certain circumstances; and generally relating to a permit exemption for certain buildings engaged in agritourism.

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 12–508

Annotated Code of Maryland

(2011 Replacement Volume and 2016 Supplement)

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

Article – Public Safety

12-508.

(a) (1) In this section, “agricultural building” means a structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products.

(2) “Agricultural building” does not include a place of human residence.

(b) This section applies only to Calvert County, **CECIL COUNTY**, Charles County, Dorchester County, Frederick County, **GARRETT COUNTY**, Harford County, Prince George’s County, St. Mary’s County, Somerset County, and Talbot County.

(c) The Standards do not apply to the construction, alteration, or modification of an agricultural building for which agritourism is an intended subordinate use.

(d) An existing agricultural building used for agritourism is not considered a change of occupancy that requires a building permit if the subordinate use of agritourism:

(1) is in accordance with limitations set forth in regulations adopted by the Department;

(2) occupies only levels of the building on which a ground level exit is located; and

(3) **EXCEPT AS PROVIDED IN SUBSECTION (E)**, does not require more than 50 people to occupy an individual building at any one time.

(e) **IN CECIL COUNTY AND GARRETT COUNTY, AN EXISTING AGRICULTURAL BUILDING USED FOR AGRITOURISM IS NOT CONSIDERED A CHANGE OF OCCUPANCY THAT REQUIRES A BUILDING PERMIT IF:**

(1) THE SUBORDINATE USE OF AGRITOURISM DOES NOT REQUIRE MORE THAN 200 PEOPLE TO OCCUPY AN INDIVIDUAL BUILDING AT ANY ONE TIME; AND

(2) THE TOTAL WIDTH OF MEANS OF EGRESS MEETS OR EXCEEDS THE INTERNATIONAL BUILDING CODE STANDARD ~~OF 0.2 INCHES OF EGRESS WIDTH PER OCCUPANT~~ THAT APPLIES TO EGRESS COMPONENTS OTHER THAN STAIRWAYS IN A BUILDING WITHOUT A SPRINKLER SYSTEM.

(F) An agricultural building used for agritourism:

(1) shall be structurally sound and in good repair; but

(2) need not comply with:

(i) requirements for bathrooms, sprinkler systems, and elevators set forth in the Standards; or

(ii) any other requirements of the Standards or other building codes as set forth in regulations adopted by the Department.

[(f)] (G) The Department shall adopt regulations to implement this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 532

(House Bill 999)

AN ACT concerning

Public Utilities – Telephone Lifeline Service – Revisions

FOR the purpose of providing that a certain local telephone company provide “lifeline” to certain qualifying low-income consumers under certain circumstances; altering certain terminology used with respect to telephone lifeline service and its requirements; repealing a requirement that a telephone company charge an eligible subscriber a percentage of a certain tariff under certain circumstances; requiring the Department of Human Resources to provide certain information to local telephone companies to the extent allowed by State law in addition to federal law and until certain eligibility is determined; specifying that the Department maintain a certain file; authorizing the Department to certify a certain qualifying low-income consumer under certain circumstances; making certain conforming changes; providing for the scope and construction of a certain provision of law; defining certain terms; repealing certain definitions; and generally relating to telephone service.

BY repealing and reenacting, with amendments,

Article – Public Utilities

Section 8–201

Annotated Code of Maryland

(2010 Replacement Volume and 2016 Supplement)

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

Article – Public Utilities

8–201.

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

[(2) “Eligible subscriber” means an individual who is certified to a local telephone company by the Department of Human Resources as receiving:

(i) assistance under Title 5, Subtitle 3 of the Human Services Article;

(ii) assistance from the electric universal service program under § 7–512.1 of this article;

(iii) assistance from the Maryland Energy Assistance Program under Title 5, Subtitle 5A of the Human Services Article;

(iv) State-funded public assistance benefits; or

(v) Supplemental Security Income under Title XVI of the federal Social Security Act.]

(2) “ECONOMIC UNIT” MEANS ALL ADULT INDIVIDUALS CONTRIBUTING TO AND SHARING IN THE INCOME AND EXPENSES OF A HOUSEHOLD.

[(3) “Telephone lifeline service” means local telephone services provided to eligible subscribers at a discount in accordance with this section.]

(3) “HOUSEHOLD” MEANS AN INDIVIDUAL OR A GROUP OF INDIVIDUALS WHO ARE LIVING TOGETHER AT THE SAME ADDRESS AS ONE ECONOMIC UNIT.

(4) “LIFELINE” MEANS A NONTRANSFERABLE RETAIL SERVICE OFFERING PROVIDED DIRECTLY TO QUALIFYING LOW-INCOME CONSUMERS FOR WHICH QUALIFYING LOW-INCOME CONSUMERS PAY REDUCED CHARGES AS A RESULT OF FEDERAL OR STATE LIFELINE SUPPORT.

(5) “QUALIFYING LOW-INCOME CONSUMER” MEANS AN INDIVIDUAL WHO:

(I) MEETS THE QUALIFICATIONS FOR LIFELINE UNDER 47 C.F.R. §§ 54.400, 54.409, AND 54.410; AND

(II) IS CERTIFIED TO RECEIVE LIFELINE.

(B) EXCEPT AS PROVIDED IN SUBSECTION (I) OF THIS SECTION, THIS SECTION APPLIES ONLY TO A LOCAL TELEPHONE COMPANY AND THE PROVISION OF LOCAL TELEPHONE SERVICE.

[(b)] (C) At the direction of the Commission, a local telephone company with more than 10,000 subscribers shall offer [telephone] lifeline [service] to [eligible subscribers] **QUALIFYING LOW-INCOME CONSUMERS** subject to the following conditions:

(1) no other local voice telephone service may be provided to the [dwelling unit] **HOUSEHOLD** of the [eligible subscriber] **QUALIFYING LOW-INCOME CONSUMER** applying for [telephone] lifeline [service]; and

(2) an inside wiring maintenance plan is not provided to the [eligible subscriber] **QUALIFYING LOW-INCOME CONSUMER**.

[(c)] (D) (1) [An eligible subscriber] **A QUALIFYING LOW-INCOME CONSUMER** may select a [telephone] lifeline [service] under either paragraph (2) or (3) of this subsection.

(2) [An eligible subscriber] **A QUALIFYING LOW-INCOME CONSUMER** who selects [telephone] lifeline [service] under this paragraph:

(i) shall receive:

1. an individual residential local exchange access line; and
2. the first 30 residential local untimed messages each billing month at no additional charge;

(ii) shall be charged:

1. 50% of the lowest applicable and approved federal and State tariff rates for the access line and included residential local untimed messages, minus any applicable waiver of federal tariff provisions for [eligible subscribers] **QUALIFYING LOW-INCOME CONSUMERS**, plus all applicable federal, State, and local taxes;

2. the full applicable tariff rates for all other residential local untimed messages; and

3. [except as otherwise provided in subsection (d) of this section,] the full applicable tariff rates for all other services; and

(iii) may not be provided any premium services, including foreign zone or foreign exchange service.

(3) [An eligible subscriber] **A QUALIFYING LOW-INCOME CONSUMER** who selects [telephone] lifeline [service] under this paragraph:

(i) shall receive an individual residential local exchange access line with unlimited residential local untimed messages for a monthly charge of \$10; and

(ii) may purchase up to two value-added services at the full applicable tariff rates.

[(d) The telephone company shall charge to an eligible subscriber 50% of the applicable filed tariff for:

(1) repairs to inside wiring; and

(2) installation and connection of residential dial access service to one termination in the dwelling unit of the eligible subscriber.]

(e) The telephone company shall charge to the [eligible subscriber] **QUALIFYING LOW-INCOME CONSUMER** all applicable federal, State, and local taxes and fees.

(f) (1) A telephone company may not require payment of an order processing charge or line change charge to change [an eligible subscriber] **A QUALIFYING LOW-INCOME CONSUMER** to [telephone] lifeline [service] from any other class of residential telephone service.

(2) [A telephone lifeline service subscriber] **AN INDIVIDUAL** who **IS** no longer [qualifies as an eligible subscriber] **A QUALIFYING LOW-INCOME CONSUMER** may not be charged a fee to change from [telephone] lifeline [service] to any other class of residential telephone service.

(g) (1) A telephone company may not request a deposit to secure payment in connection with the initial installation or connection of [telephone] lifeline [service].

(2) [An eligible subscriber] **A QUALIFYING LOW-INCOME CONSUMER** applying for service may be denied service if the [eligible subscriber] **QUALIFYING LOW-INCOME CONSUMER**:

(i) has an outstanding unpaid net telephone debt of \$100 or more for prior telephone service; and

(ii) has not established a reasonable payment plan to satisfy the debt.

(3) [An eligible subscriber] **A QUALIFYING LOW-INCOME CONSUMER** may not be denied service if the [eligible subscriber] **QUALIFYING LOW-INCOME**

CONSUMER has an outstanding unpaid net telephone debt of less than \$100 for prior telephone service.

(h) (1) To the extent allowed by federal AND STATE law, the Department of Human Resources shall provide to local telephone companies that offer [telephone] lifeline [service] monthly electronic access to a file containing a list of [all individuals who receive assistance from any of the programs listed in subsection (a)(2) of this section] **QUALIFYING LOW-INCOME CONSUMERS UNTIL THE FEDERAL COMMUNICATIONS COMMISSION OR ITS DESIGNEE DETERMINES ELIGIBILITY.**

(2) To obtain access to the file **MAINTAINED BY THE DEPARTMENT OF HUMAN RESOURCES**, a local telephone company must enter into a memorandum of understanding with the Department of Human Resources that governs access to use, confidentiality, and retention of the file.

(3) The grant of access to the file satisfies the certification requirement of subsection [(a)(2)] **(A)(5)** of this section.

(4) ONCE THE FEDERAL COMMUNICATIONS COMMISSION OR ITS DESIGNEE DETERMINES ELIGIBILITY, THAT DETERMINATION WILL SATISFY THE CERTIFICATION REQUIREMENT UNDER SUBSECTION (A)(5) OF THIS SECTION.

(I) THE DEPARTMENT OF HUMAN RESOURCES MAY CERTIFY CONSUMERS AS QUALIFYING LOW-INCOME CONSUMERS IF THEY USE SERVICES OTHER THAN LOCAL TELEPHONE SERVICE.

(J) NOTHING IN THIS SECTION MAY BE CONSTRUED TO ESTABLISH JURISDICTION BY THE COMMISSION OVER WIRELESS SERVICES, BROADBAND SERVICES, VOICE OVER INTERNET PROTOCOL SERVICES, OR OTHER SERVICES THAT ARE NOT PROVIDED THROUGH TELEPHONE LINES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 533

(Senate Bill 649)

AN ACT concerning

Public Utilities – Telephone Lifeline Service – Revisions

FOR the purpose of providing that a certain local telephone company provide “lifeline” to certain qualifying low-income consumers under certain circumstances; altering certain terminology used with respect to telephone lifeline service and its requirements; repealing a requirement that a telephone company charge an eligible subscriber a percentage of a certain tariff under certain circumstances; requiring the Department of Human Resources to provide certain information to local telephone companies to the extent allowed by State law in addition to federal law and until certain eligibility is determined; specifying that the Department maintain a certain file; authorizing the Department to certify a certain qualifying low-income consumer under certain circumstances; making certain conforming changes; providing for the scope and construction of a certain provision of law; defining certain terms; repealing certain definitions; and generally relating to telephone service.

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 8–201
Annotated Code of Maryland
(2010 Replacement Volume and 2016 Supplement)

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

Article – Public Utilities

8–201.

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

[(2) “Eligible subscriber” means an individual who is certified to a local telephone company by the Department of Human Resources as receiving:

(i) assistance under Title 5, Subtitle 3 of the Human Services Article;

(ii) assistance from the electric universal service program under § 7–512.1 of this article;

(iii) assistance from the Maryland Energy Assistance Program under Title 5, Subtitle 5A of the Human Services Article;

(iv) State-funded public assistance benefits; or

(v) Supplemental Security Income under Title XVI of the federal Social Security Act.]

(2) **“ECONOMIC UNIT” MEANS ALL ADULT INDIVIDUALS CONTRIBUTING TO AND SHARING IN THE INCOME AND EXPENSES OF A HOUSEHOLD.**

[(3) “Telephone lifeline service” means local telephone services provided to eligible subscribers at a discount in accordance with this section.]

(3) **“HOUSEHOLD” MEANS AN INDIVIDUAL OR A GROUP OF INDIVIDUALS WHO ARE LIVING TOGETHER AT THE SAME ADDRESS AS ONE ECONOMIC UNIT.**

(4) **“LIFELINE” MEANS A NONTRANSFERABLE RETAIL SERVICE OFFERING PROVIDED DIRECTLY TO QUALIFYING LOW-INCOME CONSUMERS FOR WHICH QUALIFYING LOW-INCOME CONSUMERS PAY REDUCED CHARGES AS A RESULT OF FEDERAL OR STATE LIFELINE SUPPORT.**

(5) **“QUALIFYING LOW-INCOME CONSUMER” MEANS AN INDIVIDUAL WHO:**

(I) **MEETS THE QUALIFICATIONS FOR LIFELINE UNDER 47 C.F.R. §§ 54.400, 54.409, AND 54.410; AND**

(II) **IS CERTIFIED TO RECEIVE LIFELINE.**

(B) **EXCEPT AS PROVIDED IN SUBSECTION (I) OF THIS SECTION, THIS SECTION APPLIES ONLY TO A LOCAL TELEPHONE COMPANY AND THE PROVISION OF LOCAL TELEPHONE SERVICE.**

[(b)] (C) At the direction of the Commission, a local telephone company with more than 10,000 subscribers shall offer [telephone] lifeline [service] to [eligible subscribers] **QUALIFYING LOW-INCOME CONSUMERS** subject to the following conditions:

(1) no other local voice telephone service may be provided to the [dwelling unit] **HOUSEHOLD** of the [eligible subscriber] **QUALIFYING LOW-INCOME CONSUMER** applying for [telephone] lifeline [service]; and

(2) an inside wiring maintenance plan is not provided to the [eligible subscriber] **QUALIFYING LOW-INCOME CONSUMER.**

[(c)] (D) (1) [An eligible subscriber] **A QUALIFYING LOW-INCOME CONSUMER** may select a [telephone] lifeline [service] under either paragraph (2) or (3) of this subsection.

(2) [An eligible subscriber] **A QUALIFYING LOW-INCOME CONSUMER** who selects [telephone] lifeline [service] under this paragraph:

(i) shall receive:

1. an individual residential local exchange access line; and
2. the first 30 residential local untimed messages each billing month at no additional charge;

(ii) shall be charged:

1. 50% of the lowest applicable and approved federal and State tariff rates for the access line and included residential local untimed messages, minus any applicable waiver of federal tariff provisions for [eligible subscribers] **QUALIFYING LOW-INCOME CONSUMERS**, plus all applicable federal, State, and local taxes;
2. the full applicable tariff rates for all other residential local untimed messages; and
3. [except as otherwise provided in subsection (d) of this section,] the full applicable tariff rates for all other services; and

(iii) may not be provided any premium services, including foreign zone or foreign exchange service.

(3) [An eligible subscriber] **A QUALIFYING LOW-INCOME CONSUMER** who selects [telephone] lifeline [service] under this paragraph:

(i) shall receive an individual residential local exchange access line with unlimited residential local untimed messages for a monthly charge of \$10; and

(ii) may purchase up to two value-added services at the full applicable tariff rates.

[(d) The telephone company shall charge to an eligible subscriber 50% of the applicable filed tariff for:

(1) repairs to inside wiring; and

(2) installation and connection of residential dial access service to one termination in the dwelling unit of the eligible subscriber.]

(e) The telephone company shall charge to the [eligible subscriber] **QUALIFYING LOW-INCOME CONSUMER** all applicable federal, State, and local taxes and fees.

(f) (1) A telephone company may not require payment of an order processing charge or line change charge to change [an eligible subscriber] **A QUALIFYING**

LOW-INCOME CONSUMER to [telephone] lifeline [service] from any other class of residential telephone service.

(2) [A telephone lifeline service subscriber] **AN INDIVIDUAL** who **IS** no longer [qualifies as an eligible subscriber] **A QUALIFYING LOW-INCOME CONSUMER** may not be charged a fee to change from [telephone] lifeline [service] to any other class of residential telephone service.

(g) (1) A telephone company may not request a deposit to secure payment in connection with the initial installation or connection of [telephone] lifeline [service].

(2) [An eligible subscriber] **A QUALIFYING LOW-INCOME CONSUMER** applying for service may be denied service if the [eligible subscriber] **QUALIFYING LOW-INCOME CONSUMER**:

(i) has an outstanding unpaid net telephone debt of \$100 or more for prior telephone service; and

(ii) has not established a reasonable payment plan to satisfy the debt.

(3) [An eligible subscriber] **A QUALIFYING LOW-INCOME CONSUMER** may not be denied service if the [eligible subscriber] **QUALIFYING LOW-INCOME CONSUMER** has an outstanding unpaid net telephone debt of less than \$100 for prior telephone service.

(h) (1) To the extent allowed by federal **AND STATE** law, the Department of Human Resources shall provide to local telephone companies that offer [telephone] lifeline [service] monthly electronic access to a file containing a list of [all individuals who receive assistance from any of the programs listed in subsection (a)(2) of this section] **QUALIFYING LOW-INCOME CONSUMERS UNTIL THE FEDERAL COMMUNICATIONS COMMISSION OR ITS DESIGNEE DETERMINES ELIGIBILITY**.

(2) To obtain access to the file **MAINTAINED BY THE DEPARTMENT OF HUMAN RESOURCES**, a local telephone company must enter into a memorandum of understanding with the Department of Human Resources that governs access to use, confidentiality, and retention of the file.

(3) The grant of access to the file satisfies the certification requirement of subsection [(a)(2)] **(A)(5)** of this section.

(4) ONCE THE FEDERAL COMMUNICATIONS COMMISSION OR ITS DESIGNEE DETERMINES ELIGIBILITY, THAT DETERMINATION WILL SATISFY THE CERTIFICATION REQUIREMENT UNDER SUBSECTION (A)(5) OF THIS SECTION.

(I) THE DEPARTMENT OF HUMAN RESOURCES MAY CERTIFY CONSUMERS AS QUALIFYING LOW-INCOME CONSUMERS IF THEY USE SERVICES OTHER THAN LOCAL TELEPHONE SERVICE.

(J) NOTHING IN THIS SECTION MAY BE CONSTRUED TO ESTABLISH JURISDICTION BY THE COMMISSION OVER WIRELESS SERVICES, BROADBAND SERVICES, VOICE OVER INTERNET PROTOCOL SERVICES, OR OTHER SERVICES THAT ARE NOT PROVIDED THROUGH TELEPHONE LINES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 534

(House Bill 261)

AN ACT concerning

Public Utilities – Termination of Service to Multifamily Dwelling Unit – Notification to Property Owner or Property Manager

FOR the purpose of requiring a public service company that ~~is going~~ *intends* to terminate, because of nonpayment, electric or gas service to a certain customer to notify a certain property owner or property manager before terminating service if the property owner or property manager has enrolled in a certain notification program; requiring a public service company to provide the notice only to certain persons under certain circumstances; requiring a certain property owner or property manager to obtain certain consent from a customer in order to enroll in a certain termination program *public service company has received a certain customer's consent; authorizing a certain property owner or property manager to require, as a term of a certain lease, a certain tenant to assure that a certain customer provides consent for the property owner or property manager to receive a notice of termination of services under certain circumstances; authorizing a certain customer's consent to be provided to a public service company by certain methods; requiring each public service company to set up a certain procedure for handling a certain third-party notification process in a certain manner*; providing for the construction of this Act; ~~requiring~~ authorizing the Public Service Commission to adopt certain regulations; and generally relating to termination of electric or gas service.

BY adding to

Article – Public Utilities
Section 7–307.3

Annotated Code of Maryland
(2010 Replacement Volume and 2016 Supplement)

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

Article – Public Utilities

7-307.3.

~~(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF A PUBLIC SERVICE COMPANY IS GOING TO TERMINATE THAT TERMINATES, BECAUSE OF NONPAYMENT, ELECTRIC OR GAS SERVICE TO A CUSTOMER WHO RESIDES IN A MULTIFAMILY DWELLING UNIT, THE PUBLIC SERVICE COMPANY SHALL NOTIFY THE PROPERTY OWNER OR PROPERTY MANAGER OF THE MULTIFAMILY DWELLING UNIT BEFORE TERMINATING SERVICE TO THE CUSTOMER IF THE PROPERTY OWNER OR PROPERTY MANAGER HAS ENROLLED IN A THIRD PARTY TERMINATION NOTIFICATION PROGRAM.~~

~~(B) A PUBLIC SERVICE COMPANY MAY ONLY PROVIDE NOTICE OF TERMINATION UNDER THIS SECTION TO A PROPERTY OWNER OR PROPERTY MANAGER WHO ENROLLS IN A SERVICE TERMINATION NOTIFICATION PROGRAM ESTABLISHED UNDER REGULATIONS THAT THE COMMISSION ADOPTS:~~

~~(1) NOTIFIES THE PUBLIC SERVICE COMPANY OF THE PROPERTY OWNER'S OR PROPERTY MANAGER'S ENROLLMENT IN A THIRD PARTY NOTIFICATION PROGRAM; AND~~

~~(2) PROVIDES DOCUMENTATION THAT THE PROPERTY OWNER OR PROPERTY MANAGER OBTAINED THE CUSTOMER'S WRITTEN CONSENT AUTHORIZING THE PROPERTY OWNER OR PROPERTY MANAGER TO RECEIVE THE CUSTOMER'S NOTICE OF TERMINATION.~~

~~(C) IN ORDER FOR A PROPERTY OWNER OR PROPERTY MANAGER TO ENROLL IN A THIRD PARTY NOTIFICATION PROGRAM, THE PROPERTY OWNER OR PROPERTY MANAGER SHALL OBTAIN THE CUSTOMER'S WRITTEN CONSENT AUTHORIZING THE PROPERTY OWNER OR PROPERTY MANAGER TO RECEIVE THE CUSTOMER'S NOTICE OF TERMINATION FROM THE THIRD PARTY NOTIFICATION PROGRAM.~~

(A) A PUBLIC SERVICE COMPANY THAT INTENDS TO TERMINATE, BECAUSE OF NONPAYMENT, ELECTRIC OR GAS SERVICE TO A CUSTOMER OF THE SERVICE TO A MULTIFAMILY DWELLING UNIT SHALL NOTIFY THE PROPERTY OWNER OR PROPERTY MANAGER OF THE MULTIFAMILY DWELLING UNIT BEFORE TERMINATING SERVICE TO

THE CUSTOMER IF THE PUBLIC SERVICE COMPANY HAS RECEIVED THE CUSTOMER'S CONSENT THAT DESIGNATES THE PROPERTY OWNER OR PROPERTY MANAGER AS A THIRD-PARTY AUTHORIZED TO RECEIVE A NOTICE OF TERMINATION OF SERVICES.

(B) AS A TERM OF A LEASE OF A MULTIFAMILY DWELLING UNIT, THE PROPERTY OWNER OR PROPERTY MANAGER OF THE MULTIFAMILY DWELLING UNIT MAY REQUIRE A TENANT TO ENSURE THAT A CUSTOMER OF THE PUBLIC SERVICE COMPANY THAT IS RESPONSIBLE FOR THE ACCOUNT FOR THAT MULTIFAMILY DWELLING UNIT PROVIDES CONSENT FOR THE PROPERTY OWNER OR PROPERTY MANAGER TO RECEIVE A NOTICE OF TERMINATION OF SERVICES AS A RESULT OF NONPAYMENT BY THE CUSTOMER.

(C) A CUSTOMER'S CONSENT MAY BE PROVIDED TO A PUBLIC SERVICE COMPANY BY:

(1) THE CUSTOMER; OR

(2) IF THE CONSENT IS WRITTEN, THE PROPERTY OWNER OR PROPERTY MANAGER OF THE MULTIFAMILY DWELLING UNIT.

(D) EACH PUBLIC SERVICE COMPANY SHALL SET UP A PROCEDURE FOR HANDLING THE THIRD-PARTY NOTIFICATION PROCESS IN A MANNER BEST SUITED TO THE CIRCUMSTANCES OF THE PARTICULAR PUBLIC SERVICE COMPANY.

~~(D)~~ (E) NOTHING IN THIS SECTION MAY BE CONSTRUED TO PREVENT ANY OTHER FORM OF THIRD-PARTY NOTIFICATION THAT A CUSTOMER MAY REQUEST.

~~(D)~~ ~~(E)~~ (F) THE COMMISSION ~~SHALL~~ MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 535

(House Bill 511)

AN ACT concerning

Public Utilities – Water Companies and Sewage Disposal Companies – Rate Cases and Proceedings

FOR the purpose of authorizing the technical staff of the Public Service Commission to assist a water company or a sewage disposal company in establishing a proposed just and reasonable rate; authorizing the technical staff to seek information from certain companies under certain circumstances; requiring the Commission to restrict the availability of certain staff-assisted rate cases based on a certain threshold; requiring the Commission to adopt certain regulations; providing that a section of law that requires the institution of certain proceedings under certain circumstances to determine if certain revenues are required to allow a company to earn a certain fair rate of return applies to a water company or a sewage disposal company; and generally relating to rate cases and proceedings for water companies and sewage disposal companies.

BY repealing and reenacting, with amendments,
 Article – Public Utilities
 Section 4–203 and 4–207
 Annotated Code of Maryland
 (2010 Replacement Volume and 2016 Supplement)

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

Article – Public Utilities

4–203.

(a) Unless otherwise ordered by the Commission, a public service company may not establish a new rate or change in rate unless the public service company:

(1) provides to the Commission notice of the new rate or change in rate at least 30 days before the new rate is established or current rate is changed; and

(2) publishes the new rate or change in rate in accordance with § 4–202 of this subtitle during the entire 30 day notice period in new schedules or plainly indicated amendments to existing schedules.

(b) The public service company shall plainly set forth in the notice and publication:

(1) the changes that it proposes to the rate schedules currently in force;
 and

(2) the effective date of the changes.

(C) (1) THE TECHNICAL STAFF OF THE COMMISSION MAY ASSIST A WATER COMPANY OR A SEWAGE DISPOSAL COMPANY IN ESTABLISHING A PROPOSED JUST AND REASONABLE RATE.

(2) IN ASSISTING A WATER COMPANY OR A SEWAGE DISPOSAL COMPANY UNDER THIS SUBSECTION, THE TECHNICAL STAFF MAY SEEK INFORMATION FROM THE WATER COMPANY OR THE SEWAGE DISPOSAL COMPANY.

(3) THE COMMISSION SHALL RESTRICT THE AVAILABILITY OF STAFF-ASSISTED RATE CASES AUTHORIZED UNDER THIS SUBSECTION TO WATER COMPANIES OR SEWAGE DISPOSAL COMPANIES WHOSE GROSS ANNUAL REVENUES, FOR THE MOST RECENT CALENDAR YEAR FOR WHICH DATA ARE AVAILABLE, ARE BELOW AN AMOUNT DETERMINED BY THE COMMISSION, NOT TO EXCEED \$1,000,000.

(4) THE COMMISSION SHALL ADOPT REGULATIONS TO ESTABLISH FORMAL RULES FOR STAFF-ASSISTED RATE CASES AUTHORIZED UNDER THIS SUBSECTION.

4-207.

(a) This section applies only to a gas company, electric company, [or] telephone company, **WATER COMPANY, OR SEWAGE DISPOSAL COMPANY** whose gross annual revenues, for the most recent calendar year for which data are available, are less than 3% of the total gross annual revenues of all public service companies in the State during the same calendar year.

(b) (1) When the Commission suspends a proposed new rate for a company subject to this section that is based on the existing authorized fair rate of return, the Commission promptly shall institute proceedings to determine if additional revenues are required to allow the company to earn the existing fair rate of return authorized in the previous base rate proceeding.

(2) The Commission shall:

(i) serve each of the parties to the previous base rate proceeding of that company with a copy of the suspension order; and

(ii) order the company to publish a display advertisement about the proposal in newspapers of general circulation in its service area.

(3) Proceedings under this section shall:

(i) account for revenues, expenses, and rate base in the same manner that the Commission employed in determining a just and reasonable rate in the previous base rate proceeding; and

(ii) exclude consideration of any increase in the rate of return, any change in rate structure, or any change in an accounting approach to any item pertaining to revenues, expenses, or rate base inconsistent with that used by the Commission in

determining a just and reasonable rate in the previous base rate proceeding on the company.

(4) In proceedings under this section, the Commission may use a more recent past test period than that used in the previous base rate proceeding for the company.

(5) The Commission shall enter a final order as to the revenue requirement determined under this section within 90 days after the proposed new rate is filed.

(6) The final order shall:

(i) authorize a new rate distributing any change in the revenue requirement proportionally among the ratepayers without change in the rate structure; and

(ii) state whether further proceedings shall be held.

(7) If, in the final order, the Commission decides to conduct further proceedings under subsection (c) of this section, the final order may provide for refund, consistent with the provisions of § 4–204(c) of this subtitle, of any difference between the new rate authorized under this subsection and the rate the Commission sets under subsection (c) of this section.

(c) (1) If the Commission decides to conduct further proceedings under subsection (b) of this section, the Commission, after a hearing, may:

(i) modify the rate structure;

(ii) lower the authorized fair rate of return; or

(iii) modify the accounting approach to an item that pertains to revenues, expenses, or rate base.

(2) The Commission shall take any action under this subsection within 120 days after entry of a final order under subsection (b) of this section.

(d) (1) This section does not apply to a proposed new rate that is filed:

(i) less than 1 year after a previously proposed new rate under this section is filed; or

(ii) with a request for temporary rates under § 4–205 of this subtitle.

(2) (i) A company may not file a proposed new rate under this subtitle if any proposed new rate filed by the company under this section is pending, or a new rate filed by the company under this section has been in effect fewer than 90 days.

(ii) This paragraph does not preclude a company from filing a proposed new rate for a new service if the proposal does not affect the authorized rate of return.

(3) Unless the Commission provides otherwise, this section does not apply to a proposed new rate that is filed more than 3 years after the Commission enters a final order authorizing the existing fair rate of return in the previous base rate proceeding.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 536

(Senate Bill 218)

AN ACT concerning

Public Utilities – Water Companies and Sewage Disposal Companies – Rate Cases and Proceedings

FOR the purpose of authorizing the technical staff of the Public Service Commission to assist a water company or a sewage disposal company in establishing a proposed just and reasonable rate; authorizing the technical staff to seek information from certain companies under certain circumstances; requiring the Commission to restrict the availability of certain staff-assisted rate cases based on a certain threshold; requiring the Commission to adopt certain regulations; providing that a section of law that requires the institution of certain proceedings under certain circumstances to determine if certain revenues are required to allow a company to earn a certain fair rate of return applies to a water company or a sewage disposal company; and generally relating to rate cases and proceedings for water companies and sewage disposal companies.

BY repealing and reenacting, with amendments,

Article – Public Utilities

Section 4–203 and 4–207

Annotated Code of Maryland

(2010 Replacement Volume and 2016 Supplement)

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

Article – Public Utilities

4-203.

(a) Unless otherwise ordered by the Commission, a public service company may not establish a new rate or change in rate unless the public service company:

(1) provides to the Commission notice of the new rate or change in rate at least 30 days before the new rate is established or current rate is changed; and

(2) publishes the new rate or change in rate in accordance with § 4-202 of this subtitle during the entire 30 day notice period in new schedules or plainly indicated amendments to existing schedules.

(b) The public service company shall plainly set forth in the notice and publication:

(1) the changes that it proposes to the rate schedules currently in force; and

(2) the effective date of the changes.

(C) (1) THE TECHNICAL STAFF OF THE COMMISSION MAY ASSIST A WATER COMPANY OR A SEWAGE DISPOSAL COMPANY IN ESTABLISHING A PROPOSED JUST AND REASONABLE RATE.

(2) IN ASSISTING A WATER COMPANY OR A SEWAGE DISPOSAL COMPANY UNDER THIS SUBSECTION, THE TECHNICAL STAFF MAY SEEK INFORMATION FROM THE WATER COMPANY OR THE SEWAGE DISPOSAL COMPANY.

(3) THE COMMISSION SHALL RESTRICT THE AVAILABILITY OF STAFF-ASSISTED RATE CASES AUTHORIZED UNDER THIS SUBSECTION TO WATER COMPANIES OR SEWAGE DISPOSAL COMPANIES WHOSE GROSS ANNUAL REVENUES, FOR THE MOST RECENT CALENDAR YEAR FOR WHICH DATA ARE AVAILABLE, ARE BELOW AN AMOUNT DETERMINED BY THE COMMISSION, NOT TO EXCEED \$1,000,000.

(4) THE COMMISSION SHALL ADOPT REGULATIONS TO ESTABLISH FORMAL RULES FOR STAFF-ASSISTED RATE CASES AUTHORIZED UNDER THIS SUBSECTION.

4-207.

(a) This section applies only to a gas company, electric company, [or] telephone company, **WATER COMPANY, OR SEWAGE DISPOSAL COMPANY** whose gross annual revenues, for the most recent calendar year for which data are available, are less than 3% of the total gross annual revenues of all public service companies in the State during the same calendar year.

(b) (1) When the Commission suspends a proposed new rate for a company subject to this section that is based on the existing authorized fair rate of return, the Commission promptly shall institute proceedings to determine if additional revenues are required to allow the company to earn the existing fair rate of return authorized in the previous base rate proceeding.

(2) The Commission shall:

(i) serve each of the parties to the previous base rate proceeding of that company with a copy of the suspension order; and

(ii) order the company to publish a display advertisement about the proposal in newspapers of general circulation in its service area.

(3) Proceedings under this section shall:

(i) account for revenues, expenses, and rate base in the same manner that the Commission employed in determining a just and reasonable rate in the previous base rate proceeding; and

(ii) exclude consideration of any increase in the rate of return, any change in rate structure, or any change in an accounting approach to any item pertaining to revenues, expenses, or rate base inconsistent with that used by the Commission in determining a just and reasonable rate in the previous base rate proceeding on the company.

(4) In proceedings under this section, the Commission may use a more recent past test period than that used in the previous base rate proceeding for the company.

(5) The Commission shall enter a final order as to the revenue requirement determined under this section within 90 days after the proposed new rate is filed.

(6) The final order shall:

(i) authorize a new rate distributing any change in the revenue requirement proportionally among the ratepayers without change in the rate structure; and

(ii) state whether further proceedings shall be held.

(7) If, in the final order, the Commission decides to conduct further proceedings under subsection (c) of this section, the final order may provide for refund, consistent with the provisions of § 4–204(c) of this subtitle, of any difference between the new rate authorized under this subsection and the rate the Commission sets under subsection (c) of this section.

(c) (1) If the Commission decides to conduct further proceedings under subsection (b) of this section, the Commission, after a hearing, may:

- (i) modify the rate structure;
- (ii) lower the authorized fair rate of return; or
- (iii) modify the accounting approach to an item that pertains to revenues, expenses, or rate base.

(2) The Commission shall take any action under this subsection within 120 days after entry of a final order under subsection (b) of this section.

(d) (1) This section does not apply to a proposed new rate that is filed:

- (i) less than 1 year after a previously proposed new rate under this section is filed; or
- (ii) with a request for temporary rates under § 4–205 of this subtitle.

(2) (i) A company may not file a proposed new rate under this subtitle if any proposed new rate filed by the company under this section is pending, or a new rate filed by the company under this section has been in effect fewer than 90 days.

(ii) This paragraph does not preclude a company from filing a proposed new rate for a new service if the proposal does not affect the authorized rate of return.

(3) Unless the Commission provides otherwise, this section does not apply to a proposed new rate that is filed more than 3 years after the Commission enters a final order authorizing the existing fair rate of return in the previous base rate proceeding.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 537

(House Bill 592)

AN ACT concerning

Real Property Tax – Assessment Appeals Process – Dwellings

FOR the purpose of requiring a hearing on an appeal to a supervisor of assessments concerning the value or classification of ~~real property~~ *a certain dwelling* to occur within a certain period of time after the Department of Assessments and Taxation receives the ~~appeal~~; ~~allowing a hearing to occur on a later date if the supervisor and the person who has appealed the value or classification agree to the later date~~; requiring the supervisor to give written notice of the final value or classification *of a certain dwelling* to the person who has appealed or filed a petition for review within a certain period of time after the hearing; ~~allowing the person who has appealed or filed a petition for review to immediately appeal to the property tax assessment appeals board if the supervisor fails to timely provide the notice of final value or classification~~; providing that the value of the real property shall remain the same until the property tax assessment appeal board makes a decision if the supervisor fails to timely provide the notice of final value or classification; requiring a property tax assessment appeal board to hold a hearing *regarding a certain dwelling* within a certain period of time after receiving a request for an ~~appeal~~; requiring a property tax assessment appeal board to send an order or notice of assessment *for a certain dwelling* to the person making the appeal no later than a certain number of days after the hearing on the appeal; providing for a delayed effective date; and generally relating to the real property tax assessment appeals process.

BY repealing and reenacting, without amendments,

Article – Tax – Property

Section 8–401(a) and (b) and 8–404

Annotated Code of Maryland

(2012 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – Property

Section 8–405, 8–407, 14–509, and 14–511

Annotated Code of Maryland

(2012 Replacement Volume and 2016 Supplement)

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

Article – Tax – Property

8–401.

(a) When any change as provided in subsection (b) of this section occurs in the value or classification of any real property that a supervisor assesses, the supervisor shall notify the owner or other appropriate person by a written notice of the proposed change.

(b) A written notice is required for:

- (1) an increase or decrease in an existing real property value;
- (2) a change in the classification of the real property;
- (3) establishment of an initial real property value;
- (4) a decision on an assessment appeal or a petition to change an existing real property value or classification; and
- (5) a revaluation or reclassification, if a valuation or classification has been appealed but not finally determined.

8-404.

- (a) A person who receives a notice under § 8-401 of this subtitle may appeal the value or classification, if that person replies as provided by Title 14, Subtitle 5 of this article.
- (b) If any real property is transferred to a new owner at a time that prevents the notice from being mailed before January 1 to a new owner, the Department shall mail a new notice to the new owner. The new owner may appeal the value or classification as provided by Title 14, Subtitle 5 of this article.

8-405.

- (a) A person who has received a notice under § 8-401 of this subtitle and has appealed the value or classification under § 8-404 of this subtitle shall be notified by the supervisor of the date and time of the hearing.

~~(b) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE HEARING SHALL OCCUR NO LATER THAN 90 DAYS AFTER THE DATE THAT THE DEPARTMENT RECEIVED THE APPEAL OF THE VALUE OR CLASSIFICATION.~~

~~(2) A HEARING MAY BE HELD ON A DATE THAT IS MORE THAN 90 DAYS AFTER THE DATE THE DEPARTMENT RECEIVED THE APPEAL OF THE VALUE OR CLASSIFICATION IF THE SUPERVISOR AND THE PERSON WHO HAS APPEALED THE VALUE OR CLASSIFICATION BOTH AGREE TO THE LATER DATE.~~

(b) UNLESS THE PROPERTY OWNER REQUESTS A POSTPONEMENT UNDER § 1-402 OF THIS ARTICLE, FOR A DWELLING AS DEFINED IN § 9-105 OF THIS ARTICLE, THE HEARING SHALL OCCUR NO LATER THAN 120 DAYS AFTER THE DATE THAT THE DEPARTMENT RECEIVED THE APPEAL OF THE VALUE OR CLASSIFICATION.

- (c) If a person notified under subsection (a) of this section requests, the supervisor shall offer alternate dates and times for hearings. To the extent possible, these dates and times shall:

- (1) reflect a mutually convenient hearing schedule; and
- (2) provide for some Saturday and evening hearings as required.

[(c)] (D) The supervisor may provide group hearings for blocks or communities if the real property is similar or has similar characteristics.

8–407.

(a) ~~(1) IF EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF an appeal is filed under § 8–404 of this subtitle or if a petition for review is filed, the supervisor shall give written notice of the final value or classification determined by the supervisor to the person who has appealed or filed a petition for review NO LATER THAN 30 60 DAYS AFTER THE HEARING UNDER § 8–405 OF THIS SUBTITLE.~~

~~(2) FOR A DWELLING AS DEFINED IN § 9–105 OF THIS ARTICLE, THE SUPERVISOR SHALL GIVE WRITTEN NOTICE NO LATER THAN 60 DAYS AFTER THE HEARING UNDER § 8–405 OF THIS SUBTITLE.~~

(b) The final notice shall notify the person of the right to appeal the final value or classification to a property tax assessment appeal board on or before 30 days from the date of the final notice. The notice shall contain the name and address of the appropriate board.

~~(c) IF THE DEPARTMENT FAILS TO TIMELY PROVIDE THE NOTICE OF FINAL VALUE OR CLASSIFICATION UNDER SUBSECTION (A) OF THIS SECTION:~~

~~(1) THE PERSON WHO HAS APPEALED OR FILED A PETITION FOR REVIEW MAY IMMEDIATELY APPEAL THE VALUE OR CLASSIFICATION STATED IN THE NOTICE UNDER § 8–401 OF THIS SUBTITLE TO THE PROPERTY TAX ASSESSMENT APPEAL BOARD; AND~~

~~(2) THE VALUE OF THE REAL PROPERTY SHALL REMAIN THE SAME AS THE VALUE OF THE PROPERTY BEFORE THE ISSUANCE OF THE NOTICE UNDER § 8–401 OF THIS SUBTITLE UNTIL THE PROPERTY TAX ASSESSMENT APPEAL BOARD MAKES A DECISION.~~

14–509.

(a) (1) For property assessed by a supervisor, on or before 30 days from the date of the notice, any taxpayer, a county, a municipal corporation, or the Attorney General may appeal a value or classification in the notice of assessment under § 8–407 of this article to the property tax assessment appeal board where the property is located.

(2) The property tax assessment appeal board may waive the 30-day requirement under paragraph (1) of this subsection for a taxpayer on good cause shown because of the physical inability of the taxpayer to meet the 30-day requirement.

(b) For property assessed by a supervisor, on or before 30 days from the date of determination by a supervisor, on a petition for review by a supervisor, the owner may appeal the value or classification in the determination to the property tax assessment appeal board where the property is located.

(c) On or before 30 days from the date of the final determination, any taxpayer may appeal a final determination of a property tax credit or relief under §§ 9-101, 9-102, and 9-104 of this article, to the property tax assessment appeal board where the property is located.

(d) The landowner or the Maryland Agricultural Land Preservation Foundation may appeal the value of an easement determined under § 2-511 of the Agriculture Article to the property tax assessment appeal board where the property is located.

(e) (1) On or before 30 days from the date of a supervisor's denial of a hearing based on failure to meet the 45-day requirement under § 14-502(a)(1) of this subtitle, the taxpayer may appeal the denial to the property tax assessment appeal board where the property is located.

(2) On an appeal under paragraph (1) of this subsection, the property tax assessment appeal board may waive the 45-day requirement under § 14-502(a)(1) of this subtitle for a taxpayer on good cause shown because of the physical inability of the taxpayer to meet the 45-day requirement.

(f) If the requirements of subsections (a), (b), (c), (d), or (e) of this section are met, the property tax assessment appeal board shall hold a hearing, as provided under § 14-510(b) of this subtitle.

~~(G) THE PROPERTY TAX ASSESSMENT APPEAL BOARD SHALL HOLD A HEARING WITHIN 90 DAYS AFTER RECEIVING A REQUEST FOR AN APPEAL.~~

(G) UNLESS THE PROPERTY OWNER REQUESTS A POSTPONEMENT UNDER § 1-402 OF THIS ARTICLE, FOR A DWELLING AS DEFINED IN § 9-105 OF THIS ARTICLE, THE PROPERTY TAX ASSESSMENT APPEAL BOARD SHALL HOLD A HEARING WITHIN 120 DAYS AFTER RECEIVING A REQUEST FOR AN APPEAL.

[(g)] (H) For any appeal under this section in which the value of property is at issue, at least 10 days before a hearing on the appeal, the Department and the taxpayer shall exchange any written appraisals to be used for the purpose of placing a value on the property.

(a) (1) For a hearing before a property tax assessment appeal board that relates to the value of property, the person making the appeal shall receive at least 30 days before the hearing a list of other comparable properties.

(2) The list shall identify the location and owner of each comparable property.

(3) The list shall also include for each comparable property on the list:

(i) the sale price and date of sale;

(ii) the assessment and the year or years to which the assessment applied; and

(iii) the construction costs and the date of construction.

(4) The Department shall provide the information required under this subsection free of charge.

(5) (i) If a person making an appeal appears at the scheduled hearing before a property tax assessment appeal board and states that the Department has not provided the information required under this subsection, the Department shall immediately provide the information.

(ii) If a person making an appeal receives the information required under this subsection for the first time on the date of the scheduled hearing, the hearing may be rescheduled at the option of the person making the appeal to a date that is 30 or more days after the previously scheduled hearing date.

(B) ~~A~~ FOR A DWELLING AS DEFINED IN § 9-105 OF THIS ARTICLE, A PROPERTY TAX ASSESSMENT APPEAL BOARD SHALL SEND AN ORDER OR NOTICE OF ASSESSMENT TO THE PERSON MAKING THE APPEAL NO LATER THAN 30 DAYS AFTER THE HEARING ON THE APPEAL.

[(b)] (C) A property tax assessment appeal board shall include in any order or notice of assessment that it issues:

(1) a statement of its action or assessment;

(2) a summary of the basis of its decision; and

(3) a statement that:

(i) advises the person making the appeal of the right to appeal to the Maryland Tax Court as provided by § 14-512 of this subtitle; and

- (ii) includes the address of the Maryland Tax Court.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2018.

Approved by the Governor, May 4, 2017.

Chapter 538

(House Bill 469)

AN ACT concerning

Recordation and Transfer Tax – Principal Residence Surrendered in Bankruptcy – Exemption

FOR the purpose of exempting from recordation and State and county transfer taxes certain instruments of writing that transfer certain residential real property surrendered in bankruptcy under certain circumstances; and generally relating to an exemption from recordation and transfer taxes for certain instruments of writing.

BY adding to

Article – Tax – Property
Section 12–108(gg), 13–207(a)(25), and 13–413
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – Property
Section 13–207(a)(23) and (24)
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

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

Article – Tax – Property

12–108.

**(GG) AN INSTRUMENT OF WRITING THAT TRANSFERS RESIDENTIAL REAL
PROPERTY IS NOT SUBJECT TO RECORDATION TAX IF:**

(1) THE PROPERTY IS SUBJECT TO A PURCHASE MONEY MORTGAGE OR PURCHASE MONEY DEED OF TRUST;

(2) THE MORTGAGOR FILED A PETITION FOR BANKRUPTCY UNDER TITLE 11, CHAPTER 7 OF THE UNITED STATES CODE;

(3) THE MORTGAGOR FILED WITH THE BANKRUPTCY COURT A STATEMENT OF INTENTION TO SURRENDER THE PROPERTY;

(4) THE PROPERTY WAS THE PRINCIPAL RESIDENCE OF THE MORTGAGOR PRIOR TO THE SURRENDER OF THE PROPERTY IN BANKRUPTCY; AND

(5) THE PROPERTY IS TRANSFERRED FROM THE MORTGAGOR TO THE HOLDER OF THE PURCHASE MONEY MORTGAGE OR PURCHASE MONEY DEED OF TRUST.

13-207.

(a) An instrument of writing is not subject to transfer tax to the same extent that it is not subject to recordation tax under:

(23) § 12-108(ee) of this article (Transfer to a trust and transfer from a trust under specified circumstances); [or]

(24) § 12-108(ff) of this article (Transfer from a certified community development financial institution); **OR**

(25) § 12-108(gg) OF THIS ARTICLE (TRANSFER OF PRINCIPAL RESIDENCE SURRENDERED IN BANKRUPTCY).

13-413.

AN INSTRUMENT OF WRITING THAT IS EXEMPT FROM RECORDATION TAX UNDER § 12-108(gg) OF THIS ARTICLE (TRANSFER OF PRINCIPAL RESIDENCE SURRENDERED IN BANKRUPTCY) IS NOT SUBJECT TO THE COUNTY TRANSFER TAX.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 539

(Senate Bill 44)

AN ACT concerning

Records Management and Preservation – State ~~and Local Government Units~~ Units and Public Officials – Responsibilities

FOR the purpose of ~~applying certain provisions of law regarding records management and preservation to instrumentalities of the State, counties, and municipalities;~~ altering the procedures required to be included in a program for the management of records; requiring each head of a unit of State government to designate a records officer to carry out certain functions; providing that the Records Management Division is required to study the records management practices of the units of State government; ~~requiring a records officer to notify the State Archives that records of the unit are no longer needed for the transaction of business; requiring the records officer to transfer to the custody of the Archives certain records;~~ altering the examples of records that ~~may be considered~~ are required to be offered by a public official to the State Archives for transfer; requiring that records accepted for transfer to the Archives be accompanied by a records inventory; ~~authorizing a records officer, rather than a public official, to send certain information to the Archives;~~ defining certain terms; ~~altering a certain definition;~~ making a stylistic change; and generally relating to records management and preservation.

BY repealing and reenacting, with amendments,
 Article – State Government
 Section 10–608, 10–610, 10–611(2), 10–614, and 10–616
 Annotated Code of Maryland
 (2014 Replacement Volume and 2016 Supplement)

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

Article – State Government

10–608.

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

(B) “ARCHIVES” MEANS THE STATE ARCHIVES.

~~[(b)]~~ **(C)** “Division” means the Records Management Division of the Department of General Services.

[(c)] (D) “Program” means a program for the management of the records of a unit ~~of the State government~~.

(E) **“RECORDS OFFICER” MEANS ANY INDIVIDUAL DESIGNATED UNDER § 10-610(B) OF THIS ~~PART~~ SUBTITLE.**

~~(F) “UNIT” MEANS ANY INSTRUMENTALITY OF THE STATE, A COUNTY, OR A MUNICIPALITY.~~

10-610.

(a) (1) Each unit ~~of the State government~~ shall have a program for the continual, economical, and efficient management of the records of the unit.

[(b)] (2) The program shall include procedures **FOR:**

[(1)] (I) [to ensure] the security of the records;

[(2)] (II) [to establish and to revise] **THE ESTABLISHMENT AND REVISION**, in accordance with the regulations, record retention and disposal schedules [that] **TO** ensure the prompt and orderly disposition of records, **INCLUDING ELECTRONIC RECORDS**, that the unit no longer needs for its operation; [and]

[(3)] (III) [to facilitate compliance with Part III of this subtitle] **THE MAINTENANCE OF INVENTORIES OF RECORDS SERIES THAT ARE ACCURATE AND COMPLETE; AND**

(IV) **THE TRANSFER OF PERMANENT RECORDS TO THE CUSTODY OF THE ARCHIVES.**

(B) **EACH HEAD OF A UNIT OF STATE GOVERNMENT SHALL DESIGNATE, FROM AMONG THE UNIT’S EXECUTIVE STAFF, A RECORDS OFFICER FOR THE UNIT TO:**

(1) **SERVE AS LIAISON TO THE DIVISION AND THE ARCHIVES; AND**

(2) **DEVELOP AND OVERSEE THE PROGRAM.**

10-611.

The Division shall:

(2) study the records management practices of the units **OF STATE GOVERNMENT;**

10-614.

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

(b) "Archives" means the State Archives.

(c) "Commission" means the Hall of Records Commission.

(d) "Public official" includes an official of the State or of a county, city, or town in the State.

(E) "RECORD" MEANS ANY DOCUMENTARY MATERIAL IN ANY FORM CREATED OR RECEIVED BY ANY AGENCY IN CONNECTION WITH THE TRANSACTION OF PUBLIC BUSINESS.

(F) "RECORDS INVENTORY" MEANS A SURVEY OF ALL RECORDS SERIES MAINTAINED BY AN AGENCY RESULTING IN AN ITEMIZED COMPILATION OF THE RECORDS IN THE POSSESSION OF THE AGENCY.

~~**(G) "RECORDS OFFICER" MEANS ANY INDIVIDUAL DESIGNATED UNDER § 10-610(B) OF THIS SUBTITLE.**~~

~~**(H) "UNIT" MEANS ANY INSTRUMENTALITY OF THE STATE, A COUNTY, OR A MUNICIPALITY.**~~

10-616.

(a) In accordance with the record retention and disposal schedules, ~~¶~~a public official shall offer to the Archives any public record of the official that no longer is needed, such as: ~~¶ THE RECORDS OFFICER SHALL NOTIFY THE ARCHIVES THAT RECORDS OF THE UNIT ARE NO LONGER NEEDED FOR THE TRANSACTION OF BUSINESS.~~

~~**(B) THE RECORDS OFFICER SHALL TRANSFER TO THE CUSTODY OF THE ARCHIVES RECORDS DEEMED BY THE STATE ARCHIVIST TO BE PERMANENT.**~~

~~**(C) RECORDS PRODUCED OR ACQUIRED IN THE COURSE OF UNIT BUSINESS AND CONSIDERED FOR TRANSFER MAY INCLUDE:**~~

- (1) an original paper;
- (2) a book;
- (3) a file;

(4) a record of a court of record for which an accurate transcript is in use;
[or]

(5) a record that relates to the internal management of or otherwise is a housekeeping record for an office of a clerk of court or register of wills; OR

~~(6) DATA GENERATED, STORED, RECEIVED, OR COMMUNICATED BY ELECTRONIC MEANS FOR USE BY, OR STORAGE IN, AN INFORMATION SYSTEM OR FOR TRANSMISSION FROM ONE INFORMATION SYSTEM TO ANOTHER; OR~~

~~(7)~~ (6) ANY OTHER WRITTEN OR RECORDED MATERIALS REGARDLESS OF THEIR PHYSICAL FORM OR CHARACTERISTICS.

~~(D)~~ (B) RECORDS ACCEPTED FOR TRANSFER TO THE ARCHIVES SHALL BE ACCOMPANIED BY A RECORDS INVENTORY.

~~(b)~~ ~~(E)~~ (C) (1) With the written approval of the State Archivist, a [public official] ~~RECORDS OFFICER~~ may destroy the record that the [public official] ~~UNIT~~ offers under this section, but the Archives declines to accept.

(2) After records are destroyed, the [public official] ~~RECORDS OFFICER~~ shall send to the Archives:

- (i) a list of the records that were destroyed; and
- (ii) a certificate of destruction.

(3) (I) The State Archivist shall keep each list of the records destroyed under this subsection.

(II) The list shall be available for public inspection at reasonable times.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 540

(Senate Bill 676)

AN ACT concerning

Requirements for Filial Support – Repeal

FOR the purpose of repealing the prohibition on the neglect or refusal, by an adult child who has or is able to earn sufficient means, to provide a destitute parent with food, shelter, care, and clothing; repealing the authority of an individual to make a certain complaint relating to the neglect or refusal of a certain adult child to provide a destitute parent with necessary food, shelter, care, and clothing; repealing the authority of the State’s Attorney to file a certain information relating to certain nonsupport of a destitute parent; repealing a requirement that a court order a certain individual to pay support to the individual’s destitute parent under certain circumstances; repealing a requirement that a certain individual pay certain support until a certain occurrence; repealing the authority of a court to order payment of certain forfeited recognizance to a destitute parent or certain agency under certain circumstances; repealing the authority of a court to release a certain individual and a certain surety from the terms of a certain order, bond, or recognizance under certain circumstances; altering the definition of “responsible relative”, as it relates to responsibility for the cost of certain services provided in a facility or program operated or funded by the Department of Health and Mental Hygiene, to exclude from the definition the children of a recipient of certain services; repealing a certain definition; making conforming changes; and generally relating to the repeal of laws requiring filial support and financial responsibility.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 13–101 through 13–103 and 13–106 through 13–109
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 16–101(a) and (c) and 16–102
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 16–101(f) and 16–203(a)
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

Preamble

~~WHEREAS, Filial support laws have their origins in the Elizabethan Poor Laws, and nearly all states had them at one time; and~~

~~WHEREAS, States began repealing the laws after the passage of social insurance statutes, including Social Security, Medicare, and Medicaid; and~~

~~WHEREAS, In Maryland, children may still be held responsible for their parents' expenses without any contractual agreement to be held liable; and~~

~~WHEREAS, Parents are able to incur bills and expenses without their children having a say, but when the bill comes due, the children may be legally responsible for payment; and~~

~~WHEREAS, Under Title 16, Subtitles 1 and 2 of the Health – General Article of the Annotated Code of Maryland, Maryland's filial law that relates to recipients of services in a facility or program operated or funded by the Department of Health and Mental Hygiene, when a parent is under the care of a State psychiatric hospital and is under age 65, children may be required to reimburse the State for the parent's care out of their monthly income, leaving the children with a bare monthly allowance; and~~

~~WHEREAS, Current Maryland law requires adult children to pay for food, shelter, care, and clothing for a destitute parent even though the children are unable to control what expenses their parents incur; and~~

~~WHEREAS, Adult children may be held liable for medical expenses of an indigent parent even though the children have no control over the parent's finances; and~~

~~WHEREAS, Children are unable to compel a parent to purchase long term care insurance or to save for future expenses; and~~

~~WHEREAS, A parent's failure to exercise sound financial discretion should not result in a burden on the parent's 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

13–101.

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

(b) “Destitute adult child”], “**DESTITUTE ADULT CHILD**” means an adult child who:

- (1) has no means of subsistence; and
- (2) cannot be self-supporting, due to mental or physical infirmity.

[(c) “Destitute parent” means a parent who:

- (1) has no means of subsistence; and

(2) cannot be self-supporting, due to old age or mental or physical infirmity.]

13-102.

(a) [If a destitute parent is in this State and has an adult child who has or is able to earn sufficient means, the adult child may not neglect or refuse to provide the destitute parent with food, shelter, care, and clothing.

(b)] If a destitute adult child is in this State and has a parent who has or is able to earn sufficient means, the parent may not neglect or refuse to provide the destitute adult child with food, shelter, care, and clothing.

[(c)] (B) A person who violates [any provision of] this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year, or both.

13-103.

(a) A complaint under this section shall be made under oath in writing to a State's Attorney.

(b) [An individual may make a complaint that states that:

(1) the individual is a destitute parent;

(2) an adult child of the destitute parent has or is able to earn means sufficient to provide the destitute parent with necessary food, shelter, care, and clothing; and

(3) the adult child has neglected or refused to provide the destitute parent with necessary food, shelter, care, and clothing.

(c)] An individual may make a complaint that states that:

(1) the individual is a destitute adult child;

(2) a parent of the destitute adult child has or is able to earn means sufficient to provide the destitute adult child with necessary food, shelter, care, and clothing; and

(3) the parent has neglected or refused to provide the destitute adult child with necessary food, shelter, care, and clothing.

13-106.

(a) The State's Attorney may file an information that charges the accused individual with nonsupport of the individual's [destitute parent or] destitute adult child, based on the complaint.

(b) After filing an information, the State's Attorney may seek to obtain the consent of the accused individual to the entry of a court order under § 13–107 of this title.

13–107.

(a) With the written consent of the accused individual before charging or trial, or on conviction of the individual under this subtitle, the court shall order the individual:

(1) to pay support:

(i) to the individual's [destitute parent or] destitute adult child; or

(ii) if the [destitute parent or] destitute adult child is a public charge to the agency that is authorized by law to receive these payments; and

(2) to give a bond with securities to this State, conditioned on compliance with the court's order and any modification of the order.

(b) In determining the amount of support, the court shall consider the financial circumstances of the individual.

(c) The individual shall pay the support until the [destitute parent or] destitute adult child has other means of adequate support or dies.

(d) The court may modify the order.

13–108.

(a) An individual who fails to give bond after being ordered to give bond under § 13–107 of this title is subject to imprisonment until bond is given, not exceeding 1 year.

(b) In consideration of the financial circumstances of the accused individual, and on the individual's entering into a recognizance, the court may:

(1) suspend imposition of the sentence for failure to give bond; and

(2) place the individual on probation for the period that the individual is required to pay support.

(c) The recognizance ordered by the court shall be:

(1) in the amount that the court directs, with or without security; and

(2) on the conditions that:

(i) if the individual is summoned to appear before the court, the individual shall appear; and

(ii) the individual shall pay support as ordered by the court.

(d) If an individual fails to pay support under the court's order, the court may revoke the probation and impose the sentence for failure to give bond.

(e) The court may order that any forfeited recognizance be paid:

(1) to the individual's [destitute parent or] destitute adult child; or

(2) if the individual's [destitute parent or] destitute adult child is a public charge, to the agency that is authorized by law to receive the forfeited recognizance.

13-109.

The court shall release an individual who is ordered to pay support under this subtitle and any sureties of that individual from the terms of any court order, bond, or recognizance under this subtitle if:

(1) the individual or the individual's [destitute parent or] destitute adult child dies;

(2) the individual's [destitute parent or] destitute adult child becomes self-supporting; or

(3) the individual becomes unable to earn or loses possession of means sufficient to provide for the individual's [destitute parent or] destitute adult child.

Article – Health – General

16-101.

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

(c) "Chargeable person" means:

(1) Any responsible relative;

(2) Except for a recipient of services, any other person who is legally responsible for the care of the individual; and

(3) Any person who maintains a policy of health insurance under which a recipient of services is insured.

(f) “Responsible relative” means:

- (1) The spouse of a recipient of services; **AND**
- (2) The parents of a recipient of services who is a minor[; and
- (3) The children of a recipient of services].

16–102.

(a) It is the policy of this State to obligate each recipient of services and, to the extent provided in this title, those legally responsible for the recipient to pay, if financially able, for the cost of care that is received by the recipient of services. Unless otherwise provided by statute, the recipient of services and the chargeable person shall be responsible for payment regardless of whether the recipient of services was admitted voluntarily, involuntarily, or by court order. If the recipient of services is involuntarily admitted to a public facility and released after evaluation, for failure to meet the standards for involuntary commitment, the recipient of services or chargeable person shall not be responsible for the cost of care.

(b) The total cost of care of each recipient of services is, in the first instance, the responsibility of the recipient of services and, as provided in this title, the chargeable person. Any uncollectible costs for services provided to the recipient shall become the responsibility of this State.

16–203.

(a) (1) The cost of care of a recipient of services shall be determined in accordance with the charges for services set under § 16–201 of this subtitle.

(2) Except as otherwise provided in this title:

(i) Payment for this cost of care shall be made by the recipient of services or a chargeable person;

(ii) Their liability for this payment is joint and several; and

(iii) The insured or policyholder may not withhold the payment and shall assign to the Department any benefits available under the policy for services rendered by the Department to any insured covered by the policy.

(3) Liability may not be imposed under this title on any spouse [or child] of a recipient of services, if the spouse [or child] has been abandoned by the recipient of

services. The Department shall adopt rules and regulations that define abandonment for the purposes of this subsection.

(4) Liability may not be imposed under this title on a responsible relative if any responsible relative has been the victim of sexual abuse, physical abuse, or a crime of violence as defined in § 14–101 of the Criminal Law Article perpetrated by the recipient of services. The Department shall adopt regulations that define “sexual abuse, physical abuse, or a crime of violence” as defined in § 14–101 of the Criminal Law Article for the purposes of this paragraph.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 541

(House Bill 764)

AN ACT concerning

Requirements for Filial Support – Repeal

FOR the purpose of repealing the prohibition on the neglect or refusal, by an adult child who has or is able to earn sufficient means, to provide a destitute parent with food, shelter, care, and clothing; repealing the authority of an individual to make a certain complaint relating to the neglect or refusal of a certain adult child to provide a destitute parent with necessary food, shelter, care, and clothing; repealing the authority of the State’s Attorney to file a certain information relating to certain nonsupport of a destitute parent; repealing a requirement that a court order a certain individual to pay support to the individual’s destitute parent under certain circumstances; repealing a requirement that a certain individual pay certain support until a certain occurrence; repealing the authority of a court to order payment of certain forfeited recognizance to a destitute parent or certain agency under certain circumstances; repealing the authority of a court to release a certain individual and a certain surety from the terms of a certain order, bond, or recognizance under certain circumstances; altering the definition of “responsible relative”, as it relates to responsibility for the cost of certain services provided in a facility or program operated or funded by the Department of Health and Mental Hygiene, to exclude from the definition the children of a recipient of certain services; repealing a certain definition; making conforming changes; and generally relating to the repeal of laws requiring filial support and financial responsibility.

BY repealing and reenacting, with amendments,
Article – Family Law

Section 13–101 through 13–103 and 13–106 through 13–109
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 16–101(a) and (c) and 16–102
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 16–101(f) and 16–203(a)
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

Preamble

~~WHEREAS, Filial support laws have their origins in the Elizabethan Poor Laws, and nearly all states had them at one time; and~~

~~WHEREAS, States began repealing the laws after the passage of social insurance statutes, including Social Security, Medicare, and Medicaid; and~~

~~WHEREAS, In Maryland, children may still be held responsible for their parents' expenses without any contractual agreement to be held liable; and~~

~~WHEREAS, Parents are able to incur bills and expenses without their children having a say, but when the bill comes due, the children may be legally responsible for payment; and~~

~~WHEREAS, Under Title 16, Subtitles 1 and 2 of the Health – General Article of the Annotated Code of Maryland, Maryland's filial law that relates to recipients of services in a facility or program operated or funded by the Department of Health and Mental Hygiene, when a parent is under the care of a State psychiatric hospital and is under age 65, children may be required to reimburse the State for the parent's care out of their monthly income, leaving the children with a bare monthly allowance; and~~

~~WHEREAS, Current Maryland law requires adult children to pay for food, shelter, care, and clothing for a destitute parent even though the children are unable to control what expenses their parents incur; and~~

~~WHEREAS, Adult children may be held liable for medical expenses of an indigent parent even though the children have no control over the parent's finances; and~~

~~WHEREAS, Children are unable to compel a parent to purchase long term care insurance or to save for future expenses; and~~

~~WHEREAS, A parent's failure to exercise sound financial discretion should not result in a burden on the parent's 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

13–101.

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

(b) “Destitute adult child”], “**DESTITUTE ADULT CHILD**” means an adult child
who:

(1) has no means of subsistence; and

(2) cannot be self-supporting, due to mental or physical infirmity.

[(c) “Destitute parent” means a parent who:

(1) has no means of subsistence; and

(2) cannot be self-supporting, due to old age or mental or physical
infirmity.]

13–102.

(a) [If a destitute parent is in this State and has an adult child who has or is able to earn sufficient means, the adult child may not neglect or refuse to provide the destitute parent with food, shelter, care, and clothing.

(b)] If a destitute adult child is in this State and has a parent who has or is able to earn sufficient means, the parent may not neglect or refuse to provide the destitute adult child with food, shelter, care, and clothing.

[(c)] **(B)** A person who violates [any provision of] this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year, or both.

13–103.

(a) A complaint under this section shall be made under oath in writing to a State’s Attorney.

(b) [An individual may make a complaint that states that:

(1) the individual is a destitute parent;

(2) an adult child of the destitute parent has or is able to earn means sufficient to provide the destitute parent with necessary food, shelter, care, and clothing; and

(3) the adult child has neglected or refused to provide the destitute parent with necessary food, shelter, care, and clothing.

(c)] An individual may make a complaint that states that:

(1) the individual is a destitute adult child;

(2) a parent of the destitute adult child has or is able to earn means sufficient to provide the destitute adult child with necessary food, shelter, care, and clothing; and

(3) the parent has neglected or refused to provide the destitute adult child with necessary food, shelter, care, and clothing.

13–106.

(a) The State’s Attorney may file an information that charges the accused individual with nonsupport of the individual’s [destitute parent or] destitute adult child, based on the complaint.

(b) After filing an information, the State’s Attorney may seek to obtain the consent of the accused individual to the entry of a court order under § 13–107 of this title.

13–107.

(a) With the written consent of the accused individual before charging or trial, or on conviction of the individual under this subtitle, the court shall order the individual:

(1) to pay support:

(i) to the individual’s [destitute parent or] destitute adult child; or

(ii) if the [destitute parent or] destitute adult child is a public charge to the agency that is authorized by law to receive these payments; and

(2) to give a bond with securities to this State, conditioned on compliance with the court’s order and any modification of the order.

(b) In determining the amount of support, the court shall consider the financial circumstances of the individual.

(c) The individual shall pay the support until the [destitute parent or] destitute adult child has other means of adequate support or dies.

(d) The court may modify the order.

13–108.

(a) An individual who fails to give bond after being ordered to give bond under § 13–107 of this title is subject to imprisonment until bond is given, not exceeding 1 year.

(b) In consideration of the financial circumstances of the accused individual, and on the individual's entering into a recognizance, the court may:

(1) suspend imposition of the sentence for failure to give bond; and

(2) place the individual on probation for the period that the individual is required to pay support.

(c) The recognizance ordered by the court shall be:

(1) in the amount that the court directs, with or without security; and

(2) on the conditions that:

(i) if the individual is summoned to appear before the court, the individual shall appear; and

(ii) the individual shall pay support as ordered by the court.

(d) If an individual fails to pay support under the court's order, the court may revoke the probation and impose the sentence for failure to give bond.

(e) The court may order that any forfeited recognizance be paid:

(1) to the individual's [destitute parent or] destitute adult child; or

(2) if the individual's [destitute parent or] destitute adult child is a public charge, to the agency that is authorized by law to receive the forfeited recognizance.

13–109.

The court shall release an individual who is ordered to pay support under this subtitle and any sureties of that individual from the terms of any court order, bond, or recognizance under this subtitle if:

- (1) the individual or the individual's [destitute parent or] destitute adult child dies;
- (2) the individual's [destitute parent or] destitute adult child becomes self-supporting; or
- (3) the individual becomes unable to earn or loses possession of means sufficient to provide for the individual's [destitute parent or] destitute adult child.

Article – Health – General

16–101.

- (a) In this title the following words have the meanings indicated.
- (c) “Chargeable person” means:
 - (1) Any responsible relative;
 - (2) Except for a recipient of services, any other person who is legally responsible for the care of the individual; and
 - (3) Any person who maintains a policy of health insurance under which a recipient of services is insured.
- (f) “Responsible relative” means:
 - (1) The spouse of a recipient of services; **AND**
 - (2) The parents of a recipient of services who is a minor[; and
 - (3) The children of a recipient of services].

16–102.

- (a) It is the policy of this State to obligate each recipient of services and, to the extent provided in this title, those legally responsible for the recipient to pay, if financially able, for the cost of care that is received by the recipient of services. Unless otherwise provided by statute, the recipient of services and the chargeable person shall be responsible for payment regardless of whether the recipient of services was admitted voluntarily, involuntarily, or by court order. If the recipient of services is involuntarily admitted to a public facility and released after evaluation, for failure to meet the standards for involuntary commitment, the recipient of services or chargeable person shall not be responsible for the cost of care.

(b) The total cost of care of each recipient of services is, in the first instance, the responsibility of the recipient of services and, as provided in this title, the chargeable person. Any uncollectible costs for services provided to the recipient shall become the responsibility of this State.

16–203.

(a) (1) The cost of care of a recipient of services shall be determined in accordance with the charges for services set under § 16–201 of this subtitle.

(2) Except as otherwise provided in this title:

(i) Payment for this cost of care shall be made by the recipient of services or a chargeable person;

(ii) Their liability for this payment is joint and several; and

(iii) The insured or policyholder may not withhold the payment and shall assign to the Department any benefits available under the policy for services rendered by the Department to any insured covered by the policy.

(3) Liability may not be imposed under this title on any spouse [or child] of a recipient of services, if the spouse [or child] has been abandoned by the recipient of services. The Department shall adopt rules and regulations that define abandonment for the purposes of this subsection.

(4) Liability may not be imposed under this title on a responsible relative if any responsible relative has been the victim of sexual abuse, physical abuse, or a crime of violence as defined in § 14–101 of the Criminal Law Article perpetrated by the recipient of services. The Department shall adopt regulations that define “sexual abuse, physical abuse, or a crime of violence” as defined in § 14–101 of the Criminal Law Article for the purposes of this paragraph.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 542

(House Bill 44)

AN ACT concerning

**Residential Property – Ground Lease Registration ~~Form~~ Forms – Contact
Information Option**

FOR the purpose of requiring the ground lease registration form required by the State Department of Assessments and Taxation to include a section that provides the ground lease holder the option to provide certain contact information; requiring the reporting form for changes or corrections required by the State Department of Assessments and Taxation to include a section that provides the ground lease holder the option to provide certain contact information; and generally relating to the registration of ground leases.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 8–704
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

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

Article – Real Property

8–704.

(a) A ground lease holder shall register a ground lease with the Department by submitting:

(1) A registration form that the Department requires; and

(2) The registration fee for each ground lease as provided under subsection ~~(e)~~ **(D)** of this section.

(b) The registration form shall include:

(1) The premise address and tax identification number of the property for which the ground lease was created;

(2) **(I)** The name and address of the ground lease holder; **AND**

(II) A SECTION THAT PROVIDES THE GROUND LEASE HOLDER THE OPTION TO INCLUDE THE GROUND LEASE HOLDER’S TELEPHONE NUMBER AND E-MAIL ADDRESS;

(3) The name and address of the leasehold tenant;

- (4) The name and address of the person to whom the ground rent payment is sent;
- (5) The amount and payment dates of the ground rent installments;
- (6) To the best of the ground lease holder's knowledge, a statement of the range of years in which the ground lease was created; and
- (7) The liber and folio information for the current ground rent deed of record.

(c) **THE REPORTING FORM FOR CHANGES OR CORRECTIONS TO A GROUND LEASE REGISTRATION SHALL INCLUDE A SECTION THAT PROVIDES THE GROUND LEASE HOLDER THE OPTION TO INCLUDE THE GROUND LEASE HOLDER'S TELEPHONE NUMBER AND E-MAIL ADDRESS.**

(D) The registration fee for a ground lease per ground lease holder is:

- (1) \$10 for the first ground lease; and
- (2) \$5 for each additional ground lease.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 543

(House Bill 12)

AN ACT concerning

**Senatorial and Delegate Scholarships – ~~Veterans Individuals on Active Duty~~
Eligibility, Award Amounts, and Use of Funds**

FOR the purpose of authorizing certain senatorial and delegate scholarships to be used at certain out-of-state institutions of higher education if a certain scholarship applicant is a certain ~~veteran individual on active duty~~ who is domiciled in the State; ~~authorizing~~ *requiring* a certain ~~veteran individual on active duty~~ to be domiciled in the State in order to retain a certain senatorial scholarship; *altering the amount that may be awarded under the senatorial scholarship program beginning on a certain date; clarifying the calculation of the amount that may be awarded under the delegate scholarship program;* making certain stylistic changes; and generally relating to

qualifications for and amounts awarded under the senatorial and delegate ~~scholarships.~~ scholarship programs.

BY repealing and reenacting, without amendments,

Article – Education

Section 18–402(a), 18–406(a), and 18–501(a)

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Education

Section 18–402(b), ~~18–404~~, 18–405(d), 18–406(b), ~~and 18–501(b)~~ 18–501(b), and
18–503

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

BY adding to

Article – Education

Section 18–406(f)

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

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

Article – Education

18–402.

(a) (1) Except as provided in paragraph (2) of this subsection, each applicant for a senatorial scholarship shall:

(i) Take a competitive examination administered by the Office; and

(ii) Be accepted for admission in the regular undergraduate, graduate, or professional program at an eligible institution; or be enrolled in a 2–year terminal certificate program in which the course work is acceptable for transfer credit for an accredited baccalaureate program in an eligible institution.

(2) An applicant is exempt from the examination if the applicant:

(i) Is attending an eligible institution and has completed at least 1 year in good academic standing at the institution;

(ii) Graduated from high school at least 5 years before application for a senatorial scholarship;

(iii) Is accepted for admission to a private career institution, if the institution's curriculum is approved by the Commission, and the institution is accredited by a national accrediting association approved by the United States Department of Education; or

(iv) Is planning to attend or is attending a Maryland community college.

(b) (1) [Each] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH applicant shall:

[(1)] (I) Be a resident of this State; and

[(2)] (II) At the time of the applicant's initial application, be a resident of the legislative district from which the applicant seeks an award.

(2) IF THE APPLICANT IS ~~A VETERAN~~ AN INDIVIDUAL WHO IS ON ACTIVE DUTY WITH THE UNITED STATES MILITARY, THE APPLICANT ~~MAY~~ SHALL:

(I) BE DOMICILED IN THIS STATE; AND

(II) AT THE TIME OF THE APPLICANT'S INITIAL APPLICATION, BE DOMICILED IN THE LEGISLATIVE DISTRICT FROM WHICH THE APPLICANT SEEKS AN AWARD.

18-404.

(a) (1) [Each] UNTIL JUNE 30, 2019, EACH Senator may award \$34,500 of senatorial scholarships each year.

(2) BEGINNING JULY 1, 2019, EACH SENATOR MAY AWARD SENATORIAL SCHOLARSHIPS EACH FISCAL YEAR IN AN AMOUNT THAT MAY NOT EXCEED THE TOTAL OF:

(I) THE AMOUNT AUTHORIZED TO BE AWARDED THE PREVIOUS YEAR; AND

(II) THE AMOUNT OF THE INCREASE OVER THE PREVIOUS YEAR IN THE TUITION AND MANDATORY FEES OF AN UNDERGRADUATE PROGRAM 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 CAMPUS, WITH THE HIGHEST ANNUAL EXPENSES FOR A FULL-TIME RESIDENT UNDERGRADUATE.

(b) (1) The annual allocation under subsection (a) of this section applies to initial-year awards [and awards made under § 18–406.1 of this subtitle]. After 4 years of operation, the annual allocation to each Senator for initial-year and continuing awards may not exceed four times the amount of the Senator’s allocation under subsection (a) of this section.

(2) If a recipient moves to the legislative district of another Senator, the allocation to the recipient shall continue to be drawn on the account of the Senator who originally awarded the scholarship.

(c) (1) A senatorial scholarship may be awarded in \$100 increments.

(2) An award for a single year may not be less than \$400 or more than the equivalent annual tuition and mandatory fees of an undergraduate program 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 Campus, with the highest annual expenses for a full-time resident undergraduate.

18–405.

(d) Each Senator may award not more than 10 percent of the funds available under this subtitle to applicants planning to attend accredited undergraduate, graduate, or professional institutions outside the State, provided the applicant:

(1) Will be studying in an academic area that is not available in the State;
[or]

(2) Is a hearing impaired person who will be studying at an institution outside the State that makes special provisions for hearing impaired students, and comparable special provisions are not available to [that student] **THE APPLICANT** at an institution in the State; **OR**

(3) IS A VETERAN AN INDIVIDUAL WHO IS ON ACTIVE DUTY WITH THE UNITED STATES MILITARY WHO IS DOMICILED IN THIS STATE.

18–406.

(a) Except as otherwise provided in this section, each recipient of a senatorial scholarship may hold the scholarship for 4 undergraduate academic years, subject to § 18–406.1 of this subtitle, and 4 graduate academic years if the recipient:

(1) Is a full-time student;

(2) Continues to be a resident of this State; and

(3) Continues to be a student at the institution and takes at least 12 semester hours of courses as an undergraduate or 9 semester hours of courses as a graduate student each semester leading to a degree.

(b) A recipient of an undergraduate or graduate senatorial scholarship may hold the scholarship, appropriately prorated, for 8 academic years if [he] **THE RECIPIENT:**

(1) Is a part-time student;

(2) Continues to be a resident of this State; and

(3) Continues to be a student at the institution and takes at least 6 semester hours of courses each semester leading to a degree.

(F) A RECIPIENT OF A SENATORIAL SCHOLARSHIP WHO IS ~~A VETERAN AN~~ INDIVIDUAL WHO IS ON ACTIVE DUTY WITH THE UNITED STATES MILITARY AND OTHERWISE MEETS THE CONDITIONS OF SUBSECTION (A) OR (B) OF THIS SECTION MAY BE DOMICILED IN THIS STATE RATHER THAN A RESIDENT OF THIS STATE.

18-501.

(a) There is a program of Delegate Scholarships in this State that are awarded under this subtitle.

(b) A scholarship awarded under this subtitle may be used at:

(1) An eligible institution for a program of undergraduate, graduate, or professional studies;

(2) An accredited undergraduate, graduate, or professional institution outside the State, if **THE APPLICANT:**

(i) [The applicant will] **WILL** be studying in an academic area that is not available in this State; [or]

(ii) [1. The applicant is] **IS** disabled[;

2. The applicant] **AND** will be studying at an institution outside the State that makes special provisions for disabled students[; and

3. Comparable special provisions] **THAT** are not available to [that student] **THE APPLICANT** at an institution in the State; **OR**

(III) IS ~~A VETERAN AN~~ INDIVIDUAL WHO IS ON ACTIVE DUTY WITH THE UNITED STATES MILITARY WHO IS DOMICILED IN THIS STATE; and

(3) A private career school within the State that is approved by the Maryland Higher Education Commission under § 11–202 of this article and that is accredited by a national accrediting association that is approved by the United States Department of Education.

18–503.

(a) During each term in office, each Delegate may award the equivalent of four 4-year full-time scholarships, which may be awarded for either 1-, 2-, 3-, or 4-year periods.

(b) (1) Each scholarship pays the tuition and mandatory fees at any eligible institution.

(2) The annual amount of a scholarship at a PUBLIC OR private institution or any graduate or professional program may not exceed the equivalent annual tuition and mandatory fees of an undergraduate program 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 Campus, with the highest annual expenses for a full-time resident undergraduate.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 544

(Senate Bill 500)

AN ACT concerning

Small Claim Action Appeals From District Court – Nonattorney Representation

FOR the purpose of exempting certain representatives of certain entities from the requirement of admission to the Bar of Maryland and other requirements of the Court of Appeals for representing the entity in the appeals of certain civil actions originating in the District Court under certain circumstances; and generally relating to nonattorney representation in small claim action appeals.

BY repealing and reenacting, without amendments,
Article – Business Occupations and Professions
Section 10–206(a)
Annotated Code of Maryland
(2010 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 10–206(b)
Annotated Code of Maryland
(2010 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 4–405
Annotated Code of Maryland
(2013 Replacement Volume and 2016 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

10–206.

(a) Except as otherwise provided by law, before an individual may practice law in the State, the individual shall:

- (1) be admitted to the Bar; and
- (2) meet any requirement that the Court of Appeals may set by rule.

(b) This section does not apply to:

(1) a person while representing a landlord in a summary ejectment or a rent escrow proceeding in the District Court of Maryland;

(2) a person while representing a tenant in a summary ejectment or a rent escrow proceeding in the District Court of Maryland if the person is:

(i) a law student practicing in a clinical law program at a law school accredited by the American Bar Association with the in-court supervision of a faculty member; or

(ii) employed by a nonprofit organization receiving grants from the Maryland Legal Services Corporation and:

1. the person has training and experience;
2. the person is supervised by a lawyer; and
3. the supervising lawyer's appearance is entered in the proceeding;

(3) an insurance company while defending an insured through staff counsel;

(4) an officer of a corporation, an employee designated by an officer of a corporation, a partner in a business operated as a partnership or an employee designated by a partner, a member of a limited liability company or an employee designated by a member of a limited liability company, or an employee designated by the owner of a business operated as a sole proprietorship while the officer, partner, member, or employee is appearing on behalf of the corporation, partnership, limited liability company, or business in a civil action in the District Court of Maryland **OR AN APPEAL FROM THE DISTRICT COURT OF MARYLAND** if:

(i) the action **OR APPEAL**:

1. is based on a claim that does not exceed the amount set under § 4–405 of the Courts Article for a small claim action; and

2. is not based on an assignment, to the corporation, partnership, or business, of the claim of another;

(ii) in the case of a designated employee, the employee:

1. is not assigned on a full–time basis to appear in the District Court on behalf of the corporation, partnership, or business;

2. provides the court a power of attorney sworn to by the employer that certifies that the designated employee is an authorized agent of the corporation, partnership, limited liability company, or sole proprietorship and may bind the corporation, partnership, limited liability company, or sole proprietorship on matters pending before the court; and

3. is not an individual who is disbarred or suspended as a lawyer in any state; and

(iii) the corporation, partnership, limited liability company, or business does not contract, hire, or employ another business entity to provide appearance services;

(5) an individual who is authorized by a county employee to represent the employee at any step of the county’s grievance procedure; or

(6) a director or an officer of a common ownership community while representing the common ownership community in a dispute, hearing, or other matter before a board or commission established to oversee one or more of the following common ownership communities:

- (i) a development subject to a declaration enforced by a homeowners association as defined in § 11B–101 of the Real Property Article;
- (ii) a residential condominium as defined in § 11–101 of the Real Property Article; or
- (iii) a cooperative housing corporation as defined in § 5–6B–01 of the Corporations and Associations Article.

Article – Courts and Judicial Proceedings

4–405.

The District Court has exclusive jurisdiction over a small claim action, which, for purposes of this section, means a civil action for money in which the amount claimed does not exceed \$5,000 exclusive of interest, costs, and attorney’s fees, if attorney’s fees are recoverable by law or contract; and landlord tenant action under §§ 8–401 and 8–402 of the Real Property Article, in which the amount of rent claimed does not exceed \$5,000 exclusive of interest and costs.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 545

(House Bill 725)

AN ACT concerning

State Board of Dental Examiners – Death of a Licensed Dentist – Ownership of a Dental Practice

FOR the purpose of authorizing, under certain circumstances, an heir or a personal representative of a deceased licensed dentist who was the owner of a dental practice to serve as an owner of the dental practice for a certain period of time; authorizing the State Board of Dental Examiners to extend a certain time period under certain circumstances; requiring that all patient care be provided by certain individuals and in accordance with certain scopes of practice during the temporary ownership of a dental practice by an heir or a representative of a deceased licensed dentist; prohibiting the temporary ownership of a dental practice by an heir or a representative of a deceased licensed dentist to affect the exercise of independent judgment by certain licensed dentists; and generally relating to the death of a licensed dentist and the ownership of the practice of the licensed dentist.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 4–301
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

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

Article – Health Occupations

4–301.

(a) (1) Except as otherwise provided in this title, an individual shall be licensed by the Board to practice dentistry before the individual may practice dentistry on a human being in this State.

(2) Except as otherwise provided in this title, an individual shall be licensed by the Board to practice dental hygiene before the individual may practice dental hygiene on a human being in this State.

(b) This section does not apply to:

(1) A student of dentistry while engaged in an educational program at an approved school of dentistry;

(2) A student of dental hygiene while engaged in an approved educational program in dental hygiene;

(3) A dentist while performing official duties in a federal dental service;

(4) An individual licensed to practice dentistry in any other state or a foreign country, while the individual:

(i) Makes a clinical demonstration before a dental society, dental convention, association of dentists, or dental college; or

(ii) Performs professional duties on a specific case for which the individual is called into this State; [or]

(5) A dental assistant, if the dental assistant:

(i) Subject to the rules and regulations adopted by the Board, performs only procedures that do not require the professional skills of a licensed dentist; and

(ii) Performs intraoral tasks only under the direct supervision of a licensed dentist who personally is present in the office area where the tasks are performed;
OR

(6) AN HEIR OF A DECEASED LICENSED DENTIST OR A PERSONAL REPRESENTATIVE OF A DECEASED LICENSED DENTIST, IF:

(I) THE DECEASED LICENSED DENTIST WAS THE OWNER OF THE DENTAL PRACTICE;

(II) THE DECEASED LICENSED DENTIST DID NOT PROVIDE FOR THE DISPOSITION OF THE DENTAL PRACTICE; AND

(III) THE HEIR OR THE PERSONAL REPRESENTATIVE OF THE DECEASED LICENSED DENTIST SERVES AS THE OWNER OF THE DENTAL PRACTICE, REGARDLESS OF WHETHER THE HEIR OR THE PERSONAL REPRESENTATIVE IS LICENSED TO PRACTICE DENTISTRY, FOR NO LONGER THAN 1 YEAR AFTER THE DEATH OF THE LICENSED DENTIST UNLESS THE BOARD EXTENDS THE TIME PERIOD UNDER SUBSECTION (C)(1) OF THIS SECTION.

(c) (1) ON WRITTEN REQUEST AND GOOD CAUSE SHOWN BY THE HEIR OR PERSONAL REPRESENTATIVE OF A DECEASED LICENSED DENTIST, INCLUDING EVIDENCE OF A GOOD FAITH EFFORT TO SELL OR CLOSE THE DENTAL PRACTICE, THE BOARD, IN ITS SOLE DISCRETION, MAY EXTEND THE 1-YEAR PERIOD UNDER SUBSECTION (B)(6)(III) OF THIS SECTION FOR UP TO AN ADDITIONAL 6 MONTHS TO ALLOW THE HEIR OR PERSONAL REPRESENTATIVE SUFFICIENT TIME TO SELL OR OTHERWISE DISPOSE OF THE DENTAL PRACTICE.

(2) DURING THE TEMPORARY OWNERSHIP OF A DENTAL PRACTICE BY AN HEIR OR A REPRESENTATIVE OF A DECEASED LICENSED DENTIST UNDER SUBSECTION (B)(6)(III) OF THIS SECTION AND, IF APPLICABLE, PARAGRAPH (1) OF THIS SUBSECTION, ALL PATIENT CARE SHALL BE PROVIDED:

(I) BY AN APPROPRIATE INDIVIDUAL WHO IS LICENSED UNDER THIS TITLE; AND

(II) IN ACCORDANCE WITH THE INDIVIDUAL'S SCOPE OF PRACTICE.

(3) THE TEMPORARY OWNERSHIP OF A DENTAL PRACTICE BY AN HEIR OR A PERSONAL REPRESENTATIVE OF A DECEASED LICENSED DENTIST UNDER THIS SUBSECTION MAY NOT AFFECT THE EXERCISE OF THE INDEPENDENT JUDGMENT OF A LICENSED DENTIST WHO PROVIDES CARE TO PATIENTS OF THE DENTAL PRACTICE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 546
(House Bill 1054)

AN ACT concerning

**State Board of Physicians – Physician Licensure – Prohibition on Requiring
Specialty Certification**

FOR the purpose of prohibiting the State Board of Physicians from requiring, as a qualification to obtain a license or as a condition to renew a license, certification by a certain accrediting organization that specializes in a specific area of medicine or maintenance of certification by a certain accrediting organization that includes certain reexamination as a requirement for maintaining certification; and generally relating to physician licensure by the State Board of Physicians.

BY adding to

Article – Health Occupations

Section ~~14-205(d)~~ 14-322

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

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

Article – Health Occupations

~~14-205.~~ 14-322.

~~(D)~~ **NOTWITHSTANDING ANY OTHER LAW, THE BOARD MAY NOT REQUIRE AS A QUALIFICATION TO OBTAIN A LICENSE OR AS A CONDITION TO RENEW A LICENSE:**

(1) CERTIFICATION BY A NATIONALLY RECOGNIZED ACCREDITING ORGANIZATION THAT SPECIALIZES IN A SPECIFIC AREA OF MEDICINE; OR

(2) MAINTENANCE OF CERTIFICATION BY A NATIONALLY RECOGNIZED ACCREDITING ORGANIZATION THAT SPECIALIZES IN A SPECIFIC AREA OF MEDICINE THAT INCLUDES CONTINUOUS REEXAMINATION TO MEASURE CORE

COMPETENCIES IN THE PRACTICE OF MEDICINE AS A REQUIREMENT FOR MAINTAINING CERTIFICATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 547

(Senate Bill 989)

AN ACT concerning

State Board of Physicians – Physician Licensure – Prohibition on Requiring Specialty Certification

FOR the purpose of prohibiting the State Board of Physicians from requiring, as a qualification to obtain a license or as a condition to renew a license, certification by a certain accrediting organization that specializes in a specific area of medicine or maintenance of certification by a certain accrediting organization that includes certain reexamination as a requirement for maintaining certification; and generally relating to physician licensure by the State Board of Physicians.

BY adding to

Article – Health Occupations

Section ~~14-205(d)~~ 14-322

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

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

Article – Health Occupations

~~14-205.~~ 14-322.

~~(D)~~ **NOTWITHSTANDING ANY OTHER LAW, THE BOARD MAY NOT REQUIRE AS A QUALIFICATION TO OBTAIN A LICENSE OR AS A CONDITION TO RENEW A LICENSE:**

(1) CERTIFICATION BY A NATIONALLY RECOGNIZED ACCREDITING ORGANIZATION THAT SPECIALIZES IN A SPECIFIC AREA OF MEDICINE; OR

(2) MAINTENANCE OF CERTIFICATION BY A NATIONALLY RECOGNIZED ACCREDITING ORGANIZATION THAT SPECIALIZES IN A SPECIFIC AREA OF MEDICINE THAT INCLUDES CONTINUOUS REEXAMINATION TO MEASURE CORE COMPETENCIES IN THE PRACTICE OF MEDICINE AS A REQUIREMENT FOR MAINTAINING CERTIFICATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 548

(House Bill 1183)

AN ACT concerning

State Board of Social Work Examiners – Revisions

FOR the purpose of renaming the graduate social worker license issued by the State Board of Social Work Examiners to be the master social worker license; limiting the number of terms a certain licensed social worker member of the Board may serve; requiring a certain licensed bachelor social worker or licensed master social worker to submit certain information to the Board to obtain approval by the Board to engage in independent practice; requiring the Board to approve an individual, under certain circumstances, to engage in independent practice; authorizing the Board to reject a certain application and require certain additional supervision if the Board makes a certain determination; repealing a provision of law authorizing the Board to accept an alternate method of criminal history records check under certain circumstances; requiring the Criminal Justice Information System Central Repository to provide the Board with a certain revised statement under certain circumstances; altering the factors the Board is required to consider in using certain information obtained from the Central Repository to determine whether to issue a license; requiring the Board to include whether a certain licensee is approved to engage in independent practice on a certain electronic license record; clarifying that certain licensees are prohibited from engaging in independent practice except under certain circumstances; prohibiting a licensed master social worker from engaging in independent practice on or after a certain date; altering certain requirements for the supervision of licensed master social workers and licensed certified social workers; ~~prohibiting a licensed certified social worker from engaging in independent practice~~; requiring, beginning in a certain calendar year and except under certain circumstances, a licensee that renews a license to ~~submit certain evidence of having completed~~ attest that the licensee has submitted to a State and national criminal history records check in accordance with certain provisions of law; requiring the Board, in using

information obtained from the Central Repository to determine whether to take disciplinary action against a certain licensee, to consider certain factors; authorizing the Board to renew a license only if a licensee attests that the licensee has submitted to a State and national criminal history records check; requiring a certain individual applying to the Board for reactivation, reinstatement, or reissuance of a license to submit certain evidence of having completed a State and national criminal history records check in accordance with certain provisions of law; requiring the Board, in using information obtained from the Central Repository to determine whether to ~~renew~~, reactivate, reinstate, or reissue a license, to consider certain factors; prohibiting the Board from ~~renewing~~, reactivating, reinstating, or reissuing a license if the Board has not received certain criminal history records information; altering the circumstances under which the Board is required to place a licensee on nonrenewed status; clarifying that certain individuals who have been on inactive status or nonrenewed status for more than a certain number of years or who otherwise fail to apply for reactivation or renewal are required to apply for reissuance; altering the circumstances under which the Board is required to reissue a license to an individual; authorizing the Board to issue a cease and desist order or obtain injunctive relief for a violation of certain provisions of law; altering the manner by which certain licensees are required to make certain disclosures before providing social work services; establishing certain penalties; altering certain penalties; prohibiting the use of a certain abbreviation under certain circumstances; providing for continuity of licensure for certain licensees licensed by the Board on a certain date; authorizing certain individuals to apply for the reactivation, reinstatement, or reissuance of a certain license under certain circumstances; requiring the Board to adopt certain regulations on or before a certain date; providing for a delayed effective date *for certain provisions of this Act*; defining certain terms; altering certain definitions; making conforming changes; providing for the construction of certain provisions of this Act; and generally relating to the State Board of Social Work Examiners.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 19–101, 19–202(a)(2) and (3), (d), and (g)(5), 19–302, 19–302.2, 19–306 through 19–309, 19–318, 19–402, and 19–407

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

BY adding to

Article – Health Occupations

Section 19–316.1

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

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

Article – Health Occupations

19–101.

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

(b) “Board” means the State Board of Social Work Examiners.

(c) “Certified” means having demonstrated to the satisfaction of the Board that the individual has completed 2 years of supervised social work practice as defined in § 19–302(d) or (e) of this title.

(D) “INDEPENDENT PRACTICE” MEANS TO PRACTICE BACHELOR SOCIAL WORK OR MASTER SOCIAL WORK WITHOUT THE REQUIREMENT OF SUPERVISION BY ANOTHER SOCIAL WORKER.

[(d)] (E) “License” means, unless the context requires otherwise, one of four types of licenses issued by the Board authorizing an individual to practice:

- (1) Bachelor social work;
- (2) **[Graduate] MASTER** social work;
- (3) Certified social work; or
- (4) Certified social work–clinical.

[(e)] (F) “Licensed bachelor social worker” means an individual licensed by the Board to practice bachelor social work.

[(f)] (G) “Licensed certified social worker” means an individual licensed by the Board to practice certified social work.

[(g)] (H) “Licensed certified social worker–clinical” means an individual licensed by the Board to practice clinical social work.

[(h)] (I) “Licensed graduate social worker” means an individual licensed by the Board, ~~ON OR BEFORE SEPTEMBER 30, 2017~~ ~~DECEMBER 31, 2017~~ JUNE 30, 2018, to practice graduate social work.

(J) “LICENSED MASTER SOCIAL WORKER” MEANS AN INDIVIDUAL LICENSED BY THE BOARD, ON OR AFTER ~~OCTOBER 1, 2017~~ ~~JANUARY 1, 2018~~ JULY 1, 2018, TO PRACTICE MASTER SOCIAL WORK.

[(i)] (K) “Practice bachelor social work” means to **[practice social work]** **USE THE EDUCATION AND TRAINING REQUIRED UNDER § 19–302(B) OF THIS TITLE TO:**

(1) [Under] **PRACTICE SOCIAL WORK UNDER** the supervision of a licensed certified social worker, licensed certified social worker–clinical, [or] licensed [graduate] **MASTER social worker, OR LICENSED BACHELOR SOCIAL WORKER** who meets the conditions specified in regulations; [and] **OR**

[(2) Utilizing the education and training required under § 19–302(b) of this title.]

(2) IF APPROVED BY THE BOARD IN ACCORDANCE WITH § 19–302(F) OF THIS TITLE, ENGAGE IN INDEPENDENT PRACTICE.

[(j)] (L) ~~(1)~~ “Practice certified social work” means to USE THE EDUCATION, TRAINING, AND EXPERIENCE REQUIRED UNDER § 19–302(D) OF THIS TITLE TO practice social work [utilizing the education, training, and experience required under § 19–302(d) of this title].

~~(2) “PRACTICE CERTIFIED SOCIAL WORK” INCLUDES:~~

~~(I) FORMULATING A DIAGNOSIS UNDER THE SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER CLINICAL;~~

~~(II) TREATING BIOPSYCHOSOCIAL CONDITIONS; AND~~

~~(III) TREATING MENTAL DISORDERS AND PROVIDING PSYCHOTHERAPY UNDER THE SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER CLINICAL.~~

[(k)] (M) ~~(1)~~ “Practice clinical social work” means to USE THE SPECIALIZED EDUCATION, TRAINING, AND EXPERIENCE REQUIRED UNDER § 19–302(E) OF THIS TITLE TO practice social work [utilizing the specialized education, training, and experience required under § 19–302(e) of this title].

~~(2) “PRACTICE CLINICAL SOCIAL WORK” INCLUDES:~~

~~(I) EVALUATING, DIAGNOSING, AND TREATING BIOPSYCHOSOCIAL CONDITIONS, MENTAL AND EMOTIONAL CONDITIONS AND IMPAIRMENTS, AND MENTAL DISORDERS AS DEFINED IN § 10 101 OF THE HEALTH GENERAL ARTICLE;~~

~~(II) PETITIONING FOR EMERGENCY EVALUATION UNDER TITLE 10, SUBTITLE 6, PART IV OF THE HEALTH GENERAL ARTICLE; AND~~

~~(III) PROVIDING PSYCHOTHERAPY.~~

~~[(1)] (N) ~~(1)~~ “Practice graduate social work” means, ON OR BEFORE SEPTEMBER 31, 2017 DECEMBER 31, 2017 JUNE 30, 2018, to HAVE USED THE EDUCATION AND TRAINING REQUIRED TO OBTAIN A MASTER SOCIAL WORK LICENSE UNDER § 19–302(C) OF THIS TITLE TO practice social work[:~~

(1) Under] UNDER the supervision of a licensed certified social worker, licensed certified social worker–clinical, or licensed graduate social worker who meets the conditions specified in regulations[; and

(2) Utilizing the education and training required under § 19–302(c) of this title].

~~(2) “PRACTICE GRADUATE SOCIAL WORK” INCLUDES HAVING:~~

~~(I) FORMULATED A DIAGNOSIS UNDER THE SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER–CLINICAL;~~

~~(II) TREATED BIOPSYCHOSOCIAL CONDITIONS; AND~~

~~(III) TREATED MENTAL DISORDERS AND PROVIDED PSYCHOTHERAPY UNDER THE SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER–CLINICAL.~~

(O) ~~(1)~~ “PRACTICE MASTER SOCIAL WORK” MEANS TO USE THE EDUCATION AND TRAINING REQUIRED UNDER § 19–302(C) OF THIS TITLE TO:

~~(1)~~ (1) PRACTICE SOCIAL WORK UNDER THE SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER, LICENSED CERTIFIED SOCIAL WORKER–CLINICAL, OR LICENSED MASTER SOCIAL WORKER WHO MEETS THE CONDITIONS SPECIFIED IN REGULATIONS; OR

~~(2)~~ (2) IF APPROVED BY THE BOARD IN ACCORDANCE WITH § 19–302(F) OF THIS TITLE, ENGAGE IN INDEPENDENT PRACTICE.

~~(2) “PRACTICE MASTER SOCIAL WORK” INCLUDES:~~

~~(I) FORMULATING A DIAGNOSIS UNDER THE SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER–CLINICAL;~~

~~(II) TREATING BIOPSYCHOSOCIAL CONDITIONS; AND~~

~~(III) TREATING MENTAL DISORDERS AND PROVIDING PSYCHOTHERAPY UNDER THE SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER–CLINICAL.~~

[(m)] (P) (1) “Practice social work” means to apply the theories, knowledge, procedures, methods, or ethics derived from **[a formal educational] RECEIVING A BACCALAUREATE OR MASTER’S DEGREE FROM A program in social work THAT IS ACCREDITED BY OR A CANDIDATE FOR ACCREDITATION BY THE COUNCIL ON SOCIAL WORK EDUCATION, OR AN EQUIVALENT ORGANIZATION APPROVED BY THE COUNCIL ON SOCIAL WORK EDUCATION,** to restore or enhance social functioning of individuals, couples, families, groups, organizations, or communities through:

- (i) Assessment;
- (ii) Planning;
- (iii) Intervention;
- (iv) Evaluation of intervention plans;
- (v) Case management;
- (vi) Information and referral;
- (vii) Counseling that does not include diagnosis or treatment of mental disorders;
- (viii) Advocacy;
- (ix) Consultation;
- (x) Education;
- (xi) Research;
- (xii) Community organization; [or]
- (xiii) Development, implementation, and administration of policies, programs, and activities; **OR**

~~**(XIV) BEHAVIORAL HEALTH SERVICES, INCLUDING THE TREATMENT OF SUBSTANCE USE DISORDERS; OR**~~

~~**(XV)**~~ **(XIV) SUPERVISION OF OTHER SOCIAL WORKERS AS SET FORTH IN REGULATIONS.**

~~‡(2)~~ For an individual licensed as a graduate social worker **ON OR BEFORE DECEMBER 31, 2017 JUNE 30, 2018, OR AS A MASTER SOCIAL WORKER,** “practice social work” also includes:

(i) Supervision of other social workers if the graduate social worker meets the requirements set out in regulations;

(ii) Formulating a diagnosis, under the ~~direct~~ supervision of a licensed certified social worker–clinical;

(iii) Treatment of biopsychosocial conditions; and

(iv) Treatment of ~~mental–disorders~~ **BEHAVIORAL HEALTH DISORDERS, INCLUDING SUBSTANCE USE DISORDERS, ADDICTIVE DISORDERS, AND MENTAL DISORDERS**, and the provision of psychotherapy under the ~~direct~~ supervision of a licensed certified social worker–clinical.

(3) For an individual licensed as a certified social worker, “practice social work” also includes:

(i) Supervision of other social workers;

(ii) Formulating a diagnosis, under the ~~direct~~ supervision of a licensed certified social worker–clinical;

(iii) Treatment of biopsychosocial conditions; and

(iv) Treatment of ~~mental–disorders~~ **BEHAVIORAL HEALTH DISORDERS, INCLUDING SUBSTANCE USE DISORDERS, ADDICTIVE DISORDERS, AND MENTAL DISORDERS**, and the provision of psychotherapy under the direct supervision of a licensed certified social worker–clinical.

(4) For an individual licensed as a certified social worker–clinical, “practice social work” also includes:

(i) Supervision of other social workers;

(ii) Evaluation, diagnosis, and treatment of biopsychosocial conditions, mental and emotional conditions and impairments, and ~~mental–disorders~~ **BEHAVIORAL HEALTH DISORDERS, INCLUDING SUBSTANCE USE DISORDERS, ADDICTIVE DISORDERS, AND MENTAL DISORDERS**, as defined in § 10–101(i) of the Health – General Article;

(iii) Petitioning for emergency evaluation under Title 10, Subtitle 6 of the Health – General Article; and

(iv) The provision of psychotherapy.†

~~(2)~~ **(5) “PRACTICE SOCIAL WORK” INCLUDES USING TECHNOLOGY AS SET FORTH IN REGULATIONS.**

(Q) “PRIVATE PRACTICE” MEANS THE PROVISION OF PSYCHOTHERAPY BY A LICENSED CERTIFIED SOCIAL WORKER–CLINICAL WHO ASSUMES RESPONSIBILITY AND ACCOUNTABILITY FOR THE NATURE AND QUALITY OF THE SERVICES PROVIDED TO A CLIENT ~~IN~~:

(1) IN EXCHANGE FOR DIRECT PAYMENT OR THIRD–PARTY REIMBURSEMENT; OR

(2) ON A PRO BONO BASIS AS DETERMINED IN REGULATIONS ADOPTED BY THE BOARD.

[(n)] (R) “Psychotherapy” means the assessment and treatment of mental disorders and behavioral disturbances.

(S) “REACTIVATION” MEANS THE PROCESS OF OBTAINING A LICENSE LESS THAN 5 YEARS AFTER THE BOARD PLACED AN INDIVIDUAL ON INACTIVE STATUS.

(T) “REINSTATEMENT” MEANS THE PROCESS OF OBTAINING A LICENSE LESS THAN 5 YEARS AFTER THE BOARD PLACED AN INDIVIDUAL ON NONRENEWED STATUS.

(U) “REISSUANCE” MEANS THE PROCESS OF OBTAINING A LICENSE MORE THAN 5 YEARS AFTER THE BOARD PLACED AN INDIVIDUAL ON INACTIVE OR NONRENEWED STATUS.

[(o)] (V) “Supervision” means a formalized professional relationship between a supervisor and a supervisee that:

(1) Provides evaluation and direction of the supervisee; and

(2) Promotes continued development of the supervisee’s knowledge, skills, and abilities to provide social work services in an ethical and competent manner.

19–202.

(a) (2) Of the 12 Board members:

(i) 10 shall be licensed social workers of whom:

1. Subject to paragraph (3) of this subsection, 1 is a licensed bachelor social worker;

2. Subject to paragraph (3) of this subsection, 1 is a licensed [graduate] **MASTER** social worker at the time of appointment;

3. Subject to paragraph (3) of this subsection, at least 1 is a licensed certified social worker;

4. Subject to paragraph (3) of this subsection, at least 4 are licensed certified social workers—clinical;

5. 1 is a licensed social worker employed by the Department of Human Resources; and

6. Subject to paragraph (3) of this subsection, 1 is a licensed social worker who is:

A. Primarily engaged in social worker education at a social work program accredited by the Council on Social Work Education; and

B. Nominated from a list of names submitted by the deans and directors of the Maryland Social Work Education Programs; and

(ii) 2 shall be consumer members.

(3) If a licensed bachelor social worker, a licensed [graduate] **MASTER** social worker, a licensed certified social worker, a licensed certified social worker—clinical, or a licensed social worker is not appointed to the Board under paragraph (2)(i) of this subsection within 3 months of a vacancy, a licensee of any license level shall be appointed immediately if that licensee is qualified to be a member of the Board under subsections (b) and (d) of this section.

(d) Except for the licensed bachelor social worker member and the licensed [graduate] **MASTER** social worker member, each social worker member of the Board shall have been licensed in the State for 5 years immediately preceding the appointment and actively employed in the field of social work for at least 3 of the 5 years immediately preceding the appointment.

(g) (5) (I) **[A] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A** member may not serve more than 2 consecutive full terms.

(II) A LICENSED SOCIAL WORKER MEMBER WHO IS NOMINATED IN ACCORDANCE WITH SUBSECTION (A)(2)(I)6B OF THIS SECTION MAY NOT SERVE MORE THAN 1 FULL TERM.

(a) To obtain a license, an applicant shall demonstrate to the satisfaction of the Board that the applicant:

- (1) Has submitted a complete written application in the form prescribed by the Board;
- (2) Is at least 18 years old;
- (3) Is of good moral character;
- (4) Except as otherwise provided in this title, has successfully passed an examination or examinations prescribed by the Board pertinent to the license sought;
- (5) Has paid all applicable fees specified by the Board;
- (6) Has completed a criminal history records check in accordance with § 19–302.2 of this subtitle at the applicant’s expense; and
- (7) Has submitted to an examination if required under § 19–302.3 of this subtitle.

(b) To obtain a bachelor social worker license, an applicant shall:

- (1) Meet the requirements of subsection (a) of this section; and
- (2) Have received a baccalaureate degree in social work from a program that is accredited or is a candidate for accreditation by the Council on Social Work Education or an equivalent organization approved by the Council on Social Work Education.

(c) To obtain a [graduate] **MASTER** social worker license, an applicant shall:

- (1) Meet the requirements of subsection (a) of this section; and
- (2) Have received a master’s degree from a program that is accredited or is a candidate for accreditation by the Council on Social Work Education or an equivalent organization approved by the Council on Social Work Education.

(d) Except as provided in § 19–302.1 of this subtitle, to obtain a certified social worker license, an applicant shall:

- (1) Meet the requirements of subsection (a) of this section;
- (2) Have received a master’s degree from a program accredited by the Council on Social Work Education or an equivalent organization approved by the Council on Social Work Education; and

(3) Provide in a form prescribed by the Board, documentation of having completed 2 years as a licensee with supervised experience of at least 3,000 hours after receiving the master's degree with a minimum of 100 hours of periodic face-to-face supervision in the practice of social work under the terms and conditions that the Board determines by regulation.

(e) Except as provided in § 19–302.1 of this subtitle, to obtain a certified social worker–clinical license, an applicant shall:

(1) Meet the requirements of subsection (a) of this section;

(2) Have received a master's degree in social work and documentation of completion of 12 academic credits in clinical course work from a program accredited by the Council on Social Work Education or an equivalent organization approved by the Council on Social Work Education, with a minimum of 6 of the 12 academic credits obtained in a master's degree program; and

(3) Provide in a form prescribed by the Board, documentation of having completed 2 years as a licensee with supervised experience of at least 3,000 hours, of which 1,500 hours are in face-to-face client contact, after receiving the master's degree with a minimum of 144 hours of periodic face-to-face supervision in the assessment, formulation of a diagnostic impression, and treatment of mental disorders and other conditions and the provision of psychotherapy under the terms and conditions that the Board determines by regulation.

(F) (1) (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, TO OBTAIN APPROVAL BY THE BOARD TO ENGAGE IN INDEPENDENT PRACTICE, A LICENSED BACHELOR SOCIAL WORKER OR A LICENSED MASTER SOCIAL WORKER SHALL SUBMIT TO THE BOARD:

~~(H)~~ 1. AN APPLICATION IN THE FORM PRESCRIBED BY THE BOARD;

~~(H)~~ 2. ALL APPLICABLE FEES SPECIFIED BY THE BOARD;
AND

~~(H)~~ 3. DOCUMENTATION IN A FORM PRESCRIBED BY THE BOARD OF HAVING COMPLETED AT LEAST 3 YEARS AS A LICENSEE WITH SUPERVISED EXPERIENCE OF AT LEAST 4,500 HOURS AFTER RECEIVING THE BACCALAUREATE OR MASTER'S DEGREE WITH A MINIMUM OF 150 HOURS OF PERIODIC FACE-TO-FACE SUPERVISION UNDER THE TERMS AND CONDITIONS THAT THE BOARD DETERMINES BY REGULATION.

(II) IF THE BOARD DETERMINES THAT A LICENSED BACHELOR SOCIAL WORKER OR A LICENSED MASTER SOCIAL WORKER WHO APPLIES TO THE

BOARD TO ENGAGE IN THE PRACTICE OF INDEPENDENT PRACTICE HAS NOT COMPLETED THE SUPERVISED EXPERIENCE AS REQUIRED UNDER PARAGRAPH (1)(I)3 OF THIS SUBSECTION, THE BOARD MAY:

1. REJECT THE APPLICATION FOR INDEPENDENT PRACTICE; AND

2. REQUIRE THE LICENSED BACHELOR SOCIAL WORKER OR THE LICENSED MASTER SOCIAL WORKER TO CONTINUE TO WORK UNDER SUPERVISION AS REQUIRED BY THE BOARD FOR AN ADDITIONAL 1,500 HOURS BEFORE REAPPLYING.

