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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 180: REAL PROPERTY - RECORDATION OF DEEDS AND INSTRUMENTS OF WRITING

By: Erin S. Galvin

House Bill 180, entitled “Real Property – Recordation of Deeds and Instruments of Writing,” repealed a prohibition against recording a deed or other instrument of writing in certain counties. The Bill prohibited recordation until the property granted is transferred on the assessment rolls of the county where the property is located in specified circumstances.

The Bill affected § 3-104 of the Real Property Article of the Maryland Annotated Code. The Bill requires the certificate of the collector of taxes of the county in which the property is assessed, and also a complete intake sheet, a copy of the instrument, and any survey for submission to the Department of Assessments and Taxation.

The House Bill faced no opposition in the Maryland Legislature, passing the House of Delegates by a vote of 140-0 and the Senate by a vote of 47-0. The Chairman for the Environmental Matters Committee sponsored the Bill.

This Bill took effect July 1, 2004.

HOUSE BILL 194: THEFT – USE OF INTERACTIVE COMPUTER SERVICE

By: Jean McKenzie

House Bill 194 adds a provision to the Maryland Annotated code, Criminal Law Article, § 7-101. The Bill provides jurisdiction for prosecution of theft by use of an interactive computer service and defines interactive computer service.

Under the new law, a person who violates this section by use of an interactive computer service may be prosecuted, indicted, tried, and convicted in any county in which the victim resides or the electronic communication originated or terminated. The law also defines “interactive computer service” as an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the Internet.

This Bill, co-sponsored by twenty-four delegates, was supported by the Maryland Legislature and passed the House of Delegates by a vote of 140-0 and the Senate by a vote of 47-0.

The Bill takes effect October 1, 2004.

**HOUSE BILL 209: VITAL STATISTICS ADMINISTRATION -
ADJUDICATIONS OF PATERNITY**

By: Patricia K. Jaron

House Bill 209, entitled Vital Statistics Administration – Adjudications of Paternity – Repeal Requirement for Fee, repeals a requirement that the Department of Health and Mental Hygiene collect a fee to process an adjudication of paternity. This Bill repealed and reenacted, with amendments, Maryland Annotated Code, Health Care – General Article, § 4-217 (c)(1). Under current law, a processing fee of \$12 is charged to process an adjudication of paternity. Under the new law, the \$12 fee will no longer be required.

This Bill was sponsored by the Chairman, Health and Government Operations Committee and was fully supported by the Maryland Legislature, passing the House of Delegates by a vote of 139 – 0 and the Senate by a vote of 47 – 0.

This Bill takes effect on October 1, 2004.

**HOUSE BILL 295/SENATE BILL 194:
CRIMINAL LAW – PAROLE ELIGIBILITY**

By: Kristine Rea

House Bill 295 and Senate Bill 194 establish parole eligibility for specified nonviolent offenders who are ordered to undergo drug or alcohol treatment. The Bill authorizes a State’s Attorney, at the defendant’s request or on the State’s Attorney’s own motion, to agree to the disposition of nolle prosequi with a requirement for drug or alcohol treatment or state with a requirement for treatment for specified defendants.

The Bill faced little opposition in the Maryland Legislature, passing the House of Delegates by a vote of 132-2 and the Senate by a vote of 45-0. Over 50 delegates sponsored the Bill.

This Bill affects several statutes including Criminal Law Article 5-609, which includes the sentencing requirements and parole eligibility for certain controlled substance and conspiracy crimes. The statute currently states that a person is not eligible for parole during the mandatory minimum sentence, except as provided in § 4-305 of the Correctional Services Article.

This Bill took effect on July 1, 2004.

**HOUSE BILL 373: TRANSPORTATION - VEHICLE LAWS - DRIVING WHILE
IMPAIRED BY CONTROLLED DANGEROUS SUBSTANCE - PENALTIES**

By: Sarah Miller

House Bill 373 repeals and reenacts, with amendments, Section 27-101(c), (f), (j), (k), and (q) of the Annotated Code of Maryland. House Bill 373 was passed on April 9, 2004 to modify penalties for a conviction of driving while under the influence of a controlled dangerous substance (Section 21-902(d)). Specifically, the Bill aligns the penalties for a Section 21-902(d) violation with the penalties for driving while under the influence of alcohol.

