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Legislative Summaries: Maryland General Assembly Updates

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Legislative Summaries: Maryland General Assembly Updates

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HOUSE BILL 249: CRIMINAL PROCEDURE - VEHICULAR HOMICIDE AND PROBATION BEFORE JUDGMENT

By: Julie A. Mallis

House Bill 249, crossfiled with Senate Bill 94, prohibits a court from staying entry of a judgment, deferring further proceedings, and placing defendant on probation when the defendant pleads guilty or *nolo contendere* or is found guilty of driving under the influence of alcohol or drugs if that person is convicted of or placed on probation for any of those offenses within the last ten years. This Bill changed current law by extending the time period from five to ten years. This Bill repealed and reenacted, without amendments, Maryland Annotated Code, Criminal Procedure Article, Section 6-220 (b) and (c); and repealed and reenacted, with amendments, Criminal Procedure Article, Section 6-220 (d) and took effect on October 1, 2003.

A court may stay entering of a judgment, defer further proceedings, or place a defendant on probation in those instances when it is in the public's or defendant's best interests. As part of probation conditions, a defendant may be required to pay a fine or participate in a rehabilitation program, a parks program, or a voluntary hospital program. The defendant may also be placed in custodial confinement for a period of time during probation. Before these sanctions are imposed, however, the defendant is entitled to notice and a hearing to determine conditions of probation.

HOUSE BILL 253: EDUCATION - RESIDENT TUITION CHANGES

By: Ju Y. Oh

House Bill 253, entitled "Higher Education – Resident Tuition Charges – Immigrant Students and United States Military Personnel and Dependents," was established to prohibit specified higher education institutions from awarding degrees to individuals under certain circumstances as well as exempting certain nonresident aliens from paying nonresident tuition. This Bill amends Md. Educ. Code Ann. § 15-106.3, and took effect July 1, 2003.

An individual who attended a public or private secondary school for three years in Maryland or received a Maryland high school diploma, shall be exempt from paying nonresident tuition at a public higher education institution. Additionally, the individual must file an application to become a permanent resident and apply to attend a public higher education institution within a certain time period. The Bill also prohibits a public higher education institution from awarding a degree to an individual who qualifies for resident tuition charges under this section until the individual files an affidavit or pays the difference between the nonresident and resident tuitions.

Furthermore, active duty members of the United States armed forces, their spouses, and dependants can qualify for the exemption if the member is stationed in Maryland, resides in Maryland, or is domiciled in Maryland. This subsection is also applicable to honorably discharged veterans in the same manner as other individuals.

HOUSE BILL 333: COURTS AND JUDICIAL PROCEEDINGS - STATE'S RIGHT OF APPEAL IN CRIMINAL CASES

By: John M. Borelli

House Bill 333 added a provision to the Maryland law authorizing a new ground for appeal by the state following a final judgment in a criminal case. The Bill provides for an appeal when the state alleges the trial court imposed or modified a sentence in violation of the Maryland Rules.

The House Bill faced little opposition in the Maryland Legislature, passing the House of Delegates by a vote of 133-3 and the Senate by a vote of 45-0. Delegates Carmen Amedori, Anthony J. O'Donnell and Theodore Sophocleus sponsored the Bill.

House Bill 333 affects Section 12-302(c)(2) of the Courts and Judicial Proceedings Article of the Maryland Annotated Code. The statute currently provides for an appeal when the state alleges the trial judge failed to impose the sentence mandated by the Maryland Code.

This Bill took effect October 1, 2003.

HOUSE BILL 346: FAMILY LAW - GROUNDS FOR ABSOLUTE DIVORCE

By: Jennifer Merrill

House Bill 346 repealed and reenacted, with amendments, the Maryland Annotated Code, Family Law Article, Section 7-103. Pertaining to absolute grounds for divorce, the Bill expands conditions under which an absolute divorce will be granted without a requisite waiting period.

House Bill 346 adds cruelty of treatment and excessively vicious conduct towards a minor child of the complaining party as further grounds for immediate absolute divorce in Maryland. Prior to the passage of House Bill 346, the only grounds available for an absolute divorce without a waiting period were adultery, cruelty of treatment toward the complaining party, and excessively vicious conduct towards the complaining party. A controversial provision that would have prohibited a minor child from being compelled to testify in certain divorce proceedings was removed before the House would pass the Bill.