(2) THE BOARD SHALL APPROVE AN INDIVIDUAL TO ENGAGE IN INDEPENDENT PRACTICE IF THE INDIVIDUAL:

(I) SUBMITS TO THE BOARD:

1. AN APPLICATION IN THE FORM PRESCRIBED BY THE BOARD; AND

2. ALL APPLICABLE FEES SPECIFIED BY THE BOARD;

(II) ON OR BEFORE ~~OCTOBER 1, 2007~~ JANUARY 1, 2008, WAS LICENSED BY THE BOARD AS A LICENSED BACHELOR SOCIAL WORKER OR A LICENSED GRADUATE SOCIAL WORKER; AND

(III) HAS ACTIVELY PRACTICED BACHELOR SOCIAL WORK, ACTIVELY PRACTICED GRADUATE SOCIAL WORK, OR ACTIVELY PRACTICED MASTER SOCIAL WORK FOR AT LEAST 10 YEARS.

(3) NOTHING IN THIS SUBSECTION MAY BE CONSTRUED TO PROHIBIT AN EMPLOYER FROM REQUIRING SUPERVISION OF A LICENSED BACHELOR SOCIAL WORKER OR A LICENSED MASTER SOCIAL WORKER WHO IS APPROVED TO ENGAGE IN INDEPENDENT PRACTICE UNDER THIS SUBSECTION.

19-302.2.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) As part of an application to the Central Repository for a State and national criminal history records check, an applicant shall submit to the Central Repository:

(1) A complete set of 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 State criminal history records; and

(3) The processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(c) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure Article, the Central Repository shall forward to the Board and to the applicant the criminal history record information of the applicant.

[(d) If an applicant has made two or more unsuccessful attempts at securing legible fingerprints, the Board may accept an alternate method of criminal history records check as permitted by the Director of the Central Repository and the Director of the Federal Bureau of Investigation.]

(D) IF CRIMINAL HISTORY RECORD INFORMATION IS REPORTED TO THE CENTRAL REPOSITORY AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK, THE CENTRAL REPOSITORY SHALL PROVIDE TO THE BOARD A REVISED PRINTED STATEMENT OF THE INDIVIDUAL’S STATE CRIMINAL HISTORY RECORD.

(e) (1) Information obtained from the Central Repository under this section:

(i) Is confidential and may not be disseminated; and

(ii) May be used only for the licensing purpose authorized by this title.

(2) In using information obtained from the Central Repository under this section to determine whether to issue a license, the Board shall consider:

(i) The age at which the crime was committed;

(II) THE NATURE OF THE CRIME;

[(ii)] **(III)** The circumstances surrounding the crime;

[(iii)] **(IV)** The length of time that has passed since the crime was committed;

[(iv)] **(V)** Subsequent work history;

[(v)] **(VI)** Employment and character references; and

[(vi)] **(VII)** Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(f) 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.

19–306.

(a) The Board shall maintain on its Web site a roster of all licensees who meet the requirements of this title.

(b) The Board shall include on each electronic license record:

(1) The kind of license;

(2) The full name of the licensee;

(3) IF THE LICENSEE IS A LICENSED BACHELOR SOCIAL WORKER OR A LICENSED MASTER SOCIAL WORKER, WHETHER THE LICENSEE IS APPROVED TO ENGAGE IN INDEPENDENT PRACTICE;

[(3)] **(4)** A license number;

[(4)] **(5)** The license status;

[(5)] **(6)** The expiration date; and

[(6)] **(7)** The original date of issuance.

19–307.

(a) Subject to the provisions of subsections (b) and (c) of this section, a license authorizes the licensee to practice social work while the license is effective.

(b) A licensed social worker may practice social work only within the scope of the specific type of license issued by the Board.

(c) (1) A licensed bachelor social worker may not:

[(i) Practice social work without the supervision of a licensed certified social worker, licensed certified social worker–clinical, or licensed graduate social worker who meets the requirements specified in the regulations;]

(I) ENGAGE IN INDEPENDENT PRACTICE UNLESS THE LICENSED BACHELOR SOCIAL WORKER IS APPROVED BY THE BOARD TO ENGAGE IN INDEPENDENT PRACTICE IN ACCORDANCE WITH § 19–302(F) OF THIS SUBTITLE;

- (ii) Make a clinical diagnosis of a mental or emotional disorder;
- (iii) Provide psychotherapy; or
- (iv) Engage in private practice.

(2) A licensed [graduate] **MASTER** social worker may not:

[(i) Practice graduate social work without the supervision of a licensed certified social worker, licensed certified social worker–clinical, or licensed graduate social worker who meets the requirements specified in the regulations;]

(I) ENGAGE IN INDEPENDENT PRACTICE UNLESS THE LICENSED MASTER SOCIAL WORKER IS APPROVED BY THE BOARD TO ENGAGE IN INDEPENDENT PRACTICE IN ACCORDANCE WITH § 19–302(F) OF THIS SUBTITLE;

(ii) Treat mental or emotional disorders or provide psychotherapy without the [direct] supervision of a licensed certified social worker–clinical;

(iii) Diagnose a mental disorder without the [direct] supervision of a licensed certified social worker–clinical; [or]

(iv) [Engage] **ON OR BEFORE ~~SEPTEMBER 30, 2019~~ DECEMBER 31, 2019**, ENGAGE in private practice without the [direct] supervision of a licensed certified social worker–clinical; **OR**

(V) ON OR AFTER ~~OCTOBER 1, 2019~~ JANUARY 1, 2020, ENGAGE IN PRIVATE PRACTICE.

(3) A licensed certified social worker may not:

(i) Treat mental or emotional disorders or provide psychotherapy without the ~~direct~~ supervision of a licensed certified social worker–clinical; ~~[or]~~

(ii) Diagnose a mental disorder without the [direct] supervision of a licensed certified social worker–clinical; ~~OR~~

~~**(III) ENGAGE IN PRIVATE PRACTICE.**~~

(a) A license expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section. A license may not be renewed for a term longer than 2 years.

(b) At least 1 month before the license expires, the Board shall send to the licensee, at the last known electronic or physical address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) Each licensee shall notify the Board of any change in the address of the licensee within 60 days after the change occurs.

(d) Before the 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 the appropriate renewal fee specified by this subtitle;

~~and~~

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; ~~and~~

(ii) Satisfactory evidence of compliance with any continuing education requirement set under this section for license renewal; **AND**

~~(iii) (4)~~ **(4) BEGINNING IN CALENDAR YEAR 2021 AND EXCEPT AS PROVIDED IN SUBSECTION (G)(3) OF THIS SECTION, ~~SATISFACTORY EVIDENCE OF HAVING COMPLETED~~ ATTESTS THAT THE LICENSEE HAS SUBMITTED TO A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 19-302.2 OF THIS SUBTITLE.**

(e) (1) **[The] SUBJECT TO SUBSECTION (G) OF THIS SECTION, 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 maintain the same information on each licensee.

(f) The Board may not renew a bachelor social worker license or a [graduate] MASTER social worker license of a licensee who holds a baccalaureate degree or master's degree from a program that was a candidate for accreditation but was denied accreditation.

(G) (1) ON RECEIPT OF THE CRIMINAL HISTORY RECORD INFORMATION OF AN APPLICANT FOR LICENSURE FORWARDED TO THE BOARD IN ACCORDANCE WITH § 19-302.2 OF THIS SUBTITLE, IN DETERMINING WHETHER ~~TO RENEW A LICENSE~~ DISCIPLINARY ACTION SHOULD BE TAKEN, BASED ON THE CRIMINAL RECORD INFORMATION, AGAINST A LICENSEE WHO RENEWED A LICENSE, THE BOARD SHALL CONSIDER:

- (I) THE AGE AT WHICH THE CRIME WAS COMMITTED;**
- (II) THE NATURE OF THE CRIME;**
- (III) THE CIRCUMSTANCES SURROUNDING THE CRIME;**
- (IV) THE LENGTH OF TIME THAT HAS PASSED SINCE THE CRIME;**
- (V) SUBSEQUENT WORK HISTORY;**
- (VI) EMPLOYMENT AND CHARACTER REFERENCES; AND**

(VII) ANY OTHER EVIDENCE THAT DEMONSTRATES WHETHER THE APPLICANT POSES A THREAT TO THE PUBLIC HEALTH OR SAFETY.

(2) THE BOARD MAY ~~NOT~~ RENEW A LICENSE ~~IF THE CRIMINAL HISTORY RECORD INFORMATION REQUIRED~~ ONLY IF THE LICENSEE ATTESTS THAT THE LICENSEE HAS SUBMITTED TO A CRIMINAL HISTORY RECORDS CHECK UNDER § 19-302.2 OF THIS SUBTITLE ~~HAS NOT BEEN RECEIVED~~.

(3) UNLESS OTHERWISE REQUIRED, A RENEWAL APPLICANT WHO PREVIOUSLY HAS COMPLETED THE CRIMINAL HISTORY RECORDS CHECK AS REQUIRED FOR THE BOARD'S LICENSE RENEWAL APPLICATION PROCESS DOES NOT HAVE TO SUBMIT TO A SUBSEQUENT CRIMINAL HISTORY RECORDS CHECK FOR LICENSE RENEWAL.

19-309.

(a) (1) [Except as provided in subsections (b) and (c) of this section, the] **THE** Board shall place a licensee on inactive status for a maximum of 5 years, if the licensee submits to the Board:

(i) A written application for inactive status in a form prescribed by the Board; and

(ii) The inactive status fee set by the Board.

(2) The Board shall provide a licensee who has complied with the requirements of paragraph (1) of this subsection with written notification of:

(i) The date that the license expired;

(ii) The date that the licensee's inactive status becomes effective;

(iii) The date that the licensee's inactive status expires; and

(iv) The consequences of not resuming active status before expiration of inactive status.

(3) **[The] SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE** Board shall reactivate a license for an individual on inactive status who:

(i) Applies to the Board for reactivation of the license;

(ii) Complies with the **[renewal] REACTIVATION** requirements that are in effect when the individual requests the reactivation of the license;

(iii) Has completed the number of credit hours of approved continuing education in social work set by the Board in the 2 years preceding the licensee's application for **[an active license] REACTIVATION**;

(iv) Pays to the Board the reactivation processing fee set by the Board; **[and]**

(V) SUBMITS TO THE BOARD SATISFACTORY EVIDENCE OF HAVING COMPLETED A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 19-302.2 OF THIS SUBTITLE; AND

[(v)] (VI) Has been on inactive status for less than 5 years.

(b) (1) **[Except as provided in subsection (c) of this section, the] THE** Board shall place a licensee on nonrenewed status for a maximum of 5 years if the licensee[]]:

(i) **Does] DOES** not renew the licensee's license under **§ 19-308 OF THIS SUBTITLE OR APPLY FOR INACTIVE STATUS UNDER** subsection (a) of this section^{];} and

(ii) Submits to the Board:

1. A written application for nonrenewed status in a form prescribed by the Board; and
2. The applicable fee set by the Board].

(2) The Board shall provide a licensee who [has complied with the requirements of paragraph (1) of this subsection] **DOES NOT RENEW THE LICENSEE'S LICENSE UNDER § 19-308 OF THIS SUBTITLE OR APPLY FOR INACTIVE STATUS UNDER SUBSECTION (A) OF THIS SECTION** with written notification of:

- (i) The date that the license expired;
- [(ii) The date that the inactive status expired;]
- [(iii) (II) The date that the licensee's nonrenewed status becomes effective;
- [(iv) (III) The date that the licensee's nonrenewed status expires;
- [(v) (IV) The fact that the licensee may not practice social work in the State.

(3) [The] **SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE** Board shall [reactivate] **REINSTATE** a license for an individual on nonrenewed status who:

- (i) Applies to the Board for [reactivation] **REINSTATEMENT** of the license;
- (ii) Pays to the Board the [reactivation] **REINSTATEMENT** processing fee set by the Board;
- (iii) Complies with the [renewal] **REINSTATEMENT** requirements that are in effect when the individual requests the [reactivation] **REINSTATEMENT** of the license;
- (iv) Has completed the number of credit hours of approved continuing education in social work set by the Board in the 2 years preceding the individual's application for [an active license] **REINSTATEMENT**; [and]
- (v) **SUBMITS TO THE BOARD SATISFACTORY EVIDENCE OF HAVING COMPLETED A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 19-302.2 OF THIS SUBTITLE; AND**
- [(v) (VI) Has been on nonrenewed status for less than 5 years.

(C) AN INDIVIDUAL WHO HAS BEEN ON INACTIVE STATUS OR NONRENEWED STATUS FOR MORE THAN 5 YEARS OR WHO OTHERWISE FAILS TO APPLY FOR REACTIVATION UNDER SUBSECTION (A)(3) OF THIS SECTION OR REINSTATEMENT UNDER SUBSECTION (B)(3) OF THIS SECTION SHALL APPLY FOR REISSUANCE IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION.

[(c)] (D) [Notwithstanding subsections (a) and (b) of this section, the] SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE Board shall [reactivate the] REISSUE A license [of] TO an individual who:

(1) Applies to the Board for [reactivation] REISSUANCE of the license;

(2) Pays to the Board the [reactivation] REISSUANCE processing fee set by the Board and any other APPROPRIATE fees required by the Board;

(3) Provides any documentation required by the Board, in a form prescribed by the Board; [and]

(4) MEETS THE REQUIREMENTS OF § 19-302(A) OF THIS SUBTITLE;

(5) SUBMITS TO THE BOARD SATISFACTORY EVIDENCE OF HAVING COMPLETED A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 19-302.2 OF THIS SUBTITLE; AND

[(4)] (6) (I) Passes the respective examination required for initial licensure; OR

(II) 1. HOLDS AN ACTIVE LICENSE TO PRACTICE SOCIAL WORK IN ANOTHER STATE AT A LEVEL OF LICENSURE THAT IS EQUIVALENT TO A LICENSED BACHELOR SOCIAL WORKER, LICENSED MASTER SOCIAL WORKER, CERTIFIED SOCIAL WORKER, OR CERTIFIED SOCIAL WORKER-CLINICAL; AND

2. HAS PASSED AN EXAMINATION IN THAT STATE AS A CONDITION OF LICENSURE.

(E) (1) ON RECEIPT OF THE CRIMINAL HISTORY RECORD INFORMATION OF AN APPLICANT FOR LICENSURE FORWARDED TO THE BOARD IN ACCORDANCE WITH § 19-302.2 OF THIS SUBTITLE, IN DETERMINING WHETHER TO REACTIVATE, REINSTATE, OR REISSUE A LICENSE, THE BOARD SHALL CONSIDER:

(I) THE AGE AT WHICH THE CRIME WAS COMMITTED;

(II) THE NATURE OF THE CRIME;

- (III) **THE CIRCUMSTANCES SURROUNDING THE CRIME;**
- (IV) **THE LENGTH OF TIME THAT HAS PASSED SINCE THE CRIME;**
- (V) **SUBSEQUENT WORK HISTORY;**
- (VI) **EMPLOYMENT AND CHARACTER REFERENCES; AND**

(VII) ANY OTHER EVIDENCE THAT DEMONSTRATES WHETHER THE APPLICANT POSES A THREAT TO THE PUBLIC HEALTH OR SAFETY.

(2) THE BOARD MAY NOT REACTIVATE, REINSTATE, OR REISSUE A LICENSE IF THE CRIMINAL HISTORY RECORD INFORMATION REQUIRED UNDER § 19–302.2 OF THIS SUBTITLE HAS NOT BEEN RECEIVED.

19–316.1.

THE BOARD MAY ISSUE A CEASE AND DESIST ORDER OR OBTAIN INJUNCTIVE RELIEF FOR A VIOLATION OF ANY PROVISION OF § 19–301 OF THIS SUBTITLE OR §§ 19–401 THROUGH 19–403 OF THIS TITLE.

19–318.

(a) Before a licensee in a private individual, partnership, or group practice provides social work services to a client, the licensee shall provide to the client the following disclosures:

(1) The licensee’s professional identity;

(2) The services which are or may be provided by the licensee and the fees for each service or the hourly rate; and

(3) Sufficient information for a patient to give informed consent regarding the nature of the services to be provided.

(b) The manner of providing these disclosures shall be as follows:

(1) The licensee’s professional identity may be provided by [business card or display of license in a conspicuous location] **DIRECTING THE CLIENT TO THE LICENSE VERIFICATION SECTION ON THE BOARD’S WEB SITE;**

(2) The licensee’s services and fees may be provided by documented discussion or printed fee schedule; and

(3) Informed consent may be provided by documented discussion or a written form signed by the client which is kept in the client's file.

19-402.

Unless authorized to practice social work under this title, a person may not:

(1) Represent to the public that the person is a licensed social worker; or

(2) Use any title, abbreviation, sign, card, or other representation that the person is a licensed social worker, including the use of the words "social worker" or "social work" and the use of the abbreviations "LBSW", "LGSW", "**LMSW**", "LCSW", or "LCSW-C".

19-407.

(A) A person who violates any provision of this subtitle OR § 19-301 OF THIS TITLE is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 2 years OR BOTH.

(B) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR § 19-301 OF THIS TITLE IS SUBJECT TO A CIVIL FINE NOT EXCEEDING \$50,000 TO BE ASSESSED BY THE BOARD IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE BOARD.

(C) EACH VIOLATION OF THIS SUBTITLE IS A SEPARATE OFFENSE.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(1) an individual licensed as a licensed graduate social worker by the State Board of Social Work Examiners on ~~September 30, 2017~~ ~~December 31, 2017~~ June 30, 2018, shall be considered, in all respects, licensed as a licensed master social worker by the Board and, subject to the provisions of this Act, for the remainder of the term of the individual's license; and

(2) an individual licensed as a licensed graduate social worker on or before ~~September 30, 2017~~ ~~December 31, 2017~~ June 30, 2018, may apply for reactivation, reinstatement, or reissuance of a license to practice master social work in accordance with the applicable provision of § 19-309 of the Health Occupations Article, as enacted by Section 1 of this Act, as if the individual had been licensed as a licensed master social worker by the Board.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before ~~December 31, 2017~~ June 30, 2018, the State Board of Social Work Examiners shall adopt regulations to implement Section 1 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect ~~January~~ July 1, 2018.

SECTION ~~3~~ 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 549

(Senate Bill 986)

AN ACT concerning

State Board of Social Work Examiners – Revisions

FOR the purpose of renaming the graduate social worker license issued by the State Board of Social Work Examiners to be the master social worker license; limiting the number of terms a certain licensed social worker member of the Board may serve; requiring a certain licensed bachelor social worker or licensed master social worker to submit certain information to the Board to obtain approval by the Board to engage in independent practice; requiring the Board to approve an individual, under certain circumstances, to engage in independent practice; authorizing the Board to reject a certain application and require certain additional supervision if the Board makes a certain determination; repealing a provision of law authorizing the Board to accept an alternate method of criminal history records check under certain circumstances; requiring the Criminal Justice Information System Central Repository to provide the Board with a certain revised statement under certain circumstances; altering the factors the Board is required to consider in using certain information obtained from the Central Repository to determine whether to issue a license; requiring the Board to include whether a certain licensee is approved to engage in independent practice on a certain electronic license record; clarifying that certain licensees are prohibited from engaging in independent practice except under certain circumstances; prohibiting a licensed master social worker from engaging in independent practice on or after a certain date; altering certain requirements for the supervision of licensed master social workers and licensed certified social workers; ~~prohibiting a licensed certified social worker from engaging in independent practice~~; requiring, beginning in a certain calendar year and except under certain circumstances, a licensee that renews a license to ~~submit certain evidence of having completed~~ attest that the licensee has submitted to a State and national criminal history records check in accordance with certain provisions of law; requiring the Board, in using information obtained from the Central Repository to determine whether to take disciplinary action against a certain licensee, to consider certain factors; authorizing the Board to renew a license only if a licensee attests that the licensee has submitted to a State and national criminal history records check; requiring a certain individual

applying to the Board for reactivation, reinstatement, or reissuance of a license to submit certain evidence of having completed a State and national criminal history records check in accordance with certain provisions of law; requiring the Board, in using information obtained from the Central Repository to determine whether to ~~renew~~, reactivate, reinstate, or reissue a license, to consider certain factors; prohibiting the Board from ~~renewing~~, reactivating, reinstating, or reissuing a license if the Board has not received certain criminal history records information; altering the circumstances under which the Board is required to place a licensee on nonrenewed status; clarifying that certain individuals who have been on inactive status or nonrenewed status for more than a certain number of years or who otherwise fail to apply for reactivation or renewal are required to apply for reissuance; altering the circumstances under which the Board is required to reissue a license to an individual; authorizing the Board to issue a cease and desist order or obtain injunctive relief for a violation of certain provisions of law; altering the manner by which certain licensees are required to make certain disclosures before providing social work services; establishing certain penalties; altering certain penalties; prohibiting the use of a certain abbreviation under certain circumstances; providing for continuity of licensure for certain licensees licensed by the Board on a certain date; authorizing certain individuals to apply for the reactivation, reinstatement, or reissuance of a certain license under certain circumstances; requiring the Board to adopt certain regulations on or before a certain date; providing for a delayed effective date for certain provisions of this Act; defining certain terms; altering certain definitions; making conforming changes; providing for the construction of certain provisions of this Act; and generally relating to the State Board of Social Work Examiners.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 19–101, 19–202(a)(2) and (3), (d), and (g)(5), 19–302, 19–302.2, 19–306 through 19–309, 19–318, 19–402, and 19–407

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

BY adding to

Article – Health Occupations

Section 19–316.1

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

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

Article – Health Occupations

19–101.

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

(b) “Board” means the State Board of Social Work Examiners.

(c) “Certified” means having demonstrated to the satisfaction of the Board that the individual has completed 2 years of supervised social work practice as defined in § 19–302(d) or (e) of this title.

(D) “INDEPENDENT PRACTICE” MEANS TO PRACTICE BACHELOR SOCIAL WORK OR MASTER SOCIAL WORK WITHOUT THE REQUIREMENT OF SUPERVISION BY ANOTHER SOCIAL WORKER.

[(d)] (E) “License” means, unless the context requires otherwise, one of four types of licenses issued by the Board authorizing an individual to practice:

- (1) Bachelor social work;
- (2) **[Graduate] MASTER** social work;
- (3) Certified social work; or
- (4) Certified social work–clinical.

[(e)] (F) “Licensed bachelor social worker” means an individual licensed by the Board to practice bachelor social work.

[(f)] (G) “Licensed certified social worker” means an individual licensed by the Board to practice certified social work.

[(g)] (H) “Licensed certified social worker–clinical” means an individual licensed by the Board to practice clinical social work.

[(h)] (I) “Licensed graduate social worker” means an individual licensed by the Board, **ON OR BEFORE ~~SEPTEMBER 30, 2017~~ ~~DECEMBER 31, 2017~~ JUNE 30, 2018**, to practice graduate social work.

(J) “LICENSED MASTER SOCIAL WORKER” MEANS AN INDIVIDUAL LICENSED BY THE BOARD, ON OR AFTER ~~OCTOBER 1, 2017~~ ~~JANUARY 1, 2018~~ JULY 1, 2018, TO PRACTICE MASTER SOCIAL WORK.

[(i)] (K) “Practice bachelor social work” means to **[practice social work] USE THE EDUCATION AND TRAINING REQUIRED UNDER § 19–302(B) OF THIS TITLE TO:**

(1) **[Under] PRACTICE SOCIAL WORK UNDER** the supervision of a licensed certified social worker, licensed certified social worker–clinical, **[or] licensed**

[graduate] MASTER social worker, OR LICENSED BACHELOR SOCIAL WORKER who meets the conditions specified in regulations; [and] OR

[(2) Utilizing the education and training required under § 19–302(b) of this title.]

(2) IF APPROVED BY THE BOARD IN ACCORDANCE WITH § 19–302(F) OF THIS TITLE, ENGAGE IN INDEPENDENT PRACTICE.

[(j)] (L) (1) “Practice certified social work” means to USE THE EDUCATION, TRAINING, AND EXPERIENCE REQUIRED UNDER § 19–302(D) OF THIS TITLE TO practice social work [utilizing the education, training, and experience required under § 19–302(d) of this title].

~~(2) “PRACTICE CERTIFIED SOCIAL WORK” INCLUDES:~~

~~(i) FORMULATING A DIAGNOSIS UNDER THE SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER CLINICAL;~~

~~(ii) TREATING BIOPSYCHOSOCIAL CONDITIONS; AND~~

~~(iii) TREATING MENTAL DISORDERS AND PROVIDING PSYCHOTHERAPY UNDER THE SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER CLINICAL.~~

[(k)] (M) (1) “Practice clinical social work” means to USE THE SPECIALIZED EDUCATION, TRAINING, AND EXPERIENCE REQUIRED UNDER § 19–302(E) OF THIS TITLE TO practice social work [utilizing the specialized education, training, and experience required under § 19–302(e) of this title].

~~(2) “PRACTICE CLINICAL SOCIAL WORK” INCLUDES:~~

~~(i) EVALUATING, DIAGNOSING, AND TREATING BIOPSYCHOSOCIAL CONDITIONS, MENTAL AND EMOTIONAL CONDITIONS AND IMPAIRMENTS, AND MENTAL DISORDERS AS DEFINED IN § 10-101 OF THE HEALTH GENERAL ARTICLE;~~

~~(ii) PETITIONING FOR EMERGENCY EVALUATION UNDER TITLE 10, SUBTITLE 6, PART IV OF THE HEALTH GENERAL ARTICLE; AND~~

~~(iii) PROVIDING PSYCHOTHERAPY.~~

[(l)] (N) (1) “Practice graduate social work” means, ON OR BEFORE ~~SEPTEMBER 31, 2017~~ DECEMBER 31, 2017 JUNE 30, 2018, to HAVE USED THE

EDUCATION AND TRAINING REQUIRED TO OBTAIN A MASTER SOCIAL WORK LICENSE UNDER § 19-302(C) OF THIS TITLE TO practice social work[:

(1) Under] **UNDER** the supervision of a licensed certified social worker, licensed certified social worker–clinical, or licensed graduate social worker who meets the conditions specified in regulations[; and

(2) Utilizing the education and training required under § 19-302(c) of this title].

~~(2) “PRACTICE GRADUATE SOCIAL WORK” INCLUDES HAVING:~~

~~(I) FORMULATED A DIAGNOSIS UNDER THE SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER–CLINICAL;~~

~~(II) TREATED BIOPSYCHOSOCIAL CONDITIONS; AND~~

~~(III) TREATED MENTAL DISORDERS AND PROVIDED PSYCHOTHERAPY UNDER THE SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER–CLINICAL.~~

(O) ~~(1)~~ **“PRACTICE MASTER SOCIAL WORK” MEANS TO USE THE EDUCATION AND TRAINING REQUIRED UNDER § 19-302(C) OF THIS TITLE TO:**

~~(1) (1)~~ **PRACTICE SOCIAL WORK UNDER THE SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER, LICENSED CERTIFIED SOCIAL WORKER–CLINICAL, OR LICENSED MASTER SOCIAL WORKER WHO MEETS THE CONDITIONS SPECIFIED IN REGULATIONS; OR**

~~(2) (2)~~ **IF APPROVED BY THE BOARD IN ACCORDANCE WITH § 19-302(F) OF THIS TITLE, ENGAGE IN INDEPENDENT PRACTICE.**

~~(2) “PRACTICE MASTER SOCIAL WORK” INCLUDES:~~

~~(I) FORMULATING A DIAGNOSIS UNDER THE SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER–CLINICAL;~~

~~(II) TREATING BIOPSYCHOSOCIAL CONDITIONS; AND~~

~~(III) TREATING MENTAL DISORDERS AND PROVIDING PSYCHOTHERAPY UNDER THE SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER–CLINICAL.~~

~~[(m)]~~ **(P)** (1) “Practice social work” means to apply the theories, knowledge, procedures, methods, or ethics derived from ~~[a formal educational]~~ **RECEIVING A BACCALAUREATE OR MASTER’S DEGREE FROM A** program in social work **THAT IS ACCREDITED BY OR A CANDIDATE FOR ACCREDITATION BY THE COUNCIL ON SOCIAL WORK EDUCATION, OR AN EQUIVALENT ORGANIZATION APPROVED BY THE COUNCIL ON SOCIAL WORK EDUCATION,** to restore or enhance social functioning of individuals, couples, families, groups, organizations, or communities through:

- (i) Assessment;
- (ii) Planning;
- (iii) Intervention;
- (iv) Evaluation of intervention plans;
- (v) Case management;
- (vi) Information and referral;
- (vii) Counseling that does not include diagnosis or treatment of mental disorders;
- (viii) Advocacy;
- (ix) Consultation;
- (x) Education;
- (xi) Research;
- (xii) Community organization; [or]
- (xiii) Development, implementation, and administration of policies, programs, and activities; **OR**

~~**(XIV) BEHAVIORAL HEALTH SERVICES, INCLUDING THE TREATMENT OF SUBSTANCE USE DISORDERS; OR**~~

~~**(XV)**~~ **(XIV) SUPERVISION OF OTHER SOCIAL WORKERS AS SET FORTH IN REGULATIONS.**

~~†~~(2) For an individual licensed as a graduate social worker **ON OR BEFORE DECEMBER 31, 2017 JUNE 30, 2018, OR AS A MASTER SOCIAL WORKER,** “practice social work” also includes:

(i) Supervision of other social workers if the graduate social worker meets the requirements set out in regulations;

(ii) Formulating a diagnosis, under the ~~direct~~ supervision of a licensed certified social worker–clinical;

(iii) Treatment of biopsychosocial conditions; and

(iv) Treatment of ~~mental disorders~~ **BEHAVIORAL HEALTH DISORDERS, INCLUDING SUBSTANCE USE DISORDERS, ADDICTIVE DISORDERS, AND MENTAL DISORDERS,** and the provision of psychotherapy under the ~~direct~~ supervision of a licensed certified social worker–clinical.

(3) For an individual licensed as a certified social worker, “practice social work” also includes:

(i) Supervision of other social workers;

(ii) Formulating a diagnosis, under the ~~direct~~ supervision of a licensed certified social worker–clinical;

(iii) Treatment of biopsychosocial conditions; and

(iv) Treatment of ~~mental disorders~~ **BEHAVIORAL HEALTH DISORDERS, INCLUDING SUBSTANCE USE DISORDERS, ADDICTIVE DISORDERS, AND MENTAL DISORDERS,** and the provision of psychotherapy under the ~~direct~~ supervision of a licensed certified social worker–clinical.

(4) For an individual licensed as a certified social worker–clinical, “practice social work” also includes:

(i) Supervision of other social workers;

(ii) Evaluation, diagnosis, and treatment of biopsychosocial conditions, mental and emotional conditions and impairments, and ~~mental disorders~~ **BEHAVIORAL HEALTH DISORDERS, INCLUDING SUBSTANCE USE DISORDERS, ADDICTIVE DISORDERS, AND MENTAL DISORDERS,** as defined in § 10–101(i) of the Health – General Article;

(iii) Petitioning for emergency evaluation under Title 10, Subtitle 6 of the Health – General Article; and

(iv) The provision of psychotherapy.†

(2) (5) “PRACTICE SOCIAL WORK” INCLUDES USING TECHNOLOGY AS SET FORTH IN REGULATIONS.

(Q) “PRIVATE PRACTICE” MEANS THE PROVISION OF PSYCHOTHERAPY BY A LICENSED CERTIFIED SOCIAL WORKER–CLINICAL WHO ASSUMES RESPONSIBILITY AND ACCOUNTABILITY FOR THE NATURE AND QUALITY OF THE SERVICES PROVIDED TO A CLIENT ~~IN~~:

(1) IN EXCHANGE FOR DIRECT PAYMENT OR THIRD–PARTY REIMBURSEMENT; OR

(2) ON A PRO BONO BASIS AS DETERMINED IN REGULATIONS ADOPTED BY THE BOARD.

[(n)] (R) “Psychotherapy” means the assessment and treatment of mental disorders and behavioral disturbances.

(S) “REACTIVATION” MEANS THE PROCESS OF OBTAINING A LICENSE LESS THAN 5 YEARS AFTER THE BOARD PLACED AN INDIVIDUAL ON INACTIVE STATUS.

(T) “REINSTATEMENT” MEANS THE PROCESS OF OBTAINING A LICENSE LESS THAN 5 YEARS AFTER THE BOARD PLACED AN INDIVIDUAL ON NONRENEWED STATUS.

(U) “REISSUANCE” MEANS THE PROCESS OF OBTAINING A LICENSE MORE THAN 5 YEARS AFTER THE BOARD PLACED AN INDIVIDUAL ON INACTIVE OR NONRENEWED STATUS.

[(o)] (V) “Supervision” means a formalized professional relationship between a supervisor and a supervisee that:

(1) Provides evaluation and direction of the supervisee; and

(2) Promotes continued development of the supervisee’s knowledge, skills, and abilities to provide social work services in an ethical and competent manner.

19–202.

(a) (2) Of the 12 Board members:

(i) 10 shall be licensed social workers of whom:

1. Subject to paragraph (3) of this subsection, 1 is a licensed bachelor social worker;

2. Subject to paragraph (3) of this subsection, 1 is a licensed [graduate] MASTER social worker at the time of appointment;

3. Subject to paragraph (3) of this subsection, at least 1 is a licensed certified social worker;

4. Subject to paragraph (3) of this subsection, at least 4 are licensed certified social workers—clinical;

5. 1 is a licensed social worker employed by the Department of Human Resources; and

6. Subject to paragraph (3) of this subsection, 1 is a licensed social worker who is:

A. Primarily engaged in social worker education at a social work program accredited by the Council on Social Work Education; and

B. Nominated from a list of names submitted by the deans and directors of the Maryland Social Work Education Programs; and

(ii) 2 shall be consumer members.

(3) If a licensed bachelor social worker, a licensed [graduate] **MASTER** social worker, a licensed certified social worker, a licensed certified social worker—clinical, or a licensed social worker is not appointed to the Board under paragraph (2)(i) of this subsection within 3 months of a vacancy, a licensee of any license level shall be appointed immediately if that licensee is qualified to be a member of the Board under subsections (b) and (d) of this section.

(d) Except for the licensed bachelor social worker member and the licensed [graduate] **MASTER** social worker member, each social worker member of the Board shall have been licensed in the State for 5 years immediately preceding the appointment and actively employed in the field of social work for at least 3 of the 5 years immediately preceding the appointment.

(g) (5) **(I) [A] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A member may not serve more than 2 consecutive full terms.**

(II) A LICENSED SOCIAL WORKER MEMBER WHO IS NOMINATED IN ACCORDANCE WITH SUBSECTION (A)(2)(I)6B OF THIS SECTION MAY NOT SERVE MORE THAN 1 FULL TERM.

19–302.

(a) To obtain a license, an applicant shall demonstrate to the satisfaction of the Board that the applicant:

- the Board;
- (1) Has submitted a complete written application in the form prescribed by the Board;
 - (2) Is at least 18 years old;
 - (3) Is of good moral character;
 - (4) Except as otherwise provided in this title, has successfully passed an examination or examinations prescribed by the Board pertinent to the license sought;
 - (5) Has paid all applicable fees specified by the Board;
 - (6) Has completed a criminal history records check in accordance with § 19–302.2 of this subtitle at the applicant’s expense; and
 - (7) Has submitted to an examination if required under § 19–302.3 of this subtitle.
- (b) To obtain a bachelor social worker license, an applicant shall:
- (1) Meet the requirements of subsection (a) of this section; and
 - (2) Have received a baccalaureate degree in social work from a program that is accredited or is a candidate for accreditation by the Council on Social Work Education or an equivalent organization approved by the Council on Social Work Education.
- (c) To obtain a [graduate] **MASTER** social worker license, an applicant shall:
- (1) Meet the requirements of subsection (a) of this section; and
 - (2) Have received a master’s degree from a program that is accredited or is a candidate for accreditation by the Council on Social Work Education or an equivalent organization approved by the Council on Social Work Education.
- (d) Except as provided in § 19–302.1 of this subtitle, to obtain a certified social worker license, an applicant shall:
- (1) Meet the requirements of subsection (a) of this section;
 - (2) Have received a master’s degree from a program accredited by the Council on Social Work Education or an equivalent organization approved by the Council on Social Work Education; and
 - (3) Provide in a form prescribed by the Board, documentation of having completed 2 years as a licensee with supervised experience of at least 3,000 hours after receiving the master’s degree with a minimum of 100 hours of periodic face-to-face

supervision in the practice of social work under the terms and conditions that the Board determines by regulation.

(e) Except as provided in § 19–302.1 of this subtitle, to obtain a certified social worker–clinical license, an applicant shall:

(1) Meet the requirements of subsection (a) of this section;

(2) Have received a master’s degree in social work and documentation of completion of 12 academic credits in clinical course work from a program accredited by the Council on Social Work Education or an equivalent organization approved by the Council on Social Work Education, with a minimum of 6 of the 12 academic credits obtained in a master’s degree program; and

(3) Provide in a form prescribed by the Board, documentation of having completed 2 years as a licensee with supervised experience of at least 3,000 hours, of which 1,500 hours are in face–to–face client contact, after receiving the master’s degree with a minimum of 144 hours of periodic face–to–face supervision in the assessment, formulation of a diagnostic impression, and treatment of mental disorders and other conditions and the provision of psychotherapy under the terms and conditions that the Board determines by regulation.

(F) (1) (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, TO OBTAIN APPROVAL BY THE BOARD TO ENGAGE IN INDEPENDENT PRACTICE, A LICENSED BACHELOR SOCIAL WORKER OR A LICENSED MASTER SOCIAL WORKER SHALL SUBMIT TO THE BOARD:

(H) 1. AN APPLICATION IN THE FORM PRESCRIBED BY THE BOARD;

(H) 2. ALL APPLICABLE FEES SPECIFIED BY THE BOARD;
AND

(H) 3. DOCUMENTATION IN A FORM PRESCRIBED BY THE BOARD OF HAVING COMPLETED AT LEAST 3 YEARS AS A LICENSEE WITH SUPERVISED EXPERIENCE OF AT LEAST 4,500 HOURS AFTER RECEIVING THE BACCALAUREATE OR MASTER’S DEGREE WITH A MINIMUM OF 150 HOURS OF PERIODIC FACE–TO–FACE SUPERVISION UNDER THE TERMS AND CONDITIONS THAT THE BOARD DETERMINES BY REGULATION.

(II) IF THE BOARD DETERMINES THAT A LICENSED BACHELOR SOCIAL WORKER OR A LICENSED MASTER SOCIAL WORKER WHO APPLIES TO THE BOARD TO ENGAGE IN THE PRACTICE OF INDEPENDENT PRACTICE HAS NOT COMPLETED THE SUPERVISED EXPERIENCE AS REQUIRED UNDER PARAGRAPH (1)(I)3 OF THIS SUBSECTION, THE BOARD MAY:

1. REJECT THE APPLICATION FOR INDEPENDENT PRACTICE; AND

2. REQUIRE THE LICENSED BACHELOR SOCIAL WORKER OR THE LICENSED MASTER SOCIAL WORKER TO CONTINUE TO WORK UNDER SUPERVISION AS REQUIRED BY THE BOARD FOR AN ADDITIONAL 1,500 HOURS BEFORE REAPPLYING.

(2) THE BOARD SHALL APPROVE AN INDIVIDUAL TO ENGAGE IN INDEPENDENT PRACTICE IF THE INDIVIDUAL:

(I) SUBMITS TO THE BOARD:

1. AN APPLICATION IN THE FORM PRESCRIBED BY THE BOARD; AND

2. ALL APPLICABLE FEES SPECIFIED BY THE BOARD;

(II) ON OR BEFORE ~~OCTOBER 1, 2007~~ JANUARY 1, 2008, WAS LICENSED BY THE BOARD AS A LICENSED BACHELOR SOCIAL WORKER OR A LICENSED GRADUATE SOCIAL WORKER; AND

(III) HAS ACTIVELY PRACTICED BACHELOR SOCIAL WORK, ACTIVELY PRACTICED GRADUATE SOCIAL WORK, OR ACTIVELY PRACTICED MASTER SOCIAL WORK FOR AT LEAST 10 YEARS.

(3) NOTHING IN THIS SUBSECTION MAY BE CONSTRUED TO PROHIBIT AN EMPLOYER FROM REQUIRING SUPERVISION OF A LICENSED BACHELOR SOCIAL WORKER OR A LICENSED MASTER SOCIAL WORKER WHO IS APPROVED TO ENGAGE IN INDEPENDENT PRACTICE UNDER THIS SUBSECTION.

19-302.2.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) As part of an application to the Central Repository for a State and national criminal history records check, an applicant shall submit to the Central Repository:

(1) A complete set of 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 State criminal history records; and

(3) The processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(c) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure Article, the Central Repository shall forward to the Board and to the applicant the criminal history record information of the applicant.

[(d) If an applicant has made two or more unsuccessful attempts at securing legible fingerprints, the Board may accept an alternate method of criminal history records check as permitted by the Director of the Central Repository and the Director of the Federal Bureau of Investigation.]

(D) IF CRIMINAL HISTORY RECORD INFORMATION IS REPORTED TO THE CENTRAL REPOSITORY AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK, THE CENTRAL REPOSITORY SHALL PROVIDE TO THE BOARD A REVISED PRINTED STATEMENT OF THE INDIVIDUAL’S STATE CRIMINAL HISTORY RECORD.

(e) (1) Information obtained from the Central Repository under this section:

(i) Is confidential and may not be disseminated; and

(ii) May be used only for the licensing purpose authorized by this title.

(2) In using information obtained from the Central Repository under this section to determine whether to issue a license, the Board shall consider:

(i) The age at which the crime was committed;

(II) THE NATURE OF THE CRIME;

[(ii)] **(III)** The circumstances surrounding the crime;

[(iii)] **(IV)** The length of time that has passed since the crime was committed;

[(iv)] **(V)** Subsequent work history;

[(v)] **(VI)** Employment and character references; and

[(vi)] **(VII)** Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(f) 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.

19–306.

(a) The Board shall maintain on its Web site a roster of all licensees who meet the requirements of this title.

(b) The Board shall include on each electronic license record:

(1) The kind of license;

(2) The full name of the licensee;

(3) IF THE LICENSEE IS A LICENSED BACHELOR SOCIAL WORKER OR A LICENSED MASTER SOCIAL WORKER, WHETHER THE LICENSEE IS APPROVED TO ENGAGE IN INDEPENDENT PRACTICE;

[(3)] (4) A license number;

[(4)] (5) The license status;

[(5)] (6) The expiration date; and

[(6)] (7) The original date of issuance.

19–307.

(a) Subject to the provisions of subsections (b) and (c) of this section, a license authorizes the licensee to practice social work while the license is effective.

(b) A licensed social worker may practice social work only within the scope of the specific type of license issued by the Board.

(c) (1) A licensed bachelor social worker may not:

[(i) Practice social work without the supervision of a licensed certified social worker, licensed certified social worker–clinical, or licensed graduate social worker who meets the requirements specified in the regulations;]

(i) ENGAGE IN INDEPENDENT PRACTICE UNLESS THE LICENSED BACHELOR SOCIAL WORKER IS APPROVED BY THE BOARD TO ENGAGE IN INDEPENDENT PRACTICE IN ACCORDANCE WITH § 19–302(F) OF THIS SUBTITLE;

(ii) Make a clinical diagnosis of a mental or emotional disorder;

- (iii) Provide psychotherapy; or
- (iv) Engage in private practice.

(2) A licensed [graduate] **MASTER** social worker may not:

[(i) Practice graduate social work without the supervision of a licensed certified social worker, licensed certified social worker–clinical, or licensed graduate social worker who meets the requirements specified in the regulations;]

(I) ENGAGE IN INDEPENDENT PRACTICE UNLESS THE LICENSED MASTER SOCIAL WORKER IS APPROVED BY THE BOARD TO ENGAGE IN INDEPENDENT PRACTICE IN ACCORDANCE WITH § 19–302(F) OF THIS SUBTITLE;

(ii) Treat mental or emotional disorders or provide psychotherapy without the [direct] supervision of a licensed certified social worker–clinical;

(iii) Diagnose a mental disorder without the [direct] supervision of a licensed certified social worker–clinical; [or]

(iv) [Engage] **ON OR BEFORE ~~SEPTEMBER 30, 2019~~ DECEMBER 31, 2019**, ENGAGE in private practice without the [direct] supervision of a licensed certified social worker–clinical; **OR**

(V) ON OR AFTER ~~OCTOBER 1, 2019~~ JANUARY 1, 2020, ENGAGE IN PRIVATE PRACTICE.

(3) A licensed certified social worker may not:

(i) Treat mental or emotional disorders or provide psychotherapy without the ~~direct~~ supervision of a licensed certified social worker–clinical; ~~for~~

(ii) Diagnose a mental disorder without the [direct] supervision of a licensed certified social worker–clinical; ~~OR~~

~~**(III) ENGAGE IN PRIVATE PRACTICE WITHOUT THE SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER–CLINICAL.**~~

19–308.

(a) A license expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section. A license may not be renewed for a term longer than 2 years.

(b) At least 1 month before the license expires, the Board shall send to the licensee, at the last known electronic or physical address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) Each licensee shall notify the Board of any change in the address of the licensee within 60 days after the change occurs.

(d) Before the 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 the appropriate renewal fee specified by this subtitle;

and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; ~~and~~

(ii) Satisfactory evidence of compliance with any continuing education requirement set under this section for license renewal; AND

(4) ~~(H)~~ BEGINNING IN CALENDAR YEAR 2021 AND EXCEPT AS PROVIDED IN SUBSECTION (G)(3) OF THIS SECTION, ~~SATISFACTORY EVIDENCE OF HAVING COMPLETED~~ ATTESTS THAT THE LICENSEE HAS SUBMITTED TO A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 19-302.2 OF THIS SUBTITLE.

(e) (1) **[The] SUBJECT TO SUBSECTION (G) OF THIS SECTION, 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 maintain the same information on each licensee.

(f) The Board may not renew a bachelor social worker license or a **[graduate] MASTER** social worker license of a licensee who holds a baccalaureate degree or master's degree from a program that was a candidate for accreditation but was denied accreditation.

(G) (1) ON RECEIPT OF THE CRIMINAL HISTORY RECORD INFORMATION OF AN APPLICANT FOR LICENSURE FORWARDED TO THE BOARD IN ACCORDANCE WITH § 19-302.2 OF THIS SUBTITLE, IN DETERMINING WHETHER ~~TO RENEW A LICENSE~~ DISCIPLINARY ACTION SHOULD BE TAKEN, BASED ON THE CRIMINAL RECORD INFORMATION, AGAINST A LICENSEE WHO RENEWED A LICENSE, THE BOARD SHALL CONSIDER:

- (I) THE AGE AT WHICH THE CRIME WAS COMMITTED;
- (II) THE NATURE OF THE CRIME;
- (III) THE CIRCUMSTANCES SURROUNDING THE CRIME;
- (IV) THE LENGTH OF TIME THAT HAS PASSED SINCE THE CRIME;
- (V) SUBSEQUENT WORK HISTORY;
- (VI) EMPLOYMENT AND CHARACTER REFERENCES; AND

(VII) ANY OTHER EVIDENCE THAT DEMONSTRATES WHETHER THE APPLICANT POSES A THREAT TO THE PUBLIC HEALTH OR SAFETY.

(2) ~~THE BOARD MAY NOT RENEW A LICENSE IF THE CRIMINAL HISTORY RECORD INFORMATION REQUIRED~~ ONLY IF THE LICENSEE ATTESTS THAT THE LICENSEE HAS SUBMITTED TO A CRIMINAL HISTORY RECORDS CHECK UNDER § 19-302.2 OF THIS SUBTITLE HAS NOT BEEN RECEIVED.

(3) UNLESS OTHERWISE REQUIRED, A RENEWAL APPLICANT WHO PREVIOUSLY HAS COMPLETED THE CRIMINAL HISTORY RECORDS CHECK AS REQUIRED FOR THE BOARD'S LICENSE RENEWAL APPLICATION PROCESS DOES NOT HAVE TO SUBMIT TO A SUBSEQUENT CRIMINAL HISTORY RECORDS CHECK FOR LICENSE RENEWAL.

19-309.

(a) (1) [Except as provided in subsections (b) and (c) of this section, the] **THE** Board shall place a licensee on inactive status for a maximum of 5 years, if the licensee submits to the Board:

- (i) A written application for inactive status in a form prescribed by the Board; and
- (ii) The inactive status fee set by the Board.

(2) The Board shall provide a licensee who has complied with the requirements of paragraph (1) of this subsection with written notification of:

- (i) The date that the license expired;
- (ii) The date that the licensee's inactive status becomes effective;
- (iii) The date that the licensee's inactive status expires; and
- (iv) The consequences of not resuming active status before expiration of inactive status.

(3) **[The] SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE** Board shall reactivate a license for an individual on inactive status who:

- (i) Applies to the Board for reactivation of the license;
- (ii) Complies with the **[renewal] REACTIVATION** requirements that are in effect when the individual requests the reactivation of the license;
- (iii) Has completed the number of credit hours of approved continuing education in social work set by the Board in the 2 years preceding the licensee's application for **[an active license] REACTIVATION**;
- (iv) Pays to the Board the reactivation processing fee set by the Board; **[and]**
- (v) **SUBMITS TO THE BOARD SATISFACTORY EVIDENCE OF HAVING COMPLETED A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 19-302.2 OF THIS SUBTITLE; AND**

[(v)] (VI) Has been on inactive status for less than 5 years.

(b) (1) **[Except as provided in subsection (c) of this section, the] THE** Board shall place a licensee on nonrenewed status for a maximum of 5 years if the licensee[:

(i) **Does] DOES** not renew the licensee's license under **§ 19-308 OF THIS SUBTITLE OR APPLY FOR INACTIVE STATUS UNDER** subsection (a) of this section[: and

(ii) Submits to the Board:

1. A written application for nonrenewed status in a form prescribed by the Board; and
2. The applicable fee set by the Board].

(2) The Board shall provide a licensee who [has complied with the requirements of paragraph (1) of this subsection] **DOES NOT RENEW THE LICENSEE'S LICENSE UNDER § 19-308 OF THIS SUBTITLE OR APPLY FOR INACTIVE STATUS UNDER SUBSECTION (A) OF THIS SECTION** with written notification of:

(i) The date that the license expired;

[(ii) The date that the inactive status expired;]

[(iii) **(II)** The date that the licensee's nonrenewed status becomes effective;

[(iv) **(III)** The date that the licensee's nonrenewed status expires; and

[(v) **(IV)** The fact that the licensee may not practice social work in the State.

(3) [The] **SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE** Board shall [reactivate] **REINSTATE** a license for an individual on nonrenewed status who:

(i) Applies to the Board for [reactivation] **REINSTATEMENT** of the license;

(ii) Pays to the Board the [reactivation] **REINSTATEMENT** processing fee set by the Board;

(iii) Complies with the [renewal] **REINSTATEMENT** requirements that are in effect when the individual requests the [reactivation] **REINSTATEMENT** of the license;

(iv) Has completed the number of credit hours of approved continuing education in social work set by the Board in the 2 years preceding the individual's application for [an active license] **REINSTATEMENT**; [and]

(V) SUBMITS TO THE BOARD SATISFACTORY EVIDENCE OF HAVING COMPLETED A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 19-302.2 OF THIS SUBTITLE; AND

[(v) **(VI)** Has been on nonrenewed status for less than 5 years.

(C) AN INDIVIDUAL WHO HAS BEEN ON INACTIVE STATUS OR NONRENEWED STATUS FOR MORE THAN 5 YEARS OR WHO OTHERWISE FAILS TO APPLY FOR REACTIVATION UNDER SUBSECTION (A)(3) OF THIS SECTION OR REINSTATEMENT

UNDER SUBSECTION (B)(3) OF THIS SECTION SHALL APPLY FOR REISSUANCE IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION.

[(c)] (D) [Notwithstanding subsections (a) and (b) of this section, the] **SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE** Board shall [reactivate the] **REISSUE A** license [of] **TO** an individual who:

- (1) Applies to the Board for [reactivation] **REISSUANCE** of the license;
- (2) Pays to the Board the [reactivation] **REISSUANCE** processing fee set by the Board and any other **APPROPRIATE** fees required by the Board;
- (3) Provides any documentation required by the Board, in a form prescribed by the Board; [and]
- (4) MEETS THE REQUIREMENTS OF § 19-302(A) OF THIS SUBTITLE;**
- (5) SUBMITS TO THE BOARD SATISFACTORY EVIDENCE OF HAVING COMPLETED A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 19-302.2 OF THIS SUBTITLE; AND**

[(4)] (6) (I) Passes the respective examination required for initial licensure; **OR**

- (II) 1. HOLDS AN ACTIVE LICENSE TO PRACTICE SOCIAL WORK IN ANOTHER STATE AT A LEVEL OF LICENSURE THAT IS EQUIVALENT TO A LICENSED BACHELOR SOCIAL WORKER, LICENSED MASTER SOCIAL WORKER, CERTIFIED SOCIAL WORKER, OR CERTIFIED SOCIAL WORKER-CLINICAL; AND**
- 2. HAS PASSED AN EXAMINATION IN THAT STATE AS A CONDITION OF LICENSURE.**

(E) (1) ON RECEIPT OF THE CRIMINAL HISTORY RECORD INFORMATION OF AN APPLICANT FOR LICENSURE FORWARDED TO THE BOARD IN ACCORDANCE WITH § 19-302.2 OF THIS SUBTITLE, IN DETERMINING WHETHER TO REACTIVATE, REINSTATE, OR REISSUE A LICENSE, THE BOARD SHALL CONSIDER:

- (I) THE AGE AT WHICH THE CRIME WAS COMMITTED;**
- (II) THE NATURE OF THE CRIME;**
- (III) THE CIRCUMSTANCES SURROUNDING THE CRIME;**
- (IV) THE LENGTH OF TIME THAT HAS PASSED SINCE THE CRIME;**

(V) **SUBSEQUENT WORK HISTORY;**

(VI) **EMPLOYMENT AND CHARACTER REFERENCES; AND**

(VII) **ANY OTHER EVIDENCE THAT DEMONSTRATES WHETHER THE APPLICANT POSES A THREAT TO THE PUBLIC HEALTH OR SAFETY.**

(2) THE BOARD MAY NOT REACTIVATE, REINSTATE, OR REISSUE A LICENSE IF THE CRIMINAL HISTORY RECORD INFORMATION REQUIRED UNDER § 19-302.2 OF THIS SUBTITLE HAS NOT BEEN RECEIVED.

19-316.1.

THE BOARD MAY ISSUE A CEASE AND DESIST ORDER OR OBTAIN INJUNCTIVE RELIEF FOR A VIOLATION OF ANY PROVISION OF § 19-301 OF THIS SUBTITLE OR §§ 19-401 THROUGH 19-403 OF THIS TITLE.

19-318.

(a) Before a licensee in a private individual, partnership, or group practice provides social work services to a client, the licensee shall provide to the client the following disclosures:

(1) The licensee's professional identity;

(2) The services which are or may be provided by the licensee and the fees for each service or the hourly rate; and

(3) Sufficient information for a patient to give informed consent regarding the nature of the services to be provided.

(b) The manner of providing these disclosures shall be as follows:

(1) The licensee's professional identity may be provided by [business card or display of license in a conspicuous location] **DIRECTING THE CLIENT TO THE LICENSE VERIFICATION SECTION ON THE BOARD'S WEB SITE;**

(2) The licensee's services and fees may be provided by documented discussion or printed fee schedule; and

(3) Informed consent may be provided by documented discussion or a written form signed by the client which is kept in the client's file.

19-402.

Unless authorized to practice social work under this title, a person may not:

- (1) Represent to the public that the person is a licensed social worker; or
- (2) Use any title, abbreviation, sign, card, or other representation that the person is a licensed social worker, including the use of the words “social worker” or “social work” and the use of the abbreviations “LBSW”, “LGSW”, “**LMSW**”, “LCSW”, or “LCSW-C”.

19-407.

(A) A person who violates any provision of this subtitle OR § 19-301 OF THIS TITLE is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 2 years OR BOTH.

(B) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR § 19-301 OF THIS TITLE IS SUBJECT TO A CIVIL FINE NOT EXCEEDING \$50,000 TO BE ASSESSED BY THE BOARD IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE BOARD.

(C) EACH VIOLATION OF THIS SUBTITLE IS A SEPARATE OFFENSE.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(1) an individual licensed as a licensed graduate social worker by the State Board of Social Work Examiners on ~~September 30, 2017~~ ~~December 31, 2017~~ June 30, 2018, shall be considered, in all respects, licensed as a licensed master social worker by the Board and, subject to the provisions of this Act, for the remainder of the term of the individual’s license; and

(2) an individual licensed as a licensed graduate social worker on or before ~~September 30, 2017~~ ~~December 31, 2017~~ June 30, 2018, may apply for reactivation, reinstatement, or reissuance of a license to practice master social work in accordance with the applicable provision of § 19-309 of the Health Occupations Article, as enacted by Section 1 of this Act, as if the individual had been licensed as a licensed master social worker by the Board.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before ~~December 31, 2018~~ June 30, 2018, the State Board of Social Work Examiners shall adopt regulations to implement Section 1 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect ~~January 1, 2018~~ July 1, 2018.

SECTION ~~3~~ 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 550

(Senate Bill 371)

AN ACT concerning

State Budget – Appropriations – Income Tax Revenue Estimate Cap and Revenue Stabilization Account

FOR the purpose of requiring the Bureau of Revenue Estimates, beginning with the revenue estimate for a certain fiscal year, to calculate a certain share of General Fund revenues represented by certain nonwithholding income tax revenues; specifying how the Bureau shall make the calculation; requiring the Bureau to make a certain adjustment to a certain revenue estimate relating to nonwithholding income tax revenues under certain circumstances; prohibiting the adjustment made by the Bureau from exceeding a certain percentage of General Fund revenues; requiring the Consensus Revenue Monitoring and Forecasting Group to develop and recommend to the Bureau a certain methodology for determining a certain share of certain nonwithholding income tax revenues; requiring the Board of Revenue Estimates to approve a certain methodology for determining a certain share of certain nonwithholding income tax revenues; altering the required contents of certain reports from the Bureau and the Board; ~~altering the circumstances under which the Governor is required to include certain appropriations in the budget bill to the Revenue Stabilization Account; altering the amount of the appropriations to the Account that the Governor is required to include under certain circumstances; altering the circumstances under which the Governor is authorized to transfer funds from the Account to General Fund revenues;~~ stating a certain goal of the State for certain revenues retained in the Revenue Stabilization Account; establishing the ~~Extraordinary Nonwithholding Income Tax Revenues~~ Fiscal Responsibility Fund as a special, nonlapsing fund; specifying the purpose of the Fund; requiring the State Comptroller to administer the Fund; requiring the State Treasurer to hold the Fund and the State Comptroller to account for the Fund; specifying the contents of the Fund; specifying the purpose for which the Fund may be used; providing for the investment of money in and expenditures from the Fund; requiring the Governor, under certain circumstances, to include in the budget bill for a certain fiscal year certain appropriations from the Fund for certain purposes; requiring the State Comptroller to make certain distributions of certain nonwithholding income tax revenues to the Fund and the Revenue Stabilization Account in certain fiscal years; defining certain terms; requiring the Consensus Revenue Monitoring and Forecasting Group to study a certain methodology and, if necessary, make certain recommendations to the General Assembly on or before a certain date; and generally

relating to appropriations of certain income tax revenues and appropriations to the Revenue Stabilization Account.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–104 through 6–106 and 7–311
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY adding to
Article – State Finance and Procurement
Section 7–329 and 7–330
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 2–609
Annotated Code of Maryland
(2016 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

6–104.

(A) (1) IN THIS SECTION, “NONWITHHOLDING INCOME TAX REVENUES” MEANS THE STATE SHARE OF INCOME TAX QUARTERLY ESTIMATED AND FINAL PAYMENTS WITH RETURNS MADE BY INDIVIDUALS, AS DEFINED IN § 10–101 OF THE TAX – GENERAL ARTICLE.

(2) “NONWITHHOLDING INCOME TAX REVENUES” DOES NOT INCLUDE:

(I) THE COUNTY SHARE OF INCOME TAX QUARTERLY ESTIMATED AND FINAL PAYMENTS WITH RETURNS MADE BY INDIVIDUALS;

(II) INCOME TAX PAYMENTS MADE BY CORPORATIONS;

(III) INCOME TAX REFUNDS PAID TO INDIVIDUALS OR CORPORATIONS; OR

(IV) INCOME TAX WITHHOLDING.

[(a)] (B) (1) After the end of each fiscal year, the Bureau shall submit to the Board a report that:

(i) contains an itemized statement of the State revenues from all sources for that fiscal year; and

(ii) includes any recommendations of the Bureau.

(2) In December, March, and September of each year, the Bureau shall submit to the Board a report that contains an itemized statement of the estimated State revenues from all sources for the fiscal year following the fiscal year in which the report is made.

(3) The Bureau shall provide to the Board any other information that the Board requests.

(4) Notwithstanding any other provision of law, the reports required under paragraphs (1) and (2) of this subsection shall include an itemized statement of:

(i) revenues or estimated revenues distributed to the Transportation Trust Fund, including the motor fuel taxes imposed under Title 9, Subtitle 3 of the Tax – General Article and motor vehicle titling taxes imposed under Title 13, Subtitle 8 of the Transportation Article; **[and]**

(ii) revenues from the State transfer tax imposed under Title 13, Subtitle 2 of the Tax – Property Article; **AND**

(III) ESTIMATED REVENUES FROM NONWITHOLDING INCOME TAXES CALCULATED IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION.

[(b)] (C) In addition to these reports, the Bureau shall continually conduct studies of State revenue sources to:

(1) determine the amount of revenue produced; and

(2) devise and recommend new methods and sources for improved efficiency, equity, and economy in production, collection, and estimation of revenue.

[(c)] (D) (1) On or before December 1, 2008, and December 1 of every third year thereafter, the Bureau shall submit to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly a tax incidence study measuring the burden of all the major taxes imposed by the State and how that burden is shared among taxpayers of different income levels.

(2) The Bureau shall prepare and submit the statistics of income report required under § 10–223 of the Tax – General Article.

(E) (1) BEGINNING WITH THE REVENUE ESTIMATE FOR FISCAL YEAR 2020, THE BUREAU SHALL CALCULATE THE SHARE OF GENERAL FUND REVENUES REPRESENTED BY NONWITHHOLDING INCOME TAX REVENUES IN ACCORDANCE WITH THIS SUBSECTION.

(2) (I) FOR EACH FISCAL YEAR, THE BUREAU SHALL CALCULATE THE 10-YEAR AVERAGE SHARE OF GENERAL FUND REVENUES REPRESENTED BY NONWITHHOLDING INCOME TAX REVENUES.

(II) 1. FOR EACH FISCAL YEAR, THE 10-YEAR AVERAGE SHALL USE THE 10 MOST RECENTLY COMPLETED FISCAL YEARS FOR WHICH DATA ARE AVAILABLE WHEN THE ESTIMATE IS PREPARED IN THE SEPTEMBER BEFORE THE BEGINNING OF THE FISCAL YEAR.

2. THE SAME 10-YEAR AVERAGE SHALL BE USED IN ALL SUBSEQUENT REVISIONS TO THE REVENUE ESTIMATE FOR THAT FISCAL YEAR.

(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, FOR EACH FISCAL YEAR, IF THE BUREAU'S ESTIMATE OF THE SHARE OF GENERAL FUND REVENUES FROM NONWITHHOLDING INCOME TAX REVENUES IS ABOVE THE 10-YEAR AVERAGE SHARE, THE BUREAU SHALL ADJUST THE REVENUE ESTIMATE BY REDUCING GENERAL FUND REVENUES FROM NONWITHHOLDING INCOME TAX REVENUES BY AN AMOUNT SUFFICIENT TO ALIGN THE ESTIMATED SHARE OF GENERAL FUND REVENUES FROM NONWITHHOLDING INCOME TAX REVENUES WITH THE 10-YEAR AVERAGE SHARE OF GENERAL FUND REVENUES FROM NONWITHHOLDING INCOME TAXES.

(II) THE ADJUSTMENT MADE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT EXCEED 2% OF TOTAL GENERAL FUND REVENUES.

(III) THE CAPPED ESTIMATE CALCULATED UNDER THIS PARAGRAPH SHALL BE INCORPORATED IN THE REVENUE ESTIMATE THE BUREAU SHALL REPORT TO THE BOARD IN THE REPORT REQUIRED UNDER SUBSECTION (B)(2) OF THIS SECTION.

6-105.

(a) (1) In this section[,] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "Group" means the Consensus Revenue Monitoring and Forecasting Group established under this section.

(3) (I) “STATE SHARE OF NONWITHHOLDING INCOME TAX REVENUES” MEANS THE STATE SHARE OF INCOME TAX QUARTERLY ESTIMATED AND FINAL PAYMENTS WITH RETURNS MADE BY INDIVIDUALS, AS DEFINED IN § 10-101 OF THE TAX – GENERAL ARTICLE.

(II) “STATE SHARE OF NONWITHHOLDING INCOME TAX REVENUES” DOES NOT INCLUDE:

- 1. THE COUNTY SHARE OF INCOME TAX QUARTERLY ESTIMATED AND FINAL PAYMENTS WITH RETURNS MADE BY INDIVIDUALS;**
- 2. INCOME TAX PAYMENTS MADE BY CORPORATIONS;**
- 3. INCOME TAX REFUNDS PAID TO INDIVIDUALS OR CORPORATIONS; OR**
- 4. INCOME TAX WITHHOLDING.**

(b) There is a Consensus Revenue Monitoring and Forecasting Group.

(c) The Group consists of:

- (1) the Chief and staff of the Bureau as designated by the Chief;
- (2) the Deputy Comptroller with responsibility for tax administration and staff as designated by the Deputy Comptroller with responsibility for tax administration;
- (3) staff of the Office of the Treasurer as designated by the Treasurer;
- (4) staff of the Department of Budget and Management as designated by the Secretary of Budget and Management;
- (5) staff of the Department of Transportation as designated by the Secretary of Transportation; and
- (6) staff of the Office of Policy Analysis of the Department of Legislative Services as designated by the Director of the Office.

(d) The Chief shall chair the Group.

(e) The Group and its constituent units shall:

- (1) review and analyze attainment of revenues on a monthly basis; [and]
- (2) advise and collaborate with the Bureau:

(i) in the development of revenue forecasts and any necessary revisions to those forecasts; and

(ii) in the performance of any pertinent studies or analyses as requested by the Chief or as directed by the Board; AND

(3) DEVELOP AND RECOMMEND TO THE BUREAU A METHODOLOGY FOR DETERMINING THE STATE SHARE OF NONWITHHOLDING INCOME TAX REVENUES FOR EACH FISCAL YEAR.

(f) To assist the Group in performing its function, the Comptroller and the Bureau shall:

(1) within 7 calendar days after the end of each month, provide to members of the Group detailed data on revenue collections; and

(2) before any document relating to the work of the Bureau is published, provide a draft of the document to the members of the Group for review and comment.

6–106.

(A) (1) IN THIS SECTION, “NONWITHHOLDING INCOME TAX REVENUES” MEANS THE STATE SHARE OF INCOME TAX QUARTERLY ESTIMATED AND FINAL PAYMENTS WITH RETURNS MADE BY INDIVIDUALS, AS DEFINED IN § 10–101 OF THE TAX – GENERAL ARTICLE.

(2) “NONWITHHOLDING INCOME TAX REVENUES” DOES NOT INCLUDE:

(I) THE COUNTY SHARE OF INCOME TAX QUARTERLY ESTIMATED AND FINAL PAYMENTS WITH RETURNS MADE BY INDIVIDUALS;

(II) INCOME TAX PAYMENTS MADE BY CORPORATIONS;

(III) INCOME TAX REFUNDS PAID TO INDIVIDUALS OR CORPORATIONS; OR

(IV) INCOME TAX WITHHOLDING.

[(a)] (A–1) The Board shall:

(1) study the information that the Bureau provides; and

(2) consider the recommendations of the Bureau.

(b) (1) In December, March, and September of each year, the Board shall submit to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly, a report that:

(i) contains an itemized statement of the estimated State revenues from all sources for the fiscal year following the fiscal year in which the report is made; and

(ii) includes any recommendations of the Board.

(2) (i) Subject to subparagraph (ii) of this paragraph, the Governor shall state the most recent estimates of revenues reported by the Board in the proposed budget and any supplemental budget submitted to the General Assembly.

(ii) If the Governor uses different estimates of revenues in the formulation of the proposed budget and any supplemental budget submitted to the General Assembly than those reported by the Board, a statement providing an explanation as to the differences shall be included together with those submissions.

(3) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE ESTIMATED REVENUES FROM NONWITHOLDING INCOME TAXES CALCULATED IN ACCORDANCE WITH § 6–104(E) OF THIS SUBTITLE.

(C) THE BOARD SHALL APPROVE A METHODOLOGY FOR DETERMINING THE STATE SHARE OF NONWITHOLDING INCOME TAX REVENUES FOR EACH FISCAL YEAR.

7–311.

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

(2) “Account” means the Revenue Stabilization Account.

(3) “Estimated General Fund revenues” means the estimated General Fund revenues for a fiscal year stated in the report of the Board of Revenue Estimates submitted to the Governor under § 6–106 of this article in December preceding the fiscal year.

(4) “UNAPPROPRIATED GENERAL FUND SURPLUS” DOES NOT INCLUDE THE AMOUNT OF NONWITHOLDING INCOME TAX REVENUES THAT EXCEED THE CAPPED ESTIMATE DETERMINED UNDER § 6–104(E) OF THIS ARTICLE.

(b) **(1)** The Revenue Stabilization Account is established to retain State revenues for future needs and reduce the need for future tax increases by moderating revenue growth.

(2) IT IS THE GOAL OF THE STATE THAT 10% OF ESTIMATED GENERAL FUND REVENUES IN EACH FISCAL YEAR BE RETAINED IN THE ACCOUNT.

(c) The Account is a continuing, nonlapsing fund which is not subject to § 7-302 of this subtitle.

(d) The Account consists of:

(1) money appropriated in the State budget to the Account; ~~and~~

(2) MONEY DISTRIBUTED TO THE ACCOUNT BY THE STATE COMPTROLLER AS PROVIDED IN § 7-329 OF THIS SUBTITLE; AND

~~(2)~~ **(3)** interest or other income earned from the investment of any portion of this Account or any other account in the State Reserve Fund.

(e) **(1)** Except as provided in subsection (f) of this section, for each fiscal year~~:~~

~~(1)~~ **(I)** if the Account balance is below 3% of the estimated General Fund revenues for that fiscal year, the Governor shall include in the budget bill an appropriation to the Account equal to at least \$100,000,000; and

~~(2)~~ **(II)**, if the Account balance is ~~at least 3% but~~ less than ~~7.5%~~ **10%** of the estimated General Fund revenues for that fiscal year, the Governor shall include in the budget bill an appropriation to the Account equal to at least the lesser of \$50,000,000 or whatever amount is required for the Account balance to exceed ~~7.5%~~ **10%** of the estimated General Fund revenues for that fiscal year.

(2) AT THE END OF FISCAL YEAR 2020 AND EACH FISCAL YEAR THEREAFTER, IF THE AMOUNT OF NONWITHHOLDING INCOME TAX REVENUES EXCEEDS THE CAPPED ESTIMATE DETERMINED UNDER § 6-104(E) OF THIS ARTICLE, THE STATE COMPTROLLER SHALL DISTRIBUTE FUNDS AS PROVIDED IN § 7-329(C) AND (D)(1) OF THIS SUBTITLE.

(f) **(1)** The appropriations required by subsection (e)**(1)** of this section are not required when the Account balance exceeds ~~7.5%~~ **10%** of the estimated General Fund revenues.

(2) THE DISTRIBUTIONS REQUIRED BY SUBSECTION (E)(2) OF THIS SECTION ARE NOT REQUIRED WHEN THE ACCOUNT BALANCE EXCEEDS 10% OF THE ESTIMATED GENERAL FUND REVENUES FOR THAT FISCAL YEAR.

(g) (1) Unless the transfer would result in an Account balance below ~~5%~~ **7.5%** of the estimated General Fund revenues for the fiscal year in which the transfer is made, if authorized by an act of the General Assembly or specifically authorized in the State

budget bill as enacted, the Governor may transfer funds from the Account to General Fund revenues as necessary to support the operation of State government on a temporary basis.

(2) If the transfer would result in an Account balance below ~~5%~~ 7.5% of the estimated General Fund revenues for the fiscal year in which the transfer is made, the Governor may transfer funds from the Account to General Fund revenues only if the transfer is authorized by an act of the General Assembly other than the State budget bill.

(h) If the budget bill as submitted to the General Assembly includes a transfer of funds from the Account pursuant to subsection (g) of this section, the budget bill as enacted by the General Assembly may provide for a reduction of the amount of the transfer from the Account by an amount up to the amount of the reductions made by the General Assembly in the General Fund appropriations.

(i) Funds of the Account may only be transferred from the Account as provided in this section and are not subject to transfer by budget amendment.

(j) (1) Except as provided in paragraph (2) of this subsection, for fiscal year 2007 and for each subsequent fiscal year, the Governor shall include in the budget bill an appropriation:

(i) for each of fiscal years 2017, 2018, and 2019, to the accumulation funds of the State Retirement and Pension System an amount, up to a maximum of \$50,000,000, that is equal to one-half of the amount by which the unappropriated General Fund surplus as of June 30 of the second preceding fiscal year exceeds \$10,000,000;

(ii) for fiscal year 2020:

1. to the accumulation funds of the State Retirement and Pension System an amount, up to a maximum of \$50,000,000, that is equal to one-half of the amount by which the unappropriated General Fund surplus as of June 30 of the second preceding fiscal year exceeds \$10,000,000; and

2. to the Account equal to the amount by which the unappropriated General Fund surplus as of June 30 of the second preceding fiscal year exceeds \$10,000,000, less the amount of the appropriation under item 1 of this paragraph; and

(iii) for fiscal year 2021 and each fiscal year thereafter, to the Account equal to the amount by which the unappropriated General Fund surplus as of June 30 of the second preceding fiscal year exceeds \$10,000,000.

(2) The appropriation required under this subsection for any fiscal year may be reduced by the amount of any appropriation to the Account required to be included for that fiscal year under subsection (e) of this section.

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

(2) "FUND" MEANS THE ~~EXTRAORDINARY NONWITHOLDING INCOME TAX REVENUES~~ FISCAL RESPONSIBILITY FUND ESTABLISHED UNDER § 7-330 OF THIS SUBTITLE.

(3) (I) "NONWITHOLDING INCOME TAX REVENUES" MEANS THE STATE SHARE OF INCOME TAX QUARTERLY ESTIMATED AND FINAL PAYMENTS WITH RETURNS MADE BY INDIVIDUALS, AS DEFINED IN § 10-101 OF THE TAX - GENERAL ARTICLE.

(II) "NONWITHOLDING INCOME TAX REVENUES" DOES NOT INCLUDE:

1. THE COUNTY SHARE OF INCOME TAX QUARTERLY ESTIMATED AND FINAL PAYMENTS WITH RETURNS MADE BY INDIVIDUALS;
2. INCOME TAX PAYMENTS MADE BY CORPORATIONS;
3. INCOME TAX REFUNDS PAID TO INDIVIDUALS OR CORPORATIONS; OR
4. INCOME TAX WITHHOLDING.

(B) AT THE END OF FISCAL YEAR 2020, AND EACH FISCAL YEAR THEREAFTER, IF ~~THE GENERAL FUND CLOSES WITH A DEFICIT~~ REVENUES FOR THE FISCAL YEAR ARE LESS THAN THE MARCH ESTIMATE OF THE BOARD OF REVENUE ESTIMATES, THE AMOUNT OF NONWITHOLDING INCOME TAX REVENUES THAT EXCEEDS THE CAPPED ESTIMATE DETERMINED UNDER § 6-104(E) OF THIS ARTICLE SHALL BE APPLIED TO CLOSE THE GAP IN REVENUES FOR THAT FISCAL YEAR.

(C) IF THE AMOUNT OF NONWITHOLDING INCOME TAX REVENUES THAT EXCEEDS THE CAPPED ESTIMATE DETERMINED UNDER § 6-104(E) OF THIS ARTICLE EXCEEDS THE AMOUNT NECESSARY TO CLOSE THE GAP IN REVENUES UNDER SUBSECTION (B) OF THIS SECTION, AND IF THE BALANCE OF THE REVENUE STABILIZATION ACCOUNT UNDER § 7-311 OF THIS SUBTITLE IS LESS THAN ~~10%~~ 6% OF THE ESTIMATED GENERAL FUND REVENUES FOR THAT FISCAL YEAR, ~~THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL FOR THE SECOND FOLLOWING FISCAL YEAR AN APPROPRIATION FROM THE FUND TO THE ACCOUNT EQUAL TO THE LESSER OF THE REMAINING BALANCE IN THE FUND OR \$50,000,000.~~ STATE COMPTROLLER SHALL DISTRIBUTE TO THE REVENUE STABILIZATION ACCOUNT THE LESSER OF:

(1) THE REMAINING BALANCE OF NONWITHHOLDING INCOME TAX REVENUES IN EXCESS OF THE CAPPED ESTIMATE DETERMINED UNDER § 6-104(E) OF THIS ARTICLE; OR

(2) THE AMOUNT REQUIRED FOR THE REVENUE STABILIZATION ACCOUNT BALANCE TO EQUAL 6% OF THE ESTIMATED GENERAL FUND REVENUES FOR THAT FISCAL YEAR.

~~(D) IF THE AMOUNT OF NONWITHHOLDING INCOME TAX REVENUES THAT EXCEEDS THE CAPPED ESTIMATE DETERMINED UNDER § 6-104(E) OF THIS ARTICLE EXCEEDS THE AMOUNT THE GOVERNOR STATE COMPTROLLER IS REQUIRED TO APPROPRIATE TO THE REVENUE STABILIZATION ACCOUNT UNDER SUBSECTION (C) OF THIS SECTION, THE GOVERNOR STATE COMPTROLLER SHALL INCLUDE IN THE BUDGET BILL FOR THE SECOND FOLLOWING FISCAL YEAR AN APPROPRIATION FROM THE FUND TO PAY AS YOU GO CAPITAL PROJECTS EQUAL TO THE LESSER OF THE REMAINING BALANCE IN THE FUND OR \$100,000,000.~~

~~(E) IF THE AMOUNT OF NONWITHHOLDING INCOME TAX REVENUES THAT EXCEEDS THE CAPPED ESTIMATE DETERMINED UNDER § 6-104(E) OF THIS ARTICLE EXCEEDS THE AMOUNT THE GOVERNOR IS REQUIRED TO APPROPRIATE TO PAY AS YOU GO CAPITAL PROJECTS UNDER SUBSECTION (D) OF THIS SECTION, THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL FOR THE SECOND FOLLOWING FISCAL YEAR AN APPROPRIATION FROM THE FUND EQUAL TO:~~

~~(1) ONE HALF OF THE REMAINING BALANCE IN THE FUND TO PAY AS YOU GO CAPITAL PROJECTS; AND~~

~~(2) THE LESSER OF ONE HALF OF THE REMAINING BALANCE IN THE FUND, OR WHATEVER AMOUNT IS REQUIRED FOR THE REVENUE STABILIZATION ACCOUNT BALANCE TO EXCEED 10% OF THE ESTIMATED GENERAL FUND REVENUES FOR THAT FISCAL YEAR, TO THE ACCOUNT.~~

~~(F) IF THE AMOUNT OF NONWITHHOLDING INCOME TAX REVENUES THAT EXCEEDS THE CAPPED ESTIMATE DETERMINED UNDER § 6-104(E) OF THIS ARTICLE EXCEEDS THE AMOUNT THE GOVERNOR IS REQUIRED TO APPROPRIATE TO THE REVENUE STABILIZATION ACCOUNT AND TO PAY AS YOU GO CAPITAL PROJECTS UNDER SUBSECTION (E) OF THIS SECTION, THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL FOR THE SECOND FOLLOWING FISCAL YEAR AN APPROPRIATION FROM THE FUND EQUAL TO THE REMAINING BALANCE IN THE FUND TO THE POSTRETIREMENT HEALTH BENEFITS TRUST FUND ESTABLISHED UNDER § 34-101 OF THE STATE PERSONNEL AND PENSIONS ARTICLE, DISTRIBUTE:~~

(1) SUBJECT TO SUBSECTION (E) OF THIS SECTION, 50% OF THE REMAINING AMOUNT TO THE REVENUE STABILIZATION ACCOUNT; AND

(2) THE REMAINDER TO THE FISCAL RESPONSIBILITY FUND ESTABLISHED UNDER § 7-330 OF THIS SUBTITLE.

(E) THE DISTRIBUTION TO THE REVENUE STABILIZATION ACCOUNT UNDER SUBSECTION (D)(1) OF THIS SECTION DOES NOT APPLY IF THE AMOUNT IN THE REVENUE STABILIZATION ACCOUNT EXCEEDS 10% OF GENERAL FUND REVENUES.

7-330.

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

(2) "FUND" MEANS THE ~~EXTRAORDINARY NONWITHOLDING INCOME TAX REVENUES~~ FISCAL RESPONSIBILITY FUND.

(3) (I) "NONWITHOLDING INCOME TAX REVENUES" MEANS THE STATE SHARE OF INCOME TAX QUARTERLY ESTIMATED AND FINAL PAYMENTS WITH RETURNS MADE BY INDIVIDUALS, AS DEFINED IN § 10-101 OF THE TAX - GENERAL ARTICLE.

(II) "NONWITHOLDING INCOME TAX REVENUES" DOES NOT INCLUDE:

1. THE COUNTY SHARE OF INCOME TAX QUARTERLY ESTIMATED AND FINAL PAYMENTS WITH RETURNS MADE BY INDIVIDUALS;
2. INCOME TAX PAYMENTS MADE BY CORPORATIONS;
3. INCOME TAX REFUNDS PAID TO INDIVIDUALS OR CORPORATIONS; OR
4. INCOME TAX WITHHOLDING.

(B) THERE IS ~~AN EXTRAORDINARY NONWITHOLDING INCOME TAX REVENUES~~ A FISCAL RESPONSIBILITY FUND.

(C) THE PURPOSE OF THE FUND IS TO RETAIN THE AMOUNT OF NONWITHOLDING INCOME TAX REVENUES ~~THAT EXCEEDS THE CAPPED ESTIMATE DETERMINED UNDER § 6-104(E) OF THIS ARTICLE~~ DEPOSITED TO THE FUND IN ACCORDANCE WITH § 7-329(D)(2) OF THIS SUBTITLE UNTIL THE REVENUES ARE APPROPRIATED IN THE STATE BUDGET.

(D) ~~(1)~~ THE STATE COMPTROLLER SHALL ADMINISTER THE FUND.

~~(2) AFTER THE NONWITHHOLDING INCOME TAX REVENUES THAT EXCEED THE CAPPED ESTIMATE DETERMINED UNDER § 6-104(E) OF THIS ARTICLE ARE APPLIED TO CLOSE THE GAP IN REVENUES AT THE END OF A FISCAL YEAR IN ACCORDANCE WITH § 7-329(B) OF THIS SUBTITLE, THE STATE COMPTROLLER SHALL DISTRIBUTE THE REMAINING NONWITHHOLDING INCOME TAX REVENUES INTO THE FUND.~~

(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THIS SUBTITLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE STATE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF NONWITHHOLDING INCOME TAX REVENUES THAT EXCEED THE CAPPED ESTIMATE DETERMINED UNDER § 6-104(E) OF THIS ARTICLE DEPOSITED INTO THE FUND BY THE STATE COMPTROLLER UNDER § 7-329(D)(2) OF THIS SUBTITLE.

(G) THE FUND MAY BE USED ONLY ~~IN ACCORDANCE WITH § 7-329 OF THIS SUBTITLE.~~ TO PROVIDE PAY-AS-YOU-GO CAPITAL FUNDS FOR:

(1) PUBLIC SCHOOL CONSTRUCTION AND PUBLIC SCHOOL CAPITAL IMPROVEMENT PROJECTS, IN ACCORDANCE WITH §§ 5-301 THROUGH 5-303 OF THE EDUCATION ARTICLE;

(2) CAPITAL PROJECTS AT PUBLIC COMMUNITY COLLEGES; AND

(3) CAPITAL PROJECTS AT FOUR-YEAR PUBLIC INSTITUTIONS OF HIGHER EDUCATION.

(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO THE GENERAL FUND OF THE STATE.

(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

(J) (1) THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL FOR THE SECOND FOLLOWING FISCAL YEAR AN APPROPRIATION EQUAL TO THE AMOUNT IN THE FUND FOR PAY-AS-YOU-GO CAPITAL PROJECTS.

(2) MONEY EXPENDED FROM THE FUND FOR PAY-AS-YOU-GO CAPITAL PROJECTS AND MONEY DEPOSITED IN THE POSTRETIREMENT HEALTH BENEFITS TRUST FUND ESTABLISHED UNDER § 34-101 OF THE STATE PERSONNEL AND PENSIONS ARTICLE IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR PAY-AS-YOU-GO CAPITAL PROJECTS AND POSTRETIREMENT HEALTH BENEFITS, INCLUDING THOSE FUNDED WITH PAY-AS-YOU-GO FUNDS AND THE PROCEEDS FROM THE SALE OF GENERAL OBLIGATION BONDS.

(K) AT THE END OF A FISCAL YEAR, THE UNSPENT BALANCE OF EACH APPROPRIATION THAT WAS MADE FOR THAT FISCAL YEAR FROM THE FUND REVERTS TO THE FUND.

Article – Tax – General

2-609.

After making the distributions required under §§ 2-604 through 2-608.1 of this subtitle, **AND AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER §§ 7-329 AND 7-330 OF THE STATE FINANCE AND PROCUREMENT ARTICLE**, the Comptroller shall distribute the remaining income tax revenue from individuals to the General Fund of the State.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Consensus Revenue Monitoring and Forecasting Group established under § 6-105 of the State Finance and Procurement Article shall study the methodology described under § 6-104(e) of the State Finance and Procurement Article to determine whether improvements to the methodology are recommended.

(b) If the Group determines that improvements to the methodology described under § 6-104(e) of the State Finance and Procurement Article are recommended, on or before January 1, 2018, the Group shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on recommendations to improve the methodology.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 551**(House Bill 708)**

AN ACT concerning

**State Department of Education – Lacrosse Opportunities Program – Youth
Lacrosse Nonprofit Organizations**

FOR the purpose of authorizing a youth lacrosse nonprofit organization to submit an application for a grant under the Lacrosse Opportunities Program; requiring the State Superintendent of Schools or the State Superintendent’s designee to provide grants to eligible youth lacrosse nonprofit organizations with programs that will increase opportunities for minority students to participate in lacrosse; defining a certain term; and generally relating to the Lacrosse Opportunities Program.

BY repealing and reenacting, with amendments,
Article – Education
Section 2–305
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

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

Article – Education

2–305.

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

(2) “Agency” means a local education agency serving a population of students at least 80% of which are minority students.

(3) “Minority student” has the meaning stated in regulations adopted by the State Superintendent.

**(4) “YOUTH LACROSSE NONPROFIT ORGANIZATION” MEANS A
NONPROFIT ORGANIZATION THAT:**

(I) IS LOCATED IN A COUNTY WITH AN AGENCY;

**(II) PROVIDES LACROSSE OPPORTUNITIES FOR CHILDREN
UNDER THE AGE OF 18; AND**

(III) IS RECOGNIZED BY US LACROSSE AS A MEMBER OF THE URBAN LACROSSE ALLIANCE.

(b) (1) There is a Lacrosse Opportunities Program in the Department.

(2) The purpose of the Lacrosse Opportunities Program is to increase opportunities for minority students to participate in lacrosse in their communities.

(c) The State Superintendent shall develop and administer the Lacrosse Opportunities Program.

(d) (1) An agency **OR A YOUTH LACROSSE NONPROFIT ORGANIZATION** may submit an application to the Department to receive a grant for a program that is in furtherance of the purpose of the Lacrosse Opportunities Program.

(2) An application shall include:

(i) A description of the scope and purpose of the proposed program;

(ii) A business plan that includes the estimated total cost of the proposed program; and

(iii) Any other information required by the Department.

(e) In awarding a grant under the Lacrosse Opportunities Program, the Department shall:

(1) Require the grantee to provide matching funds from any combination of federal, county, municipal, or private sources; and

(2) Ensure that the grant does not exceed 50% of the total annual cost of the grantee's program.

(f) The State Superintendent or the State Superintendent's designee shall:

(1) Review grant applications submitted in accordance with subsection (d) of this section; and

(2) To the extent funds are available, provide grants to agencies **AND YOUTH LACROSSE NONPROFIT ORGANIZATIONS** that meet the requirements for a grant under this section.

(g) For fiscal year 2014 and each fiscal year thereafter, the Governor shall include in the annual budget submission at least \$40,000 for the Lacrosse Opportunities Program.

(h) The State Superintendent shall adopt regulations to implement this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 552

(House Bill 78)

AN ACT concerning

State Government – Maryland Manual – Revisions (Maryland Manual Modernization Act)

FOR the purpose of altering certain provisions of law to require the State Archives to compile, edit, and publish an online Maryland Manual; altering the content of the Maryland Manual; requiring, as provided in the State budget, the State Archives to update the Maryland Manual as necessary to maintain the accuracy of the information and to annually preserve each a version that is published contains certain changes; ~~providing that the Maryland Manual constitutes the historical record of government in the State~~; requiring the State Archivist, to the extent practicable, to provide certain outreach to certain persons; repealing certain provisions of law relating to the provision and distribution of the Maryland Manual by the State Archivist; and generally relating to the Maryland Manual.

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–1026
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

BY repealing
Article – State Government
Section 9–1027
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

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

Article – State Government

9–1026.

(a) [Every 2 years, the] **THE** State Archives shall compile [and], edit [a], **AND PUBLISH AN ONLINE** Maryland Manual that:

(1) DESCRIBES:

(I) THE STATE AND ITS GOVERNMENT, INCLUDING STATE, INTERSTATE, REGIONAL, COUNTY, INTERCOUNTY, AND MUNICIPAL GOVERNMENT; AND

(II) FEDERAL OFFICIALS AND AGENCIES DIRECTLY RELATED TO THE STATE; AND

(2) contains:

[(1)] (I) a copy of the Maryland Constitution;

[(2)] (II) the name [and address] of each officer of the State [or], a county, OR A MUNICIPALITY who is:

[(i)] 1. elected;

[(ii)] 2. appointed by the Governor; or

[(iii)] 3. appointed by the Board of Public Works; and

[(3)] (III) any other information that, in consultation with the Hall of Records Commission, the State Archivist considers necessary.

[(b) In accordance with Division II of the State Finance and Procurement Article, the Archives shall print the Maryland Manual, as provided in the State budget.]

(B) ~~THE~~ AS PROVIDED IN THE STATE BUDGET, THE STATE ARCHIVES SHALL:

(1) UPDATE THE MARYLAND MANUAL AS NECESSARY TO MAINTAIN THE ACCURACY OF THE INFORMATION; AND

(2) ANNUALLY PRESERVE EACH A VERSION OF THE MARYLAND MANUAL THAT IS PUBLISHED CONTAINS ALL CHANGES MADE TO THE MARYLAND MANUAL UNDER ITEM (1) OF THIS SUBSECTION IN THE IMMEDIATELY PRECEDING YEAR.

~~(C) THE MARYLAND MANUAL CONSTITUTES THE HISTORICAL RECORD OF GOVERNMENT IN THE STATE.~~

~~(D)~~ (C) TO THE EXTENT PRACTICABLE, THE STATE ARCHIVIST SHALL PROVIDE OUTREACH TO PUBLIC SCHOOLS, PUBLIC LIBRARIES, AND THE GENERAL PUBLIC TO INCREASE AWARENESS REGARDING THE AVAILABILITY AND CONTENT OF THE MARYLAND MANUAL.

[9–1027.

(a) The State Archivist shall provide, without charge:

(1) to the State Law Library, 25 cloth-bound copies of each new Maryland Manual;

(2) to each member of the General Assembly, 2 cloth-bound copies and 8 other copies of each new Maryland Manual;

(3) to each public or private educational institution in the State, 1 copy of each new Maryland Manual; and

(4) to the Legislative Library, 50 cloth-bound copies of each new Maryland Manual.

(b) If a former member of the General Assembly asks the State Archivist for a copy of the Maryland Manual, the State Archivist shall provide, without charge, a copy of the current Maryland Manual.

(c) The State Archivist and the Secretary of State may distribute other copies of the Maryland Manual as they consider necessary or desirable.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 553

(House Bill 165)

AN ACT concerning

State Government – Maryland Uniform Electronic Legal Materials Act

FOR the purpose of requiring an official publisher that publishes legal material in an electronic record to designate the electronic record as official, under certain circumstances, and authenticate the electronic record in a certain manner; providing

that certain legal material in an electronic record is presumed to be an accurate copy of the legal material; providing that certain legal material of another state in an electronic record is presumed to be an accurate copy of the legal material under certain circumstances; providing that a party contesting the authenticity of certain legal material in an electronic record has a certain burden of proof; requiring an official publisher of certain legal material in an electronic record to provide for the preservation and security of the record, take certain actions regarding an electronic record preserved under a certain provision of this Act, and ensure that the legal material is reasonably available for use by the public on a permanent basis; requiring an official publisher to consider certain factors in implementing this Act; requiring that certain factors be considered in applying and construing this Act; providing that this Act modifies, limits, and supersedes a certain federal law except as provided in a certain provision of this Act; establishing a certain short title; providing for the application of this Act; defining certain terms; and generally relating to the Maryland Uniform Electronic Legal Materials Act.

BY adding to

Article – State Government

Section 10–1601 through 10–1611 to be under the new subtitle “Subtitle 16. Maryland Uniform Electronic Legal Materials Act”

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

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

Article – State Government

SUBTITLE 16. MARYLAND UNIFORM ELECTRONIC LEGAL MATERIALS ACT.

10–1601.

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

(B) “ELECTRONIC” MEANS RELATING TO TECHNOLOGY HAVING ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.

(C) “LEGAL MATERIAL” MEANS, WHETHER OR NOT IN EFFECT, THE FOLLOWING:

- (1) THE MARYLAND CONSTITUTION;
- (2) THE SESSION LAWS;

- (3) THE CODE OF MARYLAND;**
 - (4) THE MARYLAND RULES;**
 - (5) THE JOURNAL OF THE SENATE OF MARYLAND;**
 - (6) THE JOURNAL OF THE HOUSE OF DELEGATES OF MARYLAND;**
 - (7) A REPORTED DECISION OF:**
 - (I) THE COURT OF APPEALS; OR**
 - (II) THE COURT OF SPECIAL APPEALS;**
 - (8) AN OPINION ISSUED BY THE OFFICE OF THE ATTORNEY GENERAL;**
 - (9) THE CODE OF MARYLAND REGULATIONS;**
 - (10) A FINAL DECISION IN A CONTESTED CASE ISSUED BY A UNIT OF STATE GOVERNMENT UNDER THE ADMINISTRATIVE PROCEDURE ACT; OR**
 - (11) THE MARYLAND REGISTER.**
- (D) “OFFICIAL PUBLISHER” MEANS:**
- (1) FOR THE MARYLAND CONSTITUTION, THE DEPARTMENT OF LEGISLATIVE SERVICES;**
 - (2) FOR THE SESSION LAWS, THE DEPARTMENT OF LEGISLATIVE SERVICES;**
 - (3) FOR THE CODE OF MARYLAND, THE DEPARTMENT OF LEGISLATIVE SERVICES;**
 - (4) FOR THE MARYLAND RULES, THE COURT OF APPEALS;**
 - (5) FOR THE JOURNAL OF THE SENATE OF MARYLAND, THE DEPARTMENT OF LEGISLATIVE SERVICES;**
 - (6) FOR THE JOURNAL OF THE HOUSE OF DELEGATES OF MARYLAND, THE DEPARTMENT OF LEGISLATIVE SERVICES;**

(7) FOR A REPORTED DECISION OF A COURT LISTED IN SUBSECTION (C)(7) OF THIS SECTION, THE COURT OF APPEALS;

(8) FOR AN OPINION ISSUED BY THE OFFICE OF THE ATTORNEY GENERAL, THE OFFICE OF THE ATTORNEY GENERAL;

(9) FOR THE CODE OF MARYLAND REGULATIONS, THE DIVISION OF STATE DOCUMENTS;

(10) FOR A FINAL DECISION IN A CONTESTED CASE, THE UNIT OF STATE GOVERNMENT THAT ISSUED THE DECISION; OR

(11) FOR THE MARYLAND REGISTER, THE DIVISION OF STATE DOCUMENTS.

(E) “PUBLISH” MEANS TO DISPLAY, PRESENT, OR RELEASE TO THE PUBLIC, OR CAUSE TO BE DISPLAYED, PRESENTED, OR RELEASED TO THE PUBLIC, BY THE OFFICIAL PUBLISHER.

(F) “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.

(G) “UNIT” MEANS AN EXECUTIVE AGENCY, A DEPARTMENT, A BOARD, A COMMISSION, OR ANY OTHER INSTRUMENTALITY OF THE STATE.

10-1602.

THIS SUBTITLE APPLIES TO ALL LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS:

(1) DESIGNATED AS OFFICIAL UNDER § 10-1603 OF THIS SUBTITLE;

AND

(2) FIRST PUBLISHED ELECTRONICALLY ON OR AFTER OCTOBER 1, 2017.

10-1603.

(A) IF AN OFFICIAL PUBLISHER PUBLISHES LEGAL MATERIAL ONLY IN AN ELECTRONIC RECORD, THE OFFICIAL PUBLISHER SHALL:

(1) DESIGNATE THE ELECTRONIC RECORD AS OFFICIAL; AND

(2) COMPLY WITH §§ 10-1604, 10-1606, AND 10-1607 OF THIS SUBTITLE.

(B) AN OFFICIAL PUBLISHER THAT PUBLISHES LEGAL MATERIAL IN AN ELECTRONIC RECORD AND IN A RECORD OTHER THAN AN ELECTRONIC RECORD MAY DESIGNATE THE ELECTRONIC RECORD AS OFFICIAL IF THE PUBLISHER COMPLIES WITH §§ 10-1604, 10-1606, AND 10-1607 OF THIS SUBTITLE.

10-1604.

(A) AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS DESIGNATED AS OFFICIAL UNDER § 10-1603 OF THIS SUBTITLE SHALL AUTHENTICATE THE ELECTRONIC RECORD.

(B) TO AUTHENTICATE AN ELECTRONIC RECORD UNDER SUBSECTION (A) OF THIS SECTION, THE OFFICIAL PUBLISHER SHALL PROVIDE A METHOD FOR A USER TO DETERMINE THAT THE ELECTRONIC RECORD RECEIVED BY THE USER FROM THE OFFICIAL PUBLISHER IS UNALTERED FROM THE OFFICIAL ELECTRONIC RECORD PUBLISHED BY THE OFFICIAL PUBLISHER.

10-1605.

(A) LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS AUTHENTICATED UNDER § 10-1604 OF THIS SUBTITLE IS PRESUMED TO BE AN ACCURATE COPY OF THE LEGAL MATERIAL.

(B) IF ANOTHER STATE HAS ADOPTED A LAW SUBSTANTIALLY SIMILAR TO THIS SUBTITLE, LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS DESIGNATED AS OFFICIAL AND AUTHENTICATED BY THE OFFICIAL PUBLISHER IN THAT STATE IS PRESUMED TO BE AN ACCURATE COPY OF THE LEGAL MATERIAL.

(C) A PARTY CONTESTING THE AUTHENTICATION OF LEGAL MATERIAL IN AN ELECTRONIC RECORD AUTHENTICATED UNDER § 10-1604 OF THIS SUBTITLE HAS THE BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE RECORD IS NOT AUTHENTIC.

10-1606.

(A) AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS OR WAS DESIGNATED AS OFFICIAL UNDER § 10-1603 OF THIS SUBTITLE SHALL PROVIDE FOR THE PRESERVATION AND SECURITY OF THE RECORD IN AN ELECTRONIC FORM OR A FORM THAT IS NOT ELECTRONIC.

(B) IF LEGAL MATERIAL IS PRESERVED UNDER SUBSECTION (A) OF THIS SECTION IN AN ELECTRONIC RECORD, THE OFFICIAL PUBLISHER SHALL:

- (1) ENSURE THE INTEGRITY OF THE RECORD;**
- (2) PROVIDE FOR BACKUP AND DISASTER RECOVERY OF THE RECORD;**
- (3) ENSURE THE CONTINUING USABILITY OF THE MATERIAL; AND**
- (4) DELIVER A COPY TO THE STATE ARCHIVES.**

10-1607.

AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS OR WAS DESIGNATED AS OFFICIAL UNDER § 10-1603 OF THIS SUBTITLE SHALL ENSURE THAT THE LEGAL MATERIAL IS REASONABLY AVAILABLE FOR USE BY THE PUBLIC ON A PERMANENT BASIS.

10-1608.

IN IMPLEMENTING THIS SUBTITLE, AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN ELECTRONIC RECORD SHALL CONSIDER:

- (1) STANDARDS AND PRACTICES OF OTHER JURISDICTIONS;**
- (2) THE MOST RECENT STANDARDS REGARDING THE AUTHENTICATION OF, PRESERVATION AND SECURITY OF, AND PUBLIC ACCESS TO LEGAL MATERIAL IN AN ELECTRONIC RECORD AND OTHER ELECTRONIC RECORDS, AS ADOPTED BY NATIONAL STANDARD-SETTING BODIES;**
- (3) THE NEEDS OF USERS OF LEGAL MATERIAL IN AN ELECTRONIC RECORD;**
- (4) THE VIEW OF GOVERNMENTAL OFFICIALS AND ENTITIES AND OTHER INTERESTED PERSONS; AND**
- (5) TO THE EXTENT PRACTICABLE, METHODS AND TECHNOLOGIES FOR THE AUTHENTICATION OF, PRESERVATION AND SECURITY OF, AND PUBLIC ACCESS TO LEGAL MATERIAL THAT ARE COMPATIBLE WITH METHODS AND TECHNOLOGIES USED BY OTHER OFFICIAL PUBLISHERS IN THE STATE AND IN**

OTHER STATES THAT HAVE ADOPTED A LAW SUBSTANTIALLY SIMILAR TO THIS SUBTITLE.

10-1609.

IN APPLYING AND CONSTRUING THIS SUBTITLE, CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT LAWS SUBSTANTIALLY SIMILAR TO THIS SUBTITLE.

10-1610.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS SUBTITLE MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

(B) THIS SUBTITLE DOES NOT:

(1) MODIFY, LIMIT, OR SUPERSEDE 15 U.S.C. § 7001(C); OR

(2) AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN 15 U.S.C. § 7003(B).

10-1611.

THIS SUBTITLE MAY BE CITED AS THE MARYLAND UNIFORM ELECTRONIC LEGAL MATERIALS ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 554

(Senate Bill 137)

AN ACT concerning

State Government – Maryland Uniform Electronic Legal Materials Act

FOR the purpose of requiring an official publisher that publishes legal material in an electronic record to designate the electronic record as official, under certain

circumstances, and authenticate the electronic record in a certain manner; providing that certain legal material in an electronic record is presumed to be an accurate copy of the legal material; providing that certain legal material of another state in an electronic record is presumed to be an accurate copy of the legal material under certain circumstances; providing that a party contesting the authenticity of certain legal material in an electronic record has a certain burden of proof; requiring an official publisher of certain legal material in an electronic record to provide for the preservation and security of the record, take certain actions regarding an electronic record preserved under a certain provision of this Act, and ensure that the legal material is reasonably available for use by the public on a permanent basis; requiring an official publisher to consider certain factors in implementing this Act; requiring that certain factors be considered in applying and construing this Act; providing that this Act modifies, limits, and supersedes a certain federal law except as provided in a certain provision of this Act; establishing a certain short title; providing for the application of this Act; defining certain terms; and generally relating to the Maryland Uniform Electronic Legal Materials Act.

BY adding to

Article – State Government

Section 10–1601 through 10–1611 to be under the new subtitle “Subtitle 16. Maryland Uniform Electronic Legal Materials Act”

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

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

Article – State Government

SUBTITLE 16. MARYLAND UNIFORM ELECTRONIC LEGAL MATERIALS ACT.

10–1601.

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

(B) “ELECTRONIC” MEANS RELATING TO TECHNOLOGY HAVING ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.

(C) “LEGAL MATERIAL” MEANS, WHETHER OR NOT IN EFFECT, THE FOLLOWING:

- (1) THE MARYLAND CONSTITUTION;
- (2) THE SESSION LAWS;

- (3) THE CODE OF MARYLAND;**
 - (4) THE MARYLAND RULES;**
 - (5) THE JOURNAL OF THE SENATE OF MARYLAND;**
 - (6) THE JOURNAL OF THE HOUSE OF DELEGATES OF MARYLAND;**
 - (7) A REPORTED DECISION OF:**
 - (I) THE COURT OF APPEALS; OR**
 - (II) THE COURT OF SPECIAL APPEALS;**
 - (8) AN OPINION ISSUED BY THE OFFICE OF THE ATTORNEY GENERAL;**
 - (9) THE CODE OF MARYLAND REGULATIONS;**
 - (10) A FINAL DECISION IN A CONTESTED CASE ISSUED BY A UNIT OF STATE GOVERNMENT UNDER THE ADMINISTRATIVE PROCEDURE ACT; OR**
 - (11) THE MARYLAND REGISTER.**
- (D) “OFFICIAL PUBLISHER” MEANS:**
- (1) FOR THE MARYLAND CONSTITUTION, THE DEPARTMENT OF LEGISLATIVE SERVICES;**
 - (2) FOR THE SESSION LAWS, THE DEPARTMENT OF LEGISLATIVE SERVICES;**
 - (3) FOR THE CODE OF MARYLAND, THE DEPARTMENT OF LEGISLATIVE SERVICES;**
 - (4) FOR THE MARYLAND RULES, THE COURT OF APPEALS;**
 - (5) FOR THE JOURNAL OF THE SENATE OF MARYLAND, THE DEPARTMENT OF LEGISLATIVE SERVICES;**
 - (6) FOR THE JOURNAL OF THE HOUSE OF DELEGATES OF MARYLAND, THE DEPARTMENT OF LEGISLATIVE SERVICES;**

(7) FOR A REPORTED DECISION OF A COURT LISTED IN SUBSECTION (C)(7) OF THIS SECTION, THE COURT OF APPEALS;

(8) FOR AN OPINION ISSUED BY THE OFFICE OF THE ATTORNEY GENERAL, THE OFFICE OF THE ATTORNEY GENERAL;

(9) FOR THE CODE OF MARYLAND REGULATIONS, THE DIVISION OF STATE DOCUMENTS;

(10) FOR A FINAL DECISION IN A CONTESTED CASE, THE UNIT OF STATE GOVERNMENT THAT ISSUED THE DECISION; OR

(11) FOR THE MARYLAND REGISTER, THE DIVISION OF STATE DOCUMENTS.

(E) “PUBLISH” MEANS TO DISPLAY, PRESENT, OR RELEASE TO THE PUBLIC, OR CAUSE TO BE DISPLAYED, PRESENTED, OR RELEASED TO THE PUBLIC, BY THE OFFICIAL PUBLISHER.

(F) “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.

(G) “UNIT” MEANS AN EXECUTIVE AGENCY, A DEPARTMENT, A BOARD, A COMMISSION, OR ANY OTHER INSTRUMENTALITY OF THE STATE.

10-1602.

THIS SUBTITLE APPLIES TO ALL LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS:

(1) DESIGNATED AS OFFICIAL UNDER § 10-1603 OF THIS SUBTITLE;

AND

(2) FIRST PUBLISHED ELECTRONICALLY ON OR AFTER OCTOBER 1, 2017.

10-1603.

(A) IF AN OFFICIAL PUBLISHER PUBLISHES LEGAL MATERIAL ONLY IN AN ELECTRONIC RECORD, THE OFFICIAL PUBLISHER SHALL:

(1) DESIGNATE THE ELECTRONIC RECORD AS OFFICIAL; AND

(2) COMPLY WITH §§ 10-1604, 10-1606, AND 10-1607 OF THIS SUBTITLE.

(B) AN OFFICIAL PUBLISHER THAT PUBLISHES LEGAL MATERIAL IN AN ELECTRONIC RECORD AND IN A RECORD OTHER THAN AN ELECTRONIC RECORD MAY DESIGNATE THE ELECTRONIC RECORD AS OFFICIAL IF THE PUBLISHER COMPLIES WITH §§ 10-1604, 10-1606, AND 10-1607 OF THIS SUBTITLE.

10-1604.

(A) AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS DESIGNATED AS OFFICIAL UNDER § 10-1603 OF THIS SUBTITLE SHALL AUTHENTICATE THE ELECTRONIC RECORD.

(B) TO AUTHENTICATE AN ELECTRONIC RECORD UNDER SUBSECTION (A) OF THIS SECTION, THE OFFICIAL PUBLISHER SHALL PROVIDE A METHOD FOR A USER TO DETERMINE THAT THE ELECTRONIC RECORD RECEIVED BY THE USER FROM THE OFFICIAL PUBLISHER IS UNALTERED FROM THE OFFICIAL ELECTRONIC RECORD PUBLISHED BY THE OFFICIAL PUBLISHER.

10-1605.

(A) LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS AUTHENTICATED UNDER § 10-1604 OF THIS SUBTITLE IS PRESUMED TO BE AN ACCURATE COPY OF THE LEGAL MATERIAL.

(B) IF ANOTHER STATE HAS ADOPTED A LAW SUBSTANTIALLY SIMILAR TO THIS SUBTITLE, LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS DESIGNATED AS OFFICIAL AND AUTHENTICATED BY THE OFFICIAL PUBLISHER IN THAT STATE IS PRESUMED TO BE AN ACCURATE COPY OF THE LEGAL MATERIAL.

(C) A PARTY CONTESTING THE AUTHENTICATION OF LEGAL MATERIAL IN AN ELECTRONIC RECORD AUTHENTICATED UNDER § 10-1604 OF THIS SUBTITLE HAS THE BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE RECORD IS NOT AUTHENTIC.

10-1606.

(A) AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS OR WAS DESIGNATED AS OFFICIAL UNDER § 10-1603 OF THIS SUBTITLE SHALL PROVIDE FOR THE PRESERVATION AND SECURITY OF THE RECORD IN AN ELECTRONIC FORM OR A FORM THAT IS NOT ELECTRONIC.

(B) IF LEGAL MATERIAL IS PRESERVED UNDER SUBSECTION (A) OF THIS SECTION IN AN ELECTRONIC RECORD, THE OFFICIAL PUBLISHER SHALL:

- (1) ENSURE THE INTEGRITY OF THE RECORD;**
- (2) PROVIDE FOR BACKUP AND DISASTER RECOVERY OF THE RECORD;**
- (3) ENSURE THE CONTINUING USABILITY OF THE MATERIAL; AND**
- (4) DELIVER A COPY TO THE STATE ARCHIVES.**

10-1607.

AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS OR WAS DESIGNATED AS OFFICIAL UNDER § 10-1603 OF THIS SUBTITLE SHALL ENSURE THAT THE LEGAL MATERIAL IS REASONABLY AVAILABLE FOR USE BY THE PUBLIC ON A PERMANENT BASIS.

10-1608.

IN IMPLEMENTING THIS SUBTITLE, AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN ELECTRONIC RECORD SHALL CONSIDER:

- (1) STANDARDS AND PRACTICES OF OTHER JURISDICTIONS;**
- (2) THE MOST RECENT STANDARDS REGARDING THE AUTHENTICATION OF, PRESERVATION AND SECURITY OF, AND PUBLIC ACCESS TO LEGAL MATERIAL IN AN ELECTRONIC RECORD AND OTHER ELECTRONIC RECORDS, AS ADOPTED BY NATIONAL STANDARD-SETTING BODIES;**
- (3) THE NEEDS OF USERS OF LEGAL MATERIAL IN AN ELECTRONIC RECORD;**
- (4) THE VIEW OF GOVERNMENTAL OFFICIALS AND ENTITIES AND OTHER INTERESTED PERSONS; AND**
- (5) TO THE EXTENT PRACTICABLE, METHODS AND TECHNOLOGIES FOR THE AUTHENTICATION OF, PRESERVATION AND SECURITY OF, AND PUBLIC ACCESS TO LEGAL MATERIAL THAT ARE COMPATIBLE WITH METHODS AND TECHNOLOGIES USED BY OTHER OFFICIAL PUBLISHERS IN THE STATE AND IN**

OTHER STATES THAT HAVE ADOPTED A LAW SUBSTANTIALLY SIMILAR TO THIS SUBTITLE.

10-1609.

IN APPLYING AND CONSTRUING THIS SUBTITLE, CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT LAWS SUBSTANTIALLY SIMILAR TO THIS SUBTITLE.

10-1610.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS SUBTITLE MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

(B) THIS SUBTITLE DOES NOT:

(1) MODIFY, LIMIT, OR SUPERSEDE 15 U.S.C. § 7001(C); OR

(2) AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN 15 U.S.C. § 7003(B).

10-1611.

THIS SUBTITLE MAY BE CITED AS THE MARYLAND UNIFORM ELECTRONIC LEGAL MATERIALS ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 555

(Senate Bill 328)

AN ACT concerning

State Highways – Dedication – Henrietta Lacks Way

FOR the purpose of requiring the State Highway Administration to dedicate a certain portion of ~~Dundalk Avenue~~ Maryland Route 695A in Baltimore County as Henrietta

Lacks Way; *providing for an abnormal effective date*; and generally relating to State highway dedications.

