



State Sen. Walter M. Baker, chairman of the Senate Committee on Judicial Proceedings, is 'leaning toward bringing the law into the 21st century' through a change in the contributory negligence rules.

■ THE ASSEMBLY

## Legislators' Wish-List: Judiciary Leaders Tell Which Bills to Watch — and Why

*Baker Softens His Stance on Switch to Comparative Fault; Vallario Promises Top Priority for Juvenile Justice System*

EARL KELLY

Daily Record Legal Affairs Writer

The eight leaders of the legislature's judiciary committees recently agreed that the "safe gun" debate will consume a lot of time this session, but they pointed variously at comparative negligence, punitive damages, vehicular homicide, juvenile justice and slot machines, to name just a few, as other issues that may keep them busy.

Sen. Walter M. Baker, D-Upper Eastern Shore, chairs the 10-member Senate Committee on Judicial Proceedings. This 10-member committee operates without subcommittees, unlike its House counterpart, which has 22 members and four subcommittees.

If a bill affects the courts and administration of justice, it has to get past the 72-year-old Baker, and that isn't always easy.

"I never met a bill I liked," the affable Baker said only half-jokingly when asked about his reputation for frustrating activists.

However, Baker said he is about ready to support comparative negligence as the state standard in tort cases.

"Juries [already] apply the comparative rule as far as they can" in determining liability and assessing damages, Baker said. "I'm more and more

leaning toward bringing the law into the 21st century. ... Insurance companies are getting too big for their britches and refusing to compromise," said Baker, whose legal practice, which he left about a year ago, represented several insurance companies.

### Caps, other limitations

Baker's evolution "into the 21st century" could have a monumental effect on the state.

This is one of the most pro-business states in the country, said Del. Dana Lee Dembrow, D-Montgomery, who chairs the House Judiciary Committee's Civil Law and Procedure Subcommittee.

Maryland is one of only about four states that adheres to the contributory negligence standard.

A bill to change the standards for liability received only seven committee votes last year, Dembrow said, and some bills were "so convoluted" that he could not support them.

Plaintiffs' attorneys muddied the waters when they called for comparative negligence but wanted to keep joint and several liability, an attribute of contributory negligence, Dembrow said.

"You can't have it both ways," said Dembrow in predicting that bills to change the standard would get bogged down and fail again this year.

SEE JUDICIARY PAGE 2C

**ement**

d Extended  
onal charge ...  
Mutual for five  
or arc unable  
nsured's heirs  
this coverage



8-8947  
ial.com

**D, LLP**

RYLAND  
MARYLAND  
GENERAL  
SING

MITH, JR.  
Y

E FIRM

RACTICE  
URECS,

**LLP**

ise and  
relations

Office:

1360  
-1361

**Judiciary**

*Continued from page 1C*

Dembrow's subcommittee also may look at lifting the caps on pain and suffering, and it may reconsider punitive damages.

"Maryland has probably the toughest law in the country on punitive damages," Dembrow said, because a plaintiff must show that a defendant acted with actual malice before a court can award punitive damages.

"It should be sufficient if the defendant is reckless or gross or wanton in his disregard for safety," said Dembrow.

**Doctor's orders**

State Sen. Leo E. Green of Prince George's County serves as vice chairman of the Senate Judicial Proceedings Committee and describes himself as more liberal than Baker. Green opposes capital punishment, for example, while Baker, like most of the General Assembly, supports it.

juvenile, but the Department of Juvenile Justice (DJJ) can safely ignore the court's order, and nothing comes of it, Montague said.

"Sometimes these young people are not put into these programs [as ordered], and judges have no power to do anything," Montague said.

Under Montague's proposal, DJJ would have to certify within 30 days of the order that the plan has been implemented, or the judge can order a juvenile's placement.

Montague also wants better drug and alcohol treatment in prisons and juvenile facilities. Studies show that every dollar spent on treatment returns seven dollars to the community, Montague said.

**Ex parte confiscation**

Del. Ann Marie Doory, D-Baltimore City, serves as vice chairman of the House Judiciary Committee. She wants a bill passed that would allow courts to confiscate a gun following an *ex parte* hearing, much like the procedure under a protective order.

"Unfortunately, it has gotten confused at times as gun legislation and not as family legislation," Doory said.

"This bill would say the court can order that a gun be taken ... in that very dangerous time," Doory said.

Doory said that the bill she will introduce is in response to the cases of two women who were shot in her district last year soon after they got *ex parte* orders.

**Targeting aggressive drivers**

Del. Sharon M. Grosfeld, D-Montgomery, chairs the Judiciary Committee's Criminal Justice Subcommittee and is pushing the "Homicide by Aggressive Driving" bill.

"This bill is about taking responsibility for your behavior," Grosfeld said. "You may not have intended these

horrible consequences, but you must be held accountable."

Grosfeld lined up 50 co-sponsors, and a Senate sponsor for a similar measure, before introducing the bill.

Vehicular homicide is punished as manslaughter, but under Grosfeld's proposal, it would be a misdemeanor punishable by up to three years imprisonment and a \$5,000 fine.

And Grosfeld noted that Baker is not the only legislator who can kill a bill.

"Chairman Vallario needs persuading," Grosfeld said.

**Back in the game**

Del. David M. Valderrama, D-Prince George's, chairs the Gaming Law and Enforcement Subcommittee.

This subcommittee did not conduct hearings on bills last year, Valderrama said, because the governor threatened vetoing any measures that promoted gaming.

"There is a lot of talk about slots ... Gov. Glendening is adamantly opposed to gambling, but there is such a demand out there that something has to be done," Valderrama said.

And even if Valderrama and his colleagues start pushing now, it could take a while before any of these proposals become law.

"It takes time for ... bills to hit the top of the pile," Vallario said.



Del. Ann Marie Doory stands with House Judiciary Chairman Joseph F. Vallario Jr. in front of the State House in Annapolis.

"I'm in the minority down here," Green said.

Green is pushing to make managed-care providers civilly liable when they override doctors' medical decisions.

"This is going to bring out a lot of people," Green said.

**Juvenile justice**

House Judiciary Committee Chairman Joseph F. Vallario Jr., D-Prince George's County, said he couldn't predict what bills would get through his committee.

"It's kind of early in the session," Vallario said.

Vallario did say, however, that a top priority for his committee will be a review of the juvenile justice system.

"The juvenile [justice] system needs a lot of oversight and work" in light of recent abuses, he said.

Some committee members welcome this news.

"This problem has existed since I arrived about 12 years ago, and we have been nibbling around the edges," said Del. Kenneth C. Montague Jr., D-Baltimore City, who chairs the Family and Juvenile Law Subcommittee. "A systematic review of the Department of Juvenile Justice is about to take place."

One bill that Montague is pushing will give judges in juvenile cases more power over disposition of cases. At present, judges can order a disposition plan for a

MAXIMILIAN FRANZ