

THE 71 DAY REPORT

A Review of the
2020 Legislative Session

Department of Legislative Services
Maryland General Assembly

The Department of Legislative Services
General Assembly of Maryland
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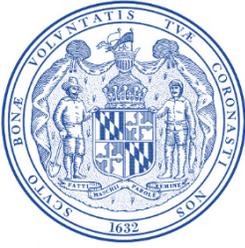
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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF POLICY ANALYSIS
MARYLAND GENERAL ASSEMBLY

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Executive Director

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May 2020

The Honorable Bill Ferguson, President of the Senate
The Honorable Adrienne A. Jones, Speaker of the House of Delegates
Members of the General Assembly

Ladies and Gentlemen:

We are pleased to present you with *The 71 Day Report – A Review of the 2020 Legislative Session*.

As you know, due to the public health crisis surrounding the COVID-19 pandemic, the Maryland General Assembly adjourned early on March 18, 2020. In April 2020, the department published the [2020 Session Major Issues Review](#), which provided an overview of the fiscal 2021 budget as well as major issues addressed by the General Assembly in the 2020 session. *The 71 Day Report* discusses additional legislation considered by the General Assembly that was not covered in the *2020 Session Major Issues Review*.

The 71 Day Report is divided into multiple parts, each dealing with a major policy area. Each part contains a discussion of the majority of bills passed in that policy area, including comparisons with previous sessions and current law, background information, as well as a discussion of significant bills that did not pass. Bills passed by the General Assembly that were subsequently vetoed by Governor Lawrence J. Hogan, Jr. for policy reasons or as a result of the economic challenges resulting from the COVID-19 pandemic are also discussed in the report.

We hope this report will be of assistance to you, and we remain available through telework to assist you however you may need during this difficult time.

Sincerely,

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Part B Taxes

Property Tax

Property Tax Administration

Business Personal Property Tax Filing Requirements

In Maryland, there is a tax on business-owned personal property that is imposed and collected by local governments. Personal property generally includes business property, including furniture, fixtures, office and industrial equipment, machinery, tools, supplies, inventory, and any other property not classified as real property. To provide for uniform assessments, the State Department of Assessments and Taxation (SDAT) is responsible for assessing all personal property. Each county or municipal government is responsible for issuing the tax bills and collecting the tax. *Senate Bill 115 (Ch. 529)* alters a reference to a specified personal property tax report and is intended to clarify the different filing requirements for business entities that have and do not have personal property. Only businesses with personal property are required to file a personal property report; however, all business entities in the State must file an annual report with the appropriate fee.

Assessment of Country Club and Golf Course Property

The Budget Reconciliation and Financing Act of 2020, *Senate Bill 192 (Ch. 538)*, included a provision that alters the special use assessment for country clubs and golf courses that enter into or extend the term of a specified agreement with SDAT on or after June 1, 2020. The assessment increases from \$1,000 per acre to the lesser of market value or \$2,000 per acre (year one), \$3,500 per acre (year two), and \$5,000 per acre (year three). Beginning in the fourth year of the agreement or the extended term, the annual per acre assessment increases by a specified percentage based on a calculated assessment rate index.

Property Tax Credits

Homeowners' and Renters' Property Tax Credit Programs

The Homeowners' Property Tax Credit Program is a State funded program (*i.e.*, the State reimburses local governments) providing credits against State and local real property taxation for homeowners who qualify based on a sliding scale of property tax liability and income.

The Renters' Property Tax Credit Program provides financial assistance for elderly, disabled, and certain low-income renters from the cost attributable to State and local real property taxes. The concept behind the program is that renters indirectly pay property taxes as part of their rent and thus should have some protection, as do homeowners. The program makes payments directly to eligible renters to provide relief for the "assumed property tax" that renters indirectly pay as part of their rent.

Senate Bill 48 (Ch. 507) alters various deadlines for the application and processing for the homeowners' and renters' property tax credits. The Act (1) extends the deadline to apply for the Renters' Property Tax Credit Program from September 1 to October 1; (2) extends the deadline to apply for the Homeowners' Property Tax Credit Program from September 1 to October 1; (3) specifies that SDAT must make the application for the Homeowners' Property Tax Credit Program available by February 15; and (4) changes the date by which SDAT must request county governments to prepare a tax bill that reflects the final tax liability after the application of the Homeowners' Property Tax Credit from May 1 to April 15.

Homestead Property Tax Credit Program

The Homestead Property Tax Credit Program (assessment caps) provides tax credits against State, county, and municipal real property taxes for owner-occupied residential properties for the amount of real property taxes resulting from an annual assessment increase that exceeds a certain percentage or "cap" in any given year. The State requires the cap on assessment increases to be set at 10% for State property tax purposes; however, local governments have the authority to lower the cap. In fiscal 2020, 21 counties had assessment caps below 10%.

House Bill 1076 (Ch. 420) alters the deadline for a new owner of a dwelling to apply to SDAT to have the date of the deed accepted as the date of transfer of the dwelling for purposes of the homestead property tax credit. The deadline for submitting the application is extended from September 1 of the first taxable year following the date of the deed to September 1 of the second taxable year after the date of the deed. **House Bill 1076** provides that the property tax is not due on a dwelling for the second taxable year following the date of the deed until 30 days after a revised tax bill is sent to the homeowner if the homeowner submits an application to have the date of the deed accepted as the date of transfer of the dwelling for purposes of the homestead property tax credit after May 1 of the first taxable year following the date of the deed and there is a reduction in property tax resulting from the tax credit. **House Bill 1076** also requires SDAT to include in its notice to homeowners regarding the homestead property tax credit that an individual may apply to the department to have the date of deed accepted as the date of transfer for purposes of the tax credit.

