



1993

# Maryland: Recent / Pending Legislation

John M. Oliveri

Follow this and additional works at: <http://scholarworks.law.ubalt.edu/lf>



Part of the [Law Commons](#)

### Recommended Citation

Oliveri, John M. (1993) "Maryland: Recent / Pending Legislation," *University of Baltimore Law Forum*: Vol. 24 : No. 1 , Article 15.  
Available at: <http://scholarworks.law.ubalt.edu/lf/vol24/iss1/15>

This Article is brought to you for free and open access by ScholarWorks@University of Baltimore School of Law. It has been accepted for inclusion in University of Baltimore Law Forum by an authorized editor of ScholarWorks@University of Baltimore School of Law. For more information, please contact [snolan@ubalt.edu](mailto:snolan@ubalt.edu).

---

---

# MARYLAND LEGISLATION

---

---

## CIVIL PROCEDURE

Maryland Legislature adds a new article to the Annotated Code of Maryland entitled the State Personnel and Pensions Article.

The Amendment clarifies that the District Court has exclusive jurisdiction to hear petitions filed by a county or municipality to enforce local health, housing, fire, building, electric, license and permits, plumbing, animal control, and zoning codes where **equitable relief is provided**. It further clarifies that the District Court does not have equity jurisdiction, except over actions founded under the Real Property Article, to decide the ownership of or interest in real property. Courts & Judicial Proceedings Article §§ 4-401 and 4-402 [amended].

The District Court of Maryland has exclusive original jurisdiction to hear cases up to \$20,000 that involve the forfeiture or return of money that was involved in a gambling or controlled dangerous substance seizure. Courts & Judicial Proceedings Article § 4-401(9) [added].

Victims of violent crimes have a right to file an application for leave to appeal from interlocutory or final orders which decline or fail to consider the victim's right to (1) be present at trial, (2) address and be heard by the sentencing judge or jury, or (3) provide specified information as part of a victim impact statement. Courts & Judicial Proceedings Article § 5-324 [amended].

## CONSTITUTIONAL CRIMINAL PROCEDURE

Federal law enforcement officers have the power to make arrests and execute arrest and search and seizure warrants issued by the State of Maryland when (1) participating in a joint investigation, (2) assisting another officer, (3) acting according to a local or State police officer, or (4) an emergency exists. Federal officers, however, are required to give notice when acting under the authority of the State. Officers acting under this authority share the same legal status and immunities conferred upon State police officers. Article 27 § 594B(h) [repealed and added]; Courts Article §§ 2-608(a)(8) and 5-327 [amended].

Police officers have limited authority to make arrests, conduct investigations, and otherwise enforce the laws of Maryland outside the officer's jurisdiction when (1) participating in a joint investigation, (2) assisting another officer, (3) acting according to a local or State police officer, or (4) an emergency exists. Article 27, § 594B(l) [repealed and added] and Article 88B §§ 4(b) [amended] and 4(a) [added].

●

## CRIMINAL LAW

New specification of carjacking and armed carjacking crimes are considered crimes of violence and carry maximum terms of imprisonment of 30 years. Courts can now consider the crime of carjacking an aggravating circumstance when contemplating a death penalty sentence, and a defendant is barred from averring that there was no intent

## LEGISLATION

---

---

to permanently deprive an owner his car. Moreover, sentences imposed under this section may be imposed separate from and consecutive to a sentence for any other offense arising from the conduct underlying the offenses of carjacking and armed carjacking. Article 27 § 348A [added] and §§ 413(d)(10) and (g)(1), 441(e), and 643B(a) [amended]; Article 41 § 4-501(12)(xii) [amended].

A new law prohibits a person from stalking another person, defines what constitutes stalking, sets forth misdemeanor penalties for stalking, i.e., fine not to exceed \$ 5,000, imprisonment up to 5 years, or both; declares that a sentence for stalking may be imposed separate from and consecutive to or concurrent with a sentence for another crime based upon the act or acts establishing a violation of section 121B; requires a court or District Court Commissioner to take into account, *inter alia*, the reasonable protection of the victim when considering the pre-trial release of the assailant; and provides that a police officer can make a warrantless arrest of a suspected stalker if: (1) the police officer has probable cause to believe a stalking has been committed; (2) the police officer has reason to believe the stalking victim or another party is in danger of imminent bodily harm or death; and (3) the probable cause

is supported by credible evidence other than a statement of the alleged stalking victim. Article 27, §§ 121B, 594B(o), and 616 1/2(k) [added].

A person who traffics into the State four grams or more of fentanyl or a fentanyl analogue is guilty of a felony and faces a maximum fine of \$50,000, imprisonment for not more than 25 years, or both. Article 27 § 286A(a)(8) [added].