BY adding to

Article – Transportation

Section 8–659

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

Preamble

WHEREAS, Henrietta Lacks was a tobacco farmer born on August 1, 1920, in Roanoke, Virginia; and

WHEREAS, She died on October 4, 1951, at the age of 31 from cervical cancer, and was survived by her husband David and five children; and

WHEREAS, She was diagnosed with the cancer at Johns Hopkins Hospital in 1951 and the cancer took only 8 months to end her life; and

WHEREAS, ~~Her tumorous cells were harvested for research without her knowledge at Johns Hopkins Hospital.~~ Some of her cancer cells were collected for research, as was the case at the time for all cervical cancer patients at Johns Hopkins, regardless of race or socioeconomic status; and

WHEREAS, Researchers were astonished that these cells continued to live for a long time outside ~~of~~ the body in petri dishes and reproduced rapidly, dramatically increasing their usefulness to researchers; and

WHEREAS, Using the first two letters of each of her names, the cells became known as “HeLa” cells, the first immortal human cell line in history; and

WHEREAS, The Johns Hopkins researchers who discovered the unique qualities of the HeLa cells shared them widely and at no cost for scientific research, thereby enabling scientists across the world to study cancer and many other diseases; and

WHEREAS, Since that time, and continuing to this day, HeLa cells have furthered the understanding of cancer, cloning, gene mapping, in vitro fertilization, HIV/AIDS, and chemotherapy, traveled into space, been exposed to nuclear testing, helped Jonas Salk develop the polio vaccine for human use, and been instrumental in creating the cancer drug ~~temoxifen~~ tamoxifen, among other medical advances; and

WHEREAS, The HeLa cells were ~~sold~~ later sold by private companies outside Maryland and became responsible for countless treatments and experiments that resulted in billions of dollars in earnings while Henrietta’s family languished in poverty in Turner Station, a small community in Dundalk, Maryland; and

~~WHEREAS, These events have raised legal and moral issues about patient consent and the rights of an individual to the genetic material and tissue of the individual. The events surrounding the discovery of Henrietta Lacks' immortal cells have contributed significantly to the national discussion about patient consent and the rights that one has over one's own genetic material and tissue; and~~

~~WHEREAS, This discussion has helped to establish national standards for patient consent with respect to the donation and use of human tissue cells that all medical research organizations in the United States strictly adhere to today, but that did not exist at the time that Henrietta Lacks' cells were collected; and~~

WHEREAS, The National Institutes of Health has entered into an agreement with the Lacks family that gives the family some control over access to Henrietta Lacks' genome data; and

WHEREAS, HeLa cells continue to grow and divide to this day, facilitating further significant medical and scientific advances; now, therefore,

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

Article – Transportation

8-659.

~~THE ADMINISTRATION SHALL DEDICATE THE PORTION OF DUNDALK AVENUE IN BALTIMORE COUNTY BETWEEN THE 3400 BLOCK AND 3800 BLOCK, INCLUSIVE, MARYLAND ROUTE 695A (BROENING HIGHWAY) THAT IS LOCATED BETWEEN THE BALTIMORE CITY-BALTIMORE COUNTY LINE AND THE INTERSECTION OF MARYLAND ROUTE 695A WITH MARYLAND AVENUE AND AVON BEACH ROAD AS HENRIETTA LACKS WAY.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ August 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 556

(Senate Bill 36)

AN ACT concerning

Tax Credits – Electronic Filing Requirements – Waiver

FOR the purpose of authorizing the Comptroller, under certain circumstances, to grant a waiver from the requirement that a taxpayer claiming certain tax credits submit a claim for the credit by certain electronic means; providing for the application of this Act; and generally relating to the requirement to submit an electronic claim for certain tax credits.

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 10–804(j)

Annotated Code of Maryland

~~(2010 Replacement Volume and 2016 Supplement)~~ *(2016 Replacement Volume)*

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

Article – Tax – General

10–804.

(j) (1) **[A] EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A** taxpayer claiming any of the following tax credits shall submit a claim for the credit by electronic means as required by the Comptroller by regulation:

(i) the Job Creation Tax Credit, as provided under Title 6, Subtitle 2 of the Economic Development Article;

(ii) the One Maryland Tax Credit, as provided under Title 6, Subtitle 4 of the Economic Development Article;

(iii) the Biotechnology Investment Incentive Tax Credit, as provided under § 10–725 of this title;

(iv) the Enterprise Zone Income Tax Credit, as provided under § 10–702 of this title; and

(v) any other tax credit specified by the Comptroller through regulation.

(2) Before adding any tax credit not listed in paragraph (1)(i) through (iv) of this subsection to the requirement of this subsection, the Comptroller shall determine whether the addition of the tax credit will have a material adverse impact or undue administrative burden on the Comptroller.

(3) ON WRITTEN REQUEST FOR A WAIVER BY A TAXPAYER, THE COMPTROLLER MAY GRANT THE TAXPAYER A WAIVER OF THE REQUIREMENTS OF THIS SUBSECTION IF THE TAXPAYER ESTABLISHES TO THE SATISFACTION OF THE

COMPTROLLER EITHER REASONABLE CAUSE FOR NOT FILING THE CLAIM FOR THE CREDIT BY ELECTRONIC MEANS OR THAT THERE IS NO FEASIBLE MEANS OF FILING THE CLAIM FOR THE CREDIT BY ELECTRONIC MEANS WITHOUT CREATING UNDUE HARDSHIP.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017, and shall be applicable to all taxable years beginning after December 31, 2016.

Approved by the Governor, May 4, 2017.

Chapter 557

(House Bill 28)

AN ACT concerning

Unappropriated General Fund Surplus – Appropriation to Pension Fund and Postretirement Health Benefits Trust Fund

FOR the purpose of altering a certain required appropriation to require, beginning in a certain fiscal year, an appropriation of a certain amount to certain accumulation funds of the State Retirement and Pension System and an appropriation of a certain amount to the Postretirement Health Benefits Trust Fund; altering the date by which the Department of Legislative Services is required to conduct a certain review and submit a certain report regarding certain required appropriations to the State Retirement and Pension System; and generally relating to appropriations from the unappropriated General Fund surplus to the State Retirement and Pension System and the Postretirement Health Benefits Trust Fund.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 7–311
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Chapter 489 of the Acts of the General Assembly of 2015
Section 24

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

Article – State Finance and Procurement

7–311.

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

(2) “Account” means the Revenue Stabilization Account.

(3) “Estimated General Fund revenues” means the estimated General Fund revenues for a fiscal year stated in the report of the Board of Revenue Estimates submitted to the Governor under § 6–106 of this article in December preceding the fiscal year.

(b) The Revenue Stabilization Account is established to retain State revenues for future needs and reduce the need for future tax increases by moderating revenue growth.

(c) The Account is a continuing, nonlapsing fund which is not subject to § 7–302 of this subtitle.

(d) The Account consists of:

(1) money appropriated in the State budget to the Account; and

(2) interest or other income earned from the investment of any portion of this Account or any other account in the State Reserve Fund.

(e) Except as provided in subsection (f) of this section, for each fiscal year:

(1) if the Account balance is below 3% of the estimated General Fund revenues for that fiscal year, the Governor shall include in the budget bill an appropriation to the Account equal to at least \$100,000,000; and

(2) if the Account balance is at least 3% but less than 7.5% of the estimated General Fund revenues for that fiscal year, the Governor shall include in the budget bill an appropriation to the Account equal to at least the lesser of \$50,000,000 or whatever amount is required for the Account balance to exceed 7.5% of the estimated General Fund revenues for that fiscal year.

(f) The appropriations required by subsection (e) of this section are not required when the Account balance exceeds 7.5% of the estimated General Fund revenues.

(g) (1) Unless the transfer would result in an Account balance below 5% of the estimated General Fund revenues for the fiscal year in which the transfer is made, if authorized by an act of the General Assembly or specifically authorized in the State budget bill as enacted, the Governor may transfer funds from the Account to General Fund revenues as necessary to support the operation of State government on a temporary basis.

(2) If the transfer would result in an Account balance below 5% of the estimated General Fund revenues for the fiscal year in which the transfer is made, the

Governor may transfer funds from the Account to General Fund revenues only if the transfer is authorized by an act of the General Assembly other than the State budget bill.

(h) If the budget bill as submitted to the General Assembly includes a transfer of funds from the Account pursuant to subsection (g) of this section, the budget bill as enacted by the General Assembly may provide for a reduction of the amount of the transfer from the Account by an amount up to the amount of the reductions made by the General Assembly in the General Fund appropriations.

(i) Funds of the Account may only be transferred from the Account as provided in this section and are not subject to transfer by budget amendment.

(j) (1) Except as provided in paragraph (2) of this subsection, for fiscal year 2007 and for each subsequent fiscal year, the Governor shall include in the budget bill an appropriation:

(i) for each of fiscal years 2017, 2018, and 2019, to the accumulation funds of the State Retirement and Pension System an amount, up to a maximum of \$50,000,000, that is equal to one-half of the amount by which the unappropriated General Fund surplus as of June 30 of the second preceding fiscal year exceeds \$10,000,000;

(ii) for fiscal year 2020:

1. to the accumulation funds of the State Retirement and Pension System an amount, up to a maximum of \$50,000,000, that is equal to one-half of the amount by which the unappropriated General Fund surplus as of June 30 of the second preceding fiscal year exceeds \$10,000,000; and

2. to the Account equal to the amount by which the unappropriated General Fund surplus as of June 30 of the second preceding fiscal year exceeds \$10,000,000, less the amount of the appropriation under item 1 of this paragraph; and

(iii) for fiscal year 2021 and each fiscal year thereafter[.]:

1. TO THE ACCUMULATION FUNDS OF THE STATE RETIREMENT AND PENSION SYSTEM AN AMOUNT, UP TO A MAXIMUM OF \$25,000,000, THAT IS EQUAL TO ONE-QUARTER OF THE AMOUNT BY WHICH THE UNAPPROPRIATED GENERAL FUND SURPLUS AS OF JUNE 30 OF THE SECOND PRECEDING FISCAL YEAR EXCEEDS \$10,000,000;

2. TO THE POSTRETIREMENT HEALTH BENEFITS TRUST FUND ESTABLISHED UNDER § 34-101 OF THE STATE PERSONNEL AND PENSIONS ARTICLE AN AMOUNT, UP TO A MAXIMUM OF \$25,000,000, THAT IS EQUAL TO ONE-QUARTER OF THE AMOUNT BY WHICH THE UNAPPROPRIATED GENERAL FUND

SURPLUS AS OF JUNE 30 OF THE SECOND PRECEDING FISCAL YEAR EXCEEDS \$10,000,000; AND

3. to the Account equal to the amount by which the unappropriated General Fund surplus as of June 30 of the second preceding fiscal year exceeds \$10,000,000, **LESS THE AMOUNT OF THE APPROPRIATIONS UNDER ITEMS 1 AND 2 OF THIS ITEM.**

(2) The appropriation required under this subsection for any fiscal year may be reduced by the amount of any appropriation to the Account required to be included for that fiscal year under subsection (e) of this section.

Chapter 489 of the Acts of 2015

SECTION 24. AND BE IT FURTHER ENACTED, That[, on or before December 1, 2019,] the Department of Legislative Services shall conduct a review of the amounts required to be appropriated to the accumulation funds of the State Retirement and Pension System under § 7–311(j)(1) of the State Finance and Procurement Article **ON OR BEFORE DECEMBER 1 OF THE YEAR IN WHICH THE TOTAL ACTUARIAL VALUE OF ASSETS FOR THE STATE RETIREMENT AND PENSION SYSTEM DIVIDED BY THE TOTAL ACTUARIAL ACCRUED LIABILITY FOR THE STATE RETIREMENT AND PENSION SYSTEM EQUALS A FUNDING RATIO OF 85%.** The review shall include findings and recommendations regarding the appropriate amount of funding and whether the required amount of funding should be altered or eliminated. The results of the review shall be reported to the Governor, the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Pensions, in accordance with § 2–1246 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 558

(House Bill 1225)

AN ACT concerning

University of Maryland School of Public Health, Center for Health Equity – Workgroup on Health in All Policies

FOR the purpose of requiring the University of Maryland School of Public Health, Center for Health Equity, in consultation with the Department of Health and Mental Hygiene, to convene a workgroup to study and make recommendations to units of

State and local government on laws and policies to implement that will positively impact the health of residents of the State; requiring the workgroup, using a certain framework, to examine certain matters, make certain recommendations, and foster collaboration among units of State and local government; requiring the workgroup to include certain members; requiring, to the extent practicable, the workgroup to reflect a certain diversity; prohibiting a member of the workgroup from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring a unit of State government to provide information requested by the workgroup in a certain manner; requiring a unit of State government represented on the workgroup to provide certain staff support; requiring, on or before a certain date, the University of Maryland School of Public Health, Center for Health Equity, to report certain findings ~~and~~ recommendations, and draft legislation to certain committees of the General Assembly; defining a certain term; providing for the termination of this Act; and generally relating to a workgroup convened by the University of Maryland School of Public Health, Center for Health Equity, to study and make recommendations relating to the health of residents of the State.

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

That:

(a) In this section, “Health in All Policies framework” means a public health framework through which policymakers and stakeholders in the public and private sectors use a collaborative approach to improve health outcomes and reduce health inequities in the State by incorporating health considerations into decision making across sectors and policy areas.

(b) The University of Maryland School of Public Health, Center for Health Equity, in consultation with the Department of Health and Mental Hygiene, shall convene a workgroup to study and make recommendations to units of State and local government on laws and policies to implement that will positively impact the health of residents of the State.

(c) The workgroup shall examine:

(1) the health of residents of the State to the extent necessary to carry out the requirements of this section;

(2) ways for units of State and local government to collaborate to implement policies that will positively impact the health of residents of the State; and

(3) the impact of the following factors on the health of residents of the State:

(i) access to safe and affordable housing;

(ii) educational attainment;

- (iii) opportunities for employment;
- (iv) economic stability;
- (v) inclusion, diversity, and equity in the workplace;
- (vi) barriers to career success and promotion in the workplace;
- (vii) access to transportation and mobility;
- (viii) social justice;
- (ix) environmental factors; and

(x) public safety, including the impact of crime, citizen unrest, the criminal justice system, and governmental policies that affect individuals who are in prison or released from prison.

(d) The workgroup, using a Health in All Policies framework, shall:

(1) examine and make recommendations regarding how health considerations may be incorporated into the decision-making processes of government agencies and private stakeholders who interact with government agencies;

(2) foster collaboration among units of State and local government and develop laws and policies to improve health and reduce health inequities; and

(3) make recommendations on how laws and policies to improve health and reduce health inequities may be implemented.

(e) The workgroup required under this section shall include:

(1) the Secretary of Human Resources, or the Secretary's designee;

(2) the State Secretary of Transportation, or the Secretary's designee;

(3) the Secretary of Housing and Community Development, or the Secretary's designee;

(4) the Secretary of the Environment, or the Secretary's designee;

(5) the Secretary of Agriculture, or the Secretary's designee;

(6) the Secretary of Labor, Licensing, and Regulation, or the Secretary's designee;

(7) the Secretary of Disabilities, or the Secretary's designee;

~~(7)~~ (8) the State Superintendent of Schools, or the State Superintendent's designee;

~~(8)~~ (9) the Commissioner of Correction, or the Commissioner's designee; ~~and~~

(10) the Deputy Secretary for Public Health Services, or the Deputy Secretary's designee;

(11) the Deputy Secretary for Behavioral Health, or the Deputy Secretary's designee; and

~~(9)~~ (12) the following members:

(i) one representative of the Office of Minority Health and Health Disparities;

(ii) one representative of the Maryland Higher Education Commission; ~~and~~

(iii) one representative of the Maryland Hospital Association;

(iv) one representative who has knowledge about and expertise in advocacy for consumers; and

(v) one representative who is a licensed dietitian–nutritionist.

(f) To the extent practicable, the members of the workgroup shall reflect the geographic, racial, ethnic, cultural, and gender diversity of the State.

(g) A member of the workgroup:

(1) may not receive compensation as a member of the workgroup; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(h) (1) A unit of State government shall provide information requested by the workgroup in a timely manner.

(2) A unit of State government represented on the workgroup shall provide staff support requested by the workgroup.

(i) On or before ~~December 31, 2017~~ January 31, 2018, the University of Maryland School of Public Health, Center for Health Equity, shall report the findings and recommendations of the workgroup and any draft legislation necessary to carry out the

recommendations, in accordance with § 2-1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017. It shall remain effective for a period of 2 years and 1 month and, at the end of June 30, 2019, 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, 2017.

Chapter 559

(Senate Bill 340)

AN ACT concerning

University of Maryland School of Public Health, Center for Health Equity – Workgroup on Health in All Policies

FOR the purpose of requiring the University of Maryland School of Public Health, Center for Health Equity, in consultation with the Department of Health and Mental Hygiene, to convene a workgroup to study and make recommendations to units of State and local government on laws and policies to implement that will positively impact the health of residents of the State; requiring the workgroup, using a certain framework, to examine certain matters, make certain recommendations, and foster collaboration among units of State and local government; requiring the workgroup to include certain members; requiring, to the extent practicable, the workgroup to reflect a certain diversity; prohibiting a member of the workgroup from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring a unit of State government to provide information requested by the workgroup in a certain manner; requiring a unit of State government represented on the workgroup to provide certain staff support; requiring, on or before a certain date, the University of Maryland School of Public Health, Center for Health Equity, to report certain findings ~~and~~ recommendations, and draft legislation to certain committees of the General Assembly; defining a certain term; providing for the termination of this Act; and generally relating to a workgroup convened by the University of Maryland School of Public Health, Center for Health Equity, to study and make recommendations relating to the health of residents of the State.

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

(a) In this section, “Health in All Policies framework” means a public health framework through which policymakers and stakeholders in the public and private sectors

use a collaborative approach to improve health outcomes and reduce health inequities in the State by incorporating health considerations into decision making across sectors and policy areas.

(b) The University of Maryland School of Public Health, Center for Health Equity, in consultation with the Department of Health and Mental Hygiene, shall convene a workgroup to study and make recommendations to units of State and local government on laws and policies to implement that will positively impact the health of residents of the State.

(c) The workgroup shall examine:

(1) the health of residents of the State to the extent necessary to carry out the requirements of this section;

(2) ways for units of State and local government to collaborate to implement policies that will positively impact the health of residents of the State; and

(3) the impact of the following factors on the health of residents of the State:

(i) access to safe and affordable housing;

(ii) educational attainment;

(iii) opportunities for employment;

(iv) economic stability;

(v) inclusion, diversity, and equity in the workplace;

(vi) barriers to career success and promotion in the workplace;

(vii) access to transportation and mobility;

(viii) social justice;

(ix) environmental factors; and

(x) public safety, including the impact of crime, citizen unrest, the criminal justice system, and governmental policies that affect individuals who are in prison or released from prison.

(d) The workgroup, using a Health in All Policies framework, shall:

(1) examine and make recommendations regarding how health considerations may be incorporated into the decision-making processes of government agencies and private stakeholders who interact with government agencies;

(2) foster collaboration among units of State and local government and develop laws and policies to improve health and reduce health inequities; and

(3) make recommendations on how laws and policies to improve health and reduce health inequities may be implemented.

(e) The workgroup required under this section shall include:

(1) the Secretary of Human Resources, or the Secretary's designee;

(2) the State Secretary of Transportation, or the Secretary's designee;

(3) the Secretary of Housing and Community Development, or the Secretary's designee;

(4) the Secretary of the Environment, or the Secretary's designee;

(5) the Secretary of Agriculture, or the Secretary's designee;

(6) the Secretary of Labor, Licensing, and Regulation, or the Secretary's designee;

(7) the Secretary of Disabilities, or the Secretary's designee;

~~(7)~~ (8) the State Superintendent of Schools, or the State Superintendent's designee;

~~(8)~~ (9) the Commissioner of Correction, or the Commissioner's designee; ~~and~~

~~(9)~~ (10) the Deputy Secretary for Public Health Services, or the Deputy Secretary's designee;

~~(10)~~ (11) the Deputy Secretary for Behavioral Health, or the Deputy Secretary's designee; and

~~(9)~~ ~~(11)~~ (12) the following members:

(i) one representative of the Office of Minority Health and Health Disparities;

(ii) one representative of the Maryland Higher Education Commission; ~~and~~

(iii) one representative of the Maryland Hospital Association;

(iv) one representative who has knowledge about and expertise in advocacy for consumers; and

(v) one representative who is a licensed dietitian–nutritionist.

(f) To the extent practicable, the members of the workgroup shall reflect the geographic, racial, ethnic, cultural, and gender diversity of the State.

(g) A member of the workgroup:

(1) may not receive compensation as a member of the workgroup; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(h) (1) A unit of State government shall provide information requested by the workgroup in a timely manner.

(2) A unit of State government represented on the workgroup shall provide staff support requested by the workgroup.

(i) On or before ~~December 31, 2017~~ January 31, 2018, the University of Maryland School of Public Health, Center for Health Equity, shall report the findings and recommendations of the workgroup and any draft legislation necessary to carry out the recommendations, in accordance with § 2–1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017. It shall remain effective for a period of 2 years and 1 month and, at the end of June 30, 2019, 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, 2017.

Chapter 560

(House Bill 1120)

AN ACT concerning

Vehicle Laws – Dealers – Performance Standards

FOR the purpose of ~~repealing a certain provision of law prohibiting vehicle manufacturers from requiring or coercing a dealer to adhere to performance standards that are not applied uniformly to other similarly situated dealers~~ establishing that certain provisions of State law governing performance standards for vehicle dealers apply to vehicle manufacturers notwithstanding certain other agreements; requiring that the assignment of a dealer's market area meet certain standards; requiring vehicle manufacturers to consider certain factors in assigning a market area and applying performance standards, sales objectives, or programs for measuring dealer performance; making certain conforming changes; altering certain definitions; and generally relating to market areas and performance standards for vehicle dealers.

BY repealing and reenacting, with amendments,
 Article – Transportation
 Section 15–207(a) and (e)
 Annotated Code of Maryland
 (2012 Replacement Volume and 2016 Supplement)

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

Article – Transportation

15–207.

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

(2) (i) “Coerce” means to compel or attempt to compel by threat of harm, breach of contract, or other adverse **ACTION OR** consequences, including the loss of any **INCENTIVE OR OTHER** benefit made available to other dealers of the same line make in the State.

(ii) “Coerce” includes to act in a manner that violates § 15–206.1 of this subtitle.

(iii) “Coerce” does not include to argue, urge, recommend, or persuade.

(3) “Require” means to impose upon a dealer a provision not required by law ~~for previously agreed to by a dealer in a franchise agreement~~, excluding business decisions **MADE TO COMPLY WITH THE REQUIREMENTS OF THIS TITLE** by a manufacturer, distributor, or factory branch which are uniformly applied to all Maryland dealers in new vehicles of the manufacturer, distributor, or factory branch.

(e) (1) **THE PROVISIONS OF THIS SUBSECTION APPLY NOTWITHSTANDING THE TERMS OF ANY FRANCHISE AGREEMENT OR AGREEMENT RELATED TO A FRANCHISE.**

(2) ~~¶~~ A manufacturer, distributor, or factory branch, whether directly or through an agent, employee, affiliate, or representative, may not require or coerce a dealer to adhere to performance standards that are not applied uniformly to other similarly situated dealers.

~~(2)~~ **(3)** (i) **[A] WHETHER OR NOT UNIFORMLY APPLIED TO OTHER SIMILARLY SITUATED DEALERS, AN ASSIGNED MARKET AREA OR A** performance standard, sales objective, or program for measuring dealership performance that may have a material effect on a dealer, including the dealer's right to **A BENEFIT OR** payment under any incentive or reimbursement program, and the application of the standard, sales objective, or program by a manufacturer, distributor, or factory branch shall **[be]:**

1. **BE** fair, reasonable, **AND** equitable~~[, and based];~~

2. **BE BASED** on accurate information; **AND**

3. **INCLUDE CONSIDERATIONS OF THE DEMOGRAPHIC CHARACTERISTICS AND CONSUMER PREFERENCES OF THE POPULATION IN THE DEALER'S ASSIGNED MARKET AREA, INCLUDING:**

A. CAR AND TRUCK ~~BRAND~~ PREFERENCES OF CONSUMERS; AND

B. GEOGRAPHIC CHARACTERISTICS, SUCH AS NATURAL BOUNDARIES, ROAD CONDITIONS, AND TERRAIN, THAT AFFECT CAR AND TRUCK SHOPPING PATTERNS.

(ii) A dealer that claims that the **ASSIGNMENT OF A MARKET AREA OR** application of a performance standard, sales objective, or program for measuring dealership performance is unfair or unreasonable due to the **MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH FAILING TO REASONABLY CONSIDER** demographic characteristics of the population in the dealer's assigned market area, including car and truck ~~BRAND~~ preferences of consumers, or due to the geographic characteristics, **SUCH AS NATURAL BOUNDARIES, ROAD CONDITIONS, AND TERRAIN,** that affect car and truck shopping patterns in the dealer's assigned marketing area, may file a claim in a court of competent jurisdiction to determine whether the **DESIGN OF THE ASSIGNED MARKET AREA OR THE** application of the performance standard, **SALES OBJECTIVE,** or program is unfair or unreasonable under this paragraph.

(iii) A manufacturer, distributor, or factory branch has the burden of proving that the **DESIGN OF THE ASSIGNED MARKET AREA, OR THE** performance standard, sales objective, or program for measuring dealership performance is fair and reasonable under this paragraph.

~~[(3)]~~ ~~(2)~~ **(4)** (i) If the performance standard is based on a survey, it must be shown that:

1. The survey was designed with experts;
2. The proper universe was examined;
3. A representative sample was chosen; and
4. The data was accurately reported.

(ii) The manufacturer, distributor, or factory branch shall establish the objectivity of the survey process and provide this information to any dealer of the same line make covered by the survey on request.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 561

(House Bill 355)

AN ACT concerning

Washington Suburban Sanitary Commission – Discrimination – Prohibited

MC/PG 102–17

FOR the purpose of prohibiting the Washington Suburban Sanitary Commission from discriminating against a person on the basis of religion, marital status, or gender identity; altering a nondiscrimination clause required in all contracts entered into by the Commission to require the contractor not to discriminate in any manner against an employee or applicant for employment on the basis of religion, marital status, or gender identity and require the contractor to include a similar nondiscrimination clause in all subcontracts; and generally relating to the prohibition against discrimination based on religion, marital status, or gender identity by the Washington Suburban Sanitary Commission and nondiscrimination clauses in contracts entered into by the Commission.

BY repealing and reenacting, with amendments,
 Article – Public Utilities
 Section 17–402 and 20–106

Annotated Code of Maryland
(2010 Replacement Volume and 2016 Supplement)

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

Article – Public Utilities

17–402.

The Commission may not discriminate against a person on the basis of sex, race, creed, color, age, mental or physical disability, sexual orientation, **RELIGION, MARITAL STATUS, GENDER IDENTITY**, or national origin.

20–106.

(a) (1) The Commission may not award a contract unless the contract contains provisions obligating the contractor:

(i) not to discriminate in any manner against an employee or an applicant for employment on the basis of sex, race, creed, color, age, mental or physical disability, sexual orientation, **RELIGION, MARITAL STATUS, GENDER IDENTITY**, or national origin; and

(ii) to include a similar nondiscrimination clause in all subcontracts.

(2) (i) If the nondiscrimination clause is omitted from a contract or subcontract, the Commission shall provide the contractor a reasonable opportunity to cure the defect, subject to this section.

(ii) If the contractor fails to cure the defect:

1. the Commission may declare the contract to be void; and

2. the contractor is entitled to the reasonable value of work performed and materials provided by the contractor.

(iii) If the contractor cures the defect, the contract remains in force according to its revised terms.

(b) (1) In accordance with this section, the Commission may compel a contractor to continue to perform under a contract if:

(i) the contractor willfully fails to comply with the requirements of a nondiscrimination clause; and

(ii) the contract is partially executory.

(2) If the Commission compels performance under this subsection, the Commission:

(i) is liable for no more than the reasonable value of work performed and materials provided by the contractor after the date on which the breach of contract was or should have been discovered; and

(ii) shall deduct any money that has been paid under the contract from the money that comes due under item (i) of this paragraph.

(c) (1) If a subcontractor willfully fails to comply with the requirements of a nondiscrimination clause, the contractor may declare the subcontract to be void.

(2) If a contractor declares a subcontract to be void under this subsection, the contractor is liable for no more than the reasonable value of work performed or materials provided by the subcontractor.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 562

(House Bill 319)

AN ACT concerning

**Washington Suburban Sanitary Commission – Office of Supplier Diversity and
Inclusion and Minority Business Enterprise Program**

MC/PG 106–17

FOR the purpose of continuing until a certain date certain provisions relating to procurement from minority business enterprises by the Washington Suburban Sanitary Commission; altering the name of the Office of Small, Local, and Minority Business Enterprise in the Commission to be the Office of Supplier Diversity and Inclusion; altering a certain definition; and generally relating to procurement by the Washington Suburban Sanitary Commission from minority business enterprises and the Office of Supplier Diversity and Inclusion.

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 20–201, 20–202, 20–208, and 20–302

Annotated Code of Maryland
(2010 Replacement Volume and 2016 Supplement)

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

Article – Public Utilities

20–201.

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

(b) Except as provided in § 20–203 of this subtitle, “minority business enterprise” means a legal entity that is:

(1) organized to engage in commercial transactions; and

(2) at least 51% owned and controlled by one or more individuals who are members of a group that is:

(i) disadvantaged socially or economically by the effects of past discrimination, including discrimination as to certification; and

(ii) identified by a study conducted in accordance with this subtitle or a similar, previously conducted study.

(c) “Office” means the Office of [Small, Local, and Minority Business Enterprise] **SUPPLIER DIVERSITY AND INCLUSION** established under § 20–202 of this subtitle.

20–202.

(a) There is an Office of [Small, Local, and Minority Business Enterprise] **SUPPLIER DIVERSITY AND INCLUSION** in the Commission.

(b) The head of the Office is the Director of the Office of [Small, Local, and Minority Business Enterprise] **SUPPLIER DIVERSITY AND INCLUSION**.

(c) The Office shall:

(1) administer each Commission program that is created to promote the growth of or participation by minority or local small business enterprises, including:

(i) the minority business enterprise utilization program for design/build and construction contracts under § 20–203 of this subtitle;

(ii) the minority business enterprise utilization program for the procurement of other goods and services under § 20–204 of this subtitle; and

(iii) the local small business enterprise program under Subtitle 3 of this title;

(2) promote and coordinate the plans, programs, and operations of the Commission that promote or affect the establishment, preservation, and strengthening of minority business enterprises;

(3) promote activities and the use of the resources of the Commission, local governments, and private entities for the growth of minority business enterprises;

(4) provide technical and managerial assistance to minority business enterprises;

(5) schedule seminars and workshops to educate minority businesses on how the Commission conducts business; and

(6) ensure compliance with certified minority business enterprise subcontract participation goals under § 20–206 of this subtitle.

20–208.

This subtitle shall be of no effect and may not be enforced after July 1, [2017] **2022**.

20–302.

(a) By resolution or adopting regulations, the Commission may establish a local small business enterprise program.

(b) The Office of [Small, Local, and Minority Business Enterprise] **SUPPLIER DIVERSITY AND INCLUSION**, established under § 20–202 of this title, shall administer the program.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 563

(House Bill 335)

AN ACT concerning

**Washington Suburban Sanitary Commission – System Development Charge –
Exemptions**

MC/PG 104-17

FOR the purpose of authorizing the Montgomery County Council and the Prince George’s County Council to grant an exemption from a system development charge imposed by the Washington Suburban Sanitary Commission under certain circumstances for certain properties that are exempt from federal taxation and the primary mission and purpose of which are to provide programs and services to youth, for properties that are primarily used for child care or after-school care, or for ~~distilleries, breweries, and wineries~~ properties that are primarily used for programs and services for developmentally disabled individuals; and generally relating to the Washington Suburban Sanitary District and the system development charge.

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 25-403
Annotated Code of Maryland
(2010 Replacement Volume and 2016 Supplement)

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

Article – Public Utilities

25-403.

(a) (1) Each year the Montgomery County Council and the Prince George’s County Council shall meet to determine the amount of the system development charge.

(2) The amount of the system development charge for a particular property:

(i) shall be based on the number of plumbing fixtures and the assigned values for those fixtures as set forth in the Commission’s plumbing and gas fitting regulations;

(ii) except as provided in item (iii) of this paragraph and subsection (c) of this section, may not exceed \$200 per fixture unit; and

(iii) for residential properties with five or fewer toilets, shall be based on the number of toilets per dwelling unit and:

1. for each apartment unit, may not exceed \$2,000;

2. for dwellings with one or two toilets, may not exceed \$3,000;
3. for dwellings with three or four toilets, may not exceed \$5,000;
4. for dwellings with five toilets, may not exceed \$7,000; and
5. for dwellings with more than five toilets, shall be calculated on a fixture unit basis.

(3) When determining the system development charge, the county councils shall consider the actual cost of construction of Commission facilities.

(b) When determining the system development charge, under criteria established jointly and agreed on by the county councils, the county councils:

(1) shall grant a full or partial exemption from the charge for public sponsored or affordable housing as jointly defined and agreed on by the county councils;

(2) may grant a full or partial exemption from the charge for:

(I) revitalization projects;

(II) **PROPERTY OWNED BY A COMMUNITY-BASED ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE AND HAS THE PRIMARY MISSION AND PURPOSE OF PROVIDING RECREATIONAL AND EDUCATIONAL PROGRAMS AND SERVICES TO YOUTH, IF:**

1. THE PROPERTY IS USED PRIMARILY FOR RECREATIONAL AND EDUCATIONAL PROGRAMS AND SERVICES TO YOUTH; AND

2. THE EXEMPTION AMOUNT IS LIMITED TO \$80,000;

(III) **PROPERTY USED PRIMARILY FOR CHILD CARE OR AFTER-SCHOOL CARE; OR**

~~(IV) **PROPERTY USED FOR A DISTILLERY, BREWERY, OR WINERY;**~~

(IV) PROPERTY USED PRIMARILY FOR PROGRAMS AND SERVICES FOR DEVELOPMENTALLY DISABLED INDIVIDUALS; and

(3) may grant a full or partial exemption from the system development charge, under conditions set forth by the county councils, for:

(i) residential property located in a mixed retirement development as defined in the zoning ordinance of Prince George’s County;

(ii) residential property located in a planned retirement community as defined in the zoning ordinance of Montgomery County;

(iii) elderly housing other than that included in item (i) or (ii) of this item; or

(iv) properties used for manufacturing or biotechnology research and development.

(c) On July 1, 1999, and July 1 of each succeeding year, the maximum charge, as established in subsection (a)(2) of this section, may be changed by an amount equal to the prior calendar year’s change in the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor for urban wage earners and clerical workers for all items for the Washington, D.C. metropolitan area, or the successor index.

(d) If the county councils do not agree on the amount of the system development charge, the system development charge imposed during the previous year shall continue in effect for the following fiscal year.

(e) If the system development charge established by the county councils is less than the amount necessary to recover the full cost of constructing growth related facilities, the Commission shall identify the part of the cost of that growth that will be paid by current ratepayers as:

(1) a percentage of any rate increase; and

(2) the annual monetary amount on a typical residential customer’s annual water and sewer bill.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 564

(Senate Bill 1102)

AN ACT concerning

Worcester County – Ocean City Convention Center – Beer and Wine Tasting License

FOR the purpose of establishing in Worcester County a 1–day beer and wine tasting license; authorizing the Board of License Commissioners to issue a license to an organization representing local governments in the State for a certain purpose; prohibiting the Board from issuing more than a certain number of licenses per year; providing that an organization may apply for not more than one license per year; authorizing the holder of a license to allow the on–premises consumption, for tasting, of beer or wine on the premises of the Ocean City Convention Center under certain circumstances; providing that the license holder may serve beer and wine only in certain quantities for each offering; requiring that a certain individual who serves beer and wine have a certificate of completion of a certain alcohol awareness program; requiring an organization to apply for a license at least a certain time before the license is issued; setting the fee for a license; and generally relating to a beer and wine tasting license in Worcester County.

BY repealing and reenacting, without amendments,
Article – Alcoholic Beverages
Section 33–102
Annotated Code of Maryland
(2016 Volume and 2016 Supplement)

BY adding to
Article – Alcoholic Beverages
Section 33–1305
Annotated Code of Maryland
(2016 Volume and 2016 Supplement)

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

Article – Alcoholic Beverages

33–102.

This title applies only in Worcester County.

33–1305.

(A) THERE IS A 1–DAY BEER AND WINE TASTING LICENSE.

(B) THE BOARD MAY ISSUE NOT MORE THAN TWO LICENSES PER YEAR.

(C) THE BOARD MAY ISSUE A LICENSE TO AN ORGANIZATION REPRESENTING LOCAL GOVERNMENTS IN THE STATE FOR THE PRIMARY PURPOSE OF PROMOTING PRODUCTS AND BUSINESSES FROM ACROSS THE STATE.

(D) AN ORGANIZATION MAY APPLY FOR NOT MORE THAN ONE LICENSE PER YEAR.

(E) THE LICENSE AUTHORIZES THE HOLDER TO ALLOW THE ON-PREMISES CONSUMPTION, FOR TASTING, OF BEER OR WINE ON THE PREMISES OF THE OCEAN CITY CONVENTION CENTER, WITH THE APPROVAL OF THE MANAGEMENT OF THE OCEAN CITY CONVENTION CENTER.

(F) A LICENSE HOLDER MAY SERVE:

(1) WINE IN A QUANTITY OF NOT MORE THAN 2 OUNCES FROM EACH OFFERING; OR

(2) BEER IN A QUANTITY OF NOT MORE THAN 3 OUNCES FROM EACH OFFERING.

(G) AN INDIVIDUAL WHO SERVES BEER OR WINE SHALL HAVE A CERTIFICATE OF COMPLETION OF AN ALCOHOL AWARENESS PROGRAM, AS DEFINED IN § 4-505 OF THIS ARTICLE.

(H) AN ORGANIZATION SHALL APPLY FOR THE LICENSE AT LEAST 15 DAYS BEFORE THE LICENSE IS ISSUED.

(I) THE LICENSE FEE IS \$100.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 565

(House Bill 1476)

AN ACT concerning

~~Workers' Compensation – Failure to Report Accident or Action to Deter or Dissuade From Filing a Claim – Penalties~~ Accidental Personal Injury – Penalty

FOR the purpose of altering a certain violation relating to an employer failing to report an accidental personal injury within a certain time required under the workers' compensation law to require the violation to be a knowing violation; increasing the penalties penalty imposed on an employer who fails to report an accidental personal

~~injury within the time required under the workers' compensation law for a certain violation; providing that an employer who takes an action to deter or dissuade a covered employee from filing a certain claim application form is guilty of a misdemeanor and on conviction is subject to certain penalties; requiring an employer to pay to a covered employee a certain amount of compensation or benefits under certain circumstances; defining a certain term; and generally relating to workers' compensation claims.~~

BY repealing and reenacting, with amendments,
 Article – Labor and Employment
 Section 9–1102
 Annotated Code of Maryland
 (2016 Replacement Volume)

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

Article – Labor and Employment

9–1102.

~~(A) IN THIS SECTION, “EMPLOYER” INCLUDES A MANAGER, AN EXECUTIVE, OR AN OFFICER OF THE EMPLOYER.~~

~~(B) (1) An employer who KNOWINGLY fails to report an accidental personal injury within the time required under § 9–707(a) of this title ~~OR WHO TAKES AN ACTION TO DETER OR DISSUADE A COVERED EMPLOYEE FROM FILING A CLAIM APPLICATION FORM UNDER THIS TITLE~~ is guilty of a misdemeanor and on conviction is subject to a fine not exceeding [~~\$50~~] **\$500** ~~OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.~~~~

~~(2) IF THE EMPLOYER’S CONDUCT UNDER PARAGRAPH (1) OF THIS SUBSECTION CAUSES THE COVERED EMPLOYEE NOT TO RECEIVE COMPENSATION OR BENEFITS THAT THE COVERED EMPLOYEE WOULD HAVE BEEN ENTITLED TO UNDER THIS TITLE, THE EMPLOYER SHALL PAY TO THE COVERED EMPLOYEE THE AMOUNT OF THE COMPENSATION OR BENEFITS THAT THE COVERED EMPLOYEE DID NOT RECEIVE DUE TO THE EMPLOYER’S CONDUCT.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 566

(Senate Bill 867)

AN ACT concerning

~~Workers' Compensation – Failure to Report Accident or Action to Deter or Dissuade From Filing a Claim – Penalties~~ Accidental Personal Injury – Penalty

FOR the purpose of altering a certain violation relating to an employer failing to report an accidental personal injury within a certain time required under the workers' compensation law to require the violation to be a knowing violation; increasing the ~~penalties~~ penalty imposed on an employer who fails to report an accidental personal injury within the time required under the workers' compensation law for a certain violation; providing that an employer who takes an action to deter or dissuade a covered employee from filing a certain claim application form is guilty of a misdemeanor and on conviction is subject to certain penalties; requiring an employer to pay to a covered employee a certain amount of compensation or benefits under certain circumstances; defining a certain term; and generally relating to workers' compensation claims.

BY repealing and reenacting, with amendments,
 Article – Labor and Employment
 Section 9–1102
 Annotated Code of Maryland
 (2016 Replacement Volume)

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

Article – Labor and Employment

9–1102.

~~(A) IN THIS SECTION, “EMPLOYER” INCLUDES A MANAGER, AN EXECUTIVE, OR AN OFFICER OF THE EMPLOYER.~~

~~(B) (1) An employer who KNOWINGLY fails to report an accidental personal injury within the time required under § 9–707(a) of this title OR WHO TAKES AN ACTION TO DETER OR DISSUADE A COVERED EMPLOYEE FROM FILING A CLAIM APPLICATION FORM UNDER THIS TITLE is guilty of a misdemeanor and on conviction is subject to a fine not exceeding [\$50] \$500 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.~~

~~(2) IF THE EMPLOYER’S CONDUCT UNDER PARAGRAPH (1) OF THIS SUBSECTION CAUSES THE COVERED EMPLOYEE NOT TO RECEIVE COMPENSATION OR BENEFITS THAT THE COVERED EMPLOYEE WOULD HAVE BEEN ENTITLED TO~~

~~UNDER THIS TITLE, THE EMPLOYER SHALL PAY TO THE COVERED EMPLOYEE THE AMOUNT OF THE COMPENSATION OR BENEFITS THAT THE COVERED EMPLOYEE DID NOT RECEIVE DUE TO THE EMPLOYER'S CONDUCT.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 567

(House Bill 1484)

AN ACT concerning

Workers' Compensation – Medical Benefits – Payment of Medical Services and Treatment

FOR the purpose of requiring a provider to submit to an employer or an employer's insurer, within a certain period of time, a certain bill ~~and documentation~~ for certain medical services or treatment provided to a covered employee under a certain provision of law; prohibiting the employer or the employer's insurer from being required to pay a certain bill except under certain circumstances; and generally relating to the payment for medical services and treatment provided under the workers' compensation law.

BY repealing and reenacting, with amendments,
 Article – Labor and Employment
 Section 9–660
 Annotated Code of Maryland
 (2016 Replacement Volume)

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

Article – Labor and Employment

9–660.

(a) In addition to the compensation provided under this subtitle, if a covered employee has suffered an accidental personal injury, compensable hernia, or occupational disease the employer or its insurer promptly shall provide to the covered employee, as the Commission may require:

- (1) medical, surgical, or other attendance or treatment;

- (2) hospital and nursing services;
- (3) medicine;
- (4) crutches and other apparatus; and
- (5) artificial arms, feet, hands, and legs and other prosthetic appliances.

(b) The employer or its insurer shall provide the medical services and treatment required under subsection (a) of this section for the period required by the nature of the accidental personal injury, compensable hernia, or occupational disease.

(c) Except as provided in § 9-736(b) and (c) of this title, any award or order of the Commission under this section may not be construed to:

- (1) reopen any case; or
- (2) allow any previous award to be changed.

~~(D) (1) WITHIN 45 DAYS AFTER THE DATE MEDICAL SERVICE OR TREATMENT IS PROVIDED TO A COVERED EMPLOYEE UNDER SUBSECTION (A) OF THIS SECTION, A PROVIDER SHALL SUBMIT TO THE EMPLOYER OR THE EMPLOYER'S INSURER A BILL FOR AND DOCUMENTATION SUMMARIZING THE SERVICES OR TREATMENT PROVIDED.~~

(D) (1) A PROVIDER WHO PROVIDES MEDICAL SERVICE OR TREATMENT TO A COVERED EMPLOYEE UNDER SUBSECTION (A) OF THIS SECTION SHALL SUBMIT TO THE EMPLOYER OR THE EMPLOYER'S INSURER A BILL FOR PROVIDING MEDICAL SERVICE OR TREATMENT WITHIN 12 MONTHS FROM THE LATER OF THE DATE:

(I) MEDICAL SERVICE OR TREATMENT WAS PROVIDED TO A COVERED EMPLOYEE;

(II) THE CLAIM FOR COMPENSATION WAS ACCEPTED BY THE EMPLOYER OR THE EMPLOYER'S INSURER; OR

(III) THE CLAIM FOR COMPENSATION WAS DETERMINED BY THE COMMISSION TO BE COMPENSABLE.

(2) THE EMPLOYER OR THE EMPLOYER'S INSURER MAY NOT BE REQUIRED TO PAY A BILL SUBMITTED AFTER ~~THE 45-DAY~~ THE TIME PERIOD REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION UNLESS:

(I) THE PROVIDER FILES AN APPLICATION FOR PAYMENT WITH THE COMMISSION WITHIN 3 YEARS FROM THE LATER OF THE DATE:

1. THE MEDICAL SERVICE OR TREATMENT IS WAS PROVIDED TO THE COVERED EMPLOYEE;

2. THE CLAIM FOR COMPENSATION WAS ACCEPTED BY THE EMPLOYER OR THE EMPLOYER'S INSURER; OR

3. THE CLAIM FOR COMPENSATION WAS DETERMINED BY THE COMMISSION TO BE COMPENSABLE; AND

(II) THE COMMISSION EXCUSES THE UNTIMELY SUBMISSION FOR GOOD CAUSE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 568

(Senate Bill 194)

AN ACT concerning

Workers' Compensation – Medical Benefits – Payment of Medical Services and Treatment

FOR the purpose of requiring a provider to submit to an employer or an employer's insurer, within a certain period of time, a certain bill ~~and documentation~~ for certain medical services or treatment provided to a covered employee under a certain provision of law; prohibiting the employer or the employer's insurer from being required to pay a certain bill except under certain circumstances; and generally relating to the payment for medical services and treatment provided under the workers' compensation law.

BY repealing and reenacting, with amendments,
 Article – Labor and Employment
 Section 9–660
 Annotated Code of Maryland
 (2016 Replacement Volume)

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

Article – Labor and Employment

9–660.

(a) In addition to the compensation provided under this subtitle, if a covered employee has suffered an accidental personal injury, compensable hernia, or occupational disease the employer or its insurer promptly shall provide to the covered employee, as the Commission may require:

- (1) medical, surgical, or other attendance or treatment;
- (2) hospital and nursing services;
- (3) medicine;
- (4) crutches and other apparatus; and
- (5) artificial arms, feet, hands, and legs and other prosthetic appliances.

(b) The employer or its insurer shall provide the medical services and treatment required under subsection (a) of this section for the period required by the nature of the accidental personal injury, compensable hernia, or occupational disease.

(c) Except as provided in § 9–736(b) and (c) of this title, any award or order of the Commission under this section may not be construed to:

- (1) reopen any case; or
- (2) allow any previous award to be changed.

~~(D) (1) WITHIN 45 DAYS AFTER THE DATE MEDICAL SERVICE OR TREATMENT IS PROVIDED TO A COVERED EMPLOYEE UNDER SUBSECTION (A) OF THIS SECTION, A PROVIDER SHALL SUBMIT TO THE EMPLOYER OR THE EMPLOYER'S INSURER A BILL FOR AND DOCUMENTATION SUMMARIZING THE SERVICES OR TREATMENT PROVIDED.~~

(D) (1) A PROVIDER WHO PROVIDES MEDICAL SERVICE OR TREATMENT TO A COVERED EMPLOYEE UNDER SUBSECTION (A) OF THIS SECTION SHALL SUBMIT TO THE EMPLOYER OR THE EMPLOYER'S INSURER A BILL FOR PROVIDING MEDICAL SERVICE OR TREATMENT WITHIN 12 MONTHS FROM THE LATER OF THE DATE:

(I) MEDICAL SERVICE OR TREATMENT WAS PROVIDED TO A COVERED EMPLOYEE;

(II) THE CLAIM FOR COMPENSATION WAS ACCEPTED BY THE EMPLOYER OR THE EMPLOYER’S INSURER; OR

(III) THE CLAIM FOR COMPENSATION WAS DETERMINED BY THE COMMISSION TO BE COMPENSABLE.

(2) THE EMPLOYER OR THE EMPLOYER’S INSURER MAY NOT BE REQUIRED TO PAY A BILL SUBMITTED AFTER ~~THE 45-DAY~~ THE TIME PERIOD REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION UNLESS:

(I) THE PROVIDER FILES AN APPLICATION FOR PAYMENT WITH THE COMMISSION WITHIN 3 YEARS FROM THE LATER OF THE DATE;

1. ~~THE~~ MEDICAL SERVICE OR TREATMENT ~~IS~~ WAS PROVIDED TO THE COVERED EMPLOYEE;

2. THE CLAIM FOR COMPENSATION WAS ACCEPTED BY THE EMPLOYER OR THE EMPLOYER’S INSURER; OR

3. THE CLAIM FOR COMPENSATION WAS DETERMINED BY THE COMMISSION TO BE COMPENSABLE; AND

(II) THE COMMISSION EXCUSES THE UNTIMELY SUBMISSION FOR GOOD CAUSE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.

Chapter 569

(Senate Bill 539)

AN ACT concerning

Criminal Law – ~~Distribution of Opioids Resulting in Death~~ Distribution of Controlled Dangerous Substances – Fentanyl

FOR the purpose of prohibiting a person from ~~distributing certain opioids or opioid analogues, the use of which causes the death of another, with a certain exception; establishing penalties for a violation of this Act; providing that it is not a defense~~

~~under this Act that the defendant did not distribute the opioid or opioid analogue directly to the decedent; providing that a person who, in good faith, seeks, provides, or assists with the provision of medical assistance for a person experiencing a medical emergency after using an opioid or opioid analogue shall be immune from criminal prosecution for a violation of this Act if the evidence for the criminal prosecution was obtained in a certain manner; establishing that certain actions do not constitute distribution for a certain purpose; providing that it is a defense under this Act that the defendant was an active user of an opioid or opioid analogue at the time of the distribution causing the death of the decedent; providing that a sentence imposed under this Act shall be separate from and consecutive to a certain other sentence; defining certain terms; making this Act an emergency measure; and generally relating to distribution of opioids or opioid analogues knowingly distributing a certain mixture of controlled dangerous substances; establishing certain penalties for a violation of this Act; requiring a sentence for the distribution of a mixture of certain controlled dangerous substances to be consecutive to any other sentence imposed; making this Act an emergency measure; and generally relating to controlled dangerous substances.~~

BY repealing and reenacting, without amendments,

Article – Criminal Law

Section 5–602

Annotated Code of Maryland

(2012 Replacement Volume and 2016 Supplement)

BY adding to

Article – Criminal Law

Section ~~5–602.1~~ 5–608.1

Annotated Code of Maryland

(2012 Replacement Volume and 2016 Supplement)

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

Article – Criminal Law

~~5–602.1.~~

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

~~(2) “OPIOID” MEANS A CONTROLLED DANGEROUS SUBSTANCE LISTED IN § 5–402(B) OR (C) OR § 5–403(B)(1) OR (3)(I) OR (II) OR (C) OF THIS TITLE.~~

~~(3) (I) “OPIOID ANALOGUE” MEANS A SUBSTANCE;~~

~~1. THAT HAS A CHEMICAL STRUCTURE SIMILAR TO THE CHEMICAL STRUCTURE OF AN OPIOID; AND~~

~~2. THAT HAS A STIMULANT, DEPRESSANT, OR HALLUCINOGENIC EFFECT ON THE CENTRAL NERVOUS SYSTEM THAT IS SUBSTANTIALLY SIMILAR TO OR GREATER THAN THE STIMULANT, DEPRESSANT, OR HALLUCINOGENIC EFFECT OF AN OPIOID ON THE CENTRAL NERVOUS SYSTEM.~~

~~(H) "OPIOID ANALOGUE" DOES NOT INCLUDE:~~

~~1. A CONTROLLED DANGEROUS SUBSTANCE;~~

~~2. A SUBSTANCE FOR WHICH THERE IS AN APPROVED NEW DRUG APPLICATION; OR~~

~~3. A SUBSTANCE APPROVED FOR INVESTIGATIONAL USE UNDER § 506 OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.~~

~~(B) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A PERSON MAY NOT DISTRIBUTE AN OPIOID OR OPIOID ANALOGUE, THE USE OF WHICH CAUSES THE DEATH OF ANOTHER.~~

~~(C) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 30 YEARS.~~

~~(D) IT IS NOT A DEFENSE UNDER THIS SECTION THAT THE DEFENDANT DID NOT DISTRIBUTE THE OPIOID OR OPIOID ANALOGUE DIRECTLY TO THE DECEDENT.~~

~~(E) A PERSON WHO, IN GOOD FAITH, SEEKS, PROVIDES, OR ASSISTS WITH THE PROVISION OF MEDICAL ASSISTANCE FOR A PERSON EXPERIENCING A MEDICAL EMERGENCY AFTER USING AN OPIOID OR OPIOID ANALOGUE SHALL BE IMMUNE FROM CRIMINAL PROSECUTION FOR A VIOLATION OF THIS SECTION IF THE EVIDENCE FOR THE CRIMINAL PROSECUTION WAS OBTAINED SOLELY AS A RESULT OF THE PERSON'S SEEKING, PROVIDING, OR ASSISTING WITH THE PROVISION OF MEDICAL ASSISTANCE.~~

~~(F) FOR THE PURPOSES OF THIS SECTION, THE SHARING OF AN OPIOID OR OPIOID ANALOGUE WITHOUT REMUNERATION OR THE EXCHANGE OF GOODS OR SERVICES DOES NOT CONSTITUTE DISTRIBUTION.~~

~~(G) IT IS A DEFENSE UNDER THIS SECTION THAT THE DEFENDANT WAS AN ACTIVE USER OF AN OPIOID OR OPIOID ANALOGUE AT THE TIME OF THE DISTRIBUTION CAUSING THE DEATH OF THE DECEDENT.~~

~~(H) 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.~~

5-602.

Except as otherwise provided in this title, a person may not:

- (1) distribute or dispense a controlled dangerous substance; or
- (2) possess a controlled dangerous substance in sufficient quantity reasonably to indicate under all circumstances an intent to distribute or dispense a controlled dangerous substance.

5-608.1.

(A) A PERSON MAY NOT KNOWINGLY VIOLATE § 5-602 OF THIS SUBTITLE WITH:

(1) A MIXTURE THAT CONTAINS HEROIN AND A DETECTABLE AMOUNT OF FENTANYL OR ANY ANALOGUE OF FENTANYL; OR

(2) FENTANYL OR ANY ANALOGUE OF FENTANYL.

(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND, IN ADDITION TO ANY OTHER PENALTY IMPOSED FOR A VIOLATION OF § 5-602 OF THIS SUBTITLE, ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS.

(C) A SENTENCE IMPOSED UNDER THIS SECTION SHALL BE CONSECUTIVE TO AND NOT CONCURRENT WITH ANY OTHER SENTENCE IMPOSED UNDER ANY OTHER PROVISION OF LAW.

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 25, 2017.

Chapter 570

(House Bill 1432)

AN ACT concerning

Health Care Providers – Prescription Opioids – Limits on Prescribing (The Prescriber Limits Act of 2017)

FOR the purpose of ~~authorizing the Department of Health and Mental Hygiene to take certain action relating to a controlled dangerous substances registration under certain circumstances; prohibiting health care providers from prescribing to a patient more than a certain number of days' supply of certain opioid controlled dangerous substances under certain circumstances~~ requiring health care providers to prescribe a certain dosage and a certain quantity of an opioid unless the opioid is prescribed to treat a certain disorder or certain pain; requiring the dosage, quantity, and duration of certain prescribed opioids to be based on a certain guideline; providing that a violation of a certain provision of this Act is grounds for disciplinary action by a certain health occupations board; requiring certain health occupations boards to adopt certain regulations; authorizing certain health occupations boards to take certain disciplinary actions against certain individuals for a violation of certain provisions of this Act; defining a certain term; making this Act an emergency measure; and generally relating to the prescribing of opioid controlled dangerous substances.

~~BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 5–307(a)
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)~~

BY adding to
Article – Health Occupations
Section 1–223, 4–315(a)(35), 8–316(a)(36), and 14–404(a)(43)
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 4–315(a)(33) and (34), 8–316(a)(34)(ii) and (35), 14–404(a)(41)(ii) and (42),
and 16–311(a)(8)
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

Preamble

WHEREAS, The number of overdose deaths in the United States involving opioids rose from 28,647 in 2014 to 33,091 in 2015; and

WHEREAS, The number of overdose deaths in the United States involving heroin rose from 10,574 in 2014 to 12,990 in 2015; and

WHEREAS, The rise in overdose deaths is attributable to the surge of opioid dependence that has emerged in Maryland over the past two decades, stemming from a dramatic increase in the number of opioid medications prescribed by the medical community and the influx of cheap, potent heroin and fentanyl; and

WHEREAS, The epidemic of opioid dependence represents an urgent and growing public health threat, cutting across all demographics and geographical areas in Maryland, and also represents a serious threat to the security and economic well-being of the State; and

WHEREAS, The State is undertaking numerous efforts to combat the opioid epidemic, and the Medicaid program received expenditure authority under § 1115 of the federal Social Security Act to expand the State's current substance use treatment efforts to allow the State to claim matching federal funds for residential substance use disorder treatment in nonpublic Institutions for Mental Diseases; and

WHEREAS, It is the intent of the General Assembly that the State Board of Dental Examiners, State Board of Nursing, State Board of Physicians, and State Board of Podiatric Medical Examiners shall work to educate practitioners to ensure that the residents of Maryland are aware of the risks associated with the use of opioid drugs, including the risks of dependence, addiction, and overdose, and the dangers of taking an opioid drug with alcohol, benzodiazepines, and other depressants; now, therefore,

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

~~Article – Criminal Law~~

~~5-307.~~

~~(a) Subject to the notice and hearing provisions of § 5-308 of this subtitle, the Department may deny a registration to any applicant, suspend or revoke a registration, or refuse to renew a registration if the Department finds that the applicant or registrant:~~

~~(1) has materially falsified an application filed in accordance with or required by this title;~~

~~(2) has been convicted of a crime under federal law or the law of any state relating to a controlled dangerous substance;~~

~~(3) has had federal registration suspended or revoked and may no longer manufacture, distribute, or dispense a controlled dangerous substance; [or]~~

~~(4) has violated this title; OR~~

~~(5) HAS FAILED TO COMPLY WITH THE OPIOID PRESCRIBING LIMITATION ESTABLISHED UNDER § 1-223 OF THE HEALTH OCCUPATIONS ARTICLE.~~

Article – Health Occupations

1-223.

(A) IN THIS SECTION, “CONTROLLED DANGEROUS SUBSTANCE” HAS THE MEANING STATED IN § 5-101 OF THE CRIMINAL LAW ARTICLE.

~~(B) ON THE INITIAL CONSULTATION OR TREATMENT FOR PAIN, A HEALTH CARE PROVIDER MAY NOT PRESCRIBE TO A PATIENT MORE THAN A 7-DAY SUPPLY OF AN OPIOID THAT IS A SCHEDULE II OR SCHEDULE III CONTROLLED DANGEROUS SUBSTANCE UNLESS THE OPIOID IS PRESCRIBED TO TREAT:~~

~~(1) A SUBSTANCE-RELATED DISORDER;~~

~~(2) PAIN ASSOCIATED WITH A CANCER DIAGNOSIS; OR~~

~~(3) PAIN EXPERIENCED WHILE THE PATIENT IS RECEIVING END-OF-LIFE, HOSPICE, OR PALLIATIVE CARE FOR AN INCURABLE ILLNESS.~~

(B) ON TREATMENT FOR PAIN, A HEALTH CARE PROVIDER, BASED ON THE CLINICAL JUDGMENT OF THE HEALTH CARE PROVIDER, SHALL PRESCRIBE:

(1) THE LOWEST EFFECTIVE DOSE OF AN OPIOID; AND

(2) A QUANTITY THAT IS NO GREATER THAN THE QUANTITY NEEDED FOR THE EXPECTED DURATION OF PAIN SEVERE ENOUGH TO REQUIRE AN OPIOID THAT IS A CONTROLLED DANGEROUS SUBSTANCE UNLESS THE OPIOID IS PRESCRIBED TO TREAT:

(I) A SUBSTANCE-RELATED DISORDER;

(II) PAIN ASSOCIATED WITH A CANCER DIAGNOSIS;

(III) PAIN EXPERIENCED WHILE THE PATIENT IS RECEIVING END-OF-LIFE, HOSPICE, OR PALLIATIVE CARE SERVICES; OR

(IV) CHRONIC PAIN.

(C) THE DOSAGE, QUANTITY, AND DURATION OF AN OPIOID PRESCRIBED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE BASED ON AN EVIDENCE-BASED CLINICAL GUIDELINE FOR PRESCRIBING CONTROLLED DANGEROUS SUBSTANCES THAT IS APPROPRIATE FOR:

(1) THE HEALTH CARE SERVICE DELIVERY SETTING FOR THE PATIENT;

(2) THE TYPE OF HEALTH CARE SERVICES REQUIRED BY THE PATIENT; AND

(3) THE AGE AND HEALTH STATUS OF THE PATIENT.

~~(C)~~ (D) A VIOLATION OF SUBSECTION (B) OF THIS SECTION IS GROUNDS FOR DISCIPLINARY ACTION BY THE HEALTH OCCUPATIONS BOARD THAT REGULATES THE HEALTH CARE PROVIDER WHO COMMITS THE VIOLATION.

~~(D) THE FOLLOWING HEALTH OCCUPATIONS BOARDS THAT REGULATE HEALTH CARE PROVIDERS WHO HAVE THE AUTHORITY TO PRESCRIBE CONTROLLED DANGEROUS SUBSTANCES THAT ARE OPIOIDS SHALL ADOPT REGULATIONS AS NECESSARY TO IMPLEMENT THIS SECTION:~~

~~(1) THE STATE BOARD OF PHYSICIANS;~~

~~(2) THE STATE BOARD OF NURSING;~~

~~(3) THE STATE BOARD OF DENTAL EXAMINERS; AND~~

~~(4) THE STATE BOARD OF PODIATRIC MEDICAL EXAMINERS.~~

4-315.

(a) Subject to the hearing provisions of § 4-318 of this subtitle, the Board may deny a general license to practice dentistry, a limited license to practice dentistry, or a teacher's license to practice dentistry to any applicant, reprimand any licensed dentist, place any licensed dentist on probation, or suspend or revoke the license of any licensed dentist, if the applicant or licensee:

(33) Fails to comply with any Board order; [or]

(34) Willfully and without legal justification, fails to cooperate with a lawful investigation conducted by the Board; **OR**

(35) FAILS TO COMPLY WITH ~~THE OPIOID PRESCRIBING LIMITATION ESTABLISHED UNDER § 1-223~~ OF THIS ARTICLE.

8-316.

(a) Subject to the hearing provisions of § 8-317 of this subtitle, the Board may deny a license or grant a license, including a license subject to a reprimand, probation, or suspension, to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke the license of a licensee if the applicant or licensee:

(34) When acting in a supervisory position, directs another nurse to delegate a nursing task to an individual when that nurse reasonably believes:

(ii) The patient's condition does not allow delegation of the nursing task; [or]

(35) Has misappropriated the property of a patient or a facility; **OR**

(36) FAILS TO COMPLY WITH ~~THE OPIOID PRESCRIBING LIMITATION ESTABLISHED UNDER § 1-223~~ OF THIS ARTICLE.

14-404.

(a) Subject to the hearing provisions of § 14-405 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(41) Performs a cosmetic surgical procedure in an office or a facility that is not:

(ii) Certified to participate in the Medicare program, as enacted by Title XVIII of the Social Security Act; [or]

(42) Fails to submit to a criminal history records check under § 14-308.1 of this title; **OR**

(43) FAILS TO COMPLY WITH ~~THE OPIOID PRESCRIBING LIMITATION ESTABLISHED UNDER § 1-223~~ OF THIS ARTICLE.

16-311.

(a) Subject to the hearing provisions of § 16-313 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license or a limited license to any applicant, reprimand any licensee or holder of a limited license, impose an administrative monetary penalty not exceeding \$50,000 on any licensee or holder of a

limited license, place any licensee or holder of a limited license on probation, or suspend or revoke a license or a limited license if the applicant, licensee, or holder:

(8) Prescribes or distributes a controlled dangerous substance to any other person in violation of the law, **INCLUDING IN VIOLATION OF ~~THE OPIOID-PRESCRIBING LIMITATION ESTABLISHED UNDER § 1-223 OF THIS ARTICLE;~~**

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 ye 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 25, 2017.

Chapter 571

(House Bill 1329)

AN ACT concerning

Heroin and Opioid Prevention Effort (HOPE) and Treatment Act of 2017

FOR the purpose of requiring ~~certain institutions of higher education to offer credits in substance use disorders, effective treatment for substance use disorders, and pain management~~ the State Court Administrator of the Administrative Office of the Courts to assess certain drug court programs to make certain determinations; declaring a certain intent of the General Assembly relating to certain funding for certain drug court programs; authorizing the Department of Health and Mental Hygiene to deny, suspend, revoke, or refuse to renew a certain registration if a certain applicant or a certain registrant has surrendered a certain federal registration or fails to meet certain requirements to obtain a certain registration; authorizing the Department of Health and Mental Hygiene to limit the scope of a certain initial registration or renewal of a certain registration; requiring a drug overdose fatality review team to review information on nonfatal overdoses at a certain meeting; requiring a certain local drug overdose fatality review team, at the request of the chair of the local team, to be provided access to certain information and records related to an individual whose near fatality is being reviewed by the local team; prohibiting the disclosure of identifying information of or of involvement of an agency with an individual who has experienced an overdose or of certain individuals related to an individual who has experienced an overdose during a public meeting of a certain local team; requiring the Behavioral Health Administration to establish ~~at least a certain number of~~ certain crisis treatment centers that provide individuals who are ~~in a~~ in a mental health or substance use disorder crisis with access to certain clinical staff; ~~requiring that at least one crisis treatment center be~~

~~located in each geographical region of the State; requiring that at least one crisis treatment center be established on or before a certain date; requiring the Administration to establish the crisis treatment centers in a manner that is consistent with a certain plan; requiring the Administration to submit a certain report to a certain committee beginning on or before a certain date, and on or before a certain date each year thereafter, until the Administration establishes a certain number of certain crisis treatment centers; requiring the Department of Health and Mental Hygiene to establish and operate a certain Health Crisis Hotline using certain resources and technology; requiring that the Health Crisis Hotline assist callers in identifying certain services for a certain purpose a certain manner; requiring the Department of Health and Mental Hygiene to collect and maintain certain information to provide to callers on the Health Crisis Hotline; requiring the Department of Health and Mental Hygiene to provide certain training for certain staff who assist callers on the Health Crisis Hotline; requiring the Department of Health and Mental Hygiene, to the extent practicable, to ensure that information provided to callers on the Health Crisis Hotline is up to date and accurate; requiring the Department of Health and Mental Hygiene to disseminate certain information in a certain manner; requiring the Department of Health and Mental Hygiene to identify certain information about opioid use disorder; requiring the Department of Health and Mental Hygiene to provide certain information to certain health care facilities and certain health care providers; requiring certain health care facilities and certain health care providers to make certain information available to certain patients; requiring certain health care facilities and health care systems to make available to patients the services of at least a certain number of health care providers who are trained and authorized under federal law to prescribe buprenorphine under federal law for every certain number of patients opioid addiction treatment medications; requiring authorizing the health care facilities and health care systems to use a certain average number of certain patients for the purpose of calculating the number of health care providers required under directly employ, contract with, or refer a patient to a certain provider or to deliver certain services in a certain manner to comply with a certain provision of this Act; requiring, except under certain circumstances, the Department of Health and Mental Hygiene to adjust the rate of reimbursement for certain community providers each fiscal year by the rate adjustment included in a certain State budget; providing that the Overdose Response Program is administered by the Department of Health and Mental Hygiene for a certain purpose; repealing certain provisions of law relating to the qualifications for, application for, and issuance of a certificate for completion of a certain educational training program relating to an opioid overdose; authorizing the Department of Health and Mental Hygiene to authorize certain entities to conduct certain education and training on opioid overdose recognition and response; providing that an individual is not required to obtain certain training and education in order for a pharmacist to dispense naloxone to the individual; requiring an authorized private or public entity to enter into a certain written agreement with a certain licensed health care provider for a certain purpose; authorizing a certain individual to receive from a certain health care provider a prescription for naloxone and certain related supplies; authorizing certain individuals to possess and administer naloxone under certain circumstances; authorizing a licensed health care provider with prescribing~~

authority to prescribe and dispense naloxone to a certain individual; authorizing a licensed health care provider with prescribing authority to prescribe and dispense naloxone by issuing a standing order under certain circumstances; authorizing a certain licensed health care provider who issues a certain standing order to delegate the dispensing of naloxone to a certain employee or a certain volunteer under certain circumstances; prohibiting certain individuals who administer naloxone to a certain individual from being considered to be practicing medicine or registered nursing; prohibiting an employee or a volunteer of a certain entity who provides naloxone to a certain individual from being considered to be practicing medicine, registered nursing, or pharmacy; prohibiting a certain health care provider who prescribes or dispenses naloxone in a certain manner from being subject to certain disciplinary action; prohibiting a certain cause of action from arising against a certain health care provider or pharmacist under certain circumstances; providing for the construction of certain provisions of law; requiring the Secretary of Health and Mental Hygiene to establish certain guidelines for the co-prescribing of opioid overdose reversal drugs that are applicable to all licensed health care providers in the State who are authorized to prescribe monitored prescription drugs; requiring the guidelines to address the co-prescribing of opioid overdose reversal drugs for certain patients; requiring the Secretary to establish the guidelines on or before a certain date; requiring that the Governor's proposed budget for a certain fiscal year, years and for each fiscal year thereafter, include certain rate adjustments increases for certain community providers based on over the funding provided in certain legislative appropriations; requiring that a certain rate of adjustment equal the average annual percentage change in a certain Consumer Price Index for a certain period; requiring the Behavioral Health Administration and the Medical Care Programs Administration jointly to conduct a certain study, develop and implement a certain payment system, and consult with stakeholders in conducting a certain study and developing a certain payment system; requiring the Behavioral Health Administration to complete a certain study on or before a certain date; requiring the Behavioral Health Administration to adopt certain regulations; requiring, under certain circumstances, managed care organizations to pay a certain rate for a certain time period for services provided by community providers and to adjust the rate of reimbursement for community providers each fiscal year by at least a certain amount; requiring that increased funding provided under certain provisions of this Act may be used only to increase the rates being paid to certain community providers and certain health care providers; requiring the Department of Health and Mental Hygiene to submit a certain report on the impact of certain rate adjustments and a certain payment system to the Governor and the General Assembly on or before a certain date each year, beginning on or before a certain date; requiring, on or before a certain date, the Department of Health and Mental Hygiene to submit a certain interim report to the Governor and the General Assembly; authorizing the Department of Health and Mental Hygiene to require certain community providers to submit certain information to the Department of Health and Mental Hygiene in the form and manner required by the Department of Health and Mental Hygiene; stating the intent of the General Assembly; requiring, on or before a certain date, each hospital to have a certain protocol for discharging a patient who was treated by the hospital for a drug overdose or was identified as having a substance use disorder;

~~requiring, beginning in a certain year, a hospital to include certain services in its annual community benefit report to the Health Services Cost Review Commission; requiring the hospital's protocol to the Maryland Hospital Association; requiring the Maryland Hospital Association to conduct a certain study and submit certain reports to the Department of Health and Mental Hygiene and certain committees of the General Assembly on or before certain dates; altering certain coverage requirements applicable to certain health benefit plans for the diagnosis and treatment of mental illness and emotional, drug use, and alcohol use disorders; altering certain definitions; defining certain terms; providing for the application of certain provisions of this Act; authorizing certain insurers, nonprofit health service plans, and health maintenance organizations to apply a prior authorization requirement for opioid antagonist drug products only under certain circumstances; requiring the State Department of Education, in collaboration with stakeholders and on or before a certain date, to develop a plan to establish certain regional recovery schools and report its findings and recommendations to the General Assembly; requiring the Department of Health and Mental Hygiene to submit a report that details certain outcome measures and includes certain recommendations to the Governor and the General Assembly on or before a certain date; requiring the Department of Public Safety and Correctional Services and each local jail and detention center, in collaboration with the Department of Health and Mental Hygiene and stakeholders, on or before a certain date, to develop a certain plan and submit the plan and any recommendations to the General Assembly; requiring, on or before a certain date, certain jails and detention centers to submit a certain plan to the Department of Public Safety and Correctional Services; requiring, on or before a certain date, the Department of Public Safety and Correctional Services to submit a certain report to the General Assembly; requiring, on or before certain dates, the Department of Health and Mental Hygiene to submit certain reports to certain committees of the General Assembly; altering certain definitions; defining certain terms; making certain conforming changes; providing for a delayed effective date for certain provisions of this Act; making this Act an emergency measure; and generally relating to the treatment of and education regarding mental health and substance use disorders.~~

BY adding to

~~Article – Education~~

~~Section 15–121~~

~~Annotated Code of Maryland~~

~~(2014 Replacement Volume and 2016 Supplement)~~

BY repealing and reenacting, without amendments,

Article – Courts and Judicial Proceedings

Section 13–101(a)

Annotated Code of Maryland

(2013 Replacement Volume and 2016 Supplement)

BY adding to

Article – Courts and Judicial Proceedings

Section 13–101.1
Annotated Code of Maryland
(2013 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 5–301(a)(1)
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 5–307
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 5–901
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 5–903 through 5–905, 13–3101 through 13–3103, and 13–3107 through
13–3111
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY repealing
Article – Health – General
Section 13–3104 through 13–3106
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY adding to
Article – Health – General
Section 7.5–207; 7.5–501 to be under the new subtitle “Subtitle 5. Health Crisis Hotline”; ~~8–407~~; 8–1101 to be under the new subtitle “Subtitle 11. Availability of ~~Buprenorphine~~ Opioid Addiction Treatment Prescribers”; ~~13–3104~~; 13–3401 and 13–3402 to be under the new subtitle “Subtitle 34. Co-Prescribing of Opioid Overdose Reversal Drugs”; and 16–201.3 and 19–310.3
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

~~BY repealing and reenacting, with amendments,~~

~~Article – Insurance
Section 15–802
Annotated Code of Maryland
(2011 Replacement Volume and 2016 Supplement)~~

BY adding to

Article – Insurance
Section 15–850
Annotated Code of Maryland
(2011 Replacement Volume and 2016 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

13–101.

(a) There is an Administrative Office of the Courts, headed by the State Court Administrator. The Administrator is appointed by and holds office during the pleasure of the Chief Judge of the Court of Appeals of Maryland. The Administrator shall have the compensation provided in the State budget. The Administrative Office of the Courts shall have a seal in the form the Chief Judge of the Court of Appeals approves. The courts of the State shall take judicial notice of the seal.

13–101.1.

(A) THE STATE COURT ADMINISTRATOR SHALL ASSESS DRUG COURT PROGRAMS IN CIRCUIT COURTS, INCLUDING JUVENILE COURTS, AND THE DISTRICT COURT TO DETERMINE HOW TO INCREASE THESE PROGRAMS IN A MANNER SUFFICIENT TO MEET EACH COUNTY’S NEEDS.

(B) (1) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE ADMINISTRATIVE OFFICE OF THE COURTS REQUEST AN APPROPRIATION OF \$2,000,000 OF ADDITIONAL FUNDING IN THE STATE BUDGET FOR FISCAL YEAR 2019 FOR THE PURPOSE OF AWARDING GRANTS TO EXPAND THE SCOPE OF DRUG COURT PROGRAMS DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION.

(2) THE STATE COURT ADMINISTRATOR SHALL DISBURSE THE GRANTS AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION BASED ON THE POPULATION OF THE COUNTY, TO CIRCUIT COURTS, INCLUDING JUVENILE COURTS, AND THE DISTRICT COURT.

~~Article – Education~~

~~15–121.~~

~~(A) THIS SECTION APPLIES ONLY TO AN INSTITUTION OF HIGHER EDUCATION THAT AWARDS A DEGREE THAT AN INDIVIDUAL MAY USE TO MEET THE EDUCATIONAL REQUIREMENTS FOR LICENSURE UNDER THE HEALTH OCCUPATIONS ARTICLE AS A PHYSICIAN, REGISTERED NURSE, DENTIST, PHYSICIAN ASSISTANT, OR PODIATRIST.~~

~~(B) AN INSTITUTION OF HIGHER EDUCATION SUBJECT TO THIS SECTION SHALL OFFER CREDITS IN SUBSTANCE USE DISORDERS, EFFECTIVE TREATMENT FOR SUBSTANCE USE DISORDERS, AND PAIN MANAGEMENT.~~

Article – Criminal Law

5-301.

(a) (1) Except as otherwise provided in this section, a person shall be registered by the Department before the person manufactures, distributes, or dispenses a controlled dangerous substance in the State.

5-307.

(a) Subject to the notice and hearing provisions of § 5-308 of this subtitle, the Department may deny a registration to any applicant, suspend or revoke a registration, or refuse to renew a registration if the Department finds that the applicant or registrant:

(1) has materially falsified an application filed in accordance with or required by this title;

(2) has been convicted of a crime under federal law or the law of any state relating to a controlled dangerous substance;

(3) has SURRENDERED FEDERAL REGISTRATION OR had federal registration suspended or revoked and may no longer manufacture, distribute, or dispense a controlled dangerous substance; [or]

(4) has violated this title; OR

(5) HAS FAILED TO MEET THE REQUIREMENTS FOR REGISTRATION UNDER THIS TITLE.

(b) The Department may limit revocation or suspension of a registration to the particular controlled dangerous substance for which grounds for revocation or suspension exist.

(C) THE DEPARTMENT MAY LIMIT AN INITIAL REGISTRATION OR THE RENEWAL OF A REGISTRATION TO THE PARTICULAR CONTROLLED DANGEROUS

SUBSTANCE FOR WHICH GROUNDS FOR DENIAL OR REFUSAL TO ISSUE OR RENEW EXIST.

Article – Health – General

5-901.

In this subtitle, “local team” means the multidisciplinary and multiagency drug overdose fatality review team established for a county.

5-903.

(a) The purpose of each local team is to prevent drug overdose deaths by:

(1) Promoting cooperation and coordination among agencies involved in investigations of drug overdose deaths or in providing services to surviving family members;

(2) Developing an understanding of the causes and incidence of drug overdose deaths in the county;

(3) Developing plans for and recommending changes within the agencies represented on the local team to prevent drug overdose deaths; and

(4) Advising the Department on changes to law, policy, or practice, including the use of devices that are programmed to dispense medications on a schedule or similar technology, to prevent drug overdose deaths.

(b) To achieve its purpose, each local team shall:

(1) In consultation with the Department, establish and implement a protocol for the local team;

(2) Set as its goal the investigation of drug overdose deaths in accordance with national standards;

(3) Meet at least quarterly to review the status of drug overdose death cases **AND INFORMATION ON NONFATAL OVERDOSES**, recommend actions to improve coordination of services and investigations among member agencies, and recommend actions within the member agencies to prevent drug overdose deaths;

(4) Collect and maintain data as required by the Department; and

(5) Provide requested reports to the Department, including:

(i) Discussion of individual cases;

(ii) Steps taken to improve coordination of services and investigations;

(iii) Steps taken to implement changes recommended by the local team within member agencies; and

(iv) Recommendations on needed changes to State and local laws, policies, or practices to prevent drug overdose deaths.

(c) In addition to the duties specified in subsection (b) of this section, a local team may investigate the information and records of an individual convicted of a crime or adjudicated as having committed a delinquent act that caused a death or near fatality described in § 5–904 of this subtitle.

5–904.

(a) On request of the chair of a local team and as necessary to carry out the purpose and duties of the local team, the local team shall be immediately provided with:

(1) Access to information and records, including information about physical health, mental health, and treatment for substance abuse, maintained by a health care provider for:

(i) An individual whose death **OR NEAR FATALITY** is being reviewed by the local team; or

(ii) An individual convicted of a crime or adjudicated as having committed a delinquent act that caused a death or near fatality; and

(2) Access to information and records maintained by a State or local government agency, including death certificates, law enforcement investigative information, medical examiner investigative information, parole and probation information and records, and information and records of a social services agency, if the agency provided services to:

(i) An individual whose death **OR NEAR FATALITY** is being reviewed by the local team;

(ii) An individual convicted of a crime or adjudicated as having committed a delinquent act that caused a death or near fatality; or

(iii) The family of an individual described in item (i) or (ii) of this item.

(b) Substance abuse treatment records requested or provided under this section are subject to any additional limitations on disclosure or redisclosure of a medical record

developed in connection with the provision of substance abuse treatment services under State law or 42 U.S.C. § 290DD-2 and 42 C.F.R. Part 2.

5-905.

(a) Meetings of local teams shall be closed to the public and are not subject to Title 3 of the General Provisions Article when the local teams are discussing individual cases of **OVERDOSE OR** drug overdose deaths.

(b) Except as provided in subsection (c) of this section, meetings of local teams shall be open to the public and are subject to Title 3 of the General Provisions Article when the local team is not discussing individual cases of **OVERDOSE OR** drug overdose deaths.

(c) (1) During a public meeting, information may not be disclosed that identifies:

(i) A deceased individual;

(II) AN INDIVIDUAL WHO HAS EXPERIENCED AN OVERDOSE;

~~[(ii)]~~ **(III) A family member, guardian, or caretaker of a deceased individual OR OF AN INDIVIDUAL WHO HAS EXPERIENCED AN OVERDOSE; or**

~~[(iii)]~~ **(IV) An individual convicted of a crime or adjudicated as having committed a delinquent act that caused a death or near fatality.**

(2) During a public meeting, information may not be disclosed about the involvement of any agency with:

(i) A deceased individual;

(II) AN INDIVIDUAL WHO HAS EXPERIENCED AN OVERDOSE;

~~[(ii)]~~ **(III) A family member, guardian, or caretaker of a deceased individual OR OF AN INDIVIDUAL WHO HAS EXPERIENCED AN OVERDOSE; or**

~~[(iii)]~~ **(IV) An individual convicted of a crime or adjudicated as having committed a delinquent act that caused a death or near fatality.**

(d) This section does not prohibit a local team from requesting the attendance at a team meeting of a person who has information relevant to the team's exercise of its purpose and duties.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500 or imprisonment not exceeding 90 days or both.

7.5–207.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE ADMINISTRATION SHALL ESTABLISH ~~AT LEAST 10~~ CRISIS TREATMENT CENTERS THAT PROVIDE INDIVIDUALS WHO ARE IN A MENTAL HEALTH OR SUBSTANCE USE DISORDER CRISIS WITH ACCESS TO CLINICAL STAFF WHO:

(1) PERFORM ASSESSMENTS AND LEVEL OF CARE DETERMINATIONS 24 HOURS A DAY AND 7 DAYS A WEEK; AND

(2) CONNECT THE INDIVIDUALS TO CARE IMMEDIATELY.

(B) AT LEAST ONE CRISIS TREATMENT CENTER SHALL BE ~~LOCATED IN EACH GEOGRAPHICAL REGION OF THE STATE~~ ESTABLISHED ON OR BEFORE JUNE 1, 2018.

(C) THE ADMINISTRATION SHALL ESTABLISH THE CRISIS TREATMENT CENTERS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION IN A MANNER THAT IS CONSISTENT WITH THE STRATEGIC PLAN DEVELOPED BY THE BEHAVIORAL HEALTH ADVISORY COUNCIL, AS REQUIRED BY CHAPTERS 405 AND 406 OF THE ACTS OF THE GENERAL ASSEMBLY OF 2016.

(D) ON OR BEFORE SEPTEMBER 1, 2017, AND ON OR BEFORE SEPTEMBER 1 EACH YEAR THEREAFTER UNTIL THE ADMINISTRATION ESTABLISHES THE ~~MINIMUM NUMBER OF~~ CRISIS TREATMENT CENTERS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, THE ADMINISTRATION SHALL SUBMIT, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, A REPORT ON THE STATUS OF THE ESTABLISHMENT OF CRISIS TREATMENT CENTERS UNDER THIS SECTION TO THE JOINT COMMITTEE ON BEHAVIORAL HEALTH AND OPIOID USE DISORDERS.

SUBTITLE 5. HEALTH CRISIS HOTLINE.

7.5–501.

(A) ~~THE DEPARTMENT, AS FUNDING IS AVAILABLE, SHALL USE EXISTING RESOURCES AND DEPARTMENT TECHNOLOGY TO~~ ESTABLISH AND OPERATE A TOLL-FREE HEALTH CRISIS HOTLINE 24 HOURS A DAY AND 7 DAYS A WEEK.

(B) THE HEALTH CRISIS HOTLINE SHALL ASSIST CALLERS ~~IN IDENTIFYING APPROPRIATE SERVICES TO ADDRESS SUBSTANCE USE AND MENTAL HEALTH DISORDERS~~ BY:

(1) CONDUCTING A COMPREHENSIVE EVIDENCE-BASED SCREENING FOR MENTAL HEALTH AND SUBSTANCE USE NEEDS, COGNITIVE OR INTELLECTUAL FUNCTIONING, INFECTIOUS DISEASE, AND ACUTE SOMATIC CONDITIONS;

(2) CONDUCTING A RISK ASSESSMENT FOR CALLERS EXPERIENCING AN OVERDOSE OR POTENTIALLY COMMITTING SUICIDE OR A HOMICIDE;

(3) CONNECTING CALLERS TO AN EMERGENCY RESPONSE SYSTEM WHEN INDICATED;

(4) REFERRING CALLERS FOR ONGOING CARE; AND

(5) FOLLOWING UP WITH CALLERS TO DETERMINE IF THE NEEDS OF CALLERS WERE MET.

(C) THE DEPARTMENT SHALL COLLECT AND MAINTAIN THE FOLLOWING INFORMATION TO PROVIDE TO CALLERS ON THE HEALTH CRISIS HOTLINE:

(1) THE NAMES, TELEPHONE NUMBERS, AND ADDRESSES OF:

(I) RESIDENTIAL, INPATIENT, AND OUTPATIENT SUBSTANCE USE DISORDER AND MENTAL HEALTH PROGRAMS, INCLUDING INFORMATION ON PRIVATE PROGRAMS AND PROGRAMS ADMINISTERED BY LOCAL HEALTH DEPARTMENTS AND OTHER PUBLIC ENTITIES; AND

(II) HOSPITALS, INCLUDING HOSPITAL EMERGENCY ROOMS, AND OTHER FACILITIES THAT PROVIDE DETOXIFICATION SERVICES;

(2) THE LEVELS OF CARE PROVIDED BY THE PROGRAMS, HOSPITALS, AND FACILITIES IDENTIFIED UNDER ITEM (1) OF THIS SUBSECTION; AND

(3) WHETHER THE PROGRAMS, HOSPITALS, AND FACILITIES IDENTIFIED UNDER ITEM (1) OF THIS SUBSECTION:

(I) ACCEPT PAYMENT FOR SERVICES FROM A THIRD-PARTY PAYOR, INCLUDING MEDICARE, MEDICAID, AND PRIVATE INSURANCE; AND

(II) PROVIDE SERVICES:

1. THAT ARE SPECIFIC TO PREGNANT WOMEN;

2. THAT ARE GENDER SPECIFIC;

3. FOR INDIVIDUALS WITH CO-OCCURRING DISORDERS;

4. TO SUPPORT PARENTS OF CHILDREN WITH SUBSTANCE USE AND MENTAL HEALTH DISORDERS; AND

5. FOR GRIEF SUPPORT.

(D) (1) THE DEPARTMENT SHALL PROVIDE TRAINING FOR HEALTH CRISIS HOTLINE STAFF WHO ASSIST CALLERS ON THE HEALTH CRISIS HOTLINE TO ENSURE THAT STAFF ARE ABLE TO PROVIDE SUFFICIENT INFORMATION AND RESPOND APPROPRIATELY TO CALLERS WHO MAY BE IN ~~THE MIDDLE OF~~ A CRISIS.

(2) TO THE EXTENT PRACTICABLE, THE DEPARTMENT SHALL ENSURE THAT INFORMATION PROVIDED TO CALLERS ON THE HEALTH CRISIS HOTLINE IS UP TO DATE AND ACCURATE.

(E) THE DEPARTMENT SHALL DISSEMINATE INFORMATION ABOUT THE HEALTH CRISIS HOTLINE TO THE PUBLIC, BOTH DIRECTLY AND THROUGH PUBLIC AND PRIVATE ORGANIZATIONS THAT SERVE THE PUBLIC.

8-407.

(A) THE DEPARTMENT SHALL IDENTIFY UP-TO-DATE, EVIDENCE-BASED, WRITTEN INFORMATION ABOUT OPIOID USE DISORDER THAT:

(1) HAS BEEN REVIEWED BY MEDICAL EXPERTS AND NATIONAL AND LOCAL ORGANIZATIONS SPECIALIZING IN THE TREATMENT OF OPIOID USE DISORDER;

(2) IS DESIGNED FOR USE BY HEALTH CARE PROVIDERS AND INDIVIDUALS WITH OPIOID USE DISORDER AND THEIR FAMILIES;

(3) IS CULTURALLY AND LINGUISTICALLY APPROPRIATE FOR POTENTIAL RECIPIENTS OF THE INFORMATION; AND

(4) INCLUDES INFORMATION ADDRESSING:

(I) THE SIGNS AND SYMPTOMS OF OPIOID USE DISORDER;

(II) THE RISKS ASSOCIATED WITH UNTREATED OPIOID USE DISORDER;

(III) APPROPRIATE CLINICAL TREATMENT FOR OPIOID USE DISORDER, INCLUDING:

1. COUNSELING SERVICES; AND

2. ALL MEDICATIONS APPROVED BY THE U.S. FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF OPIOID USE DISORDER;

(IV) APPROPRIATE USE OF OVERDOSE REVERSAL AGENTS;**(V) APPROPRIATE SUPPORT SERVICES, INCLUDING:**

1. PEER FELLOWSHIP AND SUPPORT GROUPS, SUCH AS NARCOTICS ANONYMOUS AND ALCOHOLICS ANONYMOUS;

2. COMMUNITY-BASED SERVICES; AND

3. RESIDENTIAL OR RECOVERY HOUSING SERVICES;

AND

(VI) APPROPRIATE TREATMENTS FOR PAIN THAT MAY BE USED TO REDUCE OR REPLACE OPIOID MEDICATION TREATMENTS FOR CHRONIC PAIN.

(B) (1) THE DEPARTMENT SHALL PROVIDE THE INFORMATION IDENTIFIED BY THE DEPARTMENT UNDER SUBSECTION (A) OF THIS SECTION TO HEALTH CARE FACILITIES AND HEALTH CARE PROVIDERS THAT PROVIDE TREATMENT FOR OPIOID USE DISORDER.

(2) A HEALTH CARE FACILITY OR HEALTH CARE PROVIDER SHALL MAKE THE INFORMATION AVAILABLE TO EACH PATIENT TREATED BY THE FACILITY OR PROVIDER FOR OPIOID USE DISORDER.

SUBTITLE 11. AVAILABILITY OF ~~BUPRENORPHINE~~ OPIOID ADDICTION TREATMENT PRESCRIBERS.

8-1101.

(A) (1) IN THIS SECTION, ~~“HEALTH”~~ THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “HEALTH CARE FACILITY” MEANS:

~~**(1) A HOSPITAL;**~~

~~**(2) A FEDERALLY QUALIFIED HEALTH CENTER;**~~

~~**(3) A COMMUNITY HEALTH CENTER**~~ **AN OUTPATIENT MENTAL HEALTH CLINIC;**

~~**(4) A BEHAVIORAL HEALTH TREATMENT SERVICES PROVIDER**~~ **AN OUTPATIENT OR RESIDENTIAL ADDICTION TREATMENT PROVIDER; AND**

~~(5)~~ (V) A LOCAL HEALTH DEPARTMENT.

(3) “OPIOID ADDICTION TREATMENT MEDICATION” MEANS A MEDICATION APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF OPIOID USE DISORDERS.

(B) EACH HEALTH CARE FACILITY THAT IS NOT PART OF A HEALTH CARE SYSTEM AND EACH HEALTH CARE SYSTEM SHALL MAKE AVAILABLE TO PATIENTS THE SERVICES OF ~~AT LEAST ONE~~ HEALTH CARE ~~PROVIDER~~ PROVIDERS WHO ~~IS~~ ARE TRAINED AND AUTHORIZED UNDER FEDERAL LAW TO PRESCRIBE ~~BUPRENORPHINE FOR EVERY 100 PATIENTS~~ OPIOID ADDICTION TREATMENT MEDICATIONS, INCLUDING BUPRENORPHINE-CONTAINING FORMULATIONS.

~~(C) FOR THE PURPOSE OF CALCULATING THE NUMBER OF HEALTH CARE PROVIDERS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION, THE HEALTH CARE FACILITY OR HEALTH CARE SYSTEM SHALL USE THE AVERAGE NUMBER OF PATIENTS PROVIDED HEALTH CARE SERVICES PER DAY IN THE IMMEDIATELY PRECEDING CALENDAR YEAR. TO COMPLY WITH SUBSECTION (B) OF THIS SECTION, A HEALTH CARE FACILITY OR A HEALTH CARE SYSTEM MAY:~~

(1) DIRECTLY EMPLOY, CONTRACT WITH, OR REFER A PATIENT TO A HEALTH CARE PROVIDER WHO IS TRAINED AND AUTHORIZED UNDER FEDERAL LAW TO PRESCRIBE OPIOID ADDICTION TREATMENT MEDICATIONS, INCLUDING BUPRENORPHINE-CONTAINING FORMULATIONS; OR

(2) DELIVER THE SERVICES IN PERSON OR, IF APPROPRIATE, THROUGH TELEHEALTH.

13-3101.

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

[(b) “Advanced practice nurse” has the meaning stated in § 8-101 of the Health Occupations Article.

(c) “Certificate” means a certificate issued by a private or public entity to administer naloxone.

(d) “Licensed physician” has the meaning stated in § 14-101 of the Health Occupations Article.]

[(e) (B) “Pharmacist” has the meaning stated in § 12-101 of the Health Occupations Article.

[(f)] (C) “Private or public entity” means a health care provider, local health department, community-based organization, substance abuse treatment organization, or other person that addresses medical or social issues related to drug addiction.

[(g)] (D) “Program” means [an] THE Overdose Response Program.

[(h)] (E) “Standing order” means a written instruction for the prescribing and dispensing of naloxone [to a certificate holder] in accordance with [§ 13-3108] § 13-3106 of this subtitle.

13-3102.

[An] THE Overdose Response Program is a program [overseen] ADMINISTERED by the Department for the purpose of providing a means of authorizing certain individuals to administer naloxone to an individual experiencing, or believed to be experiencing, opioid overdose to help prevent a fatality when medical services are not immediately available.

13-3103.

(a) The Department shall adopt regulations necessary for the administration of the Program.

(b) The Department may:

(1) Collect fees necessary for the administration of the Program;

(2) [Authorize private or public entities to issue and renew certificates to persons meeting the requirements of this subtitle;

(3) (i) Authorize private or public entities to conduct [educational] EDUCATION AND training [programs described in § 13-3104 of this subtitle] ON OPIOID OVERDOSE RECOGNITION AND RESPONSE THAT INCLUDE:

(I) EDUCATION ON RECOGNIZING THE SIGNS AND SYMPTOMS OF AN OPIOID OVERDOSE;

(II) TRAINING ON RESPONDING TO AN OPIOID OVERDOSE, INCLUDING THE ADMINISTRATION OF NALOXONE; AND

(III) ACCESS TO NALOXONE AND THE NECESSARY SUPPLIES FOR THE ADMINISTRATION OF THE NALOXONE; [and]

[(ii)] (3) Develop guidance regarding the content of educational training programs conducted by private or public entities; and

(4) Collect and report data on the operation and results of the programs.

(C) AN INDIVIDUAL IS NOT REQUIRED TO OBTAIN TRAINING AND EDUCATION ON OPIOID OVERDOSE RECOGNITION AND RESPONSE FROM A PRIVATE OR PUBLIC ENTITY UNDER SUBSECTION (B) OF THIS SECTION IN ORDER FOR A PHARMACIST TO DISPENSE NALOXONE TO THE INDIVIDUAL.

[13–3104.

(a) To qualify for a certificate, an individual shall meet the requirements of this section.

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

(c) The applicant shall have, or reasonably expect to have, as a result of the individual's occupation or volunteer, family, or social status, the ability to assist an individual who is experiencing an opioid overdose.

(d) (1) The applicant shall successfully complete an educational training program offered by a private or public entity authorized by the Department.

(2) An educational training program required under this subsection shall:

(i) Be conducted by:

1. A licensed physician;

2. An advanced practice nurse;

3. A pharmacist; or

4. An employee or a volunteer of a private or public entity who is supervised in accordance with a written agreement between the private or public entity and a supervisory licensed physician, advanced practice nurse, or pharmacist that includes:

A. Procedures for providing patient overdose information;

B. Information as to how the employee or volunteer providing the information will be trained; and

C. Standards for documenting the provision of patient overdose information to patients; and

(ii) Include training in:

1. The recognition of the symptoms of opioid overdose;

2. The proper administration of naloxone;
3. The importance of contacting emergency medical services;
4. The care of an individual after the administration of naloxone; and
5. Any other topics required by the Department.]

13-3104.

AN AUTHORIZED PRIVATE OR PUBLIC ENTITY SHALL ENTER INTO A WRITTEN AGREEMENT WITH A LICENSED HEALTH CARE PROVIDER WITH PRESCRIBING AUTHORITY TO ESTABLISH PROTOCOLS FOR THE PRESCRIBING AND DISPENSING OF NALOXONE TO ANY INDIVIDUAL IN ACCORDANCE WITH THIS SUBTITLE.

[13-3105.

An applicant for a certificate shall submit an application to a private or public entity authorized by the Department on the form that the Department requires.]

[13-3106.

(a) A private or public entity authorized by the Department shall issue a certificate to any applicant who meets the requirements of this subtitle.

(b) Each certificate shall include:

(1) A statement that the holder is authorized to administer naloxone in accordance with this subtitle;

(2) The full name of the certificate holder; and

(3) A serial number.

(c) A replacement certificate may be issued to replace a lost, destroyed, or mutilated certificate.

(d) (1) The certificate shall be valid for 2 years and may be renewed.

(2) In order to renew a certificate, the certificate holder shall:

(i) Successfully complete a refresher training program conducted by an authorized private or public entity; or

(ii) Demonstrate proficiency to the private or public entity issuing certificates under this subtitle.]

[13-3107.] 13-3105.

(A) An individual [who is certified] may[:

(1) On presentment of a certificate,] receive from any licensed [physician or advanced practice nurse] HEALTH CARE PROVIDER with prescribing authority a prescription for naloxone and the necessary supplies for the administration of naloxone[;].

(B) AN INDIVIDUAL FOR WHOM NALOXONE IS PRESCRIBED AND DISPENSED IN ACCORDANCE WITH THIS SUBTITLE MAY:

[(2)] (1) Possess prescribed naloxone and the necessary supplies for the administration of naloxone; and

[(3)] (2) In an emergency situation when medical services are not immediately available, administer naloxone to an individual experiencing or believed by the [certificate holder] INDIVIDUAL to be experiencing an opioid overdose.

[13-3108.] 13-3106.

(a) A licensed [physician or an advanced practice nurse] HEALTH CARE PROVIDER with prescribing authority may prescribe and dispense naloxone to [a certificate holder] AN INDIVIDUAL WHO:

(1) IS BELIEVED BY THE LICENSED HEALTH CARE PROVIDER TO BE AT RISK OF EXPERIENCING AN OPIOID OVERDOSE; OR

(2) IS IN A POSITION TO ASSIST AN INDIVIDUAL AT RISK OF EXPERIENCING AN OPIOID OVERDOSE.

[(b) A registered nurse may dispense naloxone to a certificate holder in a local health department if the registered nurse complies with:

(1) The formulary developed and approved under § 3-403(b) of this article; and

(2) The requirements established under § 8-512 of the Health Occupations Article.]

[(c)] (B) (1) A licensed [physician or an advanced practice nurse] HEALTH CARE PROVIDER with prescribing authority may prescribe and dispense naloxone [to a

certificate holder] by issuing a standing order if the licensed [physician or advanced practice nurse] **HEALTH CARE PROVIDER:**

(i) Is employed by the Department or a local health department; or

(ii) [Supervises or conducts an educational training program] **HAS A WRITTEN AGREEMENT WITH AN AUTHORIZED PRIVATE OR PUBLIC ENTITY** under [§ 13-3104(d)] **§ 13-3104** of this subtitle.

(2) A licensed [physician or an advanced practice nurse] **HEALTH CARE PROVIDER** with prescribing authority who issues a standing order under paragraph (1) of this subsection may delegate [to the following persons the authority for] **THE dispensing OF naloxone to [a certificate holder:**

(i) A licensed registered nurse who:

1. Is employed by a local health department; and

2. Completes a training program approved by the

Department; and

(ii) An] **AN** employee or a volunteer of [a] **AN AUTHORIZED** private or public entity [who is authorized to conduct an educational training program] in accordance with **A WRITTEN AGREEMENT UNDER [§ 13-3104(d)] § 13-3104** of this subtitle.

(3) Any licensed health care provider who has dispensing authority also may dispense naloxone to [a certificate holder] **ANY INDIVIDUAL** in accordance with a standing order issued by a licensed [physician] **HEALTH CARE PROVIDER WITH PRESCRIBING AUTHORITY IN ACCORDANCE WITH THIS SUBSECTION.**

[(d) (1) Any licensed health care provider who has prescribing authority may prescribe naloxone to a patient who is believed by the licensed health care provider to be at risk of experiencing an opioid overdose or in a position to assist an individual at risk of experiencing an opioid overdose.

(2) A patient who receives a naloxone prescription under paragraph (1) of this subsection is not subject to the training requirements under § 13-3104(d) of this subtitle.]

[(e) (C) A pharmacist may dispense naloxone in accordance with a therapy management contract under Title 12, Subtitle 6A of the Health Occupations Article.

[13-3109.] **13-3107.**

(a) [(1) A certificate holder] AN INDIVIDUAL who, in accordance with this subtitle, is administering naloxone to an individual experiencing or believed by the [certificate holder] INDIVIDUAL to be experiencing an opioid overdose may not be considered to be practicing:

[(i)] (1) Medicine for the purposes of Title 14 of the Health Occupations Article; or

[(ii)] (2) Registered nursing for the purposes of Title 8 of the Health Occupations Article.

[(2)] (B) An employee or volunteer of a private or public entity who, in accordance with this subtitle, provides naloxone to [a certificate holder] AN INDIVIDUAL WHO HAS RECEIVED EDUCATION AND TRAINING IN OPIOID OVERDOSE RECOGNITION AND RESPONSE in accordance with a standing order may not be considered to be practicing:

~~[(i)]~~ (1) Medicine for the purposes of Title 14 of the Health Occupations Article;

~~[(ii)]~~ (2) Registered nursing for the purposes of Title 8 of the Health Occupations Article; or

~~[(iii)]~~ (3) Pharmacy for the purposes of Title 12 of the Health Occupations Article.

[(b) (1)] (C) A licensed [physician] HEALTH CARE PROVIDER who prescribes or dispenses naloxone [to a certificate holder in a manner consistent with the protocol established by the authorized private or public entity] IN ACCORDANCE WITH THIS SUBTITLE may not be subject to any disciplinary action BY THE APPROPRIATE LICENSING HEALTH OCCUPATIONS BOARD under [Title 14 of] the Health Occupations Article solely for the act of prescribing or dispensing naloxone [to the certificate holder].

[(2) An advanced practice nurse with prescribing authority who prescribes or dispenses naloxone to a certificate holder in a manner consistent with the protocol established by the authorized private or public entity may not be subject to any disciplinary action under Title 8 of the Health Occupations Article solely for the act of prescribing or dispensing naloxone to the certificate holder.]

[13–3110.] 13–3108.

(a) An individual who administers naloxone to an individual who is or in good faith is believed to be experiencing an opioid overdose shall have immunity from liability under §§ 5–603 and 5–629 of the Courts and Judicial Proceedings Article.

(b) A cause of action may not arise against any licensed [physician, advanced practice nurse] HEALTH CARE PROVIDER with prescribing authority[,] or pharmacist for any act or omission when the [physician, advanced practice nurse] HEALTH CARE PROVIDER with prescribing authority[,] or pharmacist in good faith prescribes or dispenses naloxone and the necessary paraphernalia for the administration of naloxone to [a certificate holder or patient under § 13–3108] AN INDIVIDUAL UNDER § 13–3106 of this subtitle.

(c) This subtitle may not be construed to create a duty on any individual to:

(1) Obtain [a certificate] EDUCATION AND TRAINING FROM AN AUTHORIZED PRIVATE OR PUBLIC ENTITY under this subtitle, and an individual may not be held civilly liable for failing to obtain [a certificate] EDUCATION AND TRAINING FROM AN AUTHORIZED PRIVATE OR PUBLIC ENTITY under this subtitle; or

(2) Administer naloxone to an individual who is experiencing or believed by the individual to be experiencing an opioid overdose.

[13–3111.] 13–3109.

A person who dispenses naloxone in accordance with this subtitle is exempt from any laws that require a person to maintain a permit to dispense prescription drugs.

SUBTITLE 34. CO–PRESCRIBING OF OPIOID OVERDOSE REVERSAL DRUGS.

13–3401.

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

(B) “CO–PRESCRIBING” MEANS, WITH RESPECT TO AN OPIOID OVERDOSE REVERSAL DRUG, THE PRACTICE OF PRESCRIBING THE DRUG IN CONJUNCTION WITH AN OPIOID PRESCRIPTION FOR A PATIENT AT AN ELEVATED RISK OF OVERDOSE.

(C) “OPIOID OVERDOSE REVERSAL DRUG” MEANS NALOXONE OR A SIMILARLY ACTING AND EQUALLY SAFE DRUG THAT IS APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF A KNOWN OR SUSPECTED OPIOID OVERDOSE.

13–3402.

(A) THE SECRETARY SHALL ESTABLISH GUIDELINES FOR THE CO–PRESCRIBING OF OPIOID OVERDOSE REVERSAL DRUGS THAT ARE APPLICABLE TO ALL LICENSED HEALTH CARE PROVIDERS IN THE STATE WHO ARE AUTHORIZED

BY LAW TO PRESCRIBE A MONITORED PRESCRIPTION DRUG, AS DEFINED IN § 21-2A-01 OF THIS ARTICLE.

(B) THE GUIDELINES ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION SHALL ADDRESS THE CO-PRESCRIBING OF OPIOID OVERDOSE REVERSAL DRUGS FOR PATIENTS WHO ARE:

- (1) AT AN ELEVATED RISK OF OVERDOSE; AND
- (2) (I) RECEIVING OPIOID THERAPY FOR CHRONIC PAIN;
(II) RECEIVING A PRESCRIPTION FOR BENZODIAZEPINES; OR
(III) BEING TREATED FOR OPIOID USE DISORDERS.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Health – General

16-201.3.

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

(2) “COMMUNITY PROVIDER” MEANS A COMMUNITY-BASED AGENCY OR PROGRAM FUNDED BY THE BEHAVIORAL HEALTH ADMINISTRATION OR THE MEDICAL CARE PROGRAMS ADMINISTRATION TO SERVE INDIVIDUALS WITH MENTAL DISORDERS, SUBSTANCE-RELATED DISORDERS, OR A COMBINATION OF THESE DISORDERS.

~~(3) “CONSUMER PRICE INDEX” MEANS THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS FOR MEDICAL CARE FOR THE WASHINGTON BALTIMORE REGION.~~

~~(4)~~ (3) “RATE” MEANS THE REIMBURSEMENT RATE PAID BY THE DEPARTMENT TO A COMMUNITY PROVIDER FROM THE STATE GENERAL FUND, MARYLAND MEDICAL ASSISTANCE PROGRAM FUNDS, OTHER STATE OR FEDERAL FUNDS, OR A COMBINATION OF THESE FUNDS.

(B) THIS SECTION DOES NOT APPLY TO REIMBURSEMENT FOR ANY SERVICE PROVIDED BY A COMMUNITY PROVIDER WHOSE RATES ARE REGULATED BY THE HEALTH SERVICES COST REVIEW COMMISSION.

(C) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT A SUBSTANTIAL PORTION OF THE RATE ADJUSTMENT PROVIDED UNDER SUBSECTION (D) OF THIS SECTION BE USED TO:

(1) COMPENSATE DIRECT CARE STAFF AND LICENSED CLINICIANS EMPLOYED BY COMMUNITY PROVIDERS; AND

(2) IMPROVE THE QUALITY OF PROGRAMMING PROVIDED BY COMMUNITY PROVIDERS.

~~(C) (D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE DEPARTMENT SHALL ADJUST THE RATE OF REIMBURSEMENT FOR COMMUNITY PROVIDERS EACH FISCAL YEAR BY THE RATE ADJUSTMENT INCLUDED IN THE STATE BUDGET FOR THAT FISCAL YEAR.~~

~~(2) (H) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2019 AND FISCAL YEAR 2020, AND FOR EACH FISCAL YEAR THEREAFTER, SHALL INCLUDE RATE ADJUSTMENTS FOR COMMUNITY PROVIDERS BASED ON A 3.5% RATE INCREASE FOR COMMUNITY PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR THE IMMEDIATELY PRECEDING FISCAL YEAR FOR EACH OF THE FOLLOWING:~~

~~1. (I) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00Q01.10 MEDICAID BEHAVIORAL HEALTH PROVIDER REIMBURSEMENT – MEDICAL CARE PROGRAMS ADMINISTRATION;~~

~~2. (II) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.02 COMMUNITY SERVICES – BEHAVIORAL HEALTH ADMINISTRATION; AND~~

~~3. (III) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.03 COMMUNITY SERVICES FOR MEDICAID STATE FUND RECIPIENTS – BEHAVIORAL HEALTH ADMINISTRATION.~~

(2) IF THE BEHAVIORAL HEALTH ADMINISTRATION DOES NOT IMPLEMENT THE PAYMENT SYSTEM REQUIRED UNDER SUBSECTION (E) OF THIS SECTION FOR USE IN FISCAL YEAR 2021, THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2021 SHALL INCLUDE A 3% RATE INCREASE FOR COMMUNITY PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR THE IMMEDIATELY PRECEDING FISCAL YEAR FOR EACH OF THE FOLLOWING:

(I) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00Q01.01 MEDICAID BEHAVIORAL HEALTH PROVIDER REIMBURSEMENT – MEDICAL CARE PROGRAMS ADMINISTRATION;

(II) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.02 COMMUNITY SERVICES – BEHAVIORAL HEALTH ADMINISTRATION; AND

(III) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.03 COMMUNITY SERVICES FOR MEDICAID STATE FUND RECIPIENTS – BEHAVIORAL HEALTH ADMINISTRATION.

~~(II) A RATE ADJUSTMENT REQUIRED TO BE INCLUDED IN THE GOVERNOR'S PROPOSED BUDGET UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL EQUAL THE AVERAGE ANNUAL PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX FOR THE 3-YEAR PERIOD ENDING IN JULY OF THE IMMEDIATELY PRECEDING FISCAL YEAR.~~

~~(3) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2019, AND FOR EACH FISCAL YEAR THEREAFTER, YEARS 2019 THROUGH 2021 FOR COMMUNITY PROVIDERS SHALL BE PRESENTED IN THE SAME MANNER, INCLUDING OBJECT AND PROGRAM INFORMATION, AS IN THE FISCAL YEAR 2018 BUDGET.~~

(E) (1) THE BEHAVIORAL HEALTH ADMINISTRATION AND THE MEDICAL CARE PROGRAMS ADMINISTRATION JOINTLY SHALL:

(I) CONDUCT AN INDEPENDENT COST-DRIVEN, RATE-SETTING STUDY TO SET COMMUNITY PROVIDER RATES FOR COMMUNITY-BASED BEHAVIORAL HEALTH SERVICES THAT INCLUDES A RATE ANALYSIS AND AN IMPACT STUDY THAT CONSIDERS THE ACTUAL COST OF PROVIDING COMMUNITY-BASED BEHAVIORAL HEALTH SERVICES;

(II) DEVELOP AND IMPLEMENT A PAYMENT SYSTEM INCORPORATING THE FINDINGS OF THE RATE-SETTING STUDY CONDUCTED UNDER ITEM (I) OF THIS PARAGRAPH, INCLUDING PROJECTED COSTS OF IMPLEMENTATION AND RECOMMENDATIONS TO ADDRESS ANY POTENTIAL SHORTFALL IN FUNDING; AND

(III) CONSULT WITH STAKEHOLDERS, INCLUDING COMMUNITY PROVIDERS AND INDIVIDUALS RECEIVING SERVICES, IN CONDUCTING THE RATE-SETTING STUDY AND DEVELOPING THE PAYMENT SYSTEM REQUIRED BY THIS PARAGRAPH.

