



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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BILL INTRODUCTIONS

The bill count in the Senate has reached 1,122. House members have introduced 1,550 measures. April 5, the 83rd day of the 2010 session, is the deadline for passage of the Budget Bill. April 12, the 2010 session's 90th day, is adjournment "*sine die*."

COURTS AND CIVIL PROCEEDINGS

Circuit Court Judges – Elections

The Maryland Constitution requires a circuit court judge to face a contested election within two years of gubernatorial appointment and every 15 years thereafter. Any lawyer who has practiced for more than five years may run in a contested election. [SB 833](#), heard this week, and crossfiled [HB 1385](#), set for a hearing next week, repeal those provisions and mandate an uncontested "retention" election every 10 years after appointment by the governor, mirroring the current requirements for appellate court judges. If approved by the General Assembly, the legislation must pass a referendum vote to become law. Retention elections, unlike contested elections, do not involve electioneering and the corresponding need for fundraising; they decide only whether the current appointee remains on the bench or is replaced by another appointee.

Journalist Privileges - Students

Maryland's "shield law" provides that no person may be compelled by any body that has the power to issue subpoenas to disclose the source of any news or information procured by the person while employed by the news media or any news or information procured but not communicated to the public. The House passed [HB 257](#) to expand eligibility for these privileges to include postsecondary students engaged in any news gathering or disseminating capacity recognized by their schools as a scholastic activity.

Child Support Revision

The Senate approved [SB 252](#) to revise the schedule of basic child support obligations used to calculate child support under the State's guidelines.

Protective Orders

With failed committee votes this week:

- [HB 48](#) (failed) would have required that, before a respondent in a protective order proceeding may consent to waive a temporary protective order hearing or consent to a final protective order, a judge must advise the respondent of certain consequences that result from the issuance of a final protective order. The companion bill is [SB 329](#) (failed); and
- [HB 700](#) (failed) would have eased the standard of proof for issuing a final protective order from clear and convincing evidence to a preponderance of the evidence. The companion bill ([SB 823](#)) remains in a Senate committee.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Child Neglect

Currently not a crime in Maryland, child neglect becomes a felony under [SB 757/HB 962](#), and violators are subject to a maximum penalty of 10 years imprisonment and a \$10,000 fine. The legislation prohibits a parent or person who has permanent or temporary care, custody or supervisory responsibility for a minor from neglecting the child in a manner that causes substantial risk of mental or physical injury or actual mental injury to the child. "Neglect" is defined as a pattern of failure to provide assistance and resources for the basic needs of a minor, including, food, shelter, clothing, supervision, or essential medical treatment, but does not include failure to provide due to lack of resources or the failure to provide specified medical treatment that conflicts with the bona fide religious beliefs and practices of the parent or guardian. The bills had hearings last week.

Human Trafficking

Legislation to expand the crime of human trafficking passed the Senate this week. [SB 261](#) subjects individuals who knowingly aid, abet, or conspire in the violation of human trafficking laws or knowingly benefit financially from ventures or activities in violation of those laws to

the same penalties imposed on a person who violated the applicable statute. The bill also changes from a misdemeanor to a felony the prohibition on knowingly taking or detaining another with the intent to use force, threat, coercion, or fraud to compel the other to marry or perform specific sexual acts.

Other provisions prohibit forced participation in a “sexually explicit performance” and interference with another’s possession of various types of identification documents while violating or attempting to violate State human trafficking laws and clarify that in a prosecution for sexual solicitation of a minor or human trafficking of a minor, the State need only prove that the minor was under the age of 18 at the time the offense was committed. The clarification was amended out of the companion bill ([HB 283](#)) that passed the House last week.

Also passed by the Senate, [SB 463](#) prohibits a person from knowingly recruiting, harboring, transporting, providing, or obtaining a person for labor or services and subjecting the person to involuntary servitude or debt bondage through force, fraud, or coercion. The amended bill authorizes State or local law enforcement to seize property in connection with a violation of human trafficking law and establishes a fund to benefit victims, as well as organizations and law enforcement agencies that combat trafficking. The companion bill ([HB 514](#)) is waiting for House committee action.