The Bill provides fines and mandatory minimum imprisonment penalties for offenders with multiple Section 21-902(d) violations within a five- or ten-year period. Repeat offenders are also required to undergo a comprehensive drug abuse assessment and, if the assessment so recommends, participate in a court ordered drug treatment program.

House Bill 373 l takes effect on October 1, 2004.

**HOUSE BILL 446: STATE PERSONNEL AND PENSIONS – AUDITS
AND AUDITORS**

By: John D. Gifford

House Bill 446 repealed and reenacted, with amendments, the Maryland Annotated Code, State Personnel and Pensions Article, §§ 4-203 and 7-201. The Bill creates definite time periods for certain position and operational audits and recruitment and hiring reviews and audits.

House Bill 446 requires the Maryland Secretary of Budget and Management to conduct position classification audits and operational audits of classification practices at least once every three years. House Bill 446 also requires the Department of Budget and Management to review and audit recruitment and hiring practices of all appointing authorities at least once every three years. Prior to passage of House Bill 446, the Department of Budget and Management had a mandate to complete these tasks, but not within any time period.

This Bill takes effect on October 1, 2004.

HOUSE BILL 555: CHESAPEAKE BAY WATERSHED RESTORATION

By: Carlin La Bar

House Bill 555 repealed and reenacted, with amendments, the Maryland Annotated Code Agriculture Article §§ 8-801.1, 8-803, 8-803.1, and 8-806. The Bill amends existing law to reduce the nutrient load released into the Chesapeake Bay by wastewater treatment facilities and farms.

This Bill established the Chesapeake Bay Watershed Restoration Fund as a special, continuing, non-lapsing fund in perpetuity from which moneys may not revert into other state funds. The Bill provides for grant funding of wastewater treatment facility upgrades to reduce the nutrient load. The Bill further imposes a surcharge on users of wastewater treatment facilities.

Farms are required to design and implement nutrient management plans and the Bill authorizes site visits to ensure implementation. The licensing procedure for nutrient management plan consultants is detailed in full to assist farm owners and operators in designing nutrient management plans.

This Bill takes effect on October 1, 2004.

House Bill 666: BIOLOGICAL AGENTS REGISTRY PROGRAM

By: Thomas Sova

House Bill 666, entitled Biological Agents Registry Program, repealed and reenacted, with amendments, the Maryland Annotated Code of Maryland, General Health Article, §§ 17-601, 17-602, and 17-604.

This bill compels the Department of Health and Mental Hygiene to create a registry that shall identify all biological agents possessed and maintained by any person in Maryland. This bill also implements regulations requiring all local jurisdictions to be informed of the nature and location of particular biological agents listed in the Biological Agents Registry.

Under this bill, specific information entered into the Biological Agents Registry can be released to State and federal law enforcement agencies, the Center for Disease Control, the Maryland Management Agency, the Maryland Department of the Environment, and the Maryland Institute for Emergency Medical Services Systems. Furthermore, this bill requires that all released information must be kept undisclosed unless the Biological Agents Registry Program approves the release.

This Bill takes effect on October 1, 2004.

**HOUSE BILL 1083: DEPARTMENT OF JUVENILE SERVICES -
REORGANIZATION AND REGIONALIZATION**

By: Katherine Kiemle

House Bill 1083, cross-filed with Senate Bill 768, provides for the regionalization of Department of Juvenile Services facilities. This Bill establishes five specific regions within the state, each to include specialized facilities and step-down after-care services. The facilities are to ensure separation of pre- and post-adjudicatory children and will provide detailed medical, mental, rehabilitative and educational services. Additionally, Bill 1083 requires the appointment of regional directors to oversee the consistent maintenance and performance of each facility. The House Bill amends Sections 1-101, 2-101.5, 2-101, 2-104, 2-117, 2-118 and 2-127 of the Juvenile Justice Article.

The Bill defines the mission of the new Juvenile Services system as one concerned with community safety. It emphasizes that delinquent children must be held accountable to their victims and communities. The Bill also focuses on assisting children to develop the competencies necessary to enable them to become successful members of society.