(2) THE ADMINISTRATION, ON OR BEFORE SEPTEMBER 30, 2019, SHALL COMPLETE THE STUDY REQUIRED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION.

(3) THE ADMINISTRATION SHALL ADOPT REGULATIONS TO IMPLEMENT THE PAYMENT SYSTEM REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION.

~~(D)~~ (F) IF SERVICES OF COMMUNITY PROVIDERS ARE PROVIDED THROUGH MANAGED CARE ORGANIZATIONS, THE MANAGED CARE ORGANIZATIONS SHALL:

(1) PAY THE RATE IN EFFECT DURING THE IMMEDIATELY PRECEDING FISCAL YEAR FOR THE FIRST FISCAL YEAR THE MANAGED CARE ORGANIZATIONS PROVIDE THE SERVICES; AND

(2) ADJUST THE RATE ~~OF REIMBURSEMENT~~ FOR COMMUNITY PROVIDERS EACH FISCAL YEAR BY AT LEAST THE SAME AMOUNT THAT OTHERWISE WOULD HAVE BEEN REQUIRED UNDER ~~SUBSECTION (C)(2)(II) OF~~ SUBSECTION (D) OF THIS SECTION.

(G) INCREASED FUNDING PROVIDED UNDER SUBSECTION (D) OF THIS SECTION MAY BE USED ONLY TO INCREASE THE RATES PAID TO:

(1) COMMUNITY PROVIDERS ACCREDITED BY A STATE-APPROVED ACCREDITING BODY AND LICENSED BY THE STATE; AND

(2) HEALTH CARE PROVIDERS WHO ARE ACTING WITHIN THE SCOPES OF PRACTICE OF THE HEALTH CARE PROVIDERS' LICENSES OR CERTIFICATES AS SPECIFIED UNDER THE HEALTH OCCUPATIONS ARTICLE.

~~(E)~~ (H) (1) ON OR BEFORE DECEMBER 1, 2018, THE DEPARTMENT SHALL SUBMIT AN INTERIM REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE DELIVERY SYSTEM THROUGH WHICH COMMUNITY-BASED BEHAVIORAL HEALTH SERVICES SHOULD BE PROVIDED AND ANY PRELIMINARY RECOMMENDATIONS REGARDING THE PAYMENT SYSTEM REQUIRED UNDER THIS SECTION.

(2) ON OR BEFORE DECEMBER 1, 2019, AND ON OR BEFORE DECEMBER 1 EACH YEAR THEREAFTER, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE IMPACT OF THE ~~REIMBURSEMENT RATE ADJUSTMENT~~ ADJUSTMENTS AND THE PAYMENT SYSTEM

REQUIRED UNDER THIS SECTION ON COMMUNITY PROVIDERS, INCLUDING THE IMPACT ON:

(I) THE WAGES AND SALARIES PAID AND THE BENEFITS PROVIDED TO DIRECT CARE STAFF AND LICENSED CLINICIANS EMPLOYED BY COMMUNITY PROVIDERS;

(II) THE TENURE AND TURNOVER OF DIRECT CARE STAFF AND LICENSED CLINICIANS EMPLOYED BY COMMUNITY PROVIDERS; AND

(III) THE ABILITY OF COMMUNITY PROVIDERS TO RECRUIT QUALIFIED DIRECT CARE STAFF AND LICENSED CLINICIANS.

~~(2)~~ (3) THE DEPARTMENT MAY REQUIRE A COMMUNITY PROVIDER TO SUBMIT, IN THE FORM AND MANNER REQUIRED BY THE DEPARTMENT, INFORMATION THAT THE DEPARTMENT CONSIDERS NECESSARY FOR COMPLETION OF THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Health – General

19-310.3.

(A) ON OR BEFORE JANUARY 1, 2018, EACH HOSPITAL SHALL HAVE A PROTOCOL FOR DISCHARGING A PATIENT WHO WAS TREATED BY THE HOSPITAL FOR A DRUG OVERDOSE OR WAS IDENTIFIED AS HAVING A SUBSTANCE USE DISORDER.

(B) THE PROTOCOL MAY INCLUDE:

(1) COORDINATION WITH PEER RECOVERY COUNSELORS WHO CAN CONDUCT A SCREENING, A BRIEF INTERVENTION, AND REFERRAL TO TREATMENT AND CONNECTION OF THE PATIENT WITH COMMUNITY SERVICES; AND

(2) PRESCRIBING NALOXONE FOR THE PATIENT.

(C) (1) ~~A BEGINNING IN 2018, A HOSPITAL SHALL INCLUDE IN ITS ANNUAL COMMUNITY BENEFIT REPORT TO THE HEALTH SERVICES COST REVIEW COMMISSION UNDER § 19-303 OF THIS SUBTITLE THE SERVICES PROVIDED UNDER~~ SUBMIT TO THE MARYLAND HOSPITAL ASSOCIATION THE HOSPITAL'S PROTOCOL FOR DISCHARGING A PATIENT WHO WAS TREATED BY THE HOSPITAL FOR A DRUG OVERDOSE OR WAS IDENTIFIED AS HAVING A SUBSTANCE USE DISORDER.

(2) ON OR BEFORE DECEMBER 1, 2018, THE MARYLAND HOSPITAL ASSOCIATION SHALL SUBMIT A REPORT TO THE DEPARTMENT AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT COMMITTEE ON BEHAVIORAL HEALTH AND SUBSTANCE USE DISORDERS ON EACH HOSPITAL'S DISCHARGE PROTOCOL AS SUBMITTED TO THE MARYLAND HOSPITAL ASSOCIATION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(D) (1) THE MARYLAND HOSPITAL ASSOCIATION SHALL CONDUCT A STUDY THAT:

(I) IDENTIFIES OPPORTUNITIES TO SUPPORT A COMPREHENSIVE TREATMENT CONTINUUM FOR INDIVIDUALS WITH SUBSTANCE USE DISORDERS IN HOSPITALS IN THE STATE, INCLUDING WITHDRAWAL MANAGEMENT; AND

(II) INCLUDES AN ASSESSMENT OF THE BARRIERS TO PROVIDING AN EFFECTIVE AND EFFICIENT CONTINUUM OF CARE.

(2) ON OR BEFORE DECEMBER 1, 2017, THE MARYLAND HOSPITAL ASSOCIATION SHALL SUBMIT A REPORT TO THE DEPARTMENT AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT COMMITTEE ON BEHAVIORAL HEALTH AND SUBSTANCE USE DISORDERS ON THE FINDINGS AND RECOMMENDATIONS FROM THE STUDY REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

~~Article—Insurance~~

~~15-802.~~

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

~~(2) "Alcohol [abuse] MISUSE" has the meaning stated in § 8-101 of the Health—General Article.~~

~~(3) "Drug [abuse] MISUSE" has the meaning stated in § 8-101 of the Health—General Article.~~

~~(4) "Grandfathered health plan coverage" has the meaning stated in 45 C.F.R. § 147.140.~~

~~(5) "Health benefit plan":~~

~~(i) for a group or blanket plan, has the meaning stated in § 15-1401 of this title; and~~

~~(ii) for an individual plan, has the meaning stated in § 15-1301 of this title.~~

~~(6) “Managed care system” means a system of cost containment methods that a carrier uses to review and preauthorize a treatment plan developed by a health care provider for a covered individual in order to control utilization, quality, and claims.~~

~~(7) “Partial hospitalization” means the provision of medically directed intensive or intermediate short-term treatment:~~

~~(i) to an insured, subscriber, or member;~~

~~(ii) in a licensed or certified facility or program;~~

~~(iii) for mental illness, emotional disorders, drug [abuse] MISUSE, or alcohol [abuse] MISUSE; and~~

~~(iv) for a period of less than 24 hours but more than 4 hours in a day.~~

~~(8) “Small employer” has the meaning stated in § 31-101 of this article.~~

~~(b) With the exception of small employer grandfathered health plan coverage, this section applies to each individual, group, and blanket health benefit plan that is delivered or issued for delivery in the State by an insurer, a nonprofit health service plan, or a health maintenance organization.~~

~~(c) A health benefit plan subject to this section shall provide at least the following benefits for the diagnosis and treatment of a mental illness, emotional disorder, drug [abuse] USE disorder, or alcohol [abuse] USE disorder:~~

~~(1) inpatient benefits for services provided in a licensed or certified facility, including hospital inpatient AND RESIDENTIAL TREATMENT CENTER benefits;~~

~~(2) partial hospitalization benefits; and~~

~~(3) outpatient AND INTENSIVE OUTPATIENT benefits, including all office visits, DIAGNOSTIC EVALUATION, OPIOID TREATMENT SERVICES, MEDICATION EVALUATION AND MANAGEMENT, and psychological and neuropsychological testing for diagnostic purposes.~~

~~(d) (1) The benefits under this section are required only for expenses arising from the treatment of mental illnesses, emotional disorders, drug [abuse] MISUSE, or alcohol [abuse] MISUSE if, in the professional judgment of health care providers:~~

~~(i) the mental illness, emotional disorder, drug [abuse] MISUSE, or alcohol [abuse] MISUSE is treatable; and~~

~~(ii) the treatment is medically necessary.~~

~~(2) The benefits required under this section:~~

~~(i) shall be provided as one set of benefits covering mental illnesses, emotional disorders, drug [abuse] MISUSE, and alcohol [abuse] MISUSE;~~

~~(ii) shall comply with 45 C.F.R. § 146.136(a) through (d) AND 29 C.F.R. § 2590.712(A) THROUGH (C);~~

~~(iii) subject to paragraph (3) of this subsection, may be delivered under a managed care system; and~~

~~(iv) for partial hospitalization under subsection (c)(2) of this section, may not be less than 60 days.~~

~~(3) The benefits required under this section may be delivered under a managed care system only if the benefits for physical illnesses covered under the health benefit plan are delivered under a managed care system.~~

~~(4) The processes, strategies, evidentiary standards, or other factors used to manage the benefits required under this section must be comparable as written and in operation to, and applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used to manage the benefits for physical illnesses covered under the health benefit plan.~~

~~(5) An insurer, nonprofit health service plan, or health maintenance organization may not charge a copayment for [methadone maintenance] AN OPIOID treatment SERVICE that is greater than 50% of the daily cost for [methadone maintenance] THE OPIOID treatment SERVICE.~~

~~(e) An entity that issues or delivers a health benefit plan subject to this section shall provide on its Web site and annually in print to its insureds or members:~~

~~(1) notice about the benefits required under this section and the federal Mental Health Parity and Addiction Equity Act; and~~

~~(2) notice that the insured or member may contact the Administration for further information about the benefits.~~

~~(f) An entity that issues or delivers a health benefit plan subject to this section shall:~~

~~(1) post a release of information authorization form on its Web site; and~~

~~(2) provide a release of information authorization form by standard mail within 10 business days after a request for the form is received.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2017, the State Department of Education, in consultation with stakeholders, shall:~~

~~(1) develop a plan to establish regional recovery schools that enable students recovering from a substance use disorder to learn in a substance free and supportive environment; and~~

~~(2) report its findings and recommendations to the General Assembly in accordance with § 2-1246 of the State Government Article.~~

SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Insurance

15-850.

(A) IN THIS SECTION, “OPIOID ANTAGONIST” MEANS:

(1) NALOXONE HYDROCHLORIDE; OR

(2) ANY OTHER SIMILARLY ACTING AND EQUALLY SAFE DRUG APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF A DRUG OVERDOSE.

(B) (1) THIS SECTION APPLIES TO:

(I) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT PROVIDE COVERAGE FOR PRESCRIPTION DRUGS UNDER INDIVIDUAL, GROUP, OR BLANKET HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND

(II) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE COVERAGE FOR PRESCRIPTION DRUGS UNDER INDIVIDUAL OR GROUP CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.

(2) AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION THAT PROVIDES COVERAGE FOR PRESCRIPTION

DRUGS THROUGH A PHARMACY BENEFITS MANAGER IS SUBJECT TO THE REQUIREMENTS OF THIS SECTION.

(C) AN ENTITY SUBJECT TO THIS SECTION THAT INCLUDES ON ITS FORMULARY AN OPIOID ANTAGONIST MAY APPLY A PRIOR AUTHORIZATION REQUIREMENT FOR AN OPIOID ANTAGONIST ONLY IF THE ENTITY PROVIDES COVERAGE FOR AT LEAST ONE FORMULATION OF THE OPIOID ANTAGONIST WITHOUT A PRIOR AUTHORIZATION REQUIREMENT.

SECTION 5. AND BE IT FURTHER ENACTED, That, on or before December 1, 2019, the Department of Health and Mental Hygiene shall submit a report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly that:

(1) details outcome measures that reasonably can be collected for each treatment modality offered by community providers for which the rate of reimbursement would be adjusted under § 16–201.3 of the Health – General Article, as enacted by Section 2 of this Act; and

(2) includes recommendations regarding how reimbursement rates can be tied to outcomes, such as:

(i) differential payment for implementation of, and adherence to, evidence-based and promising practices;

(ii) differential payment based on outcomes;

(iii) payments made to align incentives with the goals of the State’s all-payer model contract; and

(iv) any other financial payment system linking reimbursement to outcomes.

SECTION 6. AND BE IT FURTHER ENACTED, That the Secretary of Health and Mental Hygiene shall establish the guidelines required under § 13–3402(a) of the Health – General Article, as enacted by Section 1 of this Act, on or before December 1, 2017.

SECTION ~~3~~ 7. AND BE IT FURTHER ENACTED, That, ~~on or before December 1, 2017, the:~~

(a) The Department of Public Safety and Correctional Services and each local jail and detention center, in collaboration with the Department of Health and Mental Hygiene and stakeholders, shall:

~~(1)~~ develop a plan to increase the provision of substance use disorder treatment, including medication–assisted treatment, in State prisons and each local jail, ~~and~~ jail and detention center.

(b) On or before November 1, 2017, each local jail and detention center shall submit the plan required under subsection (a) of this section to the Department of Public Safety and Correctional Services.

~~(2)~~ (c) On or before December 1, 2017, the Department of Public Safety and Correctional Services shall submit ~~the plan~~ a report that includes the plans required under subsection (a) of this section and any recommendations to the General Assembly in accordance with § 2–1246 of the State Government Article.

SECTION 8. AND BE IT FURTHER ENACTED, That, on or before January 1, 2018, the Department of Health and Mental Hygiene, in consultation with the Governor’s Office of Crime Control and Prevention and interested stakeholders, shall report to the Senate Finance Committee, the Senate Judicial Proceedings Committee, the House Health and Government Operations Committee, and the House Judiciary Committee on new, innovative, evidence–based programs and methods to better manage the State’s substance abuse and opioid crisis.

SECTION 9. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after January 1, 2018.

SECTION ~~4~~ 10. AND BE IT FURTHER ENACTED, That Sections 1, 2, 3, 5, 6, 7, and 8 of this Act shall take effect June 1, 2017.

SECTION 11. AND BE IT FURTHER ENACTED, That:

(1) it is the intent of the General Assembly that the Department of Health and Mental Hygiene use the \$10,000,000 in general funds included in Supplemental Budget No. 2 in the Opioid Crisis Fund to prioritize the funding of services established under this Act; and

(2) on or before January 1, 2018, the Department of Health and Mental Hygiene, in accordance with § 2–1246 of the State Government Article, shall report to the Senate Finance Committee, the Senate Education, Health, and Environmental Affairs Committee, the Senate Budget and Taxation Committee, the House Health and Government Operations Committee, and the House Appropriations Committee on how funds were used and the criteria for the use of funds.

SECTION 12. AND BE IT FURTHER ENACTED, That Sections 4 and 9 of this Act shall take effect January 1, 2018.

SECTION 13. 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 ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly and, except as provided in Section 12 of this Act, shall take effect from the date it is enacted.

Approved by the Governor, May 25, 2017.

Chapter 572

(Senate Bill 967)

AN ACT concerning

Heroin and Opioid Prevention Effort (HOPE) and Treatment Act of 2017

FOR the purpose of requiring ~~certain institutions of higher education to offer credits in substance use disorders, effective treatment for substance use disorders, and pain management~~ the State Court Administrator of the Administrative Office of the Courts to assess certain drug court programs to make certain determinations; declaring a certain intent of the General Assembly relating to certain funding for certain drug court programs; authorizing the Department of Health and Mental Hygiene to deny, suspend, revoke, or refuse to renew a certain registration if a certain applicant or a certain registrant has surrendered a certain federal registration or fails to meet certain requirements to obtain a certain registration; authorizing the Department of Health and Mental Hygiene to limit the scope of a certain initial registration or renewal of a certain registration; requiring a drug overdose fatality review team to review information on nonfatal overdoses at a certain meeting; requiring a certain local drug overdose fatality review team, at the request of the chair of the local team, to be provided access to certain information and records related to an individual whose near fatality is being reviewed by the local team; prohibiting the disclosure of identifying information of or of involvement of an agency with an individual who has experienced an overdose or of certain individuals related to an individual who has experienced an overdose during a public meeting of a certain local team; requiring the Behavioral Health Administration to establish ~~at least a certain number of~~ *certain* crisis treatment centers that provide individuals who are in a mental health or substance use disorder crisis with access to certain clinical staff; ~~requiring that at least one crisis treatment center be located in each geographical region of the State; requiring that at least one crisis treatment center be established on or before a certain date; requiring the Administration to establish the crisis treatment centers in a manner that is consistent with a certain plan; requiring the Administration to submit a certain report to a certain committee beginning on or before a certain date, and on or before a certain date each year thereafter, until the Administration establishes a certain number of certain crisis treatment centers; requiring the Department of Health and Mental Hygiene to establish and operate a certain Health Crisis Hotline using certain resources and technology; requiring that the Health Crisis Hotline assist callers in identifying~~

~~certain services for a certain purpose~~ a certain manner; requiring the Department of Health and Mental Hygiene to collect and maintain certain information to provide to callers on the Health Crisis Hotline; requiring the Department of Health and Mental Hygiene to provide certain training for certain staff who assist callers on the Health Crisis Hotline; requiring the Department of Health and Mental Hygiene, to the extent practicable, to ensure that information provided to callers on the Health Crisis Hotline is up to date and accurate; requiring the Department of Health and Mental Hygiene to disseminate certain information in a certain manner; requiring the Department of Health and Mental Hygiene to identify certain information about opioid use disorder; requiring the Department of Health and Mental Hygiene to provide certain information to certain health care facilities and certain health care providers; requiring certain health care facilities and certain health care providers to make certain information available to certain patients; requiring certain health care facilities and health care systems to make available to patients the services of at least a certain number of health care providers who are trained and authorized under federal law to prescribe buprenorphine under federal law for every certain number of patients opioid addiction treatment medications; requiring authorizing the health care facilities and health care systems to use a certain average number of certain patients for the purpose of calculating the number of health care providers required under directly employ, contract with, or refer a patient to a certain provider or to deliver certain services in a certain manner to comply with a certain provision of this Act; requiring, except under certain circumstances, the Department of Health and Mental Hygiene to adjust the rate of reimbursement for certain community providers each fiscal year by the rate adjustment included in a certain State budget; providing that the Overdose Response Program is administered by the Department of Health and Mental Hygiene for a certain purpose; repealing certain provisions of law relating to the qualifications for, application for, and issuance of a certificate for completion of a certain educational training program relating to an opioid overdose; authorizing the Department of Health and Mental Hygiene to authorize certain entities to conduct certain education and training on opioid overdose recognition and response; providing that an individual is not required to obtain certain training and education in order for a pharmacist to dispense naloxone to the individual; requiring an authorized private or public entity to enter into a certain written agreement with a certain licensed health care provider for a certain purpose; authorizing a certain individual to receive from a certain health care provider a prescription for naloxone and certain related supplies; authorizing certain individuals to possess and administer naloxone under certain circumstances; authorizing a licensed health care provider with prescribing authority to prescribe and dispense naloxone to a certain individual; authorizing a licensed health care provider with prescribing authority to prescribe and dispense naloxone by issuing a standing order under certain circumstances; authorizing a certain licensed health care provider who issues a certain standing order to delegate the dispensing of naloxone to a certain employee or a certain volunteer under certain circumstances; prohibiting certain individuals who administer naloxone to a certain individual from being considered to be practicing medicine or registered nursing; prohibiting an employee or a volunteer of a certain entity who provides naloxone to a certain individual from being considered to be practicing medicine, registered nursing, or pharmacy; prohibiting a certain

health care provider who prescribes or dispenses naloxone in a certain manner from being subject to certain disciplinary action; prohibiting a certain cause of action from arising against a certain health care provider or pharmacist under certain circumstances; providing for the construction of certain provisions of law; requiring the Secretary of Health and Mental Hygiene to establish certain guidelines for the co-prescribing of opioid overdose reversal drugs that are applicable to all licensed health care providers in the State who are authorized to prescribe monitored prescription drugs; requiring the guidelines to address the co-prescribing of opioid overdose reversal drugs for certain patients; requiring the Secretary to establish the guidelines on or before a certain date; requiring that the Governor's proposed budget for a certain fiscal year, years and for each fiscal year thereafter, include certain rate adjustments increases for certain community providers based on over the funding provided in certain legislative appropriations; requiring that a certain rate of adjustment equal the average annual percentage change in a certain Consumer Price Index for a certain period; requiring the Behavioral Health Administration and the Medical Care Programs Administration jointly to conduct a certain study, develop and implement a certain payment system, and consult with stakeholders in conducting a certain study and developing a certain payment system; requiring the Behavioral Health Administration to complete a certain study on or before a certain date; requiring the Behavioral Health Administration to adopt certain regulations; requiring, under certain circumstances, managed care organizations to pay a certain rate for a certain time period for services provided by community providers and to adjust the rate of reimbursement for community providers each fiscal year by at least a certain amount; requiring that increased funding provided under certain provisions of this Act may be used only to increase the rates being paid to certain community providers and certain health care providers; requiring the Department of Health and Mental Hygiene to submit a certain report on the impact of certain rate adjustments and a certain payment system to the Governor and the General Assembly on or before a certain date each year, beginning on or before a certain date; requiring, on or before a certain date, the Department of Health and Mental Hygiene to submit a certain interim report to the Governor and the General Assembly; authorizing the Department of Health and Mental Hygiene to require certain community providers to submit certain information to the Department of Health and Mental Hygiene in the form and manner required by the Department of Health and Mental Hygiene; stating the intent of the General Assembly; requiring, on or before a certain date, each hospital to have a certain protocol for discharging a patient who was treated by the hospital for a drug overdose or was identified as having a substance use disorder; requiring, beginning in a certain year, a hospital to include certain services in its annual community benefit report to the Health Services Cost Review Commission submit the hospital's protocol to the Maryland Hospital Association; requiring the Maryland Hospital Association to conduct a certain study and submit certain reports to the Department of Health and Mental Hygiene and certain committees of the General Assembly on or before certain dates; altering certain coverage requirements applicable to certain health benefit plans for the diagnosis and treatment of mental illness and emotional, drug use, and alcohol use disorders; altering certain definitions; defining certain terms; providing for the application of certain provisions of this Act; prohibiting certain insurers, nonprofit

~~health service plans, and health maintenance organizations from applying a preauthorization requirement for certain drug products under certain circumstances; authorizing certain insurers, nonprofit health service plans, and health maintenance organizations to apply a prior authorization requirement for opioid antagonist drug products only under certain circumstances; requiring the State Department of Education, in collaboration with stakeholders and on or before a certain date, to develop a plan to establish certain regional recovery schools and report its findings and recommendations to the General Assembly; requiring the Department of Health and Mental Hygiene to submit a report that details certain outcome measures and includes certain recommendations to the Governor and the General Assembly on or before a certain date; requiring the Department of Public Safety and Correctional Services and each local jail and detention center, in collaboration with the Department of Health and Mental Hygiene and stakeholders, on or before a certain date, to develop a certain plan and submit the plan and any recommendations to the General Assembly; requiring, on or before a certain date, certain jails and detention centers to submit a certain plan to the Department of Public Safety and Correctional Services; requiring, on or before a certain date, the Department of Public Safety and Correctional Services to submit a certain report to the General Assembly; providing for the termination of certain provisions of this Act under certain circumstances; requiring, on or before certain dates, the Department of Health and Mental Hygiene to submit certain reports to certain committees of the General Assembly; altering certain definitions; defining certain terms; making certain conforming changes; providing for a delayed effective date for certain provisions of this Act; making this Act an emergency measure; and generally relating to the treatment of and education regarding mental health and substance use disorders.~~

~~BY adding to~~

~~Article – Education~~

~~Section 15–121~~

~~Annotated Code of Maryland~~

~~(2014 Replacement Volume and 2016 Supplement)~~

~~BY repealing and reenacting, without amendments,~~

~~Article – Courts and Judicial Proceedings~~

~~Section 13–101(a)~~

~~Annotated Code of Maryland~~

~~(2013 Replacement Volume and 2016 Supplement)~~

~~BY adding to~~

~~Article – Courts and Judicial Proceedings~~

~~Section 13–101.1~~

~~Annotated Code of Maryland~~

~~(2013 Replacement Volume and 2016 Supplement)~~

~~BY repealing and reenacting, without amendments,~~

~~Article – Criminal Law~~

Section 5-301(a)(1)
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 5-307
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 5-901
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 5-903 through 5-905, 13-3101 through 13-3103, and 13-3107 through
13-3111
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY repealing
Article – Health – General
Section 13-3104 through 13-3106
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY adding to
Article – Health – General
Section 7.5-207; 7.5-501 to be under the new subtitle “Subtitle 5. Health Crisis
Hotline”; 8-407; 8-1101 to be under the new subtitle “Subtitle 11. Availability
of ~~Buprenorphine~~ Opioid Addiction Treatment Prescribers”; 13-3104;
13-3401 and 13-3402 to be under the new subtitle “Subtitle 34.
Co-Prescribing of Opioid Overdose Reversal Drugs”; 16-201.3 and 19-310.3
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Insurance~~
~~Section 15-802~~
~~Annotated Code of Maryland~~
~~(2011 Replacement Volume and 2016 Supplement)~~

BY adding to
Article – Insurance

Section 15-850 and 15-851
Annotated Code of Maryland
(2011 Replacement Volume and 2016 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

13-101.

(a) There is an Administrative Office of the Courts, headed by the State Court Administrator. The Administrator is appointed by and holds office during the pleasure of the Chief Judge of the Court of Appeals of Maryland. The Administrator shall have the compensation provided in the State budget. The Administrative Office of the Courts shall have a seal in the form the Chief Judge of the Court of Appeals approves. The courts of the State shall take judicial notice of the seal.

13-101.1.

(A) THE STATE COURT ADMINISTRATOR SHALL ASSESS DRUG COURT PROGRAMS IN CIRCUIT COURTS, INCLUDING JUVENILE COURTS, AND THE DISTRICT COURT TO DETERMINE HOW TO INCREASE THESE PROGRAMS IN A MANNER SUFFICIENT TO MEET EACH COUNTY’S NEEDS.

(B) (1) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE ADMINISTRATIVE OFFICE OF THE COURTS REQUEST AN APPROPRIATION OF \$2,000,000 OF ADDITIONAL FUNDING IN THE STATE BUDGET FOR FISCAL YEAR 2019 FOR THE PURPOSE OF AWARDING GRANTS TO EXPAND THE SCOPE OF DRUG COURT PROGRAMS DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION.

(2) THE STATE COURT ADMINISTRATOR SHALL DISBURSE THE GRANTS AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION BASED ON THE POPULATION OF THE COUNTY, TO CIRCUIT COURTS, INCLUDING JUVENILE COURTS, AND THE DISTRICT COURT.

Article – Education

15-121.

(A) THIS SECTION APPLIES ONLY TO AN INSTITUTION OF HIGHER EDUCATION THAT AWARDS A DEGREE THAT AN INDIVIDUAL MAY USE TO MEET THE EDUCATIONAL REQUIREMENTS FOR LICENSURE UNDER THE HEALTH OCCUPATIONS ARTICLE AS A PHYSICIAN, REGISTERED NURSE, DENTIST, PHYSICIAN ASSISTANT, OR PODIATRIST.

~~(B) AN INSTITUTION OF HIGHER EDUCATION SUBJECT TO THIS SECTION SHALL OFFER CREDITS IN SUBSTANCE USE DISORDERS, EFFECTIVE TREATMENT FOR SUBSTANCE USE DISORDERS, AND PAIN MANAGEMENT.~~

Article – Criminal Law

5-301.

(a) (1) Except as otherwise provided in this section, a person shall be registered by the Department before the person manufactures, distributes, or dispenses a controlled dangerous substance in the State.

5-307.

(a) Subject to the notice and hearing provisions of § 5-308 of this subtitle, the Department may deny a registration to any applicant, suspend or revoke a registration, or refuse to renew a registration if the Department finds that the applicant or registrant:

(1) has materially falsified an application filed in accordance with or required by this title;

(2) has been convicted of a crime under federal law or the law of any state relating to a controlled dangerous substance;

(3) has SURRENDERED FEDERAL REGISTRATION OR had federal registration suspended or revoked and may no longer manufacture, distribute, or dispense a controlled dangerous substance; [or]

(4) has violated this title; OR

(5) HAS FAILED TO MEET THE REQUIREMENTS FOR REGISTRATION UNDER THIS TITLE.

(b) The Department may limit revocation or suspension of a registration to the particular controlled dangerous substance for which grounds for revocation or suspension exist.

(C) THE DEPARTMENT MAY LIMIT AN INITIAL REGISTRATION OR THE RENEWAL OF A REGISTRATION TO THE PARTICULAR CONTROLLED DANGEROUS SUBSTANCE FOR WHICH GROUNDS FOR DENIAL OR REFUSAL TO ISSUE OR RENEW EXIST.

Article – Health – General

5-901.

In this subtitle, “local team” means the multidisciplinary and multiagency drug overdose fatality review team established for a county.

5–903.

(a) The purpose of each local team is to prevent drug overdose deaths by:

(1) Promoting cooperation and coordination among agencies involved in investigations of drug overdose deaths or in providing services to surviving family members;

(2) Developing an understanding of the causes and incidence of drug overdose deaths in the county;

(3) Developing plans for and recommending changes within the agencies represented on the local team to prevent drug overdose deaths; and

(4) Advising the Department on changes to law, policy, or practice, including the use of devices that are programmed to dispense medications on a schedule or similar technology, to prevent drug overdose deaths.

(b) To achieve its purpose, each local team shall:

(1) In consultation with the Department, establish and implement a protocol for the local team;

(2) Set as its goal the investigation of drug overdose deaths in accordance with national standards;

(3) Meet at least quarterly to review the status of drug overdose death cases **AND INFORMATION ON NONFATAL OVERDOSES**, recommend actions to improve coordination of services and investigations among member agencies, and recommend actions within the member agencies to prevent drug overdose deaths;

(4) Collect and maintain data as required by the Department; and

(5) Provide requested reports to the Department, including:

(i) Discussion of individual cases;

(ii) Steps taken to improve coordination of services and investigations;

(iii) Steps taken to implement changes recommended by the local team within member agencies; and

(iv) Recommendations on needed changes to State and local laws, policies, or practices to prevent drug overdose deaths.

(c) In addition to the duties specified in subsection (b) of this section, a local team may investigate the information and records of an individual convicted of a crime or adjudicated as having committed a delinquent act that caused a death or near fatality described in § 5-904 of this subtitle.

5-904.

(a) On request of the chair of a local team and as necessary to carry out the purpose and duties of the local team, the local team shall be immediately provided with:

(1) Access to information and records, including information about physical health, mental health, and treatment for substance abuse, maintained by a health care provider for:

(i) An individual whose death OR NEAR FATALITY is being reviewed by the local team; or

(ii) An individual convicted of a crime or adjudicated as having committed a delinquent act that caused a death or near fatality; and

(2) Access to information and records maintained by a State or local government agency, including death certificates, law enforcement investigative information, medical examiner investigative information, parole and probation information and records, and information and records of a social services agency, if the agency provided services to:

(i) An individual whose death OR NEAR FATALITY is being reviewed by the local team;

(ii) An individual convicted of a crime or adjudicated as having committed a delinquent act that caused a death or near fatality; or

(iii) The family of an individual described in item (i) or (ii) of this item.

(b) Substance abuse treatment records requested or provided under this section are subject to any additional limitations on disclosure or redisclosure of a medical record developed in connection with the provision of substance abuse treatment services under State law or 42 U.S.C. § 290DD-2 and 42 C.F.R. Part 2.

5-905.

(a) Meetings of local teams shall be closed to the public and are not subject to Title 3 of the General Provisions Article when the local teams are discussing individual cases of OVERDOSE OR drug overdose deaths.

(b) Except as provided in subsection (c) of this section, meetings of local teams shall be open to the public and are subject to Title 3 of the General Provisions Article when the local team is not discussing individual cases of OVERDOSE OR drug overdose deaths.

(c) (1) During a public meeting, information may not be disclosed that identifies:

(i) A deceased individual;

(II) AN INDIVIDUAL WHO HAS EXPERIENCED AN OVERDOSE;

[(ii)] (III) A family member, guardian, or caretaker of a deceased individual OR OF AN INDIVIDUAL WHO HAS EXPERIENCED AN OVERDOSE; or

[(iii)] (IV) An individual convicted of a crime or adjudicated as having committed a delinquent act that caused a death or near fatality.

(2) During a public meeting, information may not be disclosed about the involvement of any agency with:

(i) A deceased individual;

(II) AN INDIVIDUAL WHO HAS EXPERIENCED AN OVERDOSE;

[(ii)] (III) A family member, guardian, or caretaker of a deceased individual OR OF AN INDIVIDUAL WHO HAS EXPERIENCED AN OVERDOSE; or

[(iii)] (IV) An individual convicted of a crime or adjudicated as having committed a delinquent act that caused a death or near fatality.

(d) This section does not prohibit a local team from requesting the attendance at a team meeting of a person who has information relevant to the team's exercise of its purpose and duties.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500 or imprisonment not exceeding 90 days or both.

7.5-207.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE ADMINISTRATION SHALL ESTABLISH ~~AT LEAST 10~~ CRISIS TREATMENT CENTERS THAT PROVIDE

INDIVIDUALS WHO ARE IN A MENTAL HEALTH OR SUBSTANCE USE DISORDER CRISIS WITH ACCESS TO CLINICAL STAFF WHO:

(1) PERFORM ASSESSMENTS AND LEVEL OF CARE DETERMINATIONS 24 HOURS A DAY AND 7 DAYS A WEEK; AND

(2) CONNECT THE INDIVIDUALS TO CARE IMMEDIATELY.

(B) AT LEAST ONE CRISIS TREATMENT CENTER SHALL BE ~~LOCATED;~~

~~(1) LOCATED IN EACH GEOGRAPHICAL REGION OF THE STATE; AND~~

~~(2) ESTABLISHED~~ ESTABLISHED ON OR BEFORE JUNE 1, 2018.

(C) THE ADMINISTRATION SHALL ESTABLISH THE CRISIS TREATMENT CENTERS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION IN A MANNER THAT IS CONSISTENT WITH THE STRATEGIC PLAN DEVELOPED BY THE BEHAVIORAL HEALTH ADVISORY COUNCIL, AS REQUIRED BY CHAPTERS 405 AND 406 OF THE ACTS OF THE GENERAL ASSEMBLY OF 2016.

(D) ON OR BEFORE SEPTEMBER 1, 2017, AND ON OR BEFORE SEPTEMBER 1 EACH YEAR THEREAFTER UNTIL THE ADMINISTRATION ESTABLISHES THE ~~MINIMUM NUMBER OF~~ CRISIS TREATMENT CENTERS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, THE ADMINISTRATION SHALL SUBMIT, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, A REPORT ON THE STATUS OF THE ESTABLISHMENT OF CRISIS TREATMENT CENTERS UNDER THIS SECTION TO THE JOINT COMMITTEE ON BEHAVIORAL HEALTH AND OPIOID USE DISORDERS.

SUBTITLE 5. HEALTH CRISIS HOTLINE.

7.5-501.

(A) THE DEPARTMENT SHALL ~~USE EXISTING RESOURCES AND DEPARTMENT TECHNOLOGY TO~~ ESTABLISH AND OPERATE A TOLL-FREE HEALTH CRISIS HOTLINE 24 HOURS A DAY AND 7 DAYS A WEEK.

(B) THE HEALTH CRISIS HOTLINE SHALL ASSIST CALLERS ~~IN IDENTIFYING APPROPRIATE SERVICES TO ADDRESS SUBSTANCE USE AND MENTAL HEALTH DISORDERS~~ BY:

(1) CONDUCTING A COMPREHENSIVE EVIDENCE-BASED SCREENING FOR MENTAL HEALTH AND SUBSTANCE USE NEEDS, COGNITIVE OR INTELLECTUAL FUNCTIONING, INFECTIOUS DISEASE, AND ACUTE SOMATIC CONDITIONS;

(2) CONDUCTING A RISK ASSESSMENT FOR CALLERS EXPERIENCING AN OVERDOSE OR POTENTIALLY COMMITTING SUICIDE OR A HOMICIDE;

(3) CONNECTING CALLERS TO AN EMERGENCY RESPONSE SYSTEM WHEN INDICATED;

(4) REFERRING CALLERS FOR ONGOING CARE; AND

(5) FOLLOWING UP WITH CALLERS TO DETERMINE IF THE NEEDS OF CALLERS WERE MET.

(c) THE DEPARTMENT SHALL COLLECT AND MAINTAIN THE FOLLOWING INFORMATION TO PROVIDE TO CALLERS ON THE HEALTH CRISIS HOTLINE:

(1) THE NAMES, TELEPHONE NUMBERS, AND ADDRESSES OF:

(i) RESIDENTIAL, INPATIENT, AND OUTPATIENT SUBSTANCE USE DISORDER AND MENTAL HEALTH PROGRAMS, INCLUDING INFORMATION ON PRIVATE PROGRAMS AND PROGRAMS ADMINISTERED BY LOCAL HEALTH DEPARTMENTS AND OTHER PUBLIC ENTITIES; AND

(ii) HOSPITALS, INCLUDING HOSPITAL EMERGENCY ROOMS, AND OTHER FACILITIES THAT PROVIDE DETOXIFICATION SERVICES;

(2) THE LEVELS OF CARE PROVIDED BY THE PROGRAMS, HOSPITALS, AND FACILITIES IDENTIFIED UNDER ITEM (1) OF THIS SUBSECTION; AND

(3) WHETHER THE PROGRAMS, HOSPITALS, AND FACILITIES IDENTIFIED UNDER ITEM (1) OF THIS SUBSECTION:

(i) ACCEPT PAYMENT FOR SERVICES FROM A THIRD-PARTY PAYOR, INCLUDING MEDICARE, MEDICAID, AND PRIVATE INSURANCE; AND

(ii) PROVIDE SERVICES:

1. THAT ARE SPECIFIC TO PREGNANT WOMEN;

2. THAT ARE GENDER SPECIFIC;

3. FOR INDIVIDUALS WITH CO-OCCURRING DISORDERS;

4. TO SUPPORT PARENTS OF CHILDREN WITH SUBSTANCE USE AND MENTAL HEALTH DISORDERS; AND

5. FOR GRIEF SUPPORT.

(D) (1) THE DEPARTMENT SHALL PROVIDE TRAINING FOR HEALTH CRISIS HOTLINE STAFF WHO ASSIST CALLERS ON THE HEALTH CRISIS HOTLINE TO ENSURE THAT STAFF ARE ABLE TO PROVIDE SUFFICIENT INFORMATION AND RESPOND APPROPRIATELY TO CALLERS WHO MAY BE IN ~~THE MIDDLE OF~~ A CRISIS.

(2) TO THE EXTENT PRACTICABLE, THE DEPARTMENT SHALL ENSURE THAT INFORMATION PROVIDED TO CALLERS ON THE HEALTH CRISIS HOTLINE IS UP TO DATE AND ACCURATE.

(E) THE DEPARTMENT SHALL DISSEMINATE INFORMATION ABOUT THE HEALTH CRISIS HOTLINE TO THE PUBLIC, BOTH DIRECTLY AND THROUGH PUBLIC AND PRIVATE ORGANIZATIONS THAT SERVE THE PUBLIC.

8-407.

(A) THE DEPARTMENT SHALL IDENTIFY UP-TO-DATE, EVIDENCE-BASED, WRITTEN INFORMATION ABOUT OPIOID USE DISORDER THAT:

(1) HAS BEEN REVIEWED BY MEDICAL EXPERTS AND NATIONAL AND LOCAL ORGANIZATIONS SPECIALIZING IN THE TREATMENT OF OPIOID USE DISORDER;

(2) IS DESIGNED FOR USE BY HEALTH CARE PROVIDERS AND INDIVIDUALS WITH OPIOID USE DISORDER AND THEIR FAMILIES;

(3) IS CULTURALLY AND LINGUISTICALLY APPROPRIATE FOR POTENTIAL RECIPIENTS OF THE INFORMATION; AND

(4) INCLUDES INFORMATION ADDRESSING:

(I) THE SIGNS AND SYMPTOMS OF OPIOID USE DISORDER;

(II) THE RISKS ASSOCIATED WITH UNTREATED OPIOID USE DISORDER;

(III) APPROPRIATE CLINICAL TREATMENT FOR OPIOID USE DISORDER, INCLUDING:

1. COUNSELING SERVICES; AND

2. ALL MEDICATIONS APPROVED BY THE U.S. FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF OPIOID USE DISORDER;

(IV) APPROPRIATE USE OF OVERDOSE REVERSAL AGENTS;

(V) APPROPRIATE SUPPORT SERVICES, INCLUDING:

1. PEER FELLOWSHIP AND SUPPORT GROUPS, SUCH AS NARCOTICS ANONYMOUS AND ALCOHOLICS ANONYMOUS;

2. COMMUNITY-BASED SERVICES; AND

3. RESIDENTIAL OR RECOVERY HOUSING SERVICES;

AND

(VI) APPROPRIATE TREATMENTS FOR PAIN THAT MAY BE USED TO REDUCE OR REPLACE OPIOID MEDICATION TREATMENTS FOR CHRONIC PAIN.

(B) (1) THE DEPARTMENT SHALL PROVIDE THE INFORMATION IDENTIFIED BY THE DEPARTMENT UNDER SUBSECTION (A) OF THIS SECTION TO HEALTH CARE FACILITIES AND HEALTH CARE PROVIDERS THAT PROVIDE TREATMENT FOR OPIOID USE DISORDER.

(2) A HEALTH CARE FACILITY OR HEALTH CARE PROVIDER SHALL MAKE THE INFORMATION AVAILABLE TO EACH PATIENT TREATED BY THE FACILITY OR PROVIDER FOR OPIOID USE DISORDER.

SUBTITLE 11. AVAILABILITY OF ~~BUPRENORPHINE~~ OPIOID ADDICTION TREATMENT PRESCRIBERS.

8-1101.

(A) (1) IN THIS SECTION, ~~“HEALTH~~ THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “HEALTH CARE FACILITY” MEANS:

~~(1)~~ (I) A HOSPITAL;

~~(2)~~ (II) A FEDERALLY QUALIFIED HEALTH CENTER;

~~(3)~~ (III) ~~A COMMUNITY HEALTH CENTER~~ AN OUTPATIENT MENTAL HEALTH CLINIC;

~~(4)~~ (IV) ~~A BEHAVIORAL HEALTH TREATMENT SERVICES PROVIDER~~ AN OUTPATIENT OR RESIDENTIAL ADDICTION TREATMENT PROVIDER; AND

~~(5)~~ (V) A LOCAL HEALTH DEPARTMENT.

(3) “OPIOID ADDICTION TREATMENT MEDICATION” MEANS A MEDICATION APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF OPIOID USE DISORDERS.

(B) EACH HEALTH CARE FACILITY THAT IS NOT PART OF A HEALTH CARE SYSTEM AND EACH HEALTH CARE SYSTEM SHALL MAKE AVAILABLE TO PATIENTS THE SERVICES OF AT LEAST ONE HEALTH CARE PROVIDER PROVIDERS WHO IS ARE TRAINED AND AUTHORIZED UNDER FEDERAL LAW TO PRESCRIBE BUPRENORPHINE FOR EVERY 100 PATIENTS OPIOID ADDICTION TREATMENT MEDICATIONS, INCLUDING BUPRENORPHINE-CONTAINING FORMULATIONS.

(C) FOR THE PURPOSE OF CALCULATING THE NUMBER OF HEALTH CARE PROVIDERS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION, THE HEALTH CARE FACILITY OR HEALTH CARE SYSTEM SHALL USE THE AVERAGE NUMBER OF PATIENTS PROVIDED HEALTH CARE SERVICES PER DAY IN THE IMMEDIATELY PRECEDING CALENDAR YEAR. TO COMPLY WITH SUBSECTION (B) OF THIS SECTION, A HEALTH CARE FACILITY OR A HEALTH CARE SYSTEM MAY:

(1) DIRECTLY EMPLOY, CONTRACT WITH, OR REFER A PATIENT TO A HEALTH CARE PROVIDER WHO IS TRAINED AND AUTHORIZED UNDER FEDERAL LAW TO PRESCRIBE OPIOID ADDICTION TREATMENT MEDICATIONS, INCLUDING BUPRENORPHINE-CONTAINING FORMULATIONS; OR

(2) DELIVER THE SERVICES IN PERSON OR, IF APPROPRIATE, THROUGH TELEHEALTH.

13-3101.

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

[(b) “Advanced practice nurse” has the meaning stated in § 8-101 of the Health Occupations Article.

(c) “Certificate” means a certificate issued by a private or public entity to administer naloxone.

(d) “Licensed physician” has the meaning stated in § 14-101 of the Health Occupations Article.]

[(e) (B) “Pharmacist” has the meaning stated in § 12-101 of the Health Occupations Article.

[(f)] (C) “Private or public entity” means a health care provider, local health department, community-based organization, substance abuse treatment organization, or other person that addresses medical or social issues related to drug addiction.

[(g)] (D) “Program” means [an] THE Overdose Response Program.

[(h)] (E) “Standing order” means a written instruction for the prescribing and dispensing of naloxone [to a certificate holder] in accordance with [§ 13–3108] § 13–3106 of this subtitle.

13–3102.

[An] THE Overdose Response Program is a program [overseen] ADMINISTERED by the Department for the purpose of providing a means of authorizing certain individuals to administer naloxone to an individual experiencing, or believed to be experiencing, opioid overdose to help prevent a fatality when medical services are not immediately available.

13–3103.

(a) The Department shall adopt regulations necessary for the administration of the Program.

(b) The Department may:

(1) Collect fees necessary for the administration of the Program;

(2) [Authorize private or public entities to issue and renew certificates to persons meeting the requirements of this subtitle;

(3) (i) Authorize private or public entities to conduct [educational] EDUCATION AND training [programs described in § 13–3104 of this subtitle] ON OPIOID OVERDOSE RECOGNITION AND RESPONSE THAT INCLUDE:

(I) EDUCATION ON RECOGNIZING THE SIGNS AND SYMPTOMS OF AN OPIOID OVERDOSE;

(II) TRAINING ON RESPONDING TO AN OPIOID OVERDOSE, INCLUDING THE ADMINISTRATION OF NALOXONE; AND

(III) ACCESS TO NALOXONE AND THE NECESSARY SUPPLIES FOR THE ADMINISTRATION OF THE NALOXONE; [and]

[(ii)] (3) Develop guidance regarding the content of educational training programs conducted by private or public entities; and

(4) Collect and report data on the operation and results of the programs.

(C) AN INDIVIDUAL IS NOT REQUIRED TO OBTAIN TRAINING AND EDUCATION ON OPIOID OVERDOSE RECOGNITION AND RESPONSE FROM A PRIVATE OR PUBLIC ENTITY UNDER SUBSECTION (B) OF THIS SECTION IN ORDER FOR A PHARMACIST TO DISPENSE NALOXONE TO THE INDIVIDUAL.

[13-3104.

(a) To qualify for a certificate, an individual shall meet the requirements of this section.

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

(c) The applicant shall have, or reasonably expect to have, as a result of the individual's occupation or volunteer, family, or social status, the ability to assist an individual who is experiencing an opioid overdose.

(d) (1) The applicant shall successfully complete an educational training program offered by a private or public entity authorized by the Department.

(2) An educational training program required under this subsection shall:

(i) Be conducted by:

1. A licensed physician;

2. An advanced practice nurse;

3. A pharmacist; or

4. An employee or a volunteer of a private or public entity who is supervised in accordance with a written agreement between the private or public entity and a supervisory licensed physician, advanced practice nurse, or pharmacist that includes:

A. Procedures for providing patient overdose information;

B. Information as to how the employee or volunteer providing the information will be trained; and

C. Standards for documenting the provision of patient overdose information to patients; and

(ii) Include training in:

1. The recognition of the symptoms of opioid overdose;

2. The proper administration of naloxone;
3. The importance of contacting emergency medical services;
4. The care of an individual after the administration of naloxone; and
5. Any other topics required by the Department.]

13-3104.

AN AUTHORIZED PRIVATE OR PUBLIC ENTITY SHALL ENTER INTO A WRITTEN AGREEMENT WITH A LICENSED HEALTH CARE PROVIDER WITH PRESCRIBING AUTHORITY TO ESTABLISH PROTOCOLS FOR THE PRESCRIBING AND DISPENSING OF NALOXONE TO ANY INDIVIDUAL IN ACCORDANCE WITH THIS SUBTITLE.

[13-3105.

An applicant for a certificate shall submit an application to a private or public entity authorized by the Department on the form that the Department requires.]

[13-3106.

(a) A private or public entity authorized by the Department shall issue a certificate to any applicant who meets the requirements of this subtitle.

(b) Each certificate shall include:

(1) A statement that the holder is authorized to administer naloxone in accordance with this subtitle;

(2) The full name of the certificate holder; and

(3) A serial number.

(c) A replacement certificate may be issued to replace a lost, destroyed, or mutilated certificate.

(d) (1) The certificate shall be valid for 2 years and may be renewed.

(2) In order to renew a certificate, the certificate holder shall:

(i) Successfully complete a refresher training program conducted by an authorized private or public entity; or

(ii) Demonstrate proficiency to the private or public entity issuing certificates under this subtitle.]

[13-3107.] 13-3105.

(A) An individual [who is certified] may[:

(1) On presentment of a certificate,] receive from any licensed [physician or advanced practice nurse] HEALTH CARE PROVIDER with prescribing authority a prescription for naloxone and the necessary supplies for the administration of naloxone[;].

(B) AN INDIVIDUAL FOR WHOM NALOXONE IS PRESCRIBED AND DISPENSED IN ACCORDANCE WITH THIS SUBTITLE MAY:

[(2)] (1) Possess prescribed naloxone and the necessary supplies for the administration of naloxone; and

[(3)] (2) In an emergency situation when medical services are not immediately available, administer naloxone to an individual experiencing or believed by the [certificate holder] INDIVIDUAL to be experiencing an opioid overdose.

[13-3108.] 13-3106.

(a) A licensed [physician or an advanced practice nurse] HEALTH CARE PROVIDER with prescribing authority may prescribe and dispense naloxone to [a certificate holder] AN INDIVIDUAL WHO:

(1) IS BELIEVED BY THE LICENSED HEALTH CARE PROVIDER TO BE AT RISK OF EXPERIENCING AN OPIOID OVERDOSE; OR

(2) IS IN A POSITION TO ASSIST AN INDIVIDUAL AT RISK OF EXPERIENCING AN OPIOID OVERDOSE.

[(b) A registered nurse may dispense naloxone to a certificate holder in a local health department if the registered nurse complies with:

(1) The formulary developed and approved under § 3-403(b) of this article; and

(2) The requirements established under § 8-512 of the Health Occupations Article.]

[(c)] (B) (1) A licensed [physician or an advanced practice nurse] HEALTH CARE PROVIDER with prescribing authority may prescribe and dispense naloxone [to a

certificate holder] by issuing a standing order if the licensed [physician or advanced practice nurse] **HEALTH CARE PROVIDER:**

(i) Is employed by the Department or a local health department; or

(ii) [Supervises or conducts an educational training program] **HAS A WRITTEN AGREEMENT WITH AN AUTHORIZED PRIVATE OR PUBLIC ENTITY** under [§ 13–3104(d)] **§ 13–3104** of this subtitle.

(2) A licensed [physician or an advanced practice nurse] **HEALTH CARE PROVIDER** with prescribing authority who issues a standing order under paragraph (1) of this subsection may delegate [to the following persons the authority for] **THE dispensing OF naloxone to [a certificate holder:**

(i) A licensed registered nurse who:

1. Is employed by a local health department; and

2. Completes a training program approved by the

Department; and

(ii) An] **AN** employee or a volunteer of [a] **AN AUTHORIZED** private or public entity [who is authorized to conduct an educational training program] in accordance with **A WRITTEN AGREEMENT UNDER [§ 13–3104(d)] § 13–3104** of this subtitle.

(3) Any licensed health care provider who has dispensing authority also may dispense naloxone to [a certificate holder] **ANY INDIVIDUAL** in accordance with a standing order issued by a licensed [physician] **HEALTH CARE PROVIDER WITH PRESCRIBING AUTHORITY IN ACCORDANCE WITH THIS SUBSECTION.**

[(d) (1) Any licensed health care provider who has prescribing authority may prescribe naloxone to a patient who is believed by the licensed health care provider to be at risk of experiencing an opioid overdose or in a position to assist an individual at risk of experiencing an opioid overdose.

(2) A patient who receives a naloxone prescription under paragraph (1) of this subsection is not subject to the training requirements under § 13–3104(d) of this subtitle.]

[(e) (C) A pharmacist may dispense naloxone in accordance with a therapy management contract under Title 12, Subtitle 6A of the Health Occupations Article.

[13–3109.] **13–3107.**

(a) [(1) A certificate holder] AN INDIVIDUAL who, in accordance with this subtitle, is administering naloxone to an individual experiencing or believed by the [certificate holder] INDIVIDUAL to be experiencing an opioid overdose may not be considered to be practicing:

[(i)] (1) Medicine for the purposes of Title 14 of the Health Occupations Article; or

[(ii)] (2) Registered nursing for the purposes of Title 8 of the Health Occupations Article.

[(2)] (B) An employee or volunteer of a private or public entity who, in accordance with this subtitle, provides naloxone to [a certificate holder] AN INDIVIDUAL WHO HAS RECEIVED EDUCATION AND TRAINING IN OPIOID OVERDOSE RECOGNITION AND RESPONSE in accordance with a standing order may not be considered to be practicing:

[(i)] (1) Medicine for the purposes of Title 14 of the Health Occupations Article;

[(ii)] (2) Registered nursing for the purposes of Title 8 of the Health Occupations Article; or

[(iii)] (3) Pharmacy for the purposes of Title 12 of the Health Occupations Article.

[(b) (1)] (C) A licensed [physician] HEALTH CARE PROVIDER who prescribes or dispenses naloxone [to a certificate holder in a manner consistent with the protocol established by the authorized private or public entity] IN ACCORDANCE WITH THIS SUBTITLE may not be subject to any disciplinary action BY THE APPROPRIATE LICENSING HEALTH OCCUPATIONS BOARD under [Title 14 of] the Health Occupations Article solely for the act of prescribing or dispensing naloxone [to the certificate holder].

[(2) An advanced practice nurse with prescribing authority who prescribes or dispenses naloxone to a certificate holder in a manner consistent with the protocol established by the authorized private or public entity may not be subject to any disciplinary action under Title 8 of the Health Occupations Article solely for the act of prescribing or dispensing naloxone to the certificate holder.]

[13-3110.] 13-3108.

(a) An individual who administers naloxone to an individual who is or in good faith is believed to be experiencing an opioid overdose shall have immunity from liability under §§ 5-603 and 5-629 of the Courts and Judicial Proceedings Article.

(b) A cause of action may not arise against any licensed [physician, advanced practice nurse] HEALTH CARE PROVIDER with prescribing authority[,] or pharmacist for any act or omission when the [physician, advanced practice nurse] HEALTH CARE PROVIDER with prescribing authority[,] or pharmacist in good faith prescribes or dispenses naloxone and the necessary paraphernalia for the administration of naloxone to [a certificate holder or patient under § 13–3108] AN INDIVIDUAL UNDER § 13–3106 of this subtitle.

(c) This subtitle may not be construed to create a duty on any individual to:

(1) Obtain [a certificate] EDUCATION AND TRAINING FROM AN AUTHORIZED PRIVATE OR PUBLIC ENTITY under this subtitle, and an individual may not be held civilly liable for failing to obtain [a certificate] EDUCATION AND TRAINING FROM AN AUTHORIZED PRIVATE OR PUBLIC ENTITY under this subtitle; or

(2) Administer naloxone to an individual who is experiencing or believed by the individual to be experiencing an opioid overdose.

[13–3111.] 13–3109.

A person who dispenses naloxone in accordance with this subtitle is exempt from any laws that require a person to maintain a permit to dispense prescription drugs.

SUBTITLE 34. CO–PRESCRIBING OF OPIOID OVERDOSE REVERSAL DRUGS.

13–3401.

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

(B) “CO–PRESCRIBING” MEANS, WITH RESPECT TO AN OPIOID OVERDOSE REVERSAL DRUG, THE PRACTICE OF PRESCRIBING THE DRUG IN CONJUNCTION WITH AN OPIOID PRESCRIPTION FOR A PATIENT AT AN ELEVATED RISK OF OVERDOSE.

(C) “OPIOID OVERDOSE REVERSAL DRUG” MEANS NALOXONE OR A SIMILARLY ACTING AND EQUALLY SAFE DRUG THAT IS APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF A KNOWN OR SUSPECTED OPIOID OVERDOSE.

13–3402.

(A) THE SECRETARY SHALL ESTABLISH GUIDELINES FOR THE CO–PRESCRIBING OF OPIOID OVERDOSE REVERSAL DRUGS THAT ARE APPLICABLE TO ALL LICENSED HEALTH CARE PROVIDERS IN THE STATE WHO ARE AUTHORIZED

BY LAW TO PRESCRIBE A MONITORED PRESCRIPTION DRUG, AS DEFINED IN § 21-2A-01 OF THIS ARTICLE.

(B) THE GUIDELINES ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION SHALL ADDRESS THE CO-PRESCRIBING OF OPIOID OVERDOSE REVERSAL DRUGS FOR PATIENTS WHO ARE:

- (1) AT AN ELEVATED RISK OF OVERDOSE; AND
- (2) (I) RECEIVING OPIOID THERAPY FOR CHRONIC PAIN;
- (II) RECEIVING A PRESCRIPTION FOR BENZODIAZEPINES; OR
- (III) BEING TREATED FOR OPIOID USE DISORDERS.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Health – General

16-201.3.

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

(2) “COMMUNITY PROVIDER” MEANS A COMMUNITY-BASED AGENCY OR PROGRAM FUNDED BY THE BEHAVIORAL HEALTH ADMINISTRATION OR THE MEDICAL CARE PROGRAMS ADMINISTRATION TO SERVE INDIVIDUALS WITH MENTAL DISORDERS, SUBSTANCE-RELATED DISORDERS, OR A COMBINATION OF THESE DISORDERS.

~~(3) “CONSUMER PRICE INDEX” MEANS THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS FOR MEDICAL CARE FOR THE WASHINGTON BALTIMORE REGION.~~

~~(4) (3) “RATE” MEANS THE REIMBURSEMENT RATE PAID BY THE DEPARTMENT TO A COMMUNITY PROVIDER FROM THE STATE GENERAL FUND, MARYLAND MEDICAL ASSISTANCE PROGRAM FUNDS, OTHER STATE OR FEDERAL FUNDS, OR A COMBINATION OF THESE FUNDS.~~

(B) THIS SECTION DOES NOT APPLY TO REIMBURSEMENT FOR ANY SERVICE PROVIDED BY A COMMUNITY PROVIDER WHOSE RATES ARE REGULATED BY THE HEALTH SERVICES COST REVIEW COMMISSION.

(C) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT A SUBSTANTIAL PORTION OF THE RATE ADJUSTMENT PROVIDED UNDER SUBSECTION (D) OF THIS SECTION BE USED TO:

(1) COMPENSATE DIRECT CARE STAFF AND LICENSED CLINICIANS EMPLOYED BY COMMUNITY PROVIDERS; AND

(2) IMPROVE THE QUALITY OF PROGRAMMING PROVIDED BY COMMUNITY PROVIDERS.

~~(C) (D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE DEPARTMENT SHALL ADJUST THE RATE OF REIMBURSEMENT FOR COMMUNITY PROVIDERS EACH FISCAL YEAR BY THE RATE ADJUSTMENT INCLUDED IN THE STATE BUDGET FOR THAT FISCAL YEAR.~~

~~(2) (H) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2019 AND FISCAL YEAR 2020, AND FOR EACH FISCAL YEAR THEREAFTER, SHALL INCLUDE RATE ADJUSTMENTS FOR COMMUNITY PROVIDERS BASED ON A 3.5% RATE INCREASE FOR COMMUNITY PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR THE IMMEDIATELY PRECEDING FISCAL YEAR FOR EACH OF THE FOLLOWING:~~

~~1. (I) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00Q01.10 MEDICAID BEHAVIORAL HEALTH PROVIDER REIMBURSEMENT – MEDICAL CARE PROGRAMS ADMINISTRATION;~~

~~2. (II) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.02 COMMUNITY SERVICES – BEHAVIORAL HEALTH ADMINISTRATION; AND~~

~~3. (III) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.03 COMMUNITY SERVICES FOR MEDICAID STATE FUND RECIPIENTS – BEHAVIORAL HEALTH ADMINISTRATION.~~

(2) IF THE BEHAVIORAL HEALTH ADMINISTRATION DOES NOT IMPLEMENT THE PAYMENT SYSTEM REQUIRED UNDER SUBSECTION (E) OF THIS SECTION FOR USE IN FISCAL YEAR 2021, THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2021 SHALL INCLUDE A 3% RATE INCREASE FOR COMMUNITY PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR THE IMMEDIATELY PRECEDING FISCAL YEAR FOR EACH OF THE FOLLOWING:

(I) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00Q01.01 MEDICAID BEHAVIORAL HEALTH PROVIDER REIMBURSEMENT – MEDICAL CARE PROGRAMS ADMINISTRATION;

(II) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.02 COMMUNITY SERVICES – BEHAVIORAL HEALTH ADMINISTRATION; AND

(III) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.03 COMMUNITY SERVICES FOR MEDICAID STATE FUND RECIPIENTS – BEHAVIORAL HEALTH ADMINISTRATION.

~~(II) A RATE ADJUSTMENT REQUIRED TO BE INCLUDED IN THE GOVERNOR'S PROPOSED BUDGET UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL EQUAL THE AVERAGE ANNUAL PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX FOR THE 3-YEAR PERIOD ENDING IN JULY OF THE IMMEDIATELY PRECEDING FISCAL YEAR.~~

~~(3) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2019, AND FOR EACH FISCAL YEAR THEREAFTER, YEARS 2019 THROUGH 2021 FOR COMMUNITY PROVIDERS SHALL BE PRESENTED IN THE SAME MANNER, INCLUDING OBJECT AND PROGRAM INFORMATION, AS IN THE FISCAL YEAR 2018 BUDGET.~~

(E) (1) THE BEHAVIORAL HEALTH ADMINISTRATION AND THE MEDICAL CARE PROGRAMS ADMINISTRATION JOINTLY SHALL:

(I) CONDUCT AN INDEPENDENT COST-DRIVEN, RATE-SETTING STUDY TO SET COMMUNITY PROVIDER RATES FOR COMMUNITY-BASED BEHAVIORAL HEALTH SERVICES THAT INCLUDES A RATE ANALYSIS AND AN IMPACT STUDY THAT CONSIDERS THE ACTUAL COST OF PROVIDING COMMUNITY-BASED BEHAVIORAL HEALTH SERVICES;

(II) DEVELOP AND IMPLEMENT A PAYMENT SYSTEM INCORPORATING THE FINDINGS OF THE RATE-SETTING STUDY CONDUCTED UNDER ITEM (I) OF THIS PARAGRAPH, INCLUDING PROJECTED COSTS OF IMPLEMENTATION AND RECOMMENDATIONS TO ADDRESS ANY POTENTIAL SHORTFALL IN FUNDING; AND

(III) CONSULT WITH STAKEHOLDERS, INCLUDING COMMUNITY PROVIDERS AND INDIVIDUALS RECEIVING SERVICES, IN CONDUCTING THE RATE-SETTING STUDY AND DEVELOPING THE PAYMENT SYSTEM REQUIRED BY THIS PARAGRAPH.

(2) THE ADMINISTRATION, ON OR BEFORE SEPTEMBER 30, 2019, SHALL COMPLETE THE STUDY REQUIRED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION.

(3) THE ADMINISTRATION SHALL ADOPT REGULATIONS TO IMPLEMENT THE PAYMENT SYSTEM REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION.

~~(D)~~ (F) IF SERVICES OF COMMUNITY PROVIDERS ARE PROVIDED THROUGH MANAGED CARE ORGANIZATIONS, THE MANAGED CARE ORGANIZATIONS SHALL:

(1) PAY THE RATE IN EFFECT DURING THE IMMEDIATELY PRECEDING FISCAL YEAR FOR THE FIRST FISCAL YEAR THE MANAGED CARE ORGANIZATIONS PROVIDE THE SERVICES; AND

(2) ADJUST THE RATE ~~OF REIMBURSEMENT~~ FOR COMMUNITY PROVIDERS EACH FISCAL YEAR BY AT LEAST THE SAME AMOUNT THAT OTHERWISE WOULD HAVE BEEN REQUIRED UNDER ~~SUBSECTION (C)(2)(II) OF~~ SUBSECTION (D) OF THIS SECTION.

(G) INCREASED FUNDING PROVIDED UNDER SUBSECTION (D) OF THIS SECTION MAY BE USED ONLY TO INCREASE THE RATES PAID TO:

(1) COMMUNITY PROVIDERS ACCREDITED BY A STATE-APPROVED ACCREDITING BODY AND LICENSED BY THE STATE; AND

(2) HEALTH CARE PROVIDERS WHO ARE ACTING WITHIN THE SCOPES OF PRACTICE OF THE HEALTH CARE PROVIDERS' LICENSES OR CERTIFICATES AS SPECIFIED UNDER THE HEALTH OCCUPATIONS ARTICLE.

~~(E)~~ (H) (1) ON OR BEFORE DECEMBER 1, 2018, THE DEPARTMENT SHALL SUBMIT AN INTERIM REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE DELIVERY SYSTEM THROUGH WHICH COMMUNITY-BASED BEHAVIORAL HEALTH SERVICES SHOULD BE PROVIDED AND ANY PRELIMINARY RECOMMENDATIONS REGARDING THE PAYMENT SYSTEM REQUIRED UNDER THIS SECTION.

(2) ON OR BEFORE DECEMBER 1, 2019, AND ON OR BEFORE DECEMBER 1 EACH YEAR THEREAFTER, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE IMPACT OF THE ~~REIMBURSEMENT RATE ADJUSTMENT~~ ADJUSTMENTS AND THE PAYMENT SYSTEM

REQUIRED UNDER THIS SECTION ON COMMUNITY PROVIDERS, INCLUDING THE IMPACT ON:

(I) THE WAGES AND SALARIES PAID AND THE BENEFITS PROVIDED TO DIRECT CARE STAFF AND LICENSED CLINICIANS EMPLOYED BY COMMUNITY PROVIDERS;

(II) THE TENURE AND TURNOVER OF DIRECT CARE STAFF AND LICENSED CLINICIANS EMPLOYED BY COMMUNITY PROVIDERS; AND

(III) THE ABILITY OF COMMUNITY PROVIDERS TO RECRUIT QUALIFIED DIRECT CARE STAFF AND LICENSED CLINICIANS.

~~(2)~~ (3) THE DEPARTMENT MAY REQUIRE A COMMUNITY PROVIDER TO SUBMIT, IN THE FORM AND MANNER REQUIRED BY THE DEPARTMENT, INFORMATION THAT THE DEPARTMENT CONSIDERS NECESSARY FOR COMPLETION OF THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Health – General

19-310.3.

(A) ON OR BEFORE JANUARY 1, 2018, EACH HOSPITAL SHALL HAVE A PROTOCOL FOR DISCHARGING A PATIENT WHO WAS TREATED BY THE HOSPITAL FOR A DRUG OVERDOSE OR WAS IDENTIFIED AS HAVING A SUBSTANCE USE DISORDER.

(B) THE PROTOCOL MAY INCLUDE:

(1) COORDINATION WITH PEER RECOVERY COUNSELORS WHO CAN CONDUCT A SCREENING, A BRIEF INTERVENTION, AND REFERRAL TO TREATMENT AND CONNECTION OF THE PATIENT WITH COMMUNITY SERVICES; AND

(2) PRESCRIBING NALOXONE FOR THE PATIENT.

(C) (1) ~~A BEGINNING IN 2018, A HOSPITAL SHALL INCLUDE IN ITS ANNUAL COMMUNITY BENEFIT REPORT TO THE HEALTH SERVICES COST REVIEW COMMISSION UNDER § 19-303 OF THIS SUBTITLE THE SERVICES PROVIDED UNDER~~ SUBMIT TO THE MARYLAND HOSPITAL ASSOCIATION THE HOSPITAL'S PROTOCOL FOR DISCHARGING A PATIENT WHO WAS TREATED BY THE HOSPITAL FOR A DRUG OVERDOSE OR WAS IDENTIFIED AS HAVING A SUBSTANCE USE DISORDER.

(2) ON OR BEFORE DECEMBER 1, 2018, THE MARYLAND HOSPITAL ASSOCIATION SHALL SUBMIT A REPORT TO THE DEPARTMENT AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT COMMITTEE ON BEHAVIORAL HEALTH AND SUBSTANCE USE DISORDERS ON EACH HOSPITAL'S DISCHARGE PROTOCOL AS SUBMITTED TO THE MARYLAND HOSPITAL ASSOCIATION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(D) (1) THE MARYLAND HOSPITAL ASSOCIATION SHALL CONDUCT A STUDY THAT:

(I) IDENTIFIES OPPORTUNITIES TO SUPPORT A COMPREHENSIVE TREATMENT CONTINUUM FOR INDIVIDUALS WITH SUBSTANCE USE DISORDERS IN HOSPITALS IN THE STATE, INCLUDING WITHDRAWAL MANAGEMENT; AND

(II) INCLUDES AN ASSESSMENT OF THE BARRIERS TO PROVIDING AN EFFECTIVE AND EFFICIENT CONTINUUM OF CARE.

(2) ON OR BEFORE DECEMBER 1, 2017, THE MARYLAND HOSPITAL ASSOCIATION SHALL SUBMIT A REPORT TO THE DEPARTMENT AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT COMMITTEE ON BEHAVIORAL HEALTH AND SUBSTANCE USE DISORDERS ON THE FINDINGS AND RECOMMENDATIONS FROM THE STUDY REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Insurance

~~15-802.~~

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

~~(2) “Alcohol [abuse] MISUSE” has the meaning stated in § 8-101 of the Health General Article.~~

~~(3) “Drug [abuse] MISUSE” has the meaning stated in § 8-101 of the Health General Article.~~

~~(4) “Grandfathered health plan coverage” has the meaning stated in 45 C.F.R. § 147.140.~~

- ~~(5) "Health benefit plan":~~
- ~~(i) for a group or blanket plan, has the meaning stated in § 15-1401 of this title; and~~
- ~~(ii) for an individual plan, has the meaning stated in § 15-1301 of this title.~~
- ~~(6) "Managed care system" means a system of cost containment methods that a carrier uses to review and preauthorize a treatment plan developed by a health care provider for a covered individual in order to control utilization, quality, and claims.~~
- ~~(7) "Partial hospitalization" means the provision of medically directed intensive or intermediate short-term treatment:~~
- ~~(i) to an insured, subscriber, or member;~~
- ~~(ii) in a licensed or certified facility or program;~~
- ~~(iii) for mental illness, emotional disorders, drug [abuse] MISUSE, or alcohol [abuse] MISUSE; and~~
- ~~(iv) for a period of less than 24 hours but more than 4 hours in a day.~~
- ~~(8) "Small employer" has the meaning stated in § 31-101 of this article.~~
- ~~(b) With the exception of small employer grandfathered health plan coverage, this section applies to each individual, group, and blanket health benefit plan that is delivered or issued for delivery in the State by an insurer, a nonprofit health service plan, or a health maintenance organization.~~
- ~~(c) A health benefit plan subject to this section shall provide at least the following benefits for the diagnosis and treatment of a mental illness, emotional disorder, drug [abuse] USE disorder, or alcohol [abuse] USE disorder:~~
- ~~(1) inpatient benefits for services provided in a licensed or certified facility, including hospital inpatient AND RESIDENTIAL TREATMENT CENTER benefits;~~
- ~~(2) partial hospitalization benefits; and~~
- ~~(3) outpatient AND INTENSIVE OUTPATIENT benefits, including all office visits, DIAGNOSTIC EVALUATION, OPIOID TREATMENT SERVICES, MEDICATION EVALUATION AND MANAGEMENT, and psychological and neuropsychological testing for diagnostic purposes.~~

~~(d) (1) The benefits under this section are required only for expenses arising from the treatment of mental illnesses, emotional disorders, drug [abuse] MISUSE, or alcohol [abuse] MISUSE if, in the professional judgment of health care providers:~~

~~(i) the mental illness, emotional disorder, drug [abuse] MISUSE, or alcohol [abuse] MISUSE is treatable; and~~

~~(ii) the treatment is medically necessary.~~

~~(2) The benefits required under this section:~~

~~(i) shall be provided as one set of benefits covering mental illnesses, emotional disorders, drug [abuse] MISUSE, and alcohol [abuse] MISUSE;~~

~~(ii) shall comply with 45 C.F.R. § 146.136(a) through (d) AND 29 C.F.R. § 2590.712(A) THROUGH (C);~~

~~(iii) subject to paragraph (3) of this subsection, may be delivered under a managed care system; and~~

~~(iv) for partial hospitalization under subsection (e)(2) of this section, may not be less than 60 days.~~

~~(3) The benefits required under this section may be delivered under a managed care system only if the benefits for physical illnesses covered under the health benefit plan are delivered under a managed care system.~~

~~(4) The processes, strategies, evidentiary standards, or other factors used to manage the benefits required under this section must be comparable as written and in operation to, and applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used to manage the benefits for physical illnesses covered under the health benefit plan.~~

~~(5) An insurer, nonprofit health service plan, or health maintenance organization may not charge a copayment for [methadone maintenance] AN OPIOID treatment SERVICE that is greater than 50% of the daily cost for [methadone maintenance] THE OPIOID treatment SERVICE.~~

~~(e) An entity that issues or delivers a health benefit plan subject to this section shall provide on its Web site and annually in print to its insureds or members:~~

~~(1) notice about the benefits required under this section and the federal Mental Health Parity and Addiction Equity Act; and~~

~~(2) notice that the insured or member may contact the Administration for further information about the benefits.~~

~~(f) An entity that issues or delivers a health benefit plan subject to this section shall:~~

- ~~(1) post a release of information authorization form on its Web site; and~~
- ~~(2) provide a release of information authorization form by standard mail within 10 business days after a request for the form is received.~~

~~15-850.~~

~~(A) (1) THIS SECTION APPLIES TO:~~

~~(I) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT PROVIDE COVERAGE FOR SUBSTANCE USE DISORDER BENEFITS OR PRESCRIPTION DRUGS UNDER INDIVIDUAL, GROUP, OR BLANKET HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND~~

~~(II) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE COVERAGE FOR SUBSTANCE USE DISORDER BENEFITS OR PRESCRIPTION DRUGS UNDER INDIVIDUAL OR GROUP CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.~~

~~(2) AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION THAT PROVIDES COVERAGE FOR SUBSTANCE USE DISORDER BENEFITS UNDER THE MEDICAL BENEFIT OR FOR PRESCRIPTION DRUGS THROUGH A PHARMACY BENEFITS MANAGER IS SUBJECT TO THE REQUIREMENTS OF THIS SECTION.~~

~~(B) AN ENTITY SUBJECT TO THIS SECTION MAY NOT APPLY A PRIOR AUTHORIZATION REQUIREMENT FOR A PRESCRIPTION DRUG:~~

~~(1) WHEN USED FOR TREATMENT OF AN OPIOID USE DISORDER; AND~~

~~(2) THAT CONTAINS METHADONE, BUPRENORPHINE, OR NALTREXONE.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2017, the State Department of Education, in consultation with stakeholders, shall:~~

~~(1) develop a plan to establish regional recovery schools that enable students recovering from a substance use disorder to learn in a substance free and supportive environment; and~~

~~(2) report its findings and recommendations to the General Assembly in accordance with § 2-1246 of the State Government Article.~~

~~SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article – Insurance~~

~~15-851. 15-850.~~

(A) IN THIS SECTION, “OPIOID ANTAGONIST” MEANS:

(1) NALOXONE HYDROCHLORIDE; OR

(2) ANY OTHER SIMILARLY ACTING AND EQUALLY SAFE DRUG APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF A DRUG OVERDOSE.

(B) (1) THIS SECTION APPLIES TO:

(I) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT PROVIDE COVERAGE FOR PRESCRIPTION DRUGS UNDER INDIVIDUAL, GROUP, OR BLANKET HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND

(II) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE COVERAGE FOR PRESCRIPTION DRUGS UNDER INDIVIDUAL OR GROUP CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.

(2) AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION THAT PROVIDES COVERAGE FOR PRESCRIPTION DRUGS THROUGH A PHARMACY BENEFITS MANAGER IS SUBJECT TO THE REQUIREMENTS OF THIS SECTION.

(C) AN ENTITY SUBJECT TO THIS SECTION THAT INCLUDES ON ITS FORMULARY AN OPIOID ANTAGONIST MAY APPLY A PRIOR AUTHORIZATION REQUIREMENT FOR AN OPIOID ANTAGONIST ONLY IF THE ENTITY PROVIDES COVERAGE FOR AT LEAST ONE FORMULATION OF THE OPIOID ANTAGONIST WITHOUT A PRIOR AUTHORIZATION REQUIREMENT.

SECTION 6. 5. AND BE IT FURTHER ENACTED, That, on or before December 1, 2019, the Department of Health and Mental Hygiene shall submit a report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly that:

(1) details outcome measures that reasonably can be collected for each treatment modality offered by community providers for which the rate of reimbursement would be adjusted under § 16–201.3 of the Health – General Article, as enacted by Section 2 of this Act; and

(2) includes recommendations regarding how reimbursement rates can be tied to outcomes, such as:

(i) differential payment for implementation of, and adherence to, evidence-based and promising practices;

(ii) differential payment based on outcomes;

(iii) payments made to align incentives with the goals of the State’s all-payer model contract; and

(iv) any other financial payment system linking reimbursement to outcomes.

SECTION 7. 6. AND BE IT FURTHER ENACTED, That the Secretary of Health and Mental Hygiene shall establish the guidelines required under § 13–3402(a) of the Health – General Article, as enacted by Section 1 of this Act, on or before December 1, 2017.

SECTION 8. 8. 7. AND BE IT FURTHER ENACTED, That, ~~on or before December 1, 2017, the~~

(a) The Department of Public Safety and Correctional Services and each local jail and detention center, in collaboration with the Department of Health and Mental Hygiene and stakeholders, shall:

(1) develop a plan to increase the provision of substance use disorder treatment, including medication-assisted treatment, in State prisons and each local jail, ~~and~~ jail and detention center.

(b) On or before November 1, 2017, each local jail and detention center shall submit the plan required under subsection (a) of this section to the Department of Public Safety and Correctional Services.

(2) (c) On or before December 1, 2017, the Department of Public Safety and Correctional Services shall submit ~~the plan~~ a report that includes the plans required under subsection (a) of this section and any recommendations to the General Assembly in accordance with § 2–1246 of the State Government Article.

SECTION 8. AND BE IT FURTHER ENACTED, That, on or before January 1, 2018, the Department of Health and Mental Hygiene, in consultation with the Governor’s Office of Crime Control and Prevention and interested stakeholders, shall report to the Senate Finance Committee, the Senate Judicial Proceedings Committee, the House Health and

Government Operations Committee, and the House Judiciary Committee on new, innovative, evidence-based programs and methods to better manage the State's substance abuse and opioid crisis.

SECTION 9. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after ~~the effective date of Section 4 of this Act~~ January 1, 2018.

~~SECTION 10. AND BE IT FURTHER ENACTED, That Section 5 of this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after January 1, 2018.~~

SECTION 4, ~~11,~~ 10. AND BE IT FURTHER ENACTED, That ~~Sections 1, 2, 3, 6, 7, 8, and 9~~ Sections 1, 2, 3, 5, 6, 7, and 8 of this Act shall take effect June 1, 2017.

SECTION 11. AND BE IT FURTHER ENACTED, That:

(1) it is the intent of the General Assembly that the Department of Health and Mental Hygiene use the \$10,000,000 in general funds included in Supplemental Budget No. 2 in the Opioid Crisis Fund to prioritize the funding of services established under this Act; and

(2) on or before January 1, 2018, the Department of Health and Mental Hygiene, in accordance with § 2-1246 of the State Government Article, shall report to the Senate Finance Committee, the Senate Education, Health, and Environmental Affairs Committee, the Senate Budget and Taxation Committee, the House Health and Government Operations Committee, and the House Appropriations Committee on how funds were used and the criteria for the use of funds.

SECTION 12. AND BE IT FURTHER ENACTED, That Sections ~~5 and 10~~ 4 and 9 of this Act shall take effect January 1, 2018.

SECTION 13. 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 ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly and, except as provided in Sections 11 and 12 of this Act, shall take effect from the date it is enacted.

Approved by the Governor, May 25, 2017.

Chapter 573

(House Bill 1082)

AN ACT concerning

Heroin and Opioid Education and Community Action Act of 2017
(Start Talking Maryland Act)

FOR the purpose of ~~requiring the State Court Administrator of the Administrative Office of the Courts to assess certain drug court programs to make certain determinations; requiring the Governor to appropriate certain funds to certain agencies in a certain fiscal year for certain purposes; requiring certain agencies to disburse certain grants based on certain factors; requiring a~~ a county board of education to consult with the county superintendent of schools to approve or disapprove before a certain change to a school health services program; altering the name of a certain program; requiring the State Board of Education to establish certain standards for an altered training requirement; requiring the drug addiction and prevention education program to include certain instruction related to heroin and opioid addiction and prevention; requiring the instruction to be delivered in certain grade bands and as a certain unit; requiring certain county boards of education and certain institutions of higher education to establish certain policies; requiring a certain policy to authorize certain school nurses, school health services personnel, and other school personnel to administer naloxone or certain other medications to a student who is ~~determined to be suffering from~~ reasonably believed to be experiencing a certain condition; requiring certain policies to include certain ~~training, procedures, procedures~~ and provisions; prohibiting certain nurses, school health services personnel, campus police, and ~~health personnel~~ other designated personnel from being held personally liable under certain circumstances; requiring certain county boards of education or local health departments, by local agreement to either hire certain officials or develop and implement a certain program; ~~requiring certain county boards to coordinate with certain counties to hire certain officials;~~ requiring certain officials to perform certain duties; requiring certain public schools to submit certain reports to the State Department of Education under certain circumstances on or before a certain date each year; requiring the Department to develop and disseminate a certain form; requiring the Department to submit certain information to the General Assembly on or before certain dates; requiring certain policies to require certain students to participate in certain training, to require certain institutions of higher education to provide certain students with certain resources, and to require certain institutions to obtain and store naloxone or certain other medications to be used under certain circumstances; providing that certain institutions of higher education are not required to obtain and store naloxone or certain other medications at certain locations; requiring certain institutions of higher education to report certain information to the Maryland Higher Education Commission on or before a certain date each year; requiring the Commission to submit certain information to the General Assembly on or before certain dates; providing for the application of certain provisions of this Act; requiring the Department to convene a workgroup that includes certain individuals and interested stakeholders to evaluate certain programs, develop certain proposals, and submit a certain report to the General Assembly on or before a certain date; requiring a county board of education to use certain efforts to implement certain requirements of this Act before certain funding

is disbursed to the county board; and generally relating to policies that address heroin and opioid addiction and prevention.

~~BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 13–101(a)
Annotated Code of Maryland
(2013 Replacement Volume and 2016 Supplement)~~

~~BY adding to
Article – Courts and Judicial Proceedings
Section 13–101.1
Annotated Code of Maryland
(2013 Replacement Volume and 2016 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Education
Section 7–401 and 7–411
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

BY adding to
Article – Education
Section 7–426.5; and 11–1201 through 11–1203 ~~11–1203~~ 11–1204 to be under the new subtitle
“Subtitle 12. Heroin and Opioid Addiction and Prevention”; and 15–121
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

Preamble

WHEREAS, Heroin and opioid–related addiction and deaths are an epidemic of immense proportion in the State; and

WHEREAS, Opioids kill, and still they are in every county, city, community, and school in the State; and

WHEREAS, The Department of Health and Mental Hygiene reports that heroin–related deaths tripled in Maryland from 2011 to 2015, with 247 fatal overdoses in 2011 to 748 fatal overdoses in 2015; and

WHEREAS, Maryland is the fifth worst state in the country for heroin and opioid–related deaths; and

WHEREAS, Maryland is the fifth best state in the country for public education; and

WHEREAS, Many addictions begin during the teenage years when teenagers gain access to prescriptions intended for family or friends; and

WHEREAS, Many parents and family members are unaware of how pervasive this epidemic has become; and

WHEREAS, Maryland students, families, educators, law enforcement, and public health officials need to “Start Talking” in a widespread and organized way about this epidemic in order to empower communities to support extensive prevention and recovery efforts; and

WHEREAS, Maryland can no longer pretend that the stories reported by the press are not in our own backyards; now, therefore,

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

~~Article – Courts and Judicial Proceedings~~

~~13-101.~~

~~(a) There is an Administrative Office of the Courts, headed by the State Court Administrator. The Administrator is appointed by and holds office during the pleasure of the Chief Judge of the Court of Appeals of Maryland. The Administrator shall have the compensation provided in the State budget. The Administrative Office of the Courts shall have a seal in the form the Chief Judge of the Court of Appeals approves. The courts of the State shall take judicial notice of the seal.~~

~~13-101.1.~~

~~(A) THE STATE COURT ADMINISTRATOR SHALL ASSESS DRUG COURT PROGRAMS IN CIRCUIT COURTS, INCLUDING JUVENILE COURTS, AND THE DISTRICT COURT TO DETERMINE HOW TO INCREASE THESE PROGRAMS IN A MANNER SUFFICIENT TO MEET EACH COUNTY’S NEEDS.~~

~~(B) (1) FOR FISCAL YEAR 2019, THE GOVERNOR SHALL INCLUDE AN APPROPRIATION OF AT LEAST \$2,000,000 IN GENERAL FUNDS IN THE STATE BUDGET FOR THE ADMINISTRATIVE OFFICE OF THE COURTS FOR THE PURPOSE OF AWARDING GRANTS TO EXPAND THE SCOPE OF DRUG COURT PROGRAMS DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION.~~

~~(2) THE STATE COURT ADMINISTRATOR SHALL DISBURSE THE GRANTS AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION BASED ON THE POPULATION OF THE COUNTY, TO CIRCUIT COURTS, INCLUDING JUVENILE COURTS, AND THE DISTRICT COURT.~~

Article – Education

7-401.

(a) With the assistance of the county health department, each county board shall provide:

(1) Adequate school health services;

(2) Instruction in health education, including the importance of physical activity in maintaining good health; and

(3) A healthful school environment.

(b) The Department of Education and the Department of Health and Mental Hygiene jointly shall:

(1) Develop public standards and guidelines for school health programs;
and

(2) Offer assistance to the county boards and county health departments in their implementation.

(c) (1) (i) Each county board shall designate a school health services program coordinator.

(ii) A county board may authorize the county health department to designate the school health services program coordinator.

(2) The school health services program coordinator shall:

(i) Implement State and local health policies in the public schools;

(ii) Ensure that public schools adhere to local health services guidelines; and

(iii) Communicate State and local health policies to the parents and guardians of public school students.

(3) (I) **[The] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE county board shall grant the school health services program coordinator the authority to carry out the provisions of this subsection.**

(II) **~~A~~ THE COUNTY BOARD SHALL CONSULT WITH A COUNTY SUPERINTENDENT SHALL APPROVE OR DISAPPROVE ANY PROPOSED BEFORE ANY CHANGE IN THE HIRING OR TERMINATION OF PERSONNEL IN CONNECTION WITH A SCHOOL HEALTH SERVICES PROGRAM.**

(4) The Department of Education shall conduct at least two meetings annually with all school health services program coordinators in the State.

(d) On or before December 1, 2015, and every 5 years thereafter, the Department shall report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly a summary of the information reported to the State Superintendent during the COMAR certification process.

7-411.

(a) The State Board shall develop and implement a program of drug ADDICTION AND PREVENTION education in the public schools.

(b) (1) [This] EXCEPT AS PROVIDED IN SUBSECTION (C)(2) OF THIS SECTION, THIS program shall be started before the sixth grade in each public school by teachers who are trained in the field of drug education.

(2) The State Board shall establish standards for determining how a teacher is considered to be “trained in the field of drug ADDICTION AND PREVENTION education” for the purposes of this section.

(c) (1) THE PROGRAM SHALL INCLUDE INSTRUCTION RELATED TO HEROIN AND OPIOID ADDICTION AND PREVENTION, INCLUDING INFORMATION RELATING TO THE LETHAL EFFECT OF FENTANYL.

(2) THE INSTRUCTION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE:

(I) DELIVERED IN GRADE BANDS AS FOLLOWS:

1. THIRD GRADE THROUGH FIFTH GRADE;
2. SIXTH GRADE THROUGH EIGHTH GRADE; AND
3. NINTH GRADE THROUGH TWELFTH GRADE; AND

(II) A STAND-ALONE UNIT IN THE PROGRAM.

[(c)] (D) This program shall be coordinated with other State agencies that are responsible for drug abuse education and control.

7-426.5.

(A) EACH COUNTY BOARD SHALL ESTABLISH A POLICY IN ACCORDANCE WITH SCHOOL HEALTH GUIDELINES AND STATE LAWS AND REGULATIONS FOR

PUBLIC SCHOOLS WITHIN ITS JURISDICTION TO AUTHORIZE THE SCHOOL NURSE, SCHOOL HEALTH SERVICES PERSONNEL, AND OTHER SCHOOL PERSONNEL TO ADMINISTER NALOXONE OR OTHER OVERDOSE-REVERSING MEDICATION TO A STUDENT OR OTHER PERSON LOCATED ON SCHOOL PROPERTY WHO IS DETERMINED REASONABLY BELIEVED TO BE SUFFERING FROM EXPERIENCING A NARCOTIC AN OPIOID OVERDOSE.

(B) THE POLICY ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

~~(1) TRAINING FOR SCHOOL NURSES ON HOW TO RECOGNIZE THE SYMPTOMS OF A NARCOTIC OVERDOSE;~~

~~(2) PROCEDURES FOR THE ADMINISTRATION OF NALOXONE OR OTHER OVERDOSE-REVERSING MEDICATIONS;~~

~~(3) THE PROPER FOLLOW-UP EMERGENCY PROCEDURES;~~

(4) (1) A PROVISION REQUIRING ALL PUBLIC SCHOOLS TO OBTAIN AND STORE AT THE PUBLIC SCHOOL NALOXONE OR OTHER OVERDOSE-REVERSING MEDICATION TO BE USED IN AN EMERGENCY SITUATION; AND

~~(5) (2) A REQUIREMENT THAT EACH PUBLIC SCHOOL DEVELOP AND IMPLEMENT A METHOD FOR NOTIFYING THE PARENTS OR GUARDIANS OF STUDENTS OF THE SCHOOL'S POLICY UNDER THIS SECTION AT THE BEGINNING OF EACH SCHOOL YEAR.~~

(C) EXCEPT FOR ANY WILLFUL OR GROSSLY NEGLIGENT ACT, ~~A SCHOOL NURSE WHO HAS BEEN TRAINED UNDER SUBSECTION (B)(1) OF THIS SECTION AND WHO RESPONDS~~ ANY OF THE FOLLOWING INDIVIDUALS WHO RESPOND IN GOOD FAITH TO THE OVERDOSE EMERGENCY OF A STUDENT IN ACCORDANCE WITH THIS SECTION MAY NOT BE HELD PERSONALLY LIABLE FOR ANY ACT OR OMISSION IN THE COURSE OF RESPONDING TO THE EMERGENCY:

(1) A SCHOOL NURSE; OR

(2) OTHER SCHOOL HEALTH SERVICES PERSONNEL WHO ARE LICENSED OR CERTIFIED TO PRACTICE A HEALTH OCCUPATION UNDER THE HEALTH OCCUPATIONS ARTICLE; OR

(3) OTHER SCHOOL PERSONNEL.

(D) (1) ~~(i) SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, FOR EVERY 50,000 STUDENTS ENROLLED IN THE PUBLIC~~

~~SCHOOLS OF A COUNTY, THE~~ THE COUNTY BOARD, IN COOPERATION WITH BOARD OR THE LOCAL HEALTH DEPARTMENT, SHALL BY LOCAL AGREEMENT ~~HIRE A:~~

(I) HIRE A SUFFICIENT NUMBER OF EITHER COUNTY OR REGIONAL COMMUNITY ACTION OFFICIAL OFFICIALS; OR

(II) DEVELOP AND IMPLEMENT A PROGRAM THAT PROVIDES THE COMMUNITY RELATIONS AND EDUCATION FUNCTIONS REQUIRED TO BE CONDUCTED BY COMMUNITY ACTION OFFICIALS IN PARAGRAPH (2) OF THIS SUBSECTION.

~~(II) FOR A COUNTY THAT HAS FEWER THAN 50,000 STUDENTS ENROLLED IN THE PUBLIC SCHOOLS OF THE COUNTY, THE COUNTY BOARD SHALL COORDINATE WITH NEIGHBORING COUNTIES, IN COOPERATION WITH THE LOCAL HEALTH DEPARTMENT IN EACH COUNTY, TO ESTABLISH REGIONAL COMMUNITY ACTION OFFICIALS.~~

(2) A COUNTY OR REGIONAL COMMUNITY ACTION OFFICIAL SHALL:

~~(I) BE ASSIGNED TO SPECIFIC MIDDLE AND HIGH SCHOOLS IN THE COUNTY;~~

~~(II) COORDINATE SCHOOL-BASED COMMUNITY FORUMS, IN COOPERATION WITH LOCAL LAW ENFORCEMENT OFFICIALS; AND~~

~~(II)~~ (II) CONDUCT PUBLIC RELATIONS EFFORTS THAT INCLUDE THE FOLLOWING:

1. PARENT CONTACT;
2. ELECTRONIC MEDIA; AND
3. PUBLIC SERVICE ANNOUNCEMENTS.

(E) (1) FOR FISCAL YEAR 2019, THE GOVERNOR SHALL INCLUDE AN APPROPRIATION OF AT LEAST \$3,000,000 IN GENERAL FUNDS IN THE STATE BUDGET FOR THE DEPARTMENT FOR THE PURPOSE OF AWARDING GRANTS TO COUNTY BOARDS TO IMPLEMENT THE POLICY AND CONDUCT THE TRAINING REQUIRED UNDER THIS SECTION.

(2) THE DEPARTMENT SHALL DISBURSE THE GRANTS AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION BASED ON THE ENROLLMENT COUNT OF STUDENTS IN PUBLIC SCHOOLS IN THE STATE FOR THE PRIOR FISCAL YEAR.

(F) (1) ~~EACH ON OR BEFORE OCTOBER 1 EACH YEAR, EACH PUBLIC SCHOOL SHALL SUBMIT, ON THE FORM THAT THE DEPARTMENT REQUIRES, A REPORT TO THE DEPARTMENT ON EACH INCIDENT AT THE SCHOOL OR AT A RELATED SCHOOL EVENT THAT REQUIRED THE USE OF NALOXONE OR OTHER OVERDOSE-REVERSING MEDICATION.~~

(2) THE DEPARTMENT SHALL DEVELOP AND DISSEMINATE A STANDARD FORM TO REPORT EACH INCIDENT REQUIRING THE USE OF NALOXONE OR OTHER OVERDOSE-REVERSING MEDICATION AT A PUBLIC SCHOOL.

(3) ON OR BEFORE DECEMBER 1, 2018, DECEMBER 1, 2019, AND DECEMBER 1, 2020, THE DEPARTMENT SHALL REPORT THE INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE GENERAL ASSEMBLY IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE.

SUBTITLE 12. HEROIN AND OPIOID ADDICTION AND PREVENTION.

11-1201.

THIS SUBTITLE APPLIES ONLY TO INSTITUTIONS OF HIGHER EDUCATION IN THE STATE THAT RECEIVE OPERATING OR CAPITAL FUNDING FROM THE STATE.

11-1202.

(A) EACH INSTITUTION OF HIGHER EDUCATION SHALL ESTABLISH A POLICY THAT ADDRESSES HEROIN AND OPIOID ADDICTION AND PREVENTION.

(B) (1) THE POLICY ESTABLISHED UNDER THIS SUBTITLE SHALL REQUIRE:

~~(1) INCOMING EACH SENIOR HIGHER EDUCATION INSTITUTION TO REQUIRE INCOMING STUDENTS TO PARTICIPATE IN HEROIN AND OPIOID ADDICTION AND PREVENTION AWARENESS TRAINING; AND OR~~

~~(2) EACH COMMUNITY COLLEGE TO PROVIDE INCOMING STUDENTS WITH RESOURCES THAT ALERT AND EDUCATE THE STUDENTS REGARDING HEROIN AND OPIOID ADDICTION AND PREVENTION; AND~~

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, INCOMING FULL-TIME STUDENTS TO PARTICIPATE IN AN IN-PERSON HEROIN AND OPIOID ADDICTION AND PREVENTION AWARENESS TRAINING, UNLESS IN-PERSON TRAINING IS IMPRACTICABLE, THEN TO PARTICIPATE IN AN ELECTRONIC HEROIN AND OPIOID ADDICTION AND PREVENTION AWARENESS TRAINING;

(II) EACH INSTITUTION TO PROVIDE INCOMING PART-TIME STUDENTS WITH RESOURCES THAT ALERT AND EDUCATE THE STUDENTS REGARDING HEROIN AND OPIOID ADDICTION AND PREVENTION; AND

~~(2) (c) (1) (III) EACH~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH INSTITUTION TO OBTAIN AND STORE AT THE INSTITUTION NALOXONE OR OTHER OVERDOSE-REVERSING MEDICATION TO BE USED IN AN EMERGENCY SITUATION.

~~(2) AN INSTITUTION IS NOT REQUIRED TO STORE AND OBTAIN NALOXONE OR OTHER OVERDOSE REVERSING MEDICATION AT OFF SITE LOCATIONS.~~

(2) THE REQUIREMENTS OF PARAGRAPH (1)(I) AND (III) OF THIS SUBSECTION DO NOT APPLY TO:

(I) THE UNIVERSITY OF MARYLAND, UNIVERSITY COLLEGE;

(II) THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE; OR

(III) AN OFF-CAMPUS LOCATION OF AN INSTITUTION OF HIGHER EDUCATION.

11-1203.

(A) THE POLICY ESTABLISHED UNDER THIS SUBTITLE SHALL INCLUDE:

(1) TRAINING FOR CAMPUS POLICE ~~AND HEALTH~~ OR OTHER DESIGNATED PERSONNEL ON HOW TO RECOGNIZE THE SYMPTOMS OF ~~A NARCOTIC~~ AN OPIOID OVERDOSE;

(2) PROCEDURES FOR THE ADMINISTRATION OF NALOXONE OR OTHER OVERDOSE-REVERSING MEDICATIONS; AND

(3) THE PROPER FOLLOW-UP EMERGENCY PROCEDURES; ~~AND~~

~~(4) A REQUIREMENT THAT EACH INSTITUTION DEVELOP AND IMPLEMENT A METHOD FOR NOTIFYING THE PARENTS OR GUARDIANS OF STUDENTS OF THE INSTITUTION'S POLICY UNDER THIS SECTION AT THE BEGINNING OF EACH SCHOOL YEAR.~~

(B) EXCEPT FOR ANY WILLFUL OR GROSSLY NEGLIGENT ACT, ~~HEALTH PERSONNEL,~~ CAMPUS POLICE, POLICE OR ~~HEALTH~~ OTHER DESIGNATED PERSONNEL

WHO HAVE BEEN TRAINED UNDER SUBSECTION (A)(1) OF THIS SECTION AND WHO RESPOND IN GOOD FAITH TO THE OVERDOSE EMERGENCY OF A STUDENT IN ACCORDANCE WITH THIS SECTION MAY NOT BE HELD PERSONALLY LIABLE FOR ANY ACT OR OMISSION IN THE COURSE OF RESPONDING TO THE EMERGENCY.

11-1204.

(A) ON OR BEFORE OCTOBER 1 EACH YEAR, EACH INSTITUTION OF HIGHER EDUCATION SHALL REPORT TO THE COMMISSION ON EACH INCIDENT AT THE INSTITUTION THAT REQUIRED THE USE OF NALOXONE OR OTHER OVERDOSE-REVERSING MEDICATION.

(B) ON OR BEFORE DECEMBER 1, 2018, DECEMBER 1, 2019, AND DECEMBER 1, 2020, THE COMMISSION SHALL REPORT THE INFORMATION PROVIDED UNDER SUBSECTION (A) OF THIS SECTION TO THE GENERAL ASSEMBLY IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE.

15-121.

(A) THIS SECTION APPLIES ONLY TO AN INSTITUTION OF HIGHER EDUCATION THAT AWARDS A DEGREE THAT AN INDIVIDUAL MAY USE TO MEET THE EDUCATIONAL REQUIREMENTS FOR LICENSURE UNDER THE HEALTH OCCUPATIONS ARTICLE AS A PHYSICIAN, ADVANCED PRACTICE NURSE, DENTIST, PHYSICIAN ASSISTANT, OR PODIATRIST.

(B) AN INSTITUTION OF HIGHER EDUCATION SUBJECT TO THIS SECTION SHALL OFFER INSTRUCTION IN SUBSTANCE USE DISORDERS, EFFECTIVE TREATMENT FOR SUBSTANCE USE DISORDERS, AND PAIN MANAGEMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That the State Department of Education shall:

(1) convene a workgroup of local health officers, behavioral and substance abuse disorder counselors and therapists, representatives of the Maryland Association of Boards of Education, the Public School Superintendents Association of Maryland, the Maryland State Education Association, AFT-Maryland, and other interested stakeholders to:

(i) evaluate programs that provide behavioral and substance abuse disorder services in the public schools in the State; and

(ii) develop proposals to expand the programs evaluated under item (1) of this paragraph to other jurisdictions, if appropriate, including recovery schools; and

(2) on or before December 1, 2017, report its findings and recommendations determined under this section to the General Assembly in accordance with § 2-1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That a county board of education shall use its best efforts to implement the requirements of Section 1 of this Act before the grant funding required in fiscal year 2019, in accordance with § 7-426.5(e) of the Education Article, as enacted by Section 1 of this Act, is disbursed to the county board of education.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 574

(Senate Bill 1060)

AN ACT concerning

Heroin and Opioid Education and Community Action Act of 2017 (Start Talking Maryland Act)

FOR the purpose of requiring a county board of education to consult with the county superintendent of schools ~~to approve or disapprove before a certain change to a school health services program; requiring the State Court Administrator of the Administrative Office of the Courts to assess certain drug court programs to make certain determinations; requiring the Governor to appropriate certain funds to certain agencies in a certain fiscal year for certain purposes; requiring certain agencies to disburse certain grants based on certain factors;~~ altering the name of a certain program; requiring the State Board of Education to establish certain standards for an altered training requirement; requiring the drug addiction and prevention education program to include certain instruction related to heroin and opioid addiction and prevention; requiring the instruction to be delivered in certain grade bands and as a certain unit; requiring certain county boards of education and certain institutions of higher education to establish certain policies; requiring a certain policy to authorize certain school nurses, school health services personnel, and other school personnel to administer naloxone or certain other medications to a student who is ~~determined to be suffering from~~ reasonably believed to be experiencing a certain condition; requiring certain policies to include certain ~~training, procedures, procedures and provisions;~~ prohibiting certain nurses, school health services personnel, campus police, and health ~~health~~ other designated personnel from being held personally liable under certain circumstances; requiring certain county boards of education or local health departments, by local agreement to either hire certain officials or develop and implement a certain program; ~~requiring certain~~

~~county boards to coordinate with certain counties to hire certain officials; requiring certain officials to perform certain duties; requiring certain public schools to submit certain reports to the State Department of Education under certain circumstances on or before a certain date each year; requiring the Department to develop and disseminate a certain form; requiring the Department to submit certain information to the General Assembly on or before certain dates; requiring certain policies to require certain students to participate in certain training, to require certain institutions of higher education to provide certain students with certain resources, and to require certain institutions to obtain and store naloxone or certain other medications to be used under certain circumstances; providing that certain institutions of higher education are not required to obtain and store naloxone or certain other medications at certain locations; requiring certain institutions of higher education to report certain information to the Maryland Higher Education Commission on or before a certain date each year; requiring the Commission to submit certain information to the General Assembly on or before certain dates; providing for the application of certain provisions of this Act; requiring the Department to convene a workgroup that includes certain individuals and interested stakeholders to evaluate certain programs, develop certain proposals, and submit a certain report to the General Assembly on or before a certain date; requiring a county board of education to use certain efforts to implement certain requirements of this Act before certain funding is disbursed to the county board; and generally relating to policies that address heroin and opioid addiction and prevention.~~

~~BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 13-101(a)
Annotated Code of Maryland
(2013 Replacement Volume and 2016 Supplement)~~

~~BY adding to
Article – Courts and Judicial Proceedings
Section 13-101.1
Annotated Code of Maryland
(2013 Replacement Volume and 2016 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Education
Section ~~7-401 and~~ 7-411
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

BY adding to
Article – Education
Section 7-426.5; ~~and~~ 11-1201 through ~~11-1203~~ 11-1204 to be under the new subtitle
“Subtitle 12. Heroin and Opioid Addiction and Prevention”; and 15-121
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

Preamble

WHEREAS, Heroin and opioid-related addiction and deaths are an epidemic of immense proportion in the State; and

WHEREAS, Opioids kill, and still they are in every county, city, community, and school in the State; and

WHEREAS, The Department of Health and Mental Hygiene reports that heroin-related deaths tripled in Maryland from 2011 to 2015, with 247 fatal overdoses in 2011 to 748 fatal overdoses in 2015; and

WHEREAS, Maryland is the fifth worst state in the country for heroin and opioid-related deaths; and

WHEREAS, Maryland is the fifth best state in the country for public education; and

WHEREAS, Many addictions begin during the teenage years when teenagers gain access to prescriptions intended for family or friends; and

WHEREAS, Many parents and family members are unaware of how pervasive this epidemic has become; and

WHEREAS, Maryland students, families, educators, law enforcement, and public health officials need to “Start Talking” in a widespread and organized way about this epidemic in order to empower communities to support extensive prevention and recovery efforts; and

WHEREAS, Maryland can no longer pretend that the stories reported by the press are not in our own backyards; now, therefore,

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

~~Article — Courts and Judicial Proceedings~~

~~13-101.~~

~~(a) There is an Administrative Office of the Courts, headed by the State Court Administrator. The Administrator is appointed by and holds office during the pleasure of the Chief Judge of the Court of Appeals of Maryland. The Administrator shall have the compensation provided in the State budget. The Administrative Office of the Courts shall have a seal in the form the Chief Judge of the Court of Appeals approves. The courts of the State shall take judicial notice of the seal.~~

~~13-101.1.~~

~~(A) THE STATE COURT ADMINISTRATOR SHALL ASSESS DRUG COURT PROGRAMS IN CIRCUIT COURTS, INCLUDING JUVENILE COURTS, AND THE DISTRICT COURT TO DETERMINE HOW TO INCREASE THESE PROGRAMS IN A MANNER SUFFICIENT TO MEET EACH COUNTY'S NEEDS.~~

~~(B) (1) FOR FISCAL YEAR 2019, THE GOVERNOR SHALL INCLUDE AN APPROPRIATION OF AT LEAST \$2,000,000 IN GENERAL FUNDS IN THE STATE BUDGET FOR THE ADMINISTRATIVE OFFICE OF THE COURTS FOR THE PURPOSE OF AWARDING GRANTS TO EXPAND THE SCOPE OF DRUG COURT PROGRAMS DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION.~~

~~(2) THE STATE COURT ADMINISTRATOR SHALL DISBURSE THE GRANTS AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION BASED ON THE POPULATION OF THE COUNTY, TO CIRCUIT COURTS, INCLUDING JUVENILE COURTS, AND THE DISTRICT COURT.~~

Article – Education

7-401.

(a) With the assistance of the county health department, each county board shall provide:

(1) Adequate school health services;

(2) Instruction in health education, including the importance of physical activity in maintaining good health; and

(3) A healthful school environment.

(b) The Department of Education and the Department of Health and Mental Hygiene jointly shall:

(1) Develop public standards and guidelines for school health programs;
and

(2) Offer assistance to the county boards and county health departments in their implementation.

(c) (1) (i) Each county board shall designate a school health services program coordinator.

(ii) A county board may authorize the county health department to designate the school health services program coordinator.

(2) The school health services program coordinator shall:

(i) Implement State and local health policies in the public schools;

(ii) Ensure that public schools adhere to local health services guidelines; and

(iii) Communicate State and local health policies to the parents and guardians of public school students.

(3) (I) [The] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE county board shall grant the school health services program coordinator the authority to carry out the provisions of this subsection.

(II) ~~A THE COUNTY BOARD SHALL CONSULT WITH A COUNTY SUPERINTENDENT SHALL APPROVE OR DISAPPROVE ANY PROPOSED BEFORE ANY CHANGE IN THE HIRING OR TERMINATION OF PERSONNEL IN CONNECTION WITH A SCHOOL HEALTH SERVICES PROGRAM.~~

(4) The Department of Education shall conduct at least two meetings annually with all school health services program coordinators in the State.

(d) On or before December 1, 2015, and every 5 years thereafter, the Department shall report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly a summary of the information reported to the State Superintendent during the COMAR certification process.

7-411.

(a) The State Board shall develop and implement a program of drug ADDICTION AND PREVENTION education in the public schools.

(b) (1) [This] EXCEPT AS PROVIDED IN SUBSECTION (C)(2) OF THIS SECTION, THIS program shall be started before the sixth grade in each public school by teachers who are trained in the field of drug education.

(2) The State Board shall establish standards for determining how a teacher is considered to be “trained in the field of drug ADDICTION AND PREVENTION education” for the purposes of this section.

(C) (1) THE PROGRAM SHALL INCLUDE INSTRUCTION RELATED TO HEROIN AND OPIOID ADDICTION AND PREVENTION, INCLUDING INFORMATION RELATING TO THE LETHAL EFFECT OF FENTANYL.

(2) THE INSTRUCTION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE:

(I) DELIVERED IN GRADE BANDS AS FOLLOWS:

1. THIRD GRADE THROUGH FIFTH GRADE;
2. SIXTH GRADE THROUGH EIGHTH GRADE; AND
3. NINTH GRADE THROUGH TWELFTH GRADE; AND

(II) A STAND-ALONE UNIT IN THE PROGRAM.

[(c)] (D) This program shall be coordinated with other State agencies that are responsible for drug abuse education and control.

7-426.5.

(A) EACH COUNTY BOARD SHALL ESTABLISH A POLICY IN ACCORDANCE WITH SCHOOL HEALTH GUIDELINES AND STATE LAWS AND REGULATIONS FOR PUBLIC SCHOOLS WITHIN ITS JURISDICTION TO AUTHORIZE THE SCHOOL NURSE, SCHOOL HEALTH SERVICES PERSONNEL, AND OTHER SCHOOL PERSONNEL TO ADMINISTER NALOXONE OR OTHER OVERDOSE-REVERSING MEDICATION TO A STUDENT OR OTHER PERSON LOCATED ON SCHOOL PROPERTY WHO IS ~~DETERMINED~~ REASONABLY BELIEVED TO BE ~~SUFFERING FROM~~ EXPERIENCING A NARCOTIC AN OPIOID OVERDOSE.

(B) THE POLICY ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

~~(1) TRAINING FOR SCHOOL NURSES ON HOW TO RECOGNIZE THE SYMPTOMS OF A NARCOTIC OVERDOSE;~~

~~(2) PROCEDURES FOR THE ADMINISTRATION OF NALOXONE OR OTHER OVERDOSE REVERSING MEDICATIONS;~~

~~(3) THE PROPER FOLLOW UP EMERGENCY PROCEDURES;~~

~~(4)~~ (1) A PROVISION REQUIRING ALL PUBLIC SCHOOLS TO OBTAIN AND STORE AT THE PUBLIC SCHOOL NALOXONE OR OTHER OVERDOSE-REVERSING MEDICATION TO BE USED IN AN EMERGENCY SITUATION; AND

~~(5)~~ (2) A REQUIREMENT THAT EACH PUBLIC SCHOOL DEVELOP AND IMPLEMENT A METHOD FOR NOTIFYING THE PARENTS OR GUARDIANS OF STUDENTS OF THE SCHOOL'S POLICY UNDER THIS SECTION AT THE BEGINNING OF EACH SCHOOL YEAR.

(C) EXCEPT FOR ANY WILLFUL OR GROSSLY NEGLIGENT ACT, ~~A SCHOOL NURSE WHO HAS BEEN TRAINED UNDER SUBSECTION (B)(1) OF THIS SECTION AND WHO RESPONDS~~ ANY OF THE FOLLOWING INDIVIDUALS WHO RESPOND IN GOOD FAITH TO THE OVERDOSE EMERGENCY OF A STUDENT IN ACCORDANCE WITH THIS SECTION MAY NOT BE HELD PERSONALLY LIABLE FOR ANY ACT OR OMISSION IN THE COURSE OF RESPONDING TO THE EMERGENCY:

(1) A SCHOOL NURSE; OR

(2) OTHER SCHOOL HEALTH SERVICES PERSONNEL WHO ARE LICENSED OR CERTIFIED TO PRACTICE A HEALTH OCCUPATION UNDER THE HEALTH OCCUPATIONS ARTICLE; OR

(3) OTHER SCHOOL PERSONNEL.