[HB 1322](#) requires certain lodging establishments to post prominently in each guest room, for one year, a sign that includes the phone number for and other information about the federally funded National Human Trafficking Resource Center hotline. Heard this week, the bill applies to lodging establishments that have either been found to keep a common nuisance or are locations in which an individual has been arrested for prostitution, solicitation of a minor, or human trafficking. Violation is a misdemeanor that carries a maximum penalty of a \$1,000 fine and 10 days in jail. A similar bill, [SB 542](#), had a Senate hearing two weeks ago.

Guns

Discussed in hearings this week, the Firearm Safety Act of 2010 ([SB 645/HB 820](#)) adds to the grounds for disapproval or suspension of a firearms dealer’s license and creates requirements for a handgun purchase permit. The Act stiffens penalties for the illegal sale, transfer, or possession of firearms or participation in a straw purchase and adds firearm dealer recordkeeping and reporting requirements (also set out separately in [SB 167](#)). Also, a law enforcement officer in a criminal investigation is allowed to intercept a wire, oral, or

electronic communication to provide evidence of certain firearm violations. Also receiving committee attention:

- [SB 191](#) prohibits the carrying or possession of firearms, knives, or deadly weapons at public institutions of higher education;
- [HB 1268](#) makes it a misdemeanor to knowingly participate in the illegal sale, rental, transfer, purchase, possession, or receipt of ammunition solely designed for a regulated firearm;
- [SB 563/HB 354](#) make possession of firearm ammunition by a person previously convicted of a certain crime of violence or drug-related crime a misdemeanor;
- [SB 274](#) expands the prohibition against and penalty for possession of certain firearms by a person previously convicted of a certain crime of violence or drug-related crime (the companion bill is [HB 358](#));
- [HB 1328](#) makes it a misdemeanor for a person under the age of 21 to knowingly possess certain firearms or ammunition or for a person to obliterate, remove, change, or alter the manufacturer’s identification mark or number on a firearm;
- [SB 44](#) expands the current misdemeanor prohibition against the use of a handgun or concealable antique firearm in the commission of a crime of violence or a felony to apply to any “firearm,” without regard to its capability of being concealed (the companion bill, [HB 157](#), and identical bill [HB 309](#) had hearings last month). Violators face a minimum mandatory sentence of 5 years and a maximum sentence of 20 years;
- [HB 893](#) allows the State Police to consider whether an applicant for a gun permit is a person eligible for relief under a final protective order when determining if the applicant has the necessary good and substantial reason to wear, carry, or transport a handgun; and
- [HB 683](#) repeals the requirement that the Secretary of State Police find that a person has a good and substantial reason to wear, carry, or transport a handgun before issuing a handgun permit to the person.

Death Penalty

Under current law passed in 2009, the death penalty may be imposed only in cases in which the State presents the court or jury with (1) biological evidence or DNA evidence that links the defendant with the act of murder; (2) a videotaped, voluntary interrogation and confession

of the defendant to the murder; or (3) a video recording that conclusively links the defendant to the murder. A defendant is prohibited from being sentenced to death if the State relies solely on evidence provided by eyewitnesses in its case. Legislation pending this session includes:

- [SB 404](#) to extend eligibility for the death penalty to cases where the State presents the court or jury with fingerprint evidence or photographic evidence that conclusively links a defendant convicted of first degree murder to the murder. The bill also requires that biological or DNA evidence and allowable video evidence presented by the State in a death penalty case conclusively link the defendant to the murder. The bill had a hearing this week; and
- [HB 994](#) to include scientific evidence among the types of evidence that the State may present to the court or jury in order to sentence a defendant found guilty of murder in the first degree to death; it will be heard next week.

Correctional Officers' Bill of Rights

The rights of State correctional officers whose duties relate to the investigation, care, custody, control, or supervision of inmates in State correctional facilities were discussed at a House hearing this week. [HB 1090](#) provides specified procedural safeguards in any investigation of alleged misconduct that could lead to disciplinary action, demotion, or dismissal of a correctional officer. A similar bill, [SB 887](#), has a Senate hearing in two weeks.

ECONOMIC AND BUSINESS ISSUES

Healthy Retail Employee Act

[SB 789](#) and [HB 1299](#), both with committee hearings this week, mandate that retail businesses in the State offer nonworking shift breaks to their employees if the businesses employ 50 or more people in one location or in multiple franchised locations that operate under the same trade name. Shift break requirements do not apply to employees entitled to an equivalent or greater benefit under a collective bargaining agreement or employment policy or to employees who are exempt from overtime pay requirements under the federal Fair Labor Standards Act. The bills also do not apply to units of State, county, or municipal governments. Similar bills were introduced in 2007, 2008, and 2009.