Disabled Veterans

Senate Bill 417/House Bill 257 (Chs. 629 and 630) authorize local governments to grant a property tax credit for the dwelling house of disabled veterans who meet certain eligibility requirements. Local governments are authorized to continue providing the property tax credit to the surviving spouse of the veteran. In order to qualify for the property tax credit, the disabled veteran's federal adjusted gross income for the immediately preceding taxable year cannot exceed \$100,000. The amount of the property tax credit is based on the disabled veteran's level of service-connected disability.

Disabled Military Personnel and Surviving Spouses

Senate Bill 700 (Ch. 642) alters the eligibility criteria of a local property tax credit established for elderly individuals and veterans by extending eligibility to certain disabled military personnel under the age of 65. Eligible individuals include specified active duty, retired, or honorably discharged members of (1) the uniformed services of the United States as defined in 10 U.S.C. § 101; (2) the military reserves; or (3) the national guard. To qualify for the property tax credit, the individuals must have a service-connected disability as defined in a local law. In addition, a surviving spouse of these individuals who has not remarried also qualifies for the property tax credit. Local governments are authorized to establish the criteria that define a service-connected disability of an eligible individual.

Local Income Tax Offset

Local governments are authorized to grant a property tax credit against the county or municipal property tax imposed on real property in order to offset increases in local income tax revenues resulting from a county income tax rate in excess of 2.6%. *House Bill 1200 (Ch. 445)* alters the eligibility criteria for this local property tax credit. In order to be eligible for the property tax credit, the homeowner must have an application for the homestead property tax credit on file with SDAT. Any increase in county property tax revenue resulting from the Act may not be counted toward a property tax revenue limitation provision in a county charter. The Act is applicable to all taxable years beginning after June 30, 2022.

Property Tax Exemptions

Racing and Community Development Act of 2020

Among the many provisions related to the redevelopment of Laurel Park and Pimlico Race Course, *Senate Bill 987 (Ch. 590)* provides a property tax exemption for the interests of a person in the real property of or an improvement at the Laurel Park or Pimlico Race Course racing facility sites for the duration of specified long-term agreements.

For further discussion of *Senate Bill 987*, see the subpart “Horse Racing and Gaming” within Part H – Business and Economic Issues of the *2020 Session Major Issues Review*.

Maryland Farm Bureau

Senate Bill 802/House Bill 889 (Chs. 634 and 635) exempt from State and local property taxes property owned by the Maryland Farm Bureau that is used exclusively for (1) the agricultural education of the public; (2) aiding and encouraging agriculture in the State; (3) assisting in the collection, analysis, and dissemination of information relating to agriculture; or (4) the maintenance of a natural or recreational area for public use.

Data Center Personal Property

Senate Bill 397 (Ch. 640) provides a sales and use tax exemption for the sale of qualified data center personal property for use at a qualified data center. In addition, *Senate Bill 397* authorizes local governments to reduce or eliminate the percentage of the assessment of any data center personal property used in a qualified data center that is subject to local property tax.

For a further discussion of *Senate Bill 397*, see the subpart “Sales Tax” within this part of this *71 Day Report*.

Tax Sales

Chapter 730 of 2019 established the State Tax Sale Ombudsman within SDAT and authorized counties and municipalities to withhold from tax sale dwellings of homeowners who are low income, over 65 years old, or are disabled, in accordance with criteria established by the local jurisdiction. Chapter 730 also required SDAT to conduct an annual survey of each county and any municipality that conducts a tax sale to obtain specified data. SDAT must analyze and summarize the information collected through the survey annually in a report and (1) publish the report on its website and (2) on or before December 31 each year, submit the report to specified committees of the General Assembly.

House Bill 1181 (Ch. 440) alters and expands the data collection and reporting responsibilities of SDAT regarding tax sales that are required by Chapter 730 of 2019.

Special Taxing Districts and Tax Increment Financing

Eastern Shore Counties

House Bill 1500 (Ch. 481) authorizes code counties in the Eastern Shore Class – Caroline, Kent, Queen Anne’s, and Worcester counties – to establish special taxing districts, impose *ad valorem* or special taxes, and issue bonds for the purpose of financing the cost of certain infrastructure improvements.

For a further discussion of *House Bill 1500*, see the subpart “Local Government – Generally” within Part D – Local Government of this *71 Day Report*.

Charles County

Senate Bill 431/House Bill 345 (Chs. 174 and 175) authorize Charles County to use its authority related to tax increment financing and special taxing districts for convention, conference, and visitors’ centers and related purposes, subject to specified conditions.

For a further discussion of *Senate Bill 431/House Bill 345*, see the subpart “Economic Development” within Part H – Business and Economic Issues of this *71 Day Report*.

Local Property Taxes

Baltimore City

Senate Bill 63 (Ch. 509) reauthorizes Baltimore City to grant a property tax credit for specified newly constructed dwellings by extending the termination date of the property tax credit from June 30, 2019, to June 30, 2025. *Senate Bill 63* also alters eligibility requirements for the property tax credit and the calculation of the tax credit. An eligible dwelling is defined as residential real property that is a newly constructed dwelling or a substantially rehabilitated dwelling.

Baltimore County

House Bill 505 (Ch. 226) authorizes Baltimore County to grant a property tax credit for the dwelling of an individual (1) who has resided in the dwelling for at least 30 consecutive years; (2) whose combined income does not exceed \$60,000; and (3) who is at least 65 years old. The amount of the property tax credit equals 100% of any increase in the county property tax rate exceeding \$1.10 (per \$100 of assessment).

Frederick County

Senate Bill 264/House Bill 353 (Chs. 178 and 179) authorize Frederick County to provide a grant to an eligible elderly or disabled renter instead of a property tax credit.