The Bill took effect on October 1, 2003.

**HOUSE BILL 805/SENATE BILL 626: AGRICULTURE - MARYLAND AGRICULTURAL
LAND PRESERVATION FOUNDATION EASEMENTS**

By: Megan M. Bramble

House Bill 805 and Senate Bill 626 modified current law and provided that farm and forest related uses and home occupations be allowed on land subject to a Maryland Agricultural Land Preservation Foundation ("MALPF") easement. The Bill also modified the MALPF's lot exclusion policy by giving landowners a choice of designating family lots or one unrestricted lot, limiting family lot rights to a maximum of three depending on property size, reflecting in the easement value the unrestricted lot rights that are retained, providing that the unrestricted lot right is transferable to subsequent owners and providing that other dwellings present on the property when the easement is sold may be subdivided from the property.

This Bill affected Section 2-513 of the Agricultural Article of the Maryland Annotated Code. The intent of the MALPF is to preserve agricultural land and its products in an effort to control urban sprawl, curb the spread of urban deterioration, and protect open-space land. Under this Bill, a landowner whose land is subject to an easement may not use the land for any commercial, industrial, or residential purpose unless otherwise provided for by the Bill.

This Bill was fully supported by the Maryland Legislature, passing the House of Delegates by a vote of 141-0 and the Senate by a vote of 46-0. Delegate James sponsored the House Bill, while Senators Middleton, Dyson, and Colburn sponsored the Senate Bill.

This Bill took effect October 1, 2003.

SENATE BILL 4: COURTS AND JUDICIAL PROCEEDINGS - SMALL CLAIMS ACTIONS

By: Brian Casto

Senate Bill 4 repealed and reenacted, with amendments, Maryland Annotated Code, Courts and Judicial Proceedings, Sections 4-402(d)(1)(i), 4-405, 6-403, and 12-401(f). The Bill increased the minimum amount in controversy requirements for district court jurisdiction, pleadings, and appeals.

Under current law, the district and circuit courts have concurrent jurisdiction for all civil matters with an amount in controversy over \$2,500. The district court has exclusive jurisdiction over small claims actions under \$2,500. The district court does not require formal pleadings when the amount in controversy is \$1,000 or less. Appeals from district court decisions are allowed only when the matter concerns \$2,500 or more.

Under the new law, the \$2,500 levels for jurisdiction and appeal are raised to \$5,000. The \$1,000 threshold for pleadings is \$2,500.

This Bill took effect October 1, 2003.

**SENATE BILL 186: CRIMINAL PROCEDURE - CRIMINAL INJURIES
COMPENSATION**

By: Brenda N. Taylor

Senate Bill 186 repealed and reenacted with amendments Criminal Procedure Article Section 11-811 of the Annotated Code of Maryland. The enacted changes make a parent or guardian living with a child crime victim eligible for an award from the Criminal Injuries Compensation Fund. Up to 30 days of lost earnings is available if the loss resulted from the parent or guardian providing care to the child crime victim. The changes make crime victims who suffer catastrophic injury resulting in permanent total disability eligible for an additional \$25,000 above the current \$25,000 limit.

The Senate Bill faced no opposition from the Maryland Legislature, passing the Senate by a vote of 46-0 and the House of Delegates by a vote of 139-0. The Bill was sponsored by the Chairman of the Judicial Proceedings Committee at the request of the Department of Public Safety and Correctional Services.

Specifically, Bill 186 affected Section 11-811(a)(3) of the Criminal Procedure Article and provides that a parent or guardian of a child crime victim who resides with the victim may be eligible for an award of up to 30 days of lost earnings as a result of caring for the victim. Under Section 11-811(b)(1), the award may not exceed \$25,000 for a disability or dependency related claim except as provided in Section 11-811(b)(1)(II). Section 11-811(b)(1)(II) provides an additional award up to \$25,000 if the victim's injury results in permanent total disability.