(D) (1) ~~(I) SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, FOR EVERY 50,000 STUDENTS ENROLLED IN THE PUBLIC SCHOOLS OF A COUNTY, THE~~ THE COUNTY BOARD, IN COOPERATION WITH BOARD OR THE LOCAL HEALTH DEPARTMENT, SHALL, BY LOCAL AGREEMENT ~~HEREA:~~

(I) HIRE A SUFFICIENT NUMBER OF EITHER COUNTY OR REGIONAL COMMUNITY ACTION OFFICIAL OFFICIALS; OR

(II) DEVELOP AND IMPLEMENT A PROGRAM THAT PROVIDES THE COMMUNITY RELATIONS AND EDUCATION FUNCTIONS REQUIRED TO BE CONDUCTED BY COMMUNITY ACTION OFFICIALS IN PARAGRAPH (2) OF THIS SUBSECTION.

~~(II) FOR A COUNTY THAT HAS FEWER THAN 50,000 STUDENTS ENROLLED IN THE PUBLIC SCHOOLS OF THE COUNTY, THE COUNTY BOARD SHALL COORDINATE WITH NEIGHBORING COUNTIES, IN COOPERATION WITH THE LOCAL HEALTH DEPARTMENT IN EACH COUNTY, TO ESTABLISH REGIONAL COMMUNITY ACTION OFFICIALS.~~

(2) A COUNTY OR REGIONAL COMMUNITY ACTION OFFICIAL SHALL:

(I) ~~BE ASSIGNED TO SPECIFIC MIDDLE AND HIGH SCHOOLS IN THE COUNTY;~~

~~(II) COORDINATE SCHOOL-BASED COMMUNITY FORUMS, IN COOPERATION WITH LOCAL LAW ENFORCEMENT OFFICIALS; AND~~

~~(H)~~ (II) CONDUCT PUBLIC RELATIONS EFFORTS THAT INCLUDE THE FOLLOWING:

1. PARENT CONTACT;
2. ELECTRONIC MEDIA; AND
3. PUBLIC SERVICE ANNOUNCEMENTS.

(E) (1) FOR FISCAL YEAR 2019, THE GOVERNOR SHALL INCLUDE AN APPROPRIATION OF AT LEAST \$3,000,000 IN GENERAL FUNDS IN THE STATE BUDGET FOR THE DEPARTMENT FOR THE PURPOSE OF AWARDING GRANTS TO COUNTY BOARDS TO IMPLEMENT THE POLICY AND CONDUCT THE TRAINING REQUIRED UNDER THIS SECTION.

(2) THE DEPARTMENT SHALL DISBURSE THE GRANTS AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION BASED ON THE ENROLLMENT COUNT OF STUDENTS IN PUBLIC SCHOOLS IN THE STATE FOR THE PRIOR FISCAL YEAR.

(F) (1) ~~EACH ON OR BEFORE OCTOBER 1 EACH YEAR, EACH PUBLIC SCHOOL SHALL SUBMIT, ON THE FORM THAT THE DEPARTMENT REQUIRES, A REPORT TO THE DEPARTMENT ON EACH INCIDENT AT THE SCHOOL OR AT A RELATED SCHOOL EVENT THAT REQUIRED THE USE OF NALOXONE OR OTHER OVERDOSE-REVERSING MEDICATION.~~

(2) THE DEPARTMENT SHALL DEVELOP AND DISSEMINATE A STANDARD FORM TO REPORT EACH INCIDENT REQUIRING THE USE OF NALOXONE OR OTHER OVERDOSE-REVERSING MEDICATION AT A PUBLIC SCHOOL.

(3) ON OR BEFORE DECEMBER 1, 2018, DECEMBER 1, 2019, AND DECEMBER 1, 2020, THE DEPARTMENT SHALL REPORT THE INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE GENERAL ASSEMBLY IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE.

SUBTITLE 12. HEROIN AND OPIOID ADDICTION AND PREVENTION.

11-1201.

~~(A) THIS EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS~~ **THIS** SUBTITLE APPLIES ONLY TO INSTITUTIONS OF HIGHER EDUCATION IN THE STATE THAT RECEIVE OPERATING OR CAPITAL FUNDING FROM THE STATE.

~~(B) THIS SUBTITLE DOES NOT APPLY TO A SENIOR HIGHER EDUCATION INSTITUTION THAT DOES NOT HAVE RESIDENTIAL HOUSING ON ITS CAMPUS.~~

11-1202.

(A) EACH INSTITUTION OF HIGHER EDUCATION SHALL ESTABLISH A POLICY THAT ADDRESSES HEROIN AND OPIOID ADDICTION AND PREVENTION.

(B) (1) THE POLICY ESTABLISHED UNDER THIS SUBTITLE SHALL REQUIRE:

~~(1) (I) INCOMING FULL-TIME EACH SENIOR HIGHER EDUCATION INSTITUTION TO REQUIRE INCOMING STUDENTS TO PARTICIPATE IN HEROIN AND OPIOID ADDICTION AND PREVENTION AWARENESS TRAINING EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, INCOMING FULL-TIME STUDENTS TO PARTICIPATE IN AN IN-PERSON HEROIN AND OPIOID ADDICTION AND PREVENTION AWARENESS TRAINING, UNLESS IN-PERSON TRAINING IS IMPRACTICABLE, THEN TO PARTICIPATE IN AN ELECTRONIC HEROIN AND OPIOID ADDICTION AND PREVENTION AWARENESS TRAINING; AND~~

~~(2) (II) EACH INSTITUTION COMMUNITY COLLEGE INSTITUTION TO PROVIDE INCOMING PART-TIME STUDENTS WITH RESOURCES THAT ALERT AND EDUCATE THE STUDENTS REGARDING HEROIN AND OPIOID ADDICTION AND PREVENTION; AND~~

~~(2) (3) (III) EACH EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH INSTITUTION TO OBTAIN AND STORE AT THE INSTITUTION NALOXONE OR OTHER OVERDOSE-REVERSING MEDICATION TO BE USED IN AN EMERGENCY SITUATION.~~

~~(2) AN INSTITUTION IS NOT REQUIRED TO STORE AND OBTAIN NALOXONE OR OTHER OVERDOSE REVERSING MEDICATION AT OFF SITE LOCATIONS. THE REQUIREMENTS OF PARAGRAPH (1)(I) AND (III) OF THIS SUBSECTION DO NOT APPLY TO:~~

~~(I) THE UNIVERSITY OF MARYLAND, UNIVERSITY COLLEGE;~~

~~(II) THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE; OR~~

~~(III) AN OFF-CAMPUS LOCATION OF AN INSTITUTION OF HIGHER EDUCATION.~~

11-1203.

(A) THE POLICY ESTABLISHED UNDER THIS SUBTITLE SHALL INCLUDE:

(1) TRAINING FOR CAMPUS POLICE OR OTHER DESIGNATED PERSONNEL ~~AND HEALTH PERSONNEL~~ ON HOW TO RECOGNIZE THE SYMPTOMS OF A ~~NARCOTIC~~ AN OPIOID OVERDOSE;

(2) PROCEDURES FOR THE ADMINISTRATION OF NALOXONE OR OTHER OVERDOSE-REVERSING MEDICATIONS; AND

(3) THE PROPER FOLLOW-UP EMERGENCY PROCEDURES; ~~AND~~

~~(4) A REQUIREMENT THAT EACH INSTITUTION DEVELOP AND IMPLEMENT A METHOD FOR NOTIFYING THE PARENTS OR GUARDIANS OF STUDENTS OF THE INSTITUTION'S POLICY UNDER THIS SECTION AT THE BEGINNING OF EACH SCHOOL YEAR.~~

(B) EXCEPT FOR ANY WILLFUL OR GROSSLY NEGLIGENT ACT, ~~HEALTH PERSONNEL OR~~ CAMPUS POLICE OR OTHER DESIGNATED PERSONNEL ~~OR HEALTH PERSONNEL~~ WHO HAVE BEEN TRAINED UNDER SUBSECTION (A)(1) OF THIS SECTION AND WHO RESPOND IN GOOD FAITH TO THE OVERDOSE EMERGENCY OF A STUDENT IN ACCORDANCE WITH THIS SECTION MAY NOT BE HELD PERSONALLY LIABLE FOR ANY ACT OR OMISSION IN THE COURSE OF RESPONDING TO THE EMERGENCY.

11-1204.

(A) ON OR BEFORE OCTOBER 1 EACH YEAR, EACH INSTITUTION OF HIGHER EDUCATION SHALL REPORT TO THE COMMISSION ON EACH INCIDENT AT THE INSTITUTION THAT REQUIRED THE USE OF NALOXONE OR OTHER OVERDOSE-REVERSING MEDICATION.

(B) ON OR BEFORE DECEMBER 1, 2018, DECEMBER 1, 2019, AND DECEMBER 1, 2020, THE COMMISSION SHALL REPORT THE INFORMATION PROVIDED UNDER SUBSECTION (A) OF THIS SECTION TO THE GENERAL ASSEMBLY IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE.

15-121.

(A) THIS SECTION APPLIES ONLY TO AN INSTITUTION OF HIGHER EDUCATION THAT AWARDS A DEGREE THAT AN INDIVIDUAL MAY USE TO MEET THE EDUCATIONAL REQUIREMENTS FOR LICENSURE UNDER THE HEALTH OCCUPATIONS ARTICLE AS A PHYSICIAN, REGISTERED ADVANCED PRACTICE NURSE, DENTIST, PHYSICIAN ASSISTANT, OR PODIATRIST.

(B) AN INSTITUTION OF HIGHER EDUCATION SUBJECT TO THIS SECTION SHALL OFFER INSTRUCTION IN SUBSTANCE USE DISORDERS, EFFECTIVE TREATMENT FOR SUBSTANCE USE DISORDERS, AND PAIN MANAGEMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That the State Department of Education shall:

(1) convene a workgroup of local health officers, behavioral and substance abuse disorder counselors and therapists, representatives of the Maryland Association of Boards of Education, the Public School Superintendents Association of Maryland, the Maryland State Education Association, AFT–Maryland, and other interested stakeholders to:

(i) evaluate programs that provide behavioral and substance abuse disorder services in the public schools in the State; and

(ii) develop proposals to expand the programs evaluated under item (1) of this paragraph to other jurisdictions, if appropriate, including recovery schools; and

(2) on or before December 1, 2017, report its findings and recommendations determined under this section to the General Assembly in accordance with § 2–1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That a county board of education shall use its best efforts to implement the requirements of Section 1 of this Act before the grant funding required in fiscal year 2019, in accordance with § 7–426.5(e) of the Education Article, as enacted by Section 1 of this Act, is disbursed to the county board of education.

SECTION ~~2~~ ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 575

(House Bill 1619)

AN ACT concerning

Maryland Stadium Authority – Maryland Sports and Affiliated Foundations – Establishment

FOR the purpose of establishing an office known as Maryland Sports in the Maryland Stadium Authority; requiring Maryland Sports to implement a program to bring certain sporting events to the State for certain purposes; requiring Maryland Sports

to act as the State's sports commission for the purpose of the National Association of Sports Commissions; authorizing Maryland Sports to request certain assistance and information from any State or local governmental entity, to accept a certain gift, bequest, or grant, to spend certain funds, to act as a host committee for certain sporting events, and to perform certain other tasks; encouraging Maryland Sports to promote private fund-raising by maintaining certain relationships with a certain affiliated foundation; authorizing the Authority to establish one or more affiliated foundations to work with Maryland Sports; establishing the purposes of an affiliated foundation; requiring the Authority to develop policies for the operation of each affiliated foundation the Authority establishes; requiring the Attorney General to review certain policies for form and legal sufficiency and, if appropriate, to approve the policies; requiring the State Ethics Commission to review certain policies that pertain to conflicts of interest and, if appropriate, to approve the policies; allowing an affiliated foundation to solicit and receive certain contributions; providing that an affiliated foundation may not be considered an agency or instrumentality of the State or a unit of the Executive Branch for any purpose; providing that a financial obligation or liability of an affiliated foundation may not be considered a debt or an obligation of the State, the Authority, or Maryland Sports; ~~providing that the Public Ethics Law does not prohibit an Authority official or employee from working in certain capacities for an affiliated foundation requiring the Authority, in consultation with the State Ethics Commission, to adopt regulations to govern conflicts of interest regarding an official or employee of the Authority becoming employed by an affiliated foundation~~ providing that the Public Ethics Law does not prohibit an Authority official or employee from working in certain capacities for an affiliated foundation; prohibiting an official or employee of the Authority who serves in certain capacities for an affiliated foundation from being compensated by the affiliated foundation; authorizing an official or employee of the Authority who serves in certain capacities for an affiliated foundation to be reimbursed for certain expenses incurred in serving in certain capacities for an affiliated foundation; requiring the Authority to notify the Commission in a certain manner whenever the Authority permits an official or employee of the Authority to serve in certain capacities for an affiliated foundation; requiring the Commission to notify the Authority within a certain time of any objections or concerns pertaining to a certain notice; requiring the Authority to reexamine a certain matter on receipt of a certain notice; requiring the Authority to report annually to the Governor, the Legislative Policy Committee, and the Commission on certain information; requiring an affiliated foundation to undergo a certain audit each year; authorizing the Authority to grant certain funds under certain circumstances; and generally relating to the establishment of Maryland Sports and affiliated foundations.

BY repealing and reenacting, without amendments,
Article – Economic Development
Section 10–604
Annotated Code of Maryland
(2008 Volume and 2016 Supplement)

BY adding to

Article – Economic Development
Section 10–611 and 10–612
Annotated Code of Maryland
(2008 Volume and 2016 Supplement)

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

Article – Economic Development

10–604.

(a) There is a Maryland Stadium Authority.

(b) (1) The Authority is a body politic and corporate and is an instrumentality of the State.

(2) The Authority is an independent unit in the Executive Branch of State government.

(3) The exercise by the Authority of its powers under this subtitle is an essential governmental function.

(c) The Authority is a public body under Title 5, Subtitle 4 of this article, the Maryland Industrial Development Financing Authority Act, for purposes of applying for, receiving, and making agreements in connection with:

(1) a loan;

(2) a grant;

(3) insurance; or

(4) any other form of financial assistance.

10–611.

(A) THERE IS AN OFFICE KNOWN AS MARYLAND SPORTS IN THE AUTHORITY.

(B) MARYLAND SPORTS SHALL IMPLEMENT A PROGRAM TO BRING REGIONAL, NATIONAL, AND INTERNATIONAL SPORTING EVENTS AT ALL LEVELS OF COMPETITION TO THE STATE FOR THE PURPOSES OF:

(1) UTILIZING SPORTS FACILITIES IN THE STATE;

(2) ENHANCING THE ECONOMIC DEVELOPMENT OF THE STATE; AND

(3) PROMOTING THE STATE AS A DESTINATION FOR AMATEUR AND PROFESSIONAL SPORTING EVENTS.

(C) MARYLAND SPORTS SHALL ACT AS THE STATE'S SPORTS COMMISSION FOR THE PURPOSE OF THE NATIONAL ASSOCIATION OF SPORTS COMMISSIONS.

(D) TO CARRY OUT THE PURPOSES OF THIS SECTION, MARYLAND SPORTS MAY:

(1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, REQUEST ANY STATE OR LOCAL GOVERNMENT BODY TO PROVIDE INFORMATION AND ASSISTANCE;

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ACCEPT A GIFT, BEQUEST, OR GRANT FROM A PUBLIC OR PRIVATE SOURCE;

(3) SPEND FUNDS MADE AVAILABLE IN THE STATE BUDGET;

(4) ACT AS THE HOST COMMITTEE FOR REGIONAL, NATIONAL, AND INTERNATIONAL SPORTING EVENTS TO BE HELD IN WHOLE OR IN PART IN THE STATE; AND

(5) PERFORM ANY OTHER ACT NECESSARY.

(E) MARYLAND SPORTS IS ENCOURAGED TO PROMOTE PRIVATE FUND-RAISING BY MAINTAINING RELATIONSHIPS WITH EACH AFFILIATED FOUNDATION ESTABLISHED UNDER § 10-612 OF THIS SUBTITLE.

10-612.

(A) THE AUTHORITY MAY ESTABLISH ONE OR MORE AFFILIATED FOUNDATIONS TO WORK WITH MARYLAND SPORTS, ESTABLISHED UNDER § 10-611 OF THIS SUBTITLE.

(B) THE PURPOSES OF AN AFFILIATED FOUNDATION ARE TO:

(1) SUPPORT THE STATE IN:

(I) SPORTS BID DEVELOPMENT;

(II) SPORTING EVENT RECRUITMENT AND RETENTION;

(III) ECONOMIC ANALYSIS AND RESEARCH RELATING TO SPORTING EVENTS;

(IV) SPONSORSHIP OF SPORTING EVENTS; AND

(V) DEVELOPMENT OF PARTNERSHIPS WITH PUBLIC AND PRIVATE ENTITIES DESIGNED TO SPONSOR SPORTING EVENTS;

(2) PROMOTE REGIONAL, NATIONAL, AND INTERNATIONAL SPORTING EVENTS TO BE HELD, IN WHOLE OR IN PART, IN THE STATE; AND

(3) RECRUIT, MARKET, PROMOTE, WORK TO RETAIN, AND MANAGE SPORTING EVENTS THAT HAVE A POSITIVE ECONOMIC OR CULTURAL IMPACT, OR OTHERWISE ENHANCE THE QUALITY OF LIFE OF THE STATE'S CITIZENS.

(C) (1) THE AUTHORITY SHALL DEVELOP POLICIES FOR THE OPERATION OF EACH AFFILIATED FOUNDATION THE AUTHORITY ESTABLISHES.

(2) THE ATTORNEY GENERAL SHALL REVIEW THE POLICIES THE AUTHORITY DEVELOPS UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR FORM AND LEGAL SUFFICIENCY AND, IF APPROPRIATE, APPROVE THEM TO GOVERN THE AFFILIATED FOUNDATION.

(3) THE STATE ETHICS COMMISSION SHALL REVIEW THE POLICIES THE AUTHORITY DEVELOPS UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT PERTAIN TO CONFLICTS OF INTEREST AND, IF APPROPRIATE, APPROVE THEM TO GOVERN AN OFFICIAL OR EMPLOYEE OF THE AUTHORITY ALSO SERVING AS A DIRECTOR OR OFFICIAL OF AN AFFILIATED FOUNDATION.

(D) AN AFFILIATED FOUNDATION MAY SOLICIT AND RECEIVE CONTRIBUTIONS FROM BUSINESSES, GOVERNMENTAL ENTITIES, NONPROFIT ORGANIZATIONS, AND INDIVIDUALS INTERESTED IN THE PROMOTION OF SPORTS IN THE STATE.

(E) (1) AN AFFILIATED FOUNDATION ESTABLISHED UNDER THIS SECTION MAY NOT BE CONSIDERED AN AGENCY OR INSTRUMENTALITY OF THE STATE OR A UNIT OF THE EXECUTIVE BRANCH FOR ANY PURPOSE.

(2) A FINANCIAL OBLIGATION OR LIABILITY OF AN AFFILIATED FOUNDATION ESTABLISHED AND OPERATED UNDER THIS SECTION MAY NOT BE CONSIDERED A DEBT OR AN OBLIGATION OF THE STATE, THE AUTHORITY, OR MARYLAND SPORTS.

~~(F) (1) SECTIONS 5-501 THROUGH 5-504 OF THE GENERAL PROVISIONS ARTICLE DO NOT PROHIBIT AN OFFICIAL OR EMPLOYEE OF THE AUTHORITY FROM THE AUTHORITY, IN CONSULTATION WITH THE STATE ETHICS COMMISSION, SHALL ADOPT REGULATIONS TO GOVERN CONFLICTS OF INTEREST WITH RESPECT TO AN OFFICIAL OR EMPLOYEE OF THE AUTHORITY~~ SECTIONS 5-501 THROUGH 5-504 OF THE GENERAL PROVISIONS ARTICLE DO NOT PROHIBIT AN OFFICIAL OR EMPLOYEE OF THE AUTHORITY FROM ALSO BECOMING A DIRECTOR, OR AN OFFICIAL, OR AN EMPLOYEE OF AN AFFILIATED FOUNDATION ORGANIZED UNDER THIS SECTION.

(2) AN OFFICIAL OR EMPLOYEE OF THE AUTHORITY WHO SERVES AS A DIRECTOR OR OFFICIAL OF AN AFFILIATED FOUNDATION ORGANIZED UNDER THIS SECTION:

(I) MAY NOT BE COMPENSATED, DIRECTLY OR INDIRECTLY, BY THE AFFILIATED FOUNDATION; AND

(II) MAY BE REIMBURSED FOR BONA FIDE EXPENSES INCURRED IN THE PERFORMANCE OF ACTIVITIES UNDERTAKEN ON BEHALF OF THE AFFILIATED FOUNDATION AS AUTHORIZED BY THE BOARD OF DIRECTORS OF THAT AFFILIATED FOUNDATION AND BY THE AUTHORITY.

(3) (I) THE AUTHORITY SHALL NOTIFY THE STATE ETHICS COMMISSION IN WRITING WHENEVER THE AUTHORITY PERMITS AN OFFICIAL OR EMPLOYEE OF THE AUTHORITY TO SERVE AS A DIRECTOR OR OFFICIAL OF AN AFFILIATED FOUNDATION.

(II) WITHIN 30 DAYS AFTER RECEIPT OF THE NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE STATE ETHICS COMMISSION SHALL NOTIFY THE AUTHORITY OF ANY OBJECTIONS OR CONCERNS PERTAINING TO THE JOINT SERVICE IDENTIFIED IN THE NOTICE.

(III) ON RECEIPT OF A NOTICE FROM THE STATE ETHICS COMMISSION UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE AUTHORITY SHALL REEXAMINE THE MATTER.

(4) THE AUTHORITY SHALL REPORT ANNUALLY TO THE GOVERNOR, THE LEGISLATIVE POLICY COMMITTEE OF THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, AND THE STATE ETHICS COMMISSION:

(I) THE NAMES OF THE OFFICIALS AND EMPLOYEES SERVING AS A DIRECTOR OR OFFICIAL OF AN AFFILIATED FOUNDATION; AND

(II) HOW THE POLICIES AND PROCEDURES ADOPTED UNDER SUBSECTION (C) OF THIS SECTION HAVE BEEN IMPLEMENTED IN THE PRECEDING YEAR.

(G) AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT HIRED AND PAID BY THE AUTHORITY SHALL AUDIT AN AFFILIATED FOUNDATION ESTABLISHED UNDER THIS SECTION EACH YEAR.

(H) IN ANY FISCAL YEAR, AFTER ~~THE APPROVAL OF~~ PROVIDING THE BUDGET COMMITTEES OF THE GENERAL ASSEMBLY AN OPPORTUNITY FOR REVIEW AND COMMENT, THE AUTHORITY MAY GRANT UP TO \$500,000 OF THE AUTHORITY'S AVAILABLE NONBUDGETED MONEY TO AFFILIATED FOUNDATIONS ESTABLISHED UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 576

(House Bill 1383)

AN ACT concerning

Behavioral Health Administration – Outpatient Civil Commitment Pilot Program

FOR the purpose of authorizing the Behavioral Health Administration to establish an outpatient civil commitment pilot program for certain individuals; requiring the Administration to adopt certain criteria, establish certain requirements, and specify certain rights under the pilot program; requiring the Administration, under certain circumstances, to submit a certain report to certain committees of the General Assembly on or before a certain date each year the pilot program is in existence; stating the intent of the General Assembly; and generally relating to an outpatient civil commitment pilot program.

BY adding to

Article – Health – General

Section 7.5–205.1

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

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

Article – Health – General

7.5–205.1.

(A) THE ADMINISTRATION MAY ESTABLISH AN OUTPATIENT CIVIL COMMITMENT PILOT PROGRAM TO ALLOW FOR THE RELEASE OF AN INDIVIDUAL WHO IS INVOLUNTARILY ADMITTED FOR INPATIENT TREATMENT UNDER § 10–632 OF THIS ARTICLE ON CONDITION OF THE INDIVIDUAL’S ADMISSION INTO THE PILOT PROGRAM.

(B) IF THE ADMINISTRATION ESTABLISHES A PILOT PROGRAM UNDER SUBSECTION (A) OF THIS SECTION, THE ADMINISTRATION SHALL:

(1) ADOPT CRITERIA AN INDIVIDUAL MUST MEET IN ORDER TO BE ADMITTED INTO THE PILOT PROGRAM;

(2) ESTABLISH APPLICATION, HEARING, AND NOTICE REQUIREMENTS; AND

(3) SPECIFY THE RIGHTS OF AN INDIVIDUAL WHO MAY BE OR WHO HAS BEEN ADMITTED INTO THE PILOT PROGRAM.

(C) IF THE ADMINISTRATION ESTABLISHES A PILOT PROGRAM UNDER SUBSECTION (A) OF THIS SECTION, ON OR BEFORE DECEMBER 1 EACH YEAR THE PILOT PROGRAM IS IN EXISTENCE, THE ADMINISTRATION SHALL SUBMIT TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, A REPORT THAT INCLUDES:

(1) THE NUMBER OF INDIVIDUALS ADMITTED INTO THE PILOT PROGRAM DURING THE IMMEDIATELY PRECEDING 12–MONTH PERIOD;

(2) THE NUMBER OF APPLICATIONS FOR ADMISSION INTO THE PILOT PROGRAM SUBMITTED DURING THE IMMEDIATELY PRECEDING 12–MONTH PERIOD;

(3) THE COST OF ADMINISTERING THE PILOT PROGRAM FOR THE IMMEDIATELY PRECEDING 12–MONTH PERIOD;

(4) THE PERCENTAGE OF INDIVIDUALS ADMITTED INTO THE PILOT PROGRAM WHO ADHERED TO THE TREATMENT PLAN ESTABLISHED FOR THE INDIVIDUAL UNDER THE PILOT PROGRAM;

(5) TREATMENT OUTCOMES;

(6) THE TYPE, INTENSITY, AND FREQUENCY OF SERVICES PROVIDED TO INDIVIDUALS ADMITTED INTO THE PILOT PROGRAM; AND

(7) ANY OTHER INFORMATION THAT MAY BE USEFUL IN DETERMINING WHETHER A PERMANENT OUTPATIENT CIVIL COMMITMENT PROCESS SHOULD BE ESTABLISHED.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly:

(1) to improve services for individuals in Baltimore City who have a serious mental illness and have not been well-served by the public behavioral health system through the establishment of the Outpatient Civil Commitment Pilot Program under § 7.5–205.1 of the Health – General Article, as enacted by Section 1 of this Act;

(2) that eligible individuals committed involuntarily to an inpatient psychiatric hospital and referred to the Outpatient Civil Commitment Pilot Program receive a comprehensive range of evidence-based and client-centered behavioral health and social services and supports in the community, either through voluntary engagement with, or through involuntary commitment as a condition of release to, the Outpatient Civil Commitment Pilot Program;

(3) that the Outpatient Civil Commitment Pilot Program be funded through federal funding from the federal Substance Abuse and Mental Health Services Administration that will be directed to select behavioral health programs regulated by the Department of Health and Mental Hygiene to provide services delivered under the Outpatient Civil Commitment Pilot Program; and

(4) that robust evaluation components be included as part of the Outpatient Civil Commitment Pilot Program to:

(i) provide a thorough review of program effectiveness, achieve a better understanding of why individuals fail to engage in or discontinue community behavioral health care services, and gauge differences in outcomes between those who participate in the Outpatient Civil Commitment Pilot Program voluntarily and involuntarily; and

(ii) inform effective planning to implement community services that better serve State residents living with a serious mental illness who do not engage voluntarily in treatment, discontinue care, or are otherwise not well-served by currently available community behavioral health services and supports.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 577

(Senate Bill 1042)

AN ACT concerning

Behavioral Health Administration – Outpatient Civil Commitment Pilot Program

FOR the purpose of authorizing the Behavioral Health Administration to establish an outpatient civil commitment pilot program for certain individuals; requiring the Administration to adopt certain criteria, establish certain requirements, and specify certain rights under the pilot program; requiring the Administration, under certain circumstances, to submit a certain report to certain committees of the General Assembly on or before a certain date each year the pilot program is in existence; stating the intent of the General Assembly; and generally relating to an outpatient civil commitment pilot program.

BY adding to

Article – Health – General

Section 7.5–205.1

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

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

Article – Health – General

7.5–205.1.

(A) THE ADMINISTRATION MAY ESTABLISH AN OUTPATIENT CIVIL COMMITMENT PILOT PROGRAM TO ALLOW FOR THE RELEASE OF AN INDIVIDUAL WHO IS INVOLUNTARILY ADMITTED FOR INPATIENT TREATMENT UNDER § 10–632 OF THIS ARTICLE ON CONDITION OF THE INDIVIDUAL’S ADMISSION INTO THE PILOT PROGRAM.

(B) IF THE ADMINISTRATION ESTABLISHES A PILOT PROGRAM UNDER SUBSECTION (A) OF THIS SECTION, THE ADMINISTRATION SHALL:

(1) ADOPT CRITERIA AN INDIVIDUAL MUST MEET IN ORDER TO BE ADMITTED INTO THE PILOT PROGRAM;

(2) ESTABLISH APPLICATION, HEARING, AND NOTICE REQUIREMENTS; AND

(3) SPECIFY THE RIGHTS OF AN INDIVIDUAL WHO MAY BE OR WHO HAS BEEN ADMITTED INTO THE PILOT PROGRAM.

(C) IF THE ADMINISTRATION ESTABLISHES A PILOT PROGRAM UNDER SUBSECTION (A) OF THIS SECTION, ON OR BEFORE DECEMBER 1 EACH YEAR THE PILOT PROGRAM IS IN EXISTENCE, THE ADMINISTRATION SHALL SUBMIT TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, A REPORT THAT INCLUDES:

(1) THE NUMBER OF INDIVIDUALS ADMITTED INTO THE PILOT PROGRAM DURING THE IMMEDIATELY PRECEDING 12-MONTH PERIOD;

(2) THE NUMBER OF APPLICATIONS FOR ADMISSION INTO THE PILOT PROGRAM SUBMITTED DURING THE IMMEDIATELY PRECEDING 12-MONTH PERIOD;

(3) THE COST OF ADMINISTERING THE PILOT PROGRAM FOR THE IMMEDIATELY PRECEDING 12-MONTH PERIOD;

(4) THE PERCENTAGE OF INDIVIDUALS ADMITTED INTO THE PILOT PROGRAM WHO ADHERED TO THE TREATMENT PLAN ESTABLISHED FOR THE INDIVIDUAL UNDER THE PILOT PROGRAM;

(5) TREATMENT OUTCOMES;

(6) THE TYPE, INTENSITY, AND FREQUENCY OF SERVICES PROVIDED TO INDIVIDUALS ADMITTED INTO THE PILOT PROGRAM; AND

(7) ANY OTHER INFORMATION THAT MAY BE USEFUL IN DETERMINING WHETHER A PERMANENT OUTPATIENT CIVIL COMMITMENT PROCESS SHOULD BE ESTABLISHED.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly:

(1) to improve services for individuals in Baltimore City who have a serious mental illness and have not been well-served by the public behavioral health system

through the establishment of the Outpatient Civil Commitment Pilot Program under § 7.5–205.1 of the Health – General Article, as enacted by Section 1 of this Act;

(2) that eligible individuals committed involuntarily to an inpatient psychiatric hospital and referred to the Outpatient Civil Commitment Pilot Program receive a comprehensive range of evidence-based and client-centered behavioral health and social services and supports in the community, either through voluntary engagement with, or through involuntary commitment as a condition of release to, the Outpatient Civil Commitment Pilot Program;

(3) that the Outpatient Civil Commitment Pilot Program be funded through federal funding from the federal Substance Abuse and Mental Health Services Administration that will be directed to select behavioral health programs regulated by the Department of Health and Mental Hygiene to provide services delivered under the Outpatient Civil Commitment Pilot Program; and

(4) that robust evaluation components be included as part of the Outpatient Civil Commitment Pilot Program to:

(i) provide a thorough review of program effectiveness, achieve a better understanding of why individuals fail to engage in or discontinue community behavioral health care services, and gauge differences in outcomes between those who participate in the Outpatient Civil Commitment Pilot Program voluntarily and involuntarily; and

(ii) inform effective planning to implement community services that better serve State residents living with a serious mental illness who do not engage voluntarily in treatment, discontinue care, or are otherwise not well-served by currently available community behavioral health services and supports.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 578

(Senate Bill 433)

AN ACT concerning

**Substance Use Treatment – Inpatient and Intensive Outpatient Programs –
Consent by Minor**

FOR the purpose of authorizing a parent or a guardian of the person of a minor to apply, on behalf of the minor, for admission of the minor to a certified intensive outpatient alcohol and drug abuse program; requiring certain programs to note certain information on a certain application in order for an individual to be retained for certain treatment; providing that certain programs have the right to discharge an individual admitted for certain treatment under certain circumstances; providing that the capacity of a minor to consent to treatment for drug abuse or alcoholism does not include the capacity to refuse certain treatment for drug abuse or alcoholism in a certain intensive outpatient treatment program; making a stylistic change; and generally relating to consent of minors for alcohol and drug abuse treatment.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 8–502.1 and 20–102
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

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

Article – Health – General

8–502.1.

(a) A parent or guardian of the person of a minor may apply, on behalf of the minor, for admission of the minor to a certified inpatient alcohol and drug abuse program or facility **OR A CERTIFIED INTENSIVE OUTPATIENT ALCOHOL AND DRUG ABUSE PROGRAM** under this section.

(b) A program or facility may not admit an individual under this section unless the program or facility has determined that:

(1) The individual has an alcohol or other drug dependency that necessitates the level of care provided by the program or facility;

(2) The individual would benefit from treatment;

(3) The parent or guardian making application for admission of the individual understands the nature of the request for admission and the nature of the treatment provided by the program or facility; and

(4) Assent to the admission has been given by the Director or the Director's designee of the program or facility.

(c) In order for an individual to be retained for treatment under this section:

(1) The parent or guardian who applied for admission of the individual shall have the right to be actively involved in treatment; and

(2) The **PROGRAM OR** facility [must] **SHALL** note on the application for admission whether or not the minor was admitted in accordance with the provisions of § 20–102(c–1) of this article.

(d) A **PROGRAM OR** facility has the right to discharge an individual admitted for treatment under this section if the individual is not complying with the treatment program or the facility’s policies and procedures.

20–102.

(a) A minor has the same capacity as an adult to consent to medical or dental treatment if the minor:

(1) Is married;

(2) Is the parent of a child; or

(3) (i) Is living separate and apart from the minor’s parent, parents, or guardian, whether with or without consent of the minor’s parent, parents, or guardian; and

(ii) Is self–supporting, regardless of the source of the minor’s income.

(b) A minor has the same capacity as an adult to consent to medical treatment if, in the judgment of the attending physician, the life or health of the minor would be affected adversely by delaying treatment to obtain the consent of another individual.

(c) A minor has the same capacity as an adult to consent to:

(1) Treatment for or advice about drug abuse;

(2) Treatment for or advice about alcoholism;

(3) Treatment for or advice about venereal disease;

(4) Treatment for or advice about pregnancy;

(5) Treatment for or advice about contraception other than sterilization;

(6) Physical examination and treatment of injuries from an alleged rape or sexual offense;

(7) Physical examination to obtain evidence of an alleged rape or sexual offense; and

(8) Initial medical screening and physical examination on and after admission of the minor into a detention center.

(c-1) The capacity of a minor to consent to treatment for drug abuse or alcoholism under subsection (c)(1) or (2) of this section does not include the capacity to refuse treatment for drug abuse or alcoholism in an inpatient **OR INTENSIVE OUTPATIENT** alcohol or drug abuse treatment program certified under Title 8 of this article for which a parent or guardian has given consent.

(d) A minor has the same capacity as an adult to consent to psychological treatment as specified under subsection (c)(1) and (2) of this section if, in the judgment of the attending physician or a psychologist, the life or health of the minor would be affected adversely by delaying treatment to obtain the consent of another individual.

(e) A licensed health care practitioner who treats a minor is not liable for civil damages or subject to any criminal or disciplinary penalty solely because the minor did not have capacity to consent under this section.

(f) Without the consent of or over the express objection of a minor, a licensed health care practitioner may, but need not, give a parent, guardian, or custodian of the minor or the spouse of the parent information about treatment needed by the minor or provided to the minor under this section, except information about an abortion.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 579

(House Bill 1127)

AN ACT concerning

Health Insurance – Coverage Requirements for Behavioral Health Disorders – Modifications

FOR the purpose of altering certain coverage requirements applicable to certain health benefit plans for the diagnosis and treatment of mental illness and emotional, drug use, and alcohol use disorders; altering certain definitions; and generally relating to health insurance coverage for the diagnosis and treatment of mental illness and emotional, drug use, and alcohol use disorders.

BY repealing and reenacting, with amendments,
Article – Insurance

Section 15–802
Annotated Code of Maryland
(2011 Replacement Volume and 2016 Supplement)

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

Article – Insurance

15–802.

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

(2) “Alcohol [abuse] **MISUSE**” has the meaning stated in § 8–101 of the Health – General Article.

(3) “Drug [abuse] **MISUSE**” has the meaning stated in § 8–101 of the Health – General Article.

(4) “Grandfathered health plan coverage” has the meaning stated in 45 C.F.R. § 147.140.

(5) “Health benefit plan”:

(i) for a group or blanket plan, has the meaning stated in § 15–1401 of this title; and

(ii) for an individual plan, has the meaning stated in § 15–1301 of this title.

(6) “Managed care system” means a system of cost containment methods that a carrier uses to review and preauthorize a treatment plan developed by a health care provider for a covered individual in order to control utilization, quality, and claims.

(7) “Partial hospitalization” means the provision of medically directed intensive or intermediate short–term treatment:

(i) to an insured, subscriber, or member;

(ii) in a licensed or certified facility or program;

(iii) for mental illness, emotional disorders, drug [abuse] **MISUSE**, or alcohol [abuse] **MISUSE**; and

(iv) for a period of less than 24 hours but more than 4 hours in a day.

(8) “Small employer” has the meaning stated in § 31–101 of this article.

(b) With the exception of small employer grandfathered health plan coverage, this section applies to each individual, group, and blanket health benefit plan that is delivered or issued for delivery in the State by an insurer, a nonprofit health service plan, or a health maintenance organization.

(c) A health benefit plan subject to this section shall provide at least the following benefits for the diagnosis and treatment of a mental illness, emotional disorder, drug [abuse] **USE** disorder, or alcohol [abuse] **USE** disorder:

(1) inpatient benefits for services provided in a licensed or certified facility, including hospital inpatient **AND RESIDENTIAL TREATMENT CENTER** benefits;

(2) partial hospitalization benefits; and

(3) outpatient **AND INTENSIVE OUTPATIENT** benefits, including all office visits, **DIAGNOSTIC EVALUATION, OPIOID TREATMENT SERVICES, MEDICATION EVALUATION AND MANAGEMENT**, and psychological and neuropsychological testing for diagnostic purposes.

(d) (1) The benefits under this section are required only for expenses arising from the treatment of mental illnesses, emotional disorders, drug [abuse] **MISUSE**, or alcohol [abuse] **MISUSE** if, in the professional judgment of health care providers:

(i) the mental illness, emotional disorder, drug [abuse] **MISUSE**, or alcohol [abuse] **MISUSE** is treatable; and

(ii) the treatment is medically necessary.

(2) The benefits required under this section:

(i) shall be provided as one set of benefits covering mental illnesses, emotional disorders, drug [abuse] **MISUSE**, and alcohol [abuse] **MISUSE**;

(ii) shall comply with 45 C.F.R. § 146.136(a) through (d) **AND 29 C.F.R. § 2590.712(A) THROUGH (D)**;

(iii) subject to paragraph (3) of this subsection, may be delivered under a managed care system; and

(iv) for partial hospitalization under subsection (c)(2) of this section, may not be less than 60 days.

(3) The benefits required under this section may be delivered under a managed care system only if the benefits for physical illnesses covered under the health benefit plan are delivered under a managed care system.

(4) The processes, strategies, evidentiary standards, or other factors used to manage the benefits required under this section must be comparable as written and in operation to, and applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used to manage the benefits for physical illnesses covered under the health benefit plan.

(5) An insurer, nonprofit health service plan, or health maintenance organization may not charge a copayment for methadone maintenance treatment that is greater than 50% of the daily cost for methadone maintenance treatment.

(e) An entity that issues or delivers a health benefit plan subject to this section shall provide on its Web site and annually in print to its insureds or members:

(1) notice about the benefits required under this section and the federal Mental Health Parity and Addiction Equity Act; and

(2) notice that the insured or member may contact the Administration for further information about the benefits.

(f) An entity that issues or delivers a health benefit plan subject to this section shall:

(1) post a release of information authorization form on its Web site; and

(2) provide a release of information authorization form by standard mail within 10 business days after a request for the form is received.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 580

(House Bill 869)

AN ACT concerning

Recovery Residence Residential Rights Protection Act

FOR the purpose of requiring, beginning on a certain date, a behavioral health program or certain health professional, when referring an individual to receive services at a recovery residence, to provide the individual with a certain list and provide certain information to certain individuals; ~~requiring certain recovery residence certification~~

~~requirements to include a requirement that a recovery residence make arrangements for the receipt of certain services for certain residents;~~ requiring, on or before a certain date, the Department of Health and Mental Hygiene to publish on its Web site a certain list; requiring the list to provide certain information; defining certain terms; and generally relating to referrals to and the certification of recovery residences.

BY adding to

Article – Health – General

Section 7.5–501 to be under the new subtitle “Subtitle 5. Referrals to Recovery Residences”

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

Section ~~19–2501 through~~ 19–2503

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

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

Article – Health – General

SUBTITLE 5. REFERRALS TO RECOVERY RESIDENCES.

7.5–501.

~~(A) IN THIS SECTION, “HEALTH PROFESSIONAL” MEANS A PERSON WHO:~~

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

(2) “ASAM LEVEL 3.1 SERVICES” MEANS THE LEVEL OF CLINICALLY MANAGED, LOW-INTENSITY RESIDENTIAL SERVICES FOR THE TREATMENT OF ADDICTIVE, SUBSTANCE-RELATED, AND CO-OCCURRING CONDITIONS DESCRIBED BY THE AMERICAN SOCIETY OF ADDICTION MEDICINE.

(3) “HEALTH PROFESSIONAL” MEANS A PERSON WHO:

~~(1)~~ **(1) IS LICENSED UNDER THE HEALTH OCCUPATIONS ARTICLE;**

AND

~~(2)~~ (II) IS PROVIDING MENTAL HEALTH OR SUBSTANCE-RELATED DISORDER SERVICES ACCORDING TO THE REQUIREMENTS OF THE APPROPRIATE PROFESSIONAL BOARD.

(B) BEGINNING NOVEMBER 1, 2017, A BEHAVIORAL HEALTH PROGRAM OR HEALTH PROFESSIONAL, WHEN REFERRING AN INDIVIDUAL TO RECEIVE SERVICES AT A RECOVERY RESIDENCE, SHALL ~~PROVIDE~~:

(1) PROVIDE THE INDIVIDUAL WITH ~~THE~~ A LIST OF CERTIFIED RECOVERY RESIDENCES OPERATING IN THE STATE THAT IS PUBLISHED BY THE DEPARTMENT UNDER § 19-2503(B) OF THIS ARTICLE; AND

(2) PROVIDE TO AN INDIVIDUAL WHO HAS BEEN ASSESSED AS IN NEED OF ASAM LEVEL 3.1 SERVICES INFORMATION ON WHERE THE INDIVIDUAL MAY RECEIVE THOSE SERVICES.

~~19-2501.~~

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

~~(b)~~ ~~“ASAM LEVEL 3.1 SERVICES” MEANS THE LEVEL OF CLINICALLY MANAGED, LOW INTENSITY RESIDENTIAL SERVICES FOR THE TREATMENT OF ADDICTIVE, SUBSTANCE RELATED, AND CO-OCCURRING CONDITIONS DESCRIBED BY THE AMERICAN SOCIETY OF ADDICTION MEDICINE.~~

~~[(b)](c)~~ ~~“Certificate of compliance” means a certificate that is issued to a recovery residence by a credentialing entity.~~

~~[(c)](d)~~ ~~“Certified recovery residence” means a recovery residence that holds a certificate of compliance.~~

~~[(d)](e)~~ ~~“Credentialing entity” means a nonprofit organization that develops and administers professional certification programs according to nationally recognized certification standards.~~

~~[(e)](f)~~ ~~“Recovery residence” has the meaning stated in § 7.5-101 of this article.~~

~~19-2502.~~

~~(a)~~ ~~The Department shall approve a credentialing entity to develop and administer a certification process for recovery residences.~~

~~(b)~~ ~~The credentialing entity shall:~~

~~(1)~~ ~~Establish recovery residence certification requirements;~~

~~(2) Establish processes to administer the application, certification, and recertification process;~~

~~(3) Establish processes to monitor and inspect a recovery residence;~~

~~(4) Conduct an on-site inspection of a recovery residence:~~

~~(i) Before issuing a certificate of compliance; and~~

~~(ii) At least once during each certification renewal period; and~~

~~(5) Issue a certificate of compliance on approval of the application process and the inspection of the recovery residence.~~

~~(c) A certificate of compliance issued by the credentialing entity is valid for 1 year from the date of issuance.~~

~~(d) The credentialing entity may revoke the certificate of compliance of a certified recovery residence if the credentialing entity finds that the recovery residence is not in compliance with the requirements established by the credentialing entity.~~

~~(E) THE RECOVERY RESIDENCE CERTIFICATION REQUIREMENTS ESTABLISHED UNDER SUBSECTION (B)(1) OF THIS SECTION SHALL INCLUDE A REQUIREMENT THAT A RECOVERY RESIDENCE MAKE ARRANGEMENTS FOR THE RECEIPT OF ASAM LEVEL 3.1 SERVICES FOR RESIDENTS WHO HAVE BEEN ASSESSED AS IN NEED OF THAT LEVEL OF CARE.~~

19-2503.

(a) On or before October 1, 2017, the credentialing entity shall submit a list to the Department of the recovery residences that have obtained a certificate of compliance.

(b) (1) On or before November 1, 2017, the Department shall publish on its Web site [a]:

(I) A list of each credentialing entity and the contact information for the credentialing entity; AND

(II) A LIST OF EACH RECOVERY RESIDENCE OPERATING IN EACH COUNTY IN THE STATE.

(2) THE LIST PUBLISHED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL INDICATE WHETHER THE OWNER OF A RECOVERY RESIDENCE HAS RECEIVED A VALID CERTIFICATE OF COMPLIANCE.

[(2)] (C) [(i)] (1) On or before November 1, 2017, a credentialing entity shall publish on its Web site a list of each recovery residence that holds a valid certificate of compliance.

[(ii)] (2) The list published under [subparagraph (i)] PARAGRAPH (1) of this [paragraph] SUBSECTION shall include only the owner of the recovery residence and the contact information of the owner.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 581

(House Bill 887)

AN ACT concerning

Health Insurance – ~~Preauthorization for Drug Products to Treat Substance Use Disorders~~ Prior Authorization for Drug Products to Treat an Opioid Use Disorder – Prohibition

FOR the purpose of prohibiting certain insurers, nonprofit health service plans, and health maintenance organizations from applying a preauthorization requirement for certain drug products under certain circumstances; providing for the application of this Act; ~~providing for a delayed effective date~~ making this Act an emergency measure; and generally relating to health insurance coverage for drug products to treat ~~substance use disorders~~ opioid use disorders.

BY adding to

Article – Insurance

Section 15–850

Annotated Code of Maryland

(2011 Replacement Volume and 2016 Supplement)

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

Article – Insurance

15–850.

(A) (1) THIS SECTION APPLIES TO:

(I) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT PROVIDE COVERAGE FOR SUBSTANCE USE DISORDER BENEFITS OR PRESCRIPTION DRUGS UNDER INDIVIDUAL, GROUP, OR BLANKET HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND

(II) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE COVERAGE FOR SUBSTANCE USE DISORDER BENEFITS OR PRESCRIPTION DRUGS UNDER INDIVIDUAL OR GROUP CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.

(2) AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION THAT PROVIDES COVERAGE FOR SUBSTANCE USE DISORDER BENEFITS UNDER THE MEDICAL BENEFIT OR FOR PRESCRIPTION DRUGS THROUGH A PHARMACY BENEFITS MANAGER IS SUBJECT TO THE REQUIREMENTS OF THIS SECTION.

(B) AN ENTITY SUBJECT TO THIS SECTION MAY NOT APPLY A PRIOR AUTHORIZATION REQUIREMENT FOR A PRESCRIPTION DRUG:

(1) WHEN USED FOR TREATMENT OF AN OPIOID USE DISORDER; AND

(2) THAT CONTAINS METHADONE, BUPRENORPHINE, OR ~~INJECTABLE~~ NALTREXONE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after ~~January 1, 2018~~ the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect January 1, 2018~~ is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye 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 25, 2017.

Chapter 582

(House Bill 950)

AN ACT concerning

**University System of Maryland – Constituent Institutions – Alcohol and Drug
Addiction Recovery Program**

FOR the purpose of requiring the Board of Regents of the University System of Maryland, on a certain recommendation from the Chancellor, to establish general standards and guidelines for a collegiate recovery program to be implemented at the constituent institutions; requiring the president of each constituent institution, in collaboration with faculty, staff, and students enrolled at the institution, to develop and implement a collegiate recovery program tailored for the institution; requiring that the program include certain features; defining a term; and generally relating to a collegiate recovery program at constituent institutions of the University System of Maryland.

BY adding to

Article – Education

Section 12–117

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

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

Article – Education

12–117.

(A) IN THIS SECTION, “COLLEGIATE RECOVERY PROGRAM” MEANS A PROGRAM THAT PROVIDES SUPPORT AND SERVICES FOR STUDENTS RECOVERING FROM ALCOHOL OR DRUG ADDICTION WHO ARE ENROLLED AT A CONSTITUENT INSTITUTION.

(B) ON THE RECOMMENDATION OF THE CHANCELLOR, WHO SHALL CONSULT WITH THE PRESIDENTS OF THE CONSTITUENT INSTITUTIONS, THE BOARD OF REGENTS SHALL ESTABLISH GENERAL STANDARDS AND GUIDELINES FOR A COLLEGIATE RECOVERY PROGRAM TO BE IMPLEMENTED AT THE CONSTITUENT INSTITUTIONS.

(C) THE PRESIDENT OF EACH CONSTITUENT INSTITUTION, IN COLLABORATION WITH FACULTY, STAFF, AND STUDENTS ENROLLED AT THE INSTITUTION, SHALL DEVELOP AND IMPLEMENT A COLLEGIATE RECOVERY PROGRAM TAILORED FOR THE INSTITUTION THAT:

(1) SATISFIES THE STANDARDS AND GUIDELINES ESTABLISHED BY THE CHANCELLOR UNDER SUBSECTION (B) OF THIS SECTION; AND

(2) ADDRESSES THE NEEDS OF STUDENTS AT THE INSTITUTION WHO ARE RECOVERING FROM ALCOHOL OR DRUG ADDICTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 583

(House Bill 786)

AN ACT concerning

**Education – Individualized or Group Behavioral Counseling Services –
Requirements Establishment**

FOR the purpose of ~~authorizing school-based personnel to recommend a student to a certain guidance counselor or a certain counseling program to determine whether the student needs a behavioral health assessment; requiring a certain guidance counselor or a certain counseling program to obtain certain permission to assist a certain student in obtaining a behavioral health assessment, under certain circumstances; requiring a certain guidance counselor or a certain counseling program, subject to a certain provision of law, to obtain certain permission of the parent or guardian of a certain student to arrange certain services; requiring a public school, subject to certain conditions, to provide space in the public school building for a certain purpose and to work with a certain student and a certain health care provider to schedule certain services at a certain time in a certain manner; requiring, in accordance with a certain provision of law, an insurer, nonprofit health service plan, or health maintenance organization to pay benefits for covered services provided by a health care provider to an individual under certain circumstances requiring the State Department of Education *Department of Health and Mental Hygiene*, in conjunction with the State Department of Health and Mental Hygiene *Education*, to recommend best practices for county boards of education to provide to students certain needs assessments and certain behavioral health counseling services; providing for the construction of certain provisions of this Act; prohibiting certain insurance policies or contracts from denying a covered medically necessary behavioral health care service to a student under certain circumstances; defining certain terms; providing for the application of this Act; and generally relating to ~~requirements for individualized~~ behavioral health counseling services in public schools.~~

BY adding to

Article – Education

Section 7-440

Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

BY adding to

Article – Insurance

Section ~~15-716~~ 15-510

Annotated Code of Maryland

(2011 Replacement Volume and 2016 Supplement)

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

Article – Education

7-440.

~~(A) IN THIS SECTION, “HEALTH CARE PROVIDER” HAS THE MEANING STATED IN § 20-104 OF THE HEALTH – GENERAL ARTICLE.~~

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

(2) “BEHAVIORAL HEALTH COUNSELING SERVICES” MEANS PREVENTION, INTERVENTION, AND TREATMENT SERVICES FOR THE SOCIAL-EMOTIONAL, PSYCHOLOGICAL, BEHAVIORAL, AND PHYSICAL HEALTH OF STUDENTS, INCLUDING MENTAL HEALTH AND SUBSTANCE ABUSE DISORDERS.

(3) “HEALTH CARE PROVIDER” HAS THE MEANING STATED IN § 20-104 OF THE HEALTH – GENERAL ARTICLE.

(B) (1) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, IN CONJUNCTION WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, SHALL RECOMMEND BEST PRACTICES FOR COUNTY BOARDS OF EDUCATION TO PROVIDE TO STUDENTS:

(I) BEHAVIORAL NEEDS ASSESSMENTS; AND

(II) INDIVIDUALIZED OR GROUP BEHAVIORAL HEALTH COUNSELING SERVICES WITH A HEALTH CARE PROVIDER THROUGH A SCHOOL-BASED HEALTH CENTER OR THROUGH COMMUNITY PARTNERED SCHOOL-BASED BEHAVIORAL HEALTH SERVICES.

(C) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE A COUNTY BOARD TO PROVIDE BEHAVIORAL NEEDS ASSESSMENTS OR INDIVIDUALIZED OR GROUP BEHAVIORAL HEALTH COUNSELING SERVICES TO STUDENTS.

~~(B) (1) SCHOOL BASED PERSONNEL MAY RECOMMEND A STUDENT TO THE SCHOOL GUIDANCE COUNSELOR OR THE SCHOOL COUNSELING PROGRAM TO DETERMINE WHETHER THE STUDENT NEEDS A BEHAVIORAL HEALTH ASSESSMENT.~~

~~(2) (i) IF A STUDENT IS DETERMINED TO NEED A BEHAVIORAL HEALTH ASSESSMENT, THE SCHOOL GUIDANCE COUNSELOR OR THE SCHOOL COUNSELING PROGRAM SHALL OBTAIN THE SIGNED PERMISSION OF THE PARENT OR GUARDIAN OF A STUDENT RECOMMENDED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO ASSIST THE STUDENT IN OBTAINING THE BEHAVIORAL HEALTH ASSESSMENT.~~

~~(ii) THE SIGNED PERMISSION SHALL INCLUDE AN EXPLANATION OF:~~

~~1. THE REASONS FOR RECOMMENDING THE BEHAVIORAL HEALTH ASSESSMENT; AND~~

~~2. THE OPTIONS FOR OBTAINING THE BEHAVIORAL HEALTH ASSESSMENT.~~

~~(3) IF A STUDENT IS DETERMINED TO HAVE A BEHAVIORAL HEALTH DIAGNOSIS, THE SCHOOL GUIDANCE COUNSELOR OR THE SCHOOL COUNSELING PROGRAM SHALL, SUBJECT TO § 20-102(C) OF THE HEALTH GENERAL ARTICLE, OBTAIN THE SIGNED PERMISSION OF THE PARENT OR GUARDIAN OF THE STUDENT TO ALLOW SCHOOL BASED PERSONNEL TO ARRANGE INDIVIDUALIZED COUNSELING SERVICES WITH A HEALTH CARE PROVIDER THROUGH A SCHOOL BASED HEALTH CENTER OR AT THE PUBLIC SCHOOL.~~

~~(4) THE SIGNED PERMISSION SHALL INCLUDE LANGUAGE ADVISING THE PARENT OR GUARDIAN THAT:~~

~~(i) THE INDIVIDUALIZED COUNSELING SERVICES MAY BE COVERED SERVICES UNDER THE STUDENT'S HEALTH INSURANCE POLICY OR CONTRACT; AND~~

~~(ii) THE PARENT OR GUARDIAN SHOULD CHECK WITH THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION THAT ISSUED OR DELIVERED THE HEALTH INSURANCE POLICY OR CONTRACT TO DETERMINE:~~

~~1. WHETHER THE HEALTH CARE PROVIDER AT THE SCHOOL BASED HEALTH CENTER OR PUBLIC SCHOOL IS A PARTICIPATING PROVIDER UNDER THE HEALTH INSURANCE POLICY OR CONTRACT; AND~~

~~2. THE COST SHARING THAT APPLIES IF THE HEALTH CARE PROVIDER IS NOT A PARTICIPATING PROVIDER UNDER THE HEALTH INSURANCE POLICY OR CONTRACT.~~

~~(c) EACH PUBLIC SCHOOL SHALL:~~

~~(1) AS PRACTICAL AND AVAILABLE, PROVIDE SPACE IN THE PUBLIC SCHOOL BUILDING FOR A STUDENT AND HEALTH CARE PROVIDER TO MEET DURING SCHOOL HOURS FOR INDIVIDUALIZED COUNSELING SERVICES; AND~~

~~(2) WORK WITH A STUDENT AND THE STUDENT'S HEALTH CARE PROVIDER TO SCHEDULE INDIVIDUALIZED COUNSELING SERVICES DURING SCHOOL HOURS WITH MINIMAL DISRUPTION TO THE STUDENT'S ACADEMIC SCHEDULE.~~

~~Article – Insurance~~

~~15-716.~~

~~(A) THIS SECTION APPLIES TO EACH INDIVIDUAL, GROUP, OR BLANKET HEALTH INSURANCE POLICY OR CONTRACT THAT IS ISSUED OR DELIVERED IN THE STATE BY AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION.~~

~~(B) IN ACCORDANCE WITH § 15-802 OF THIS TITLE, AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION SHALL PAY BENEFITS FOR COVERED SERVICES PROVIDED BY A HEALTH CARE PROVIDER TO AN INDIVIDUAL WHO:~~

~~(1) IS AN INSURED OR ENROLLEE UNDER A POLICY OR CONTRACT SUBJECT TO THIS SECTION; AND~~

~~(2) RECEIVES THE COVERED SERVICES AT A SCHOOL BASED HEALTH CENTER OR A PUBLIC SCHOOL IN ACCORDANCE WITH § 7-440 OF THE EDUCATION ARTICLE.~~

Article – Insurance

15-510.

NO INDIVIDUAL, GROUP, OR BLANKET INSURANCE POLICY OR CONTRACT ISSUED OR DELIVERED IN THE STATE BY AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION MAY DENY A COVERED MEDICALLY NECESSARY BEHAVIORAL HEALTH CARE SERVICE PROVIDED BY A

PARTICIPATING PROVIDER TO A MEMBER WHO IS A STUDENT SOLELY ON THE BASIS THAT THE SERVICE IS PROVIDED AT A PUBLIC SCHOOL OR THROUGH A SCHOOL-BASED HEALTH CENTER UNDER § 7-440 OF THE EDUCATION ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after July 1, 2017.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 584

(House Bill 857)

AN ACT concerning

Maryland Mental Health Law – Small Private Group Home – Definition

FOR the purpose of altering the definition of “small private group home” to increase the maximum number of individuals who may be admitted by a small private group home for the purposes of certain provisions of law governing residences in which individuals who have been or are being treated for a mental disorder may be provided care or treatment in a homelike environment; making a conforming change; and generally relating to the regulation of small private group homes under the Maryland Mental Health Law.

BY repealing and reenacting, with amendments,
 Article – Health – General
 Section 10–514
 Annotated Code of Maryland
 (2015 Replacement Volume and 2016 Supplement)

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

Article – Health – General

10–514.

- (a) In Part II of this subtitle the following words have the meanings indicated.

(b) “Large private group home” means a private group home that admits at least [9] 10 but not more than 16 individuals.

(c) “License” means a license issued by the Secretary to operate a private group home.

(d) (1) “Private group home” means a residence in which individuals who have been or are under treatment for a mental disorder may be provided care or treatment in a homelike environment.

(2) “Private group home” does not include:

(i) Any facility that is owned by or leased to this State or any public agency;

(ii) Any facility that is regulated by the Department of Juvenile Services;

(iii) Any facility that is regulated by the Developmental Disabilities Administration;

(iv) Any facility that is organized wholly or partly to make a profit; or

(v) A foster home that is the domicile of the foster parent.

(e) “Small private group home” means a private group home that admits at least 4 but not more than [8] 9 individuals.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 585

(House Bill 1522)

AN ACT concerning

**Needs Assessment for Student ~~School-Based~~ *School-Based* Behavioral Health
Counseling Services Throughout the Year**

FOR the purpose of requiring the Department of ~~Mental~~ Health and Mental Hygiene and the ~~Maryland~~ State Department of Education to conduct a needs assessment for

student ~~school-based~~ school-based behavioral health ~~counseling~~ services throughout ~~the school year~~; requiring the assessment to include certain matters; and generally relating to an assessment of student ~~school-based~~ school-based behavioral ~~counseling~~ services throughout the school year.

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

(a) The Department of ~~Mental~~ Health and Mental Hygiene and the ~~Maryland~~ State Department of Education shall conduct a needs assessment for student school based ~~counseling~~ behavioral health services throughout the school year.

(b) The needs assessment shall include data concerning:

~~(1)~~ all public school jurisdictions in the State; ~~and~~

~~(2)~~ ~~all primary and secondary charter schools in the State.~~

(c) The needs assessment shall include:

(1) an assessment of the need for behavioral health services for each school district;

(2) a description of the types of school-based behavioral health services offered to children with behavioral health needs in each school district through:

(i) community-partnered school-based behavioral health programs;

(ii) school-based health centers; and

(iii) any other methods identified by the Department of Health and Mental Hygiene and the State Department of Education;

~~(3) methods of paying for services for children with behavioral health needs;~~

~~(4) documentation of the number of children with behavioral health needs who are being provided services, including the type of services and the conditions being treated;~~

(4) a description of the extent to which school-based behavioral health services are offered in the summer and during school breaks, in addition to the school year;

~~(5) the costs to provide services to all children who have needs;~~

~~(6)~~ the obstacles to providing services to all children who need them; and

~~(7)~~ (6) recommendations for removing obstacles to the provision of services to students with behavioral health needs.

(d) In conducting the needs assessment under this section, the Department of Health and Mental Hygiene and the State Department of Education shall consult with local education agencies and other interested stakeholders.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 586

(House Bill 390)

AN ACT concerning

Improving the State Procurement Oversight Structure

FOR the purpose of ~~renaming the Procurement Advisory Council and altering the membership and duties of the Council; altering a certain duty of the Procurement Advisor; repealing a certain provision of law relating to prequalification of certain bidders and offerors; increasing the total value of certain contracts, leases, or other agreements that require a business to file a specified disclosure with the Secretary of State; requiring a certain reviewing authority to approve, disapprove, or modify a certain decision of a procurement officer relating to a contract claim within a certain period of time; providing that a decision not to pay a contract claim is a final action for the purpose of a certain appeal; providing that failure to reach a certain decision within a certain period of time may be deemed a decision not to pay a contract claim; requiring a reviewing authority to comply with a certain provision of law on or before a certain date for certain pending decisions; requiring the Office of the Attorney General to report to the Board of Public Works and certain committees of the General Assembly on or before a certain date; requiring the Department of Transportation, in consultation with a certain association, to study a certain issue and report to certain committees of the General Assembly on or before a certain date; and generally relating to requirements of the procurement law.~~

~~BY repealing and reenacting, with amendments,
Article — State Finance and Procurement
Section 12-102(a)(2)(xv), 12-105, 13-221, and 15-218
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)~~

BY repealing

Article – State Finance and Procurement
 Section 13–204
 Annotated Code of Maryland
 (2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement
Section 13–221 and 15–218
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

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

Article – State Finance and Procurement

~~12–102.~~

~~(a) (2) The Procurement Advisor shall:~~

~~(xv) be [the principal staff to] A MEMBER OF the Procurement [Advisory] IMPROVEMENT Council; and~~

~~12–105.~~

~~(a) In this section, “Council” means the Procurement [Advisory] IMPROVEMENT Council.~~

~~(b) There is a Procurement [Advisory] IMPROVEMENT Council.~~

~~(c) (1) The Council consists of the following [11] 12 members:~~

~~(i) the State Treasurer;~~

~~(ii) the Chancellor of the University System of Maryland;~~

~~(iii) the Secretary of Budget and Management;~~

~~(iv) the Secretary of General Services;~~

~~(v) the Secretary of Information Technology;~~

~~(vi) the Secretary of Transportation;~~

~~[(vii) the Secretary of the Board;~~

~~(viii)] (VII) the Special Secretary for the Office of Minority Affairs;~~

~~(VIII) THE DIRECTOR OF THE GOVERNOR'S OFFICE OF PERFORMANCE IMPROVEMENT;~~

~~(IX) THE PROCUREMENT ADVISOR;~~

~~[(ix)] (X) a representative of local government who has expertise in local procurement matters, appointed by the Governor with the advice and consent of the Senate; and~~

~~[(x)] (XI) two members of the general public, at least one of whom has expertise in State procurement matters, appointed by the Governor with the advice and consent of the Senate.~~

~~(2) (i) If the State Treasurer is unable to attend a meeting of the [Procurement Advisory] Council, the Treasurer may designate the Deputy Treasurer to attend the meeting.~~

~~(ii) If a member of the Council listed in paragraph (1)(i) through [(v)] (VIII) of this subsection is unable to attend a meeting of the [Procurement Advisory] Council, the member may designate the [Chief Procurement Officer of the agency] HEAD OF PROCUREMENT AT THE EXECUTIVE UNIT to attend the meeting.~~

~~(d) The [Secretary of the Board] DIRECTOR OF THE GOVERNOR'S OFFICE OF PERFORMANCE IMPROVEMENT is Chairman of the Council.~~

~~(e) The Council shall meet at least quarterly each year.~~

~~(f) The [Procurement Advisor is the principal staff of the Council and the] Council shall have [any additional] staff [that the Board authorizes] in accordance with the State budget.~~

~~(g) The Council shall:~~

~~(1) ensure that the State's procurement system is utilizing the most advanced procurement methods and management techniques, INCLUDING POLICIES, PROCEDURES, AND FORMS FOR ALL PROCUREMENT ACTIVITY AND CONTRACT MANAGEMENT;~~

~~(2) effect and enhance communication between State units on procurement matters, with an emphasis on disseminating information on current developments and advances in procurement methods and management;~~

~~(3) provide a forum for the discussion of specific procurement issues and problems that arise;~~

~~(4) advise the Board AND THE GENERAL ASSEMBLY on problems in the procurement process and make recommendations for improvement of the process; [and]~~

~~(5) review existing procurement regulations to:~~

~~(i) determine whether they fulfill the intent and purpose of the law, especially as it relates to fostering broad-based competition; and~~

~~(ii) make recommendations on the regulations, if revising and restructuring them will result in easier understanding and use;~~

~~(6) DEVELOP PERFORMANCE METRICS FOR STATE PROCUREMENT ACTIVITY CONDUCTED BY UNITS DURING THE PRECEDING FISCAL YEAR;~~

~~(7) OVERSEE THE IMPLEMENTATION OF PROCUREMENT OFFICER TRAINING;~~

~~(8) OVERSEE THE MANAGEMENT OF THE EMARYLAND MARKETPLACE AND OTHER INTERNET PROCUREMENT RESOURCES;~~

~~(9) OVERSEE THE IMPLEMENTATION OF APPROPRIATE RISK ANALYSIS AND INSURANCE REQUIREMENTS FOR STATE PROCUREMENT; AND~~

~~(10) COORDINATE STATE AND LOCAL ENTITIES TO MAXIMIZE USE OF INTERGOVERNMENTAL PURCHASING.~~

[13-204.

(a) (1) By regulation, each of the primary procurement units may provide for the prequalification of persons as prospective responsible bidders or offerors for procurements other than leases of real property.

(2) Each of the primary procurement units shall keep a register of all prequalified persons.

(3) Persons prequalified as prospective responsible bidders or offerors by a primary procurement unit for procurements of direct or indirect work-related services shall be deemed to be prequalified for the purposes of procurements by the Department of Human Resources of direct or indirect work-related services to benefit current recipients, former recipients or non-custodial parents of children who are current or former recipients of family investment program benefits.

(b) If a primary procurement unit or the Department of Human Resources uses a prequalification procedure for awarding a procurement contract:

(1) a person who is not prequalified may submit a bid or proposal; and

(2) after bid opening or receipt of proposals and before awarding the procurement contract, a procurement officer may determine that:

(i) a person who was not prequalified at the time of bid opening or receipt of proposals is a responsible bidder or offeror; or

(ii) a prequalified person is not a responsible bidder or offeror.]

13–221.

(a) The provisions of this section are broadly applicable and apply to all contracts, leases, or other agreements entered into by the State.

(b) (1) In this section, “beneficial ownership” means:

(i) any ownership interest of 5% or more in a business;

(ii) any ownership interest of 5% or more in 1 or more entities in a chain of parent and subsidiary entities, any 1 of which participates in at least 5% of the capital or profits of a business; or

(iii) possession of an interest that exists under an agreement, contract, relationship, understanding, or other arrangement and entitles a person to benefits substantially equivalent to an ownership interest of 5% or more of a business.

(2) In this section, unless there are special circumstances, an individual is deemed to hold an ownership interest that is held by the individual’s spouse, the individual’s child, or other relative of the individual who lives in the individual’s home.

(c) (1) If, during a calendar year, a business enters into contracts, leases, or other agreements, with the State or its units or both, under which the business is to receive from the State or its units or both a total of ~~[\$100,000]~~ **\$200,000** or more, the business shall file with the Secretary of State a list that contains the name and address of:

(i) any resident agent of the business;

(ii) each officer of the business; and

(iii) if known, each person who has beneficial ownership of the business.

(2) The list shall be filed within 30 days of the date when the total value of the contracts, leases, or other agreements entered into during the calendar year reaches ~~[\$100,000]~~ **\$200,000**.

(3) If a person who has beneficial ownership is unknown to the business, it is sufficient for the business to disclose the legal ownership or the identity of the nominee who holds title for the unknown person.

(d) A business or an officer of a business who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$10,000.

15–218.

(a) Except as provided under § 15–219 of this subtitle, a procurement officer who receives a protest or a contract claim from a contractor shall comply with this section.

(b) (1) On receipt of a protest or contract claim from a contractor, a procurement officer:

(i) shall review the substance of the protest or contract claim;

(ii) may request additional information or substantiation through an appropriate procedure;

(iii) may discuss with interested parties and, if appropriate, may conduct negotiations with the person initiating the protest or contract claim; and

(iv) shall comply with any applicable regulations.

(2) Unless clearly inappropriate, the procurement officer shall seek the advice of the Office of the Attorney General.

(c) (1) Subject to subsection (b) of this section and consistent with the State budget and other applicable laws, the procurement officer shall:

(i) resolve the protest or contract claim by agreement of the parties;

(ii) wholly or partly deny the protest or contract claim; or

(iii) wholly or partly grant the relief sought by the person who submitted the protest or contract claim.

(2) The procurement officer promptly shall send the decision in writing to the reviewing authority.

(d) Unless otherwise provided by regulation, the decision of the procurement officer shall be reviewed promptly by:

(1) the head of the unit; and

(2) the head of the principal department or other equivalent unit of which the unit is a part.

(e) (1) Except as provided under paragraph (3) of this subsection, the reviewing authority shall approve, disapprove, or modify the decision of the procurement officer **WITHIN 180 DAYS AFTER RECEIVING THE CONTRACT CLAIM OR A LONGER PERIOD TO WHICH THE PARTIES AGREE.**

(2) The action of the reviewing authority under this subsection shall be the final action of the unit.

(3) The reviewing authority may remand the proceeding with instructions to the procurement officer.

(4) On remand, the procurement officer shall proceed under subsection (b) of this section in accordance with those instructions.

(F) (1) A DECISION NOT TO PAY A CONTRACT CLAIM IS A FINAL ACTION FOR THE PURPOSE OF APPEAL TO THE APPEALS BOARD.

(2) THE FAILURE TO REACH A DECISION WITHIN THE TIME REQUIRED UNDER SUBSECTION (E) OF THIS SECTION MAY BE DEEMED, AT THE OPTION OF THE CONTRACTOR, TO BE A DECISION NOT TO PAY THE CONTRACT CLAIM.

SECTION 2. AND BE IT FURTHER ENACTED, That, for any decision pending review under § 15–218(d) of the State Finance and Procurement Article on the effective date of this Act, a reviewing authority shall comply with § 15–218(e) of the State Finance and Procurement Article, as enacted by Section 1 of this Act, on or before April 1, 2018.

~~SECTION 3. AND BE IT FURTHER ENACTED, That, on or before October 1, 2018, the Office of the Attorney General shall report to the Board of Public Works and, in accordance with § 2–1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee on a process for establishing a centralized procurement attorney office within the Office of the Attorney General to represent all State procurement units in matters within the jurisdiction of the Maryland State Board of Contract Appeals.~~

SECTION 3. AND BE IT FURTHER ENACTED, That on or before December 1, 2017, the Department of Transportation, in consultation with the Maryland–Delaware–District of Columbia Press Association, shall:

(1) study the use and cost for placing public announcements of solicitations of interest for transportation architectural and engineering services in the Daily Record

and other print publications and whether to amend the Code of Maryland Regulations 21.12.02.10A; and

(2) 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 findings of the study conducted under item (1) of this section.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 587

(Senate Bill 310)

AN ACT concerning

Improving the State Procurement Oversight Structure

FOR the purpose of ~~renaming the Procurement Advisory Council and altering the membership and duties of the Council; altering a certain duty of the Procurement Advisor; repealing a certain provision of law relating to prequalification of certain bidders and offerors; increasing the total value of certain contracts, leases, or other agreements that require a business to file a specified disclosure with the Secretary of State; requiring a certain reviewing authority to approve, disapprove, or modify a certain decision of a procurement officer relating to a contract claim within a certain period of time; providing that a decision not to pay a contract claim is a final action for the purpose of a certain appeal; providing that failure to reach a certain decision within a certain period of time may be deemed a decision not to pay a contract claim; requiring a reviewing authority to comply with a certain provision of law on or before a certain date for certain pending decisions; requiring the Office of the Attorney General to report to the Board of Public Works and certain committees of the General Assembly on or before a certain date; requiring the Department of Transportation, in consultation with the MDDC Press Association, to study the use and costs of certain public announcements~~ *a certain association, to study a certain issue and report to certain committees of the General Assembly on or before a certain date; prohibiting the Department of Transportation from adopting a certain regulation before a certain date;* and generally relating to requirements of the procurement law.

~~BY repealing and reenacting, with amendments, Article State Finance and Procurement Section 12-102(a)(2)(xv), 12-105, 13-221, and 15-218 Annotated Code of Maryland~~

~~(2015 Replacement Volume and 2016 Supplement)~~

BY repealing

Article – State Finance and Procurement

Section 13–204

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section 13–221 and 15–218

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

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

Article – State Finance and Procurement

~~12–102.~~

~~(a) (2) The Procurement Advisor shall:~~

~~(xv) be [the principal staff to] A MEMBER OF the Procurement [Advisory] IMPROVEMENT Council; and~~

~~12–105.~~

~~(a) In this section, “Council” means the Procurement [Advisory] IMPROVEMENT Council.~~

~~(b) There is a Procurement [Advisory] IMPROVEMENT Council.~~

~~(c) (1) The Council consists of the following [11] 12 members:~~

~~(i) the State Treasurer;~~

~~(ii) the Chancellor of the University System of Maryland;~~

~~(iii) the Secretary of Budget and Management;~~

~~(iv) the Secretary of General Services;~~

~~(v) the Secretary of Information Technology;~~

~~(vi) the Secretary of Transportation;~~

~~[(vii) the Secretary of the Board;~~

~~[(viii)] (VII) the Special Secretary for the Office of Minority Affairs;~~

~~(VIII) THE DIRECTOR OF THE GOVERNOR'S OFFICE OF PERFORMANCE IMPROVEMENT;~~

~~(IX) THE PROCUREMENT ADVISOR;~~

~~[(ix)] (X) a representative of local government who has expertise in local procurement matters, appointed by the Governor with the advice and consent of the Senate; and~~

~~[(x)] (XI) two members of the general public, at least one of whom has expertise in State procurement matters, appointed by the Governor with the advice and consent of the Senate.~~

~~(2) (i) If the State Treasurer is unable to attend a meeting of the [Procurement Advisory] Council, the Treasurer may designate the Deputy Treasurer to attend the meeting.~~

~~(ii) If a member of the Council listed in paragraph (1)(i) through [(v)] (VIII) of this subsection is unable to attend a meeting of the [Procurement Advisory] Council, the member may designate the [Chief Procurement Officer of the agency] HEAD OF PROCUREMENT AT THE EXECUTIVE UNIT to attend the meeting.~~

~~(d) The [Secretary of the Board] DIRECTOR OF THE GOVERNOR'S OFFICE OF PERFORMANCE IMPROVEMENT is Chairman of the Council.~~

~~(e) The Council shall meet at least quarterly each year.~~

~~(f) The [Procurement Advisor is the principal staff of the Council and the] Council shall have [any additional] staff [that the Board authorizes] in accordance with the State budget.~~

~~(g) The Council shall:~~

~~(1) ensure that the State's procurement system is utilizing the most advanced procurement methods and management techniques, INCLUDING POLICIES, PROCEDURES, AND FORMS FOR ALL PROCUREMENT ACTIVITY AND CONTRACT MANAGEMENT;~~

~~(2) effect and enhance communication between State units on procurement matters, with an emphasis on disseminating information on current developments and advances in procurement methods and management;~~

~~(3) provide a forum for the discussion of specific procurement issues and problems that arise;~~

~~(4) advise the Board AND THE GENERAL ASSEMBLY on problems in the procurement process and make recommendations for improvement of the process; [and]~~

~~(5) review existing procurement regulations to:~~

~~(i) determine whether they fulfill the intent and purpose of the law, especially as it relates to fostering broad-based competition; and~~

~~(ii) make recommendations on the regulations, if revising and restructuring them will result in easier understanding and use;~~

~~(6) DEVELOP PERFORMANCE METRICS FOR STATE PROCUREMENT ACTIVITY CONDUCTED BY UNITS DURING THE PRECEDING FISCAL YEAR;~~

~~(7) OVERSEE THE IMPLEMENTATION OF PROCUREMENT OFFICER TRAINING;~~

~~(8) OVERSEE THE MANAGEMENT OF THE EMARYLAND MARKETPLACE AND OTHER INTERNET PROCUREMENT RESOURCES;~~

~~(9) OVERSEE THE IMPLEMENTATION OF APPROPRIATE RISK ANALYSIS AND INSURANCE REQUIREMENTS FOR STATE PROCUREMENT; AND~~

~~(10) COORDINATE STATE AND LOCAL ENTITIES TO MAXIMIZE USE OF INTERGOVERNMENTAL PURCHASING.~~

[13–204.

(a) (1) By regulation, each of the primary procurement units may provide for the prequalification of persons as prospective responsible bidders or offerors for procurements other than leases of real property.

(2) Each of the primary procurement units shall keep a register of all prequalified persons.

(3) Persons prequalified as prospective responsible bidders or offerors by a primary procurement unit for procurements of direct or indirect work-related services shall be deemed to be prequalified for the purposes of procurements by the Department of Human Resources of direct or indirect work-related services to benefit current recipients,

former recipients or non-custodial parents of children who are current or former recipients of family investment program benefits.

(b) If a primary procurement unit or the Department of Human Resources uses a prequalification procedure for awarding a procurement contract:

(1) a person who is not prequalified may submit a bid or proposal; and

(2) after bid opening or receipt of proposals and before awarding the procurement contract, a procurement officer may determine that:

(i) a person who was not prequalified at the time of bid opening or receipt of proposals is a responsible bidder or offeror; or

(ii) a prequalified person is not a responsible bidder or offeror.]

13-221.

(a) The provisions of this section are broadly applicable and apply to all contracts, leases, or other agreements entered into by the State.

(b) (1) In this section, “beneficial ownership” means:

(i) any ownership interest of 5% or more in a business;

(ii) any ownership interest of 5% or more in 1 or more entities in a chain of parent and subsidiary entities, any 1 of which participates in at least 5% of the capital or profits of a business; or

(iii) possession of an interest that exists under an agreement, contract, relationship, understanding, or other arrangement and entitles a person to benefits substantially equivalent to an ownership interest of 5% or more of a business.

(2) In this section, unless there are special circumstances, an individual is deemed to hold an ownership interest that is held by the individual’s spouse, the individual’s child, or other relative of the individual who lives in the individual’s home.

(c) (1) If, during a calendar year, a business enters into contracts, leases, or other agreements, with the State or its units or both, under which the business is to receive from the State or its units or both a total of ~~[\$100,000]~~ **\$200,000** or more, the business shall file with the Secretary of State a list that contains the name and address of:

(i) any resident agent of the business;

(ii) each officer of the business; and

(iii) if known, each person who has beneficial ownership of the business.

(2) The list shall be filed within 30 days of the date when the total value of the contracts, leases, or other agreements entered into during the calendar year reaches ~~[\$100,000]~~ **\$200,000**.

(3) If a person who has beneficial ownership is unknown to the business, it is sufficient for the business to disclose the legal ownership or the identity of the nominee who holds title for the unknown person.

(d) A business or an officer of a business who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$10,000.

15–218.

(a) Except as provided under § 15–219 of this subtitle, a procurement officer who receives a protest or a contract claim from a contractor shall comply with this section.

(b) (1) On receipt of a protest or contract claim from a contractor, a procurement officer:

(i) shall review the substance of the protest or contract claim;

(ii) may request additional information or substantiation through an appropriate procedure;

(iii) may discuss with interested parties and, if appropriate, may conduct negotiations with the person initiating the protest or contract claim; and

(iv) shall comply with any applicable regulations.

(2) Unless clearly inappropriate, the procurement officer shall seek the advice of the Office of the Attorney General.

(c) (1) Subject to subsection (b) of this section and consistent with the State budget and other applicable laws, the procurement officer shall:

(i) resolve the protest or contract claim by agreement of the parties;

(ii) wholly or partly deny the protest or contract claim; or

(iii) wholly or partly grant the relief sought by the person who submitted the protest or contract claim.

(2) The procurement officer promptly shall send the decision in writing to the reviewing authority.

(d) Unless otherwise provided by regulation, the decision of the procurement officer shall be reviewed promptly by:

- (1) the head of the unit; and
- (2) the head of the principal department or other equivalent unit of which the unit is a part.

(e) (1) Except as provided under paragraph (3) of this subsection, the reviewing authority shall approve, disapprove, or modify the decision of the procurement officer **WITHIN 180 DAYS AFTER RECEIVING THE CONTRACT CLAIM OR A LONGER PERIOD TO WHICH THE PARTIES AGREE.**

(2) The action of the reviewing authority under this subsection shall be the final action of the unit.

(3) The reviewing authority may remand the proceeding with instructions to the procurement officer.

(4) On remand, the procurement officer shall proceed under subsection (b) of this section in accordance with those instructions.

(F) (1) A DECISION NOT TO PAY A CONTRACT CLAIM IS A FINAL ACTION FOR THE PURPOSE OF APPEAL TO THE APPEALS BOARD.

(2) THE FAILURE TO REACH A DECISION WITHIN THE TIME REQUIRED UNDER SUBSECTION (E) OF THIS SECTION MAY BE DEEMED, AT THE OPTION OF THE CONTRACTOR, TO BE A DECISION NOT TO PAY THE CONTRACT CLAIM.

SECTION 2. AND BE IT FURTHER ENACTED, That, for any decision pending review under § 15–218(d) of the State Finance and Procurement Article on the effective date of this Act, a reviewing authority shall comply with § 15–218(e) of the State Finance and Procurement Article, as enacted by Section 1 of this Act, on or before April 1, 2018.

~~SECTION 3. AND BE IT FURTHER ENACTED, That, on or before October 1, 2018, the Office of the Attorney General shall report to the Board of Public Works and, in accordance with § 2–1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee on a process for establishing a centralized procurement attorney office within the Office of the Attorney General to represent all State procurement units in matters within the jurisdiction of the Maryland State Board of Contract Appeals.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That the Department of Transportation, in consultation with the MDDC Press Association, shall:~~

~~(1) study the use and costs of placing public announcements of solicitations of interest for transportation-related architectural and engineering services in The Daily Record or any other printed periodical; and~~

~~(2) on or before December 1, 2017, report its findings and recommendations 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.~~

~~SECTION 5. AND BE IT FURTHER ENACTED, That the Department of Transportation may not adopt a regulation to amend COMAR 21.12.02.10A regarding the placement of public announcements of solicitations of interest for transportation-related architectural and engineering services before March 1, 2018.~~

SECTION 3. AND BE IT FURTHER ENACTED, That on or before December 1, 2017, the Department of Transportation, in consultation with the Maryland-Delaware-District of Columbia Press Association, shall:

(1) study the use and cost for placing public announcements of solicitations of interest for transportation architectural and engineering services in the Daily Record and other print publications and whether to amend the Code of Maryland Regulations 21.12.02.10A; and

(2) 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 findings of the study conducted under item (1) of this section.

SECTION 4. ~~§. 4.~~ AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 588

(Senate Bill 311)

AN ACT concerning

Promoting Efficiencies in State Procurement

FOR the purpose of altering various provisions of the State procurement law; altering the dollar value threshold that triggers the requirement to publish a certain notice in eMaryland Marketplace regarding certain procurements; expanding the list of the types of procurement methods available to a procurement officer for certain

procurements; specifying a preferred procurement method for human, social, cultural, or educational services; establishing qualification based selection as the method of procurement for certain departments for architectural or engineering services; specifying certain parameters, standards, and requirements applicable under the qualification based selection procurement method; ~~requiring~~ authorizing certain designated procurement units to adopt the master contracting procurement method for procurements for certain services, supplies, commodities, or goods; providing that certain requirements do not apply to a master contract for construction under certain circumstances; requiring the Board of Public Works to adopt certain regulations regarding the solicitation of master contracts and task orders; repealing the Maryland Architectural and Engineering Services Act and related provisions of law concerning the General Professional Services Selection Board in the Department of General Services; altering the dollar value of the contract for which certain public bodies may require payment security or performance security for a construction contract; clarifying provisions of law concerning procurements by the board of trustees or other persons for a local community college; clarifying the authority of the board of trustees of a community college to advertise certain bids on eMaryland Marketplace; providing that competitive sealed proposals is the preferred procurement method for certain educational or consultant services; defining certain terms; repealing obsolete provisions of law; and generally relating to revisions of the State procurement law.

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement

Section 11–203(a)

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section 11–203(b), 13–101, 13–102, 13–103, 13–104, 13–109, 13–402, 15–202, and 17–103

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

BY adding to

Article – State Finance and Procurement

Section 13–112 and 13–114

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

BY repealing

Article – State Finance and Procurement

Section 13–301 through 13–323 and the subtitle “Subtitle 3. Architectural and Engineering Services”; and 13–401 and the subtitle “Subtitle 4. Streamlined Process for Procurement of Information Technology Services”

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Education

Section 16–311 and 16–313

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

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

Article – State Finance and Procurement

11–203.

(a) Except as provided in subsection (b) of this section, this Division II does not apply to:

(1) procurement by:

(i) the Blind Industries and Services of Maryland;

(ii) the Maryland State Arts Council, for the support of the arts;

(iii) the Maryland Health and Higher Educational Facilities Authority, if no State money is to be spent on a procurement contract;

(iv) the Maryland Industrial Training Program or the Partnership for Workforce Quality Program in the Department of Commerce, for training services or programs for new or expanding businesses or industries or businesses or industries in transition;

(v) the Maryland Food Center Authority, to the extent the Authority is exempt under Title 10, Subtitle 2 of the Economic Development Article;

(vi) the Maryland Public Broadcasting Commission:

1. for services of artists for educational and cultural television productions;

2. when planning for or fulfilling the obligations of grants or cooperative agreements that support the educational and cultural activities of the Commission; or

3. for procurement contracts needed to implement the repacking requirements of the Federal Spectrum Incentive Act;

(vii) public institutions of higher education, for cultural, entertainment, and intercollegiate athletic procurement contracts;

(viii) the Maryland State Planning Council on Developmental Disabilities, for services to support demonstration, pilot, and training programs;

(ix) the Maryland Historical Trust for:

1. surveying and evaluating architecturally, archeologically, historically, or culturally significant properties; and

2. other than as to architectural services, preparing historic preservation planning documents and educational material;

(x) the University of Maryland, for University College Overseas Programs, if the University adopts regulations that:

1. establish policies and procedures governing procurement for University College Overseas Programs; and

2. promote the purposes stated in § 11–201(a) of this subtitle;

(xi) the Department of Commerce, for negotiating and entering into private sector cooperative marketing projects that directly enhance promotion of Maryland and the tourism industry where there will be a private sector contribution to the project of not less than 50% of the total cost of the project, if the project is reviewed by the Attorney General and approved by the Secretary of Commerce or the Secretary's designee;

(xii) the Rural Maryland Council;

(xiii) the Maryland State Lottery and Gaming Control Agency, for negotiating and entering into private sector cooperative marketing projects that directly enhance promotion of the Maryland State Lottery and its products, if the cooperative marketing project:

1. provides a substantive promotional or marketing value that the lottery determines acceptable in exchange for advertising or other promotional activities provided by the lottery;

2. does not involve the advertising or other promotion of alcohol or tobacco products; and

3. is reviewed by the Attorney General and approved by the Maryland Lottery Director or the Director's designee;

(xiv) the Maryland Health Insurance Plan established under Title 14, Subtitle 5 of the Insurance Article;

(xv) the Maryland Energy Administration, when negotiating or entering into grants or cooperative agreements with private entities to meet federal specifications or solicitation requirements related to energy conservation, energy efficiency, or renewable energy projects that benefit the State;

(xvi) the Maryland Developmental Disabilities Administration of the Department of Health and Mental Hygiene for family and individual support services, and individual family care services, as those terms are defined by the Department of Health and Mental Hygiene in regulation;

(xvii) the Department of General Services for the renovation of a structure that:

1. was built during the 18th or 19th century; and
2. is listed in or eligible for listing in the National Register of Historic Places; and

(xviii) the Department of Natural Resources, for negotiating or entering into grants, agreements, or partnerships with nonprofit entities related to conservation service opportunities;

(2) procurement by a unit from:

- (i) another unit;
- (ii) a political subdivision of the State;
- (iii) an agency of a political subdivision of the State;
- (iv) a government, including the government of another state, of the United States, or of another country;
- (v) an agency or political subdivision of a government; or
- (vi) a bistate, multistate, bicounty, or multicounty governmental agency; or

(3) procurement in support of enterprise activities for the purpose of:

- (i) direct resale; or
- (ii) remanufacture and subsequent resale.

(b) (1) The following provisions of this Division II apply to each procurement enumerated in subsection (a) of this section:

- (i) § 11–205 of this subtitle (“Collusion”);
- (ii) § 10–204 of this article (“Approval for designated contracts”);
- (iii) Title 12, Subtitle 2 of this article (“Supervision of Capital Expenditures and Real Property Leases”);
- (iv) § 13–219 of this article (“Required clauses – Nondiscrimination clause”);
- (v) § 13–221 of this article (“Disclosures to Secretary of State”);
- (vi) Title 12, Subtitle 4 of this article (“Policies and Procedures for Exempt Units”);
- (vii) § 15–112 of this article (“Change orders”);
- (viii) Title 16 of this article (“Suspension and Debarment of Contractors”); and
- (ix) Title 17 of this article (“Special Provisions – State and Local Subdivisions”).

(2) Except for procurement under subsection (a)(1)(i) and (xi) and (2)(i) and (vi) of this section, the provisions of Title 14, Subtitle 3 of this article (“Minority Business Participation”) shall apply to each procurement enumerated in subsection (a) of this section.

(3) A procurement by an entity listed in subsection (a)(1)(i) through (xiii) and (xvii) of this section shall be made under procedures that promote the purposes stated in § 11–201(a) of this subtitle.

(4) (i) A unit that procures human, social, or educational services from an entity enumerated in subsection (a)(2) of this section shall publish in eMaryland Marketplace notice of a procurement contract or an extension or renewal of a procurement contract if:

1. the procurement contract, extension, or renewal costs more than [~~\$25,000~~] **\$50,000**; and
2. the procurement is made for 3rd party clients described in § 13–106 of this article.

(ii) The notice required under this paragraph shall be published not more than 30 days after the execution and approval of the procurement contract or the extension or renewal of the procurement contract.

(5) The purchase of advisory services from the General Selection Board or the Transportation Selection Board under § 13–305 of this article shall be governed by the Maryland Architectural and Engineering Services Act.

13–101.

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

(B) “DESIGNATED PROCUREMENT UNIT” MEANS:

- (1) THE DEPARTMENT OF BUDGET AND MANAGEMENT;**
- (2) THE DEPARTMENT OF GENERAL SERVICES;**
- (3) THE DEPARTMENT OF INFORMATION TECHNOLOGY; OR**
- (4) THE DEPARTMENT OF TRANSPORTATION.**

[(b)] (C) “eMaryland Marketplace” means the Internet–based procurement system managed by the Department of General Services.

[(c)] (D) “Evaluated bid price” means the price of a bid after adjustment in accordance with objective measurable criteria.

(E) “MASTER CONTRACTING” MEANS A STREAMLINED PROCUREMENT METHOD THAT PROVIDES FOR THE QUALIFICATION OF BIDDERS AND OFFERORS FOR THE PROCUREMENT OF SERVICES, SUPPLIES, OR COMMODITIES.

[(d)] (F) (1) “Objective measurable criteria” means standards that enable the State to compare the economy, effectiveness, or value of the subject of the bids.

(2) “Objective measurable criteria” includes standards of reliability, operational costs, maintainability, useful life, and residual value.

(G) “PERSON” INCLUDES, UNLESS THE CONTEXT REQUIRES OTHERWISE:

- (1) THE STATE;**
- (2) A COUNTY, A MUNICIPAL CORPORATION, OR ANY OTHER POLITICAL SUBDIVISION; AND**
- (3) ANY UNIT OF THE STATE GOVERNMENT OR A POLITICAL SUBDIVISION.**

(H) “TASK ORDER” MEANS A PROCUREMENT PROCESS IN WHICH ONLY THOSE VENDORS WITH MASTER CONTRACTS MAY COMPETE TO PROVIDE THE SERVICES, SUPPLIES, OR COMMODITIES UNDER THE PROCUREMENT.

13–102.

(a) [Except as provided in Subtitle 3 and Subtitle 4 of this title, all procurement by units shall be by competitive sealed bids unless one of the following methods specifically is authorized] **THE FOLLOWING PROCUREMENT METHODS ARE AUTHORIZED AT THE PROCUREMENT OFFICER’S DISCRETION, WHERE APPLICABLE:**

(1) COMPETITIVE SEALED BIDS UNDER § 13–103 OF THIS SUBTITLE;

subtitles; [(1) (2) competitive sealed proposals under § 13–104 or § 13–105 of this

[(2) (3) noncompetitive negotiation under § 13–106 of this subtitle;

[(3) (4) sole source procurement under § 13–107 of this subtitle;

subtitles; [(4) (5) emergency or expedited procurement under § 13–108 of this

[(5) (6) small procurement under § 13–109 of this subtitle;

[(6) (7) an intergovernmental cooperative purchasing agreement under § 13–110 of this subtitle; [or]

[(7) (8) auction bids under § 13–111 of this subtitle;

(9) ARCHITECTURAL AND ENGINEERING SERVICES QUALIFICATION BASED SELECTION UNDER § 13–112 OF THIS SUBTITLE; OR

(10) MASTER CONTRACTING UNDER § 13–113 OF THIS SUBTITLE.

(b) (1) In awarding a procurement contract for human, social, cultural, or educational service, the preferred method is by competitive sealed proposals under § 13–104 of this subtitle.

(2) In awarding a procurement contract for a lease of real property, the preferred method is by competitive sealed proposals under § 13–105 of this subtitle.

(3) Procurement under an intergovernmental cooperative purchasing agreement is appropriate in situations where the State is expected to achieve a better price

as the result of economies of scale or to otherwise benefit by purchasing in cooperation with another governmental entity.

13–103.

(a) (1) Whenever procurement is based on competitive sealed bids, a procurement officer shall seek bids by issuing an invitation for bids.

(2) Subject to subsection (b) of this section, an invitation for bids shall include:

(i) the specifications of the procurement contract, including the expected degree of minority business enterprise participation, as provided in § 14–303(b) of this article;

(ii) whether the procurement contract will be awarded based on the lowest bid price, the lowest evaluated bid price or, if the procurement is subject to § 11–202(3) of this article, the bid most favorable to the State;

(iii) if the procurement contract will be based on evaluated bid price, the objective measurable criteria by which the lowest evaluated bid price will be determined; and

(iv) if the Secretary of General Services, the Secretary of Transportation, or the Chancellor of the University System of Maryland has so designated, the small business preference.

(b) (1) Whenever a procurement officer determines that an initial preparation of specifications for price bids is impracticable, the invitation for bids may:

(i) include a request for unpriced technical offers or samples; and

(ii) direct bidders to submit price bids:

1. with the unpriced technical offers or samples; or

2. after the unit evaluates the technical offers or samples and finds that they are acceptable under the criteria set forth in the invitation for bids.

(2) A unit shall consider the prices submitted by bidders whose technical offers or samples have been found acceptable.

(3) Price bids may not be opened until after the unit has completed evaluation of the technical offers or samples.

(4) (i) A price bid may not be opened at any time if the bid is submitted by a bidder whose technical offer or sample has been evaluated as unacceptable to the unit.

(ii) A procurement officer shall return an unopened price bid submitted by a bidder whose technical offer or sample has been evaluated as unacceptable.

(c) (1) A unit shall give public notice of an invitation for bids before bid opening in accordance with this subsection.

(2) A unit shall give reasonable notice that shall be at least 10 days before bid opening.

(3) [Until July 1, 2006, the] **THE** unit shall publish notice in [the Contract Weekly, Contract Weekly Online, and] eMaryland Marketplace at least 20 days before bid opening if:

(i) the procurement officer reasonably expects bid prices to exceed **[\$25,000] \$50,000** or a lower amount set by the Board by regulation in accordance with Title 10, Subtitle 1 of the State Government Article; and

(ii) at least part of the procurement contract is to be performed in this State or the District of Columbia.

[(4) On and after July 1, 2006, the unit shall publish the notice required under paragraph (3) of this subsection in eMaryland Marketplace.]

[(5)] (4) In addition to any notice required under this subsection, a unit may publish notice of an invitation for bids:

(i) on a bid board or eMaryland Marketplace; or

(ii) in a newspaper, periodical, or trade journal.

(d) (1) A procurement officer shall:

(i) open bids in public at the time and place designated in the invitation for bids; and

(ii) announce, record, and post:

1. the name of each bidder; and

2. the amount of each bid.

(2) Except as provided in paragraph (3) of this subsection, a bid is irrevocable, after bid opening, for the period specified in the invitation for bids.

(3) A procurement officer may allow a bidder to correct or withdraw a bid if correction or withdrawal is:

- (i) allowed under regulations adopted under this Division II; and
- (ii) approved in writing by the Office of the Attorney General.

(e) (1) After obtaining any approval required by law, the procurement officer shall award the procurement contract to the responsible bidder who submits the responsive bid that:

- (i) is the lowest bid price;
- (ii) if the invitation for bids so provides, is the lowest evaluated bid price; or
- (iii) for procurement subject to § 11–202(3) of this article, is the bid most favorable to the State.

(2) If, after competitive sealed bids have been opened, a procurement officer determines that only 1 responsible bidder has submitted a responsive bid, the unit may negotiate the procurement contract with that 1 bidder under the procedure for sole source procurement.

(3) (i) After competitive sealed bids have been opened, a procurement officer may award a procurement contract on the basis of revised bids if:

- 1. all bids are rejected under § 13–206(b) of this title;
- 2. all bid prices exceed the funds available for the procurement; or
- 3. with the approval of the head of the unit or a designee, the procurement officer determines that all bids are unreasonable as to at least 1 requirement and the delay that would result from issuing a new invitation for bids with revised specifications or quantities would be fiscally disadvantageous or otherwise not in the best interests of the State.

(ii) If there is more than 1 bidder, discussions about revised specifications or quantities shall be conducted with all responsible bidders who submitted responsive bids. The bidders shall be treated fairly and equally with respect to any discussions.

(iii) As promptly as possible, the procurement officer shall:

- 1. issue an invitation for revised bids, which shall state whether the award will be made without competitive negotiations; and

2. require a prompt response to that invitation.

(iv) An invitation for revised bids is not subject to the notice requirements in subsection (c) of this section.

(v) After revised bids have been submitted, negotiations with bidders may not be conducted unless the procurement officer determines that there is a compelling reason to negotiate.

(vi) After revised bids have been opened and any approval required by law has been obtained, the procurement officer shall award the procurement contract to the responsible bidder who submits a responsive bid that:

1. is the lowest bid price;
2. if the invitation for revised bids so provides, is the lowest evaluated bid price; or
3. for procurement subject to § 11–202(3) of this article, is the bid most favorable to the State.

(4) A responsible bid or proposal shall include the criteria specified in subsection (a) of this section.

(f) Not more than 30 days after the execution and approval of a procurement contract in excess of ~~[\$25,000]~~ **\$50,000** awarded under this section, or a lower amount set by the Board by regulation in accordance with Title 10, Subtitle 1 of the State Government Article, a unit shall publish notice of the award[:

- (1) until July 1, 2006, in the Contract Weekly and eMaryland Marketplace;
- and
- (2) on and after July 1, 2006,] in eMaryland Marketplace.

13–104.

(a) Competitive sealed proposals [may be used if:

- (1) the procurement is for human, social, cultural, or educational services;
- (2) with the approval of the head of a unit, the procurement officer determines that specifications cannot be prepared that allow an award based on the lowest bid price, the lowest evaluated bid price or, if the procurement is subject to § 11–202(3) of this article, the bid most favorable to the State; or
- (3) the head of the unit determines that:

(i) the need to use a method other than competitive sealed bids is sufficiently compelling to override the general public policy that favors awarding procurement contracts on the basis of competitive sealed bids; and

(ii) the use of competitive sealed bidding for that procurement contract is not practicable or not advantageous to the State] **IS THE PREFERRED METHOD FOR HUMAN, SOCIAL, CULTURAL, OR EDUCATIONAL SERVICES.**

(b) (1) Whenever procurement is based on competitive sealed proposals, a procurement officer shall seek proposals by issuing a request for proposals.

(2) A request for proposals shall include a statement of:

(i) the scope of the procurement contract, including the expected degree of minority business enterprise participation, as provided in § 14-303(b) of this article;

(ii) the factors, including price, that will be used in evaluating proposals; and

(iii) the relative importance of each factor.

(c) A unit shall publish a request for proposals in the same manner as required for an invitation for bids.

(d) (1) After receipt of proposals but before the procurement officer awards the procurement contract, a unit may conduct discussions with an offeror to:

(i) obtain the best price for the State; and

(ii) ensure full understanding of:

1. the requirements of the State, as set forth in the request for proposals; and

2. the proposal submitted by the offeror.

(2) If discussions are conducted, the unit:

(i) shall conduct the discussions in accordance with regulations adopted under this Division II;

(ii) shall provide an opportunity to participate to each responsible offeror who submits a proposal that, in the judgment of the procurement officer, is reasonably susceptible of being selected for award;

(iii) shall treat all of those responsible offerors fairly and equally;

(iv) may allow all of those responsible offerors to revise their initial proposals by submitting best and final offers, if discussions indicate that it would be in the best interests of the State to do so;

(v) may conduct more than 1 series of discussions and requests for best and final offers; and

(vi) may not disclose to an offeror any information derived from a proposal of or discussions with a competing offeror.

(e) (1) Except as provided in paragraph (2) of this subsection:

(i) a proposal is irrevocable for the period specified in the request for proposals; and

(ii) a best and final offer is irrevocable for the period specified in the request for best and final offers.

(2) A procurement officer may allow an offeror to correct or withdraw a proposal or best and final offer if correction or withdrawal is:

(i) allowed under regulations adopted under this Division II; and

(ii) approved in writing by the Office of the Attorney General.

(f) After obtaining any approval required by law, the procurement officer shall award the procurement contract to the responsible offeror who submits the proposal or best and final offer determined to be the most advantageous to the State considering the evaluation factors set forth in the request for proposals.

(g) A unit shall publish notice of a contract in excess of ~~[\$25,000]~~ **\$50,000** awarded under this section, or a lower amount set by the Board by regulation in accordance with Title 10, Subtitle 1 of the State Government Article [as follows:

(1) until July 1, 2006, in the Contract Weekly and in eMaryland Marketplace; and

(2) on and after July 1, 2006,] in eMaryland Marketplace.

13-109.

(a) In this section, “small procurement” means a procurement for which:

(1) a unit spends ~~[\$25,000]~~ **\$50,000** or less;

(2) a contractor provides services subject to § 11–202(3) of this article for expected annual revenues of [~~\$25,000~~] **\$50,000** or less; or

(3) the Department of General Services **OR THE DEPARTMENT OF TRANSPORTATION** is seeking to award a procurement contract for a construction with a value that is [~~\$50,000~~] **\$100,000** or less.

(b) A unit may make small procurements in accordance with the regulations of primary procurement units.

(c) A primary procurement unit may not create a small procurement by artificial division of a procurement.

(d) Any regulation of a primary procurement unit to govern small procurements:

(1) shall provide for a simplified administrative procedure;

(2) shall be consistent with the basic intent of this Division II; and

(3) may not be disadvantageous economically to the State.

(e) At least every 3 years, the Board shall:

(1) review the prevailing costs of labor and materials; and

(2) if warranted by changes in cost, recommend to the General Assembly appropriate adjustments in the ceiling for a small procurement.

13–112.

(A) IN THIS SECTION, “DEPARTMENT” MEANS THE DEPARTMENT OF GENERAL SERVICES OR THE DEPARTMENT OF TRANSPORTATION.

(B) QUALIFICATION BASED SELECTION SHALL ONLY BE USED BY THE DEPARTMENT IF THE PROCUREMENT:

(1) IS FOR ARCHITECTURAL SERVICES OR ENGINEERING SERVICES;

(2) IS MADE ON A COMPETITIVE BASIS;

(3) INCLUDES AN EVALUATION OF THE TECHNICAL PROPOSALS AND QUALIFICATIONS OF AT LEAST TWO PERSONS; AND

(4) THE SERVICES CANNOT BE PROVIDED FEASIBLY AND ECONOMICALLY BY EXISTING IN–HOUSE RESOURCES.

(C) (1) WHENEVER A PROCUREMENT IS BASED ON QUALIFICATION BASED SELECTION, A PROCUREMENT OFFICER SHALL SEEK PROPOSALS BY ISSUING A REQUEST FOR ARCHITECTURAL SERVICES OR ENGINEERING SERVICES.

(2) A REQUEST FOR ARCHITECTURAL SERVICES OR ENGINEERING SERVICES SHALL INCLUDE A STATEMENT:

(I) DESCRIBING GENERALLY THE ARCHITECTURAL SERVICES OR ENGINEERING SERVICES THAT ARE THE SUBJECT OF THE PROCUREMENT; AND

(II) INDICATING HOW AN INTERESTED PERSON MAY RECEIVE INFORMATION ABOUT THE PROCUREMENT, INCLUDING A COMPREHENSIVE DESCRIPTION OF THE NATURE AND SCOPE OF THE ARCHITECTURAL SERVICES OR ENGINEERING SERVICES.

(D) THE DEPARTMENT SHALL PUBLISH REASONABLE AND TIMELY NOTICE OF A REQUEST FOR ARCHITECTURAL SERVICES OR ENGINEERING SERVICES IN MARYLAND MARKETPLACE.

(E) THE DEPARTMENT SHALL:

(1) EVALUATE THE TECHNICAL PROPOSALS AND QUALIFICATIONS OF THE PERSONS SUBMITTING THE PROPOSALS; AND

(2) DETERMINE AN ORDER OF PRIORITY BASED ON THOSE EVALUATIONS.

(F) (1) FROM THE RESULTS OF THE SELECTION PROCESS UNDER THIS SECTION, THE DEPARTMENT SHALL:

(I) BEGIN NEGOTIATIONS WITH THE MOST QUALIFIED PERSONS; AND

(II) TRY TO NEGOTIATE A PROCUREMENT CONTRACT WITH THAT PERSON AT A RATE OF COMPENSATION THAT IS FAIR, COMPETITIVE, AND REASONABLE.

(2) IN DETERMINING THE RATE OF COMPENSATION UNDER THIS SUBSECTION, THE DEPARTMENT SHALL:

(I) CONSIDER THE SCOPE AND COMPLEXITY OF THE ARCHITECTURAL SERVICES OR ENGINEERING SERVICES REQUIRED; AND

(II) CONDUCT A DETAILED ANALYSIS OF THE COST OF THOSE SERVICES.

(3) (I) IN DETERMINING THE RATE OF COMPENSATION UNDER THIS SUBSECTION, THE DEPARTMENT OF TRANSPORTATION ALSO SHALL COMPLY WITH LIMITS ON COSTS REIMBURSEMENT, INCLUDING OVERHEAD LIMITS ESTABLISHED BY THE DEPARTMENT.

(II) IN SETTING THE LIMITS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEPARTMENT OF TRANSPORTATION SHALL CONSIDER THE GOAL OF THE SELECTION PROCESS AS WELL AS THE REASONABLE COST OF ARCHITECTURAL SERVICES OR ENGINEERING SERVICES.

(G) IF THE DEPARTMENT IS UNABLE TO NEGOTIATE A SATISFACTORY PROCUREMENT CONTRACT AT A RATE OF COMPENSATION THAT IS FAIR, COMPETITIVE, AND REASONABLE, IT SHALL:

(1) TERMINATE NEGOTIATIONS WITH THE MOST QUALIFIED PERSON;
AND

(2) NEGOTIATE IN THE SAME MANNER WITH THE NEXT MOST QUALIFIED PERSON AND, IF NECESSARY, CONTINUE NEGOTIATIONS IN ACCORDANCE WITH THE PROCEDURES UNDER THIS SECTION UNTIL THE AGENCY REACHES AN AGREEMENT.

(H) AFTER OBTAINING ANY APPROVAL REQUIRED BY LAW, THE PROCUREMENT OFFICER SHALL AWARD A PROCUREMENT CONTRACT TO THE MOST QUALIFIED PERSON WITH WHOM AN AGREEMENT WAS REACHED ON COMPENSATION THAT IS FAIR, COMPETITIVE, AND REASONABLE.

(I) NOT MORE THAN 30 DAYS AFTER THE EXECUTION AND APPROVAL OF A PROCUREMENT CONTRACT AWARDED UNDER THIS SECTION, THE DEPARTMENT SHALL PUBLISH IN eMARYLAND MARKETPLACE NOTICE OF THE AWARD.

(J) ALL DOCUMENTS RELATING TO THE AWARD OF A PROCUREMENT CONTRACT ARE TO BE MADE AVAILABLE TO THE PUBLIC, INCLUDING:

- (1) TECHNICAL RESUMES;
- (2) TECHNICAL PROPOSALS;
- (3) THE PROCUREMENT CONTRACT;
- (4) SCOPE OF SERVICES;

(5) PROGRAMS/PROJECTS;

(6) STAFF REPORTS;

(7) INTERNAL WORKSHEETS; AND

(8) ALL OTHER INFORMATION RELATING TO THE NEGOTIATION AND AWARD OF A PROCUREMENT CONTRACT UNDER THIS SECTION.

(K) (1) THE DEPARTMENT SHALL WAIVE THE REQUIREMENTS IN SUBSECTIONS (B), (E), (F), (G), AND (J) OF THIS SECTION IF:

(I) THE DEPARTMENT DETERMINES THAT:

1. THE ARCHITECTURAL SERVICES OR ENGINEERING SERVICES CANNOT BE DEFINED SO COMPLETELY AS TO CARRY OUT THOSE REQUIREMENTS; OR

2. THE SPECIFICATIONS REQUIRE ARCHITECTURAL SERVICES OR ENGINEERING SERVICES THAT ARE AVAILABLE ONLY FROM A BONA FIDE SINGLE SOURCE OR A PROPRIETARY PRODUCT OR PROCESS;

(II) THE GOVERNOR DECLARES AN EMERGENCY;

(III) AFTER A NATURAL DISASTER, PUBLIC HEALTH AND SAFETY ARE ENDANGERED; OR

(IV) ON THE RECOMMENDATION OF THE SECRETARY OF THE DEPARTMENT AND A FINDING BY THE GOVERNOR THAT EXTRAORDINARY CIRCUMSTANCES EXIST, THE BOARD OF PUBLIC WORKS DETERMINES THAT:

1. FOR A PARTICULAR PROJECT, URGENT CIRCUMSTANCES REQUIRE THE SELECTION OF A CONTRACTOR ON AN EXPEDITED BASIS;

2. EXPEDITED SELECTION BEST SERVES THE PUBLIC INTEREST; AND

3. THE NEED FOR AN EXPEDITED SELECTION OUTWEIGHS THE BENEFITS OF CARRYING OUT THOSE REQUIREMENTS.

(2) A WAIVER AND THE REASONS FOR IT SHALL BE DOCUMENTED AND:

(I) IMMEDIATELY REPORTED TO eMARYLAND MARKETPLACE FOR PUBLICATION; AND

(II) REPORTED TO THE LEGISLATIVE POLICY COMMITTEE WITHIN 30 DAYS AFTER THE WAIVER OCCURS.