Garrett County

Senate Bill 354/House Bill 787 (Chs. 327 and 328) increase the interest rate for overdue property taxes in Garrett County from 1.0% to 1.5%.

Prince George’s County

Chapter 402 of 2012 authorized Prince George’s County to exempt specified economic development projects located in designated focus areas from county real property taxes. *House Bill 434 (Ch. 206)* repeals the June 30, 2021 termination date of this authorization. In addition, the Act authorizes Prince George’s County to enter into multiple payment in lieu of taxes agreements for different phases of an economic development project.

St. Mary's County

House Bill 414 (Ch. 199) authorizes St. Mary's County to grant up to a 25% property tax credit for commercial real property that is located in an eligible area of the county and has had improvements made on the property on or after July 1, 2020. The duration of the property tax credit may not exceed 10 years. St. Mary's County must define any areas of the county and improvements to the property that are eligible for the property tax credit. The county may provide for the amount and duration of the property tax credit and other provisions necessary to administer the tax credit. The Act also extends the termination date for the authority of St. Mary's County to impose a transfer tax from July 1, 2020, to October 1, 2024.

House Bill 155 (Ch. 84) repeals a requirement in St. Mary's County that excess funds from the emergency services tax that exceed the budgetary needs of emergency services providers be used to reduce the emergency services tax rate for the next fiscal year. Under the bill, any excess funds *may* be used to reduce the emergency services tax rate.

Somerset County

The Somerset County Commissioners may exempt from county taxation factories, manufacturing industries, fabricating or assembling facilities, and industrial plants; the land, machinery, and tools that those facilities use; and stock in trade or products of the facilities that are located in the county. **Senate Bill 352/House Bill 761 (Chs. 317 and 318)** establish that certain limitations on the duration of this property tax exemption for manufacturing property in Somerset County do not apply to an exemption granted to Eastern Shore Forest Products, Inc.

Income Tax

Pass-through Entities and Corporations

Under the federal Tax Cuts and Jobs Act of 2017, the deduction for state and local taxes paid is limited to \$10,000 – \$5,000 for married taxpayers filing separately – in aggregate of income or sales taxes, real property taxes, and certain personal property taxes through tax year 2025. In response to this limitation, several states have enacted or proposed legislation subjecting pass-through entities (PTE) to an entity-level income tax in order to allow state and local taxes to be deducted notwithstanding the limitation. Under current Internal Revenue Service interpretations, taxes paid by entities are fully deductible and not subject to the limitation. **Senate Bill 523 (Ch. 641)** authorizes a PTE to elect to be taxed at the entity level for the income tax. A PTE must pay the tax imposed on nonresident entity members as required under current law. An individual or corporation that is a member of a PTE may claim a tax credit against the State income tax equal to the tax paid by the PTE on the member's share of the PTE's taxable income.

Prior to tax year 2018, corporations were generally required to use either a three-factor apportionment formula of payroll, property, and sales, with sales double weighted or, in the case of a manufacturing corporation, a one-factor formula based on sales, referred to as a single sales

factor formula. Chapters 341 and 342 of 2018 phase in a requirement that all corporations subject to the corporate income tax, with an exception for specified worldwide headquartered companies, use a single sales factor formula to apportion income to the State. *Senate Bill 523* alters the number of employees that a worldwide headquartered company must have for purposes of the single sales apportionment exemption. If the parent corporation is a franchisor, it must be part of a group of corporations that employs at least 400 full-time employees at the parent corporation's principal executive office that is located within the State, among other requirements, to be considered a worldwide headquartered corporation.

Tax Credit Legislation

House Bill 45 (Ch. 38) alters the Opportunity Zone Enhancement Program by (1) limiting the enhanced tax benefits available under the program to tax years 2019 through 2026; (2) restricting eligibility for the enhanced benefits under the biotechnology investment incentive and cybersecurity investment incentive tax credit programs; (3) requiring businesses to pay the greater of 120% of the State or county minimum wage; and (4) altering certain application and reporting requirements. *House Bill 45* also prohibits golf courses, country clubs, tanning salons, and bail bondsmen from participating in the More Jobs for Marylanders Program.

The Historic Revitalization Tax Credit Program provides tax credits for commercial, small commercial, and owner-occupied residential property rehabilitations. *House Bill 862 (Ch. 633)* allows, subject to specified requirements, the commercial tax credit to be transferable. *House Bill 759 (Ch. 314)* allows the rehabilitation of a condominium or cooperative project to qualify for the small commercial tax credit if the rehabilitation is undertaken by the governing body of the condominium or cooperative housing corporation, and the rehabilitation targets only the common elements of the structure.

Chapter 389 of 2017 established a credit against the State income tax for the costs of installing an energy storage system. *House Bill 980 (Ch. 636)* alters the energy storage system tax credit by (1) increasing to \$150,000 the maximum tax credit that may be claimed for a system installed on commercial property and (2) specifying that a person that owns or pays for the installation of a system that supplies electrical energy intended for use on a residential or commercial property may claim the tax credit.

Under the More Jobs for Marylanders Program, there is a credit against the State income tax for individuals or corporations that employ an eligible apprentice. *Senate Bill 751 (Ch. 643)* extends the termination date of the apprenticeship income tax credit by five years and alters the tax credit program by altering the definition of an apprentice, increasing the credit from \$1,000 to \$3,000 for each eligible apprentice under specified circumstances, and limiting the amount of credits that can be claimed by a taxpayer. The Act also removes the \$500,000 annual cap on the program and creates an apprenticeship tax credit reserve fund. The Governor must include in the annual budget bill an appropriation to the fund, and the amount of credits that can be awarded each year cannot exceed the amount appropriated to the fund.

Subtraction Modification Legislation

House Bill 1510 (Ch. 482) creates a subtraction modification for the value of the rental expense subsidy received by a Howard County resident under the Live Where You Work Program of the Downtown Columbia Plan.