Stiffer penalties are imposed on an individual who, in attempting to elude a police officer, causes bodily injury or death of another person. Specifically, if the individual's action results in:

- (a) no bodily harm or death of another person,
  - (i) for first offense - a maximum \$1,000 fine, one year imprisonment, or both;
  - (ii) every subsequent offense - a maximum \$1,000 fine, two year imprisonment, or both,
- (b) bodily injury to another - a maximum of a \$3,000 fine, 3 year imprisonment, or both,
- (c) death of another person - a maximum of a \$5,000 fine, 5 year imprisonment, or both.

Transportation Article § 27-101(h) [amended] and § 27-101(p) [added].

---

---

## THE LAURENCE M. KATZ COMMERCIAL LAW COLLECTION

A fund honoring Dean Katz has been created to support a permanent Commercial Law Collection in the University of Baltimore Law Library. Your contributions to assist in the establishment of this \$10,000 Endowment Fund are most welcome.

Make checks payable to: University of Baltimore Educational Foundation.

*Please send to:*

Laurence M. Katz Commercial Law Collection  
University of Baltimore Educational Foundation  
1304 St. Paul Street, Baltimore, Maryland 21202-2786

*Gifts to the Laurence M. Katz Commercial Law Collection are tax deductible as allowed by law.*

New law makes it a crime to harm or injure a person, destroy or cause damage to another's property or threaten to harm or injure a person with the animus to influence or induce a victim or witness to take certain illegal actions. Moreover, it is also a crime to intentionally injure a person, or destroy or damage his property with the intent of retaliating against a victim or witness for testifying in an official proceeding or for reporting a crime. Article 27 §§ 766 - 769 [added].

New law prohibits a District Court Commissioner from releasing an accused prior to trial when such individual is charged with committing a crime of violence while on parole, probation, or mandatory supervision for a previous crime of violence. A judge is permitted to release the accused by establishing (1) suitable bond and (2) conditions that will reasonably assure the accused will not abscond or pose a danger to another individual or the community. The new law further creates a rebuttable presumption that the accused will flee and poses a danger to an individual or the community. Article 27 § 616 1/2(l).

An individual is prohibited from using or possessing with intent to use drug paraphernalia for the purpose of injecting, ingesting, inhaling, or otherwise introducing a controlled dangerous substance into the human body. Article 27 § 287A(c) [amended].

## ●

## FAMILY LAW

Absent a finding by the court that the amount awarded would yield in an inequitable result, a court is required, when faced with an initial pleading that seeks child support pendente lite to award child support from the date of that petition and grant credit for support payments previously paid. For all other pleadings that seek child support, the court may award child support from the time of the filing of the complaint. Family Law Article § 12-101 [amended].

An adult who is qualified to assume responsibility for an adoptive child and who assumes the responsibility of providing care and welfare for the child is entitled to the continuation of the subsidy the child was receiving prior to the adoptive parent's incapacitation or death. Family Law Article § 5-408(d) [added].

A court is required, with limited exceptions, to immediately authorize the garnishment of wages for all child support orders issued on or after January 1, 1994, regardless of whether child support payments are in arrears. Moreover, the Child Support Enforcement Administration is authorized to furnish information pertaining to any child support payments that are 60 days or more in arrears to consumer reporting agencies. Family Law Article § 10-122 [amended] and § 10-108.1 [added].

A court is authorized to appoint an intermediary in an effort to contact an adopted person's natural parents in order to obtain medically necessary information when neither the court record nor the adoptive record contain such information. Furthermore, a court may order a court or an adoption record to be opened without a showing that the medical information is needed for a particular purpose. A court, however, may not order the inspection of any part of a record that contains information pertinent to the natural parents' identity or location. Family Law Article § 5-329 [amended].

No longer are grandparents required to wait for the termination of the marriage by divorce, annulment, or divorce to seek visitation of their grandchild. Rather, an equity court upon the filing of a petition by a grandparent and a finding that visitation will be in the best interest of the child, may grant visitation rights to the grandparents of the child. Family Law Article § 9-102 [amended].

A court is now required, not simply permitted, to award reasonable and necessary expenses to a party for prosecuting or defending a proceeding for alimony, including costs and counsel fees, when the court finds an absence of (1) substantial justification for a party to prosecute or defend the proceeding, and (2) a finding of good cause to the contrary. Family Law Article §§ 11-110 and 12-103 [amended].

A final decree for adoption or guardianship of an individual may not be entered by a court until 15 days after the individual's birth. Family Law Article § 5-324 [amended].