Information, Green, and Medical Device Technology or Bioscience Businesses

With a potentially meaningful impact on small start-up firms, [SB 793/HB 484](#) require the Board of Trustees of the State Retirement and Pension System to invest \$50 million over five years in venture capital funds in qualified companies. The companies must be primarily engaged in manufacturing, processing, or assembling products, conducting research and development, or providing services in state-based businesses related to the four identified fields. Qualified companies do not include those primarily engaged in retail sales, real estate development, insurance, banking, lending, or the provision of professional services.

Incinerators

Defeated in committee, [SB 228](#) (failed), [SB 333](#) (failed), and [SB 514](#) (failed) would have established limits on the geographical locations of incinerators. [HB 1427](#), the companion bill of [SB 514](#), remains in the House Rules Committee.

EDUCATION

Compulsory School Attendance

[SB 239](#) received much discussion on the Senate floor this week. This bill phases in an increased age of compulsory school attendance over the course of two years. Current law requires attendance for students ages 5 through 15. Under the bill's provisions, beginning with the 2012-2013 school year, the compulsory attendance age raises to 16, and for 2013-2014, the age will increase to 17. The bill also outlines specific exemptions to this rule. For example, students in the military, severely ill students, a student who has obtained a GED, and others with certain special circumstances may be waived from compulsory attendance. Its companion, [HB 723](#), has not been reported out of committee.

Maintenance of Effort (MOE)

[HB 223](#), concerning penalties related to the State's MOE law, passed the House. When introduced, this bill was crafted to exempt Montgomery County from MOE requirements for fiscal 2010. It was amended to be identical to [SB 476](#), which has passed the Senate. The amended bill waives the fiscal 2010 county MOE penalty for public education statewide. It also requires two legislative committees to study the appropriate calculation of the penalty for failing to meet the MOE requirement and the appropriate party against whom the penalty should be applied.

ELECTIONS AND ETHICS

Guardianship for Mental Disability

The Senate passed [SB 28](#), which repeals a provision of State law that disqualifies an individual who is under guardianship for mental disability from being able to register to vote. (The companion bill is [HB 816](#).) The Governor's Election Work Group recommended modifying this voting prohibition, stating that it "broadly denies a specific group of individuals with disabilities the right to vote without a specific finding that they are not competent to vote." In 2001, a federal court found that a prohibition in Maine similar to Maryland's violated the Due Process and Equal Protection clauses of the U.S. Constitution and that implementing the prohibition had violated the federal Americans with Disabilities Act and the Rehabilitation Act.

Campaign Restrictions

After considerable discussion on the floor, the Senate defeated [SB 212](#) (failed) that would have eased restrictions placed by gated communities and condominium associations on campaigning by political candidates within their properties. Currently, these communities often prohibit or restrict solicitations.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

Low Phosphorous Fertilizer

[HB 50](#), changing the definition of low phosphorous fertilizer to be used on lawns under the Chesapeake Bay Phosphorous Reduction Act of 2009, moved to the Senate. The bill reduces the maximum available phosphoric acid content of "low phosphorous fertilizer" from 5% to 0.5%; and, as amended, extends the applicability date one year to April 1, 2012, and applies this restriction to lawn fertilizers with organic phosphorous material as of April 1, 2014.

Chesapeake Conservation Corps Program

[SB 311](#), as amended, establishes this program administered by the Chesapeake Bay Trust to provide young adults with meaningful service opportunities to promote, preserve, protect, and conserve the environment. Through fiscal 2015 the program will be funded by \$250,000 from the Environmental Trust Fund and \$250,000 from the Chesapeake Bay Trust Fund, with long-term funding from federal funds and grants and donations from private sources. Testimony was heard this week on the companion bill, [HB 943](#).