Chapter 519 of 2016 established a subtraction modification of up to \$5,000 of the income earned by a law enforcement officer if (1) the officer resides in the political subdivision in which the officer is employed and (2) the crime rate in the political subdivision exceeds the State's crime rate. *House Bill 276 (Ch. 631)* expands the subtraction modification for local law enforcement officers by extending eligibility to law enforcement officers of the Maryland-National Capital Park Police and Washington Suburban Sanitary Commission Police Force.

Tax Administration

House Bill 621 (Ch. 632) extends the time period in which local jurisdictions must reimburse the local income tax reserve account pursuant to specified refunds resulting from the final decision under *Maryland State Comptroller of the Treasury v. Brian Wynne, et ux.*, 431 Md. 147 (2013).

Sales Tax

Exemptions

Aircraft Materials, Parts, and Equipment

Senate Bill 121 (Ch. 638) exempts from the State sales and use tax the sale of materials, parts, or equipment used to repair, maintain, or upgrade aircraft or the avionics systems of aircraft if the aircraft has (1) a maximum gross takeoff weight of less than 12,500 pounds or (2) a maximum gross takeoff weight of 12,500 pounds or more and is primarily used in interstate or foreign commerce.

Artificial Hearing Devices

House Bill 1326 (Ch. 637) exempts from the State sales and use tax the following parts and equipment for an artificial hearing device: (1) a custom-made earmold; (2) a battery charger; or (3) a receiver. The Act also repeals an existing exemption for a replacement cord for an artificial hearing device.

Construction Material and Warehousing Equipment

Senate Bill 185 (Ch. 639) exempts from the State sales and use tax a sale of construction material or warehousing equipment purchased by a person solely for use in a qualified opportunity zone in Baltimore County or a target redevelopment area in Washington County. The Act defines "qualified opportunity zone" as any real property owned or leased by a person in Baltimore County

that (1) was designated as an enterprise zone and an opportunity zone by January 1, 2020, and (2) was previously owned at any time by the United States or its subsidiaries, successors, or assigns. A “target redevelopment area” is any real property owned or leased by a person in Washington County that (1) was designated as an enterprise zone as of January 1, 2020, and was previously owned at any time by CSX Railroad or its subsidiaries, successors, or assigns or (2) was previously owned at any time by the United States or its subsidiaries, successors, or assigns.

Data Centers

A data center houses computer systems, computer storage equipment, and associated infrastructure that businesses use to organize, process, store, and disseminate large amounts of data. *Senate Bill 397 (Ch. 640)* exempts from the State sales and use tax the sale of qualified personal property for use at a qualified data center if, within three years after submitting an application for the exemption, an individual or corporation has (1) invested at least \$2.0 million in qualified data center personal property and created at least five qualified positions for a data center located within a Tier I area or (2) invested at least \$5.0 million in qualified data center personal property and created at least five qualified positions for a data center located in any other area of the State.

Finally, *Senate Bill 397* authorizes local governments to reduce or eliminate the percentage of the assessment of any data center personal property used in a qualified data center. For further discussion of the personal property tax exemption under this Act, see the subpart “Property Tax” within this part of this *71 Day Report*.

Licensed Caterers

Senate Bill 843 (Ch. 644) exempts from the State sales and use tax the sale of materials, equipment, or supplies to a licensed caterer if they are (1) to be used by the caterer to perform a contract for catering services and (2) intended for resale by the caterer and to be used directly or predominantly by the caterer in performing a catering contract. The exemption does not apply if the licensed caterer is a food service facility that is primarily engaged in the preparation and service of food to the general public at the facility.

Peer-to-peer Car Sharing

A peer-to-peer car sharing program is an online platform that is in the business of connecting vehicle owners with drivers to enable the sharing of motor vehicles for financial consideration. Chapter 852 of 2018 established (1) a regulatory framework for peer-to-peer car sharing in the State and (2) a sales and use tax rate of 8% for related sales and charges, which terminates June 30, 2020. Chapter 735 of 2019 specified that if the 8% tax rate terminates, peer-to-peer car sharing programs will be considered marketplace facilitators and thereby responsible for collecting and remitting the 6% State sales and use tax, beginning July 1, 2020. *Senate Bill 573 (Ch. 567)* extends the termination date of the 8% sales and use tax rate on peer-to-peer car sharing through June 30, 2021, and requires the Department of Legislative Services to study and report to the General Assembly by December 31, 2020, on specified taxes

and fees relating to short-term vehicle rentals and peer-to-peer car sharing in this State and other states.

Digital Products and Electronic Smoking Devices

Other sales tax legislation relating to digital products and electronic smoking devices was addressed in the *2020 Session Major Issues Review*.

Miscellaneous Taxes

Estate Tax

House Bill 219 (Ch. 111) authorizes the Comptroller to examine the Maryland estate tax return of a predeceased spouse in order to validate a deceased spousal unused exclusion (DSUE) election and the amount of DSUE exclusion claimed by an estate. The Act does not provide the Comptroller authority to impose an additional tax on the estate of the predeceased spouse beyond that provided under current law. The Act conforms State law to federal law by requiring an individual to file a Maryland estate tax return within two years after the date of death of a decedent if the return is filed solely for the purpose of making a DSUE election. The Act also clarifies the calculation of the DSUE amount in the event that the last predeceased spouse was a Maryland resident who died before January 1, 2019.