This Bill took effect October 1, 2003.

SENATE BILL 320: ENVIRONMENT - NOISE CONTROL AND POLLUTION

By: John A. Carpenter

Senate Bill 320 (cross-filed with House Bill 174) entitled "Department of the Environment-Noise Control and Pollution," repealed and reenacted, with amendments, the Environment Article Sections 3-105, 3-202, 3-205 and 3-302 of the Maryland Annotated Code. The purpose of this Bill is to make several changes relating to noise control and pollution provisions administered by the Maryland Department of the Environment ("MDE").

Specifically, the Bill encourages a political subdivision to consider complying with State and local noise control standards before acting on a proposed variance request or change in zoning classifications, and prior to the issuance of a building or activity permit. This Bill also increases the membership of the Environmental Noise Advisory Council ("Council") from five to eleven. Under this Bill, the MDE Secretary appoints new members of the Council from names submitted by the Maryland Municipal League, the Maryland Association of Counties, the Maryland Chamber of Commerce, the President of the Senate, and the Speaker of the House. Further, before proposing any revisions to the governing statute or environmental noise regulations, MDE is required to submit the proposed revisions to the Council for advice, to hold public hearings, and prepare and solicit technical input. Finally, the Bill expands the Interagency Noise Control Committee to include three additional State agencies: the Department of Health and Mental Hygiene, the Department of Business and Economic Development, and the Department of Labor, Licensing, and Regulation. This Bill took effect July 1, 2003.

**SENATE BILL 363: CRIMINAL PROCEDURE - POST-CONVICTION REVIEW AND
FELONY CONVICTIONS**

By: Bryan C. Hughes

Senate Bill 363 required the State to preserve DNA evidence collected in certain cases for the duration of the original sentence for which the evidence was initially obtained, thus preserving the evidence for postconviction review. The Bill also expanded the list of persons required to submit DNA samples to include any person convicted of a felony or burglary misdemeanor. The provisions requiring submission of DNA samples apply retroactively, as well as prospectively, to include any person convicted of a felony or burglary misdemeanor before, and incarcerated on or after, the bill's effective date.

The Bill further establishes a permanent DNA Technology Fund in the State of Maryland to provide grants to local and State law enforcement agencies to assist them in acquiring DNA technology equipment for testing and preserving DNA samples. Senate Bill 363 allowed the State to improve upon its recent successes in matching evidence obtained at crime scenes with DNA samples contained in the database. Furthermore, it provided for the preservation of the evidence for post-conviction proceedings.

This Bill took effect October 1, 2003.

**SENATE BILL 687: HEALTH MAINTENANCE ORGANIZATIONS - PATIENT ACCESS TO
CHOICE OF PROVIDER**

By: Purvi Patel

Both houses of the General Assembly passed the nurse practitioner's bill, which had been introduced into the Legislature since 1999. The Bill (cross-filed with House Bill 974) required a Health Maintenance Organization ("HMO") to give consumers a choice between a certified nurse practitioner or physician as their primary care provider. Currently, a nurse practitioner is not permitted to be an HMO consumer's primary care provider. An HMO was required to have patients relaying a medical complaint to be solely evaluated by a physician. The new Bill broadens the alternatives available to a patient in choosing his primary care provider.

Under the Bill, the nurse practitioner must follow certain provisions in order to remain a patient's primary care provider. Specifically, the nurse practitioner must share a location with their collaborating physician, who in turn must provide continuing medical attention if so required. The Bill also requires the certified nurse practitioner to provide contact information of the collaborating physician to his patient.

This Bill was introduced to allow consumers access to nurse practitioners, who are generally a less expensive choice for medical attention than a doctor's visit. Negative effects of the Bill include nurse practitioners being unable to treat all patients due to restrictions on their practice. Also, more expenses upon patients who must be referred to physicians.

The Bill is not expected to increase health care premiums because both savings and costs are associated with nurse practitioner's visits. The Bill also is not expected to materially affect the State's health plan.

Although the Bill has passed both chambers of the Legislature, its future lies in the hands of Governor Ehrlich. In 2001, a similar bill was vetoed by then Governor Glendening.

NOTES