Recycling

Several bills to encourage recycling and reduce litter were heard this week:

- [SB 462/HB 351](#), effective January 1, 2011, prohibit a store from providing disposable carryout bags unless the bags meet certain requirements, require a store to charge and collect a 5 cents fee for each disposable carryout bag provided to a customer, and direct a certain amount of the money collected to the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund;
- [HB 982](#) repeals the State's current population-based county recycling goals and establishes new, more stringent commodity-based recycling goals for counties; provides for a waiver of those goals; and creates an assistance program to help bars and restaurants recycle beverage containers, among other provisions;
- [HB 944](#), in a county with a population over 150,000 and contingent on passage of [HB 982](#), requires a distributor of beverages to bars and restaurants to create a beverage container recycling program;
- [HB 1230](#) establishes the Task Force to Develop Strategies to Encourage Recycling and Reduce Litter in Maryland's Waterways and requires the task force to report to the Governor and the General Assembly by December 31, 2010; and
- [SB 693](#) increases the percentage price preference for the purchase of products made from recycled materials that is required for purchases by the Departments of General Services and Transportation and by the University System of Maryland from 5% to 8%, and the percentage of paper purchased by General Services that must be recycled from 40% to 90%; requires a review of procurement practices and a study of the use of compost as fertilizer on State land, among other provisions. The companion bill is [HB 1164](#).

Oysters

[HB 303](#) (failed), a reintroduction from last session, which would have changed the procedure for the Department of Natural Resources to close tidal waters in the State to oyster harvesting, has received an unfavorable committee report.

FISCAL MATTERS

The Budget Bill, [SB 140](#), will go to the Senate floor on March 22, rather than on March 15 as originally scheduled. The Senate and House budget committees have completed their operating budget hearings and will be making decisions concerning budget reductions and changes to State law needed for a balanced budget.

The Senate committee is holding its hearings on various capital budget items in [SB 142](#), Maryland Consolidated Capital Bond Loan of 2010, and the House committee will start holding its hearings next week. The General Assembly may not pass the capital bond bill until the Budget Bill has passed. Hearings on legislative initiative capital requests are scheduled for Saturday, March 13.

[SB 385/HB 946](#), the Building Opportunities for all Students and Teachers (BOAST) in Maryland Tax Credit, creates an income tax credit for 75% of the contributions made by a business or nonprofit organization to an eligible nonprofit organization. The recipient organization must provide scholarships to eligible students or teachers at a nonpublic K-12 school or provide grants to public schools to support innovative educational programs that are not part of the regular academic program in order to achieve the goals of the Bridge to Excellence in Public Schools Act of 2002 or to public school teachers to assist in the cost of certification coursework. [SB 385](#) is on second reading in the Senate, while [HB 946](#) has a House committee hearing next week.

[HB 475](#), the Sustainable Communities Act of 2010, had a hearing on March 9, while its companion bill, [SB 285](#), had a hearing in February. These Administration measures reestablish and change the existing Heritage Structure Rehabilitation Tax Credit Program.

HEALTH CARE AND HEALTH INSURANCE

Maryland False Health Claims Act of 2010

This week, a House committee heard [HB 525](#), the False Health Claims Act of 2010, which allows recovery of damages and penalties from individuals who defraud the State; prohibits false claims against a State health plan or a State health program; provides penalties for making false claims; authorizes the State or a person on behalf of the State to file a civil action against a person who makes a false claim; and provides for the procedures to be followed and remedies in a civil action. The Senate crossfiled bill, [SB 279](#), was heard in February.

Tanning Devices - Use by Minors

Current law prohibits an owner, employee, or operator of a tanning facility from allowing a minor younger than age 18 to use a tanning device unless the minor's parent or legal guardian provides written consent on the premises of the tanning facility and in the presence of an owner, employee, or operator of the tanning facility.

[SB 718](#), heard in the Senate this week, prohibits a minor from using a tanning device and prohibits the owner, employee, or operator of a tanning facility from distributing to a minor a pass, coupon, or package redeemable for use of a tanning device. Violators are subject to civil penalties and fines. Howard County, Maryland is currently the only jurisdiction in the United States that has banned indoor tanning for all minors under the age of 18. Other states have bans for younger minors. The bill's companion in the House, [HB 1039](#), will be heard later this month.