Admissions and Amusement Tax

Senate Bill 465 (passed) alters the distribution of State admissions and amusement (A&A) tax revenues. The bill extends a budget mandate for the Maryland E-Innovation Initiative Fund (MEIF), provides a distribution of revenues from the A&A tax on electronic bingo to the Town of Chesapeake Beach and the Michael Erin Busch Sports Fund (contingent upon the taking effect of *House Bill 1659 (passed)*), and maintains the required \$1 million distribution to the Maryland State Arts Council beyond fiscal 2021. For a discussion of the bill's changes to MEIF, see the subpart "Higher Education" within Part L – Education of this *71 Day Report*. For a discussion of *House Bill 1659*, see the subpart "Economic Development" within Part H – Business and Economic Issues of this *71 Day Report*.

On May 7, 2020, the Governor vetoed both of these bills due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Transfer Tax

House Bill 414 (Ch. 199) extends the termination date for St. Mary's County's authority to impose a transfer tax to October 1, 2024. For a further discussion of *House Bill 414*, see the subpart "Property Tax" within this part of this *71 Day Report*.

House Bill 848 (Ch. 342) requires that revenue derived from the Montgomery County agricultural land transfer tax be used for agricultural land preservation programs or other programs that support agriculture in the county and prohibits the tax from applying to a land transfer if the land was subject to the tax at the time of a previous transfer. The Act also requires that the tax be reduced by 65% if the land was assessed on the basis of any assessment other than the farm or agricultural use assessment for five or more full consecutive taxable years before the transfer.

House Bill 1454 (Ch. 477) authorizes Howard County to increase the local transfer tax rate above the 1% required rate and requires the additional revenue to be used for various purposes. In addition, the Act exempts the conveyance of moderate income housing units from the tax.

Miscellaneous Local Taxes

House Bill 1161 (Ch. 435) alters the type of mobile home tax that Washington County may impose by repealing the authority to impose a tax based on the gross receipts of mobile home parks. Instead, the Act authorizes the county to impose a tax on the assessed value of mobile homes.

Other legislation relating to miscellaneous taxes was addressed in the *2020 Major Issues Review*.

Part C

State Government

State Agencies, Offices, and Officials/Regulations

State Agencies

Maryland Capitol Police

The Department of General Services (DGS) has jurisdiction over the operation, maintenance, and protection of certain buildings and public grounds in Annapolis and Baltimore. The Maryland Capitol Police (MCP) is a full-service police department within DGS that provides law enforcement and security services for certain State buildings and certain State parking lots and garages in Annapolis and Baltimore.

Senate Bill 561 (Ch. 564) expands the jurisdiction of DGS and MCP to include any State-owned or State-leased buildings and grounds, including extending 1,000 feet in any direction from the boundaries of those buildings and grounds. However, the Act specifies that the Presiding Officers of the General Assembly have the final authority over the use of and access to State legislative buildings in Annapolis by the members of the General Assembly, their staff, and personnel of the Department of Legislative Services.

The Secretary of General Services must appoint the Chief of MCP, who serves at the pleasure of the Secretary. The chief must supervise and direct the affairs and operations of MCP. Within the limits of any appropriation, and as the Secretary determines necessary, the Secretary must appoint police employees for the efficient administration of MCP. The Secretary must make each police employee appointment from a list of eligible candidates in accordance with the provisions of the State Personnel and Pensions Article.

Within the jurisdiction of MCP, an MCP officer has all of the powers granted to a peace officer and a police officer of the State, provided the officer meets the legal requirements set forth by the Maryland Police Training and Standards Commission and is designated by DGS as a police officer. Each police employee, including an individual who is appointed to MCP for training before regular assignment as a police employee, must remain in a probationary status for a period of

one year after the date of appointment to MCP. The Secretary may terminate the employment of a police employee in probationary status for any reason that the Secretary considers sufficient.

Baltimore Police Department

Although the Baltimore Police Department (BPD) is a State agency, the State does not control the appointment or removal of the police commissioner and is not responsible for providing funding for the operations of the police department. However, the State retains the ability to amend the law relating to the department in order to implement policy changes.

Chapter 73 of 2019 requires the Office of Legislative Audits (OLA), beginning July 1, 2020, and at least once every six years thereafter, to conduct an audit of BPD to evaluate the effectiveness and efficiency of the financial management practices of BPD. *Senate Bill 140 (Ch. 535)* makes several changes relating to the existing requirement for OLA to conduct an audit of BPD to evaluate the effectiveness and efficiency of the financial management practices of BPD. Specifically, the Act (1) allows for multiple audits to be conducted; (2) requires that the scope and objectives of the audit or audits be determined by the Legislative Auditor; (3) specifies that the employees or authorized representatives of OLA must have access to and may inspect the records, including those that are confidential by law, of BPD and the Baltimore City government to perform the required audits; and (4) requires the Baltimore City government to make available to OLA all city employees, records, and information systems deemed necessary by the Legislative Auditor to conduct the required audit or audits.

Special Education Ombudsman

Senate Bill 504 (Ch. 562) establishes the Special Education Ombudsman in the Office of the Attorney General to serve as a resource to provide information and support to parents, students, and educators regarding special education rights and services. The ombudsman must arrange for a toll-free telephone number, available in English as well as other appropriate languages, to assist an individual seeking information or advice about special education. Information about the ombudsman and toll-free number must be provided as specified. By July 1, 2022, and each July 1 thereafter, the ombudsman must, consistent with federal and State privacy laws, submit a report to certain committees of the General Assembly regarding (1) the number and type of calls made to the toll-free number; (2) the types of complaints filed by parents; (3) a summary of services provided by the ombudsman over the previous year; and (4) recommendations concerning the State's implementation of special education services and procedures.

Canal Place Preservation and Development Authority

Chapter 789 of 2018 established a Task Force on the Canal Place Preservation and Development Authority to determine how to alter the powers of the authority as a State agency in order to align the mission and purpose of the Canal Place Heritage Area with that of other certified heritage areas. The task force was required to submit its findings and recommendations to the

Senate Budget and Taxation Committee and the House Appropriations Committee by June 1, 2019; however, no report was ever issued.