The Bill passed overwhelmingly, 136 – 0, and was enacted on March 27, 2004.

**HOUSE BILL 1463: CRIMINAL LAW & COURTS AND JUDICIAL
PROCEEDINGS - VICTIMS OF CRIME**

By: Larna M. Cutter

House Bill 1463 repealed and reenacted Maryland Annotated Code, Criminal Law, Sections 5-602 and 6-202 - 6-204, and added to Section 5-807 of Courts and Judicial Proceedings. The purpose of this bill is to reduce the liability of home and business owners to persons who trespass on their property and are subsequently injured or killed.

The Bill prohibits personal liability for the personal injury or death of a person who entered another person's dwelling or place of business with the intent to commit burglary or a crime of violence defined in Section 14-101 of the Criminal Law Article. This provision changes existing law by replacing the individual's commission, or attempted commission of a crime involving controlled dangerous substances with an individual's intent to commit first-, second-, and third-degree burglaries or a crime of violence. The Bill does allow recovery if a home or business owner acts with gross negligence or malice. The Bill further establishes that a governmental entity is unaffected by the new provisions because it is not considered a "person." Finally, the Bill forbids limiting or abrogating immunity from civil liabilities or defenses available to an individual under existing statutory or common law.

The Bill was sponsored by Delegate Carmen Amedori and takes effect on October 1, 2004.

**SENATE BILL 34: MOTOR VEHICLE ADMINISTRATION -
ADMINISTRATIVE APPEALS AND HEARINGS**

By: Kevin Trogdon

Senate Bill 34 repealed and reenacted, with amendments, Maryland Annotated Code, Transportation, § 12-104. The bill expands the authority of the Motor Vehicle Administration to delegate to the Office of Administrative Hearings the power to render final decisions under the Maryland Vehicle Law.

Under current law, the Motor Vehicle Administration has the authority to delegate to the Office of Administrative Hearings the power to render “proposed” findings of fact and “proposed” conclusions of law in certain hearings. Under the new law, the Motor Vehicle Administration has the authority to delegate to the Office of Administrative Hearings the power to render “final” decisions in hearings under the Maryland Motor Vehicle Laws.

This Bill takes effect on October 1, 2004.

**SENATE BILL 43: CRIMINAL PROCEDURE – CRIMINAL INJURIES COM-
PENSATION BOARD – LIFE INSURANCE BENEFITS**

By: Jason L. Levine

Senate Bill 43 modified current law and provided that any proceeds of life insurance in excess of \$25,000 are deducted from any final award made by the Criminal Injuries Compensation Board. The Bill eliminates the former requirement found in § 11-811 of the Criminal Procedure Article that an award from the Criminal Injuries Compensation Fund be reduced by *any* amount of an award obtained from any collateral source.

The Senate Bill unanimously passed through the Maryland Legislature. The bill was sponsored by the Chairman of the Judicial Proceedings Committee at the request of the Department of Public Safety and Correctional Services.

The Bill took effect on April 13, 2004.

SENATE BILL 55: ELECTION LAW - MISCELLANEOUS TECHNICAL AND CLARIFYING CORRECTIONS

By: Brandy Scheydt

Senate Bill 55 repealed and reenacted, with amendments, the Maryland Annotate Code, Election Law Article, §§ 1-101(d), 2-206, 3-202(b), 3-203(d), 5-1204, 16-304, and 9-106. The Bill repeals provisions that related to the use of mechanical lever machines and alters current law to be consistent with the use of electronic voting systems. Additionally, the Bill modifies definitions to correspond with current practices.

Under current law, if a driver's license renewal is not completed in person, the Motor Vehicle Administration must state that the information will be used for voting purposes only and the driver may declare that the information not be used for any other purpose. However, this section was repealed and now states that the Motor Vehicle Administration must follow the procedures established by the Motor Vehicle Administration and the State Board.

This Bill took effect on July 1, 2004.

SENATE BILL 65: ENVIRONMENT – WATER QUALITY – PENALTIES

By: Brian Casto

Senate Bill 65 repealed and reenacted, with amendments, Maryland Annotated Code, Environmental Article, § 9-343.