(L) (1) THE DEPARTMENT MAY NOT AWARD A PROCUREMENT CONTRACT TO A PERSON UNDER THIS SUBTITLE UNLESS:

(I) THE PERSON SUBMITS:

1. AN AFFIDAVIT OF NONCOLLUSION; AND
2. A PRICE QUOTATION; AND

(II) FOR A PROCUREMENT CONTRACT COSTING MORE THAN \$200,000, THE PERSON HAS EXECUTED A TRUTH-IN-NEGOTIATION CERTIFICATE.

(2) THE TRUTH-IN-NEGOTIATION CERTIFICATE SHALL STATE THAT:

(I) WAGE RATES AND OTHER FACTUAL UNIT COSTS SUPPORTING WAGES ARE ACCURATE, COMPLETE, AND CURRENT AS OF THE TIME OF CONTRACTING; AND

(II) THE ORIGINAL PRICE OF THE PROCUREMENT CONTRACT AND ANY ADDITIONS TO THE PROCUREMENT CONTRACT WILL BE ADJUSTED TO EXCLUDE ANY SIGNIFICANT PRICE INCREASE IF THE DEPARTMENT DETERMINES THAT THE PRICE INCREASE IS DUE TO WAGE RATES OR OTHER FACTUAL UNIT COSTS THAT WERE INACCURATE, INCOMPLETE, OR NOT CURRENT AS OF THE TIME OF CONTRACTING.

(3) AN ADJUSTMENT TO THE PROCUREMENT CONTRACT SHALL BE MADE WITHIN 1 YEAR AFTER THE PROCUREMENT CONTRACT IS COMPLETED.

(M) THE DEPARTMENT MAY NOT AWARD A PROCUREMENT CONTRACT FOR ARCHITECTURAL SERVICES OR ENGINEERING SERVICES THAT:

(1) IS A COST-PLUS-A-PERCENTAGE-OF-COST CONTRACT; OR

(2) INCLUDES FEE SCHEDULES THAT ARE BASED ON A PERCENTAGE OF CONSTRUCTION COSTS.

(N) (1) THE STATE MAY POSTAUDIT THE RATES OF CONTRACTORS PERFORMING ARCHITECTURAL SERVICES OR ENGINEERING SERVICES.

(2) ALL RATES USED IN A COST-PLUS-FIXED-FEE PROCUREMENT CONTRACT SHALL BE VERIFIED BY POSTAUDIT IF:

(I) THE COMPENSATION IS MORE THAN \$50,000 AND THE PROCUREMENT CONTRACT INVOLVES A UNIT OTHER THAN A TRANSPORTATION UNIT; AND

(II) THE COMPENSATION IS MORE THAN \$25,000 AND THE PROCUREMENT CONTRACT INVOLVES A TRANSPORTATION UNIT.

(3) ON REQUEST BY A PROCURING AUTHORITY OF ANY POLITICAL SUBDIVISION OF THE STATE THAT IS CONSIDERING AN ARCHITECT OR ENGINEER FOR A SPECIFIC PROJECT, ANY STATE AUDIT OF THE ARCHITECT OR ENGINEER SHALL BE MADE AVAILABLE.

(O) (1) THE DEPARTMENT MAY TERMINATE WITHOUT LIABILITY A PROCUREMENT CONTRACT FOR ARCHITECTURAL SERVICES OR ENGINEERING SERVICES IF:

(I) THERE HAS BEEN A CONVICTION OF A CRIME ARISING OUT OF OR IN CONNECTION WITH THE PROCUREMENT CONTRACT OR ANY PAYMENT TO BE MADE UNDER THE PROCUREMENT CONTRACT; OR

(II) THERE HAS BEEN A BREACH OR VIOLATION OF ANY PROVISION OF THIS SUBTITLE.

(2) SUBJECT TO SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT MAY DEDUCT FROM THE PROCUREMENT CONTRACT PRICE OR OTHERWISE RECOVER THE FULL AMOUNT OF ANY FEE, COMMISSION, GIFT, PERCENTAGE, OR OTHER CONSIDERATION PAID IN VIOLATION OF THIS SUBTITLE.

(3) IF A PROCUREMENT CONTRACT IS TERMINATED UNDER THIS SECTION, THE CONTRACTOR:

(I) IS ENTITLED ONLY TO THE EARNED VALUE OF THE WORK COMPLETED AS OF THE DATE OF TERMINATION, PLUS TERMINATION COSTS;

(II) IS LIABLE FOR ANY COSTS INCURRED FOR COMPLETION OF THE WORK OVER THE MAXIMUM AMOUNT PAYABLE TO THE CONTRACTOR UNDER THE PROCUREMENT CONTRACT; AND

(III) SHALL REFUND ALL PROFITS OR FIXED FEES REALIZED UNDER THE PROCUREMENT CONTRACT.

(4) (I) THE PROVISIONS OF THIS SECTION ARE IN ADDITION TO ANY OTHER RIGHT OR REMEDY ALLOWED BY LAW.

(II) BY CARRYING OUT THIS SECTION, THE DEPARTMENT DOES NOT WAIVE ANY OTHER RIGHT OR REMEDY PROVIDED BY LAW.

(P) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$20,000 OR IMPRISONMENT NOT EXCEEDING 10 YEARS OR BOTH.

(Q) (1) THE DEPARTMENT OF GENERAL SERVICES AND THE DEPARTMENT OF TRANSPORTATION SHALL ADOPT REGULATIONS THAT PROVIDE SUBSTANTIALLY SIMILAR PROCEDURES TO CARRY OUT THIS SECTION.

(2) THE PROCEDURES OF THE DEPARTMENT SHALL ENSURE THAT A RECOMMENDATION TO THE BOARD OF PUBLIC WORKS FOR THE AWARD OF A PROCUREMENT CONTRACT FOR ARCHITECTURAL SERVICES OR ENGINEERING SERVICES COSTING OVER \$200,000 IS MADE ON A COMPETITIVE BASIS AND INCLUDES AN EVALUATION OF THE TECHNICAL PROPOSALS AND QUALIFICATIONS OF AT LEAST TWO PERSONS.

[13-402.] 13-113.

(a) The [Secretary] DESIGNATED PROCUREMENT UNITS ~~shall~~ MAY adopt MASTER CONTRACTING, a streamlined procurement [process for procurement of information technology services that provides] METHOD, TO PROVIDE for the qualification of an offeror in one or more categories of [information technology] services, SUPPLIES, OR COMMODITIES.

~~(b) The [streamlined procurement process] MASTER CONTRACTING PROCUREMENT METHOD adopted by [the Secretary] EACH DESIGNATED PROCUREMENT UNIT shall include:~~

(B) IF A DESIGNATED PROCUREMENT UNIT ADOPTS MASTER CONTRACTING, THE MASTER CONTRACTING PROCUREMENT METHOD SHALL INCLUDE:

(1) the categories of [information technology] services, SUPPLIES, OR COMMODITIES in which an offeror may submit a proposal for qualification;

(2) a procedure for the consideration and approval of proposals for qualification of [an unlimited number of] **MULTIPLE** offerors in each category of [information technology] services, **SUPPLIES, OR COMMODITIES**;

(3) the execution of a standard contract for a specified period of time between the State and an offeror approved [for qualification in a category of information technology services] **AS A MASTER CONTRACTOR; AND**

(4) [the policies and procedures to be followed by a unit of the Executive Branch in the issuance of a solicitation for a task order for information technology services to a qualified offeror that has executed a contract with the Secretary; and

(5)] a performance evaluation procedure to be used by a unit of the Executive Branch to evaluate the performance of a qualified offeror that has completed work on a task order.

(c) (1) A unit of the Executive Branch that requires [information technology] services, **SUPPLIES, OR COMMODITIES COVERED UNDER A MASTER CONTRACT** may issue a solicitation for a task order to a [qualified offeror in the appropriate category of information technology services] **MASTER CONTRACTOR** consistent with [procedures and policies] **THE REGULATIONS** adopted [by the Secretary in subsection (b) of this section] **UNDER § 13-114 OF THIS SUBTITLE.**

(2) ~~The~~ **EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION,** **THE** solicitation for a task order shall include a statement of the:

(i) factors that will be used in evaluating a [qualified offeror's] **MASTER CONTRACTOR'S** response; and

(ii) relative importance of each factor.

(d) (1) ~~If~~ **EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, IF** the unit of the Executive Branch expects that the total cost of the [information technology] services, **SUPPLIES, OR COMMODITIES** will exceed \$100,000, the unit shall issue a solicitation for a task order to all [qualified offerors] **MASTER CONTRACTORS** in the appropriate category established by the [Secretary] **DESIGNATED PROCUREMENT UNIT.**

(2) If the unit of the Executive Branch expects that the total cost of the [information technology services] **SERVICES, SUPPLIES, OR COMMODITIES** will be \$100,000 or less, the unit shall issue a solicitation for a task order to a minimum of six qualified [offerors] **MASTER CONTRACTORS** or all [qualified offerors] **MASTER CONTRACTORS**, whichever is less, in the appropriate category established by the [Secretary] **DESIGNATED PROCUREMENT UNIT.**

(e) ~~After~~ **EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, AFTER** a unit of the Executive Branch receives responses from [qualified offerors] **MASTER CONTRACTORS** to a solicitation for a task order, the unit shall evaluate the responses and may select [an offeror] **A MASTER CONTRACTOR** based on the response that is determined to be the most advantageous to the State considering the evaluation factors set forth in the task order.

(F) THE REQUIREMENTS OF SUBSECTIONS (C)(2), (D), AND (E) OF THIS SECTION DO NOT APPLY TO A MASTER CONTRACT FOR CONSTRUCTION IF THE MASTER CONTRACT:

(1) IS AWARDED THROUGH A COMPETITIVE PROCESS IN ACCORDANCE WITH THIS SUBTITLE; AND

(2) STATES:

(I) HOW TASK ORDERS WILL BE AWARDED; AND

(II) THE MAXIMUM NUMBER OF QUALIFIED CONTRACTORS THAT WILL BE AWARDED A MASTER CONTRACT FOR CONSTRUCTION.

13-114.

(A) THE BOARD SHALL ADOPT REGULATIONS IN ACCORDANCE WITH TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE TO ESTABLISH A UNIFORM PROCESS FOR THE SOLICITATION OF MASTER CONTRACTS AND TASK ORDERS.

(B) EACH DESIGNATED PROCUREMENT UNIT SHALL ENSURE COMPLIANCE WITH THE REGULATIONS SET FORTH IN SUBSECTION (A) OF THIS SECTION.

[Subtitle 3. Architectural and Engineering Services.]

[13-301.

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

(b) “General Selection Board” means the General Professional Services Selection Board.

(c) “Person” includes, unless the context requires otherwise:

(1) the State;

(2) a county, municipal corporation, or other political subdivision; and

(3) any unit of the State government or a political subdivision.

(d) “Selection Board” means the General Selection Board or the Transportation Selection Board.

(e) “Transportation Selection Board” means the Transportation Professional Services Selection Board.

(f) “Transportation unit” means:

- (1) the Department of Transportation;
- (2) any unit in the Department of Transportation;
- (3) the Maryland Port Commission; or
- (4) the Maryland Transportation Authority.]

[13–302.

(a) There is a General Professional Services Selection Board in the Department of General Services.

(b) (1) The General Selection Board consists of:

- (i) 4 permanent members; and
- (ii) 1 temporary member.

(2) The permanent members shall be:

- (i) the Secretary of General Services, ex officio, or a designee; and
- (ii) 3 members who are appointed by the Governor and shall be:

1. 1 appointee from the Department of General Services on recommendation of the Secretary of General Services; and

2. 2 appointees from the general public, at least 1 of whom is not an architect or engineer.

(3) The temporary member shall be the head of the unit whose request is under consideration.

(4) On recommendation of the Secretary of General Services, the Governor may appoint an alternate member to serve in the absence of the appointee under paragraph (2)(ii)1 of this subsection.

(c) (1) The appointee from the Department of General Services serves at the pleasure of the Governor.

(2) An appointee from the general public:

(i) serves a term of 5 years; and

(ii) at the end of the term, continues to serve until a successor is appointed and qualifies.

(3) A temporary member serves only for the purpose of considering and acting on the request of the unit that the temporary member represents.

(4) A permanent 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.

(d) (1) The Governor may remove a member for incompetence, misconduct, neglect of duty, or other sufficient cause.

(2) A member may not participate in any matter before the General Selection Board in which the member:

(i) has an interest; or

(ii) is or, within the previous 12 months, has been associated with:

1. a transportation unit that has an interest in the matter;

or

2. any other person who is not a unit and has an interest in

the matter.

(e) Each appointee from the general public is entitled to:

(1) compensation in accordance with the State budget; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.]

[13–303.

(a) There is a Transportation Professional Services Selection Board in the Department of Transportation.

(b) (1) The Transportation Selection Board consists of:

- (i) 4 individuals who are permanent members; and
 - (ii) 1 individual who is a temporary member.
- (2) The permanent membership shall consist of the following:
- (i) the Secretary of Transportation, ex officio, or a designee;
 - (ii) 1 individual from the Department of Transportation, appointed by the Governor on recommendation of the Secretary of Transportation; and
 - (iii) 2 individuals appointed by the Governor from the general public, at least 1 of whom is not an architect or engineer.
- (3) The transportation unit whose request the Transportation Selection Board is considering shall appoint the temporary member.
- (4) On recommendation of the Secretary of Transportation, the Governor may appoint an alternate member to serve in the absence of the appointee under paragraph (2)(ii) of this subsection.
- (c) (1) The appointee from the Department of Transportation serves at the pleasure of the Governor.
- (2) An appointee from the general public:
- (i) serves a term of 5 years; and
 - (ii) at the end of the term, continues to serve until a successor is appointed and qualifies.
- (3) A temporary member serves only for the purpose of considering and acting on the request of the transportation unit that the temporary member represents.
- (4) A permanent 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.
- (d) (1) The Governor may remove a member for incompetence, misconduct, neglect of duty, or other sufficient cause.
- (2) A member may not participate in any matter before the Transportation Selection Board in which the member:
- (i) has an interest; or
 - (ii) is or, within the previous 12 months, has been associated with a person, other than a transportation unit, who has an interest in the matter.

(e) Each appointee from the general public is entitled to:

(1) compensation in accordance with the State budget; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.]

[13–304.

(a) The selection boards shall adopt regulations that provide substantially similar procedures to carry out this subtitle.

(b) The procedures of each selection board shall ensure that a recommendation to the Board of Public Works for the award of a procurement contract for architectural or engineering services costing over \$200,000 is made on a competitive basis and includes an evaluation of the technical proposals and qualifications of at least 2 persons.]

[13–305.

(a) At the request of a school board or a political subdivision of the State, the Selection Board may provide advisory services about procurement of architectural services or engineering services.

(b) A school board or political subdivision that receives advisory services under this section shall reimburse the Selection Board for its costs.]

[13–306.

(a) Except for a transportation unit, a unit that intends to procure architectural or engineering services costing more than \$200,000 shall submit a request to the General Selection Board at a public meeting of that Board.

(b) The General Selection Board shall publish reasonable and timely notice of a request presented under this section.]

[13–307.

(a) The General Selection Board may approve a request for architectural or engineering services only if it concludes that the services cannot be provided feasibly and economically by existing in-house resources.

(b) The General Selection Board shall:

(1) publish uniform and consistent announcements of all approvals for requests for architectural services or engineering services; and

(2) mail a copy of an announcement to each person who requests notice.

(c) An announcement of an approval under this section shall:

(1) describe generally the architectural services or engineering services that are the subject of the procurement; and

(2) indicate how an interested person may receive information about the procurement.

(d) (1) On request, the General Selection Board shall provide to an interested person a comprehensive description of the nature and scope of the architectural or engineering services that are the subject of the procurement.

(2) The unit requesting the procurement shall prepare the description required under this subsection.]

[13–308.

(a) The General Selection Board shall:

(1) evaluate technical proposals and the qualifications of the persons submitting proposals; and

(2) determine an order of priority based on those evaluations.

(b) (1) The General Selection Board shall:

(i) begin negotiations with the most qualified person; and

(ii) try to negotiate a procurement contract with that person at a rate of compensation that is fair, competitive, and reasonable.

(2) In determining the rate of compensation under this subsection, the General Selection Board shall:

(i) consider the scope and complexity of the architectural or engineering services required; and

(ii) conduct a detailed analysis of the cost of those services.

(c) (1) If the General Selection Board is unable to negotiate a satisfactory procurement contract at a rate of compensation that is fair, competitive, and reasonable, it shall:

(i) terminate negotiations with the most qualified person; and

(ii) negotiate in the same manner with the second and, if necessary, the third most qualified person chosen under subsection (a) of this section.

(2) If the General Selection Board is unable to negotiate a procurement contract with any person chosen under subsection (a) of this section, the General Selection Board shall:

(i) choose additional persons in order of their competence and qualification; and

(ii) continue negotiations in accordance with the procedures under this section until it reaches an agreement.

(d) The General Selection Board may delegate the negotiation process to the Department of General Services, but any negotiating team shall include a representative of the unit requesting the procurement.]

[13–309.

The General Selection Board shall:

(1) review all procurement contract documents; and

(2) announce the general content of the documents at a public meeting of that Board.]

[13–310.

(a) (1) A transportation unit that intends to procure architectural or engineering services shall submit a request to the Secretary of Transportation.

(2) The Secretary of Transportation shall certify to the Transportation Selection Board that the architectural or engineering services requested under this section cannot be provided feasibly and economically by existing in-house resources.

(b) The Transportation Selection Board shall:

(1) publish uniform and consistent announcements of all requests for architectural services or engineering services; and

(2) mail a copy of an announcement to each person who requests notice of a specific project.

(c) An announcement of a request under this section shall:

(1) describe generally the architectural or engineering services that are the subject of the procurement; and

(2) indicate how an interested person may receive information about the procurement.

(d) A transportation unit shall negotiate competitively each procurement contract for architectural or engineering services costing \$200,000 or less at a price that the transportation unit determines to be fair and reasonable.]

[13–311.

(a) The Department of Transportation shall establish a selection process based on a competitive procedure to:

(1) promote engineering and design quality and ensure maximum competition by professional companies of all sizes providing architectural or engineering services;

(2) evaluate technical proposals and the qualifications of the persons submitting proposals; and

(3) determine an order of priority based on those evaluations.

(b) (1) From the results of the selection process under subsection (a) of this section, the transportation unit shall:

(i) begin negotiations with the most qualified person; and

(ii) try to negotiate a procurement contract with that person at a rate of compensation that is fair, competitive, and reasonable.

(2) In determining the rate of compensation under this subsection, the transportation unit shall:

(i) consider the scope and complexity of the architectural or engineering services required;

(ii) conduct a detailed analysis of the cost of those services; and

(iii) comply with limits on costs reimbursement, including, but not limited to overhead limits, established by the Transportation Selection Board. In setting such limits, the Board shall consider the goal of the selection process set forth in paragraph (1) of this subsection, as well as the reasonable cost of architectural or engineering services.

(c) (1) If the transportation unit is unable to negotiate a satisfactory procurement contract at a rate of compensation that is fair, competitive, and reasonable, it shall:

(i) terminate negotiations with the most qualified person; and

(ii) negotiate in the same manner with the second and, if necessary, the third most qualified person chosen under subsection (a) of this section.

(2) If the transportation unit is unable to negotiate a procurement contract with any person chosen under subsection (a) of this section, the transportation unit shall:

(i) choose additional persons in order of their competence and qualification; and

(ii) continue negotiations in accordance with the procedures under this section until it reaches an agreement.

(d) The Transportation Selection Board may delegate the negotiation process to the Department of Transportation, but any negotiating team shall include a representative of the transportation unit requesting the procurement.]

[13–312.

(a) A transportation unit shall submit to the Transportation Selection Board the name of the person with whom an agreement for the procurement of architectural services or engineering services is reached in accordance with § 13–311 of this subtitle.

(b) The Transportation Selection Board shall:

(1) review all procurement contract documents; and

(2) announce the general content of the documents at a public meeting of that Board.

(c) (1) The Transportation Selection Board shall hold a public meeting at which that Board shall:

(i) accept or reject the person with whom the agreement was reached; or

(ii) for cause, postpone its decision on the selection.

(2) The Transportation Selection Board shall provide reasonable and timely notice of a meeting required under this subsection.]

[13–313.

The Selection Board shall make available for public review all documents that relate to the award of a procurement contract, including:

- (1) technical resumes;
- (2) proposals;
- (3) the procurement contract;
- (4) scope of services;
- (5) programs;
- (6) staff reports;
- (7) internal worksheets; and
- (8) all other information that relates to the negotiation and award of a procurement contract under this subtitle.]

[13–314.

(a) The Selection Board shall waive the requirements of §§ 13–304(b), 13–308, 13–309, 13–311, 13–312(b), and 13–313 of this subtitle if:

- (1) the Selection Board determines that:
 - (i) the architectural services or engineering services cannot be defined so completely as to carry out those requirements; or
 - (ii) the specifications require architectural services or engineering services that are available only from a bona fide single source or a proprietary product or process;
- (2) the Governor declares an emergency;
- (3) after a natural disaster, public health and safety are endangered; or
- (4) on the recommendation of the Secretary of General Services or the Secretary of Transportation and a finding by the Governor that extraordinary circumstances exist, the Board of Public Works determines that:
 - (i) for a particular project, urgent circumstances require the selection of a contractor on an expedited basis;
 - (ii) expedited selection best serves the public interest; and

(iii) the need for an expedited selection outweighs the benefits of carrying out those requirements.

(b) A waiver and the reasons for it shall be documented and:

- (1) immediately reported to eMaryland Marketplace for publication; and
- (2) reported to the Legislative Policy Committee within 30 days after the waiver occurs.]

[13–315.

(a) (1) After choosing a contractor in accordance with this subtitle, the Selection Board shall recommend that contractor to the Board of Public Works.

(2) With each recommendation, the Selection Board shall submit a statement of the reasons for the selection.

(3) The statement required under this subsection serves as a public notice of the selection.

(b) The Selection Board shall assure the Board of Public Works that the recommended contractor has the financial capacity to:

- (1) provide the architectural services or engineering services; and
- (2) protect the State from errors and omissions that might arise from the performance of the architectural or engineering services by:
 - (i) the contractor; or
 - (ii) third parties relying on the completed design or work product.]

[13–316.

(a) Within 10 days after an offeror of architectural services or engineering services receives notice of a recommendation by the Selection Board to the Board of Public Works, the offeror may appeal the recommendation to the Board of Public Works.

(b) On an appeal under this section, the Board shall:

- (1) approve the recommendation;
- (2) disapprove the recommendation; or
- (3) remand the matter to the Selection Board for further consideration.

(c) The Board of Public Works may award a prospective offeror or an offeror the reasonable costs of filing and pursuing an appeal, not including attorney's fees, if:

(1) the prospective offeror or offeror appeals the recommendation of the Transportation Selection Board or the General Selection Board to enter into an architectural services or engineering services contract to the Board of Public Works;

(2) the Board of Public Works disapproves the recommendation of the Transportation Selection Board or the General Selection Board; and

(3) the Board of Public Works finds that there has been a violation of the procurement law or regulations.

(d) The Board of Public Works shall adopt regulations to implement this section and to determine what constitutes reasonable costs of filing and pursuing an appeal.]

[13-317.

(a) A unit may not award a procurement contract to a person under this subtitle unless:

(1) the person submits:

(i) an affidavit of noncollusion; and

(ii) a price quotation; and

(2) for a procurement contract costing more than \$200,000, the person has executed a truth-in-negotiation certificate.

(b) The truth-in-negotiation certificate shall state that:

(1) wage rates and other factual unit costs supporting wages are accurate, complete, and current as of the time of contracting; and

(2) the original price of the procurement contract and any additions to the procurement contract will be adjusted to exclude any significant price increase if the Selection Board determines that the price increase is due to wage rates or other factual unit costs that were inaccurate, incomplete, or not current as of the time of contracting.

(c) An adjustment to the procurement contract shall be made within 1 year after the procurement contract is completed.]

[13-318.

The Selection Board may not award a procurement contract for architectural services or engineering services that:

- (1) is a cost-plus-a-percentage-of-cost contract; or
- (2) includes fee schedules that are based on a percentage of construction costs.]

[13-320.

(a) (1) The State may postaudit the rates of contractors performing architectural services or engineering services under this subtitle as required by the regulations adopted under this subtitle.

(2) All rates used in a cost-plus-fixed-fee procurement contract shall be verified by postaudit if:

- (i) the compensation is more than \$50,000 and the procurement contract involves a unit other than a transportation unit; and
- (ii) the compensation is more than \$25,000 and the procurement contract involves a transportation unit.

(b) On request by a procuring authority of any political subdivision of the State that is considering an architect or engineer for a specific project, any State audit of the architect or engineer shall be made available.]

[13-321.

(a) The Board may terminate without liability a procurement contract for architectural services or engineering services if:

(1) there has been a conviction of a crime arising out of or in connection with the procurement contract or any payment to be made under the procurement contract; or

(2) there has been a breach or violation of any provision of this subtitle.

(b) Subject to subsection (a) of this section, the Board may deduct from the procurement contract price or otherwise recover the full amount of any fee, commission, gift, percentage, or other consideration paid in violation of this subtitle.

(c) If a procurement contract is terminated under this section, the contractor:

(1) is entitled only to the earned value of the work completed as of the date of termination, plus termination costs;

(2) is liable for any costs incurred for completion of the work over the maximum amount payable to the contractor under the procurement contract; and

(3) shall refund all profits or fixed fees realized under the procurement contract.

(d) (1) The provisions of this section are in addition to any other right or remedy allowed by law.

(2) By carrying out this section, the Board does not waive any other right or remedy provided by law.]

[13–322.

A person who violates any provision of this subtitle is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding 10 years or both.]

[13–323.

This subtitle may be cited as the “Maryland Architectural and Engineering Services Act”.]

[Subtitle 4. Streamlined Process for Procurement of Information Technology Services.]

[13–401.

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

(b) “Information technology” has the meaning stated in § 3A–301 of this article.

(c) “Secretary” means the Secretary of Information Technology.]

15–202.

[This] **EXCEPT TO THE EXTENT AUTHORIZED BY REGULATION BY THE BOARD,** THIS subtitle does not apply to a protest concerning[:

(1) except for a protest relating to a violation of § 13–212.1 of this article, the formation of a procurement contract for architectural services or engineering services; or

(2) except to the extent authorized by regulation by the Board,] any act or omission by a procurement agency under Title 14, Subtitle 6 of this article.

17–103.

(a) (1) Before a public body awards a construction contract exceeding \$100,000, the contractor shall provide payment security and performance security that meet the requirements of § 17–104 of this subtitle.

(2) The security shall be:

(i) for performance security, in an amount that the public body considers adequate for its protection; and

(ii) for payment security, at least 50% of the total amount payable under the contract.

(b) A public body, other than the State or a unit of the State government, may require payment security or performance security for a construction contract if:

(1) the contract exceeds [~~\$25,000~~] **\$50,000** but does not exceed \$100,000;
and

(2) the amount of the security does not exceed 50% of the contract amount.

Article – Education

16–311.

(a) (1) Except as provided in paragraph (2) of this subsection, this section applies to every contract for any building, improvement, equipment, or supplies.

(2) This section does not apply to:

(i) The purchase of books or other materials for instruction;

(ii) Emergency repairs;

(iii) Any contract or purchase made by a county for a community college under procedures authorized by the county charter or an act of the General Assembly; or

(iv) Any contract or purchase that qualifies as a “small procurement” as defined in the State Procurement Regulations.

(b) [All procurements shall be by competitive sealed bids, as described in this section, unless one of the following methods is specifically authorized] **AT THE DISCRETION OF THE PROCUREMENT OFFICER, THE FOLLOWING PROCUREMENT METHODS ARE AUTHORIZED WHERE APPLICABLE:**

(1) COMPETITIVE SEALED BIDS UNDER SUBSECTION (C) OF THIS SECTION;

[(1)] (2) Competitive sealed proposals under § 16–313 of this subtitle;

[(2)] (3) Sole source procurement under § 16–314 of this subtitle; or

[(3)] (4) Noncompetitive negotiation under § 16–314.1 of this subtitle.

(c) (1) THE BOARD OF TRUSTEES MAY PROVIDE FOR PROCUREMENT BY COMPETITIVE SEALED BIDS IN ACCORDANCE WITH THIS SUBSECTION.

(2) (I) WHENEVER PROCUREMENT IS BASED ON COMPETITIVE SEALED BIDS, THE BOARD OF TRUSTEES, OR ITS DESIGNEE, SHALL SEEK BIDS BY ISSUING AN INVITATION FOR BIDS.

[(1)] (II) The board of trustees, at least 2 weeks before bids are to be filed, shall advertise for bids in at least one newspaper published in the county **OR IN EMDARYLAND MARKETPLACE, IN ACCORDANCE WITH TITLE 17, SUBTITLE 5 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

[(2)] (III) The board of trustees may name in the specifications and advertisements for bids the particular make, kind, or brand of article to be contracted for or purchased.

[(d) (1)] (3) The board of trustees of each community college may provide for the prequalification of persons as prospective responsible bidders for procurements other than leases of real property.

[(2)] (4) If a board of trustees uses a prequalification procedure for awarding a procurement contract:

(i) A person who is not prequalified may submit a bid or proposal;
and

(ii) After bid opening or receipt of proposals and before awarding the procurement contract, a procurement officer may determine that:

1. A person who was not prequalified at the time of bid opening or receipt of proposals is a responsible bidder; or

2. A prequalified person is not a responsible bidder.

[(e) (1)] (5) Except as provided in **[subsection (f)] PARAGRAPH (7)** of this **[section] SUBSECTION**, the contract shall be awarded to the lowest responsible bidder, who conforms to the specifications, with consideration given to:

- (i) The quantities involved;
- (ii) The time required for delivery;
- (iii) The purpose for which required;
- (iv) The competence and responsibility of the bidder; and
- (v) The ability of the bidder to perform the contract satisfactorily.

[(2)] (6) The board of trustees may reject any and all bids and readvertise for other bids.

[(f) (1)] (7) (I) In this **[subsection] PARAGRAPH**, the term “minority business enterprise” has the meaning stated in § 14–301 of the State Finance and Procurement Article.

[(2)] (II) In Montgomery County, by resolution and by implementing rules and regulations, the Board of Trustees of Montgomery Community College shall establish a mandatory minority business utilization program to facilitate the participation of responsible certified minority business enterprises in contracts awarded by the Board of Trustees of Montgomery Community College in accordance with competitive bidding requirements.

[(h)] (D) A contract entered into or purchase made in violation of this section is void.

16–313.

(a) (1) The board of trustees may provide for procurement by competitive sealed proposals in accordance with the provisions of this section.

(2) The board of trustees may adopt regulations to implement the provisions of this section.

(b) Competitive sealed proposals **[may be used if:**

(1) The procurement is for educational or consultant services;

(2) The procurement is for any building, improvement, equipment, or supplies and the board of trustees or its designee determines that specifications cannot be

prepared that allow an award based on the lowest bid price, the lowest evaluated bid price, or the bid most favorable to the college; or

(3) The board of trustees or its designee determines that:

(i) The need to use a method other than competitive sealed bids is sufficiently compelling to override the general public policy that favors awarding procurement contracts on the basis of competitive sealed bids; and

(ii) The use of competitive sealed bidding for that procurement contract is not practicable or not advantageous to the college] **IS THE PREFERRED PROCUREMENT METHOD FOR EDUCATIONAL OR CONSULTANT SERVICES.**

(c) (1) Whenever procurement is based on competitive sealed proposals, the board of trustees or its designee shall seek proposals by issuing a request for proposals.

(2) A request for proposals shall include a statement of:

(i) The scope of the procurement contract;

(ii) The results to be achieved or services to be provided;

(iii) The factors, including price, that will be used in evaluating proposals; and

(iv) The relative importance of each factor.

(d) The board of trustees or its designee shall publish a request for proposals in the same manner as required for an invitation for bids.

(e) (1) After receipt of proposals but before the board of trustees awards the procurement contract, the board or its designee may conduct discussions with an offeror to:

(i) Obtain the best price for the college; and

(ii) Ensure full understanding of:

1. The requirements of the college as set forth in the request for proposals; and

2. The proposal submitted by the offeror.

(2) If discussions are conducted, the board of trustees or its designee:

(i) Shall conduct the discussions in accordance with regulations adopted by the board;

(ii) Shall provide an opportunity to participate to each responsible offeror who submits a proposal that, in the judgment of the board or its designee, is reasonably susceptible of being selected for award;

(iii) Shall treat all of the responsible offerors fairly and equally;

(iv) May allow all of the responsible offerors to revise their initial proposals by submitting best and final offers, if discussions indicate that it would be in the best interests of the college to do so;

(v) May conduct more than one series of discussions and requests for best and final offers; and

(vi) May not disclose to an offeror any information derived from a proposal of or discussions with a competing offeror.

(f) (1) Except as provided in paragraph (2) of this subsection:

(i) A proposal is irrevocable for the period specified in the request for proposals; and

(ii) A best and final offer is irrevocable for the period specified in the request for best and final offers.

(2) The board of trustees or its designee may allow an offeror to correct or withdraw a proposal or best and final offer if correction or withdrawal is allowed under regulations adopted by the board.

(g) After obtaining any approval required by law, the board of trustees shall award the procurement contract to the responsible offeror who submits the proposal or best and final offer determined to be the most advantageous to the college considering the evaluation factors set forth in the request for proposals.

(h) The board of trustees may reject any and all proposals and readvertise for other offers.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 589

(House Bill 426)

AN ACT concerning

Promoting Efficiencies in State Procurement

FOR the purpose of altering various provisions of the State procurement law; altering the dollar value threshold that triggers the requirement to publish a certain notice in eMaryland Marketplace regarding certain procurements; expanding the list of the types of procurement methods available to a procurement officer for certain procurements; specifying a preferred procurement method for human, social, cultural, or educational services; establishing qualification based selection as the method of procurement for certain departments for architectural or engineering services; specifying certain parameters, standards, and requirements applicable under the qualification based selection procurement method; ~~requiring~~ authorizing certain designated procurement units to adopt the master contracting procurement method for procurements for certain services, supplies, commodities, or goods; providing that, under certain circumstances, certain requirements for master contracts do not apply to master contracts for construction; requiring the Board of Public Works to adopt certain regulations regarding the solicitation of master contracts and task orders; repealing the Maryland Architectural and Engineering Services Act and related provisions of law concerning the General Professional Services Selection Board in the Department of General Services; ~~increasing, to at least a certain percentage, the amount of payment security a contractor is required to provide before a public body is authorized to award a construction contract~~; ~~authorizing the head of a public body to reduce the amount of payment security required for certain construction contracts if a certain determination is made~~; altering the dollar value of the contract for which certain public bodies may require payment security or performance security for a construction contract; clarifying provisions of law concerning procurements by the board of trustees or other persons for a local community college; clarifying the authority of the board of trustees of a community college to advertise certain bids on eMaryland Marketplace; providing that competitive sealed proposals is the preferred procurement method for certain educational or consultant services; ~~requiring the Maryland Higher Education Commission to conduct a certain study in consultation with certain associations and report to certain committees of the General Assembly on or before a certain date~~; defining certain terms; repealing obsolete provisions of law; and generally relating to revisions of the State procurement law.

BY repealing and reenacting, without amendments,
 Article – State Finance and Procurement
 Section 11–203(a)
 Annotated Code of Maryland
 (2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
 Article – State Finance and Procurement
 Section 11–203(b), 13–101, 13–102, 13–103, 13–104, 13–109, 13–402, 15–202, and
 17–103

Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY adding to

Article – State Finance and Procurement
Section 13–112 and 13–114
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY repealing

Article – State Finance and Procurement
Section 13–301 through 13–323 and the subtitle “Subtitle 3. Architectural and
Engineering Services”; and 13–401 and the subtitle “Subtitle 4. Streamlined
Process for Procurement of Information Technology Services”
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Education
Section 16–311 and 16–313
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

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

Article – State Finance and Procurement

11–203.

(a) Except as provided in subsection (b) of this section, this Division II does not apply to:

(1) procurement by:

(i) the Blind Industries and Services of Maryland;

(ii) the Maryland State Arts Council, for the support of the arts;

(iii) the Maryland Health and Higher Educational Facilities Authority, if no State money is to be spent on a procurement contract;

(iv) the Maryland Industrial Training Program or the Partnership for Workforce Quality Program in the Department of Commerce, for training services or programs for new or expanding businesses or industries or businesses or industries in transition;

(v) the Maryland Food Center Authority, to the extent the Authority is exempt under Title 10, Subtitle 2 of the Economic Development Article;

(vi) the Maryland Public Broadcasting Commission:

1. for services of artists for educational and cultural television productions;

2. when planning for or fulfilling the obligations of grants or cooperative agreements that support the educational and cultural activities of the Commission; or

3. for procurement contracts needed to implement the repacking requirements of the Federal Spectrum Incentive Act;

(vii) public institutions of higher education, for cultural, entertainment, and intercollegiate athletic procurement contracts;

(viii) the Maryland State Planning Council on Developmental Disabilities, for services to support demonstration, pilot, and training programs;

(ix) the Maryland Historical Trust for:

1. surveying and evaluating architecturally, archeologically, historically, or culturally significant properties; and

2. other than as to architectural services, preparing historic preservation planning documents and educational material;

(x) the University of Maryland, for University College Overseas Programs, if the University adopts regulations that:

1. establish policies and procedures governing procurement for University College Overseas Programs; and

2. promote the purposes stated in § 11–201(a) of this subtitle;

(xi) the Department of Commerce, for negotiating and entering into private sector cooperative marketing projects that directly enhance promotion of Maryland and the tourism industry where there will be a private sector contribution to the project of not less than 50% of the total cost of the project, if the project is reviewed by the Attorney General and approved by the Secretary of Commerce or the Secretary's designee;

(xii) the Rural Maryland Council;

(xiii) the Maryland State Lottery and Gaming Control Agency, for negotiating and entering into private sector cooperative marketing projects that directly

enhance promotion of the Maryland State Lottery and its products, if the cooperative marketing project:

1. provides a substantive promotional or marketing value that the lottery determines acceptable in exchange for advertising or other promotional activities provided by the lottery;

2. does not involve the advertising or other promotion of alcohol or tobacco products; and

3. is reviewed by the Attorney General and approved by the Maryland Lottery Director or the Director's designee;

(xiv) the Maryland Health Insurance Plan established under Title 14, Subtitle 5 of the Insurance Article;

(xv) the Maryland Energy Administration, when negotiating or entering into grants or cooperative agreements with private entities to meet federal specifications or solicitation requirements related to energy conservation, energy efficiency, or renewable energy projects that benefit the State;

(xvi) the Maryland Developmental Disabilities Administration of the Department of Health and Mental Hygiene for family and individual support services, and individual family care services, as those terms are defined by the Department of Health and Mental Hygiene in regulation;

(xvii) the Department of General Services for the renovation of a structure that:

1. was built during the 18th or 19th century; and

2. is listed in or eligible for listing in the National Register of Historic Places; and

(xviii) the Department of Natural Resources, for negotiating or entering into grants, agreements, or partnerships with nonprofit entities related to conservation service opportunities;

(2) procurement by a unit from:

(i) another unit;

(ii) a political subdivision of the State;

(iii) an agency of a political subdivision of the State;

(iv) a government, including the government of another state, of the United States, or of another country;

(v) an agency or political subdivision of a government; or

(vi) a bistate, multistate, bicounty, or multicounty governmental agency; or

(3) procurement in support of enterprise activities for the purpose of:

(i) direct resale; or

(ii) remanufacture and subsequent resale.

(b) (1) The following provisions of this Division II apply to each procurement enumerated in subsection (a) of this section:

(i) § 11–205 of this subtitle (“Collusion”);

(ii) § 10–204 of this article (“Approval for designated contracts”);

(iii) Title 12, Subtitle 2 of this article (“Supervision of Capital Expenditures and Real Property Leases”);

(iv) § 13–219 of this article (“Required clauses – Nondiscrimination clause”);

(v) § 13–221 of this article (“Disclosures to Secretary of State”);

(vi) Title 12, Subtitle 4 of this article (“Policies and Procedures for Exempt Units”);

(vii) § 15–112 of this article (“Change orders”);

(viii) Title 16 of this article (“Suspension and Debarment of Contractors”); and

(ix) Title 17 of this article (“Special Provisions – State and Local Subdivisions”).

(2) Except for procurement under subsection (a)(1)(i) and (xi) and (2)(i) and (vi) of this section, the provisions of Title 14, Subtitle 3 of this article (“Minority Business Participation”) shall apply to each procurement enumerated in subsection (a) of this section.

(3) A procurement by an entity listed in subsection (a)(1)(i) through (xiii) and (xvii) of this section shall be made under procedures that promote the purposes stated in § 11–201(a) of this subtitle.

(4) (i) A unit that procures human, social, or educational services from an entity enumerated in subsection (a)(2) of this section shall publish in eMaryland Marketplace notice of a procurement contract or an extension or renewal of a procurement contract if:

1. the procurement contract, extension, or renewal costs more than [~~\$25,000~~] **\$50,000**; and

2. the procurement is made for 3rd party clients described in § 13–106 of this article.

(ii) The notice required under this paragraph shall be published not more than 30 days after the execution and approval of the procurement contract or the extension or renewal of the procurement contract.

(5) The purchase of advisory services from the General Selection Board or the Transportation Selection Board under § 13–305 of this article shall be governed by the Maryland Architectural and Engineering Services Act.

13–101.

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

(B) “DESIGNATED PROCUREMENT UNIT” MEANS:

(1) THE DEPARTMENT OF BUDGET AND MANAGEMENT;

(2) THE DEPARTMENT OF GENERAL SERVICES;

(3) THE DEPARTMENT OF INFORMATION TECHNOLOGY; OR

(4) THE DEPARTMENT OF TRANSPORTATION.

[(b)] (C) “eMaryland Marketplace” means the Internet–based procurement system managed by the Department of General Services.

[(c)] (D) “Evaluated bid price” means the price of a bid after adjustment in accordance with objective measurable criteria.

(E) “MASTER CONTRACTING” MEANS A STREAMLINED PROCUREMENT METHOD THAT PROVIDES FOR THE QUALIFICATION OF BIDDERS AND OFFERORS FOR THE PROCUREMENT OF SERVICES, SUPPLIES, OR COMMODITIES.

[(d) (F) (1)] “Objective measurable criteria” means standards that enable the State to compare the economy, effectiveness, or value of the subject of the bids.

(2) “Objective measurable criteria” includes standards of reliability, operational costs, maintainability, useful life, and residual value.

(G) “PERSON” INCLUDES, UNLESS THE CONTEXT REQUIRES OTHERWISE:

(1) THE STATE;

(2) A COUNTY, A MUNICIPAL CORPORATION, OR ANY OTHER POLITICAL SUBDIVISION; AND

(3) ANY UNIT OF THE STATE GOVERNMENT OR A POLITICAL SUBDIVISION.

(H) “TASK ORDER” MEANS A PROCUREMENT PROCESS IN WHICH ONLY THOSE VENDORS WITH MASTER CONTRACTS MAY COMPETE TO PROVIDE THE SERVICES, SUPPLIES, OR COMMODITIES UNDER THE PROCUREMENT.

13–102.

(a) [Except as provided in Subtitle 3 and Subtitle 4 of this title, all procurement by units shall be by competitive sealed bids unless one of the following methods specifically is authorized] THE FOLLOWING PROCUREMENT METHODS ARE AUTHORIZED AT THE PROCUREMENT OFFICER’S DISCRETION, WHERE APPLICABLE:

(1) COMPETITIVE SEALED BIDS UNDER § 13–103 OF THIS SUBTITLE;

[(1) (2)] competitive sealed proposals under § 13–104 or § 13–105 of this subtitle;

[(2) (3)] noncompetitive negotiation under § 13–106 of this subtitle;

[(3) (4)] sole source procurement under § 13–107 of this subtitle;

[(4) (5)] emergency or expedited procurement under § 13–108 of this subtitle;

[(5) (6)] small procurement under § 13–109 of this subtitle;

[(6) (7)] an intergovernmental cooperative purchasing agreement under § 13–110 of this subtitle; **[or]**

[(7)] (8) auction bids under § 13–111 of this subtitle;

(9) ARCHITECTURAL AND ENGINEERING SERVICES QUALIFICATION BASED SELECTION UNDER § 13–112 OF THIS SUBTITLE; OR

(10) MASTER CONTRACTING UNDER § 13–113 OF THIS SUBTITLE.

(b) (1) In awarding a procurement contract for human, social, cultural, or educational service, the preferred method is by competitive sealed proposals under § 13–104 of this subtitle.

(2) In awarding a procurement contract for a lease of real property, the preferred method is by competitive sealed proposals under § 13–105 of this subtitle.

(3) Procurement under an intergovernmental cooperative purchasing agreement is appropriate in situations where the State is expected to achieve a better price as the result of economies of scale or to otherwise benefit by purchasing in cooperation with another governmental entity.

13–103.

(a) (1) Whenever procurement is based on competitive sealed bids, a procurement officer shall seek bids by issuing an invitation for bids.

(2) Subject to subsection (b) of this section, an invitation for bids shall include:

(i) the specifications of the procurement contract, including the expected degree of minority business enterprise participation, as provided in § 14–303(b) of this article;

(ii) whether the procurement contract will be awarded based on the lowest bid price, the lowest evaluated bid price or, if the procurement is subject to § 11–202(3) of this article, the bid most favorable to the State;

(iii) if the procurement contract will be based on evaluated bid price, the objective measurable criteria by which the lowest evaluated bid price will be determined; and

(iv) if the Secretary of General Services, the Secretary of Transportation, or the Chancellor of the University System of Maryland has so designated, the small business preference.

(b) (1) Whenever a procurement officer determines that an initial preparation of specifications for price bids is impracticable, the invitation for bids may:

(i) include a request for unpriced technical offers or samples; and

(ii) direct bidders to submit price bids:

1. with the unpriced technical offers or samples; or

2. after the unit evaluates the technical offers or samples and finds that they are acceptable under the criteria set forth in the invitation for bids.

(2) A unit shall consider the prices submitted by bidders whose technical offers or samples have been found acceptable.

(3) Price bids may not be opened until after the unit has completed evaluation of the technical offers or samples.

(4) (i) A price bid may not be opened at any time if the bid is submitted by a bidder whose technical offer or sample has been evaluated as unacceptable to the unit.

(ii) A procurement officer shall return an unopened price bid submitted by a bidder whose technical offer or sample has been evaluated as unacceptable.

(c) (1) A unit shall give public notice of an invitation for bids before bid opening in accordance with this subsection.

(2) A unit shall give reasonable notice that shall be at least 10 days before bid opening.

(3) [Until July 1, 2006, the] **THE** unit shall publish notice in [the Contract Weekly, Contract Weekly Online, and] eMaryland Marketplace at least 20 days before bid opening if:

(i) the procurement officer reasonably expects bid prices to exceed **[\$25,000] \$50,000** or a lower amount set by the Board by regulation in accordance with Title 10, Subtitle 1 of the State Government Article; and

(ii) at least part of the procurement contract is to be performed in this State or the District of Columbia.

[(4) On and after July 1, 2006, the unit shall publish the notice required under paragraph (3) of this subsection in eMaryland Marketplace.]

[(5)] (4) In addition to any notice required under this subsection, a unit may publish notice of an invitation for bids:

(i) on a bid board or eMaryland Marketplace; or

(ii) in a newspaper, periodical, or trade journal.

(d) (1) A procurement officer shall:

(i) open bids in public at the time and place designated in the invitation for bids; and

(ii) announce, record, and post:

1. the name of each bidder; and

2. the amount of each bid.

(2) Except as provided in paragraph (3) of this subsection, a bid is irrevocable, after bid opening, for the period specified in the invitation for bids.

(3) A procurement officer may allow a bidder to correct or withdraw a bid if correction or withdrawal is:

(i) allowed under regulations adopted under this Division II; and

(ii) approved in writing by the Office of the Attorney General.

(e) (1) After obtaining any approval required by law, the procurement officer shall award the procurement contract to the responsible bidder who submits the responsive bid that:

(i) is the lowest bid price;

(ii) if the invitation for bids so provides, is the lowest evaluated bid price; or

(iii) for procurement subject to § 11–202(3) of this article, is the bid most favorable to the State.

(2) If, after competitive sealed bids have been opened, a procurement officer determines that only 1 responsible bidder has submitted a responsive bid, the unit may negotiate the procurement contract with that 1 bidder under the procedure for sole source procurement.

(3) (i) After competitive sealed bids have been opened, a procurement officer may award a procurement contract on the basis of revised bids if:

1. all bids are rejected under § 13–206(b) of this title;

2. all bid prices exceed the funds available for the procurement; or

3. with the approval of the head of the unit or a designee, the procurement officer determines that all bids are unreasonable as to at least 1 requirement and the delay that would result from issuing a new invitation for bids with revised specifications or quantities would be fiscally disadvantageous or otherwise not in the best interests of the State.

(ii) If there is more than 1 bidder, discussions about revised specifications or quantities shall be conducted with all responsible bidders who submitted responsive bids. The bidders shall be treated fairly and equally with respect to any discussions.

(iii) As promptly as possible, the procurement officer shall:

1. issue an invitation for revised bids, which shall state whether the award will be made without competitive negotiations; and

2. require a prompt response to that invitation.

(iv) An invitation for revised bids is not subject to the notice requirements in subsection (c) of this section.

(v) After revised bids have been submitted, negotiations with bidders may not be conducted unless the procurement officer determines that there is a compelling reason to negotiate.

(vi) After revised bids have been opened and any approval required by law has been obtained, the procurement officer shall award the procurement contract to the responsible bidder who submits a responsive bid that:

1. is the lowest bid price;

2. if the invitation for revised bids so provides, is the lowest evaluated bid price; or

3. for procurement subject to § 11–202(3) of this article, is the bid most favorable to the State.

(4) A responsive bid or proposal shall include the criteria specified in subsection (a) of this section.

(f) Not more than 30 days after the execution and approval of a procurement contract in excess of ~~[\$25,000]~~ **\$50,000** awarded under this section, or a lower amount set by the Board by regulation in accordance with Title 10, Subtitle 1 of the State Government Article, a unit shall publish notice of the award[:

(1) until July 1, 2006, in the Contract Weekly and eMaryland Marketplace;
and

(2) on and after July 1, 2006,] in eMaryland Marketplace.

13–104.

(a) Competitive sealed proposals [may be used if:

(1) the procurement is for human, social, cultural, or educational services;

(2) with the approval of the head of a unit, the procurement officer determines that specifications cannot be prepared that allow an award based on the lowest bid price, the lowest evaluated bid price or, if the procurement is subject to § 11–202(3) of this article, the bid most favorable to the State; or

(3) the head of the unit determines that:

(i) the need to use a method other than competitive sealed bids is sufficiently compelling to override the general public policy that favors awarding procurement contracts on the basis of competitive sealed bids; and

(ii) the use of competitive sealed bidding for that procurement contract is not practicable or not advantageous to the State] **IS THE PREFERRED METHOD FOR HUMAN, SOCIAL, CULTURAL, OR EDUCATIONAL SERVICES.**

(b) (1) Whenever procurement is based on competitive sealed proposals, a procurement officer shall seek proposals by issuing a request for proposals.

(2) A request for proposals shall include a statement of:

(i) the scope of the procurement contract, including the expected degree of minority business enterprise participation, as provided in § 14–303(b) of this article;

(ii) the factors, including price, that will be used in evaluating proposals; and

(iii) the relative importance of each factor.

(c) A unit shall publish a request for proposals in the same manner as required for an invitation for bids.

(d) (1) After receipt of proposals but before the procurement officer awards the procurement contract, a unit may conduct discussions with an offeror to:

(i) obtain the best price for the State; and

(ii) ensure full understanding of:

1. the requirements of the State, as set forth in the request for proposals; and

2. the proposal submitted by the offeror.

(2) If discussions are conducted, the unit:

(i) shall conduct the discussions in accordance with regulations adopted under this Division II;

(ii) shall provide an opportunity to participate to each responsible offeror who submits a proposal that, in the judgment of the procurement officer, is reasonably susceptible of being selected for award;

(iii) shall treat all of those responsible offerors fairly and equally;

(iv) may allow all of those responsible offerors to revise their initial proposals by submitting best and final offers, if discussions indicate that it would be in the best interests of the State to do so;

(v) may conduct more than 1 series of discussions and requests for best and final offers; and

(vi) may not disclose to an offeror any information derived from a proposal or discussions with a competing offeror.

(e) (1) Except as provided in paragraph (2) of this subsection:

(i) a proposal is irrevocable for the period specified in the request for proposals; and

(ii) a best and final offer is irrevocable for the period specified in the request for best and final offers.

(2) A procurement officer may allow an offeror to correct or withdraw a proposal or best and final offer if correction or withdrawal is:

(i) allowed under regulations adopted under this Division II; and

(ii) approved in writing by the Office of the Attorney General.

(f) After obtaining any approval required by law, the procurement officer shall award the procurement contract to the responsible offeror who submits the proposal or best and final offer determined to be the most advantageous to the State considering the evaluation factors set forth in the request for proposals.

(g) A unit shall publish notice of a contract in excess of ~~[\$25,000]~~ **\$50,000** awarded under this section, or a lower amount set by the Board by regulation in accordance with Title 10, Subtitle 1 of the State Government Article [as follows:

(1) until July 1, 2006, in the Contract Weekly and in eMaryland Marketplace; and

(2) on and after July 1, 2006,] in eMaryland Marketplace.

13–109.

(a) In this section, “small procurement” means a procurement for which:

(1) a unit spends ~~[\$25,000]~~ **\$50,000** or less;

(2) a contractor provides services subject to § 11–202(3) of this article for expected annual revenues of ~~[\$25,000]~~ **\$50,000** or less; or

(3) the Department of General Services **OR THE DEPARTMENT OF TRANSPORTATION** is seeking to award a procurement contract for a construction with a value that is ~~[\$50,000]~~ **\$100,000** or less.

(b) A unit may make small procurements in accordance with the regulations of primary procurement units.

(c) A primary procurement unit may not create a small procurement by artificial division of a procurement.

(d) Any regulation of a primary procurement unit to govern small procurements:

(1) shall provide for a simplified administrative procedure;

(2) shall be consistent with the basic intent of this Division II; and

(3) may not be disadvantageous economically to the State.

(e) At least every 3 years, the Board shall:

(1) review the prevailing costs of labor and materials; and

(2) if warranted by changes in cost, recommend to the General Assembly appropriate adjustments in the ceiling for a small procurement.

13–112.

(A) IN THIS SECTION, "DEPARTMENT" MEANS THE DEPARTMENT OF GENERAL SERVICES OR THE DEPARTMENT OF TRANSPORTATION.

(B) QUALIFICATION BASED SELECTION SHALL ONLY BE USED BY THE DEPARTMENT IF THE PROCUREMENT:

(1) IS FOR ARCHITECTURAL SERVICES OR ENGINEERING SERVICES;

(2) IS MADE ON A COMPETITIVE BASIS;

(3) INCLUDES AN EVALUATION OF THE TECHNICAL PROPOSALS AND QUALIFICATIONS OF AT LEAST TWO PERSONS; AND

(4) THE SERVICES CANNOT BE PROVIDED FEASIBLY AND ECONOMICALLY BY EXISTING IN-HOUSE RESOURCES.

(C) (1) WHENEVER A PROCUREMENT IS BASED ON QUALIFICATION BASED SELECTION, A PROCUREMENT OFFICER SHALL SEEK PROPOSALS BY ISSUING A REQUEST FOR ARCHITECTURAL SERVICES OR ENGINEERING SERVICES.

(2) A REQUEST FOR ARCHITECTURAL SERVICES OR ENGINEERING SERVICES SHALL INCLUDE A STATEMENT:

(I) DESCRIBING GENERALLY THE ARCHITECTURAL SERVICES OR ENGINEERING SERVICES THAT ARE THE SUBJECT OF THE PROCUREMENT; AND

(II) INDICATING HOW AN INTERESTED PERSON MAY RECEIVE INFORMATION ABOUT THE PROCUREMENT, INCLUDING A COMPREHENSIVE DESCRIPTION OF THE NATURE AND SCOPE OF THE ARCHITECTURAL SERVICES OR ENGINEERING SERVICES.

(D) THE DEPARTMENT SHALL PUBLISH REASONABLE AND TIMELY NOTICE OF A REQUEST FOR ARCHITECTURAL SERVICES OR ENGINEERING SERVICES IN MARYLAND MARKETPLACE.

(E) THE DEPARTMENT SHALL:

(1) EVALUATE THE TECHNICAL PROPOSALS AND QUALIFICATIONS OF THE PERSONS SUBMITTING THE PROPOSALS; AND

(2) DETERMINE AN ORDER OF PRIORITY BASED ON THOSE EVALUATIONS.

(F) (1) FROM THE RESULTS OF THE SELECTION PROCESS UNDER THIS SECTION, THE DEPARTMENT SHALL:

(I) BEGIN NEGOTIATIONS WITH THE MOST QUALIFIED PERSONS; AND

(II) TRY TO NEGOTIATE A PROCUREMENT CONTRACT WITH THAT PERSON AT A RATE OF COMPENSATION THAT IS FAIR, COMPETITIVE, AND REASONABLE.

(2) IN DETERMINING THE RATE OF COMPENSATION UNDER THIS SUBSECTION, THE DEPARTMENT SHALL:

(I) CONSIDER THE SCOPE AND COMPLEXITY OF THE ARCHITECTURAL SERVICES OR ENGINEERING SERVICES REQUIRED; AND

(II) CONDUCT A DETAILED ANALYSIS OF THE COST OF THOSE SERVICES.

(3) (I) IN DETERMINING THE RATE OF COMPENSATION UNDER THIS SUBSECTION, THE DEPARTMENT OF TRANSPORTATION ALSO SHALL COMPLY WITH LIMITS ON COSTS REIMBURSEMENT, INCLUDING OVERHEAD LIMITS ESTABLISHED BY THE DEPARTMENT.

(II) IN SETTING THE LIMITS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEPARTMENT OF TRANSPORTATION SHALL CONSIDER THE GOAL OF THE SELECTION PROCESS AS WELL AS THE REASONABLE COST OF ARCHITECTURAL SERVICES OR ENGINEERING SERVICES.

(G) IF THE DEPARTMENT IS UNABLE TO NEGOTIATE A SATISFACTORY PROCUREMENT CONTRACT AT A RATE OF COMPENSATION THAT IS FAIR, COMPETITIVE, AND REASONABLE, IT SHALL:

(1) TERMINATE NEGOTIATIONS WITH THE MOST QUALIFIED PERSON; AND

(2) NEGOTIATE IN THE SAME MANNER WITH THE NEXT MOST QUALIFIED PERSON AND, IF NECESSARY, CONTINUE NEGOTIATIONS IN ACCORDANCE WITH THE PROCEDURES UNDER THIS SECTION UNTIL THE AGENCY REACHES AN AGREEMENT.

(H) AFTER OBTAINING ANY APPROVAL REQUIRED BY LAW, THE PROCUREMENT OFFICER SHALL AWARD A PROCUREMENT CONTRACT TO THE MOST

QUALIFIED PERSON WITH WHOM AN AGREEMENT WAS REACHED ON COMPENSATION THAT IS FAIR, COMPETITIVE, AND REASONABLE.

(I) NOT MORE THAN 30 DAYS AFTER THE EXECUTION AND APPROVAL OF A PROCUREMENT CONTRACT AWARDED UNDER THIS SECTION, THE DEPARTMENT SHALL PUBLISH IN eMARYLAND MARKETPLACE NOTICE OF THE AWARD.

(J) ALL DOCUMENTS RELATING TO THE AWARD OF A PROCUREMENT CONTRACT ARE TO BE MADE AVAILABLE TO THE PUBLIC, INCLUDING:

- (1) TECHNICAL RESUMES;
- (2) TECHNICAL PROPOSALS;
- (3) THE PROCUREMENT CONTRACT;
- (4) SCOPE OF SERVICES;
- (5) PROGRAMS/PROJECTS;
- (6) STAFF REPORTS;
- (7) INTERNAL WORKSHEETS; AND

(8) ALL OTHER INFORMATION RELATING TO THE NEGOTIATION AND AWARD OF A PROCUREMENT CONTRACT UNDER THIS SECTION.

(K) (1) THE DEPARTMENT SHALL WAIVE THE REQUIREMENTS IN SUBSECTIONS (B), (E), (F), (G), AND (J) OF THIS SECTION IF:

(I) THE DEPARTMENT DETERMINES THAT:

1. THE ARCHITECTURAL SERVICES OR ENGINEERING SERVICES CANNOT BE DEFINED SO COMPLETELY AS TO CARRY OUT THOSE REQUIREMENTS; OR

2. THE SPECIFICATIONS REQUIRE ARCHITECTURAL SERVICES OR ENGINEERING SERVICES THAT ARE AVAILABLE ONLY FROM A BONA FIDE SINGLE SOURCE OR A PROPRIETARY PRODUCT OR PROCESS;

(II) THE GOVERNOR DECLARES AN EMERGENCY;

(III) AFTER A NATURAL DISASTER, PUBLIC HEALTH AND SAFETY ARE ENDANGERED; OR

(IV) ON THE RECOMMENDATION OF THE SECRETARY OF THE DEPARTMENT AND A FINDING BY THE GOVERNOR THAT EXTRAORDINARY CIRCUMSTANCES EXIST, THE BOARD OF PUBLIC WORKS DETERMINES THAT:

1. FOR A PARTICULAR PROJECT, URGENT CIRCUMSTANCES REQUIRE THE SELECTION OF A CONTRACTOR ON AN EXPEDITED BASIS;

2. EXPEDITED SELECTION BEST SERVES THE PUBLIC INTEREST; AND

3. THE NEED FOR AN EXPEDITED SELECTION OUTWEIGHS THE BENEFITS OF CARRYING OUT THOSE REQUIREMENTS.

(2) A WAIVER AND THE REASONS FOR IT SHALL BE DOCUMENTED AND:

(I) IMMEDIATELY REPORTED TO eMARYLAND MARKETPLACE FOR PUBLICATION; AND

(II) REPORTED TO THE LEGISLATIVE POLICY COMMITTEE WITHIN 30 DAYS AFTER THE WAIVER OCCURS.

(L) (1) THE DEPARTMENT MAY NOT AWARD A PROCUREMENT CONTRACT TO A PERSON UNDER THIS SUBTITLE UNLESS:

(I) THE PERSON SUBMITS:

1. AN AFFIDAVIT OF NONCOLLUSION; AND

2. A PRICE QUOTATION; AND

(II) FOR A PROCUREMENT CONTRACT COSTING MORE THAN \$200,000, THE PERSON HAS EXECUTED A TRUTH-IN-NEGOTIATION CERTIFICATE.

(2) THE TRUTH-IN-NEGOTIATION CERTIFICATE SHALL STATE THAT:

(I) WAGE RATES AND OTHER FACTUAL UNIT COSTS SUPPORTING WAGES ARE ACCURATE, COMPLETE, AND CURRENT AS OF THE TIME OF CONTRACTING; AND

(II) THE ORIGINAL PRICE OF THE PROCUREMENT CONTRACT AND ANY ADDITIONS TO THE PROCUREMENT CONTRACT WILL BE ADJUSTED TO EXCLUDE ANY SIGNIFICANT PRICE INCREASE IF THE DEPARTMENT DETERMINES

THAT THE PRICE INCREASE IS DUE TO WAGE RATES OR OTHER FACTUAL UNIT COSTS THAT WERE INACCURATE, INCOMPLETE, OR NOT CURRENT AS OF THE TIME OF CONTRACTING.

(3) AN ADJUSTMENT TO THE PROCUREMENT CONTRACT SHALL BE MADE WITHIN 1 YEAR AFTER THE PROCUREMENT CONTRACT IS COMPLETED.

(M) THE DEPARTMENT MAY NOT AWARD A PROCUREMENT CONTRACT FOR ARCHITECTURAL SERVICES OR ENGINEERING SERVICES THAT:

(1) IS A COST-PLUS-A-PERCENTAGE-OF-COST CONTRACT; OR

(2) INCLUDES FEE SCHEDULES THAT ARE BASED ON A PERCENTAGE OF CONSTRUCTION COSTS.

(N) (1) THE STATE MAY POSTAUDIT THE RATES OF CONTRACTORS PERFORMING ARCHITECTURAL SERVICES OR ENGINEERING SERVICES.

(2) ALL RATES USED IN A COST-PLUS-FIXED-FEE PROCUREMENT CONTRACT SHALL BE VERIFIED BY POSTAUDIT IF:

(I) THE COMPENSATION IS MORE THAN \$50,000 AND THE PROCUREMENT CONTRACT INVOLVES A UNIT OTHER THAN A TRANSPORTATION UNIT; AND

(II) THE COMPENSATION IS MORE THAN \$25,000 AND THE PROCUREMENT CONTRACT INVOLVES A TRANSPORTATION UNIT.

(3) ON REQUEST BY A PROCURING AUTHORITY OF ANY POLITICAL SUBDIVISION OF THE STATE THAT IS CONSIDERING AN ARCHITECT OR ENGINEER FOR A SPECIFIC PROJECT, ANY STATE AUDIT OF THE ARCHITECT OR ENGINEER SHALL BE MADE AVAILABLE.

(O) (1) THE DEPARTMENT MAY TERMINATE WITHOUT LIABILITY A PROCUREMENT CONTRACT FOR ARCHITECTURAL SERVICES OR ENGINEERING SERVICES IF:

(I) THERE HAS BEEN A CONVICTION OF A CRIME ARISING OUT OF OR IN CONNECTION WITH THE PROCUREMENT CONTRACT OR ANY PAYMENT TO BE MADE UNDER THE PROCUREMENT CONTRACT; OR

(II) THERE HAS BEEN A BREACH OR VIOLATION OF ANY PROVISION OF THIS SUBTITLE.

(2) SUBJECT TO SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT MAY DEDUCT FROM THE PROCUREMENT CONTRACT PRICE OR OTHERWISE RECOVER THE FULL AMOUNT OF ANY FEE, COMMISSION, GIFT, PERCENTAGE, OR OTHER CONSIDERATION PAID IN VIOLATION OF THIS SUBTITLE.

(3) IF A PROCUREMENT CONTRACT IS TERMINATED UNDER THIS SECTION, THE CONTRACTOR:

(I) IS ENTITLED ONLY TO THE EARNED VALUE OF THE WORK COMPLETED AS OF THE DATE OF TERMINATION, PLUS TERMINATION COSTS;

(II) IS LIABLE FOR ANY COSTS INCURRED FOR COMPLETION OF THE WORK OVER THE MAXIMUM AMOUNT PAYABLE TO THE CONTRACTOR UNDER THE PROCUREMENT CONTRACT; AND

(III) SHALL REFUND ALL PROFITS OR FIXED FEES REALIZED UNDER THE PROCUREMENT CONTRACT.

(4) (I) THE PROVISIONS OF THIS SECTION ARE IN ADDITION TO ANY OTHER RIGHT OR REMEDY ALLOWED BY LAW.

(II) BY CARRYING OUT THIS SECTION, THE DEPARTMENT DOES NOT WAIVE ANY OTHER RIGHT OR REMEDY PROVIDED BY LAW.

(P) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$20,000 OR IMPRISONMENT NOT EXCEEDING 10 YEARS OR BOTH.

(Q) (1) THE DEPARTMENT OF GENERAL SERVICES AND THE DEPARTMENT OF TRANSPORTATION SHALL ADOPT REGULATIONS THAT PROVIDE SUBSTANTIALLY SIMILAR PROCEDURES TO CARRY OUT THIS SECTION.

(2) THE PROCEDURES OF THE DEPARTMENT SHALL ENSURE THAT A RECOMMENDATION TO THE BOARD OF PUBLIC WORKS FOR THE AWARD OF A PROCUREMENT CONTRACT FOR ARCHITECTURAL SERVICES OR ENGINEERING SERVICES COSTING OVER \$200,000 IS MADE ON A COMPETITIVE BASIS AND INCLUDES AN EVALUATION OF THE TECHNICAL PROPOSALS AND QUALIFICATIONS OF AT LEAST TWO PERSONS.

[13-402.] 13-113.

(a) The [Secretary] DESIGNATED PROCUREMENT UNITS ~~shall~~ MAY adopt MASTER CONTRACTING, a streamlined procurement [process for procurement of information technology services that provides] METHOD, TO PROVIDE for the qualification

of an offeror in one or more categories of [information technology] services, SUPPLIES, OR COMMODITIES.

~~(b) The [streamlined procurement process] MASTER CONTRACTING PROCUREMENT METHOD adopted by [the Secretary] EACH DESIGNATED PROCUREMENT UNIT shall include:~~

(B) IF A DESIGNATED PROCUREMENT UNIT ADOPTS MASTER CONTRACTING, THE MASTER CONTRACTING METHOD SHALL INCLUDE:

(1) the categories of [information technology] services, SUPPLIES, OR COMMODITIES in which an offeror may submit a proposal for qualification;

(2) a procedure for the consideration and approval of proposals for qualification of [an unlimited number of] MULTIPLE offerors in each category of [information technology] services, SUPPLIES, OR COMMODITIES;

(3) the execution of a standard contract for a specified period of time between the State and an offeror approved [for qualification in a category of information technology services] AS A MASTER CONTRACTOR; AND

(4) [the policies and procedures to be followed by a unit of the Executive Branch in the issuance of a solicitation for a task order for information technology services to a qualified offeror that has executed a contract with the Secretary; and

(5)] a performance evaluation procedure to be used by a unit of the Executive Branch to evaluate the performance of a qualified offeror that has completed work on a task order.

(c) (1) A unit of the Executive Branch that requires [information technology] services, SUPPLIES, OR COMMODITIES COVERED UNDER A MASTER CONTRACT may issue a solicitation for a task order to a [qualified offeror in the appropriate category of information technology services] MASTER CONTRACTOR consistent with [procedures and policies] THE REGULATIONS adopted [by the Secretary in subsection (b) of this section] UNDER § 13-114 OF THIS SUBTITLE.

(2) ~~The~~ **EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, THE** solicitation for a task order shall include a statement of the:

(i) factors that will be used in evaluating a [qualified offeror's] MASTER CONTRACTOR'S response; and

(ii) relative importance of each factor.

(d) (1) ~~¶~~ **EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, IF** the unit of the Executive Branch expects that the total cost of the [information technology] services, **SUPPLIES, OR COMMODITIES** will exceed \$100,000, the unit shall issue a solicitation for a task order to all [qualified offerors] **MASTER CONTRACTORS** in the appropriate category established by the [Secretary] **DESIGNATED PROCUREMENT UNIT**.

(2) If the unit of the Executive Branch expects that the total cost of the [information technology services] **SERVICES, SUPPLIES, OR COMMODITIES** will be \$100,000 or less, the unit shall issue a solicitation for a task order to a minimum of six qualified [offerors] **MASTER CONTRACTORS** or all [qualified offerors] **MASTER CONTRACTORS**, whichever is less, in the appropriate category established by the [Secretary] **DESIGNATED PROCUREMENT UNIT**.

(e) ~~After~~ **EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, AFTER** a unit of the Executive Branch receives responses from [qualified offerors] **MASTER CONTRACTORS** to a solicitation for a task order, the unit shall evaluate the responses and may select [an offeror] **A MASTER CONTRACTOR** based on the response that is determined to be the most advantageous to the State considering the evaluation factors set forth in the task order.

(F) THE REQUIREMENTS OF SUBSECTIONS (C)(2), (D), AND (E) OF THIS SECTION DO NOT APPLY TO A MASTER CONTRACT FOR CONSTRUCTION IF THE MASTER CONTRACT:

(1) IS AWARDED THROUGH A COMPETITIVE PROCESS IN ACCORDANCE WITH THIS SUBTITLE; AND

(2) STATES:

(I) HOW TASK ORDERS WILL BE AWARDED ~~AND~~; AND

(II) THE MAXIMUM NUMBER OF QUALIFIED CONTRACTORS THAT WILL BE AWARDED A MASTER CONTRACT FOR CONSTRUCTION.

13-114.

(A) THE BOARD SHALL ADOPT REGULATIONS IN ACCORDANCE WITH TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE TO ESTABLISH A UNIFORM PROCESS FOR THE SOLICITATION OF MASTER CONTRACTS AND TASK ORDERS.

(B) EACH DESIGNATED PROCUREMENT UNIT SHALL ENSURE COMPLIANCE WITH THE REGULATIONS SET FORTH IN SUBSECTION (A) OF THIS SECTION.

[Subtitle 3. Architectural and Engineering Services.]

[13–301.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “General Selection Board” means the General Professional Services Selection Board.
- (c) “Person” includes, unless the context requires otherwise:
 - (1) the State;
 - (2) a county, municipal corporation, or other political subdivision; and
 - (3) any unit of the State government or a political subdivision.
- (d) “Selection Board” means the General Selection Board or the Transportation Selection Board.
- (e) “Transportation Selection Board” means the Transportation Professional Services Selection Board.
- (f) “Transportation unit” means:
 - (1) the Department of Transportation;
 - (2) any unit in the Department of Transportation;
 - (3) the Maryland Port Commission; or
 - (4) the Maryland Transportation Authority.]

[13–302.

- (a) There is a General Professional Services Selection Board in the Department of General Services.
- (b) (1) The General Selection Board consists of:
 - (i) 4 permanent members; and
 - (ii) 1 temporary member.
- (2) The permanent members shall be:
 - (i) the Secretary of General Services, ex officio, or a designee; and

(ii) 3 members who are appointed by the Governor and shall be:

1. 1 appointee from the Department of General Services on recommendation of the Secretary of General Services; and

2. 2 appointees from the general public, at least 1 of whom is not an architect or engineer.

(3) The temporary member shall be the head of the unit whose request is under consideration.

(4) On recommendation of the Secretary of General Services, the Governor may appoint an alternate member to serve in the absence of the appointee under paragraph (2)(i)1 of this subsection.

(c) (1) The appointee from the Department of General Services serves at the pleasure of the Governor.

(2) An appointee from the general public:

(i) serves a term of 5 years; and

(ii) at the end of the term, continues to serve until a successor is appointed and qualifies.

(3) A temporary member serves only for the purpose of considering and acting on the request of the unit that the temporary member represents.

(4) A permanent 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.

(d) (1) The Governor may remove a member for incompetence, misconduct, neglect of duty, or other sufficient cause.

(2) A member may not participate in any matter before the General Selection Board in which the member:

(i) has an interest; or

(ii) is or, within the previous 12 months, has been associated with:

1. a transportation unit that has an interest in the matter;

or

2. any other person who is not a unit and has an interest in

the matter.

- (e) Each appointee from the general public is entitled to:
 - (1) compensation in accordance with the State budget; and
 - (2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.]

[13–303.

(a) There is a Transportation Professional Services Selection Board in the Department of Transportation.

- (b) (1) The Transportation Selection Board consists of:
 - (i) 4 individuals who are permanent members; and
 - (ii) 1 individual who is a temporary member.
- (2) The permanent membership shall consist of the following:
 - (i) the Secretary of Transportation, ex officio, or a designee;
 - (ii) 1 individual from the Department of Transportation, appointed by the Governor on recommendation of the Secretary of Transportation; and
 - (iii) 2 individuals appointed by the Governor from the general public, at least 1 of whom is not an architect or engineer.
- (3) The transportation unit whose request the Transportation Selection Board is considering shall appoint the temporary member.
- (4) On recommendation of the Secretary of Transportation, the Governor may appoint an alternate member to serve in the absence of the appointee under paragraph (2)(ii) of this subsection.

(c) (1) The appointee from the Department of Transportation serves at the pleasure of the Governor.

- (2) An appointee from the general public:
 - (i) serves a term of 5 years; and
 - (ii) at the end of the term, continues to serve until a successor is appointed and qualifies.
- (3) A temporary member serves only for the purpose of considering and acting on the request of the transportation unit that the temporary member represents.

(4) A permanent 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.

(d) (1) The Governor may remove a member for incompetence, misconduct, neglect of duty, or other sufficient cause.

(2) A member may not participate in any matter before the Transportation Selection Board in which the member:

(i) has an interest; or

(ii) is or, within the previous 12 months, has been associated with a person, other than a transportation unit, who has an interest in the matter.

(e) Each appointee from the general public is entitled to:

(1) compensation in accordance with the State budget; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.]

[13–304.

(a) The selection boards shall adopt regulations that provide substantially similar procedures to carry out this subtitle.

(b) The procedures of each selection board shall ensure that a recommendation to the Board of Public Works for the award of a procurement contract for architectural or engineering services costing over \$200,000 is made on a competitive basis and includes an evaluation of the technical proposals and qualifications of at least 2 persons.]

[13–305.

(a) At the request of a school board or a political subdivision of the State, the Selection Board may provide advisory services about procurement of architectural services or engineering services.

(b) A school board or political subdivision that receives advisory services under this section shall reimburse the Selection Board for its costs.]

[13–306.

(a) Except for a transportation unit, a unit that intends to procure architectural or engineering services costing more than \$200,000 shall submit a request to the General Selection Board at a public meeting of that Board.

(b) The General Selection Board shall publish reasonable and timely notice of a request presented under this section.]

[13–307.

(a) The General Selection Board may approve a request for architectural or engineering services only if it concludes that the services cannot be provided feasibly and economically by existing in-house resources.

(b) The General Selection Board shall:

(1) publish uniform and consistent announcements of all approvals for requests for architectural services or engineering services; and

(2) mail a copy of an announcement to each person who requests notice.

(c) An announcement of an approval under this section shall:

(1) describe generally the architectural services or engineering services that are the subject of the procurement; and

(2) indicate how an interested person may receive information about the procurement.

(d) (1) On request, the General Selection Board shall provide to an interested person a comprehensive description of the nature and scope of the architectural or engineering services that are the subject of the procurement.

(2) The unit requesting the procurement shall prepare the description required under this subsection.]

[13–308.

(a) The General Selection Board shall:

(1) evaluate technical proposals and the qualifications of the persons submitting proposals; and

(2) determine an order of priority based on those evaluations.

(b) (1) The General Selection Board shall:

(i) begin negotiations with the most qualified person; and

(ii) try to negotiate a procurement contract with that person at a rate of compensation that is fair, competitive, and reasonable.

(2) In determining the rate of compensation under this subsection, the General Selection Board shall:

(i) consider the scope and complexity of the architectural or engineering services required; and

(ii) conduct a detailed analysis of the cost of those services.

(c) (1) If the General Selection Board is unable to negotiate a satisfactory procurement contract at a rate of compensation that is fair, competitive, and reasonable, it shall:

(i) terminate negotiations with the most qualified person; and

(ii) negotiate in the same manner with the second and, if necessary, the third most qualified person chosen under subsection (a) of this section.

(2) If the General Selection Board is unable to negotiate a procurement contract with any person chosen under subsection (a) of this section, the General Selection Board shall:

(i) choose additional persons in order of their competence and qualification; and

(ii) continue negotiations in accordance with the procedures under this section until it reaches an agreement.

(d) The General Selection Board may delegate the negotiation process to the Department of General Services, but any negotiating team shall include a representative of the unit requesting the procurement.]

[13–309.

The General Selection Board shall:

(1) review all procurement contract documents; and

(2) announce the general content of the documents at a public meeting of that Board.]

[13–310.

(a) (1) A transportation unit that intends to procure architectural or engineering services shall submit a request to the Secretary of Transportation.

(2) The Secretary of Transportation shall certify to the Transportation Selection Board that the architectural or engineering services requested under this section cannot be provided feasibly and economically by existing in-house resources.

(b) The Transportation Selection Board shall:

(1) publish uniform and consistent announcements of all requests for architectural services or engineering services; and

(2) mail a copy of an announcement to each person who requests notice of a specific project.

(c) An announcement of a request under this section shall:

(1) describe generally the architectural or engineering services that are the subject of the procurement; and

(2) indicate how an interested person may receive information about the procurement.

(d) A transportation unit shall negotiate competitively each procurement contract for architectural or engineering services costing \$200,000 or less at a price that the transportation unit determines to be fair and reasonable.]

[13-311.

(a) The Department of Transportation shall establish a selection process based on a competitive procedure to:

(1) promote engineering and design quality and ensure maximum competition by professional companies of all sizes providing architectural or engineering services;

(2) evaluate technical proposals and the qualifications of the persons submitting proposals; and

(3) determine an order of priority based on those evaluations.

(b) (1) From the results of the selection process under subsection (a) of this section, the transportation unit shall:

(i) begin negotiations with the most qualified person; and

(ii) try to negotiate a procurement contract with that person at a rate of compensation that is fair, competitive, and reasonable.

(2) In determining the rate of compensation under this subsection, the transportation unit shall:

(i) consider the scope and complexity of the architectural or engineering services required;

(ii) conduct a detailed analysis of the cost of those services; and

(iii) comply with limits on costs reimbursement, including, but not limited to overhead limits, established by the Transportation Selection Board. In setting such limits, the Board shall consider the goal of the selection process set forth in paragraph (1) of this subsection, as well as the reasonable cost of architectural or engineering services.

(c) (1) If the transportation unit is unable to negotiate a satisfactory procurement contract at a rate of compensation that is fair, competitive, and reasonable, it shall:

(i) terminate negotiations with the most qualified person; and

(ii) negotiate in the same manner with the second and, if necessary, the third most qualified person chosen under subsection (a) of this section.

(2) If the transportation unit is unable to negotiate a procurement contract with any person chosen under subsection (a) of this section, the transportation unit shall:

(i) choose additional persons in order of their competence and qualification; and

(ii) continue negotiations in accordance with the procedures under this section until it reaches an agreement.

(d) The Transportation Selection Board may delegate the negotiation process to the Department of Transportation, but any negotiating team shall include a representative of the transportation unit requesting the procurement.]

[13–312.

(a) A transportation unit shall submit to the Transportation Selection Board the name of the person with whom an agreement for the procurement of architectural services or engineering services is reached in accordance with § 13–311 of this subtitle.

(b) The Transportation Selection Board shall:

(1) review all procurement contract documents; and

(2) announce the general content of the documents at a public meeting of that Board.

(c) (1) The Transportation Selection Board shall hold a public meeting at which that Board shall:

(i) accept or reject the person with whom the agreement was reached; or

(ii) for cause, postpone its decision on the selection.

(2) The Transportation Selection Board shall provide reasonable and timely notice of a meeting required under this subsection.]

[13–313.

The Selection Board shall make available for public review all documents that relate to the award of a procurement contract, including:

(1) technical resumes;

(2) proposals;

(3) the procurement contract;

(4) scope of services;

(5) programs;

(6) staff reports;

(7) internal worksheets; and

(8) all other information that relates to the negotiation and award of a procurement contract under this subtitle.]

[13–314.

(a) The Selection Board shall waive the requirements of §§ 13–304(b), 13–308, 13–309, 13–311, 13–312(b), and 13–313 of this subtitle if:

(1) the Selection Board determines that:

(i) the architectural services or engineering services cannot be defined so completely as to carry out those requirements; or

(ii) the specifications require architectural services or engineering services that are available only from a bona fide single source or a proprietary product or process;

- (2) the Governor declares an emergency;
 - (3) after a natural disaster, public health and safety are endangered; or
 - (4) on the recommendation of the Secretary of General Services or the Secretary of Transportation and a finding by the Governor that extraordinary circumstances exist, the Board of Public Works determines that:
 - (i) for a particular project, urgent circumstances require the selection of a contractor on an expedited basis;
 - (ii) expedited selection best serves the public interest; and
 - (iii) the need for an expedited selection outweighs the benefits of carrying out those requirements.
- (b) A waiver and the reasons for it shall be documented and:
- (1) immediately reported to eMaryland Marketplace for publication; and
 - (2) reported to the Legislative Policy Committee within 30 days after the waiver occurs.]

[13–315.

- (a) (1) After choosing a contractor in accordance with this subtitle, the Selection Board shall recommend that contractor to the Board of Public Works.
 - (2) With each recommendation, the Selection Board shall submit a statement of the reasons for the selection.
 - (3) The statement required under this subsection serves as a public notice of the selection.
- (b) The Selection Board shall assure the Board of Public Works that the recommended contractor has the financial capacity to:
- (1) provide the architectural services or engineering services; and
 - (2) protect the State from errors and omissions that might arise from the performance of the architectural or engineering services by:
 - (i) the contractor; or
 - (ii) third parties relying on the completed design or work product.]

[13–316.

(a) Within 10 days after an offeror of architectural services or engineering services receives notice of a recommendation by the Selection Board to the Board of Public Works, the offeror may appeal the recommendation to the Board of Public Works.

(b) On an appeal under this section, the Board shall:

- (1) approve the recommendation;
- (2) disapprove the recommendation; or
- (3) remand the matter to the Selection Board for further consideration.

(c) The Board of Public Works may award a prospective offeror or an offeror the reasonable costs of filing and pursuing an appeal, not including attorney's fees, if:

(1) the prospective offeror or offeror appeals the recommendation of the Transportation Selection Board or the General Selection Board to enter into an architectural services or engineering services contract to the Board of Public Works;

(2) the Board of Public Works disapproves the recommendation of the Transportation Selection Board or the General Selection Board; and

(3) the Board of Public Works finds that there has been a violation of the procurement law or regulations.

(d) The Board of Public Works shall adopt regulations to implement this section and to determine what constitutes reasonable costs of filing and pursuing an appeal.]

[13–317.

(a) A unit may not award a procurement contract to a person under this subtitle unless:

- (1) the person submits:
 - (i) an affidavit of noncollusion; and
 - (ii) a price quotation; and

(2) for a procurement contract costing more than \$200,000, the person has executed a truth-in-negotiation certificate.

(b) The truth-in-negotiation certificate shall state that:

(1) wage rates and other factual unit costs supporting wages are accurate, complete, and current as of the time of contracting; and

(2) the original price of the procurement contract and any additions to the procurement contract will be adjusted to exclude any significant price increase if the Selection Board determines that the price increase is due to wage rates or other factual unit costs that were inaccurate, incomplete, or not current as of the time of contracting.

(c) An adjustment to the procurement contract shall be made within 1 year after the procurement contract is completed.]

[13–318.

The Selection Board may not award a procurement contract for architectural services or engineering services that:

(1) is a cost-plus-a-percentage-of-cost contract; or

(2) includes fee schedules that are based on a percentage of construction costs.]

[13–320.

(a) (1) The State may postaudit the rates of contractors performing architectural services or engineering services under this subtitle as required by the regulations adopted under this subtitle.

(2) All rates used in a cost-plus-fixed-fee procurement contract shall be verified by postaudit if:

(i) the compensation is more than \$50,000 and the procurement contract involves a unit other than a transportation unit; and

(ii) the compensation is more than \$25,000 and the procurement contract involves a transportation unit.

(b) On request by a procuring authority of any political subdivision of the State that is considering an architect or engineer for a specific project, any State audit of the architect or engineer shall be made available.]

[13–321.

(a) The Board may terminate without liability a procurement contract for architectural services or engineering services if:

(1) there has been a conviction of a crime arising out of or in connection with the procurement contract or any payment to be made under the procurement contract; or

(2) there has been a breach or violation of any provision of this subtitle.

(b) Subject to subsection (a) of this section, the Board may deduct from the procurement contract price or otherwise recover the full amount of any fee, commission, gift, percentage, or other consideration paid in violation of this subtitle.

(c) If a procurement contract is terminated under this section, the contractor:

(1) is entitled only to the earned value of the work completed as of the date of termination, plus termination costs;

(2) is liable for any costs incurred for completion of the work over the maximum amount payable to the contractor under the procurement contract; and

(3) shall refund all profits or fixed fees realized under the procurement contract.

(d) (1) The provisions of this section are in addition to any other right or remedy allowed by law.

(2) By carrying out this section, the Board does not waive any other right or remedy provided by law.]

[13–322.

A person who violates any provision of this subtitle is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding 10 years or both.]

[13–323.

This subtitle may be cited as the “Maryland Architectural and Engineering Services Act”.]

[Subtitle 4. Streamlined Process for Procurement of Information Technology Services.]

[13–401.

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

(b) “Information technology” has the meaning stated in § 3A–301 of this article.

- (c) “Secretary” means the Secretary of Information Technology.]

15–202.

[This] **EXCEPT TO THE EXTENT AUTHORIZED BY REGULATION BY THE BOARD,** THIS subtitle does not apply to a protest concerning[:

(1) except for a protest relating to a violation of § 13–212.1 of this article, the formation of a procurement contract for architectural services or engineering services; or

(2) except to the extent authorized by regulation by the Board,] any act or omission by a procurement agency under Title 14, Subtitle 6 of this article.

17–103.

(a) (1) Before a public body awards a construction contract exceeding \$100,000, the contractor shall provide payment security and performance security that meet the requirements of § 17–104 of this subtitle.

(2) ~~The~~ **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE** *THE* security shall be:

(i) for performance security, in an amount that the public body considers adequate for its protection; and

(ii) for payment security, at least ~~50%~~ ~~100%~~ 50% of the total amount payable under the contract.

~~(3) BEFORE ISSUING AN INVITATION FOR BIDS FOR A CONSTRUCTION CONTRACT REQUIRING PAYMENT SECURITY, THE HEAD OF THE PUBLIC BODY MAY REDUCE THE AMOUNT OF PAYMENT SECURITY REQUIRED TO NOT LESS THAN 50% OF THE TOTAL AMOUNT PAYABLE UNDER THE CONTRACT IF A DETERMINATION IS MADE IN WRITING THAT INCLUDES:~~

~~(I) A STATEMENT THAT REDUCING THE AMOUNT IS IN THE BEST INTEREST OF THE STATE; AND~~

~~(II) INFORMATION ON:~~

~~1. THE VALUE AND NUMBER OF SUBCONTRACTS TO BE AWARDED BY THE CONTRACTOR; AND~~

~~2. THE VALUE OF THE CONTRACT.~~

(b) A public body, other than the State or a unit of the State government, may require payment security or performance security for a construction contract if:

- and
- (1) the contract exceeds ~~[\$25,000]~~ **\$50,000** but does not exceed \$100,000;
 - (2) the amount of the security does not exceed 50% of the contract amount.

Article – Education

16–311.

(a) (1) Except as provided in paragraph (2) of this subsection, this section applies to every contract for any building, improvement, equipment, or supplies.

(2) This section does not apply to:

- (i) The purchase of books or other materials for instruction;
- (ii) Emergency repairs;
- (iii) Any contract or purchase made by a county for a community college under procedures authorized by the county charter or an act of the General Assembly; or
- (iv) Any contract or purchase that qualifies as a “small procurement” as defined in the State Procurement Regulations.

(b) ~~[All procurements shall be by competitive sealed bids, as described in this section, unless one of the following methods is specifically authorized]~~ **AT THE DISCRETION OF THE PROCUREMENT OFFICER, THE FOLLOWING PROCUREMENT METHODS ARE AUTHORIZED WHERE APPLICABLE:**

(1) COMPETITIVE SEALED BIDS UNDER SUBSECTION (C) OF THIS SECTION;

- ~~[(1)]~~ **(2)** Competitive sealed proposals under § 16–313 of this subtitle;
- ~~[(2)]~~ **(3)** Sole source procurement under § 16–314 of this subtitle; or
- ~~[(3)]~~ **(4)** Noncompetitive negotiation under § 16–314.1 of this subtitle.

(c) **(1) THE BOARD OF TRUSTEES MAY PROVIDE FOR PROCUREMENT BY COMPETITIVE SEALED BIDS IN ACCORDANCE WITH THIS SUBSECTION.**

(2) (I) WHENEVER PROCUREMENT IS BASED ON COMPETITIVE SEALED BIDS, THE BOARD OF TRUSTEES, OR ITS DESIGNEE, SHALL SEEK BIDS BY ISSUING AN INVITATION FOR BIDS.

[(1)] (II) The board of trustees, at least 2 weeks before bids are to be filed, shall advertise for bids in at least one newspaper published in the county **OR IN *EMARYLAND MARKETPLACE, IN ACCORDANCE WITH TITLE 17, SUBTITLE 5 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.***

[(2)] (III) The board of trustees may name in the specifications and advertisements for bids the particular make, kind, or brand of article to be contracted for or purchased.

[(d) (1)] (3) The board of trustees of each community college may provide for the prequalification of persons as prospective responsible bidders for procurements other than leases of real property.

[(2)] (4) If a board of trustees uses a prequalification procedure for awarding a procurement contract:

(i) A person who is not prequalified may submit a bid or proposal;
and

(ii) After bid opening or receipt of proposals and before awarding the procurement contract, a procurement officer may determine that:

1. A person who was not prequalified at the time of bid opening or receipt of proposals is a responsible bidder; or

2. A prequalified person is not a responsible bidder.

[(e) (1)] (5) Except as provided in **[subsection (f)] PARAGRAPH (7)** of this **[section] SUBSECTION**, the contract shall be awarded to the lowest responsible bidder, who conforms to the specifications, with consideration given to:

(i) The quantities involved;

(ii) The time required for delivery;

(iii) The purpose for which required;

(iv) The competence and responsibility of the bidder; and

(v) The ability of the bidder to perform the contract satisfactorily.

[(2)] (6) The board of trustees may reject any and all bids and readvertise for other bids.

[(f) (1)] (7) (I) In this [subsection] PARAGRAPH, the term “minority business enterprise” has the meaning stated in § 14–301 of the State Finance and Procurement Article.

[(2)] (II) In Montgomery County, by resolution and by implementing rules and regulations, the Board of Trustees of Montgomery Community College shall establish a mandatory minority business utilization program to facilitate the participation of responsible certified minority business enterprises in contracts awarded by the Board of Trustees of Montgomery Community College in accordance with competitive bidding requirements.

[(h)] (D) A contract entered into or purchase made in violation of this section is void.

16–313.

(a) (1) The board of trustees may provide for procurement by competitive sealed proposals in accordance with the provisions of this section.

(2) The board of trustees may adopt regulations to implement the provisions of this section.

(b) Competitive sealed proposals [may be used if:

(1) The procurement is for educational or consultant services;

(2) The procurement is for any building, improvement, equipment, or supplies and the board of trustees or its designee determines that specifications cannot be prepared that allow an award based on the lowest bid price, the lowest evaluated bid price, or the bid most favorable to the college; or

(3) The board of trustees or its designee determines that:

(i) The need to use a method other than competitive sealed bids is sufficiently compelling to override the general public policy that favors awarding procurement contracts on the basis of competitive sealed bids; and

(ii) The use of competitive sealed bidding for that procurement contract is not practicable or not advantageous to the college] **IS THE PREFERRED PROCUREMENT METHOD FOR EDUCATIONAL OR CONSULTANT SERVICES.**

(c) (1) Whenever procurement is based on competitive sealed proposals, the board of trustees or its designee shall seek proposals by issuing a request for proposals.

- (2) A request for proposals shall include a statement of:
- (i) The scope of the procurement contract;
 - (ii) The results to be achieved or services to be provided;
 - (iii) The factors, including price, that will be used in evaluating proposals; and
 - (iv) The relative importance of each factor.
- (d) The board of trustees or its designee shall publish a request for proposals in the same manner as required for an invitation for bids.
- (e) (1) After receipt of proposals but before the board of trustees awards the procurement contract, the board or its designee may conduct discussions with an offeror to:
- (i) Obtain the best price for the college; and
 - (ii) Ensure full understanding of:
 - 1. The requirements of the college as set forth in the request for proposals; and
 - 2. The proposal submitted by the offeror.
- (2) If discussions are conducted, the board of trustees or its designee:
- (i) Shall conduct the discussions in accordance with regulations adopted by the board;
 - (ii) Shall provide an opportunity to participate to each responsible offeror who submits a proposal that, in the judgment of the board or its designee, is reasonably susceptible of being selected for award;
 - (iii) Shall treat all of the responsible offerors fairly and equally;
 - (iv) May allow all of the responsible offerors to revise their initial proposals by submitting best and final offers, if discussions indicate that it would be in the best interests of the college to do so;
 - (v) May conduct more than one series of discussions and requests for best and final offers; and
 - (vi) May not disclose to an offeror any information derived from a proposal of or discussions with a competing offeror.

(f) (1) Except as provided in paragraph (2) of this subsection:

(i) A proposal is irrevocable for the period specified in the request for proposals; and

(ii) A best and final offer is irrevocable for the period specified in the request for best and final offers.

(2) The board of trustees or its designee may allow an offeror to correct or withdraw a proposal or best and final offer if correction or withdrawal is allowed under regulations adopted by the board.

(g) After obtaining any approval required by law, the board of trustees shall award the procurement contract to the responsible offeror who submits the proposal or best and final offer determined to be the most advantageous to the college considering the evaluation factors set forth in the request for proposals.

(h) The board of trustees may reject any and all proposals and readvertise for other offers.

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2017, the Maryland Higher Education Commission, in consultation with the Maryland-Delaware-District of Columbia Press Association and the Maryland Association of Community Colleges, shall:~~

~~(1) study the use and cost of advertising for bids in at least one newspaper published in the county as required under § 16-311 of the Education Article; and~~

~~(2) 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 findings of the study conducted under item (1) of this section.~~

SECTION ~~2~~ 3 ~~2~~. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 590

(House Bill 1021)

AN ACT concerning

Reorganization of State Procurement

FOR the purpose of reorganizing State procurement by establishing a Chief Procurement Officer to control and oversee ~~all~~ State procurement activity for which certain provisions of law apply; providing for the appointment of the Chief Procurement Officer; ~~repealing~~ altering the definition and role of primary procurement units; ~~requiring a procurement by a unit to replace or supplement certain energy-consuming equipment to be under the oversight of the Chief Procurement Officer~~; ~~requiring the Board of Public Works to ensure that regulations for State procurement provide for procedures that are consistent with certain provisions of law~~; ~~authorizing the Board to require Board approval for procurement actions of more than a certain dollar amount~~; ~~requiring the Chief Procurement Officer to retain oversight of certain procurements that are conducted under certain authority or do not require certain Board approval~~; ~~requiring certain actions of the Board to prevail if the action conflicts with the action of certain units~~; ~~repealing the position of Procurement Advisor~~, transferring altering the duties of the Procurement Advisor ~~to the Chief Procurement Officer~~, and clarifying certain duties; ~~requiring the Chief Procurement Officer to develop regulations to implement certain provisions of law~~, and requiring a certain report to include a summary of certain procurement activity; renaming the Procurement Advisory Council, altering the membership of the Council, altering the duties of the Council, requiring the Council to advise the General Assembly on certain legislation, and providing that the Chief Procurement Officer is the Chair and principal staff of the Council; transferring the authority of certain primary procurement units to the Department of General Services; authorizing the Department of General Services to delegate control of certain procurement activities to certain units, develop certain metrics and implement strategic sourcing under certain circumstances, ~~advise the General Assembly on certain legislation~~, ~~manage eMaryland Marketplace~~, compile certain statistics, effect and enhance communication on certain procurement matters, assist units with certain questions, oversee certain training and implementation of certain risk analysis and insurance requirements, and coordinate with certain governmental entities and certain local entities to maximize use of certain intergovernmental cooperative purchasing agreements, ~~and employ certain staff in accordance with the State budget~~; ~~requiring a certain reporting requirement to include a summary of certain procurement activity~~; requiring the Chief Procurement Officer a unit to consult with the Maryland Energy Administration and the Chief Procurement Officer before issuing a request for proposals for an energy performance contract; providing that eMaryland Marketplace is jointly managed by the Department of General Services and the Department of Information Technology; authorizing the Chief Procurement Officer to establish certain fees for eMaryland Marketplace ~~as approved~~ subject to approval by the Board; establishing a certain fund in the Department of General Services; providing that certain fees for the use of electronic means to conduct procurement be determined in consultation with the Chief Procurement Officer; requiring that certain fees be deposited in a certain fund; ~~requiring a unit to make small procurements in accordance with regulations developed by the Chief Procurement Officer and adopted by the Board~~; authorizing a unit to become a party or participate in an intergovernmental cooperative

~~purchase agreement if a certain determination is made under the oversight of the Chief Procurement Officer; authorizing a unit to seek bids for certain procurements by issuing an invitation for auction bids under the oversight of the Chief Procurement Officer; authorizing a procurement officer to award a procurement based on revised bids under certain circumstances and the oversight of the Chief Procurement Officer; authorizing a unit under the oversight of the Chief Procurement Officer to provide for prequalification of certain persons for procurement other than leases of real property; authorizing a unit to enter into multi-year contracts subject to certain regulations developed by the Chief Procurement Officer and approved by the Board; requiring that multi-year contracts be subject to review and approval by the Chief Procurement Officer; requiring procurement contracts to include clauses covering certain termination by the State if the head of a unit, under the oversight of the Chief Procurement Officer, determines that termination is appropriate; authorizing a unit under the oversight of the Chief Procurement Officer to withhold certain payment under certain circumstances; authorizing a unit, under the oversight of the Chief Procurement Officer, to conduct procurement by electronic means as provided under certain provisions of law; requiring a unit to submit a certain report to the Governor and General Assembly within a certain period of time each fiscal year; requiring certain protests or contract claims to be submitted within a certain time required under certain regulations developed by the Chief Procurement Officer and adopted by the Board; repealing provisions of law requiring certain jurisdiction and control by certain units over certain types of procurement; repealing provisions of law requiring the adoption of certain regulations by certain units; repealing an obsolete provisions provision of law; altering certain definitions; requiring the Chief Procurement Officer to report to the Governor and certain committees of the General Assembly on or before a certain date; requiring ~~the General Counsel to the Board and~~ the Office of the Attorney General to report to the Governor Board and certain committees of the General Assembly on or before a certain date; requiring the Board and the Department of Budget and Management to review certain job titles, classifications, and compensation for certain procurement-related positions and rename and reclassify those positions for certain purposes subject to certain requirements on or before a certain date; ~~requiring the Board, in consultation with the University System of Maryland and the Maryland Department of Transportation, to report to the Governor and the General Assembly on certain strategies to govern procurement staff employed under independent personnel management systems; requiring the Chief Procurement Officer to use certain staff and transfer certain staff, subject to certain conditions, to assist in carrying out certain duties; requiring the Department of General Services, in consultation with the Department of Budget and Management, the Department of Information Technology, the Department of Public Safety and Correctional Services, the Department of Transportation, and the Maryland Port Commission to report a certain administrative work plan to the Governor, the Board, and the General Assembly; establishing certain conditions for transferring certain staff; stating the intent of the General Assembly in relation to procurement staff at certain State agencies; providing for a delayed effective date for certain provisions of this Act; and generally relating to State procurement.~~~~

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section ~~4-801(g), 4-804,~~ 11-101, 12-101(b)(7), 12-102(a)(2), 12-105, 12-107,
12-110, 12-301, 13-101, 13-102.1, ~~13-109, 13-110,~~ 13-111(g), ~~13-204,~~
~~13-217, 13-218, 13-225, and 13-226,~~ 13-226(c) ~~15-111, 15-216, and 15-217~~

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

BY repealing

Article – State Finance and Procurement

Section ~~12-107 and 12-108~~ 12-101(b)(6)

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

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

Article – State Finance and Procurement

~~4-801.~~

~~(g) [“Primary procurement unit”] “UNIT” has the meaning provided in § 11-101 of this article.~~

~~4-804.~~

~~When a [primary procurement] unit replaces or supplements a major item of energy-consuming equipment in an existing building owned or leased by the State, the procurement of the equipment shall be made:~~

~~(1) on the basis of a life-cycle cost analysis of alternatives in accordance with standards established under § 4-808 of this subtitle; AND~~

~~(2) UNDER THE OVERSIGHT OF THE CHIEF PROCUREMENT OFFICER.~~

11-101.

(a) In this Division II the following words have the meanings indicated unless:

(1) the context clearly requires a different meaning; or

(2) a different definition is provided for a particular title or provision.

(b) (1) “Architectural services” means professional or creative work that:

(i) is performed in connection with the design and supervision of construction or landscaping; and

(ii) requires architectural education, training, and experience.

(2) “Architectural services” includes consultation, research, investigation, evaluation, planning, architectural design and preparation of related documents, and coordination of services that structural, civil, mechanical, and electrical engineers and other consultants provide.

(3) “Architectural services” does not include construction inspection services, services provided in connection with an energy performance contract, or structural, mechanical, plumbing, or electrical engineering.

(c) “Bid” means a response to an invitation for bids under § 13–103 of this article.

(d) “Board” means the Board of Public Works.

(E) “CHIEF PROCUREMENT OFFICER” MEANS ~~THE INDIVIDUAL APPOINTED BY THE BOARD UNDER § 12-102 OF THIS ARTICLE~~ AN OFFICIAL OF THE DEPARTMENT OF GENERAL SERVICES WHO:

(1) SHALL BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE;

(2) EXCEPT FOR PROCUREMENT ACTIVITY BY A PRIMARY PROCUREMENT UNIT OTHER THAN THE DEPARTMENT OF GENERAL SERVICES, IS THE HEAD OF ALL PROCUREMENT ACTIVITY FOR THE EXECUTIVE BRANCH OF STATE GOVERNMENT; AND

~~(2)~~ (3) MAY ENGAGE IN OR CONTROL PROCUREMENT FOR THE DEPARTMENT OF GENERAL SERVICES IN ACCORDANCE WITH § 12-107(B)(2) OF THIS TITLE.

[(e)] (F) (1) “Construction” means the process of building, altering, improving, or demolishing an improvement to real property.

(2) “Construction” includes any major work necessary to repair, prevent damage to, or sustain existing components of an improvement to real property.

(3) “Construction” does not include the maintenance or routine operation of an existing improvement to real property, or activities related to an energy performance contract.

[(f)] (G) (1) “Construction related services” means feasibility studies, surveys, construction management, construction inspection, and similar efforts associated

with construction or the acquisition of public improvements as defined in § 4–401(d) of this article.

(2) “Construction related services” does not include services provided in connection with an energy performance contract.

~~[(g)]~~ **(H)** “County” means a county of the State and, unless expressly provided otherwise, Baltimore City.

~~[(h)]~~ **(I)** “Energy performance contract” means an agreement for the provision of energy services, including electricity, heating, ventilation, cooling, steam, or hot water, in which a person agrees to design, install, finance, maintain, or manage energy systems or equipment to improve the energy efficiency of a building or facility in exchange for a portion of the energy savings.

~~[(i)]~~ **(J)** (1) “Engineering services” means professional or creative work that:

(i) is performed in connection with any utility, structure, building, machine, equipment, or process, including structural, mechanical, plumbing, electrical, geotechnical, and environmental engineering; and

(ii) requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences.

(2) “Engineering services” includes consultation, investigation, evaluation, planning, design, and inspection of construction to interpret and ensure compliance with specifications and design within the scope of inspection services.

(3) “Engineering services” does not include services provided in connection with an energy performance contract.

~~[(j)]~~ **(K)** “Invitation for bids” means any document used for soliciting bids under § 13–103 of this article.

~~[(k)]~~ **(L)** “Person” means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

~~[(4)]~~ **(M)** “Primary procurement units” means:

(1) the State Treasurer;

~~(2) the Department of Budget and Management;~~

~~(3)~~ **(2)** the Department of General Services;

~~(4)~~ **(3)** the Department of Transportation;

~~(5)~~ ~~the Department of Information Technology;~~

~~(6)~~ **(4)** the University System of Maryland;

~~(7)~~ **(5)** the Maryland Port Commission;

~~(8)~~ ~~the Department of Public Safety and Correctional Services;~~

~~(9)~~ **(6)** the Morgan State University; and

~~(10)~~ **(7)** the St. Mary's College of Maryland.†

~~(m)~~ **(N)** (1) “Procurement” means the process of:

(i) leasing real or personal property as lessee; or

(ii) buying or otherwise obtaining supplies, services, construction, construction related services, architectural services, engineering services, or services provided under an energy performance contract.

(2) “Procurement” includes the solicitation and award of procurement contracts and all phases of procurement contract administration.

~~(n)~~ **(O)** (1) “Procurement contract” means an agreement in any form entered into by a unit for procurement.

(2) “Procurement contract” does not include:

(i) a collective bargaining agreement with an employee organization;

(ii) an agreement with a contractual employee, as defined in § 1–101(d) of the State Personnel and Pensions Article;

(iii) a Medicaid, Judicare, or similar reimbursement contract for which law sets:

1. user or recipient eligibility; and

2. price payable by the State; or

(iv) a Medicaid contract with a managed care organization, as defined in § 15–101(e) of the Health – General Article as to which regulations adopted by the Department establish:

and

1. recipient eligibility;
2. minimum qualifications for managed care organizations;
3. criteria for enrolling recipients in managed care organizations.

~~(P)~~ **(P)** “Procurement officer” means an individual authorized by a unit to:

- (1) enter into a procurement contract;
- (2) administer a procurement contract; or
- (3) make determinations and findings with respect to a procurement contract.

~~(Q)~~ **(Q)** “Proposal” means a response to any solicitation other than an invitation for bids.

~~(R)~~ **(R)** “Request for proposals” means any document used for soliciting proposals.

~~(S)~~ **(S)** “Responsible bidder or offeror” means a person who:

- (1) has the capability in all respects to perform fully the requirements for a procurement contract; and
- (2) possesses the integrity and reliability that will ensure good faith performance.

~~(T)~~ **(T)** “Responsive bid” means a bid that:

- (1) is submitted under § 13–103 of this article; and
- (2) conforms in all material respects to the invitation for bids.

~~(U)~~ **(U)** (1) Except as provided in paragraph (3) of this subsection, “services” means:

- (i) the labor, time, or effort of a contractor; and
- (ii) any product or report necessarily associated with the rendering of a service.

(2) “Services” includes services provided by attorneys, accountants, physicians, consultants, and other professionals who are independent contractors.

(3) “Services” does not include:

- (i) construction related services;
- (ii) architectural services;
- (iii) engineering services; or
- (iv) energy performance contract services.

~~(V)~~ **(V)** “State” means:

- (1) a state, possession, territory, or commonwealth of the United States; or
- (2) the District of Columbia.

~~(W)~~ **(W)** (1) “State correctional facilities” means correctional institutions, and all places of correctional confinement, that are located within the State of Maryland and are primarily operated by the Maryland State government.

(2) “State correctional facilities” includes Patuxent Institution.

~~(X)~~ **(X)** (1) “Supplies” means:

- (i) insurance;
- (ii) tangible personal property;
- (iii) printing; and

(iv) services necessarily associated with insurance or tangible personal property.

(2) “Supplies” does not include:

- (i) an interest in real property; or
- (ii) tangible personal property acquired or used in connection with an energy performance contract.

~~(Y)~~ **(Y)** (1) “Unit” means an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement contract.

(2) “Unit” does not include:

(i) a bistate, multistate, bicounty, or multicounty governmental agency; or

(ii) a special tax district, sanitary district, drainage district, soil conservation district, water supply district, or other political subdivision of the State.