Senate Bill 421/House Bill 735 (Chs. 618 and 619) are emergency measures that reestablish the Task Force on the Canal Place Preservation and Development Authority to be staffed by the Maryland Department of Planning. The task force will complete the work begun under Chapter 789 and determine how to alter the powers of the authority as a State agency in order to align the mission and purpose of the Canal Place Heritage Area with that of other certified heritage areas. To the extent practicable, the members of this reestablished task force must be the same as the members originally appointed under Chapter 789. The task force must report its findings and recommendations to the Senate Budget and Taxation Committee and the House Appropriations Committee by September 1, 2020.

Land Acquisition

Senate Bill 148/House Bill 125 (both passed) prohibit the Board of Public Works (BPW) from approving the acquisition of specified real property worth at least \$500,000 unless BPW provides the Legislative Policy Committee with a justification for the acquisition. The bills require BPW, on request of the co-chairs of the Legislative Policy Committee, to provide a cost-benefit analysis of a proposed acquisition. Certain acquisitions are exempt from the requirements of the bills, including specified acquisitions of property for land preservation and conservation purposes, primarily by the Department of Natural Resources; property acquired by either the Maryland Aviation Administration or the Maryland Port Administration; or federally owned military property. On May 7, 2020, the Governor vetoed the bills for policy reasons.

Seniors and Vulnerable Adults

Under State law, it is a criminal offense for a person to knowingly and willfully obtain by deception, intimidation, or undue influence the property of an individual who the person knows or reasonably should know is at least 68 years of age or is a vulnerable adult with the intent to deprive that individual of the individual's property.

Senate Bill 407 (passed) establishes the Senior and Vulnerable Adult Asset Recovery Unit in the Office of the Attorney General. The bill requires the Governor to include an annual appropriation of at least \$250,000 in the State budget to carry out the bill's requirements. At the direction of the Attorney General, the unit is required to use the funding to (1) hire new staff for the unit and (2) investigate and assist the unit in bringing civil actions. The bill authorizes the unit to bring a civil action for damages, as specified, against a person who violates the State's prohibition against exploitation of a vulnerable adult on behalf of the victim of the offense or, if the victim is deceased, the victim's estate. The unit is authorized to recover damages for property loss or damage and, if the unit prevailed in an action, the costs of the action could be recovered for use by the Office of the Attorney General. On May 7, 2020, the Governor vetoed the bill due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Electronic Notification

Senate Bill 83 (Ch. 518) authorizes, but does not require, a unit of State government to deliver a notice or communication to an individual by electronic means instead of by first class mail if the unit has received the individual's consent. The unit must meet the requirements of the federal 21st Century Communications and Video Accessibility Act and the requirements of the Maryland Uniform Electronic Transactions Act in obtaining the individual's consent. The Act does not allow a unit to substitute electronic communication if the unit is in the Judicial Branch; the notice concerns eligibility, benefits, or services for certain medical assistance programs; or the notice is required to be delivered by certified or registered mail.

Open Meetings

Under the Open Meetings Act, with limited exceptions, a public body must (1) meet in open session in locations reasonably accessible to potential attendees and (2) provide reasonable advance notice of the time and location of meetings, including, when appropriate, whether any portion of a meeting will be conducted in closed session. *Senate Bill 363/House Bill 421 (Chs. 202 and 203)* apply specific requirements of the Open Meetings Act to the Maryland Stadium Authority, the State Board of Elections, the Emergency Number Systems Board, the Public Service Commission, and the Maryland Transportation Authority. These bodies must hold meetings in an open session and provide reasonable advance notice of the meeting time and location. Additionally, these bodies must (1) post open meeting agendas in a publicly available website at least 48 hours in advance, unless there is a special unanticipated meeting; (2) post open meeting minutes on a publicly available website within two business days after approval; (3) make live video streaming of open sessions publicly available, as specified; and (4) maintain meeting minutes and recordings in a certain manner.

Protection of Personal Information – Public Institutions of Higher Education

State law requires certain units of State or local government that collect an individual's personal information to implement and maintain reasonable security procedures and practices appropriate to the nature of the information collected and the nature of the unit and its operations, including a written information security policy. Similarly, a unit that uses a nonaffiliated third party as a service provider and discloses personal information about an individual must require that the third party implement and maintain reasonable security procedures and practices.

House Bill 1122 (Ch. 429) expands and enhances the security protocols that govern the collection, processing, sharing, and disposal of certain types of personally identifiable information (PII) by public institutions of higher education in the State.

The Act requires each public institution of higher education to review and designate systems within the respective institution as systems of record based on specified criteria. The Act also establishes numerous technical specifications for the protection of institutions' information systems and PII. Broadly, each public institution of higher education must:

- develop and adopt a privacy governance program to govern each system of record;
- develop and adopt an information security and risk management program for the protection of PII, as specified;
- publish a privacy notice on its website, as specified;
- follow specified procedures when destroying PII records; and
- follow specified procedures when it discovers or is notified of a breach of the security of one of its systems.

The Act takes effect October 1, 2024.

Maryland Efficient Grant Application Council

Senate Bill 630/House Bill 1539 (Chs. 484 and 485) establish the Maryland Efficient Grant Application Council. The council is tasked with studying and making recommendations to the Governor’s Grants Office and the Department of Budget and Management regarding the entire life cycle of a grant and the creation of materials for use by grant-making agencies. The council is required to solicit input from certain stakeholders, including grant-making agencies and organizations representing local governments, grant professionals, experts in nonprofit accounting and auditing, and nonprofit service providers. The council must submit its findings and recommendations to the Department of Budget and Management and the General Assembly by July 1, 2024.