Assignment of Benefits and Reimbursement of Nonpreferred Providers

After lengthy discussion on the floor, the Senate gave preliminary approval to [SB 314](#) regarding the assignment of benefits and the reimbursement of nonpreferred providers. As amended, the bill generally requires health insurers to honor an assignment of benefits by an insured enrolled in a preferred provider insurance policy (PPO) to a nonpreferred health care provider. The bill also prohibits on-call physicians who are nonpreferred providers and who obtain an assignment of benefits from an insured from balance billing an insured of a PPO for covered services. The bill requires health insurers to pay these on-call physicians certain amounts, based on several rate formulas as provided in the bill. The bill also requires nonhospital based physicians who are nonpreferred providers to give an insured a specified disclosure before obtaining an assignment of benefits.

Additionally, the Maryland Insurance Administration (MIA) is required to study the benefits provided by health insurers under PPOs for specified health services rendered by nonpreferred providers and the impact of these benefits on consumer complaints, and report its findings and recommendations to the Governor and the General Assembly on or before December 1, 2011. MIA is also prohibited from imposing monetary penalties on insurers for violations of the on-call payment provisions in the bill until July 1, 2012.

HUMAN RESOURCES

The Senate gave approval to [SB 318](#) that establishes a checkoff box on the State individual income tax return form for contributions to the Waiting List Equity Fund, with the aim of reducing the long waiting list for community-based services for individuals with developmental disabilities. The companion bill, [HB 830](#), had a House hearing this week.

REAL PROPERTY, ESTATES, AND TRUSTS

The Senate passed [SB 235](#), which requires a mobile home park owner in Maryland to include a relocation plan for dislocated residents with an application to change the land use of a park. A plan to close a mobile home park must include a budget that reflects the amount of relocation assistance to be paid by the park owner to each household. A local governing body cannot require, as a condition of approving any relocation plan, that an affected resident receive relocation assistance that exceeds 10 months' rent. Half of the relocation assistance is payable to a resident within 30 days from the date the resident gives notice of intent to vacate the park; the remaining half must be paid within 30 days after the resident returns possession of the premises to the park owner. The crossfiled bill, [HB 103](#), remains in a House committee.

STATE GOVERNMENT

This week, a House committee heard a bill required by the Maryland Constitution. [SB 26](#) calls for a referendum to be placed on the November 2010 election ballot posing the question of whether voters wish for a convention to be called to alter or reframe the State Constitution.

Recently, a House committee heard testimony on [HB 496](#) related to counting prison populations during reapportionment. The bill requires that population counts used to create legislative districts for the General Assembly and county councils exclude incarcerated individuals who were not State residents prior to their incarceration in either State or federal correctional facilities. If they were State residents prior to incarceration, incarcerated individuals must be counted as residents of their last known address before their incarceration. The companion bill, heard last week, is [SB 400](#).

TRANSPORTATION

Teen Driving

The Safe Roads for Teens Act, [HB 1221](#), requires a person under age 18 who holds a provisional driver's license to hold the license for more than 150 days before driving any passenger under age 21, except for relatives. Testimony was heard in committee this week.

Chesapeake Bay Bridge

Several bills affecting the Bay Bridge were considered by the Senate:

- [SB 648](#) (failed), which received an unfavorable Senate committee vote, would have required an environmental impact study on a third Chesapeake Bay bridge crossing. The bill also failed in 2009;
- [SB 649](#) (failed), which also received an unfavorable committee vote, would have required an independent inspection of the superstructure and substructure of the bridge before December 31, 2010;
- [SB 651](#) and [SB 650](#), both of which have had hearings, seek to increase input on transportation issues from those who live near a transportation facilities project. [SB 651](#) requires the Maryland Transportation Authority to conduct public meetings at a location within a 30-mile radius of any transportation project under its jurisdiction before instituting a toll increase, and [SB 650](#) requires that copies of written comments submitted by the public about proposed toll or fee charges be forwarded to the Authority; and
- [SB 991](#), which has a hearing later this month, requires the Maryland Transportation Authority to temporarily stop collecting tolls on the bridge at times when traffic is backed up for 30 minutes or longer, and to resume toll collecting when traffic eases.

Texting While Driving

[HB 192](#) extends the current ban on writing or sending text messages while driving to also include a ban on reading text messages while driving. The bill was approved in the House this week.

Criminally Negligent Driving

Approved by the Senate this week, [SB 189](#) authorizes the Motor Vehicle Administration to suspend a license for 180 days and increase the fine for a driver who is convicted of reckless and negligent driving resulting in death or bodily injury.