Under the previous statute, a misdemeanor conviction for making false statements on any document required under the article or tampering with monitoring equipment was subject to a \$10,000 fine and six month's imprisonment. The amended statute increased the penalties to \$50,000 and 2 year's imprisonment.

This Bill takes effect on October 1, 2004.

**SENATE BILL 285: CHILD IN NEED OF ASSISTANCE - PERMANENCY
PLAN HEARINGS**

By: Cendoria Yvonne Dean

Senate Bill 285 repealed and reenacted, with amendments, the Courts and Judicial Proceedings, Section 3-823 of the Annotated Code of Maryland. Senate Bill 285 was passed unanimously by the House of Delegates and Senate. The bill restores a requirement that all children in out-of-home placements, committed under child in need of assistance proceedings, have permanency-planning hearings held by the appropriate court.

Senate Bill 285 is the same as the current version of Section 3-823; however, the Bill's purpose was to reiterate the requirement for a permanency-planning hearing.

Senate Bill 285 was an emergency measure and took effect April 14, 2004.

**SENATE BILL 372: REAL PROPERTY – RESIDENTIAL LEASES –
INTEREST ON SECURITY DEPOSITS**

By: Pete Maheridis

Senate Bill 372 repealed and reenacted, with amendments, Article - Real Property § 8-203(e) of the Annotated Code of Maryland. The Bill's purpose is to alter the rate of interest paid on a security deposit held by a landlord within a certain time upon termination of the tenancy.

Under the new law, a landlord is required to return a security deposit within forty-five days after the tenancy terminates, together with accrued simple interest in the amount equal to the Federal Reserve discount rate as of January 1 of each year of the tenancy, less any damages justly withheld. Interest is not compounded and shall accrue at six-month intervals beginning with the time the landlord secures a deposit of \$50 or more. Under the old law, simple interest accrued in the amount of four percent per annum.

The Bill was sponsored by Senator Haines and was introduced and read for the first time on February 4, 2004.

This Bill takes effect October 1, 2004.

SENATE BILL 477: FAMILY LAW - MEDICALLY FRAGILE CHILDREN

By: Victoria Z. Sulerzyski

Senate Bill 477 requires the Governors' Office for Individuals with Disabilities, the Department of Human Resources, and the Department of Health and Mental Hygiene to study and issue a report by December 1, 2004 on the placement of medically fragile children in Maryland.

The Bill provides for the determination of the total number of medically fragile children who are in out-of-home care in Maryland, alternatives to address medically fragile children who are in out-of-home care permanency placement, and the total cost of providing equipment and services to medically fragile children.

The study will also determine the number of families who have given up custody of medically fragile children, who have adopted medically fragile children, the number of unsubsidized medically fragile children, families willing to adopt medically fragile children if ongoing support is available after a child reaches the age of twenty-one, and any other action necessary for the State to undertake to prevent the institutionalization of medically fragile children who turn twenty-one years of age.

The Bill passed unanimously in both the Senate and the House and took effect on July 1, 2004.

**SENATE BILL 837: CRIMES - COUNTERFEITING AND POSSESSION OF
COUNTERFEIT CHECK, LETTER OF CREDIT,
OR NEGOTIABLE INSTRUMENT**

By: Matthew F. Penater

Senate Bill 837 repeals and reenacts, with amendments, the Maryland Annotated Code, Criminal Law Article, § 8-601. This Bill expands the felony prohibition against counterfeiting private instruments. It adds a check, a letter of credit, a negotiable instrument, and the endorsement or assignment of a check to the existing list of instruments an individual, with the intent to defraud, may not counterfeit, cause to be counterfeited, or willingly aid or assist in the counterfeiting. Felony violators are subject to maximum penalty of ten year's imprisonment and/or a fine of \$1,000.00

This Bill also creates a misdemeanor section prohibiting a person from knowingly, willfully, and with fraudulent intent possessing any of the counterfeited items in the felony list. A violation of the misdemeanor provision may result in a maximum of three year's imprisonment and/or a fine of \$1,000.00.

This Bill provides both the State's Attorney and the Attorney General the authority to prosecute violations under this section.

This Bill takes effect on October 1, 2004.

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