Deferred Maintenance Reporting

House Bill 1061 (Ch. 415) requires annual reporting on deferred maintenance to the Senate Budget and Taxation Committee and the House Appropriations Committee by an entity responsible for facilities maintenance for a convention facility or a facility at an institution of higher education that receives at least \$2.0 million of capital funding from the State. The report must include the dollar amount that the reporting entity spends per square foot on deferred maintenance, the total value of the backlog for deferred maintenance, the process for facility condition assessment, the number of hours devoted to inspecting and analyzing the need for repairs and maintenances, and the entity’s plan to address all deferred maintenance projects.

Veterans

Homes for Veterans

The Maryland Department of Veterans Affairs oversees Charlotte Hall Veterans Home, which is a Medicare- and Medicaid-certified facility that includes an assisted living unit and a skilled nursing unit. *Senate Bill 341/House Bill 12 (Chs. 23 and 24)* broaden the population of veterans eligible for residency at Charlotte Hall Veterans Home by basing eligibility on whether

an individual is a veteran who was honorably discharged from active service from any uniformed service of the United States, rather than a specified list of uniformed services that may change over time.

Special Registration Plates

Chapter 742 of 2009 established the Maryland Veterans Trust Fund. Money in the fund may be used to make grants and loans to veterans and their families and to support programs that serve veterans in the State. The Motor Vehicle Administration (MVA) issues a special registration plate for certain veterans or veterans' organizations. *House Bill 646 (Ch. 286)* requires MVA to charge an additional fee when issuing special registration plates for veterans and veterans' organizations. The additional fee must result in a surplus of at least \$10 for each new registration plate issued and must be credited to the Maryland Veterans Trust Fund.

Washington Metropolitan Area Transit Authority Whistleblower Protection

The Maryland Whistleblower Law protects State Executive Branch employees who disclose information believed to evidence abuse of authority, gross mismanagement or waste of money, a substantial and specific danger to public health or safety, and/or a violation of the law. The Whistleblower Law prohibits reprisal against an employee who, after making a disclosure, seeks a remedy provided by any law or policy. A complaint under this statute must be brought within six months after the complainant first knew of, or reasonably should have known of, the violation of the whistleblower protection.

The Washington Metropolitan Area Transit Authority (WMATA) was established to construct and operate a rapid rail transit system through an interstate compact among the State, the District of Columbia, and the Commonwealth of Virginia. *House Bill 402 (Ch. 193)* applies the Maryland Whistleblower Law to all employees of WMATA, subject to the Commonwealth of Virginia and the District of Columbia either enacting similar whistleblower protections or waiving their sovereign immunity as applied to WMATA for the purpose of providing whistleblower protections, as specified.

The Act also amends the WMATA Compact to specify that the sovereign immunity of the Commonwealth of Virginia, the District of Columbia, and Maryland does not extend to WMATA for the purposes of claims brought against WMATA by an employee or former employee under (1) the federal False Claims Act or (2) a law enacted by one of the compact signatories that authorizes a private right of action for an alleged violation of a law intended to provide whistleblower protections. The Act's changes to the WMATA Compact are contingent on comparable laws being enacted by the Commonwealth of Virginia and the District of Columbia.

Registering Trademarks

The Secretary of State (SOS) reviews applications for marks and maintains a registry. *Senate Bill 23 (Ch. 501)* makes changes to the application process, certificates of registration

issued by SOS, and definitions for the classes under which goods and services are registered. For a further discussion of *Senate Bill 23*, see the subpart “Business Regulation” within Part H – Business and Economic Issues of this *71 Day Report*.

Elections

Election Administration

Following the death of U.S. Congressman Elijah Cummings on October 17, 2019, the Governor issued a proclamation on October 28, 2019, declaring that a special primary election be held on February 4, 2020, and a special general election be held on April 28, 2020, to fill the vacancy in the office of Representative in Congress for the 7th Congressional District of Maryland. *Senate Bill 251 (Ch. 10)* makes various changes, primarily to dates and deadlines relating to special elections to fill a vacancy in the office of Representative in Congress and, in some cases, relating to special elections more generally. The Act includes provisions concerning when the Governor may decline to call a special election, the date of a special election, candidate filings and nominations, certification and display of ballots, and transmittal of results, among other things. The Act also allowed a candidate in the regular primary election for Representative in Congress for the 7th Congressional District to withdraw the candidacy within two days after the special primary election held on February 4, 2020, for that office.

Candidacy

State law generally prohibits the name of a candidate who is defeated for the nomination for a public office from appearing on the ballot at the next succeeding general election as a candidate for any office, with certain exceptions. *Senate Bill 390 (Ch. 552)*, which takes effect January 1, 2021, further prohibits a candidate who is defeated for the nomination for a public office from filing a certificate of candidacy as a write-in candidate at the next succeeding general election as a candidate for any office. A vote for a write-in candidate is not counted if the write-in candidate has not filed a certificate of candidacy.

Absentee Voting

State law allows any registered voter the option to vote by absentee ballot without having to provide a reason that the voter cannot vote in person. *Senate Bill 145/House Bill 37 (Chs. 36 and 37)* are emergency measures that require the State Board of Elections (SBE) and the local boards of elections to refer to absentee ballots as “mail-in ballots” and absentee voting as “mail-in voting” in all communications with voters and the general public. Public communications regarding mail-in voting must include a statement that mail-in voting is referred to as absentee voting in the Maryland Constitution, the Annotated Code of Maryland, and the Code of Maryland Regulations. *Senate Bill 145/House Bill 37* also require that envelopes used to return absentee ballots that are delivered to voters by mail include prepaid postage. Voters have the option of attaching postage to reduce the costs to the local boards. SBE is required to reimburse the local boards for 50% of the cost of the prepaid postage.