~~12-101.~~

~~(a) This section does not apply to capital expenditures by the Department of Transportation or the Maryland Transportation Authority, in connection with State roads, bridges, or highways, as provided in § 12-202 of this title.~~

~~(b) (1) The Board may control procurement by units.~~

~~(2) To implement the provisions of this Division II, the Board may:~~

~~(i) set policy;~~

~~(ii) adopt regulations, in accordance with Title 10, Subtitle 1 of the State Government Article; and~~

~~(iii) establish internal operational procedures consistent with this Division II.~~

~~(3) The Board shall ensure that the regulations [of the primary] FOR STATE procurement [units] provide for procedures that are consistent with this Division II and Title 13, Subtitle 4 of the State Personnel and Pensions Article and, to the extent the circumstances of a particular type of procurement or a particular unit do not require otherwise, are substantially the same.~~

~~(4) The Board may:~~

~~(I) delegate any of its authority that it determines to be appropriate for delegation; and [may]~~

~~(II) require prior Board approval for [specified] procurement actions OF \$500,000 OR MORE.~~

~~(5) THE CHIEF PROCUREMENT OFFICER SHALL RETAIN OVERSIGHT OF A PROCUREMENT:~~

~~(I) CONDUCTED UNDER AUTHORITY DELEGATED IN ACCORDANCE WITH PARAGRAPH (4)(I) OF THIS SUBSECTION; OR~~

~~(H) THAT DOES NOT REQUIRE BOARD APPROVAL UNDER PARAGRAPH (4)(H) OF THIS SUBSECTION.~~

~~[(5)](6) Except as limited by the Maryland Constitution OR ANOTHER PROVISION OF LAW, the Board may exercise any control authority conferred on a [primary procurement] unit by this Division II and, to the extent that its action conflicts with the action of the [primary procurement] unit, the action of the Board shall prevail.~~

~~[(6)](7) The Board, with the assistance of the Department of Budget and Management, shall compile comprehensive statistics on the procurement system by agency, amount, and type of procurement.~~

~~[(7)](8) The Board shall develop and submit to the General Assembly, in accordance with § 2-1246 of the State Government Article, an annual report on the procurement system that includes information on actions necessary to improve effective broad-based competition in procurement.~~

~~12-102.~~

~~(a) (1) The Board shall appoint a CHIEF Procurement [Advisor] OFFICER, who serves at the pleasure of the Board.~~

~~(2) The CHIEF Procurement [Advisor] OFFICER shall:~~

~~(i) CONTROL AND OVERSEE ALL STATE PROCUREMENT ACTIVITY FOR WHICH THIS DIVISION II APPLIES;~~

~~(ii) ensure that the State's procurement system is utilizing the most advanced procurement methods and management techniques, INCLUDING POLICIES, PROCEDURES, AND FORMS FOR ALL PROCUREMENT ACTIVITY AND CONTRACT MANAGEMENT;~~

~~(iii) DEVELOP REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS DIVISION II FOR ADOPTION BY THE BOARD UNDER § 12-101(B)(2)(H) OF THIS SUBTITLE;~~

~~(iv) WHILE RETAINING OVERSIGHT, DELEGATE CONTROL OF PROCUREMENT ACTIVITY TO UNITS WITH EXPERTISE IN SPECIFIED TYPES OF PROCUREMENT;~~

~~(v) DEVELOP PERFORMANCE METRICS FOR STATE PROCUREMENT AND IMPLEMENT STRATEGIC SOURCING WHEN APPROPRIATE;~~

~~[(ii)] (VI) effect and enhance communication between State units on procurement matters, with an emphasis on disseminating information on current developments and advances in the management of the State procurement system;~~

~~[(iii)] (VII) examine all procurements that are subject to review by the Board and make recommendations to the Board as to the appropriateness of each procurement, with an emphasis on whether the proposed procurement:~~

~~1. has been competitively conducted; and~~

~~2. conforms to provisions of procurement law, procurement regulations, and best management practices;~~

~~[(iv)] (VIII) prevent and detect fraud, waste, and abuse and foster competition in the expenditure of State funds in the procurement of supplies, services, or construction;~~

~~[(v)] (IX) conduct investigations into procurement policies, practices, and procedures, as appropriate;~~

~~[(vi)] (X) investigate complaints made by State employees concerning fraud, waste, and abuse in the procurement process and any alleged violation of the procurement law or regulations;~~

~~[(vii)] (XI) investigate complaints, other than formal bid protests filed under Title 15, Subtitle 2 of this article, made by contractors and other interested parties concerning fraud, waste, and abuse in the procurement process and any alleged violation of the procurement law or regulations;~~

~~[(viii)] (XII) if apparent criminal violations are found in the course of an investigation, report findings to the Board of Public Works, Office of the Attorney General, United States Attorney, and State or local prosecutors, as appropriate;~~

~~[(ix)] (XIII) if other apparent violations of law or regulation are found in the course of an investigation, report findings to the Board of Public Works, the appropriate agency head, and any other appropriate body for administrative action;~~

~~[(x)] (XIV) produce and submit to the Board of Public Works and the General Assembly, in accordance with § 2-1246 of the State Government Article, an annual report of the activities of the CHIEF Procurement [Advisor] OFFICER, including:~~

~~1. all findings and recommendations for improvements to the procurement system; [and]~~

~~2. the identification of barriers to effective broad-based competition in State procurement and recommendations for the elimination of these barriers; AND~~

~~3. A SUMMARY AND DESCRIPTION OF ALL PROCUREMENT ACTIVITY CONDUCTED BY UNITS DURING THE PRECEDING FISCAL YEAR;~~

~~[(xi)] (XV) assist agencies and the public with questions regarding procurement policy;~~

~~[(xii)] (XVI) establish policies for the effective training of State procurement officials to ensure that the State's procurement system is utilizing the most advanced procurement methods and management techniques;~~

~~[(xiii)] (XVII) coordinate activities with other entities performing similar functions;~~

~~[(xiv)] (XVIII) review internal audit reports and comment as appropriate;~~

~~[(xv)] (XIX) be the principal staff to the Procurement Advisory Council; [and]~~

~~[(xvi)] (XX) notify the Legislative Auditor when the CHIEF Procurement [Advisor] OFFICER undertakes an investigation under item [(vi)] (X) or [(vii)] (XI) of this paragraph;~~

~~(XXI) ADVISE THE GENERAL ASSEMBLY ON PROPOSED LEGISLATION IN ORDER TO ENHANCE THE EFFICIENCY AND TRANSPARENCY OF STATE PROCUREMENT;~~

~~(XXII) MANAGE eMARYLAND MARKETPLACE;~~

~~(XXIII) COORDINATE WITH GOVERNMENTAL ENTITIES AND LOCAL ENTITIES TO MAXIMIZE USE OF INTERGOVERNMENTAL PURCHASING AGREEMENTS ESTABLISHED IN ACCORDANCE WITH § 13-110 OF THIS ARTICLE; AND~~

~~(XXIV) SUPERVISE STATE PROCUREMENT ON PROCUREMENT MATTERS IN ACCORDANCE WITH THE STATE BUDGET AND EMPLOY A STAFF TO ASSIST IN CARRYING OUT THE DUTIES OF THE CHIEF PROCUREMENT OFFICER.~~

~~(3) The CHIEF Procurement [Advisor] OFFICER shall:~~

~~(i) have access to all books, accounts, records, reports, any material related to contracts and procurement, and all other papers and equipment necessary to carry out its responsibilities; and~~

~~(ii) have direct and prompt access to all heads of agencies involved in the expenditure of public funds.~~

~~(b) (1) (i) The Board shall appoint a General Counsel, who serves at the pleasure of the Board.~~

~~(ii) The General Counsel shall be an attorney in this State.~~

~~(2) The General Counsel shall:~~

~~(i) provide independent legal advice to the Board;~~

~~(ii) examine all procurements that are subject to review by the Board and make recommendations to the Board as to the legal sufficiency of the procurements, with an emphasis on whether the proposed procurement has been competitively conducted;~~

~~(iii) assist the CHIEF Procurement [Advisor] OFFICER in investigations undertaken by the CHIEF Procurement [Advisor] OFFICER;~~

~~(iv) assist the CHIEF Procurement [Advisor] OFFICER in responding to complaints made by State employees, contractors, and other interested parties concerning fraud, waste, and abuse in the procurement process or any alleged violation of the procurement law and regulations;~~

~~(v) compile information for distribution to State procurement officials relating to recent decisions of the Maryland State Board of Contract Appeals and State and federal courts concerning procurement, including any policy or legal guidance to the procurement officials based on these decisions; and~~

~~(vi) review regulations proposed by the Board for legality and approve them for proposal and adoption.~~

~~(3) The General Counsel shall:~~

~~(i) have access to all books, accounts, records, any material related to contracts and procurement, and all other papers and equipment necessary to carry out its responsibilities; and~~

~~(ii) have direct and prompt access to all heads of agencies involved in the expenditure of public funds.~~

~~(e) In accordance with the State budget, the Board may appoint any additional staff necessary to carry out its responsibilities under this Division II.~~

12-101.

(b) [(6) The Board, with the assistance of the Department of Budget and Management, shall compile comprehensive statistics on the procurement system by agency, amount, and type of procurement.]

[(7)](6) The Board shall develop and submit to the General Assembly, in accordance with § 2-1246 of the State Government Article, an annual report on the procurement system that includes information on actions necessary to improve effective broad-based competition in procurement.

12-102.

(a) (2) The Procurement Advisor shall:

(i) ensure that the State's procurement system is utilizing the most advanced procurement methods and management techniques;

[(ii) effect and enhance communication between State units on procurement matters, with an emphasis on disseminating information on current developments and advances in the management of the State procurement system;]

[(iii)](II) examine all procurements that are subject to review by the Board and make recommendations to the Board as to the appropriateness of each procurement, with an emphasis on whether the proposed procurement:

1. has been competitively conducted; and

2. conforms to provisions of procurement law, procurement regulations, and best management practices;

[(iv)](III) prevent and detect fraud, waste, and abuse and foster competition in the expenditure of State funds in the procurement of supplies, services, or construction;

[(v)](VI) conduct investigations into procurement policies, practices, and procedures, as appropriate;

[(vi)](V) investigate complaints made by State employees concerning fraud, waste, and abuse in the procurement process and any alleged violation of the procurement law or regulations;

[(vii)](VI) investigate complaints, other than formal bid protests filed under Title 15, Subtitle 2 of this article, made by contractors and other interested

parties concerning fraud, waste, and abuse in the procurement process and any alleged violation of the procurement law or regulations;

[(viii)](VII) if apparent criminal violations are found in the course of an investigation, report findings to the Board of Public Works, Office of the Attorney General, United States Attorney, and State or local prosecutors, as appropriate;

[(ix)](VIII) if other apparent violations of law or regulation are found in the course of an investigation, report findings to the Board of Public Works, the appropriate agency head, and any other appropriate body for administrative action;

[(x)](IX) produce and submit to the Board of Public Works and the General Assembly, in accordance with § 2-1246 of the State Government Article, an annual report of the activities of the Procurement Advisor, including:

1. all findings and recommendations for improvements to the procurement system; [and]

2. the identification of barriers to effective broad-based competition in State procurement and recommendations for the elimination of these barriers; AND

3. A SUMMARY AND DESCRIPTION OF ALL PROCUREMENT ACTIVITY CONDUCTED BY UNITS DURING THE PRECEDING FISCAL YEAR;

[(xi)](X) assist agencies and the public with questions regarding procurement policy;

[(xii)](XI) establish policies for the effective training of State procurement officials to ensure that the State's procurement system is utilizing the most advanced procurement methods and management techniques;

[(xiii)](XII) coordinate activities with other entities performing similar functions;

[(xiv)](XIII) review internal audit reports and comment as appropriate; AND

[(xv)] be the principal staff to the Procurement Advisory Council; and]

[(xvi)](XIV) notify the Legislative Auditor when the Procurement Advisor undertakes an investigation under item (V) OR (vi) [or (vii)] of this paragraph.

(a) In this section, "Council" means the Procurement ~~Advisory~~ **IMPROVEMENT** Council.

(b) There is a Procurement ~~Advisory~~ **IMPROVEMENT** Council.

(c) (1) The Council consists of the following ~~11~~ **12** members:

(i) the State Treasurer;

(ii) the Chancellor of the University System of Maryland;

(iii) the Secretary of Budget and Management;

(iv) the ~~Secretary of General Services~~ **CHIEF PROCUREMENT**

OFFICER;

(v) the Secretary of Information Technology;

(vi) the Secretary of Transportation;

(vii) the ~~Secretary~~ **PROCUREMENT ADVISOR** of the Board;

(viii) the Special Secretary for the Office of Minority Affairs;

(IX) THE DIRECTOR OF THE GOVERNOR'S OFFICE OF PERFORMANCE IMPROVEMENT;

~~(ix)~~ **(X)** a representative of local government who has expertise in local procurement matters, appointed by the Governor with the advice and consent of the Senate; and

~~(x)~~ **(XI)** two members of the general public, at least one of whom has expertise in State procurement matters, appointed by the Governor with the advice and consent of the Senate.

(2) (i) If the State Treasurer is unable to attend a meeting of the ~~Procurement Advisory~~ Council, the Treasurer may designate the Deputy Treasurer to attend the meeting.

(ii) If a member of the Council listed in paragraph (1)(ii) through ~~(x)~~ **(IX)** of this subsection is unable to attend a meeting of the ~~Procurement Advisory~~ Council, the member may designate ~~the Chief Procurement Officer of the agency~~ **A SENIOR MANAGEMENT STAFF MEMBER WITH EXPERIENCE IN PROCUREMENT** to attend the meeting.

(d) The ~~Secretary of the Board~~ **CHIEF PROCUREMENT OFFICER** is Chairman of the Council.

(e) The Council shall meet at least quarterly each year.

(f) The **CHIEF** Procurement [Advisor] **OFFICER** is the principal staff of the Council and the Council shall have any additional staff ~~that the Board authorizes~~ **AUTHORIZED** in accordance with the State budget.

(g) The Council shall:

(1) ensure that the State's procurement system is utilizing the most advanced procurement methods and management techniques, **INCLUDING POLICIES, PROCEDURES, AND FORMS FOR ALL PROCUREMENT ACTIVITY AND CONTRACT MANAGEMENT;**

(2) effect and enhance communication between State units on procurement matters, with an emphasis on disseminating information on current developments and advances in procurement methods and management;

(3) provide a forum for the discussion of specific procurement issues and problems that arise, **INCLUDING:**

(I) PROCUREMENT OFFICER TRAINING;

(II) RISK ANALYSIS AND INSURANCE REQUIREMENTS;

(III) MANAGEMENT OF EMARYLAND MARKETPLACE AND OTHER INTERNET PROCUREMENT RESOURCES;

(IV) USE OF INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENTS; AND

(V) ANY OTHER ISSUES OR PROBLEMS IDENTIFIED BY THE COUNCIL;

(4) advise the Board on problems in the procurement process and make recommendations for improvement of the process; ~~and~~

(5) review existing procurement regulations to:

(i) determine whether they fulfill the intent and purpose of the law, especially as it relates to fostering broad-based competition; and

(ii) make recommendations on the regulations, if revising and restructuring them will result in easier understanding and use; **AND**

(6) ADVISE THE GENERAL ASSEMBLY ON PROPOSED LEGISLATION IN ORDER TO ENHANCE THE EFFICIENCY AND TRANSPARENCY OF STATE PROCUREMENT.

~~§~~12-107.

(a) This section does not apply to capital expenditures by the Department of Transportation or the Maryland Transportation Authority, in connection with State roads, bridges, or highways, as provided in § 12-202 of this title.

(b) Subject to the authority of the Board, jurisdiction over procurement is as follows:

(1) the State Treasurer may engage in or control procurement of banking and financial services, insurance, and insurance services, as provided in Division I of this article and Article VI, § 3 of the Maryland Constitution;

~~(2) the Department of Budget and Management may control procurement of~~

~~(i) services by a unit, subject to any limitation in this Division II;~~
~~and~~

~~(ii) leases of motor vehicles, as provided in Title 3, Subtitle 5 of this article;~~

~~(3)~~ **(2)** the Department of General Services may:

(1) engage in or control procurement of:

~~(i)~~ **1.** leases of real property, including leases under Title 4, Subtitle 3 of this article;

~~(ii)~~ **2.** supplies, including supplies under Title 4, Subtitle 3 of this article, but excluding insurance, information processing equipment, and motor vehicle leases;

~~(iii)~~ **3.** construction, including construction under Title 4, Subtitle 4 of this article;

~~(iv)~~ **4.** construction related services, including those under Title 4, Subtitle 4 of this article; and

~~(v)~~ **5.** architectural or engineering services under Title 13, Subtitle 3 of this article;

6. SERVICES BY A UNIT, SUBJECT TO ANY LIMITATION IN THIS DIVISION II;

7. LEASES OF MOTOR VEHICLES, AS PROVIDED IN TITLE 3, SUBTITLE 5 OF THIS ARTICLE;

8. CONSTRUCTION AND CONSTRUCTION-RELATED SERVICES FOR STATE CORRECTIONAL FACILITIES;

9. SUPPLIES, MATERIALS, AND EQUIPMENT IN SUPPORT OF CONSTRUCTION AND CONSTRUCTION-RELATED SERVICES FOR STATE CORRECTIONAL FACILITIES IN ACCORDANCE WITH THIS DIVISION II AND TITLE 2 AND TITLE 10, SUBTITLE 1 OF THE CORRECTIONAL SERVICES ARTICLE;

10. INFORMATION PROCESSING EQUIPMENT AND ASSOCIATED SERVICES, AS PROVIDED IN TITLE 3A, SUBTITLE 3 OF THIS ARTICLE; AND

11. TELECOMMUNICATION EQUIPMENT, SYSTEMS, OR SERVICES, AS PROVIDED IN TITLE 3A, SUBTITLE 4 OF THIS ARTICLE;

(II) WHILE RETAINING OVERSIGHT, DELEGATE CONTROL OF PROCUREMENT ACTIVITY TO UNITS WITH EXPERTISE IN SPECIFIED TYPES OF PROCUREMENT;

(III) DEVELOP PERFORMANCE METRICS FOR PROCUREMENT ACTIVITY AND IMPLEMENT STRATEGIC SOURCING WHEN APPROPRIATE;

(IV) COMPILE COMPREHENSIVE STATISTICS ON THE PROCUREMENT SYSTEM BY AGENCY, AMOUNT, AND TYPE OF PROCUREMENT;

(V) EFFECT AND ENHANCE COMMUNICATION ON PROCUREMENT MATTERS, WITH AN EMPHASIS ON DISSEMINATING INFORMATION ON CURRENT DEVELOPMENTS AND ADVANCES IN THE MANAGEMENT OF THE STATE PROCUREMENT SYSTEM;

(VI) ASSIST UNITS WITH QUESTIONS REGARDING PROCUREMENT POLICY;

(VII) OVERSEE THE IMPLEMENTATION OF PROCUREMENT OFFICER TRAINING;

(VIII) OVERSEE THE IMPLEMENTATION OF APPROPRIATE RISK ANALYSIS AND INSURANCE REQUIREMENTS FOR STATE PROCUREMENT; AND

(IX) COORDINATE WITH GOVERNMENTAL ENTITIES AND LOCAL ENTITIES TO MAXIMIZE USE OF INTERGOVERNMENTAL PURCHASING AGREEMENTS ESTABLISHED IN ACCORDANCE WITH § 13-110 OF THIS ARTICLE;

~~(4)~~ **(3)** the Department of Transportation and the Maryland Transportation Authority, without the approval of any of the other primary procurement units, may engage in the procurement of:

(i) construction that is related to transportation, as provided in the Transportation Article;

(ii) construction related services that are related to transportation, as provided in the Transportation Article;

(iii) architectural or engineering services that are related to transportation, under Title 13, Subtitle 3 of this article;

(iv) rolling stock and other property peculiar to the operation of a transit system, as provided in § 7-403 of the Transportation Article;

(v) supplies for aeronautics related activities, including motor vehicles and information processing supplies, but excluding:

1. supplies funded by the proceeds from State general obligation bonds; and

2. insurance; and

(vi) services for aeronautics related activities, including information processing services, but excluding banking and financial services under the authority of the State Treasurer under item (1) of this subsection; **AND**

~~(5)~~ **(4)** the Maryland Port Commission, without the approval of any of the other primary procurement units, may engage in the procurement of:

(i) supplies for port related activities, including motor vehicles and information processing supplies, but excluding:

1. supplies funded by the proceeds from State general obligation bonds; and

2. insurance;

(ii) services for port related activities, including information processing services, but excluding banking and financial services under the authority of the State Treasurer under item (1) of this subsection;

(iii) construction and construction related services for a port facility as defined in § 6–101(e) of the Transportation Article;

(iv) port related architectural and engineering services under Title 13, Subtitle 3 of this article; and

(v) leases of real property for port related activities unless the lease payments are from the General Fund of the State;

~~(6) the Department of Public Safety and Correctional Services may, without the approval of any of the other primary procurement units,~~

~~(i) engage in the procurement of construction and construction related services for State correctional facilities; and~~

~~(ii) engage in the procurement of supplies, materials, and equipment in support of construction and construction related services for State correctional facilities in accordance with this Division II and Title 2 and Title 10, Subtitle 1 of the Correctional Services Article; and~~

~~(7) the Department of Information Technology may control procurement of:~~

~~(i) information processing equipment and associated services, as provided in Title 3A, Subtitle 3 of this article; and~~

~~(ii) telecommunication equipment, systems, or services, as provided in Title 3A, Subtitle 4 of this article.]~~

~~§ 12-108.~~

~~(a) This section does not apply to capital expenditures by the Department of Transportation or the Maryland Transportation Authority, in connection with State roads, bridges, or highways, as provided in § 12-202 of this title.~~

~~(b) Subject to the approval of the Board and under the coordination of the Governor, each of the primary procurement units shall:~~

~~(1) adopt regulations to carry out this Division II;~~

~~(2) send to the Board a copy of each proposed regulation under item (1) of this subsection; and~~

~~(3) send to the Board a copy of each internal operating procedure that the primary procurement unit adopts.]~~

12-110.

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

(2) “Council” means the Council for the Procurement of Health, Educational, and Social Services.

(3) “Health, educational, and social services” means services procured to provide or assist in providing:

(i) support, care, or shelter to third-party clients under a contract;
or

(ii) training to third-party clients under a contract.

(4) “Task Force Report” means the report entitled “Task Force Report to the Governor and the General Assembly on Procurement of Health, Education and Social Services by State Agencies” that was issued on November 30, 2011, by the Task Force to Study the Procurement of Health, Education, and Social Services by State Agencies.

(b) There is a Council for the Procurement of Health, Educational, and Social Services.

(c) (1) The Council consists of the following members:

(i) the State Treasurer;

(ii) the Attorney General;

(iii) the **CHIEF** Procurement [Advisor] **OFFICER**;

(iv) the State Superintendent of Schools;

(v) the Secretary of Budget and Management;

(vi) the Secretary of Juvenile Services;

(vii) the Secretary of Human Resources;

(viii) the Secretary of Health and Mental Hygiene;

(ix) the Director of the Governor’s Grants Office;

and Prevention;

(x) the Executive Director of the Governor's Office of Crime Control

(xi) the Executive Director of the Governor's Office for Children;

(xii) the Special Secretary for the Office of Minority Affairs;

(XIII) THE PROCUREMENT ADVISOR OF THE BOARD;

~~(xiii)~~ **(XIV)** four representatives of private organizations with experience providing human services funded by contracts through State units, appointed by the Governor;

~~(xiv)~~ **(XV)** a member of the Senate, appointed by the President of the Senate; and

~~(xv)~~ **(XVI)** a member of the House of Delegates, appointed by the Speaker of the House.

(2) (i) If the State Treasurer is unable to attend a meeting of the Council, the Treasurer may designate a Deputy Treasurer to attend the meeting.

(ii) If a member of the Council listed in paragraph (1)(ii) through ~~(xiii)~~ **(XIII)** of this subsection is unable to attend a meeting of the Council, the member may designate ~~the Chief Procurement Officer or another senior management staff member of the agency or organization~~ **WITH EXPERIENCE IN PROCUREMENT** to attend the meeting.

(3) (i) This paragraph applies to members of the Council appointed under paragraph (1)~~(xiii)~~ **(XIV)** of this subsection.

(ii) On or after July 1, 2014, the term of a member is 4 years.

(iii) The terms of members are staggered as required by the terms provided for members of the Council on July 1, 2014.

(iv) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(v) 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.

(vi) A member may not serve more than two consecutive terms, except that a member appointed before July 1, 2014, may serve one additional 4-year term when the member's current term expires.

(vii) The Governor may remove a member for neglect of duty, incompetence, or misconduct.

(d) The **CHIEF** Procurement [Advisor] **OFFICER** is the Chair of the Council.

(e) The Council shall meet at least twice each year.

(f) The staffing responsibilities of the Council shall be shared by:

(1) the agencies represented on the Council; and

(2) additional staff that the Board authorizes in accordance with the State budget.

(g) The Council shall:

(1) advise the Board on specific steps necessary to implement the recommendations of the Task Force Report;

(2) monitor and report to the Board the progress of implementation of the recommendations in the Task Force Report;

(3) establish subcommittees or working committees consisting of members of the Council and interested parties to address or study specific issues;

(4) with regard to the procurement of health, educational, and social services:

(i) effect and enhance communication between State units on procurement matters, with an emphasis on disseminating information on current developments and advances in procurement methods and management;

(ii) provide a forum for the discussion of specific procurement issues and problems that arise;

(iii) advise the Board on problems in the procurement process and make recommendations for improvement to the procurement process; and

(iv) review existing procurement regulations to determine whether they fulfill the intent and purpose of the law, especially as the law relates to fostering broad-based competition and making effective use of State funds for the delivery of health, educational, and social services; and

(5) on or before December 31 of each year, report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the Council's activities and recommendations regarding the procurement of health, educational, and social services by State agencies.

12-301.

(a) (1) Before issuing a request for proposals for an energy performance contract, [a primary procurement unit] ~~THE CHIEF PROCUREMENT OFFICER~~ A UNIT shall consult with the Maryland Energy Administration AND THE CHIEF PROCUREMENT OFFICER.

(2) The Maryland Energy Administration shall review the proposed request to ensure that it meets with the State energy standards, preserves the State's flexibility to investigate and use economically justifiable new technologies, and is in conformance with the unit's energy conservation plan that has been developed in accordance with § 4-806 of this article.

(b) (1) Notwithstanding any other provision of law and subject to the approval and control of the Board of Public Works **AND THE CHIEF PROCUREMENT OFFICER**, a [primary procurement] unit of State government is authorized to enter into energy performance contracts of up to 15 years' duration.

(2) The Treasurer may enter into a capital lease to finance energy performance contracts as provided in Title 8, Subtitle 4 of this article.

(3) The payments and the total contract amount due under an energy performance contract or, in the case of a capital lease used to finance energy performance contracts, the capital lease payments may not exceed the actual energy savings realized as a result of the contract's performance.

(4) (i) Before approval of an energy performance contract, the Board:

1. shall ensure that the projected annual energy savings attributable to the project will exceed the projected annual capital lease payments or payments to the contractor under the contract; and

2. based on the review of the Maryland Energy Administration, shall determine whether the proposed energy technology is appropriate for the time period provided in the contract.

(ii) The Board may:

1. authorize the use of incentive contracts, including contracts that guarantee energy savings performance; and

2. require prospective contractors to furnish appropriate guarantees to ensure that projected savings are realized.

(iii) Any guarantees required under subparagraph (ii) of this paragraph may include a requirement that the contractor furnish a bond or other assurance to the State in an appropriate amount to guarantee projected performance and that the bond or other assurance be structured so that a failure to meet guaranteed performance savings will forfeit a portion of the bond or other assurance to match the shortfall in energy savings.

13-101.

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

(b) “eMaryland Marketplace” means the Internet-based procurement system JOINTLY managed by the ~~[Department of General Services] CHIEF PROCUREMENT OFFICER~~ AND THE DEPARTMENT OF INFORMATION TECHNOLOGY.

(c) “Evaluated bid price” means the price of a bid after adjustment in accordance with objective measurable criteria.

(d) (1) “Objective measurable criteria” means standards that enable the State to compare the economy, effectiveness, or value of the subject of the bids.

(2) “Objective measurable criteria” includes standards of reliability, operational costs, maintainability, useful life, and residual value.

13-102.1.

(a) A unit may not charge a fee to access eMaryland Marketplace.

(b) (1) ~~[The Department of Budget and Management] AS APPROVED~~ SUBJECT TO APPROVAL BY THE BOARD OF PUBLIC WORKS, THE CHIEF PROCUREMENT OFFICER may establish fees for the use of eMaryland Marketplace by an entity that publishes a notice of a procurement, conducts a procurement, or publishes a notice of award.

(2) The ~~[Department of Budget and Management] CHIEF PROCUREMENT OFFICER~~ may not charge a unit, as defined in § 11-101(x) of this article, a fee under this subsection.

(C) (1) THERE IS AN ELECTRONIC TRANSACTION FUND IN THE DEPARTMENT OF GENERAL SERVICES.

(2) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THIS ARTICLE.

(3) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(4) THE FUND CONSISTS OF ANY FEES IMPOSED AND COLLECTED UNDER PARAGRAPH (B)(1) OF THIS SUBSECTION AND § 13-226(C) OF THIS TITLE.

(5) THE FUND SHALL BE USED BY THE DEPARTMENT OF GENERAL SERVICES TO COVER THE ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF ADMINISTERING CONTRACTS THROUGH THE USE OF ELECTRONIC TRANSACTIONS.

~~13-109.~~

~~(a) In this section, “small procurement” means a procurement for which:~~

~~(1) a unit spends \$25,000 or less;~~

~~(2) a contractor provides services subject to § 11-202(3) of this article for expected annual revenues of \$25,000 or less; or~~

~~(3) the Department of General Services is seeking to award a procurement contract for a construction with a value that is \$50,000 or less.~~

~~(b) A unit may make small procurements in accordance with [the] regulations [of primary procurement units] DEVELOPED BY THE CHIEF PROCUREMENT OFFICER AND ADOPTED BY THE BOARD.~~

~~(c) A [primary procurement] unit may not create a small procurement by artificial division of a procurement.~~

~~(d) Any regulation [of a primary procurement unit to govern] DEVELOPED BY THE CHIEF PROCUREMENT OFFICER FOR small procurements:~~

~~(1) shall provide for a simplified administrative procedure;~~

~~(2) shall be consistent with the basic intent of this Division II; and~~

~~(3) may not be disadvantageous economically to the State.~~

~~(e) At least every 3 years, the Board shall:~~

~~(1) review the prevailing costs of labor and materials; and~~

~~(2) if warranted by changes in cost, recommend to the General Assembly appropriate adjustments in the ceiling for a small procurement.~~

~~13-110.~~

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

~~(2) “Cooperative entity” means one or more State or local entities that enter into an agreement for the cooperative or joint administration of programs.~~

~~(3) “Governmental entity” means:~~

~~(i) the federal government or an agency or other instrumentality of the federal government;~~

~~(ii) another state or an agency or other instrumentality of another state;~~

~~(iii) a bistate or multistate agency;~~

~~(iv) a county, municipal corporation, or other political subdivision of the State or of another state, or an agency or other instrumentality of the political subdivision;~~

~~(v) a bicounty or multicounty agency;~~

~~(vi) a [primary procurement] unit; or~~

~~(vii) an affiliation, alliance, consortium, or group composed solely of governmental entities that is established for purposes of promoting intergovernmental cooperative purchasing.~~

~~(4) “Intergovernmental cooperative purchasing agreement” means a contract:~~

~~(i) 1. entered into by at least one governmental entity and a person selected in a manner that is consistent with the purposes set forth under § 11-201 of this article;~~

~~2. that is available for use by the governmental entity entering the contract and at least one additional governmental entity which may, but need not be, an original party to the contract; and~~

~~3. that is intended to promote efficiency and savings that can result from intergovernmental cooperative purchasing; or~~

~~(ii) between a [primary procurement] unit and a person who, at the time the intergovernmental cooperative purchasing agreement is awarded, has a contract with the federal government or an agency or other instrumentality of the federal government, and who agrees to provide the unit with identical prices, terms, and conditions as stipulated in the federal contract.~~

~~(5) (i) “Local entity” means a county, municipal corporation, bicounty or multicounty agency, public authority, special taxing district, or other political subdivision or unit of a political subdivision of this State.~~

~~(ii) “Local entity” includes boards of education and library boards that receive funding from the State.~~

~~(6) “Not for profit entity” means a corporation incorporated in the State, or otherwise qualified to do business in the State that has been determined by the Internal Revenue Service to be exempt from taxation under § 501(c)(3), (4), or (6) of the Internal Revenue Code.~~

~~(7) “State entity” means a department, board, commission, agency, or a subunit in the Executive branch of State government.~~

~~(b) (1) Subject to § 12-107 of this article, whenever a [primary procurement unit] procurement officer OF A UNIT determines that it is in the best interest of the State to sponsor or participate in an intergovernmental cooperative purchasing agreement, with the approval of the unit head, OVERSIGHT BY THE CHIEF PROCUREMENT OFFICER, and subject to any other approval required by law, the [primary procurement] unit may become a party to or participate under the agreement.~~

~~(2) A determination under this subsection shall be in writing and include a statement that the intergovernmental cooperative purchasing agreement:~~

~~(i) will provide cost benefits to the State, promote administrative efficiencies, or promote intergovernmental cooperation; and~~

~~(ii) is not intended to evade the purposes of this Division II.~~

~~(3) If a [primary procurement] unit sponsors an intergovernmental cooperative purchasing agreement:~~

~~(i) the contract shall be awarded in the same manner as the contract would be awarded under this Division II if the unit was the sole participant under the contract; and~~

~~(ii) all procedures under this Division II, including procedures governing contract claims and protests, shall apply.~~

~~(4) If a [primary procurement] unit participates in an intergovernmental cooperative purchasing agreement, any protest or contract claim involving the agreement shall be handled in accordance with the terms of the agreement.~~

~~(e) (1) Except as provided in paragraph (2) of this subsection, each procurement contract for supplies or services entered into by a State or local entity shall~~

~~include a provision that facilitates other State and local entities and not-for-profit entities to participate in the contract.~~

~~(2) (i) This subsection does not apply to:~~

~~1. a procurement for a capital facility, improvement, or other unique purchase; or~~

~~2. a procurement with a projected value of less than \$100,000.~~

~~(ii) This subsection does not apply if the State or local entity determines that including the provision would:~~

~~1. undermine the desired timing or effect of the procurement;~~

~~2. interfere with the State or local entity's ability to meet:~~

~~A. the minority business enterprise goals provided under § 14-302 of this article or any other minority business enterprise program sponsored by the local entity; or~~

~~B. the Small Business Reserve Program requirements under § 14-502 of this article or any other small business procurement program sponsored by the local entity; or~~

~~3. not be in the best interest of the entity.~~

~~(d) (1) A State or local entity may enter into an agreement for the cooperative or joint administration of programs with one or more other State or local entities.~~

~~(2) A cooperative entity established under this section may administer the programs and exercise the powers and duties specifically delegated to the cooperative entity by the agreement that established the cooperative entity.~~

~~(3) An agreement described under this subsection does not relieve a State or local entity or other participant of the agreement from any obligation or responsibility imposed on the entity by law.~~

~~(e) Notwithstanding any other law, a local entity may participate in an existing State or local contract drafted in accordance with this section, if the governing body of the entity determines that participation would:~~

~~(1) provide a cost savings in purchase price or administrative burden; or~~

~~(2) further other policy goals including operational and energy efficiency goals related to the purchase, operation, or maintenance of the supply or service.~~

13-111.

~~(a) This section applies to the procurement of supplies, with an estimated contract value of \$1,000,000 or more, by a [primary procurement] unit.~~

~~(b) (1) Whenever the head of a [primary procurement] unit or designee determines that it is in the best interest of the State for a procurement contract to be based on auction bids, a procurement officer shall seek bids by issuing an invitation for auction bids **UNDER THE OVERSIGHT OF THE CHIEF PROCUREMENT OFFICER.**~~

~~(2) Subject to subsection (c) of this section, an invitation for auction bids shall include:~~

~~(i) the specifications of the procurement contract;~~

~~(ii) whether the procurement contract will be awarded based on the lowest bid price or the lowest evaluated bid price;~~

~~(iii) if the procurement contract will be based on evaluated bid price, the objective measurable criteria by which the lowest evaluated bid price will be determined;~~

~~(iv) the small business preference, if designated under § 13-103 of this subtitle; and~~

~~(v) the date and time when bidding will commence and the date and time when bidding will end or the event upon which bidding will end.~~

~~(c) (1) In the discretion of the procurement officer, the invitation for auction bids may:~~

~~(i) include a request for unpriced technical offers or samples;~~

~~(ii) direct bidders to submit price bids after the unit evaluates the technical offers or samples and finds they are acceptable under the criteria set forth in the invitation for auction bids; and~~

~~(iii) inform all bidders who submitted technical offers or samples of the identity of each bidder who submitted an acceptable technical offer or sample.~~

~~(2) Price bids may not be received until after the unit has completed evaluation of the technical offers or samples.~~

~~(3) A price bid may not be received at any time if the bid is submitted by a bidder whose technical offer or sample has been evaluated as unacceptable to the unit.~~

~~(d) A unit shall give public notice of an invitation for auction bids in the same manner as required for an invitation for bids.~~

~~(e) (1) (i) Multiple price bids are permitted in response to an invitation for auction bids.~~

~~(ii) When a bidder submits multiple bids, each bid shall be judged independently and shall not revoke previous bids of that bidder.~~

~~(2) A procurement officer shall:~~

~~(i) receive bids in public at the time and place designated in the invitation for auction bids; and~~

~~(ii) record and post the amount of each bid at the time it is received.~~

~~(3) (i) The amount of a price bid shall be available for public inspection from the time it is received.~~

~~(ii) The identity of the bidder submitting a price bid shall not be available for public inspection until bidding has ended.~~

~~(4) Except as provided in paragraph (5) of this subsection, a bid is irrevocable, after receipt, for the period specified in the invitation for auction bids.~~

~~(5) A procurement officer may allow a bidder to correct or withdraw a bid if correction or withdrawal is:~~

~~(i) allowed under regulations adopted under this Division II applicable to an invitation for bids; and~~

~~(ii) approved in writing by the Office of the Attorney General.~~

~~(f) (1) After obtaining any approval required by law, the procurement officer shall award the procurement contract to the responsible bidder who submits the responsive bid that:~~

~~(i) is the lowest bid price; or~~

~~(ii) if the invitation for auction bids so provides, is the lowest evaluated bid price.~~

~~(2) If, after bids have been received, a procurement officer determines that only one responsible bidder has submitted a responsive bid, the unit may negotiate the procurement contract with that one bidder under the procedure for sole source procurement.~~

~~(3) (i) After bids have been received, a procurement officer may award a procurement contract on the basis of revised bids if:~~

~~1. all bids are rejected under § 13-206(b) of this title;~~
~~2. all bid prices exceed the funds available for the procurement; or~~

~~3. with the approval of the head of a [primary procurement] unit or a designee AND UNDER THE OVERSIGHT OF THE CHIEF PROCUREMENT OFFICER, the procurement officer determines that all bids are unreasonable as to at least one requirement and the delay that would result from issuing a new invitation for auction bids with revised specifications or quantities would be fiscally disadvantageous or otherwise not in the best interests of the State.~~

~~(ii) If there is more than one bidder, discussions about revised specifications or quantities shall be conducted with all responsible bidders who submitted responsive bids. The bidders shall be treated fairly and equally with respect to any discussions.~~

~~(iii) If one of the conditions set forth under subparagraph (i) of this paragraph exists, as promptly as possible, the procurement officer shall:~~

~~1. issue an invitation for revised auction bids, which shall state whether the award will be made without competitive negotiations; and~~

~~2. require a prompt response to that invitation.~~

~~(iv) An invitation for revised auction bids is not subject to the notice requirements in subsection (d) of this section.~~

~~(v) After revised bids have been submitted, negotiations with bidders may not be conducted unless the procurement officer determines that there is a compelling reason to negotiate.~~

~~(vi) After revised bids have been received and any approval required by law has been obtained, the procurement officer shall award the procurement contract to the responsible bidder who submits a responsive bid that:~~

~~1. is the lowest bid price; or~~

~~2. if the invitation for revised bids so provides, is the lowest evaluated bid price.~~

(g) Not more than 30 days after the execution and approval of a procurement contract awarded under this section, a unit shall publish notice of the award[:

- and
- (1) until July 1, 2006, in the Contract Weekly and eMaryland Marketplace;
 - (2) on and after July 1, 2006,] in eMaryland Marketplace.

~~13-204.~~

~~(a) (1) By regulation, [each of the primary procurement units] A UNIT, UNDER THE OVERSIGHT OF THE CHIEF PROCUREMENT OFFICER, may provide for the prequalification of persons as prospective responsible bidders or offerors for procurements other than leases of real property.~~

~~(2) Each [of the primary procurement units] UNIT shall keep a register of all prequalified persons.~~

~~[(3) Persons prequalified as prospective responsible bidders or offerors by a primary procurement unit for procurements of direct or indirect work related services shall be deemed to be prequalified for the purposes of procurements by the Department of Human Resources of direct or indirect work related services to benefit current recipients, former recipients or non-custodial parents of children who are current or former recipients of family investment program benefits.]~~

~~(b) If a [primary procurement] unit [or the Department of Human Resources] uses a prequalification procedure for awarding a procurement contract:~~

- ~~(1) a person who is not prequalified may submit a bid or proposal; and~~
- ~~(2) after bid opening or receipt of proposals and before awarding the procurement contract, a procurement officer may determine that:

 - ~~(i) a person who was not prequalified at the time of bid opening or receipt of proposals is a responsible bidder or offeror; or~~
 - ~~(ii) a prequalified person is not a responsible bidder or offeror.~~~~

~~13-217.~~

~~(a) In this section, "multi-year contract" means a procurement contract that requires appropriations for more than 1 fiscal year.~~

- ~~(b) (1) A unit may enter into a multi-year contract subject to:

 - ~~(i) standards established by the Board; and~~~~

~~(ii) regulations DEVELOPED BY THE CHIEF PROCUREMENT OFFICER AND adopted by the [primary procurement unit that is responsible for the type of procurement involved] BOARD.~~

~~(2) A multi-year contract shall be subject to review and approval by [that primary procurement unit] THE CHIEF PROCUREMENT OFFICER.~~

~~(e) A multi-year contract may not be approved unless each unit reviewing the multi-year contract determines that:~~

~~(1) the estimated requirements of the State:~~

~~(i) cover the period of the multi-year contract;~~

~~(ii) are reasonably firm; and~~

~~(iii) are continuing; and~~

~~(2) the multi-year contract will serve the best interests of the State by encouraging effective competition or otherwise promoting economy in State procurement.~~

~~(d) (1) If money sufficient for the continued performance of a multi-year contract is not appropriated for any fiscal year, the multi-year contract terminates automatically on the earlier of:~~

~~(i) the last day of the fiscal year for which money last was appropriated; or~~

~~(ii) the date provided in the termination clause of the procurement contract.~~

~~(2) If the multi-year contract is terminated under this subsection, the unit shall reimburse the contractor for the reasonable value of any nonrecurring costs that were:~~

~~(i) incurred as a result of the multi-year contract; but~~

~~(ii) not amortized in the price of the supplies or services delivered under the multi-year contract.~~

~~(3) The cost of termination under this subsection may be paid from any appropriation available for that purpose.~~

~~(e) Except as provided in subsection (f) of this section, each multi-year contract, including a lease of real property, shall include an automatic termination clause that:~~

~~(1) is not inconsistent with the requirements of subsection (d) of this section; and~~

~~(2) discharges both parties to the multi-year contract from future performance of that contract, but not from their existing obligations.~~

~~(f) (1) On the recommendation of the Secretary of General Services, the Board may waive the requirement to include an automatic termination clause under subsection (e) of this section for a multi-year contract to procure energy generated from a Tier 1 renewable source or a Tier 2 renewable source, as defined in § 7-701 of the Public Utilities Article.~~

~~(2) In determining whether or not to grant a waiver under paragraph (1) of this subsection, the Board shall consider the effect of imposing the termination clause requirement under subsection (e) of this section on the ability of the energy supplier to obtain financing for the renewable energy generation project that produces the energy that the State is contracting to procure.~~

~~13-218.~~

~~(a) Each procurement contract shall include clauses covering:~~

~~(1) termination for default;~~

~~(2) termination wholly or partly by the State for its convenience if the head of the [primary procurement] unit, UNDER THE OVERSIGHT OF THE CHIEF PROCUREMENT OFFICER, determines that termination is appropriate;~~

~~(3) variations that occur between estimated and actual quantities of work in a procurement contract;~~

~~(4) liquidated damages, as appropriate;~~

~~(5) specified excuses for nonperformance;~~

~~(6) except for real property leases, the unilateral right of the State to order in writing:~~

~~(i) changes in the work, if the changes are within the scope of the procurement contract; and~~

~~(ii) a temporary stop or delay in performance;~~

~~(7) the obligation of the contractor to comply with the political contribution reporting requirements under Title 14 of the Election Law Article, to which the contractor may be subject as required under § 17-402 of this article; and~~

~~(8) nonvisual access for information technology as required under § 3A-312 of this article.~~

~~(b) In addition to the clauses required under subsection (a) of this section, a procurement contract for construction shall include:~~

~~(1) a clause providing for contract modification if the condition of a site differs from the condition described in the specifications; and~~

~~(2) a clause covering the requirements for notice of contract claims, submission of contract claims, and resolution of contract claims under § 15-219 of this article.~~

~~(c) Each procurement contract shall include a clause that gives to the parties notice that preexisting regulations apply to the procurement contract in accordance with § 11-206 of this article.~~

~~(d) At any time after the parties enter into a procurement contract they may include additional clauses in the procurement contract, by consent, without consideration.~~

~~(e) A clause required under this section for contract modification or change orders to a procurement contract for construction shall:~~

~~(1) make each contract modification or change order that affects the price of the procurement contract subject to:~~

~~(i) prior written approval from the unit and any other person responsible for the procurement contract; and~~

~~(ii) prior certification by the fiscal authority responsible for the unit about:~~

~~1. the availability of money; and~~

~~2. the effect of the contract modification or change order on the project budget or the total construction cost; and~~

~~(2) prohibit the contract modification or change order if the certification by the fiscal authority discloses that the contract modification or change order will increase the cost beyond budgeted and available money, unless:~~

~~(i) sufficient additional money is made available; or~~

~~(ii) the scope of the project is adjusted to allow completion within the project budget.~~

- (a) (1) ~~In this section the following words have the meanings indicated.~~
- (2) ~~“Payment security” has the meaning stated in § 17-101 of this article.~~
- (3) ~~“Performance security” has the meaning stated in § 17-101 of this article.~~
- (b) (1) ~~If a contractor has furnished 100% payment security and 100% performance security in accordance with Title 17, Subtitle 1 of this article under a State procurement contract for construction, the percentage specified in the contract for retainage may not exceed 5% of the total amount.~~
- (2) ~~In addition to retainage, a [primary procurement] unit [and the Maryland Transportation Authority], **UNDER THE OVERSIGHT OF THE CHIEF PROCUREMENT OFFICER**, may withhold from payments otherwise due a contractor any amount that the unit reasonably believes necessary to protect the State’s interest.~~
- (3) ~~Retainage withheld by a [primary procurement] unit [and the Maryland Transportation Authority] may be deposited in an interest-bearing escrow account in accordance with § 15-108 of this article.~~
- (c) (1) ~~A contractor may not retain a percentage of payments due a subcontractor that exceeds the percentage of payments retained by the [primary procurement] unit [or the Maryland Transportation Authority].~~
- (2) ~~Paragraph (1) of this subsection may not be construed to prohibit a contractor from withholding any amount in addition to retainage if the contractor determines that a subcontractor’s performance under the subcontract provides reasonable grounds for withholding the additional amount.~~
- (d) (1) ~~A subcontractor may not retain a percentage of payments due a lower tier subcontractor that exceeds the percentage of payments retained from the subcontractor.~~
- (2) ~~Paragraph (1) of this subsection may not be construed to prohibit a subcontractor from withholding any amount in addition to retainage if the subcontractor determines that a lower tier subcontractor’s performance under the subcontract provides reasonable grounds for withholding the additional amount.~~
- (e) ~~If retainage has been placed in escrow under § 15-108 of this article, each payment of retainage shall include a pro rata portion of interest earned.~~
- (f) ~~This section may not be construed to limit the application of the provisions of Title 17, Subtitle 1 of this article.~~

13-226.

~~(a) Unless otherwise prohibited by law, a [primary procurement] unit, **UNDER THE OVERSIGHT OF THE CHIEF PROCUREMENT OFFICER**, may conduct procurement, including the solicitation, bidding, award, execution, and administration of a contract, by electronic means as provided in the Uniform Electronic Transactions Act in Title 21 of the Commercial Law Article.~~

~~(b) Bidding on a procurement contract by electronic means shall constitute consent by the bidder to conduct by electronic means all elements of the procurement of that contract which the unit agrees to conduct by electronic means.~~

(c) (1) **(I)** Except as provided in paragraph (2) of this subsection, a unit utilizing electronic means to conduct procurement or a private contractor furnishing to the State electronic means for conducting procurement may charge a reasonable fee, **AS DETERMINED IN CONSULTATION WITH THE CHIEF PROCUREMENT OFFICER**, to the bidder for the use of the electronic means.

(II) ANY FEES COLLECTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE DEPOSITED IN THE ELECTRONIC TRANSACTION FUND ESTABLISHED UNDER § 13-102.1(C) OF THIS SUBTITLE.

(2) Unless approved by the Board of Public Works, a fee may not be charged under this subsection.

~~(d) The terms and conditions of a procurement conducted under this section shall comply with the Uniform Electronic Transactions Act in Title 21 of the Commercial Law Article.~~

~~15-111.~~

~~(a) Within 90 days after the end of each fiscal year, each [primary procurement] unit shall submit to the Governor and to the General Assembly a report on each procurement contract that was awarded during the preceding fiscal year and:~~

~~(1) was exempt from the notice requirements of § 13-103(e) of this article because the procurement officer reasonably expected that the procurement contract would be performed entirely outside this State and the District of Columbia;~~

~~(2) cost more than \$100,000 and was awarded for the procurement of services, construction related services, architectural services, or engineering services; or~~

~~(3) was awarded on the basis of:~~

~~(i) § 13-107 of this article (“Sole source procurement”);~~

- (ii) ~~§ 13-108(a) of this article (“Emergency procurement”); or~~
- (iii) ~~§ 13-108(e) of this article (“Expedited procurement”).~~

(b) (1) ~~A report required under subsection (a)(2) or (3) of this section shall include:~~

- (i) ~~the name of each contractor;~~
- (ii) ~~the type and cost of the procurement contract; and~~
- (iii) ~~a description of the procurement.~~

(2) ~~A report required under subsection (a)(3) of this section also shall describe the basis for the award.~~

(e) ~~Within 90 days after the end of each fiscal year, the Governor shall submit to the General Assembly a report on each expedited procurement approved under § 13-108(e) of this article.~~

(d) ~~Within 90 days after the end of each fiscal year, the Department of Budget and Management shall submit to the Board and the General Assembly a report on each class of procurement for which the procedure for noncompetitive negotiated procurement has been approved under § 13-106 of this article.~~

(e) ~~A report to the General Assembly under this section is subject to § 2-1246 of the State Government Article.~~

~~15-216.~~

(a) ~~Title 10, Subtitle 2 of the State Government Article does not apply to the disposition of a protest or a contract claim by:~~

- (1) ~~[a primary procurement unit;~~
- (2) ~~] a procurement officer; or~~
- (3) ~~(2) a unit.~~

(b) ~~The Appeals Board shall conduct its proceedings in accordance with Title 10, Subtitle 2 of the State Government Article.~~

~~15-217.~~

(a) (1) ~~A prospective bidder or offeror, a bidder, or an offeror may submit a protest to the procurement officer.~~

~~(2) A unit or a person who has been awarded a procurement contract may submit a contract claim to the procurement officer.~~

~~(b) Except as provided in § 15-219 of this subtitle, a protest or contract claim shall be submitted within the time required under regulations DEVELOPED BY THE CHIEF PROCUREMENT OFFICER AND adopted by the [primary procurement unit responsible for the procurement] BOARD.~~

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2020, the Chief Procurement Officer shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee on:

~~(1) a structure for delegating and overseeing specified types of procurement to units with expertise in those types of procurement;~~

~~(2)~~ (1) the development of performance metrics and the implementation of strategic sourcing;

~~(3)~~ (2) recommendations for consolidating and deleting reporting requirements;

~~(4)~~ (3) recommendations for reporting requirements for units exempt from the oversight of the Board of Public Works, including procurements for which the Maryland Department of Transportation and the University System of Maryland are exempt;

~~(5)~~ (4) whether the policy of the State as provided by § 13-102 of the State Finance and Procurement Article, which requires the use of competitive sealed bids unless another procurement method is specifically authorized, should be changed and how;

~~(6)~~ (5) whether the small procurement dollar thresholds established under § 13-109 of the State Finance and Procurement Article should be raised and to what amount; and

~~(7)~~ (6) recommendations on what exemptions from State procurement laws and obsolete programs should be repealed, including the Small Business Preference Program.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before October 1, 2018, ~~the General Counsel to the Board of Public Works and~~ the Office of the Attorney General shall report to the ~~Governor~~ Board of Public Works and, in accordance with § 2-1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee on a process for establishing a centralized procurement attorney office ~~in the State to provide consistent interpretation and application of procurement laws to the Board of Public Works and procurement staff throughout the State~~ within the Office of the Attorney General to

represent all State procurement units in matters within the jurisdiction of the Maryland State Board of Contract Appeals.

SECTION 4. AND BE IT FURTHER ENACTED, That, on or before October 1, 2018, the Board of Public Works and the Department of Budget and Management shall:

(1) review the job title, classifications, and compensation for procurement-related positions in the State Personnel Management System established by § 2-202 of the State Personnel and Pensions Article; and

(2) (i) rename and reclassify procurement-related positions in the State Personnel and Management System, taking into account procurement-related positions in small agencies as described in Section 8(2) of this Act, as necessary for the purpose of establishing:

1. clear lines of authority under the Chief Procurement Officer;

2. a single path of advancement for procurement professionals in the State Personnel Management System; and

3. consistent job titles and compensation for procurement staff performing similar duties in or on behalf of different agencies; and

(ii) in renaming and reclassifying procurement-related positions, ensure that no current employees experience a diminution in responsibilities or compensation as a result of the reclassification.

~~SECTION 5. AND BE IT FURTHER ENACTED, That, on or before October 1, 2019, the Board of Public Works, in consultation with the University System of Maryland and the Maryland Department of Transportation, shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on strategies to enhance the authority of the Chief Procurement Officer over procurement staff employed under independent personnel management systems, including the feasibility of including those staff under the State Personnel Management System.~~

SECTION 5. AND BE IT FURTHER ENACTED, That, on or before October 1, 2018, the Department of General Services, in consultation with the Department of Budget and Management, the Department of Information Technology, the Department of Public Safety and Correctional Services, the Department of Transportation, and the Maryland Port Commission, shall report to the Governor, the Board of Public Works, and, in accordance with § 2-1246 of the State Government Article, the General Assembly on the administrative work plan to implement Section 1 of this Act, including a structure for delegating and overseeing specified types of procurement to units with expertise in those types of procurement.

~~SECTION 6. AND BE IT FURTHER ENACTED, That, to the extent practicable, the Chief Procurement Officer established under this Act shall use staff currently working for the Board of Public Works and transfer procurement staff from other agencies to assist in carrying out the duties of the Chief Procurement Officer as established by this Act.~~

SECTION ~~7~~ 6. AND BE IT FURTHER ENACTED, That all persons who are classified employees of a State agency as of October 1, 2019, and who are transferred under this Act to employment under the authority of the Chief Procurement Officer shall be transferred without any diminution of their rights, benefits, or employment status, including, if any, merit system and retirement status.

SECTION ~~8~~ 7. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that, at the discretion of the Chief Procurement Officer:

(1) procurement staff who provide procurement services exclusively to a particular State agency may be housed at that State agency; and

(2) procurement staff employed or hired in smaller agencies who have significant duties separate and apart from procurement matters may continue employment with their agencies while handling procurement matters for their agencies under the authority of and consistent with policies and procedures established by the Chief Procurement Officer.

SECTION ~~9~~ 8. AND BE IT FURTHER ENACTED, That Sections 1, 2, 6, ~~7~~, and ~~8~~ and 7 of this Act shall take effect October 1, 2019.

SECTION ~~10~~ 9. AND BE IT FURTHER ENACTED, That, except as provided in Section ~~9~~ 8 of this Act, this Act shall take effect October 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 591

(Senate Bill 319)

AN ACT concerning

Pathways in Technology Early College High (P-TECH) School Act of 2017

FOR the purpose of establishing the Pathways in Technology Early College High (P-TECH) School Program; requiring the State Department of Education, in consultation with the Maryland Higher Education Commission, to administer and develop the Program; requiring a P-TECH school to meet certain requirements; requiring a certain memorandum of understanding to include certain provisions; prohibiting a certain student from being considered a dually enrolled student under certain

circumstances; establishing a certain P–TECH Planning Grant Program; stating the purpose of the Program; prohibiting no more than a certain number of planning grants in a certain local school system, beginning in a certain fiscal year; requiring certain funds ~~and the distribution of certain grants~~ to be as provided in the State budget; prohibiting certain grants from being awarded to establish a certain school until a certain cohort of students completes a certain pathway sequence; prohibiting a P–TECH student from being required to pay certain costs; requiring P–TECH students to be included in a certain full–time equivalent enrollment calculation in a certain manner; requiring certain credit hours to be included in a certain funding calculation for certain community colleges; specifying the State and local shares of certain supplemental grants; requiring the Department to adopt certain regulations; requiring the Department, in consultation with the Commission, to make a certain report to the Governor and the General Assembly on or before a certain date each year; requiring the Department, in consultation with the Commission, to submit a certain analysis and evaluation to the Governor and the General Assembly on or before a certain date; repealing certain provisions of law; altering certain defined terms; defining certain terms; and generally relating to the Pathways in Technology Early College High School Program.

BY repealing and reenacting, with amendments,

Article – Education

Section 5–202(a)(6), 7–1801, ~~and~~ 16–305(b)(12), and 16–502(e)

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

BY adding to

Article – Education

Section 7–1802 through 7–1806

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

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

Article – Education

5–202.

(a) (6) “Full–time equivalent enrollment” means the sum of:

(i) The number of students enrolled in grades 1 through 12 or their equivalent in regular day school programs on September 30 of the previous school year;

(ii) Except as provided in item (iii) of this paragraph, the product of the number of students enrolled in kindergarten programs on September 30 of the prior school year and:

1. 0.60 in fiscal year 2004;
2. 0.70 in fiscal year 2005;
3. 0.80 in fiscal year 2006;
4. 0.90 in fiscal year 2007; and
5. 1.00 in fiscal year 2008 and each fiscal year thereafter;

(iii) In Garrett County, the number of students enrolled in kindergarten programs on September 30 of the prior school year; [and]

(iv) The number of full-time equivalent students, as determined by a regulation of the Department, enrolled in evening high school programs during the previous school year; AND

(V) THE NUMBER OF P-TECH STUDENTS, AS PROVIDED IN § 7-1804(B) OF THIS ARTICLE.

7-1801.

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

(B) “COLLEGE PARTNER” MEANS AN INSTITUTION OF HIGHER EDUCATION THAT:

(1) HAS RECEIVED A CERTIFICATE OF APPROVAL FROM THE COMMISSION UNDER TITLE 11, SUBTITLE 2 OF THIS ARTICLE;

(2) HAS ENTERED INTO A MEMORANDUM OF UNDERSTANDING WITH A P-TECH SCHOOL;

(3) HELPS TO DEVELOP AND COORDINATE THE PATHWAY SEQUENCE;
AND

(4) PROVIDES STUDENT SUPPORT SERVICES TO P-TECH STUDENTS.

[(2)] (C) “Commission” means the Maryland Higher Education Commission.

[(3)] (D) “County board” includes a consortium of county boards that have an agreement to operate a P-TECH school that serves the students in the local school systems that are part of the consortium.

(E) “INDUSTRY PARTNER” MEANS AN EMPLOYER THAT:

(1) HAS ENTERED INTO A MEMORANDUM OF UNDERSTANDING WITH A P-TECH SCHOOL;

(2) HELPS DEVELOP AND COORDINATE THE PATHWAY SEQUENCE;
AND

(3) PROVIDES MENTORING AND INTERNSHIP OPPORTUNITIES FOR P-TECH STUDENTS.

[(4) “P-TECH curriculum” means a course of study leading to an associate degree or a Commission-approved certificate.]

[(5)] (F) “P-TECH school” means a Pathways in Technology Early College High school that:

[(i)] (1) Is a public secondary school selected by the Department;

[(ii)] (2) Partners with [an institution of higher education that has received a certificate of approval from the Commission under Title 11, Subtitle 2 of this article] A COLLEGE PARTNER; [and]

(3) PARTNERS WITH AN INDUSTRY PARTNER; AND

[(iii)] (4) [1. Submitted a memorandum of understanding to the Department on or before March 15, 2016; and

2.] Has executed a memorandum of understanding in accordance with [subsection (c) of this section on or before July 1, 2016] § 7-1802(B)(2) OF THIS SUBTITLE.

[(6)] (G) “P-TECH school costs” means the following costs of operating a P-TECH school and offering and administering a [P-TECH curriculum] PATHWAY SEQUENCE:

[(i)] (1) Additional staff for the P-TECH school to implement the [P-TECH curriculum] PATHWAY SEQUENCE;

[(ii)] (2) Instructional support services [such as] INCLUDING professional development for staff for the [P-TECH curriculum, P-TECH curriculum] PATHWAY SEQUENCE, PATHWAY SEQUENCE materials, additional teacher planning, and additional coordination;

[(iii)] (3) Extended day programs; [and]

~~[(iv)]~~ **(4)** Student support services [such as] **INCLUDING** counseling, tutoring, student career exploration, and student events relating to [P-TECH curriculum and dual enrollment] **A PATHWAY SEQUENCE;**

(5) STUDENT TEXTBOOKS, MATERIALS, OR TECHNOLOGY THAT A STUDENT IS REQUIRED TO USE AS PART OF THE PATHWAY SEQUENCE; AND

(6) TRANSPORTATION SERVICES.

~~[(7)]~~ **(H)** “P-TECH student” means a [full-time equivalent] student enrolled in a P-TECH school.

(I) “PATHWAY SEQUENCE” MEANS A CURRICULUM OR COURSE OF STUDY AT A P-TECH SCHOOL THAT LEADS TO A HIGH SCHOOL DIPLOMA AND AN ASSOCIATE’S DEGREE THAT MAY BE COMPLETED WITHIN A 6-YEAR TIME PERIOD.

(J) “PROGRAM” MEANS THE PATHWAYS IN TECHNOLOGY EARLY COLLEGE HIGH SCHOOL PROGRAM.

~~[(b)]~~ **(1)** **(i)** There are six planning grants authorized for State-funded P-TECH schools in the State.

(ii) No more than two planning grants may be awarded in any jurisdiction.

(2) A P-TECH school shall reserve at least 50% of its available space for students who meet the free and reduced price meal income criteria.

(3) A P-TECH school may be established as a school within a school.

(4) A P-TECH school shall be established through a memorandum of understanding executed between one or more industry partners, one or more institutions of higher education described under subsection (a)(5)(ii) of this section, and a county board.

(c) The memorandum of understanding executed under subsection (b)(4) of this section shall include the following provisions:

(1) Substantive mentoring of P-TECH students;

(2) At least one paid summer internship of at least 6 weeks duration per student; and

(3) P-TECH students are first in line for consideration of a job at the industry partner after graduation.

(d) (1) (i) Beginning in fiscal year 2017 and in each fiscal year thereafter, the State shall distribute P-TECH school grants to county boards for a P-TECH school within a county.

(ii) The grants shall be distributed proportionately based on enrollment in each P-TECH school.

(2) The P-TECH school grants shall be used for P-TECH school costs.

(e) (1) In fiscal year 2017 and in each fiscal year thereafter and in addition to any other amount provided by law, the amount provided for each P-TECH student is \$520.

(2) The State contribution is 50% for each P-TECH student.

(f) (1) The Department shall adopt regulations to carry out the provisions of this section.

(2) The regulations shall include verification by the school district of:

(i) P-TECH student enrollment;

(ii) P-TECH school costs;

(iii) The performance of the P-TECH students on federal and State assessments;

(iv) The number of P-TECH students dually enrolled in the community college; and

(v) The number of P-TECH students graduating from the school, receiving an associate degree or Commission-approved certificate, and the year in which they graduated and received the degree or certificate.

(g) On or before December 1 of each year, the Department, in consultation with the Commission, shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly regarding the implementation of P-TECH schools in the State, including:

(1) The number of students enrolled in each P-TECH school;

(2) The industry partners associated with each P-TECH school;

(3) The curriculum created for each P-TECH school;

(4) The performance of the P-TECH students on federal and State assessments;

(5) The number of P-TECH students dually enrolled in a community college; and

(6) The number of P-TECH students graduating from the school, receiving an associate's degree or Commission-approved certificate, and the year in which they graduated and received the degree or certificate.]

7-1802.

(A) (1) THERE IS A PATHWAYS IN TECHNOLOGY EARLY COLLEGE HIGH SCHOOL PROGRAM IN THE STATE.

(2) THE DEPARTMENT, IN CONSULTATION WITH THE COMMISSION, SHALL ADMINISTER AND DEVELOP THE PROGRAM TO ASSIST COUNTY BOARDS IN ESTABLISHING P-TECH SCHOOLS.

(B) (1) A P-TECH SCHOOL:

(I) SHALL:

1. RESERVE AT LEAST 50% OF ITS AVAILABLE SPACE FOR STUDENTS WHO MEET THE FREE AND REDUCED PRICE MEAL INCOME CRITERIA; AND

2. BE ESTABLISHED THROUGH A MEMORANDUM OF UNDERSTANDING EXECUTED BETWEEN ONE OR MORE INDUSTRY PARTNERS, ONE OR MORE COLLEGE PARTNERS, AND A COUNTY BOARD; AND

(II) MAY BE ESTABLISHED AS A SCHOOL WITHIN A SCHOOL.

(2) THE MEMORANDUM OF UNDERSTANDING EXECUTED IN ACCORDANCE WITH PARAGRAPH (1)(I)2 OF THIS SUBSECTION SHALL INCLUDE PROVISIONS ENSURING THAT:

(I) EACH P-TECH STUDENT RECEIVES:

1. SUBSTANTIVE MENTORING BY AN INDUSTRY PARTNER; AND

2. AT LEAST ONE PAID SUMMER INTERNSHIP OF AT LEAST 6 WEEKS' DURATION WITH AN INDUSTRY PARTNER; AND

(II) P-TECH STUDENTS ARE FIRST IN LINE FOR CONSIDERATION FOR A JOB AT THE INDUSTRY PARTNER AFTER GRADUATION.

(C) A STUDENT WHO IS ENROLLED IN A P-TECH SCHOOL MAY NOT BE CONSIDERED A DUALY ENROLLED STUDENT UNDER TITLE 18, SUBTITLE 14A OF THIS ARTICLE.

7-1803.

(A) (1) THERE IS A P-TECH PLANNING GRANT PROGRAM IN THE STATE.

(2) THE PURPOSE OF THE P-TECH PLANNING GRANT PROGRAM IS TO PROVIDE GRANTS TO COUNTY BOARDS TO PLAN AND DEVELOP P-TECH SCHOOLS IN THE STATE.

(B) ~~IN EACH YEAR~~ EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, BEGINNING IN FISCAL YEAR 2018, NO MORE THAN ~~TWO~~ ONE P-TECH PLANNING ~~GRANTS~~ GRANT MAY BE AWARDED IN A LOCAL SCHOOL SYSTEM.

(C) FUNDS FOR THE P-TECH PLANNING GRANT PROGRAM ~~AND DISTRIBUTION OF GRANTS~~ SHALL BE AS PROVIDED IN THE STATE BUDGET.

(D) BEGINNING IN FISCAL YEAR 2019, NO NEW P-TECH PLANNING GRANT MAY BE AWARDED TO ESTABLISH A NEW P-TECH SCHOOL UNTIL THE 2016-2017 COHORT OF P-TECH STUDENTS COMPLETES THE 6-YEAR PATHWAY SEQUENCE.

7-1804.

(A) A P-TECH STUDENT MAY NOT BE REQUIRED TO PAY ANY COST THAT IS RELATED TO ENROLLMENT AND PARTICIPATION IN THE PROGRAM, INCLUDING TUITION AND MANDATORY FEES.

(B) P-TECH STUDENTS SHALL BE INCLUDED IN THE FULL-TIME EQUIVALENT ENROLLMENT UNDER § 5-202 OF THIS ARTICLE AS FOLLOWS:

~~(1) MULTIPLY THE NUMBER OF STUDENTS WHO ARE ENROLLED IN YEARS ONE THROUGH FOUR OF THE PROGRAM BY 1.00;~~

~~(2)~~ MULTIPLY THE NUMBER OF STUDENTS WHO ARE ENROLLED IN THE FIFTH YEAR OF THE PROGRAM BY 0.50; AND

~~(3)~~ (2) MULTIPLY THE NUMBER OF STUDENTS WHO ARE ENROLLED IN THE SIXTH YEAR OF THE PROGRAM BY 0.25.

(C) STUDENT CREDIT HOURS EARNED AT A COMMUNITY COLLEGE BY A P-TECH STUDENT SHALL BE INCLUDED IN THE FULL-TIME EQUIVALENT STUDENT CALCULATION ESTABLISHED IN ~~§ 16-305~~ §§ 16-305 AND 16-502 OF THIS ARTICLE.

(D) (1) (I) A P-TECH SUPPLEMENTAL COLLEGE GRANT IS AN AMOUNT EQUAL TO THE TUITION AND MANDATORY FEES THAT WOULD NORMALLY BE CHARGED FOR THE CLASSES IN WHICH THE P-TECH STUDENT IS ENROLLED.

(II) THE STATE SHARE OF A P-TECH SUPPLEMENTAL COLLEGE GRANT SHALL BE CALCULATED AND DISTRIBUTED BY THE STATE TO COLLEGE PARTNERS AND EQUALS:

1. 50% FOR COUNTIES THAT RECEIVED A GRANT UNDER § 16-501 OF THE LOCAL GOVERNMENT ARTICLE IN THE PRIOR FISCAL YEAR; OR

2. 25% FOR COUNTIES THAT DID NOT RECEIVE A GRANT UNDER § 16-501 OF THE LOCAL GOVERNMENT ARTICLE IN THE PRIOR FISCAL YEAR.

(III) THE LOCAL SHARE OF A P-TECH SUPPLEMENTAL COLLEGE GRANT SHALL BE CALCULATED AND DISTRIBUTED BY A COUNTY BOARD TO COLLEGE PARTNERS AND EQUALS THE AMOUNT NOT PAID BY THE STATE UNDER THIS PARAGRAPH.

(2) (I) THE STATE SHARE OF A P-TECH SUPPLEMENTAL SCHOOL GRANT IS NOT LESS THAN \$750 PER P-TECH STUDENT PER SCHOOL YEAR AND SHALL BE USED FOR P-TECH SCHOOL COSTS.

(II) THE STATE SHARE OF A P-TECH SUPPLEMENTAL SCHOOL GRANT SHALL BE CALCULATED AND DISTRIBUTED BY THE DEPARTMENT TO COUNTY BOARDS.

(III) A COUNTY BOARD THAT RECEIVES A P-TECH SUPPLEMENTAL SCHOOL GRANT SHALL MATCH 100% OF THE STATE SHARE.

7-1805.

THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

7-1806.

~~(A)~~ (A) ON OR BEFORE DECEMBER 1 EACH YEAR, THE DEPARTMENT, IN CONSULTATION WITH THE COMMISSION, SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE

GENERAL ASSEMBLY ON THE IMPLEMENTATION OF THE PROGRAM IN THE STATE, INCLUDING:

- (1) THE NUMBER OF STUDENTS ENROLLED IN EACH P-TECH SCHOOL;
- (2) THE INDUSTRY PARTNERS ASSOCIATED WITH EACH P-TECH SCHOOL;
- (3) THE PATHWAY SEQUENCE CREATED FOR EACH P-TECH SCHOOL;
- (4) HOW P-TECH STUDENTS PERFORMED ON FEDERAL AND STATE ASSESSMENTS;
- (5) THE NUMBER OF P-TECH STUDENTS GRADUATING FROM EACH P-TECH SCHOOL AND RECEIVING A HIGH SCHOOL DIPLOMA AND AN ASSOCIATE'S DEGREE; ~~AND~~
- (6) THE YEAR IN WHICH EACH P-TECH STUDENT GRADUATED AND RECEIVED THE DEGREE;
- (7) THE NUMBER OF P-TECH STUDENTS IN EACH P-TECH SCHOOL WHO RECEIVE PAID INTERNSHIPS WITH EACH INDUSTRY PARTNER;
- (8) THE NUMBER OF P-TECH STUDENTS IN EACH P-TECH SCHOOL ON TRACK FOR ON-TIME COMPLETION OF THE PATHWAY SEQUENCE;
- (9) THE RATE OF ATTRITION, IF ANY, FROM EACH P-TECH SCHOOL BY GRADE AND BY COHORT;
- (10) THE NUMBER OF STUDENTS AT EACH P-TECH SCHOOL WHO HAVE AN IEP PLAN, HAVE A 504 PLAN, OR ARE ENGLISH LANGUAGE LEARNERS;
- (11) THE PERCENTAGE OF P-TECH STUDENTS WHO MEET THE FREE AND REDUCED MEAL PLAN INCOME CRITERIA IN EACH P-TECH SCHOOL;
- (12) THE NUMBER OF P-TECH STUDENTS IN EACH P-TECH SCHOOL WHO, BY THE FOURTH YEAR OF THE PATHWAY SEQUENCE, COMPLETE THE REQUIREMENTS FOR A HIGH SCHOOL DIPLOMA;
- (13) THE NUMBER OF P-TECH STUDENTS IN EACH P-TECH SCHOOL WHO ARE EMPLOYED AFTER COMPLETION OF THE PATHWAY SEQUENCE WITH EACH INDUSTRY PARTNER OR WHO MATRICULATE TO A PUBLIC OR PRIVATE SENIOR HIGHER EDUCATION INSTITUTION AFTER FINISHING THE PATHWAY SEQUENCE;

~~(B) ON OR BEFORE DECEMBER 1 EACH YEAR, THE DEPARTMENT, IN CONSULTATION WITH THE COMMISSION, SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:~~

~~(1) (7) (14) THE BASE AND SUPPLEMENTAL COSTS OF OPERATING A P-TECH SCHOOL;~~

~~(2) (8) (15) THE TOTAL AMOUNT OF FUNDS DISTRIBUTED TO EACH P-TECH SCHOOL IN ACCORDANCE WITH THIS SUBTITLE;~~

~~(3) (9) (16) AN ACCOUNTING OF EACH P-TECH SCHOOL'S EXPENDITURES; AND~~

~~(4) (10) (17) WHETHER ALL FUNDS DISTRIBUTED UNDER THIS SUBTITLE WERE SPENT.~~

(B) ON OR BEFORE DECEMBER 1, 2023, THE DEPARTMENT, IN CONSULTATION WITH THE COMMISSION, SHALL SUBMIT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY:

(1) AN ANALYSIS OF THE ANNUAL DATA REPORTED UNDER SUBSECTION (A) OF THIS SECTION; AND

(2) AN EVALUATION OF WHETHER THE P-TECH PROGRAM IS SUCCESSFUL IN PREPARING STUDENTS FOR THE WORKFORCE OR FOR FURTHER POSTSECONDARY EDUCATION.

16-305.

(b) (12) “Student credit hours” means student credit hours, INCLUDING THOSE EARNED BY A P-TECH STUDENT AS PROVIDED IN § 7-1804(C) OF THIS ARTICLE, or contact hours, which are eligible, under the regulations issued by the Maryland Higher Education Commission, for inclusion in State funding calculations.

16-502.

(e) “Full-time equivalent student” means the quotient of the number of student credit hours, INCLUDING THOSE EARNED BY A P-TECH STUDENT AS PROVIDED UNDER § 7-1804(C) OF THIS ARTICLE, produced in the fiscal year 2 years prior to the fiscal year for which the State appropriation is calculated divided by 30, as certified by the Maryland Higher Education Commission.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that no additional P-TECH school shall be established other than those that receive a P-TECH Planning Grant in fiscal year 2017 or 2018 until the P-TECH Program is shown to be successful in preparing students for the workforce or for further postsecondary education.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 592

(Senate Bill 1085)

AN ACT concerning

**Morgan State University – Designation as the State’s Preeminent Public Urban
Research ~~Institution~~ University**

FOR the purpose of designating Morgan State University as the State’s preeminent public urban research ~~institution~~ university; requiring Morgan State University to be dedicated to the development and delivery of certain programs and services and to serve certain people in a certain manner; and generally relating to the designation of Morgan State University as the State’s preeminent public urban research ~~institution~~ university.

BY repealing and reenacting, with amendments,
Article – Education
Section 11–105(b)(5)(iii), 14–101(b), and 14–104(n)(1)
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

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

Article – Education

11–105.

(b) (5) (iii) With respect to Morgan State University, the Commission shall direct the Board of Regents of Morgan State University to develop and implement a plan for the enhancement of that institution **AND DESIGNATION** as the State’s **PREEMINENT** public urban [university] **RESEARCH ~~INSTITUTION~~ UNIVERSITY** with the appropriate programs, faculty, and facilities.

14–101.

(b) Morgan State University:

(1) Has the responsibility, with other educational institutions, for providing higher education research and graduate study in the Baltimore area;

(2) Is **DESIGNATED AS** the State's **PREEMINENT** public urban [university] **RESEARCH ~~INSTITUTION~~ UNIVERSITY** with a mission of instruction, research, and service;

(3) Offers baccalaureate and graduate degrees in the arts and sciences;

(4) Emphasizes an education addressing urban concerns; [and]

(5) Offers the professional and graduate programs approved by its Board of Regents and the Maryland Higher Education Commission;

(6) SHALL BE DEDICATED TO THE DEVELOPMENT AND DELIVERY OF COMPREHENSIVE AND HIGH-QUALITY ACADEMIC PROGRAMS AND SERVICES TO ITS UNIVERSITY COMMUNITY AND THE CITIZENS OF MARYLAND, PARTICULARLY THE CITIZENS OF THE BALTIMORE REGION; AND

(7) SHALL SERVE A DIVERSE CITIZENRY IN AN INNOVATIVE AND COLLABORATIVE MANNER, ALL THE WHILE EXERCISING ITS RESPONSIBILITIES WITH UNCOMPROMISING INTEGRITY THROUGH STRONG, BUT COMPASSIONATE, LEADERSHIP.

14–104.

(n) (1) The President shall develop an overall plan that is consistent with the statewide plan for higher education and the Charter that:

(i) Sets forth both long-range and short-range goals, objectives, and priorities for postsecondary education, research, and service provided by the University;

(ii) Subject to § 11–105 of this article, identifies the role, function, and mission of the University;

(iii) Provides for the enhancement of the University as the State's **PREEMINENT** public urban [university] **RESEARCH ~~INSTITUTION~~ UNIVERSITY**;

(iv) Encourages and supports high quality undergraduate and graduate programs on its campuses; and

(v) Stimulates outreach to the community and State through close relationships with public elementary and secondary schools, business and industry, and governmental agencies.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 593

(House Bill 562)

AN ACT concerning

Baltimore City Board of School Commissioners – Members – Appointment and Removal

FOR the purpose of establishing the Baltimore City Public School Board Community Panel; providing for the purpose and composition of the panel; authorizing the Mayor of Baltimore City to request the panel to reconvene under certain circumstances; requiring the panel to reconvene for a certain purpose; repealing the role of the Governor in making certain appointments to, filling certain vacancies on, and removing certain members from the Baltimore City Board of School Commissioners; requiring the Mayor to appoint certain members of the board and fill certain vacancies from a list of qualified individuals submitted by a certain panel; and generally relating to the appointment and removal of the members of the Baltimore City Board of School Commissioners.

BY repealing and reenacting, with amendments,

Article – Education

Section 3–108.1

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

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

Article – Education

3–108.1.

(a) ~~In this section, “board” means the Baltimore City Board of School~~

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

(2) “BOARD” MEANS THE BALTIMORE CITY BOARD OF SCHOOL
Commissioners of the Baltimore City Public School System.

(3) “MAYOR” MEANS THE MAYOR OF BALTIMORE CITY.

(4) “PANEL” MEANS THE BALTIMORE CITY PUBLIC SCHOOL BOARD
COMMUNITY PANEL.

(B) (1) THERE IS A BALTIMORE CITY PUBLIC SCHOOL BOARD
COMMUNITY PANEL.

(2) THE PURPOSE OF THE PANEL IS TO SELECT NOMINEES TO BE
RECOMMENDED TO THE MAYOR AS QUALIFIED CANDIDATES FOR APPOINTMENT TO
THE BOARD.

(3) THE MAYOR SHALL CONVENE THE PANEL.

(4) THE PANEL MAY INCLUDE A REPRESENTATIVE FROM EACH OF
THE FOLLOWING ORGANIZATIONS, APPOINTED BY THE ORGANIZATION:

(I) THE BALTIMORE TEACHERS UNION;

(II) THE MAYOR’S OFFICE;

(III) THE BALTIMORE CITY COUNCIL EDUCATION AND YOUTH
COMMITTEE;

(IV) THE BALTIMORE CITY PUBLIC SCHOOL ADMINISTRATORS
AND SUPERVISORS ASSOCIATION;

(V) THE MARYLAND ALLIANCE OF PUBLIC CHARTER
SCHOOLS;

(VI) THE DOWNTOWN BALTIMORE FAMILY ALLIANCE;

(VII) THE FUND FOR EDUCATIONAL EXCELLENCE;

(VIII) A PARENT MEMBER OF THE PTA COUNCIL OF BALTIMORE
CITY;

(IX) THE AMERICAN FEDERATION OF STATE, COUNTY, AND
MUNICIPAL EMPLOYEES (AFSCME);

CITY;

(X) THE ASSOCIATED STUDENT CONGRESS OF BALTIMORE

(XI) THE AMERICAN CIVIL LIBERTIES UNION;

(XII) THE PARENT AND COMMUNITY ADVISORY BOARD; AND

(XIII) DISABILITY RIGHTS MARYLAND.

(5) THE MAYOR MAY RECONVENE THE PANEL IF THE MAYOR ELECTS NOT TO APPOINT A MEMBER FROM THE LIST SUBMITTED BY THE PANEL UNDER SUBSECTIONS (D)(1)(I) OR (I)(6) OF THIS SECTION.

~~(C)~~ (C) There is a Baltimore City Board of School Commissioners of the Baltimore City Public School System.

~~(D)~~ (D) (1) The board consists of:

~~(1)~~ (1) ~~Nine~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, NINE voting members [jointly] appointed by the Mayor ~~of Baltimore City~~ [and the Governor] from a list of qualified individuals submitted to the Mayor [and the Governor] by the ~~State Board~~ PANEL;

~~(2)~~ (II) Two elected voting members; and

~~(3)~~ (III) One voting student member appointed as provided in subsection ~~(M)~~ (M) of this section.

(2) IF THE MAYOR ELECTS NOT TO APPOINT A MEMBER FROM A LIST SUBMITTED BY THE PANEL UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE MAYOR SHALL RECONVENE THE PANEL TO SUBMIT ADDITIONAL NAMES OF QUALIFIED CANDIDATES;

~~(E)~~ (E) Each member of the board shall be a resident of Baltimore City.

~~(F)~~ (F) The two elected voting members shall be elected at large by the voters of Baltimore City.

~~(G)~~ (G) To the extent practicable, the appointed members of the board shall reflect the demographic composition of Baltimore City.

~~(H)~~ (H) (1) At least four of the appointed voting members shall possess a high level of knowledge and expertise concerning the successful administration of a large

business, nonprofit, or governmental entity and shall have served in a high level management position within such an entity.

(2) At least three of the appointed voting members shall possess a high level of knowledge and expertise concerning education.

(3) At least one appointed voting member shall be a parent of a student enrolled in the Baltimore City Public School System as of the date of appointment of the member.

(4) (i) Among the appointed voting members, at least one member shall also possess knowledge or experience in the education of children with disabilities.

(ii) The knowledge or experience may be derived from being the parent of a child with a disability.

~~(1)~~ (I) (1) (i) The term of an appointed voting member is 3 years.

(ii) The term of an elected member is 4 years.

(2) The terms of the appointed voting members are staggered as required by the terms provided for the appointed members of the board on June 1, 1997.

(3) At the end of a term, a voting member continues to serve until a successor is elected or appointed and qualifies.

(4) A voting member who is appointed after a term has begun serves only for the remainder of the term and until a successor is elected or appointed and qualifies.

(5) A voting member may not serve more than two consecutive full terms.

(6) (I) ~~To~~ **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, TO** the extent practicable, [the Governor and] the Mayor ~~of Baltimore City~~ shall fill any vacancy for an appointed or elected member on the board within 60 days of the date of the vacancy from a list of qualified individuals submitted to the Mayor [and the Governor] by the ~~State Board~~ **PANEL**.

(II) IF THE MAYOR ELECTS NOT TO APPOINT A MEMBER FROM A LIST SUBMITTED BY THE PANEL UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE MAYOR SHALL RECONVENE THE PANEL TO SUBMIT ADDITIONAL NAMES OF QUALIFIED CANDIDATES.

(7) The elected members of the board shall be elected:

(i) At the general election in November 2022 and every 4 years thereafter; and

(ii) In accordance with Title 8, Subtitle 8 of the Election Law Article.

~~(J)~~ **(J)** (1) On the [joint] approval of the Mayor ~~of Baltimore City~~ [and the Governor], an appointed member may be removed only for cause in accordance with § 3–108 of this subtitle.

(2) The State Board may remove an elected voting member for:

- (i) Immorality;
- (ii) Misconduct in office;
- (iii) Incompetency; or
- (iv) Willful neglect of duty.

~~(K)~~ **(K)** Each member of the board serves without compensation.

~~(L)~~ **(L)** Beginning on July 1, 1999 and every 2 years thereafter, from among its voting members the board shall elect a chairman.

~~(M)~~ **(M)** (1) The student member shall be a student enrolled in the Baltimore City Public School System who shall be selected by the Associated Student Congress of Baltimore City.

(2) The term of a student member is 1 year.

(3) A student member may not serve more than two consecutive full terms.

(4) The student member may vote on all matters before the board except those relating to:

- (i) Personnel;
- (ii) Capital and operating budgets;
- (iii) School closings, reopenings, and boundaries;
- (iv) Collective bargaining decisions;
- (v) Student disciplinary matters; and
- (vi) Appeals to the board as provided under §§ 4–205 and 6–202 of

this article.

(5) The student member may not attend or participate in an executive or special session of the board.

~~(m)~~ **(N)** Any action by the board shall require:

- (1) A quorum of a majority of the voting members then serving; and
- (2) The affirmative vote of a majority of the voting members then serving.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 594

(House Bill 441)

AN ACT concerning

Education – Debt Service for Transferred Schools – County Reimbursement Grace Period

FOR the purpose of establishing a certain period of time during which a county government is not required to reimburse the State for certain outstanding debt service for certain school buildings that are transferred to a county government; requiring a county government to reimburse the State for a certain amount of outstanding debt service for certain school buildings after a certain period of time has elapsed; and generally relating to a grace period for counties for debt service for schools transferred to a county.

BY repealing and reenacting, with amendments,

Article – Education

Section 5–308

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

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

Article – Education

5–308.

(a) Notwithstanding the provisions of Title 10, Subtitle 3 of the State Finance and Procurement Article, this State may not require reimbursement of debt service from a county for a school that:

- (1) Was initially constructed on or before February 1, 1971;
- (2) Is no longer used for school purposes;
- (3) Has had title transferred to a county government; and

(4) Is being used for local governmental purposes other than public education; provided, however, that if a former school building is sold by a county government the State shall be reimbursed for outstanding debt service, and if more than 10 percent of usable space within a former school is rented for an amount exceeding the cost of operating and maintaining such space, such rental profit shall be used toward retiring outstanding bonded indebtedness.

(b) **[This] SUBJECT TO SUBSECTION (C) OF THIS SECTION, THIS** State shall require reimbursement of outstanding debt service from a county for a school that:

- (1) Was constructed under this subtitle;

(2) Was initially constructed or substantially altered by addition(s), alterations, or renovations and the cost of the construction at the time of execution exceeded \$100,000 and the work was accomplished after February 1, 1971;

- (3) Is no longer used for school purposes;

- (4) Has had title transferred to a county government;

(5) Is being used for local governmental purposes by the State or a county or by any instrumentality of the State or a county other than public education; and

- (6) Has outstanding debt which exceeds \$5,000.

(C) (1) A COUNTY GOVERNMENT IS NOT REQUIRED TO REIMBURSE THE STATE FOR OUTSTANDING DEBT SERVICE FOR A SCHOOL BUILDING THAT IS TRANSFERRED TO THE COUNTY GOVERNMENT IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION UNTIL 2 YEARS AFTER THE SCHOOL BUILDING IS TRANSFERRED.

(2) AFTER THE 2-YEAR PERIOD IN PARAGRAPH (1) OF THIS SUBSECTION ENDS, THE COUNTY GOVERNMENT SHALL REIMBURSE THE STATE FOR OUTSTANDING DEBT SERVICE FOR A SCHOOL BUILDING IN THE AMOUNT THAT THE COUNTY GOVERNMENT WOULD HAVE BEEN REQUIRED TO PAY WHEN THE SCHOOL BUILDING WAS TRANSFERRED TO THE COUNTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 595

(Senate Bill 487)

AN ACT concerning

Baltimore City – Residential Ground Leases – Abandoned Property

FOR the purpose of prohibiting a ground lease holder from taking certain actions *against the current leasehold tenant of certain abandoned property in Baltimore City* to recover ground rent due and owing *from a former leasehold tenant on certain abandoned property in Baltimore City* before *the date that the current leasehold tenant acquired title* ~~was acquired by~~ *to the property* ~~Baltimore City~~ *the owner of the leasehold interest* under certain circumstances; making conforming changes; and generally relating to residential ground leases in Baltimore City.

BY repealing and reenacting, with amendments,

Article – Real Property

Section ~~8-806(e)(1)~~ 8-806(c)

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

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

Article – Real Property

8-806.

(c) (1) Notwithstanding any other provision of law, ~~in any suit, action, or proceeding to recover past due ground rent,~~ a ground lease holder may ~~only recover not more than 3 years' past due ground rent, calculated from the date notice was sent under § 8-807(c)(1) of this subtitle.]~~ ~~NOT BRING ANY SUIT, ACTION, PROCEEDING, OR OTHER EFFORT TO RECOVER GROUND RENT THAT WAS DUE AND OWING BEFORE THE DATE THAT THE MAYOR AND CITY COUNCIL OF BALTIMORE ACQUIRED TITLE,~~ if the property is:

(i) Owned or acquired by any means by the Mayor and City Council of Baltimore; and

(ii) ~~Abandoned property, as defined in § 21-17(a)(2) of the Public Local Laws of Baltimore City~~, or distressed **DISTRESSED** property, as defined in § 21-17(a)(3) of the Public Local Laws of Baltimore City.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A GROUND LEASE HOLDER MAY NOT BRING ANY SUIT, ACTION, PROCEEDING, OR OTHER EFFORT OR PROCEEDING AGAINST THE CURRENT LEASEHOLD TENANT TO RECOVER THE GROUND RENT THAT WAS DUE AND OWING FROM A FORMER LEASEHOLD TENANT BEFORE THE DATE THAT THE OWNER OF THE LEASEHOLD INTEREST CURRENT LEASEHOLD TENANT ACQUIRED TITLE, IF THE PROPERTY IS:

(I) OWNED OR ACQUIRED BY ANY MEANS BY THE OWNER OF THE LEASEHOLD INTEREST CURRENT LEASEHOLD TENANT; AND

(II) ABANDONED PROPERTY, AS DEFINED IN § 21-17(A)(2) OF THE PUBLIC LOCAL LAWS OF BALTIMORE CITY.

(3) With regard to property described under [paragraph] PARAGRAPHS (1) AND (2) of this subsection, a ground lease holder may request in writing that the [Mayor and City Council of Baltimore] OWNER OF THE LEASEHOLD INTEREST CURRENT LEASEHOLD TENANT acquire the reversionary interest under the ground lease for the market value established at the time of the acquisition by the [Mayor and City Council] OWNER of the leasehold interest CURRENT LEASEHOLD TENANT under the ground lease.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 596

(Senate Bill 541)

AN ACT concerning

Baltimore City – Board of Municipal and Zoning Appeals – Appeals Authority

FOR the purpose of limiting the authority of the Baltimore City Board of Municipal and Zoning Appeals to hear and decide certain appeals to instances when the Board is authorized to hear and decide the appeals by the Mayor and City Council of

Baltimore City by local law or the Charter of Baltimore City; stating that this Act does not prohibit an administrative official or unit from making a certain decision when authorized by the Mayor and City Council of Baltimore City by local law or the Charter of Baltimore City; establishing that this Act does not alter or impair the right to appeal provided for under certain provisions of law; and generally relating to Baltimore City zoning.

BY repealing and reenacting, with amendments,

Article – Land Use

Section 10–404

Annotated Code of Maryland

(2012 Volume and 2016 Supplement)

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

Article – Land Use

10–404.

(a) The Board may:

(1) hear and decide appeals when:

(I) it is alleged that there was an error in any order, requirement, decision, or determination made by an administrative official or unit under this title or any local law adopted under this title; **AND**

(II) **THE BOARD IS AUTHORIZED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY BY LOCAL LAW OR THE CHARTER OF BALTIMORE CITY;**

(2) hear and decide special exceptions or conditional uses on which the Board is required to act under a local law;

(3) authorize on appeal in specific cases a variance from the terms of a local law;

(4) approve buildings and uses limited as to location by any regulation adopted under a local law; and

(5) when acting on a zoning application, consider the availability of public facilities in the area, including schools and flood plain facilities, under regulations adopted under a local law.

(b) If authorized by the general zoning laws of Baltimore City, this subtitle does not prevent the Mayor and City Council of Baltimore City from granting by local law:

- (1) variances;
- (2) special exceptions; or
- (3) conditional uses.

(C) NOTHING IN THIS SUBTITLE PROHIBITS AN ADMINISTRATIVE OFFICIAL OR UNIT FROM MAKING A DECISION UNDER THIS TITLE OR ANY LOCAL LAW ADOPTED UNDER THIS TITLE WHEN AUTHORIZED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY BY LOCAL LAW OR THE CHARTER OF BALTIMORE CITY.

(D) THIS SECTION DOES NOT ALTER OR IMPAIR THE RIGHT TO APPEAL PROVIDED FOR UNDER THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 597

(Senate Bill 846)

AN ACT concerning

**Baltimore City – Hotel Room Tax – Convention Center Promotion and
Operations**

FOR the purpose of extending to a certain date provisions requiring that for certain fiscal years certain amounts measured by proceeds from a hotel room tax imposed by Baltimore City be appropriated to a certain association for certain purposes; altering the purposes for which the proceeds shall be appropriated to include the operations of the Baltimore City Convention Center; and generally relating to hotel room taxes and convention center marketing and operations and tourism promotion in Baltimore City.

BY repealing and reenacting, with amendments,
The Charter of Baltimore City
Article II – General Powers
Section (40)(e)
(2007 Replacement Volume, as amended)

(As enacted by Chapter 151 of the Acts of the General Assembly of 2007, as amended by Chapter 197 of the Acts of the General Assembly of 2012)

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

The Charter of Baltimore City

Article II – General Powers

The Mayor and City Council of Baltimore shall have full power and authority to exercise all of the powers heretofore or hereafter granted to it by the Constitution of Maryland or by any Public General or Public Local Laws of the State of Maryland; and in particular, without limitation upon the foregoing, shall have power by ordinance, or such other method as may be provided for in its Charter, subject to the provisions of said Constitution and Public General Laws:

(40)

(e) (1) For each fiscal year beginning on or after July 1, 1997 but before [July 1, 2017] **JULY 1, 2022**, the Mayor and City Council shall appropriate from its General Fund to Visit Baltimore ~~specifically~~ for **THE MARKETING AND OPERATIONS OF THE** Convention Center ~~marketing~~ and tourism promotion an amount equal to at least 40% of the proceeds of any hotel room tax imposed.

(2) If the appropriation made for any fiscal year pursuant to paragraph (1) of this subsection is less than the amount required when compared to actual receipts for the completed fiscal year, the difference shall be added to the appropriation to be made for the second succeeding fiscal year. If the appropriation made for any fiscal year pursuant to paragraph (1) of this subsection is more than the amount required when compared to actual receipts for the completed fiscal year, the difference may be deleted from the appropriation to be made for the second succeeding fiscal year.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 598

(House Bill 1037)

AN ACT concerning

Baltimore City – Civilian Review Board

FOR the purpose of ~~altering certain procedures for filing a complaint with the Baltimore City Civilian Review Board; repealing certain time limits on filing a complaint; authorizing the Board to review an incomplete complaint; authorizing a complainant to request that a complaint be confidential; providing that a certain report, under certain circumstances, remains subject to a certain review and certain recommendations by the Board; repealing a certain period of time within which the Board is required to submit a certain statement to the head of a certain law enforcement unit; repealing certain references to the Secretary of the Board; making certain stylistic and technical changes; altering certain definitions~~ modifying a certain time limit on the filing of a certain complaint with the Baltimore City Civilian Review Board; repealing a requirement that a certain complaint be witnessed by a notary public; requiring a certain complaint to be sworn to, under penalty of perjury, by the complainant; making a certain stylistic change; and generally relating to the Baltimore City Civilian Review Board.

~~BY repealing and reenacting, with amendments,
The Public Local Laws of Baltimore City
Section 16-41
Article 4 – Public Local Laws of Maryland
(1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)
(As enacted by Chapter 499 of the Acts of the General Assembly of 2006, as amended
by Chapter 130 of the Acts of the General Assembly of 2015)~~

BY repealing and reenacting, without amendments,
The Public Local Laws of Baltimore City
Section 16-42(a)
Article 4 – Public Local Laws of Maryland
(1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)
(As enacted by Chapter 499 of the Acts of the General Assembly of 2006)

BY repealing and reenacting, with amendments,
The Public Local Laws of Baltimore City
Section 16-43(b), ~~16-44(e) through (e), and 16-48(a) and 16-44(b) and (c)~~
Article 4 – Public Local Laws of Maryland
(1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)

~~BY repealing
The Public Local Laws of Baltimore City
Section 16-44(b)
Article 4 – Public Local Laws of Maryland
(1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)~~

~~BY repealing and reenacting, without amendments,
The Public Local Laws of Baltimore City
Section 16-45
Article 4 – Public Local Laws of Maryland~~

~~(1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)~~

~~BY repealing and reenacting, with amendments,~~

~~The Public Local Laws of Baltimore City~~

~~Section 16-46~~

~~Article 4 – Public Local Laws of Maryland~~

~~(1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)~~

~~(As enacted by Chapter 499 of the Acts of the General Assembly of 2006)~~

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

Article 4 – Baltimore City

~~16-41.~~

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

~~(b) (1) “Abusive language” means [the use of remarks intended to be demeaning, humiliating, mocking, insulting, or belittling that may or may not be based on the actual or perceived race, color, religion, sex, national origin, sexual orientation, or gender identity of an individual] HARSH, VIOLENT, PROFANE, OR DEROGATORY LANGUAGE THAT WOULD DEMEAN THE DIGNITY OF AN INDIVIDUAL.~~

~~(2) “ABUSIVE LANGUAGE” INCLUDES PROFANITY AND RACIAL, ETHNIC, OR SEXIST SLURS.~~

~~(c) (1) “Excessive force” means the use of greater physical force than reasonably necessary to repel an attacker or terminate resistance.~~

~~(2) “Excessive force” does not include force that is reasonably necessary to effect a lawful purpose.~~

~~(d) “False arrest” means an arrest made without legal justification.~~

~~(e) “False imprisonment” means the intentional restriction without legal justification of the freedom of movement of a person who is aware of the restriction and who does not consent.~~

~~(f) (1) “Harassment” means:~~

~~(i) repeated or unwarranted conduct that is intended to be overtly demeaning, humiliating, mocking, insulting, or belittling; [or]~~

~~(ii) any conduct that is intended to cause unnecessary physical discomfort or injury[.]; OR~~

~~(HH) UNWARRANTED THREATS OR UNWARRANTED DEMANDS.~~

~~(2) "Harassment" does not include conduct that is reasonably necessary to effect a lawful purpose.~~

~~(g) "Law enforcement unit" means:~~

~~(1) the Police Department of Baltimore City;~~

~~(2) the Baltimore City School Police;~~

~~(3) the Housing Authority of Baltimore City Police;~~

~~(4) the Baltimore City Sheriff's Department;~~

~~(5) the Baltimore City Watershed Police Force;~~

~~(6) the police force of the Baltimore City Community College; or~~

~~(7) the police force of Morgan State University.~~

~~(h) "Police officer" means a member of a law enforcement unit authorized to make arrests.~~

16-42.

(a) The Civilian Review Board of Baltimore City is established to provide a permanent, statutory agency in Baltimore City through which:

(1) complaints lodged by members of the public regarding abusive language, false arrest, false imprisonment, harassment, or excessive force by police officers of a law enforcement unit shall be processed, investigated under § 16-46 of this subheading, and evaluated; and

(2) policies of a law enforcement unit may be reviewed.

16-43.

(b) At its first meeting each year, the Board shall elect a [Chairman] **CHAIR** and Secretary.

16-44.

~~[(b) (1) Except as provided in paragraph (2) of this subsection, a A complaint shall be made within 1 year of the action giving rise to the complaint.~~

~~(2) A complaint for excessive force shall be made within 90 days of the alleged act of excessive force.]~~

~~[(c)] (B)~~ (1) [(i) The complaint shall be reduced to writing on a form authorized by the Board, signed by the complainant, and witnessed by a notary public.

(ii) In addition to the requirements of subparagraph (i) of this paragraph, a complaint for excessive force shall be sworn to by the complainant] **THE COMPLAINT SHALL BE REDUCED TO WRITING ON A FORM AUTHORIZED BY THE BOARD AND SIGNED AND SWORN TO, UNDER PENALTY OF PERJURY, BY THE COMPLAINANT.**

(2) The ~~FORM FOR THE~~ complaint ~~THAT IS AUTHORIZED BY THE BOARD~~ shall include ~~REQUESTS FOR THE FOLLOWING INFORMATION:~~

- (i) the name of the complainant;
- (ii) if known, the name of the police officer allegedly involved;
- (iii) the date, time, and place of the alleged misconduct;
- (iv) the circumstances of the alleged misconduct; and
- (v) an explanation of the alleged misconduct that is deemed to be wrongful.

~~(3) THE BOARD MAY REVIEW AN INCOMPLETE COMPLAINT.~~

~~(4) A COMPLAINANT MAY REQUEST THAT THE COMPLAINT BE KEPT CONFIDENTIAL.~~

~~[(d)] (C) (1) One copy of the completed form shall be retained by the recipient of the complaint and a copy given to the complainant.~~

~~(2) [A] EXCEPT FOR COMPLAINTS REQUESTED TO BE CONFIDENTIAL UNDER SUBSECTION (B)(4) OF THIS SECTION, A copy shall be sent within 48 hours to the Internal Investigative Division and [the Secretary of] the Board.~~

~~(3) A COPY OF A COMPLAINT THAT IS REQUESTED TO BE CONFIDENTIAL UNDER SUBSECTION (B)(4) OF THIS SECTION:~~

~~(i) SHALL BE SENT WITHIN 48 HOURS TO THE BOARD; AND~~

~~(H) MAY NOT BE SENT TO THE INTERNAL INVESTIGATIVE DIVISION UNTIL AFTER THE BOARD SENDS ITS FINAL RECOMMENDATION TO THE HEAD OF THE APPROPRIATE LAW ENFORCEMENT UNIT.~~

~~(4) A RECIPIENT OF A COMPLAINT THAT IS REQUESTED TO BE CONFIDENTIAL MAY NOT DISCLOSE THE INFORMATION IN THE COMPLAINT.~~

~~[(c)] (D) The [Secretary of the] Board shall assign a consecutive number to each complaint, and within 48 hours, shall send a copy to each member of the Board. The [Secretary] BOARD shall also maintain on file a record of each complaint.~~

~~16-45.~~

~~(a) The Internal Investigative Division shall make a comprehensive investigation of each complaint and submit its Internal Investigative Division Report relating to the incident alleged to the Board within 90 days from the date of the complaint.~~

~~(b) For good cause shown, the Board may extend the time allowed to complete the report required under subsection (a) of this section.~~

~~16-46.~~

~~(a) (1) The Board shall review all complaints alleging police misconduct described in § 16-42(a)(1) of this subheading.~~

~~(2) The Board may investigate, simultaneously with the Internal Investigative Division, each complaint it deems appropriate and report its findings to the Internal Investigative Division.~~

~~(3) THE BOARD SHALL INVESTIGATE INDEPENDENTLY A COMPLAINT THAT IS REQUESTED TO BE KEPT CONFIDENTIAL UNDER § 16-44(B)(4) OF THIS SUBTITLE.~~

~~(b) (1) The Board may issue a subpoena, signed by the [Chairman] CHAIR of the Board, to compel:~~

~~(i) the attendance and testimony of a witness other than the accused officer; and~~

~~(ii) the production of any book, record, or other document.~~

~~(2) If a person fails to comply with a subpoena issued under this subsection, on petition of the Board, a court of competent jurisdiction may compel compliance with the subpoena.~~

~~(3) A police officer may submit a witness list to the Board 10 days or more before the Board takes testimony.~~

~~(4) The [Chairman or the Secretary of the Board] CHAIR OR THE CHAIR'S DESIGNEE may administer oaths in connection with any proceeding of the Board.~~

~~(5) The police officer or the police officer's representative shall have the right to question witnesses who testify about the complaint.~~

~~(6) All witness testimony shall be recorded.~~

~~(e) (1) The Board shall review the Internal Investigative Division's Report.~~

~~(2) IF THE INTERNAL INVESTIGATIVE DIVISION INVESTIGATES AN EXCESSIVE FORCE INCIDENT WHERE THERE HAS NOT BEEN A FORMAL COMPLAINT FILED BY A CIVILIAN, THE INTERNAL INVESTIGATIVE DIVISION'S REPORT REMAINS SUBJECT TO REVIEW AND RECOMMENDATION BY THE CIVILIAN REVIEW BOARD IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION.~~

~~[(2)] (3) On review of the Internal Investigative Division Report and the Board's investigative report, if any, of each case, the Board shall recommend to the head of the appropriate law enforcement unit one of the following actions:~~

~~(i) sustain the complaint and may recommend the appropriate disciplinary action against the police officer;~~

~~(ii) not sustain the complaint;~~

~~(iii) exonerate the police officer;~~

~~(iv) find that the complaint is unfounded; or~~

~~(v) require further investigation by the Internal Investigative Division.~~

~~(d) The Board shall submit a statement of its findings and recommendations to the head of the appropriate law enforcement unit [within 30 days of receipt of the Internal Investigative Division Report].~~

~~16-48.~~

~~(a) The head of the appropriate law enforcement unit has final decision-making responsibility for the appropriate disciplinary action in each case, but the head of the law enforcement unit may not take final action until after reviewing the recommendation of the Board under [§ 16-46(e)(2)] § 16-46(C)(3) of this subheading.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 599

(House Bill 226)

AN ACT concerning

Baltimore Police Department – Reporting on Community Policing

FOR the purpose of altering the date by which the Police Commissioner of Baltimore City is required to report certain information concerning the Baltimore Police Department to the Mayor and City Council of Baltimore and the General Assembly for the previous calendar year; altering a certain reporting requirement relating to the use of force under certain circumstances; making certain conforming changes; and generally relating to the Baltimore Police Department.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 3–512
Annotated Code of Maryland
(2011 Replacement Volume and 2016 Supplement)

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

Article – Public Safety

3–512.

(a) On or before ~~January [1]–15~~ **FEBRUARY 1** of each year, the Police Commissioner of Baltimore City shall report the following information concerning the Baltimore Police Department to the Mayor and City Council of Baltimore and, in accordance with § 2–1246 of the State Government Article, the members of the Baltimore City Delegation to the General Assembly[:

(1) as of December 1 of the previous year] **FOR THE PREVIOUS CALENDAR YEAR:**

[(i)] **(1)** the total number of sworn police officers in the Department;

the Department;

Department; and

are residents of Baltimore City; [and

(2) in the previous calendar year:]

sponsored or participated in in Baltimore City;

the injury occurred as a direct result of an officer's actions;

an officer;

the number of officers who were suspended with pay;

the number of officers who were suspended without pay;

neighborhood patrols;

intervention programs by officers; and

efforts, including community policing programs, participation in town hall meetings, and efforts to engage with schools, recreation centers, community centers, and senior centers.

(b) The report required under subsection (a) of this section shall be made available to the public on the Department's Web site.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 600**(House Bill 1348)**

AN ACT concerning

Baltimore City – 46th District Alcoholic Beverages Act of 2017

FOR the purpose of authorizing the Board of License Commissioners for Baltimore City to grant an off-sale privilege to the holder of a certain arena license under certain conditions; establishing a public market license in Baltimore City; specifying that the Board may issue the license to an operator of a certain enclosed public market; requiring that the premises for which the public market license is issued be separate from a certain other licensed premises; specifying that the ownership of the license is transferable only to a certain person; providing that the license authorizes the license holder to sell, for on- or off-premises consumption, beer, wine, and liquor under specified conditions; authorizing the license holder to designate vendors within the public market who may sell certain alcoholic beverages under certain circumstances; requiring the license holder to submit to the Board certain information about each vendor and to apply to the Central Repository for a State and national criminal history records check for each vendor authorized to sell alcoholic beverages; imposing certain requirements on vendors; requiring that the monthly receipts from the sale of nonalcoholic beverage items sold in the public market be at least a certain percentage of the total monthly receipts of the public market; prohibiting a license holder or vendor from participating in or publicizing a pub crawl or allowing an open bar, except under certain circumstances; establishing certain hours of sale and an annual license fee; requiring the Board to adopt certain regulations; authorizing the Board to issue a Class B beer, wine, and liquor license for a restaurant in the area that is commonly known as Port Covington; specifying the boundaries of the area; requiring that the restaurant meet certain seating, capital investment, and food sales standards; authorizing the Board to issue a certain number of Class B licenses for use by establishments in certain areas; prohibiting the licenses from being transferred; specifying that, unless transferred to another location, a certain license expires not later than a certain date; specifying that a certain license be considered unexpired until a certain date for a certain purpose and be considered expired after a certain date under certain circumstances; and generally relating to alcoholic beverages licenses issued in Baltimore City.

BY repealing and reenacting, without amendments,

Article – Alcoholic Beverages

Section 12-102, 12-1001(b), 12-1102(a), ~~and~~ 12-1604(b), and 12-1706(d)(1)

Annotated Code of Maryland

(2016 Volume and 2016 Supplement)

BY adding to

Article – Alcoholic Beverages

Section 12-1002.1 and 12-2204

Annotated Code of Maryland
(2016 Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Alcoholic Beverages
Section 12-1001(d) and 12-1604(c) and (g)
Annotated Code of Maryland
(2016 Volume and 2016 Supplement)

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

Article – Alcoholic Beverages

12-102.

This title applies only in Baltimore City.

12-1001.

(b) There is an arena license.

(d) (1) Subject to paragraph (2) of this subsection, the license holder is authorized to sell beer, wine, and liquor by the drink and by the bottle within the arena, from one or more outlets, for on-premises consumption.

(2) (i) The license may not be issued in the Second or Third Ward after October 1, 1994.

(ii) A license issued before October 1, 1994, is valid and may be treated like any other license.

(3) THE BOARD MAY GRANT AN OFF-SALE PRIVILEGE TO THE HOLDER OF A LICENSE ISSUED FOR A PREMISES IN THE 3300 BLOCK OF ANNAPOLIS ROAD, SUBJECT TO THE FOLLOWING CONDITIONS:

(I) BEER, WINE, OR LIQUOR MAY BE SOLD FOR OFF-PREMISES CONSUMPTION ONLY FROM A LOCATION IN THE LICENSED PREMISES NOT EXCEEDING 2,000 SQUARE FEET;

(II) BEER, WINE, OR LIQUOR PURCHASED FROM THE LOCATION MAY NOT BE CONSUMED ANYWHERE ON THE LICENSED PREMISES;

(III) THE HOURS OF SALE ARE FROM 8 A.M. TO 10 P.M. MONDAY THROUGH SUNDAY; AND

(IV) THE ANNUAL FEE FOR THE PRIVILEGE IS \$858.

12-1002.1.

(A) THERE IS A PUBLIC MARKET LICENSE.

(B) THE BOARD MAY ISSUE THE LICENSE ONLY TO AN OPERATOR OF AN ENCLOSED PUBLIC MARKET THAT:

(1) HAS A CAPITAL INVESTMENT OF AT LEAST \$3,000,000; AND

(2) IS LOCATED IN AN AREA SURROUNDED BY CHARLES STREET ON THE WEST, EAST CROSS STREET ON THE NORTH, LIGHT STREET ON THE EAST, AND EAST CROSS STREET ON THE SOUTH, IN WARD 23, PRECINCT 1 OF THE 46TH ALCOHOLIC BEVERAGES DISTRICT.

(C) THE PREMISES FOR WHICH THE PUBLIC MARKET LICENSE IS ISSUED SHALL BE SEPARATE FROM THE PREMISES FOR WHICH A CLASS D (7-DAY) BEER AND WINE LICENSE HAS BEEN ISSUED.

(D) OWNERSHIP OF THE LICENSE IS TRANSFERABLE ONLY TO THE BALTIMORE PUBLIC MARKETS CORPORATION.

(E) (1) THE LICENSE AUTHORIZES THE LICENSE HOLDER TO SELL, FOR ON- OR OFF-PREMISES CONSUMPTION:

(I) BEER;

(II) WINE; AND

(III) LIQUOR, WHEN SERVED AS AN INGREDIENT IN MIXED DRINKS THAT MAY BE PURCHASED FOR AT LEAST \$5 EACH.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE LICENSE HOLDER MAY DESIGNATE VENDORS WITHIN THE PUBLIC MARKET TO SELL ALCOHOLIC BEVERAGES THAT ARE ALLOWED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN LEASABLE MARKET SPACE COVERING NOT MORE THAN 20% OF THE TOTAL SQUARE FOOTAGE OF FLOOR SPACE OF THE LICENSED PREMISES.

(II) AN INDIVIDUAL VENDOR MAY SELL ALCOHOLIC BEVERAGES IN AN AREA COVERING NOT MORE THAN 1,000 SQUARE FEET OF FLOOR SPACE.

(3) (I) THE LICENSE HOLDER SHALL SUBMIT TO THE BOARD THE SAME INFORMATION ABOUT EACH VENDOR THAT THE BOARD REQUIRES OF AN APPLICANT FOR A LICENSE.

(II) THE BOARD SHALL APPLY TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR EACH VENDOR AUTHORIZED TO SELL ALCOHOLIC BEVERAGES.

(III) A VENDOR AUTHORIZED TO SELL ALCOHOLIC BEVERAGES OR AN INDIVIDUAL WHO IS DESIGNATED BY THE VENDOR AND EMPLOYED IN A SUPERVISORY CAPACITY IS REQUIRED TO BE:

1. CERTIFIED BY AN APPROVED ALCOHOL AWARENESS PROGRAM; AND

2. PRESENT WHEN ALCOHOLIC BEVERAGES ARE CONSUMED.

(4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, MONTHLY RECEIPTS FROM THE SALE OF NONALCOHOLIC BEVERAGE ITEMS SHALL BE AT LEAST 65% OF THE TOTAL MONTHLY RECEIPTS OF THE MARKET.