New law provides that an initial order for emergency protective services can be issued by a court for a period up to 144 hours; extending the current period of 72 hours. Estates and Trusts Article § 13-709 [amended].

## LABOR LAW

Interest due on unemployment benefits which were fraudulently or erroneously received by a claimant may not be recovered out of a claimant's future benefits. Labor and Employment Article § 8-809(d)(1) [amended].

The proportion of wages paid by a claimant's employer which are used to document the claimant's eligibility for unemployment benefits will determine the pro rata share of unemployment benefits a claimant's employer will be assessed. No longer will employers be assessed all regular benefits and a share of extended benefits paid to a claimant when the claimant earned only 75% of his wages from the paying employer. Labor and Employment Article § 8-611(b) [amended].

The disability of a claimant who is otherwise qualified to receive benefits may not be used as a factor when determining whether the claimant is able to work. Labor and Employment article § 8-903 [amended].

Upon establishing by a preponderance of the evidence that an individual obtained or attempted to obtain workers' compensation when not otherwise entitled to do so will subject the individual to repay the principal amount as well as interest at a rate of 1.5% per month. Labor and Employment Article § 9-1106 [amended] and § 9-310.1 [added].

## PROPERTY

A vendor of a single family residential real property is required to deliver to the purchaser, on or before entering into a contract of sale, a disclosure or disclaimer statement, and failure to do so gives the purchaser the right of recession. This right of recession, however, is waived if not

invoked prior to a mortgage loan application. **EFFECTIVE JANUARY 1, 1994**, Real Property Article § 10-702 [added].

## TRANSPORTATION

Absent a sign prohibiting such turn, vehicles which face a steady red signal are permitted to make a left turn on red from a one-way street onto another one-way street as of January 1, 1994. Transportation Article § 21-202(i) [amended].

The Motor Vehicle Administration (MVA) is required to levy an alcohol restriction that prohibits a driver for a three year period from driving or attempting to drive with alcohol in his blood system when a driver who is convicted of any combination of two or more alcohol-related driving offenses under § 21-902 of this Article. Transportation Article § 16-113 [amended].

Police officers who stop or detain a driver suspected of driving while under the influence of alcohol or narcotics are required to detain the driver, and inform the driver, prior to asking him to take the blood-alcohol test, of the sanctions that accompany the refusal of taking the test, including the driver's ineligibility for a restrictive license and/or modification of a suspension and for test results that are at or above the legal limit. **EFFECTIVE JANUARY 1, 1994**, Transportation Article § 16-205.1(b)(2) [amended].

A driver who initially refuses to take a test to determine his alcohol level or controlled dangerous substance content for an alcohol or drug-related driving offense and later consents to such test may recant the initial refusal so long as the test that was initially refused is not one under the Act. Transportation Article § 16-205.1(g) [added].

- John M. Oliveri

*The Law Forum* would like to thank you  
for your continued support.

So that we may update our mailing list, please contact us with the following:

- I am missing the following issue(s):
- I am receiving multiple copies with each mailing.
- My address is incorrect.

*Thank you*



The Alumni Association is always interested in keeping its records updated. If you have moved or have a new job, please take a moment to complete the following brief form and return it to the Alumni Office. All of the information given will be kept confidential.

**ALUMNI SERVICES**

1304 St. Paul Street, Baltimore, MD 21202

Name.....  
Name at time of graduation (if different from above).....  
Address.....  
City.....State..... Zip.....  
Employer / Position.....  
Work Address.....  
City.....State..... Zip.....  
Business Phone ..... Fax Number.....  
Graduation Year ..... Social Security Number.....

*CORP/GOVT ACCTS  
Multi-Media Specialists*

*We service all brands  
Software training available*

# Computerworks!

---

**High-end computers at Low-end-Prices**

**Sales • Consulting • Service**

**HP, Canon, Epson & Panasonic Printers**

**Computers priced as low as:**

**Novice  
386/33Mhz  
\$690**

**Professional  
486/66Mhz  
\$1290**

**Business  
486/33Mhz  
w/Sony CD Rom  
\$1190**

**Visa and Master Card Accepted • Financing Available**

**All systems include  
color monitor, mouse & keyboard  
or customize you own system to meet your needs & budget**

**REPAIR & UPGRADES • SPECIAL ON HP & EPSON PRINTERS**

**WE WILL MATCH OR BEAT  
ANY LOCAL COMPETITOR'S PRICE**

**Telephone: 410-290-8166  
6951 Oak Hall Lane, Suite 119  
Columbia, Maryland 21045**

**• WE WILL PICK UP AND DELIVER •**