(II) THE ONLY NONALCOHOLIC BEVERAGE ITEMS THAT MAY BE COUNTED IN THE CALCULATION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH ARE ITEMS SOLD IN THE PUBLIC MARKET THAT ARE NOT PROVIDED AS PART OF AN OFF-PREMISES CATERING SERVICE.

(F) A LICENSE HOLDER OR VENDOR MAY NOT:

(1) PARTICIPATE IN OR PUBLICIZE, IN OR OUTSIDE THE PUBLIC MARKET, A PUB CRAWL AUTHORIZED UNDER § 12-1101.1 OF THIS TITLE; OR

(2) EXCEPT FOR AN EVENT CLOSED TO THE PUBLIC, INCLUDING A REHEARSAL DINNER, WEDDING RECEPTION, CORPORATE FUNCTION, OR RETIREMENT PARTY, ALLOW AN OPEN BAR TO BE OPERATED BY A VENDOR.

(G) THE HOURS OF SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION ARE:

(1) FROM 11:30 A.M. TO 10 P.M. MONDAY THROUGH THURSDAY;

(2) FROM 11:30 A.M. TO 11:30 P.M. ON FRIDAY;

(3) FROM 9 A.M. TO 11:30 P.M. ON SATURDAY; AND

(4) FROM 9 A.M. TO 9 P.M. ON SUNDAY.

(H) THE ANNUAL LICENSE FEE IS:

(1) SUBJECT TO ITEM (2) OF THIS SUBSECTION, \$6,500; OR

(2) \$2,500, IF THE APPLICANT FOR THE LICENSE OBTAINS AND EXTINGUISHES ONE CLASS A, CLASS B, CLASS D, OR CLASS B–D–7 LICENSE ISSUED FOR USE IN WARD 23, PRECINCT 1 OF THE 46TH ALCOHOLIC BEVERAGES DISTRICT.

(I) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION, INCLUDING REGULATIONS CONCERNING THE FOLLOWING ACTIVITIES IN A PUBLIC MARKET:

(1) THE CONDUCT OF VENDORS;

(2) THE CONDUCT OF LICENSE HOLDERS WITHIN THE PUBLIC MARKET;

(3) THE HOLDING OF EVENTS THAT ARE CLOSED TO THE PUBLIC; AND

(4) THE MAINTAINING OF A COMMON SEATING AREA.

12–1102.

(a) The Board may issue a refillable container permit for draft beer to a holder of any class of license except a Class C license or a Class M–G license.

12–1604.

(b) Except as provided in subsection (c) of this section, the Board may not issue a new license in the 46th alcoholic beverages district.

(c) (1) The Board may issue:

(i) a 1–day license; and

(ii) except as provided in paragraph (2) of this subsection, and subject to paragraphs (3) and (4) of this subsection, a Class B beer, wine, and liquor license for use by a restaurant if the average daily receipts from the sale of food are at least 51% of the total daily receipts of the restaurant.

(2) The Board may issue a Class B beer, wine, and liquor license:

(i) for a restaurant in ward 26, precinct 8, ward 4, precinct 1, or ward 3, precinct 3 that has:

1. seating for more than 150 individuals;
2. a minimum capital investment of \$700,000; and
3. subject to paragraph (3) of this subsection, average daily receipts from the sale of food that are at least 65% of the total daily receipts of the restaurant;

(ii) for a restaurant in ward 4, precinct 1, or ward 22, precinct 1, if the restaurant has:

1. seating for more than 75 individuals;
2. a minimum capital investment of \$700,000;
3. average daily receipts from the sale of food that are at least 65% of the total daily receipts of the restaurant; and
4. except as provided in paragraph (5) of this subsection, no sales for off-premises consumption;

(iii) for not more than three restaurants in a residential planned unit development for Silo Point as approved by the Mayor and City Council of Baltimore City in Ordinance 04-697 on June 23, 2004, if each restaurant has:

1. a minimum capital investment of \$700,000;
2. seating for more than 75 individuals;
3. average daily receipts from the sale of food that are at least 65% of the total daily receipts of the restaurant; and
4. except as provided in paragraph (5) of this subsection, no sales for off-premises consumption; [and]

(iv) for not more than three restaurants in a business planned unit development in ward 24, precinct 5, if each restaurant:

1. has a minimum capital investment of \$700,000;
2. has seating for more than 75 individuals, but not more than 150 individuals;

3. has average daily receipts from the sale of food that are at least 51% of the total daily receipts of the restaurant; and

4. except as provided in paragraph (5) of this subsection, may not sell for off-premises consumption; AND

(V) FOR A RESTAURANT IN THE AREA THAT IS COMMONLY KNOWN AS PORT COVINGTON, BOUNDED ON THE NORTH BY INTERSTATE 95, ON THE EAST BY THE SOUTH LOCUST POINT TERMINAL, AND ON THE SOUTH AND WEST BY THE PATAPSCO RIVER, AND THAT HAS:

1. SEATING FOR MORE THAN 150 INDIVIDUALS;

2. A MINIMUM CAPITAL INVESTMENT OF \$700,000; AND

3. SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AVERAGE DAILY RECEIPTS FROM THE SALE OF FOOD THAT ARE AT LEAST 60% OF THE TOTAL DAILY RECEIPTS OF THE RESTAURANT.

(3) When a license is renewed, the license holder shall file with the Board a statement of average daily receipts and an affidavit of a licensed certified public accountant that verify that the license holder has met the requirement under paragraph (1)(ii) or (2)(i) **OR (V)3** of this subsection.

(4) (i) A license may not be issued under paragraph (1)(ii) of this subsection for use in an establishment that is a fast-food-style restaurant.

(ii) A license issued under paragraph (1)(ii) of this subsection may not be transferred from the location of its first issuance.

(5) A license specified under this subsection, including a license that does not allow sales for off-premises consumption, may include an off-sale privilege for sales of refillable containers under a refillable container license issued in accordance with § 12-1102 of this title.

(g) (1) Except as provided in [paragraph (2)] **PARAGRAPHS (2) AND (3)** of this subsection, the Board may not issue a license for:

(i) ward 1, precincts 4 and 5;

(ii) ward 23, precinct 1; or

(iii) ward 24, precinct 5.

(2) The Board may issue not more than two Class B beer, wine, and liquor licenses, so that the cumulative number of licenses issued or transferred is two, into the area of 829 through 919 E. Fort Avenue only if the Board:

(i) has executed a memorandum of understanding between the community associations in Riverside and Locust Point regarding the nature of the establishment; and

(ii) enforces the memorandum of understanding against any license holder that obtains a license under this paragraph and seeks to renew or transfer the license.

(3) (I) THE BOARD MAY ISSUE NOT MORE THAN A COMBINED TOTAL OF FIVE CLASS B BEER, WINE, AND LIQUOR LICENSES FOR USE BY ESTABLISHMENTS ON THE NORTH SIDE OF THE 900 BLOCK OF EAST FORT AVENUE AND ON THE WEST SIDE OF THE 1400 BLOCK OF LAWRENCE STREET.

(II) A LICENSE ISSUED FOR AN ESTABLISHMENT IN THESE AREAS MAY NOT BE TRANSFERRED TO ANOTHER ESTABLISHMENT.

12-1706.

(d) (1) Except as provided in paragraph (2) of this subsection, a license may not be transferred into or within:

(i) ward 1, precincts 2 and 3;

(ii) ward 2 in its entirety;

(iii) ward 3, precinct 3; and

(iv) ward 26, precincts 3 and 10.

12-2204.

UNLESS TRANSFERRED TO ANOTHER LOCATION, A CLASS B (7-DAY) BEER AND WINE LICENSE ISSUED FOR A PREMISES LOCATED IN AN AREA SURROUNDED BY CHARLES STREET ON THE WEST, EAST CROSS STREET ON THE NORTH, LIGHT STREET ON THE EAST, AND EAST CROSS STREET ON THE SOUTH, IN WARD 23, PRECINCT 1 OF THE 46TH ALCOHOLIC BEVERAGES DISTRICT, EXPIRES NOT LATER THAN JULY 1, 2022.

SECTION 2. AND BE IT FURTHER ENACTED, That, a Class B (6-day) beer, wine, and liquor license issued for a premises in the 600 block of South Montford Avenue in ward 1, precinct 3:

(1) shall be considered to be unexpired until the end of July 1, 2018, for purposes of being transferred to another owner and location, notwithstanding § 12-1706(d)(1)(i) of the Alcoholic Beverages Article; and

(2) if not transferred to another owner and location by the end of July 1, 2018, shall be considered to have expired.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 601

(House Bill 1136)

AN ACT concerning

Baltimore City – Alcoholic Beverages – ~~Class B–D–7~~ Licenses – Hours of Sale

FOR the purpose of specifying certain hours of sale for a holder of a Class B–D–7 beer, wine, and liquor license in a certain area of Baltimore City; prohibiting the hours of sale for a license holder in a certain area from beginning before or ending after certain times; prohibiting the hours of sale from being extended under certain conditions; and generally relating to alcoholic beverages licenses in Baltimore City.

BY repealing and reenacting, without amendments,
 Article – Alcoholic Beverages
 Section 12-102
 Annotated Code of Maryland
 (2016 Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
 Article – Alcoholic Beverages
 Section 12-905
 Annotated Code of Maryland
 (2016 Volume and 2016 Supplement)

BY adding to
Article – Alcoholic Beverages
Section 12-2005(c)
Annotated Code of Maryland
(2016 Volume and 2016 Supplement)

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

Article – Alcoholic Beverages

12–102.

This title applies only in Baltimore City.

12–905.

(a) There is a Class B–D–7 beer, wine, and liquor license.

(b) (1) The Board may issue a Class B–D–7 license if the Board determines that the license is reasonably necessary for the convenience of the public.

(2) In making the determination, the Board shall consider the number of beer, wine, and liquor outlets in a given area and the number of days the outlets are open, rather than the nature of the outlets.

(c) The license authorizes the license holder to sell beer, wine, and liquor at retail at the place described in the license, for on– and off–premises consumption.

(d) (1) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** license holder may sell beer, wine, and liquor during the hours and days set out under § 12–2004(c) of this title.

(2) THE HOURS OF SALE FOR A LICENSE HOLDER IN AN AREA BOUNDED BY LIBERTY HEIGHTS AVENUE, NORTHERN PARKWAY, DRUID PARK DRIVE, AND WABASH AVENUE ARE FROM 9 A.M. TO 9 P.M.

(e) The Board shall adopt regulations to determine the manner of operation of a licensed premises.

(f) The annual license fee is \$1,320.

12–2005.

(C) FOR A LICENSE HOLDER IN AN AREA BOUNDED BY LIBERTY HEIGHTS AVENUE, NORTHERN PARKWAY, DRUID PARK DRIVE, AND WABASH AVENUE, THE HOURS OF SALE:

(1) MAY NOT BEGIN BEFORE 9 A.M. OR END AFTER 9 P.M.; AND

(2) MAY NOT BE EXTENDED IF THEY BEGIN LATER THAN 9 A.M. OR END BEFORE 9 P.M.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 602

(Senate Bill 479)

AN ACT concerning

Baltimore City – Alcoholic Beverages – Marketplace License

FOR the purpose of establishing a marketplace license in a certain alcoholic beverages district in Baltimore City; authorizing the Baltimore City Board of License Commissioners to issue the license; specifying the scope, hours for sale, and fees for the license; authorizing a license holder to obtain a refillable container permit under certain conditions; specifying certain capacity standards to be met by the marketplace; authorizing a holder of a Class B beer, wine, and liquor license to surrender the license to the Board under certain circumstances; requiring the Board to issue a substitute marketplace license under certain circumstances; defining a certain term; and generally relating to alcoholic beverages licenses in Baltimore City.

BY repealing and reenacting, without amendments,

Article – Alcoholic Beverages
Section 12–102
Annotated Code of Maryland
(2016 Volume and 2016 Supplement)

BY adding to

Article – Alcoholic Beverages
Section 12–1001.1
Annotated Code of Maryland
(2016 Volume and 2016 Supplement)

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

Article – Alcoholic Beverages

12–102.

This title applies only in Baltimore City.

12-1001.1.

(A) IN THIS SECTION, “MARKETPLACE” MEANS PREMISES THAT:

(1) ACCOMMODATE THE PUBLIC; AND

(2) ARE EQUIPPED WITH FIVE OR MORE OUTLETS FOR PREPARING AND SERVING REGULAR MEALS THAT MAY BE CONSUMED BY PATRONS IN A COMMON SEATING AREA OR ANYWHERE ELSE ON THE PREMISES.

(B) THERE IS A MARKETPLACE LICENSE IN THE 40TH ALCOHOLIC BEVERAGES DISTRICT.

(C) THE BOARD MAY ISSUE A MARKETPLACE LICENSE ONLY TO THE PERSON, FIRM, OR CORPORATION THAT OWNS OR LEASES THE MARKETPLACE.

(D) (1) THE LICENSE AUTHORIZES THE LICENSE HOLDER TO SELL BEER, WINE, AND LIQUOR FROM ONE OR MORE OUTLETS WITHIN THE MARKETPLACE BY THE DRINK OR BY THE BOTTLE FOR ON-PREMISES CONSUMPTION.

(2) A LICENSE HOLDER MAY OBTAIN A REFILLABLE CONTAINER PERMIT UNDER § 12-1102 OF THIS TITLE TO SELL DRAFT BEER FOR OFF-PREMISES CONSUMPTION.

(E) THE MARKETPLACE SHALL HAVE:

(1) A MINIMUM CAPITAL INVESTMENT, NOT INCLUDING THE COST OF LAND AND BUILDINGS, OF \$1,000,000 FOR MARKETPLACE FACILITIES;

(2) A MINIMUM SEATING CAPACITY OF 75 INDIVIDUALS; ~~AND~~

(3) A MINIMUM CAPACITY OF 200 INDIVIDUALS AND A MAXIMUM CAPACITY OF 500 INDIVIDUALS, AS DETERMINED BY THE CITY FIRE DEPARTMENT; AND

~~(3)~~ (4) AVERAGE DAILY RECEIPTS FROM THE SALE OF FOOD THAT ARE AT LEAST 51% OF THE TOTAL DAILY RECEIPTS OF THE MARKETPLACE.

(F) THE HOURS FOR SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES UNDER THE LICENSE ARE THE SAME AS THE HOURS OF OPERATION FOR CLASS B BEER, WINE, AND LIQUOR LICENSE HOLDERS UNDER § 12-2004 OF THIS TITLE.

(G) (1) THE ANNUAL LICENSE FEE IS \$6,000;

~~(I) \$1,320, FOR A MARKETPLACE WITH A SEATING CAPACITY OF NOT MORE THAN 200 INDIVIDUALS; OR~~

~~(II) \$1,800, FOR A MARKETPLACE WITH A SEATING CAPACITY OF MORE THAN 200 INDIVIDUALS.~~

(2) IN ADDITION TO THE ANNUAL LICENSE FEE, THE LICENSE HOLDER SHALL PAY ANNUALLY:

(I) \$500, IF THE LICENSE HOLDER PROVIDES LIVE ENTERTAINMENT; AND

(II) \$200, IF THE LICENSE HOLDER PROVIDES OUTDOOR TABLE SERVICE.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) A license holder in Baltimore City who has a Class B beer, wine, and liquor license on or after July 1, 2016, and meets the requirements for a marketplace license under this Act may surrender the Class B beer, wine, and liquor license to the Baltimore City Board of License Commissioners.

(b) If a license holder surrenders a Class B beer, wine, and liquor license under subsection (a) of this section, the Baltimore City Board of License Commissioners shall issue a substitute marketplace license without additional payment or penalty to the license holder.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 603

(House Bill 22)

AN ACT concerning

Baltimore City Fire Department – Motorized Fire Equipment – Report

FOR the purpose of requiring the Baltimore City Fire Department to submit a report at certain intervals to the members of the Baltimore City delegation to the General Assembly on the condition of motorized fire equipment of the Department and the

anticipated needs of the Department for motorized fire equipment for a certain period of time; and generally relating to the Baltimore City Fire Department.

BY repealing and reenacting, with amendments,
The Charter of Baltimore City
Article II – General Powers
Section (7)
(2007 Replacement Volume, as amended)

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

The Charter of Baltimore City

Article II – General Powers

The Mayor and City Council of Baltimore shall have full power and authority to exercise all of the powers heretofore or hereafter granted to it by the Constitution of Maryland or by any Public General or Public Local Laws of the State of Maryland; and in particular, without limitation upon the foregoing, shall have power by ordinance, or such other method as may be provided for in its Charter, subject to the provisions of said Constitution and Public General Laws:

(7)

(A) To provide for protection against fires, and to establish and to regulate all matters relating to a Fire Department.

(B) BEGINNING JULY 1, 2017, AND EVERY TWO YEARS THEREAFTER, THE BALTIMORE CITY FIRE DEPARTMENT SHALL SUBMIT A REPORT TO THE MEMBERS OF THE BALTIMORE CITY DELEGATION TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND, ON:

(1) THE CONDITION OF MOTORIZED FIRE EQUIPMENT OF THE DEPARTMENT; AND

(2) THE ANTICIPATED NEEDS OF THE DEPARTMENT FOR MOTORIZED FIRE EQUIPMENT FOR THE FOLLOWING TWO YEARS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 604**(House Bill 52)**

AN ACT concerning

Baltimore City School Police Force – Vehicles and Firearms – Report

FOR the purpose of requiring the Baltimore City School Police Force to submit a report at certain intervals to the members of the Baltimore City Delegation to the General Assembly on the condition of vehicles and firearms of the Baltimore City School Police Force and the anticipated needs of the Baltimore City School Police Force for vehicles and firearms for a certain period of time; and generally relating to the Baltimore City School Police Force.

BY adding to

Article – Education

Section 4–318(h)

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

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

Article – Education

4–318.

(H) BEGINNING JULY 1, 2017, AND EVERY 2 YEARS THEREAFTER, THE BALTIMORE CITY SCHOOL POLICE FORCE SHALL SUBMIT A REPORT TO THE MEMBERS OF THE BALTIMORE CITY DELEGATION TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON:

(1) THE CONDITION OF VEHICLES AND FIREARMS OF THE BALTIMORE CITY SCHOOL POLICE FORCE; AND

(2) THE ANTICIPATED NEEDS OF THE BALTIMORE CITY SCHOOL POLICE FORCE FOR VEHICLES AND FIREARMS FOR THE FOLLOWING 2 YEARS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 605**(Senate Bill 680)**

AN ACT concerning

Adult Protective Services Investigations – Completion Time

FOR the purpose of increasing the period of time during which a local department of social services must complete an investigation of a report of abuse, neglect, self–neglect, or financial exploitation when the report does not indicate that an emergency exists; and generally relating to adult protective services investigations.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 14–303
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

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

Article – Family Law

14–303.

(a) To protect the welfare of the alleged vulnerable adult the local department shall begin a thorough investigation:

(1) within 5 working days after the receipt of the report of suspected abuse, neglect, self–neglect, or exploitation; or

(2) within 24 hours after the receipt of the report of suspected abuse, neglect, self–neglect, or exploitation if the report indicates that an emergency exists.

(b) The investigation shall include:

(1) a determination of whether:

(i) the individual is a vulnerable adult; and

(ii) there has been abuse, neglect, self–neglect, or exploitation; and

(2) if the individual is determined to be a vulnerable adult and to have suffered abuse, neglect, self–neglect, or exploitation:

(i) a determination of the nature, extent, and cause of the abuse, neglect, self-neglect, or exploitation;

(ii) a determination of the identity of the person or persons responsible for the abuse, neglect, self-neglect, or exploitation;

(iii) an evaluation of the home environment; and

(iv) a determination of any other pertinent facts.

(c) (1) On request by the local department, the local State's Attorney or the appropriate law enforcement agency shall assist in the investigation.

(2) As appropriate, the local office on aging or the Department of Aging, local geriatric evaluation service, or any other public or private agency providing services or care to the alleged vulnerable adult or whose information or expertise may be of assistance in assessing risk or planning services may assist in the investigation on the request by the local department.

(3) Any agencies set out in this subsection may jointly agree to cooperative arrangements for investigation.

(d) An investigation under this section shall be completed within:

(1) [30] **60** days; or

(2) 10 days if the report indicates that an emergency exists.

(e) Parties participating in an investigation may share pertinent client information relevant to the investigation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 606

(Senate Bill 714)

AN ACT concerning

**Criminal Procedure – Indigent Individual – ~~Bail Review and~~ Indigency
Determination**

FOR the purpose of ~~requiring a certain bail review hearing to be held at a certain time under certain circumstances to make certain determinations;~~ requiring a District Court commissioner to determine whether a certain individual qualifies as indigent; *authorizing a certain individual to apply for representation by the Office of the Public Defender to a District Court commissioner at a certain time; requiring a District Court commissioner to make a certain preliminary determination for a certain purpose; providing that a certain indigent individual shall be represented by the Office of the Public Defender under certain circumstances; providing that a certain representation at a certain initial appearance shall terminate at the conclusion of the proceeding, with a certain exception; requiring a commissioner to make a certain determination at a certain time; requiring a commissioner to notify a certain individual in writing of a certain determination under certain circumstances; authorizing a certain individual to submit additional information to a certain commissioner for a certain purpose;* making conforming changes; ~~defining a certain term;~~ and generally relating to indigent criminal defendants.

~~BY adding to~~

~~Article – Criminal Procedure~~

~~Section 5–205.1~~

~~Annotated Code of Maryland~~

~~(2008 Replacement Volume and 2016 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Criminal Procedure

Section 16–210

Annotated Code of Maryland

(2008 Replacement Volume and 2016 Supplement)

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

Article – Criminal Procedure

~~5–205.1.~~

~~(A) IN THIS SECTION, “INDIGENT INDIVIDUAL” HAS THE MEANING STATED IN § 16–101 OF THIS ARTICLE.~~

~~(B) IF A DISTRICT COURT COMMISSIONER SETS BAIL FOR AN INDIGENT INDIVIDUAL, A BAIL REVIEW HEARING SHALL BE HELD BEFORE A JUDGE WITHIN 24 HOURS TO DETERMINE:~~

~~(1) IF THE INDIVIDUAL IS INDIGENT AND WITHOUT ANY RESOURCES FOR THE PURPOSES OF BAIL; AND~~

~~(2) WHETHER BAIL IS NECESSARY TO ENSURE THAT THE INDIVIDUAL RETURNS TO COURT OR FOR PUBLIC SAFETY REASONS.~~

16-210.

(a) An individual may apply for services of the Office as an indigent individual, if the individual states in writing under oath or affirmation that the individual, without undue financial hardship, cannot provide the full payment of an attorney and all other necessary expenses of representation in proceedings listed under § 16-204(b) of this subtitle.

(b) For an individual whose assets and net annual income are less than 100 percent of the federal poverty guidelines, eligibility for services of the Office may be determined without an assessment regarding the need of the applicant.

(c) (1) For an individual whose assets and net annual income equal or exceed 100 percent of the federal poverty guidelines, eligibility for the services of the Office shall be determined by the need of the applicant.

(2) Need shall be measured according to the financial ability of the applicant to engage and compensate a competent private attorney and to provide all other necessary expenses of representation.

(3) Financial ability shall be determined by:

- (i) the nature, extent, and liquidity of assets;
- (ii) the disposable net income of the applicant;
- (iii) the nature of the offense;
- (iv) the length and complexity of the proceedings;
- (v) the effort and skill required to gather pertinent information; and
- (vi) any other foreseeable expense.

(4) If eligibility cannot be determined before the Office or a panel attorney begins representation, the Office may represent an applicant provisionally.

(5) If the Office subsequently determines that an applicant is ineligible:

- (i) the Office shall inform the applicant; and
- (ii) the applicant shall be required to engage the applicant's own attorney and reimburse the Office for the cost of the representation provided.

(D) (1) A DISTRICT COURT COMMISSIONER SHALL DETERMINE WHETHER AN INDIVIDUAL QUALIFIES AS INDIGENT.

(2) AN INDIVIDUAL CHARGED WITH A CRIME THAT CARRIES A PENALTY OF INCARCERATION MAY APPLY FOR REPRESENTATION BY THE OFFICE TO A DISTRICT COURT COMMISSIONER DURING COMMISSIONER OPERATING HOURS.

(3) (I) FOR THE PURPOSE OF AN INITIAL APPEARANCE PROCEEDING OR BAIL REVIEW, A DISTRICT COURT COMMISSIONER SHALL MAKE A PRELIMINARY DETERMINATION AS TO WHETHER AN INDIVIDUAL QUALIFIES AS INDIGENT.

(II) AN INDIGENT INDIVIDUAL SHALL BE REPRESENTED BY THE OFFICE IF THE INITIAL APPEARANCE OR BAIL REVIEW IS BEFORE A JUDGE.

(III) REPRESENTATION AT THE INITIAL APPEARANCE SHALL TERMINATE AT THE CONCLUSION OF THE PROCEEDING, UNLESS THE COMMISSIONER HAS MADE A FINAL DETERMINATION THAT THE INDIVIDUAL QUALIFIES AS INDIGENT AND THE OFFICE HAS ENTERED A GENERAL APPEARANCE.

(4) THE COMMISSIONER SHALL:

(I) MAKE A FINAL DETERMINATION AS TO WHETHER AN INDIVIDUAL IS:

1. INDIGENT AND QUALIFIED FOR SERVICES OF THE OFFICE; OR

2. NOT QUALIFIED FOR SERVICES OF THE OFFICE; OR

(II) DETERMINE THAT THE INDIVIDUAL'S FINANCIAL STATUS IS SUBJECT TO FURTHER VERIFICATION.

(5) IF THE COMMISSIONER MAKES A FINAL DETERMINATION UNDER ITEM (4)(I) OF THIS SUBSECTION, THE COMMISSIONER SHALL NOTIFY THE INDIVIDUAL IN WRITING OF THE DETERMINATION.

(6) AN INDIVIDUAL WHOSE FINANCIAL STATUS IS SUBJECT TO FURTHER VERIFICATION MAY SUBMIT TO THE COMMISSIONER ADDITIONAL INFORMATION TO BE QUALIFIED FOR SERVICES OF THE OFFICE.

[(d)] (E) (1) [The Office] A DISTRICT COURT COMMISSIONER shall investigate the financial status of an applicant when the circumstances warrant.

(2) [The Office] **A DISTRICT COURT COMMISSIONER** may:

(i) require an applicant to execute and deliver written requests or authorizations that are necessary under law to provide the [Office] **COMMISSIONER** with access to confidential records of public or private sources that are needed to evaluate eligibility; and

(ii) on request, obtain information without charge from a public record office or other unit of the State, county, or municipal corporation.

(3) (i) [The Office] **A DISTRICT COURT COMMISSIONER** may submit requests to the Department of Labor, Licensing, and Regulation and the Comptroller for information regarding the employment status and income of applicants.

(ii) Each request shall be accompanied by an authorization for release of information that is:

1. in a form acceptable to the agency to which the request is submitted; and
2. signed by the applicant.

(iii) The Department of Labor, Licensing, and Regulation and the Comptroller shall comply with requests for information made by [the Office] **A DISTRICT COURT COMMISSIONER** under this paragraph.

(iv) Requests and responsive information may be exchanged by facsimile transmission.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 607

(Senate Bill 1024)

AN ACT concerning

Education – ~~Grant~~ State Grants for Declining Education Aid

FOR the purpose of establishing the criteria for a county board of education to be eligible to receive ~~a certain State grant in a certain fiscal year; specifying the calculation of~~

~~a certain amount in a certain year for a certain purpose~~ certain State grants in certain fiscal years; specifying the calculation of certain amounts in certain fiscal years for certain State grants; requiring certain State grants to be distributed at the same time as certain other State funding; making certain grants to Baltimore City Public Schools subject to Baltimore City providing certain local contributions in certain fiscal years; requiring a certain calculation to include a certain amount in a certain fiscal year; prohibiting a certain amount from being included in a certain calculation in a certain fiscal year; defining certain terms; requiring the Baltimore City Board of School Commissioners to make certain disbursements to public charter schools in certain fiscal years; requiring the Baltimore City Board of School Commissioners, by a certain date, to contract with a certain accountant to conduct a certain audit; requiring the Baltimore City Board of School Commissioners to consult with the Secretary of Budget and Management on the scope of the audit; requiring the Baltimore City Public School System to fully submit to a certain audit and provide certain documents, records, and information; requiring a certain accountant to make a certain report to certain entities by a certain date; requiring the Baltimore City Board of School Commissioners to comply with certain requirements as a condition of receiving certain funds; requiring the Baltimore City Board of School Commissioners to develop a certain financial recovery plan and to submit the plan to certain entities by a certain date and to make certain quarterly reports; requiring the Mayor of Baltimore City and the Baltimore City Council to develop a certain plan by a certain date and submit the plan to certain entities; and generally relating to State education aid.

BY repealing and reenacting, with amendments,
Article – Education
Section 5–202(i)
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

BY adding to
Article – Education
Section 5–218
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

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

Article – Education

5–202.

(i) (1) In this subsection, “total direct education aid” means the total financial assistance provided by the State to a county board under the following programs:

- (i) Funding for the foundation program including funds for the Geographic Cost of Education under this section;
- (ii) Transportation aid under § 5–205 of this subtitle;
- (iii) Funding for compensatory education under § 5–207 of this subtitle;
- (iv) Funding for students with limited English proficiency under § 5–208 of this subtitle;
- (v) Funding for special education students under § 5–209 of this subtitle;
- (vi) Funding for the guaranteed tax base program under § 5–210 of this subtitle; and
- (vii) Funding for grants provided under this subsection.

(2) For fiscal year 2012 only, if a county board's total direct education aid in the current fiscal year is less than the prior fiscal year by more than 6.5%, then the State shall provide a grant to the county board in an amount necessary to ensure that a decrease in total direct education aid is not more than 6.5%.

(3) For fiscal year 2013 only, if a county board's total direct education aid in the current fiscal year is less than the prior fiscal year by more than 5%, then the State shall provide a grant to the county board in an amount necessary to ensure that a decrease in total direct education aid is not more than 5%.

(4) For fiscal year 2014 only, if a county board's total direct education aid in the current fiscal year is less than the prior fiscal year by more than 1%, then the State shall provide a grant to the county board equal to 25% of the decrease in total direct education aid from the prior fiscal year to the current fiscal year.

(5) (i) For fiscal years 2015 through 2017, a county board is eligible for a State grant under this paragraph if a county board's:

1. Full-time equivalent enrollment is less than 5,000;
2. Full-time equivalent enrollment in the current fiscal year is less than the prior fiscal year; and
3. Total direct education aid in the current fiscal year is less than the prior fiscal year by more than 1%.

(ii) The State shall provide a grant to a county board that is eligible under subparagraph (i) of this paragraph.

(iii) The grant shall be equal to 50% of the decrease in total direct education aid from the prior fiscal year to the current fiscal year.

~~(6) (i) FOR FISCAL YEAR 2018, A COUNTY BOARD IS ELIGIBLE FOR A STATE GRANT UNDER THIS PARAGRAPH IF A COUNTY BOARD'S:~~

~~1. FULL-TIME EQUIVALENT ENROLLMENT IN THE CURRENT FISCAL YEAR IS LESS THAN THE PRIOR FISCAL YEAR; AND~~

~~2. TOTAL DIRECT EDUCATION AID IN THE CURRENT FISCAL YEAR IS LESS THAN THE PRIOR FISCAL YEAR BY MORE THAN 1%.~~

~~(ii) THE STATE SHALL PROVIDE A GRANT TO A COUNTY BOARD THAT IS ELIGIBLE UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH.~~

~~(iii) THE GRANT SHALL BE EQUAL TO 50% OF THE DECREASE IN TOTAL DIRECT EDUCATION AID FROM THE PRIOR FISCAL YEAR TO THE CURRENT FISCAL YEAR.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the following amounts shall be included in the fiscal year 2017 total direct education aid calculation under § 5-202(i) of the Education Article to determine eligibility for and amount of the grant for fiscal 2018:~~

~~(1) Baltimore City — \$12,674,305;~~

~~(2) Calvert County — \$1,090,580;~~

~~(3) Carroll County — \$4,000,000;~~

~~(4) Garrett County — \$1,300,000; and~~

~~(5) Kent County — \$300,000.~~

~~(6) (i) 1. IN THIS PARAGRAPH THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~2. “3-YEAR MOVING AVERAGE FULL-TIME EQUIVALENT ENROLLMENT” MEANS THE AVERAGE OF THE FULL-TIME EQUIVALENT ENROLLMENT IN THE 3 PREVIOUS SCHOOL YEARS.~~

~~3. “TOTAL DIRECT EDUCATION AID” MEANS THE SUM OF THE AMOUNTS LISTED IN PARAGRAPH (1)(I) THROUGH (VI) OF THIS SUBSECTION.~~

(II) A COUNTY BOARD IS ELIGIBLE FOR A SUPPLEMENTAL STATE GRANT UNDER THIS PARAGRAPH IF A COUNTY'S 3-YEAR MOVING AVERAGE FULL-TIME EQUIVALENT ENROLLMENT IS GREATER THAN THE FULL-TIME EQUIVALENT ENROLLMENT IN THE PREVIOUS SCHOOL YEAR.

(III) FOR EACH OF FISCAL YEARS 2018 THROUGH 2020, THE STATE SHALL PROVIDE A SUPPLEMENTAL GRANT TO AN ELIGIBLE COUNTY BOARD THAT EQUALS:

1. THE QUOTIENT OF THE TOTAL DIRECT EDUCATION AID OF A COUNTY BOARD DIVIDED BY THE FULL-TIME EQUIVALENT ENROLLMENT OF THE COUNTY IN THE PREVIOUS SCHOOL YEAR; MULTIPLIED BY

2. THE DIFFERENCE BETWEEN THE 3-YEAR MOVING AVERAGE FULL-TIME EQUIVALENT ENROLLMENT IN THE COUNTY AND THE FULL-TIME EQUIVALENT ENROLLMENT IN THE COUNTY IN THE PREVIOUS SCHOOL YEAR.

(IV) THE STATE SHALL DISTRIBUTE THE SUPPLEMENTAL GRANT AT THE SAME TIME THE STATE DISTRIBUTES FUNDS TO COUNTY BOARDS UNDER THIS SUBTITLE.

5-218.

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

(2) "ELIGIBLE CHILD" MEANS A CHILD:

(i) WHOSE PARENT OR GUARDIAN ENROLLS THE CHILD IN A PUBLIC PREKINDERGARTEN PROGRAM; AND

(ii) WHO IS 4 YEARS OLD ON SEPTEMBER 1 OF THE SCHOOL YEAR IN WHICH THE PARENT OR LEGAL GUARDIAN ENROLLS THE CHILD IN A PUBLIC PREKINDERGARTEN PROGRAM.

(3) "ELIGIBLE COUNTY BOARD" MEANS A COUNTY BOARD THAT MAKES A FULL-DAY PUBLIC PREKINDERGARTEN PROGRAM AVAILABLE FOR ALL ELIGIBLE CHILDREN.

(4) "STATE SHARE OF THE PER PUPIL FOUNDATION AMOUNT" MEANS THE QUOTIENT OF THE STATE SHARE OF THE FOUNDATION PROGRAM FOR A COUNTY DIVIDED BY THE FULL-TIME EQUIVALENT ENROLLMENT OF THE COUNTY.

(B) FOR EACH OF FISCAL YEARS 2018 THROUGH 2020, THE STATE SHALL PROVIDE A SUPPLEMENTAL PREKINDERGARTEN GRANT TO AN ELIGIBLE COUNTY BOARD THAT EQUALS THE PERCENTAGE OF THE STATE SHARE OF THE PER PUPIL FOUNDATION AMOUNT MULTIPLIED BY THE NUMBER OF FULL-TIME EQUIVALENT ELIGIBLE CHILDREN ENROLLED IN A PUBLIC FULL-DAY PREKINDERGARTEN PROGRAM ON SEPTEMBER 30 OF THE PREVIOUS SCHOOL YEAR:

- (1) FOR FISCAL YEAR 2018, 50%;**
- (2) FOR FISCAL YEAR 2019, 75%; AND**
- (3) FOR FISCAL YEAR 2020, 100%.**

(C) THE STATE SHALL DISTRIBUTE THE SUPPLEMENTAL PREKINDERGARTEN GRANT AT THE SAME TIME THE STATE DISTRIBUTES FUNDS TO COUNTY BOARDS UNDER THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) In this section, “local contribution” means the Baltimore City appropriation to Baltimore City Public Schools and services provided by Baltimore City for the benefit of Baltimore City Public Schools.

(b) State funds provided to Baltimore City Public Schools under this Act may not be distributed until Baltimore City provides:

(1) in fiscal year 2018, a \$22,000,000 local contribution to the Baltimore City Public Schools above the local appropriation provided in fiscal year 2017; and

(2) in each of fiscal years 2019 and 2020, a \$20,000,000 local contribution to the Baltimore City Public Schools above the local appropriation provided in fiscal year 2017.

(c) (1) For fiscal year 2019, the maintenance of effort amount calculated under § 5–202 of the Education Article shall be based on the total per pupil appropriation for fiscal year 2018 including \$10,000,000 of the local contribution required under this section.

(2) The remaining local contributions required under this section may not be included in the calculation of the required maintenance of effort amount.

(d) The Baltimore City Board of School Commissioners shall disburse any additional revenue appropriated by Baltimore City and the State to Baltimore City Public Schools in fiscal years 2018 through 2020 to public charter schools in amounts that are commensurate with the amounts disbursed to other public schools in the City.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) (1) On or before December 31, 2017, the Baltimore City Board of School Commissioners shall contract with an independent certified public accountant to conduct an independent, comprehensive audit of the Baltimore City Public School System.

(2) The Baltimore City Board of School Commissioners shall consult with the Secretary of Budget and Management on the scope of the audit.

(b) The accountant selected under subsection (a) of this section:

(1) shall be licensed to practice accounting in the State;

(2) shall be experienced and qualified in accounting and auditing public bodies; and

(3) may not have a direct or indirect personal interest in the affairs of Baltimore City or the Baltimore City Public School System.

(c) The Baltimore City Public School System shall fully submit to the audit and provide any and all documents, records, and information requested by the accountant.

(d) The accountant shall perform the audit in accordance with generally accepted government auditing standards.

(e) On or before December 31, 2019, the accountant shall report and present its findings, conclusions, and recommendations to the Secretary of Budget and Management; the State Board of Education; in accordance with § 2-1246 of the State Government Article, the General Assembly, the Senate Budget and Taxation Committee, and the House Appropriations Committee; the Mayor of Baltimore City; and the Baltimore City Board of School Commissioners.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) As a condition of receiving State funds under Section 1 of this Act, the Baltimore City Board of School Commissioners shall comply with the requirements of this section.

(b) The Baltimore City Board of School Commissioners shall develop a financial recovery plan that shall:

(1) address all repeat findings from the Office of Legislative Audits; and

(2) include steps to:

(i) eliminate the structural deficits of the Baltimore City Public School System by fiscal year 2020;

(ii) balance the Baltimore City Public School System budget and future deficits;

(iii) alter permanent and temporary staffing levels and review existing employment contracts and attrition levels to achieve greater efficiency, including size and scope of the Baltimore City Public School System central office;

(iv) alter the administrative organization of the Baltimore City Public School System to achieve greater efficiency;

(v) conduct special audits or further studies to analyze the effectiveness of the financial recovery plan; and

(vi) establish a capital budget that maximizes the use of available resources to address infrastructure deficiencies.

(c) By August 1, 2017, the Baltimore City Board of School Commissioners shall submit the financial recovery plan to the Mayor of Baltimore City, the Secretary of Budget and Management, and, in accordance with § 2–1246 of the State Government Article, the Senate Budget and Taxation Committee and the House Appropriations Committee.

(d) (1) The Baltimore City Board of School Commissioners shall report quarterly on the progress of the financial recovery plan to the Mayor of Baltimore City, the Secretary of Budget and Management, and, in accordance with § 2–1246 of the State Government Article, the Senate Budget and Taxation Committee and the House Appropriations Committee.

(2) The first quarterly report shall be submitted no later than November 1, 2017.

(3) The financial recovery plan shall be a public record and be posted on the Baltimore City Public School System’s Web site.

(e) By August 1, 2017, the Mayor of Baltimore City and the Baltimore City Council shall develop a plan to sell, lease, convey, assign, or dispose of surplus school system assets and submit the plan to the Secretary of Budget and Management, and, in accordance with § 2–1246 of the State Government Article, the Senate Budget and Taxation Committee and the House Appropriations Committee.

SECTION ~~3~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 608**(House Bill 1381)**

AN ACT concerning

Adult High School Pilot Program

FOR the purpose of establishing an Adult High School Pilot Program; providing for the purpose of the Program; providing that the Program is under the authority and supervision of the State Department of Education and the Department of Labor, Licensing, and Regulation; authorizing the Department, in consultation with the Department of Labor, Licensing, and Regulation, to approve up to a certain number of pilots; establishing requirements for a pilot under the Program; requiring the Department and the Department of Labor, Licensing, and Regulation to consider certain items when considering whether to approve a certain pilot; providing that a certain pilot is not a public school for certain purposes; requiring an applicant to submit a certain plan to the Department and the Department of Labor, Licensing, and Regulation that includes certain information; requiring the Department, in consultation with the Department of Labor, Licensing, and Regulation, to approve or disapprove certain items within a certain period of time; requiring the State Board of Education to grant a certain pilot a waiver from certain regulations; prohibiting the State Board from granting a waiver of a certain assessment requirement in a certain regulation; requiring a pilot to be subject to the requirements of a certain federal law and provide certain accommodations; requiring the Department and the Department of Labor, Licensing, and Regulation to establish qualifications for operators of pilots under the Program; providing for the minimum content of certain qualifications; requiring certain operators to adopt certain written standards; requiring certain standards to be submitted to the Department and Department of Labor, Licensing, and Regulation for approval; authorizing an operator to partner with certain entities; requiring an Advisory Board to govern a pilot; providing for the membership, appointments, officers, and filling of vacancies for an Advisory Board; authorizing the operator or the Advisory Board to apply for and accept certain funding from certain entities; requiring an operator to conduct a certain evaluation each year; requiring an operator, after receiving certain approval from the Advisory Board, to submit a certain evaluation report to certain departments; requiring, beginning on a certain date, a certain operator to submit certain information to certain departments; requiring the Department and the Department of Labor, Licensing, and Regulation to jointly submit to the Governor and the General Assembly a certain report on or before a certain date; requiring the Department and the Department of Labor, Licensing, and Regulation to send a certain written notice to certain pilots under certain circumstances; requiring the Department and the Department of Labor, Licensing, and Regulation to jointly adopt certain regulations; defining certain terms; and generally relating to the Adult High School Pilot Program.

BY adding to

Article – Education

Section 9.7–101 through 9.7–110 to be under the new title “Title 9.7. Adult High School Pilot Program”

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

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

Article – Education

TITLE 9.7. ADULT HIGH SCHOOL PILOT PROGRAM.

9.7–101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “OPERATOR” MEANS A PRIVATE NONPROFIT ENTITY THAT ESTABLISHES A PILOT UNDER THE PROGRAM.

(C) “PILOT” MEANS AN ADULT HIGH SCHOOL ESTABLISHED BY AN OPERATOR UNDER THE PROGRAM.

(D) “PROGRAM” MEANS THE ADULT HIGH SCHOOL PILOT PROGRAM.

(E) (1) “WRAPAROUND SERVICES” MEANS INDIVIDUALIZED SERVICES, EXCLUDING REGULAR SCHOOL PROGRAMS AND SERVICES, THAT ARE PROVIDED TO THE STUDENT AND THE STUDENT’S FAMILY.

(2) “WRAPAROUND SERVICES” INCLUDES:

(I) CHILD CARE;

(II) TRANSPORTATION;

(III) HOUSING REFERRALS;

(IV) MENTAL HEALTH;

(V) CRISIS INTERVENTION;

(VI) SUBSTANCE ABUSE PREVENTION OR TREATMENT; AND

(VII) LEGAL AID.

9.7-102.

(A) THERE IS AN ADULT HIGH SCHOOL PILOT PROGRAM.

(B) THE GENERAL PURPOSE OF THE PROGRAM IS TO ESTABLISH AN ALTERNATIVE METHOD FOR ADULTS WHO DID NOT GRADUATE FROM HIGH SCHOOL TO EARN A HIGH SCHOOL DIPLOMA AND POTENTIALLY TO EARN POSTSECONDARY EDUCATION CREDITS AND INDUSTRY-RECOGNIZED CERTIFICATION IN AN ENVIRONMENT THAT MEETS THE NEEDS OF THE ADULT LEARNER.

(C) THE PROGRAM IS UNDER THE AUTHORITY AND SUPERVISION OF THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

9.7-103.

(A) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, MAY APPROVE UP TO SIX PILOTS.

(B) A PILOT ESTABLISHED UNDER THE PROGRAM SHALL:

(1) OPERATE FROM A FIXED PHYSICAL LOCATION;

(2) ENROLL STUDENTS WHO:

(I) ARE 21 YEARS OLD OR OLDER;

(II) DO NOT HAVE A HIGH SCHOOL DIPLOMA; AND

(III) DID NOT COMPLETE THE REQUIREMENTS FOR HIGH SCHOOL GRADUATION THROUGH GED TESTING OR A NATIONAL EXTERNAL DIPLOMA PROGRAM;

(3) ENROLL A MAXIMUM OF 350 STUDENTS;

(4) OFFER WRAPAROUND SERVICES NECESSARY FOR THE ADULT LEARNER; AND

(5) GRANT A MARYLAND HIGH SCHOOL DIPLOMA ON COMPLETION OF THE REQUIRED COURSE OF STUDY.

(C) WHEN CONSIDERING WHETHER TO APPROVE A PILOT UNDER THIS SECTION, THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION SHALL:

(1) GIVE PRIORITY TO A PILOT LOCATED IN A COUNTY OR GEOGRAPHIC AREA LOCATED WITHIN A COUNTY THAT HAS A HIGH SCHOOL ATTAINMENT RATE THAT IS LOWER THAN THE STATE AVERAGE HIGH SCHOOL ATTAINMENT RATE;

(2) CONSIDER GEOGRAPHIC DIVERSITY IN LOCATIONS FOR THE PILOTS; AND

(3) APPROVE ONE PILOT IN A RURAL AREA FOR EACH TWO PILOTS APPROVED IN URBAN AREAS.

(D) A PILOT ESTABLISHED UNDER THE PROGRAM IS NOT A PUBLIC SCHOOL FOR PUBLIC FINANCING PURPOSES UNDER TITLE 5 OF THIS ARTICLE.

9.7-104.

(A) (1) TO ESTABLISH A PILOT UNDER THE PROGRAM, AN APPLICANT SHALL SUBMIT TO THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION A PLAN THAT DESCRIBES IN DETAIL THE PILOT OPERATOR, THE PILOT PROGRAM DESCRIPTION, THE PROPOSED CURRICULUM, ASSESSMENT PROCEDURES, PERFORMANCE STANDARDS, WRAPAROUND SERVICES, THE BUDGET, AND THE PROPOSED BYLAWS ADOPTED BY THE PILOT'S ADVISORY BOARD.

(2) THE PLAN UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) THE PROPOSED CURRICULUM AND PERFORMANCE STANDARDS THAT ALIGN WITH THE MARYLAND COLLEGE AND CAREER READY STANDARDS;

(II) INITIAL STUDENT INTAKE ASSESSMENT PROCEDURES;

(III) PLANS FOR THE PROVISION OF REMEDIAL INSTRUCTION TO PREPARE STUDENTS FOR SECONDARY-LEVEL ACADEMIC INSTRUCTION, IF NECESSARY;

(IV) PLANS FOR WORKING WITH STUDENTS WITH DISABILITIES;

(V) A DESCRIPTION OF ASSESSMENT INSTRUMENTS FOR MEASURING STUDENT PROGRESS AND COLLEGE AND CAREER READINESS;

(VI) A DESCRIPTION OF ANY PROGRAMS OR PARTNERSHIPS WITH ORGANIZATIONS OR BUSINESSES FOR PROVIDING JOB SKILLS, INDUSTRY CERTIFICATIONS, OR HIGHER EDUCATION CREDITS;

(VII) THE WRAPAROUND SERVICES OFFERED;

(VIII) A DESCRIPTION OF THE ADVISORY AND COACHING SERVICES THAT PROVIDE SUPPORT FOR STUDENTS TO:

1. ESTABLISH CAREER PATHWAYS IN HIGH NEED AND GROWTH INDUSTRY SECTORS; AND

2. MAKE EFFECTIVE TRANSITIONS INTO POSTSECONDARY EDUCATION AND INDUSTRY CREDENTIALING OPPORTUNITIES;

(IX) THE PILOT'S GOVERNANCE PLAN; ~~AND~~

(X) A DETAILED BUDGET FOR THE INITIAL 3-YEAR OPERATING PERIOD THAT DEMONSTRATES THE PILOT'S FINANCIAL SELF-SUFFICIENCY; AND

(XI) PLANS FOR WORKING WITH ENGLISH LANGUAGE LEARNERS.

(B) WITHIN 60 DAYS OF THE DATE OF RECEIPT OF A PLAN SUBMITTED UNDER SUBSECTION (A) OF THIS SECTION:

(1) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, SHALL APPROVE OR DISAPPROVE THE PILOT'S CURRICULUM; AND

(2) IF THE DEPARTMENT APPROVES THE PILOT'S CURRICULUM UNDER ITEM (1) OF THIS SUBSECTION, THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, SHALL APPROVE OR DISAPPROVE THE APPLICANT'S PLAN AND PILOT.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WITHIN 30 DAYS OF THE DATE OF APPROVAL OF THE PLAN AND PILOT UNDER SUBSECTION (B)(2) OF THIS SECTION AND IN ACCORDANCE WITH THE AUTHORITY OF THE STATE BOARD UNDER § 2-205 OF THIS ARTICLE TO GRANT WAIVERS FROM REGULATIONS ADOPTED BY THE STATE BOARD, THE STATE BOARD SHALL GRANT THE PILOT A WAIVER FROM ANY REGULATION THAT CONFLICTS WITH THE PURPOSE AND GOALS OF THE PILOT'S PLAN APPROVED BY THE DEPARTMENT, INCLUDING THE STUDENT SERVICE REQUIREMENT IN COMAR 13A.03.02.05.

(2) A WAIVER REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE GRANTED RELATED TO ASSESSMENT REQUIREMENTS IN COMAR 13A.03.02.06.

(D) A PILOT SHALL ~~BE~~:

(1) BE SUBJECT TO THE REQUIREMENTS OF § 504 OF THE REHABILITATION ACT OF 1973; AND

(2) SHALL PROVIDE ACCOMMODATIONS EQUAL TO THOSE A STUDENT WOULD QUALIFY FOR UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT IF A STUDENT HAS A DISABILITY WITH AN EDUCATIONAL IMPACT.

9.7-105.

(A) (1) THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION SHALL ESTABLISH QUALIFICATIONS FOR OPERATORS OF PILOTS UNDER THE PROGRAM.

(2) THE QUALIFICATIONS SHALL, AT A MINIMUM, REQUIRE AN OPERATOR TO:

(I) BE REGISTERED AS A NONPROFIT ORGANIZATION IN THE STATE;

(II) HAVE PREVIOUS EXPERIENCE AND MEASURED SUCCESS IN PROVIDING EDUCATION SERVICES TO ADULT LEARNERS, INCLUDING INDUSTRY CERTIFICATION AND JOB PLACEMENT SERVICES;

(III) HAVE PREVIOUS EXPERIENCE PROVIDING EDUCATION SERVICES OR WORKFORCE DEVELOPMENT SERVICES TO ADULT LEARNERS WHO HAVE BEEN LIMITED BY EDUCATIONAL DISADVANTAGES, A DISABILITY, A CRIMINAL RECORD, OR SIMILAR BARRIERS TO EMPLOYMENT OPPORTUNITIES; ~~AND~~

(IV) HAVE SECURED FINANCING TO DEVELOP OR THE CAPABILITY TO SECURE FINANCING FOR THE DEVELOPMENT OF A PHYSICAL SITE FOR THE PILOT; AND

(V) HIRE APPROPRIATELY TRAINED INSTRUCTIONAL PERSONNEL.

(3) AN OPERATOR MAY BE A PARTNERSHIP OF TWO OR MORE PERSONS THAT MEET THE QUALIFICATIONS REQUIRED UNDER THIS SUBSECTION.

(B) (1) THE OPERATOR SHALL ADOPT WRITTEN STANDARDS FOR THE ADMISSION AND DISMISSAL OF STUDENTS.

(2) THE STANDARDS AND ANY AMENDMENTS SHALL BE SUBMITTED TO THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION FOR APPROVAL.

(C) THE OPERATOR MAY PARTNER WITH:

(1) A COUNTY BOARD OF EDUCATION; OR

(2) A PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE IF THE OPERATOR INTENDS TO PROVIDE COURSE WORK FOR COLLEGE CREDIT.

9.7-106.

(A) AN ADVISORY BOARD SHALL GOVERN A PILOT.

(B) (1) AN ADVISORY BOARD SHALL CONSIST OF AT LEAST 11 MEMBERS AND NOT MORE THAN 25 MEMBERS.

(2) OF THE ADVISORY BOARD MEMBERS:

(I) ONE SHALL BE APPOINTED BY THE DEPARTMENT;

(II) ONE SHALL BE APPOINTED BY THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION; AND

(III) THE REMAINING MEMBERS SHALL BE SELECTED IN ACCORDANCE WITH THE BYLAWS OF THE PILOT.

(C) A VACANCY SHALL BE FILLED IN THE SAME MANNER IN WHICH THE VACATING MEMBER WAS APPOINTED OR SELECTED.

(D) THE ADVISORY BOARD SHALL DETERMINE ITS OFFICERS.

9.7-107.

THE OPERATOR OR ADVISORY BOARD OF A PILOT MAY APPLY FOR AND ACCEPT DONATIONS, GRANTS, OR OTHER FINANCIAL ASSISTANCE FROM A GOVERNMENTAL ENTITY OR ANY NONPROFIT OR OTHER PRIVATE ORGANIZATION.

9.7-108.

(A) AN OPERATOR SHALL CONDUCT AN EVALUATION OF THE PILOT EACH YEAR.

(B) THE OPERATOR, AFTER RECEIVING APPROVAL OF THE ADVISORY BOARD, SHALL SUBMIT TO THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION AN EVALUATION REPORT FOR THE PRIOR FISCAL YEAR THAT INCLUDES:

(1) THE ACADEMIC AND CAREER PROGRESS OF EACH STUDENT ENROLLED IN THE PILOT; AND

(2) THE PILOT'S FISCAL YEAR FINANCIAL REPORT.

9.7-109.

(A) BEGINNING OCTOBER 1, 2018, AND ON OR BEFORE OCTOBER 1 EACH YEAR THEREAFTER, THE OPERATOR OF A PILOT SHALL SUBMIT TO THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION THE FOLLOWING INFORMATION FOR THE PRIOR FISCAL YEAR:

(1) WHETHER STUDENTS ENROLLED IN THE PILOT ARE ON TRACK FOR COMPLETION IN A TIME DETERMINED TO BE REASONABLE BY THE ADVISORY BOARD OF THE PILOT;

(2) THE ACADEMIC LEVELS OF THE STUDENTS AT THE TIME OF ENROLLMENT IN THE PILOT;

(3) THE NUMBER OF:

(i) CREDITS STUDENTS COMPLETED; AND

(ii) STUDENTS WHO COMPLETED AND GRADUATED FROM THE PILOT;

(4) THE ACADEMIC PROGRESS OF THE STUDENTS AS MEASURED BY THE STUDENT INTAKE ASSESSMENT INSTRUMENT AND THE ASSESSMENT INSTRUMENT USED;

(5) THE GRADUATION RATE;

(6) THE NUMBER OF POSTSECONDARY EDUCATION CREDITS EARNED AND THE TYPES OF CREDITS SOUGHT;

(7) THE NUMBER OF INDUSTRY CREDENTIALS EARNED AND THE TYPES OF INDUSTRY CREDENTIALS; AND

(8) ANY REPORTED POSTGRADUATION EMPLOYMENT.

(B) ON OR BEFORE DECEMBER 1, 2020, THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION SHALL JOINTLY SUBMIT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY A REPORT THAT INCLUDES:

(1) AN EVALUATION OF EACH PILOT APPROVED UNDER THIS SUBTITLE;

(2) A RECOMMENDATION AS TO EXPANSION, CONTINUATION, MODIFICATIONS TO, OR TERMINATION OF THE PROGRAM;

(3) DEMOGRAPHIC INFORMATION ON STUDENT ENROLLMENT UNDER THE PROGRAM; AND

(4) THE FISCAL SOLVENCY OF THE PROGRAM.

9.7-110.

(A) IF THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION AGREE THAT THE PROGRAM IS NOT EFFECTIVE, THE DEPARTMENT AND DEPARTMENT OF LABOR, LICENSING, AND REGULATION SHALL SEND WRITTEN NOTICE TO THE PILOTS THAT THE PROGRAM HAS BEEN DISCONTINUED.

(B) THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION SHALL JOINTLY ADOPT REGULATIONS TO IMPLEMENT THE PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 609

(Senate Bill 866)

AN ACT concerning

Adult High School Pilot Program

FOR the purpose of establishing an Adult High School Pilot Program; providing for the purpose of the Program; providing that the Program is under the authority and supervision of the State Department of Education and the Department of Labor, Licensing, and Regulation; authorizing the Department, in consultation with the Department of Labor, Licensing, and Regulation, to approve up to a certain number of pilots; establishing requirements for a pilot under the Program; requiring the Department and the Department of Labor, Licensing, and Regulation to consider certain items when considering whether to approve a certain pilot; providing that a certain pilot is not a public school for certain purposes; requiring an applicant to submit a certain plan to the Department and the Department of Labor, Licensing, and Regulation that includes certain information; requiring the Department, in consultation with the Department of Labor, Licensing, and Regulation, to approve or disapprove certain items within a certain period of time; requiring the State Board of Education to grant a certain pilot a waiver from certain regulations; prohibiting the State Board from granting a waiver of a certain assessment requirement in a certain regulation; requiring a pilot to be subject to the requirements of a certain federal law *and provide certain accommodations*; requiring the Department and the Department of Labor, Licensing, and Regulation to establish qualifications for operators of pilots under the Program; providing for the minimum content of certain qualifications; requiring certain operators to adopt certain written standards; requiring certain standards to be submitted to the Department and Department of Labor, Licensing, and Regulation for approval; authorizing an operator to partner with certain entities; requiring an Advisory Board to govern a pilot; providing for the membership, appointments, officers, and filling of vacancies for an Advisory Board; ~~providing for the qualifications of teachers and the salaries of certain teachers and certain professional personnel of a pilot;~~ authorizing the operator or the Advisory Board to apply for and accept certain funding from certain entities; requiring an operator to conduct a certain evaluation each year; requiring an operator, after receiving certain approval from the Advisory Board, to submit a certain evaluation report to certain departments; requiring, beginning on a certain date, a certain operator to submit certain information to certain departments; requiring the Department and the Department of Labor, Licensing, and Regulation to jointly submit to the Governor and the General Assembly a certain report on or before a certain date; requiring the Department and the Department of Labor, Licensing, and Regulation to send a certain written notice to certain pilots under certain circumstances; requiring the Department and the Department of Labor, Licensing, and Regulation to jointly adopt certain regulations; defining certain terms; and generally relating to the Adult High School Pilot Program.

BY adding to

Article – Education

Section 9.7–101 through ~~9.7–111~~ 9.7–110 to be under the new title “Title 9.7. Adult High School Pilot Program”

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

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

Article – Education

TITLE 9.7. ADULT HIGH SCHOOL PILOT PROGRAM.

9.7–101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “OPERATOR” MEANS A PRIVATE NONPROFIT ENTITY THAT ESTABLISHES A PILOT UNDER THE PROGRAM.

(C) “PILOT” MEANS AN ADULT HIGH SCHOOL ESTABLISHED BY AN OPERATOR UNDER THE PROGRAM.

(D) “PROGRAM” MEANS THE ADULT HIGH SCHOOL PILOT PROGRAM.

(E) (1) “WRAPAROUND SERVICES” MEANS INDIVIDUALIZED SERVICES, EXCLUDING REGULAR SCHOOL PROGRAMS AND SERVICES, THAT ARE PROVIDED TO THE STUDENT AND THE STUDENT’S FAMILY.

(2) “WRAPAROUND SERVICES” INCLUDES:

(I) CHILD CARE;

(II) TRANSPORTATION;

(III) HOUSING REFERRALS;

(IV) MENTAL HEALTH;

(V) CRISIS INTERVENTION;

(VI) SUBSTANCE ABUSE PREVENTION OR TREATMENT; AND

(VII) LEGAL AID.

9.7–102.

(A) THERE IS AN ADULT HIGH SCHOOL PILOT PROGRAM.

(B) THE GENERAL PURPOSE OF THE PROGRAM IS TO ESTABLISH AN ALTERNATIVE METHOD FOR ADULTS WHO DID NOT GRADUATE FROM HIGH SCHOOL TO EARN A HIGH SCHOOL DIPLOMA AND POTENTIALLY TO EARN POSTSECONDARY EDUCATION CREDITS AND INDUSTRY-RECOGNIZED CERTIFICATION IN AN ENVIRONMENT THAT MEETS THE NEEDS OF THE ADULT LEARNER.

(C) THE PROGRAM IS UNDER THE AUTHORITY AND SUPERVISION OF THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

9.7-103.

(A) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, MAY APPROVE UP TO SIX PILOTS.

(B) A PILOT ESTABLISHED UNDER THE PROGRAM SHALL:

(1) OPERATE FROM A FIXED PHYSICAL LOCATION;

(2) ENROLL STUDENTS WHO:

(i) ARE 21 YEARS OLD OR OLDER;

(ii) DO NOT HAVE A HIGH SCHOOL DIPLOMA; AND

(iii) DID NOT COMPLETE THE REQUIREMENTS FOR HIGH SCHOOL GRADUATION THROUGH GED TESTING OR A NATIONAL EXTERNAL DIPLOMA PROGRAM;

(3) ENROLL A MAXIMUM OF 350 STUDENTS;

(4) OFFER WRAPAROUND SERVICES NECESSARY FOR THE ADULT LEARNER; AND

(5) GRANT A MARYLAND HIGH SCHOOL DIPLOMA ON COMPLETION OF THE REQUIRED COURSE OF STUDY.

(C) WHEN CONSIDERING WHETHER TO APPROVE A PILOT UNDER THIS SECTION, THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION SHALL:

(1) GIVE PRIORITY TO A PILOT LOCATED IN A COUNTY OR GEOGRAPHIC AREA LOCATED WITHIN A COUNTY THAT HAS A HIGH SCHOOL ATTAINMENT RATE THAT IS LOWER THAN THE STATE AVERAGE HIGH SCHOOL ATTAINMENT RATE;

(2) CONSIDER GEOGRAPHIC DIVERSITY IN LOCATIONS FOR THE PILOTS; AND

(3) APPROVE ONE PILOT IN A RURAL AREA FOR EACH TWO PILOTS APPROVED IN URBAN AREAS.

(D) A PILOT ESTABLISHED UNDER THE PROGRAM IS NOT A PUBLIC SCHOOL FOR PUBLIC FINANCING PURPOSES UNDER TITLE 5 OF THIS ARTICLE.

9.7-104.

(A) (1) TO ESTABLISH A PILOT UNDER THE PROGRAM, AN APPLICANT SHALL SUBMIT TO THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION A PLAN THAT DESCRIBES IN DETAIL THE PILOT OPERATOR, THE PILOT PROGRAM DESCRIPTION, THE PROPOSED CURRICULUM, ASSESSMENT PROCEDURES, PERFORMANCE STANDARDS, WRAPAROUND SERVICES, THE BUDGET, AND THE PROPOSED BYLAWS ADOPTED BY THE PILOT'S ADVISORY BOARD.

(2) THE PLAN UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) THE PROPOSED CURRICULUM AND PERFORMANCE STANDARDS THAT ALIGN WITH THE MARYLAND COLLEGE AND CAREER READY STANDARDS;

(II) INITIAL STUDENT INTAKE ASSESSMENT PROCEDURES;

(III) PLANS FOR THE PROVISION OF REMEDIAL INSTRUCTION TO PREPARE STUDENTS FOR SECONDARY-LEVEL ACADEMIC INSTRUCTION, IF NECESSARY;

(IV) PLANS FOR WORKING WITH STUDENTS WITH DISABILITIES;

(V) A DESCRIPTION OF ASSESSMENT INSTRUMENTS FOR MEASURING STUDENT PROGRESS AND COLLEGE AND CAREER READINESS;

(VI) A DESCRIPTION OF ANY PROGRAMS OR PARTNERSHIPS WITH ORGANIZATIONS OR BUSINESSES FOR PROVIDING JOB SKILLS, INDUSTRY CERTIFICATIONS, OR HIGHER EDUCATION CREDITS;

(VII) THE WRAPAROUND SERVICES OFFERED;

(VIII) A DESCRIPTION OF THE ADVISORY AND COACHING SERVICES THAT PROVIDE SUPPORT FOR STUDENTS TO:

1. ESTABLISH CAREER PATHWAYS IN HIGH NEED AND GROWTH INDUSTRY SECTORS; AND

2. MAKE EFFECTIVE TRANSITIONS INTO POSTSECONDARY EDUCATION AND INDUSTRY CREDENTIALING OPPORTUNITIES;

(IX) THE PILOT'S GOVERNANCE PLAN; ~~AND~~

(X) A DETAILED BUDGET FOR THE INITIAL 3-YEAR OPERATING PERIOD THAT DEMONSTRATES THE PILOT'S FINANCIAL SELF-SUFFICIENCY; AND

(XI) PLANS FOR WORKING WITH ENGLISH LANGUAGE LEARNERS.

(B) WITHIN 60 DAYS OF THE DATE OF RECEIPT OF A PLAN SUBMITTED UNDER SUBSECTION (A) OF THIS SECTION:

(1) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, SHALL APPROVE OR DISAPPROVE THE PILOT'S CURRICULUM; AND

(2) IF THE DEPARTMENT APPROVES THE PILOT'S CURRICULUM UNDER ITEM (1) OF THIS SUBSECTION, THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, SHALL APPROVE OR DISAPPROVE THE APPLICANT'S PLAN AND PILOT.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WITHIN 30 DAYS OF THE DATE OF APPROVAL OF THE PLAN AND PILOT UNDER SUBSECTION (B)(2) OF THIS SECTION AND IN ACCORDANCE WITH THE AUTHORITY OF THE STATE BOARD UNDER § 2-205 OF THIS ARTICLE TO GRANT WAIVERS FROM REGULATIONS ADOPTED BY THE STATE BOARD, THE STATE BOARD SHALL GRANT THE PILOT A WAIVER FROM ANY REGULATION THAT CONFLICTS WITH THE PURPOSE AND GOALS OF THE PILOT'S PLAN APPROVED BY THE DEPARTMENT, INCLUDING THE STUDENT SERVICE REQUIREMENT IN COMAR 13A.03.02.05.

(2) A WAIVER REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE GRANTED RELATED TO ASSESSMENT REQUIREMENTS IN COMAR 13A.03.02.06.

(D) A PILOT SHALL ~~BE~~:

(1) BE SUBJECT TO THE REQUIREMENTS OF § 504 OF THE REHABILITATION ACT OF 1973; AND

(2) PROVIDE ACCOMMODATIONS EQUAL TO THOSE A STUDENT WOULD QUALIFY FOR UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT IF A STUDENT HAS A DISABILITY WITH AN EDUCATIONAL IMPACT.

9.7-105.

(A) (1) THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION SHALL ESTABLISH QUALIFICATIONS FOR OPERATORS OF PILOTS UNDER THE PROGRAM.

(2) THE QUALIFICATIONS SHALL, AT A MINIMUM, REQUIRE AN OPERATOR TO:

(I) BE REGISTERED AS A NONPROFIT ORGANIZATION IN THE STATE;

(II) HAVE PREVIOUS EXPERIENCE AND MEASURED SUCCESS IN PROVIDING EDUCATION SERVICES TO ADULT LEARNERS, INCLUDING INDUSTRY CERTIFICATION AND JOB PLACEMENT SERVICES;

(III) HAVE PREVIOUS EXPERIENCE PROVIDING EDUCATION SERVICES OR WORKFORCE DEVELOPMENT SERVICES TO ADULT LEARNERS WHO HAVE BEEN LIMITED BY EDUCATIONAL DISADVANTAGES, A DISABILITY, A CRIMINAL RECORD, OR SIMILAR BARRIERS TO EMPLOYMENT OPPORTUNITIES; ~~AND~~

(IV) HAVE SECURED FINANCING TO DEVELOP OR THE CAPABILITY TO SECURE FINANCING FOR THE DEVELOPMENT OF A PHYSICAL SITE FOR THE PILOT; AND

(V) HIRE APPROPRIATELY TRAINED INSTRUCTIONAL PERSONNEL.

(3) AN OPERATOR MAY BE A PARTNERSHIP OF TWO OR MORE PERSONS THAT MEET THE QUALIFICATIONS REQUIRED UNDER THIS SUBSECTION.

(B) (1) THE OPERATOR SHALL ADOPT WRITTEN STANDARDS FOR THE ADMISSION AND DISMISSAL OF STUDENTS.

(2) THE STANDARDS AND ANY AMENDMENTS SHALL BE SUBMITTED TO THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION FOR APPROVAL.

(C) THE OPERATOR MAY PARTNER WITH:

(1) A COUNTY BOARD OF EDUCATION; OR

(2) A PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE IF THE OPERATOR INTENDS TO PROVIDE COURSE WORK FOR COLLEGE CREDIT.

9.7-106.

(A) AN ADVISORY BOARD SHALL GOVERN A PILOT.

(B) (1) AN ADVISORY BOARD SHALL CONSIST OF AT LEAST 11 MEMBERS AND NOT MORE THAN 25 MEMBERS.

(2) OF THE ADVISORY BOARD MEMBERS:

(I) ONE SHALL BE APPOINTED BY THE DEPARTMENT;

(II) ONE SHALL BE APPOINTED BY THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION; AND

(III) THE REMAINING MEMBERS SHALL BE SELECTED IN ACCORDANCE WITH THE BYLAWS OF THE PILOT.

(C) A VACANCY SHALL BE FILLED IN THE SAME MANNER IN WHICH THE VACATING MEMBER WAS APPOINTED OR SELECTED.

(D) THE ADVISORY BOARD SHALL DETERMINE ITS OFFICERS.

9.7-107.

~~(A) TEACHERS OF ACADEMIC SUBJECTS IN THE SECONDARY EDUCATION CURRICULUM SHALL BE CERTIFIED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS ARTICLE.~~

~~(B) TEACHERS AND ANY OTHER PROFESSIONAL PERSONNEL AT A PILOT SHALL BE PAID AN ANNUAL SALARY THAT IS AT LEAST EQUAL TO THE SALARY RECEIVED BY PUBLIC SCHOOL TEACHERS AND PROFESSIONAL PERSONNEL OF SIMILAR TRAINING AND EXPERIENCE IN THE COUNTY IN WHICH THE SCHOOL IS LOCATED.~~

~~**9.7-108.**~~

THE OPERATOR OR ADVISORY BOARD OF A PILOT MAY APPLY FOR AND ACCEPT DONATIONS, GRANTS, OR OTHER FINANCIAL ASSISTANCE FROM A GOVERNMENTAL ENTITY OR ANY NONPROFIT OR OTHER PRIVATE ORGANIZATION.

~~9.7-109.~~ 9.7-108.

(A) AN OPERATOR SHALL CONDUCT AN EVALUATION OF THE PILOT EACH YEAR.

(B) THE OPERATOR, AFTER RECEIVING APPROVAL OF THE ADVISORY BOARD, SHALL SUBMIT TO THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION AN EVALUATION REPORT FOR THE PRIOR FISCAL YEAR THAT INCLUDES:

- (1) THE ACADEMIC AND CAREER PROGRESS OF EACH STUDENT ENROLLED IN THE PILOT; AND
- (2) THE PILOT'S FISCAL YEAR FINANCIAL REPORT.

~~9.7-110.~~ 9.7-109.

(A) BEGINNING OCTOBER 1, 2018, AND ON OR BEFORE OCTOBER 1 EACH YEAR THEREAFTER, THE OPERATOR OF A PILOT SHALL SUBMIT TO THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION THE FOLLOWING INFORMATION FOR THE PRIOR FISCAL YEAR:

- (1) WHETHER STUDENTS ENROLLED IN THE PILOT ARE ON TRACK FOR COMPLETION IN A TIME DETERMINED TO BE REASONABLE BY THE ADVISORY BOARD OF THE PILOT;
- (2) THE ACADEMIC LEVELS OF THE STUDENTS AT THE TIME OF ENROLLMENT IN THE PILOT;
- (3) THE NUMBER OF:
 - (I) CREDITS STUDENTS COMPLETED; AND
 - (II) STUDENTS WHO COMPLETED AND GRADUATED FROM THE PILOT;
- (4) THE ACADEMIC PROGRESS OF THE STUDENTS AS MEASURED BY THE STUDENT INTAKE ASSESSMENT INSTRUMENT AND THE ASSESSMENT INSTRUMENT USED;

(5) THE GRADUATION RATE;

(6) THE NUMBER OF POSTSECONDARY EDUCATION CREDITS EARNED AND THE TYPES OF CREDITS SOUGHT;

(7) THE NUMBER OF INDUSTRY CREDENTIALS EARNED AND THE TYPES OF INDUSTRY CREDENTIALS; AND

(8) ANY REPORTED POSTGRADUATION EMPLOYMENT.

(B) ON OR BEFORE DECEMBER 1, 2020, THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION SHALL JOINTLY SUBMIT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY A REPORT THAT INCLUDES:

(1) AN EVALUATION OF EACH PILOT APPROVED UNDER THIS SUBTITLE;

(2) A RECOMMENDATION AS TO EXPANSION, CONTINUATION, MODIFICATIONS TO, OR TERMINATION OF THE PROGRAM;

(3) DEMOGRAPHIC INFORMATION ON STUDENT ENROLLMENT UNDER THE PROGRAM; AND

(4) THE FISCAL SOLVENCY OF THE PROGRAM.

~~9.7-111.~~ 9.7-110.

(A) IF THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION AGREE THAT THE PROGRAM IS NOT EFFECTIVE, THE DEPARTMENT AND DEPARTMENT OF LABOR, LICENSING, AND REGULATION SHALL SEND WRITTEN NOTICE TO THE PILOTS THAT THE PROGRAM HAS BEEN DISCONTINUED.

(B) THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION SHALL JOINTLY ADOPT REGULATIONS TO IMPLEMENT THE PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 610

(Senate Bill 1106)

AN ACT concerning

Health Care Practitioners – Use of Teletherapy

FOR the purpose of authorizing certain health care practitioners to use teletherapy for a certain patient under certain circumstances; ~~establishing certain requirements for the technology a health care practitioner uses for teletherapy; requiring a health care practitioner to make a certain identification and establish certain safety protocols before a certain teletherapy session; requiring a health care practitioner and a patient to execute an informed consent agreement that includes certain information and establish certain protocols to be used under certain circumstances before a certain teletherapy session; prohibiting a health occupations board from refusing to issue a certain license or certificate to a certain individual who intends to provide certain services to a certain patient only by using teletherapy if the individual satisfies certain requirements; requiring certain health occupations boards to adopt certain regulations on or before a certain date; defining certain terms; providing for a delayed effective date for certain provisions of this Act; and generally relating to the use of teletherapy by health care practitioners.~~

BY adding to

Article – Health Occupations

Section 1-901 through ~~1-905~~ 1-903 to be under the new subtitle “Subtitle 9. Teletherapy”

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

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

Article – Health Occupations

SUBTITLE 9. TELETHERAPY.

1-901.

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

(B) “HEALTH CARE PRACTITIONER” MEANS AN INDIVIDUAL WHO:

(1) PROVIDES ~~CLINICAL~~ BEHAVIORAL HEALTH SERVICES TO A PATIENT IN THE STATE; AND

(2) IS LICENSED IN THE STATE BY:

- (I) THE STATE BOARD OF NURSING;
- (II) THE STATE BOARD OF PHYSICIANS;
- (III) THE STATE BOARD OF PROFESSIONAL COUNSELORS AND THERAPISTS;
- (IV) THE STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS; OR
- (V) THE STATE BOARD OF SOCIAL WORK EXAMINERS.

(C) (1) “TELE THERAPY” MEANS TELE MEDICINE, AS DEFINED IN § 15-139 OF THE INSURANCE ARTICLE, USED TO DELIVER BEHAVIORAL HEALTH SERVICES. ~~THE USE OF INTERACTIVE AUDIO, VIDEO, OR OTHER TELECOMMUNICATIONS OR ELECTRONIC TECHNOLOGY BY A HEALTH CARE PRACTITIONER TO DELIVER TO A PATIENT CLINICAL BEHAVIORAL HEALTH SERVICES THAT ARE WITHIN THE SCOPE OF PRACTICE OF THE HEALTH CARE PRACTITIONER AT A SITE OTHER THAN THE SITE AT WHICH THE PATIENT IS LOCATED.~~

~~(2) “TELE THERAPY” INCLUDES THE ASSESSMENT, DIAGNOSIS, AND TREATMENT OF A PATIENT AND CONSULTATION WITH A PATIENT.~~

~~(3) “TELE THERAPY” DOES NOT INCLUDE:~~

~~(I) AN AUDIO ONLY TELEPHONE CONVERSATION BETWEEN A HEALTH CARE PRACTITIONER AND A PATIENT;~~

~~(II) AN ELECTRONIC MAIL MESSAGE BETWEEN A HEALTH CARE PRACTITIONER AND A PATIENT;~~

~~(III) A FACSIMILE TRANSMISSION BETWEEN A HEALTH CARE PRACTITIONER AND A PATIENT; OR~~

~~(IV) A TEXT MESSAGE OR OTHER TYPE OF MESSAGE SENT BETWEEN A HEALTH CARE PRACTITIONER AND A PATIENT BY A SHORT MESSAGE SERVICE OR MULTIMEDIA MESSAGING SERVICE.~~

1-902.

A HEALTH CARE PRACTITIONER MAY USE TELE THERAPY IF:

~~(1) THE HEALTH CARE PRACTITIONER HAS RECEIVED TRAINING IN THE TECHNOLOGY USED FOR THE TELETHERAPY; AND~~

~~(2) THE HEALTH CARE PRACTITIONER COMPLIES WITH THE PROVISIONS OF THIS SUBTITLE AND ANY REGULATIONS ADOPTED UNDER THIS SUBTITLE; AND~~

(2) THE HEALTH CARE PRACTITIONER:

(I) ESTABLISHES A PATIENT-PRACTITIONER RELATIONSHIP WITH THE PATIENT FOR WHOM TELETHERAPY IS BEING USED;

(II) PROVIDES FOR THE PRIVACY OF COMMUNICATIONS MADE THROUGH TELETHERAPY; AND

(III) ADDRESSES, TO THE EXTENT PRACTICABLE, THE NEED TO MAINTAIN THE SAFETY AND WELL-BEING OF PATIENTS FOR WHOM TELETHERAPY IS BEING USED.

~~1-903.~~

~~(A) THE TECHNOLOGY A HEALTH CARE PRACTITIONER USES FOR TELETHERAPY SHALL:~~

~~(1) BE COMPLIANT WITH THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT;~~

~~(2) HAVE A SECURE AND PRIVATE CONNECTION; AND~~

~~(3) INCLUDE REAL TIME TWO WAY AUDIO AND VIDEO COMMUNICATIONS.~~

~~(B) BEFORE THE FIRST TELETHERAPY SESSION BETWEEN A HEALTH CARE PRACTITIONER AND A PATIENT:~~

~~(1) THE HEALTH CARE PRACTITIONER SHALL MAKE A POSITIVE IDENTIFICATION OF THE PATIENT THROUGH:~~

~~(I) IF POSSIBLE, AN INITIAL FACE TO FACE MEETING; OR~~

~~(II) THE USE OF GOVERNMENT ISSUED PHOTOGRAPHIC IDENTIFICATION;~~

~~(2) THE HEALTH CARE PRACTITIONER SHALL ESTABLISH SAFETY PROTOCOLS TO BE USED IN THE CASE OF AN EMERGENCY OR A CRISIS, INCLUDING THE LOCAL TELEPHONE NUMBERS AND CONTACTS AT THE PATIENT'S LOCATION FOR:~~

~~(I) POLICE OR EMERGENCY MEDICAL SERVICES;~~

~~(II) THE LOCAL HOSPITAL, EMERGENCY ROOM, OR CRISIS INTERVENTION TEAM; AND~~

~~(III) APPROPRIATE BEHAVIORAL HEALTH EMERGENCY SERVICES;~~

~~(3) THE HEALTH CARE PRACTITIONER AND THE PATIENT SHALL EXECUTE AN INFORMED CONSENT AGREEMENT THAT INCLUDES:~~

~~(I) REQUIREMENTS FOR PRIVACY SUCH THAT ONLY THE HEALTH CARE PRACTITIONER AND THE PATIENT CAN PARTICIPATE IN OR BE PRESENT DURING A TELETHERAPY SESSION UNLESS OTHERWISE AGREED TO BY THE HEALTH CARE PRACTITIONER AND THE PATIENT;~~

~~(II) ACTIONS TO BE TAKEN IF THE TECHNOLOGY USED FOR THE TELETHERAPY SESSION IS DISCONNECTED OR OTHER TECHNICAL DIFFICULTIES OCCUR;~~

~~(III) EMERGENCY PROTOCOLS; AND~~

~~(IV) THE NAME AND TELEPHONE NUMBER OF AN EMERGENCY CONTACT AS PROVIDED BY THE PATIENT; AND~~

~~(4) THE HEALTH CARE PRACTITIONER AND THE PATIENT SHALL ESTABLISH PROTOCOLS TO BE USED IF:~~

~~(I) PRIVACY IS COMPROMISED;~~

~~(II) THE CONDITIONS OF A TELETHERAPY SESSION BECOME UNSAFE; OR~~

~~(III) A TELETHERAPY SESSION IS BASED ON COERCION, FORCE, OR UNAUTHORIZED THIRD PARTY INVOLVEMENT.~~

~~NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A HEALTH OCCUPATIONS BOARD MAY NOT REFUSE TO ISSUE A LICENSE OR CERTIFICATE TO AN INDIVIDUAL WHO INTENDS TO PROVIDE BEHAVIORAL HEALTH CARE SERVICES TO A PATIENT IN THE STATE ONLY BY USING TELETHERAPY IF THE INDIVIDUAL SATISFIES THE REQUIREMENTS ESTABLISHED UNDER THIS ARTICLE FOR THE LICENSURE OR CERTIFICATION.~~

~~1-905.~~ 1-903.

EACH HEALTH OCCUPATIONS BOARD LISTED IN § 1-901(B)(2) OF THIS SUBTITLE SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE THAT, TO THE EXTENT PRACTICABLE, ARE UNIFORM AND NOT RELATED TO SCOPE OF PRACTICE NONCLINICAL.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before April 1, 2018, the State Board of Nursing, the State Board of Physicians, the State Board of Professional Counselors and Therapists, the State Board of Examiners of Psychologists, and the State Board of Social Work Examiners shall adopt regulations that, to the extent practicable, are uniform and not related to scope of practice nonclinical for the use of teletherapy by health care practitioners in accordance with §§ 1-901 ~~through 1-904~~ and 1-902 of the Health Occupations Article, as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect October 1, ~~2017~~ 2018.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect October 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 611

(Senate Bill 786)

AN ACT concerning

Education – Behavior Intervention Plans – Physical Restraint and Seclusion – Consideration and Reporting

FOR the purpose of ~~prohibiting a public agency and a nonpublic school from using physical restraint except under certain circumstances; prohibiting a public agency and a nonpublic school from using seclusion except under certain circumstances; requiring a public agency or a nonpublic school that uses seclusion to document the completion of a certain assessment, observe the student at all times, limit the period of seclusion~~

~~to a certain amount of time, discontinue the seclusion after a certain time, and consider alternative behavior interventions under certain circumstances requiring the State Superintendent of Schools to convene a certain task force; providing for the composition of the task force; requiring the task force to consider certain issues; requiring the task force to review certain regulations and make certain recommendations to the State Board of Education and certain committees of the General Assembly on or before a certain date; requiring the State Department of Education to submit certain regulations to the State Board on or before a certain date; requiring certain public agencies and certain nonpublic schools to report to the State Department of Education on or before a certain date each year certain information relating to physical restraint and seclusion incidents; requiring the Department to adopt certain regulations; requiring certain public agencies and certain nonpublic schools to observe and review certain seclusion rooms and certain training plans; requiring the Department to provide certain guidance and report certain information to the General Assembly on or before a certain date each year; requiring the State Superintendent of Schools to consult with certain individuals relating to training requirements for teachers and administrators regarding evidence-based positive behavioral interventions, strategies, and supports, and trauma-informed interventions; requiring the Department to coordinate with public agencies and nonpublic schools to ensure that certain individuals who work directly with students receive certain initial and periodic professional development; altering a certain definition; repealing certain definitions; defining a certain term; repealing certain obsolete provisions of law term; subjecting a certain provision of law to a certain termination date; and generally relating to behavior intervention plans restraint and seclusion in public agencies and nonpublic schools.~~

BY repealing and reenacting, with amendments,

Article – Education

Section ~~7-1101, 7-1103, and 7-1104~~ 7-1101 through 7-1104

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

~~BY repealing~~

~~Article – Education~~

~~Section 7-1102~~

~~Annotated Code of Maryland~~

~~(2014 Replacement Volume and 2016 Supplement)~~

BY adding to

Article – Education

Section ~~7-1102~~ 7-1102.1

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

BY repealing

Article – Education

Section 7-1102

Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)
(As enacted by Section 1 of this Act)

BY renumbering

Article – Education
Section 7–1102.1
to be Section 7–1102
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)
(As enacted by Section 1 of this Act)

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

Article – Education

7–1101.

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

(b) “Behavior intervention plan” means a proactive plan designed to address ~~problem~~ ~~CHALLENGING~~ behavior exhibited by a student in the educational setting through the use of ~~positive~~;

~~(1) POSITIVE behavioral interventions, strategies, and supports; AND~~

~~(2) TRAUMA-INFORMED INTERVENTIONS.~~

[(c) “Exclusionary time out” means the circumstance in which a student is removed to a designated time-out room or other area for a fixed period not to exceed 30 minutes.

(d) “Functional behavior assessment” means the systematic process of:

(1) Describing problematic behavior exhibited in the educational setting, including identification of environmental and other factors and settings that contribute to or predict:

(i) The occurrence or nonoccurrence of the behavior; and

(ii) The maintenance of the behavior over time; and

(2) Using the information gathered to guide the development of an effective and efficient behavior intervention plan.

(e) (1) “Mechanical restraint” means the use of any device or material attached or adjacent to the student’s body that restricts freedom of movement or normal access to any portion of the student’s body and that the student cannot easily remove.

(2) “Mechanical restraint” does not include a protective or stabilizing device ordered by a physician when it is used as prescribed.]

[(f)] (C) “Nonpublic school” means a school that receives funds from the Department for the purpose of providing special education and related services to students with disabilities.

[(g)] (D) (1) “Physical restraint” means the use of physical force, without the use of any device or material, to restrict the free movement of all or a portion of a student’s body.

(2) “Physical restraint” does not include:

(i) Briefly holding a student in order to calm or comfort the student;

(ii) Holding a student’s hand or arm to escort the student safely from one area to another;

(iii) Moving a disruptive student who is unwilling to leave the area when other methods such as counseling have been unsuccessful; or

(iv) Breaking up a fight in the school building or on school grounds.

(E) “PUBLIC AGENCY” MEANS THE DEPARTMENT, A LOCAL SCHOOL SYSTEM, THE MARYLAND SCHOOL FOR THE DEAF, OR ANY STATE AGENCY RESPONSIBLE FOR PROVIDING EDUCATION TO STUDENTS THE MARYLAND SCHOOL FOR THE BLIND.

[(h)] (F) “Seclusion” means the confinement of a student **ALONE** in a [locked] room, [closet, box] **AN ENCLOSURE**, or **ANY** other space from which the student is physically prevented from leaving.

~~**(G) “TRAUMA INFORMED INTERVENTIONS” MEANS AN APPROACH TO A BEHAVIOR INTERVENTION PLAN THAT IS INFORMED BY THE RECOGNITION OF THE IMPACT THAT TRAUMA, INCLUDING VIOLENCE, ABUSE, NEGLECT, DISASTER, TERRORISM, AND WAR MAY HAVE ON AN INDIVIDUAL’S PHYSICAL AND EMOTIONAL HEALTH AND ABILITY TO FUNCTION.**~~

(a) The State Superintendent shall ~~appoint~~ CONVENE a task force ~~to propose regulations to the State Board regarding student behavior intervention practices~~ IN ACCORDANCE WITH THIS SECTION.

(b) The task force shall consist of:

(1) ONE MEMBER OF THE SENATE, APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE; AND

(3) THE FOLLOWING MEMBERS APPOINTED BY THE STATE SUPERINTENDENT:

~~(1)~~ (I) Representatives of the Department;

~~(2)~~ (II) Representatives of local school systems, including teachers, administrators, school psychologists, and social workers;

~~(3)~~ (III) Representatives of advocacy communities;

~~(4)~~ (IV) Representatives from nonpublic special education facilities; ~~and~~

~~(5)~~ (V) Individuals with knowledge of and expertise in positive behavioral interventions;

(VI) REPRESENTATIVES OF STUDENTS WITH DISABILITIES; AND

(VII) INDIVIDUALS WITH CLINICAL EXPERTISE REGARDING CHILDREN WHO HAVE SUSTAINED ABUSE, NEGLECT, OR TRAUMA.

(c) The task force shall consider:

(1) The circumstances under which, and the schools or types of schools in which, ~~physical restraint, mechanical restraint,~~ RESTRAINT and seclusion shall be prohibited;

(2) CONTRAINDICATIONS FOR RESTRAINT AND SECLUSION AND WHO MAY AUTHORIZE RESTRAINT AND SECLUSION;

~~(2) The definitions of involuntary and other types of time out;~~

~~(3) The use of physical restraint, mechanical restraint, voluntary time out, and involuntary time out, including;~~

~~(i) The types of permissible and prohibited physical holds and mechanical restraints;~~

~~(ii) The size and characteristics of a time out room or other area; and~~

~~(iii) The amount of time and examples of circumstances under which students may be placed in physical restraint, voluntary time out, and involuntary time out;~~

~~(4) The circumstances under which review of a student's individualized education program would occur if restraints or involuntary time out are used with the student as a behavior intervention;~~

~~(5) The circumstances under which the special education evaluation process shall be initiated for students not in special education who are restrained or placed in involuntary time out as a behavior intervention;~~

~~(6) The circumstances under which a functional assessment and a behavior intervention plan will be conducted for the students described in items (4) and (5) of this subsection;~~

~~(7) Appropriate behavioral interventions, including but not limited to crisis intervention and prevention techniques;~~

~~(8)~~ **(3)** Definitions of “positive behavioral supports” ~~and~~, “behavior interventions and strategies plan”, AND “TRAUMA-INFORMED INTERVENTIONS”;

~~(9) How to document properly the need for and use of behavioral interventions with students, including notice requirements to parents;~~

~~(10)~~ **(4)** Training requirements for school staff regarding behavioral interventions, including the need to individualize behavioral interventions based on a student's behavioral, medical, and psychological history and disability characteristics, AND TRAUMA-INFORMED INTERVENTIONS;

~~(11)~~ **(5)** Minimum requirements for policies and procedures to be developed by local school systems, State operated programs, and nonpublic schools; and

~~(12)~~ **(6)** Standards for monitoring compliance by local school systems, State operated programs, and nonpublic schools with the requirements of this subtitle.

(D) THE TASK FORCE SHALL:

(1) REVIEW EXISTING REGULATIONS RELATING TO SECLUSION; AND

(2) ON OR BEFORE OCTOBER 1, 2017, MAKE RECOMMENDATIONS TO THE STATE BOARD AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY REGARDING:

(I) FINDINGS AND RECOMMENDATIONS DETERMINED UNDER THIS SECTION, INCLUDING CONSIDERATION OF THE FOLLOWING FACTORS IF THE TASK FORCE DETERMINES THAT THERE ARE CIRCUMSTANCES UNDER WHICH SECLUSION MAY BE USED:

1. THE TYPES OF DOORS AND LOCKING MECHANISMS THAT MAY BE USED;

2. THE SAFETY OF THE ROOMS USED FOR SECLUSION;

3. THE REQUIREMENTS FOR OBSERVATION OF THE ROOMS USED FOR SECLUSION;

4. THE PERIOD OF TIME FOR THE USE OF SECLUSION;

AND

5. THE REQUIREMENTS FOR THE DISCONTINUATION OF SECLUSION; AND

(II) CHANGES THAT ARE NEEDED TO UPDATE REGULATIONS TO BE CONSISTENT WITH § 7-1103 OF THIS SUBTITLE OR ANY OTHER FINDINGS AND RECOMMENDATIONS.

~~(d)~~ (E) The Department shall submit proposed regulations to the State Board of Education on or before ~~December 31, 2002~~ DECEMBER 1, 2017.

~~7-1102.~~ 7-1102.1.

~~(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PUBLIC AGENCY AND A NONPUBLIC SCHOOL MAY NOT USE PHYSICAL RESTRAINT.~~

~~(2) A PUBLIC AGENCY AND A NONPUBLIC SCHOOL MAY USE PHYSICAL RESTRAINT ONLY IF:~~

~~(i) PHYSICAL RESTRAINT IS NECESSARY TO PROTECT A STUDENT OR ANOTHER INDIVIDUAL FROM IMMINENT SERIOUS PHYSICAL HARM; AND~~

~~(ii) OTHER LESS INTRUSIVE, NONPHYSICAL INTERVENTIONS HAVE BEEN DEMONSTRATED BY EMPIRICAL EVIDENCE TO BE INEFFECTIVE.~~

~~(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PUBLIC AGENCY AND A NONPUBLIC SCHOOL MAY NOT USE SECLUSION.~~

~~(2) A PUBLIC AGENCY AND A NONPUBLIC SCHOOL MAY USE SECLUSION ONLY IF:~~

~~(I) SECLUSION IS NECESSARY TO PROTECT THE STUDENT OR ANOTHER INDIVIDUAL FROM IMMINENT SERIOUS PHYSICAL HARM;~~

~~(II) OTHER LESS INTRUSIVE INTERVENTIONS HAVE BEEN DEMONSTRATED BY EMPIRICAL EVIDENCE TO BE INEFFECTIVE; AND~~

~~(III) ONE OF THE FOLLOWING INDIVIDUALS HAS AUTHORIZED THE USE OF SECLUSION:~~

~~1. A PHYSICIAN WHO IS LICENSED TO PRACTICE MEDICINE UNDER TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE;~~

~~2. A PSYCHOLOGIST WHO IS LICENSED TO PRACTICE PSYCHOLOGY UNDER TITLE 18 OF THE HEALTH OCCUPATIONS ARTICLE; OR~~

~~3. A CLINICAL SOCIAL WORKER WHO IS LICENSED TO PRACTICE CLINICAL SOCIAL WORK UNDER TITLE 19 OF THE HEALTH OCCUPATIONS ARTICLE.~~

~~(3) BEFORE AN INDIVIDUAL DESCRIBED IN PARAGRAPH (2)(III) OF THIS SUBSECTION MAY AUTHORIZE THE USE OF SECLUSION, THE INDIVIDUAL MUST:~~

~~(I) HAVE RECEIVED TRAINING IN EACH OF THE PRACTICES AND STANDARDS AREAS SPECIFIED IN COMAR 13A.08.04.06(C)(3);~~

~~(II) BE FAMILIAR WITH THE STUDENT; AND~~

~~(III) HAVE COMPLETED A RISK ASSESSMENT OF THE STUDENT TO DETERMINE WHETHER SECLUSION IS CONTRAINDICATED FOR MEDICAL, PHYSICAL, PSYCHOLOGICAL, PSYCHOSOCIAL, OR ANOTHER REASON AND HAVE CONCLUDED THAT SECLUSION IS NOT CONTRAINDICATED.~~

~~(4) IF THE DOOR TO A ROOM USED FOR SECLUSION HAS A LOCKING MECHANISM:~~

~~(I) THE LOCKING MECHANISM MAY BE ENGAGED ONLY WHEN IT IS HELD IN POSITION BY AN INDIVIDUAL; OR~~

~~(H) IF THE LOCKING MECHANISM IS ELECTRONICALLY ENGAGED, THE LOCKING MECHANISM MUST AUTOMATICALLY RELEASE IF A FIRE ALARM IS ACTIVATED.~~

~~(C) (1) IF A PUBLIC AGENCY OR NONPUBLIC SCHOOL USES SECLUSION IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION, THE SECLUSION SHALL BE CONDUCTED IN ACCORDANCE WITH THIS SUBSECTION.~~

~~(2) THE PUBLIC AGENCY OR NONPUBLIC SCHOOL SHALL DOCUMENT THE COMPLETION OF THE RISK ASSESSMENT REQUIRED UNDER SUBSECTION (B)(3)(H) OF THIS SECTION.~~

~~(I) AT EACH ANNUAL INDIVIDUALIZED EDUCATION PROGRAM MEETING FOR A STUDENT WHO IS RECEIVING SPECIAL EDUCATION SERVICES;~~

~~(H) WHENEVER A PLACEMENT CHANGE OF A STUDENT IS MADE;~~
AND

~~(H) AT OTHER TIMES AS WARRANTED, INCLUDING WHEN THERE IS A CHANGE IN THE STUDENT'S HEALTH STATUS OR A TRAUMATIC EVENT OCCURS IN THE STUDENT'S LIFE.~~

~~(3) THE STUDENT SHALL BE DIRECTLY OBSERVED AT ALL TIMES.~~

~~(4) THE PERIOD OF SECLUSION MAY NOT EXCEED 30 MINUTES.~~

~~(5) THE SECLUSION SHALL BE DISCONTINUED AS SOON AS IT IS NO LONGER NECESSARY TO PROTECT THE STUDENT OR ANOTHER INDIVIDUAL FROM IMMINENT SERIOUS PHYSICAL HARM.~~

~~(6) IF THE STUDENT'S BEHAVIOR ESCALATES WITH THE USE OF SECLUSION OR THE STUDENT IS OTHERWISE ADVERSELY AFFECTED BY THE USE OF SECLUSION, THE NEED FOR ALTERNATIVE BEHAVIOR INTERVENTIONS SHALL BE CONSIDERED AS FOLLOWS:~~

~~(I) IF THE STUDENT IS RECEIVING SPECIAL EDUCATION SERVICES, THE INDIVIDUALIZED EDUCATION PROGRAM TEAM SHALL CONVENE AN EXPEDITED TEAM MEETING; OR~~

~~(H) IF THE STUDENT IS NOT RECEIVING SPECIAL EDUCATION SERVICES, THE PUBLIC AGENCY OR NONPUBLIC SCHOOL SHALL CONVENE AN EXPEDITED PUPIL PERSONNEL MEETING.~~

~~(D)~~ BEGINNING WITH THE 2018–2019 SCHOOL YEAR, ON OR BEFORE DECEMBER 1 EACH YEAR:

(1) ~~EACH~~ EACH PUBLIC AGENCY AND NONPUBLIC SCHOOL SHALL SUBMIT TO THE DEPARTMENT A REPORT FOR THE PRIOR SCHOOL YEAR ON THE NUMBER OF PHYSICAL RESTRAINT AND SECLUSION INCIDENTS, DISAGGREGATED BY THE STUDENT’S JURISDICTION, DISABILITY, RACE, GENDER, AGE, AND TYPE OF PLACEMENT.

(2) EACH PUBLIC AGENCY AND NONPUBLIC SCHOOL SHALL SUBMIT TO THE DEPARTMENT A REPORT FOR THE PRIOR SCHOOL YEAR ON THE PROFESSIONAL DEVELOPMENT PROVIDED TO DESIGNATED SCHOOL PERSONNEL RELATED TO POSITIVE BEHAVIORAL INTERVENTIONS, STRATEGIES, AND SUPPORTS AND TRAUMA–INFORMED INTERVENTIONS.

(3) EACH PUBLIC AGENCY AND NONPUBLIC SCHOOL SHALL:

(i) PERSONALLY OBSERVE AND REVIEW SECLUSION ROOMS;

(ii) REVIEW TRAINING PLANS FOR THE USE OF SECLUSION; AND

(iii) REPORT TO THE DEPARTMENT REGARDING FINDINGS MADE UNDER ITEMS (I) AND (II) OF THIS PARAGRAPH.

(4) THE DEPARTMENT SHALL:

(i) PROVIDE GUIDANCE TO PUBLIC AGENCIES AND NONPUBLIC SCHOOLS REGARDING THE REQUIREMENTS OF THE USE OF SECLUSION AND ROOMS FOR SECLUSION; AND

(ii) REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, REGARDING FINDINGS AND RECOMMENDATIONS REPORTED TO THE DEPARTMENT UNDER THIS SECTION.

~~(E) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.~~

7–1103.

Each [local school system, State operated program,] PUBLIC AGENCY and nonpublic school shall develop policies and procedures in compliance with this subtitle and the regulations adopted by the Department.

7–1104.

~~(A)~~ The State Superintendent shall consult with representatives of institutions of higher education and the Professional Standards and Teacher Education Board under Title 6, Subtitle 7 of this article with respect to the training requirements for teachers AND ADMINISTRATORS to ensure that sufficient training is available regarding EVIDENCE-BASED positive behavioral interventions [and], strategies, AND SUPPORTS AND TRAUMA INFORMED INTERVENTIONS consistent with professionally accepted practices and standards for persons entering the field of education.

~~(B) THE DEPARTMENT SHALL COORDINATE WITH EACH PUBLIC AGENCY AND NONPUBLIC SCHOOL TO ENSURE THAT ALL SCHOOL ADMINISTRATORS, TEACHERS, BEHAVIORAL SUPPORT SPECIALISTS, PARAPROFESSIONALS, AIDES, AND OTHER PERSONNEL WHO DIRECTLY WORK WITH STUDENTS ON A DAILY OR ROUTINE BASIS RECEIVE INITIAL AND PERIODIC PROFESSIONAL DEVELOPMENT REGARDING EVIDENCE BASED POSITIVE BEHAVIORAL INTERVENTIONS, STRATEGIES, AND SUPPORTS, AND TRAUMA INFORMED INTERVENTIONS TO CHALLENGING BEHAVIOR.~~

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 7-1102 of Article – Education of the Annotated Code of Maryland, as enacted by Section 1 of this Act, be repealed.

SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 7-1102.1 of Article – Education of the Annotated Code of Maryland, as enacted by Section 1 of this Act, be renumbered to be Section(s) 7-1102.

SECTION 4. AND BE IT FURTHER ENACTED, That Sections 2 and 3 of this Act shall take effect June 30, 2019.

SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect July 1, 2017.

Approved by the Governor, May 25, 2017.

Chapter 612

(Senate Bill 872)

AN ACT concerning

James W. Hubbard Inclusive Higher Education Grant Program

FOR the purpose of establishing the James W. Hubbard Inclusive Higher Education Grant Program; providing for the purpose of the Program; requiring the Program to be administered ~~jointly~~ by the Maryland Higher Education Commission, in consultation with the Department of Disabilities, the State Department of Education, and the

Developmental Disabilities Administration; providing for the duties of the Commission, ~~the Department, and the Administration~~ under the Program; ~~requiring the Governor to include a certain appropriation in the annual budget bill in certain fiscal years~~ providing that funding for the Program shall be as provided in the State budget; establishing qualifications for an institution of higher education to be awarded a grant under the Program; requiring certain institutions of higher education to submit a certain report to the Commission, ~~the Department, and the Administration~~ beginning on a certain date and at certain intervals thereafter, that includes certain information ~~on certain dates~~; requiring the Commission, after consultation with the Department, State Department of Education, and the Administration to submit a certain report to the General Assembly on or before a certain date and each year thereafter; defining certain terms; and generally relating to the James W. Hubbard Inclusive Higher Education Grant Program.

BY adding to

Article – Education

Section 11–1201 through 11–1205 to be under the new subtitle “Subtitle 12. James W. Hubbard Inclusive Higher Education Grant Program”

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

Preamble

WHEREAS, In 2014, the State Department of Education estimated there were 5,338 students in Maryland public schools classified as having an intellectual disability, of which 947 were students between the ages of 18 and 21 years, nearing the age when they will be leaving high school; and

WHEREAS, Maryland students with intellectual and developmental disabilities lack access to higher education in Maryland despite their desire to attend college with their nondisabled peers because no inclusive higher education options exist in Maryland; and

WHEREAS, The development of an inclusive higher education program for students with intellectual and developmental disabilities would allow a student to attend an institution of higher education, pay tuition, and have access to undergraduate courses that support the student’s desired outcomes and job aspirations; and

WHEREAS, Only 32% of adults with an intellectual disability between the ages of 20 and 30 years are employed compared to 74% of people without disabilities; and

WHEREAS, Inclusive higher education programs in other states have been proven to significantly increase rates of employment for people with an intellectual disability; and

WHEREAS, Data from existing programs in other states shows that 77% of students with an intellectual disability who attend college receive a credential and 41% leave with a meaningful job; and

WHEREAS, Opportunities for inclusive higher education exist in 31 other states, but not in Maryland; now, therefore,

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

Article – Education

SUBTITLE 12. JAMES W. HUBBARD INCLUSIVE HIGHER EDUCATION GRANT PROGRAM.

11-1201.

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

(B) “ADMINISTRATION” MEANS THE DEVELOPMENTAL DISABILITIES ADMINISTRATION.

(C) “DEPARTMENT” MEANS THE DEPARTMENT OF DISABILITIES.

(D) (1) “INCLUSIVE HIGHER EDUCATION” MEANS ACCESS TO A PROGRAM OF HIGHER EDUCATION FOR STUDENTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES THAT ALLOWS FOR, TO THE GREATEST EXTENT POSSIBLE, THE SAME RIGHTS, PRIVILEGES, EXPERIENCES, BENEFITS, AND OUTCOMES THAT RESULT FROM A COLLEGE EXPERIENCE AS THEIR PEER STUDENTS WITHOUT DISABILITIES.

(2) “INCLUSIVE HIGHER EDUCATION” INCLUDES:

(I) ACADEMIC ACCESS AND INCLUSIVE INSTRUCTION;

(II) CAREER DEVELOPMENT;

(III) CAMPUS ENGAGEMENT;

(IV) SELF-DETERMINATION;

(V) PARTICIPATION IN PAID WORK EXPERIENCES;

(VI) ON- OR OFF-CAMPUS LIVING, WHEN AVAILABLE TO OTHER STUDENTS; AND

(VII) INCLUSIVE SOCIAL ACTIVITIES.

(E) “PROGRAM” MEANS THE JAMES W. HUBBARD INCLUSIVE HIGHER EDUCATION GRANT PROGRAM ESTABLISHED UNDER THIS SUBTITLE.

11-1202.

(A) THERE IS A JAMES W. HUBBARD INCLUSIVE HIGHER EDUCATION GRANT PROGRAM.

(B) THE PROGRAM SHALL AWARD COMPETITIVE GRANTS TO INSTITUTIONS OF HIGHER EDUCATION TO DEVELOP AND IMPLEMENT ~~PILOT~~ PROGRAMS THAT PROVIDE INCLUSIVE HIGHER EDUCATION OPPORTUNITIES FOR STUDENTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

11-1203.

(A) THE PROGRAM SHALL BE ADMINISTERED ~~JOINTLY~~ BY THE COMMISSION, IN CONSULTATION WITH THE DEPARTMENT, THE STATE DEPARTMENT OF EDUCATION, AND THE ADMINISTRATION.

(B) TO CARRY OUT THE PURPOSE OF THE PROGRAM, THE COMMISSION, ~~THE DEPARTMENT, AND THE ADMINISTRATION~~ SHALL:

(1) DEVELOP AND SEND TO EACH INSTITUTION OF HIGHER EDUCATION IN THE STATE A DESCRIPTION OF THE PROGRAM, INCLUDING MATERIALS DESCRIBING THE PURPOSE AND GOALS OF THE PROGRAM, AN APPLICATION, COMPLIANCE REQUIREMENTS, AND AVAILABLE FUNDING;

(2) DEVELOP APPLICATION REQUIREMENTS AND REVIEW AND APPROVE APPLICATIONS; AND

(3) AWARD GRANTS TO INSTITUTIONS OF HIGHER EDUCATION ON A COMPETITIVE BASIS.

(C) ~~FOR FISCAL YEARS 2019, 2020, AND 2021, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF \$250,000 FOR THE PROGRAM~~ FUNDING FOR THE PROGRAM SHALL BE AS PROVIDED IN THE STATE BUDGET.

11-1204.

TO QUALIFY FOR A GRANT UNDER THE PROGRAM, AN INSTITUTION OF HIGHER EDUCATION SHALL DEVELOP A ~~PILOT~~ PROGRAM OF INCLUSIVE HIGHER EDUCATION THAT:

(1) OFFERS THE NECESSARY SUPPORTS TO STUDENTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES TO ALLOW THESE STUDENTS, TO THE GREATEST EXTENT POSSIBLE, TO HAVE THE SAME RIGHTS, PRIVILEGES, EXPERIENCES, BENEFITS, AND OUTCOMES AS THEIR PEER STUDENTS WITHOUT DISABILITIES;

(2) ENSURES THAT STUDENTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES:

(I) HAVE ACCESS TO A WIDE ARRAY OF ACADEMIC COURSES THAT ARE ATTENDED BY STUDENTS WITHOUT DISABILITIES;

(II) HAVE ACCESS AND SUPPORT FOR PARTICIPATION IN CAMPUS LIFE, INCLUDING SOCIAL ACTIVITIES AND ORGANIZATIONS, INSTITUTION FACILITIES, AND TECHNOLOGY; AND

(III) ARE ABLE TO ACCESS AND USE CAMPUS RESOURCES AVAILABLE TO STUDENTS WITHOUT DISABILITIES;

(3) PROVIDES STUDENTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES WITH THE SUPPORTS AND EXPERIENCES NECESSARY TO SEEK AND SUSTAIN COMPETITIVE EMPLOYMENT;

(4) DEVELOPS AND PROMOTES THE SELF-DETERMINATION SKILLS OF STUDENTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES;

(5) OFFERS PEER MENTORING;

(6) COORDINATES WITH THE STATE DEPARTMENT OF EDUCATION, INCLUDING THE DIVISION OF REHABILITATION SERVICES AND OTHER STAKEHOLDERS IN THE DEVELOPMENT OF THE INCLUSIVE HIGHER EDUCATION ~~PILOT~~ PROGRAM;

(7) ADOPTS ADMISSIONS STANDARDS THAT DO NOT REQUIRE A STUDENT WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES TO PARTICIPATE IN A CURRICULUM-BASED, ACHIEVEMENT COLLEGE ENTRANCE EXAM THAT IS ADMINISTERED NATIONWIDE;

(8) INCLUDES THE DEVELOPMENT OF A MEANINGFUL CREDENTIAL FOR STUDENTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES TO EARN ON SUCCESSFUL COMPLETION OF THE INCLUSIVE HIGHER EDUCATION ~~PILOT~~ PROGRAM; AND

(9) MEETS THE REQUIREMENTS OF A COMPREHENSIVE TRANSITION PROGRAM UNDER THE FEDERAL HIGHER EDUCATION OPPORTUNITY ACT SO THAT STUDENTS ENROLLED IN THE INCLUSIVE HIGHER EDUCATION ~~PILOT~~ PROGRAM ARE ELIGIBLE FOR FEDERAL FINANCIAL AID.

11-1205.

(A) BEGINNING JANUARY 1, 2019, AND EACH 6 MONTHS THEREAFTER, AN INSTITUTION OF HIGHER EDUCATION AWARDED A GRANT UNDER THE PROGRAM SHALL SUBMIT TO THE COMMISSION, ~~THE DEPARTMENT, AND THE ADMINISTRATION~~ A REPORT THAT INCLUDES:

(1) A PLAN FOR THE SUSTAINABILITY OF THE INCLUSIVE HIGHER EDUCATION ~~PILOT~~ PROGRAM, INCLUDING ENROLLMENT PROJECTIONS;

(2) ANY NEEDS FOR TRAINING, TECHNICAL ASSISTANCE, AND OTHER CAPACITY NECESSARY TO PROVIDE FOR CONTINUATION OF THE INCLUSIVE HIGHER EDUCATION ~~PILOT~~ PROGRAM; AND

(3) LESSONS LEARNED BY THE INSTITUTION AND IDENTIFICATION OF BEST PRACTICES WITH THE GOAL OF PROMOTING THE DEVELOPMENT OF A STATEWIDE MODEL PROGRAM OF INCLUSIVE HIGHER EDUCATION FOR USE BY OTHER INSTITUTIONS OF HIGHER EDUCATION IN THE STATE.

(B) ON OR BEFORE JUNE 30, 2019, AND EACH YEAR THEREAFTER, THE COMMISSION, AFTER CONSULTATION WITH THE DEPARTMENT, THE STATE DEPARTMENT OF EDUCATION, AND THE ADMINISTRATION SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE EFFECTIVENESS AND SUCCESS OF THE PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 25, 2017.