Campaign Material

“Campaign material” is defined by State law as any material that (1) contains text, graphics, or other images; (2) relates to a candidate, a prospective candidate, or the approval or rejection of a question or a prospective question; and (3) is published, distributed, or disseminated. Any material that is defined as campaign material must include an “authority line” that identifies the person responsible for the campaign material. *House Bill 216 (Ch. 110)*, which takes effect January 1, 2021, alters the definition of campaign material to include an automated or prerecorded oral communication.

House Bill 465 (Ch. 216) requires certain persons who use a bot to publish, distribute, or disseminate campaign material online to another person in the State for the purpose of influencing an election to disclose in a clear and conspicuous manner on the campaign material that the person is using a bot to publish, distribute, or disseminate the material. Persons subject to the Act’s requirements include candidates, campaign finance entities, certain persons making independent expenditures and electioneering communications, certain participating organizations, and agents of any of these persons. A “bot” is defined as an automated online account where all or substantially all of the actions or posts of that account are not the result of a person. A person who violates the Act is subject to civil and criminal penalties. SBE is authorized to seek to remove a bot that violates the Act. The Act specifies that it does not impose a duty on service providers of online platforms.

Campaign Finance

SBE is responsible for administering the State’s campaign finance laws. SBE is required to receive, or in its discretion audit, campaign finance reports filed by campaign finance entities, account books and records kept by campaign finance entities, certain other reports filed by persons making election-related expenditures, and certain records kept by persons making election-related expenditures. In addition, SBE has the authority to investigate certain potential violations of campaign finance law and may impose civil penalties for certain violations of campaign finance law. *House Bill 1222 (Ch. 449)* requires the Department of Budget and Management, for fiscal 2021, to create two new State positions for SBE for the purpose of employing staff to enforce campaign finance violations and to ensure compliance with campaign finance law.

State law allows a member of the General Assembly to distribute a legislative newsletter. A “legislative newsletter” is defined as an unsolicited document used by a member of the General Assembly without supervision by or coordination with the General Assembly to disseminate information to a constituent, voter, or potential voter about the member’s performance in legislative office or one or more issues of public interest chosen by the member. A member may pay for the publication expenses of a legislative newsletter out of the account of a campaign finance entity. If publication expenses are paid from the account of a campaign finance entity, the campaign finance entity must comply with all requirements regarding expenditures and campaign material. A member may also pay for the publication expenses of a legislative newsletter out of the personal funds of the member or the member’s spouse if certain conditions are met, including the filing of a certain campaign finance report with SBE within 10 days after the first mailing or

distribution of each issue of the newsletter. Publication expenses of a legislative newsletter may not be paid from public funds.

Senate Bill 537 (Ch. 563) alters the provisions governing legislative newsletters. The Act creates a distinction between an “unofficial legislative newsletter” and an “official electronic legislative newsletter” and imposes different requirements on each type of newsletter. An unofficial legislative newsletter replaces the existing legislative newsletter, retaining the same definition. However, the Act requires that publication expenses of an unofficial legislative newsletter be paid only by the authorized candidate campaign committee of a member of the General Assembly. The Act prohibits the publication expenses of an unofficial legislative newsletter from being paid from the personal funds of any individual. Accordingly, the Act repeals provisions of existing law relating to the filing of campaign finance reports when publication expenses of a legislative newsletter are paid from the personal funds of the member or the member’s spouse. The Act defines an “official electronic legislative newsletter” as a document that is electronically distributed and is used by a member of the General Assembly with supervision by or coordination with the General Assembly to disseminate information about one or more issues of public interest chosen by the member. An official electronic legislative newsletter may include a link to a social media account of the member only if the social media account (1) is used to communicate legislative and constituent information; (2) is not primarily used for electoral purposes, as defined in SBE regulations; (3) is not used for the economic gain of the member; and (4) except for a usual and customary constituent service, is not used for the economic gain of another person.

Ethics

Legislative Newsletters

Members of the General Assembly generally may send electronic legislative newsletters using the electronic newsletter system provided by the General Assembly in accordance with guidance issued by the Presiding Officers. *Senate Bill 537 (Ch. 563)* establishes standards for the inclusion of a link to a social media account for an incumbent member of the General Assembly in an official electronic legislative newsletter. For a more detailed discussion of *Senate Bill 537*, see the subpart “Elections” within this part of this *71 Day Report*.

State Ethics Commission

The State Ethics Commission, with advice from the Secretary of Budget and Management, is responsible for determining whether an individual in an executive unit is a “public official” for purposes of the Maryland Public Ethics Law. *House Bill 159 (Ch. 87)* requires secretaries of principal Executive Branch departments, presidents of senior higher education institutions, and units of State government to provide, on request of the commission and in a timely manner, any information necessary in making such determinations.

Public Ethics Violations and Crimes

A former member of the General Assembly, Governor, Lieutenant Governor, Attorney General, Comptroller, or State Treasurer may not assist or represent another party for compensation in a matter that is the subject of legislative action for one calendar year from the date the official leaves State office. The limitation does not, however, apply to representation of a municipal corporation, county, or State governmental entity. *House Bill 315 (Ch. 164)* expands this restriction to include a former Secretary of a principal department of the Executive Branch. In addition, *House Bill 315* increases the minimum and maximum penalties for bribery. Specifically, the minimum monetary penalty is increased from \$1,000 to \$5,000, and the maximum monetary penalty is increased from \$10,000 to \$25,000.

Local Government

The Maryland Public Ethics Law includes restrictions on an individual or a business entity with an interest in, or specified connection to, land that is the subject of an application for a land use decision in Prince George's County. Specifically, these individuals or business entities may not make a campaign contribution to the county executive, a member of or candidate for the county council, or a slate that includes the county executive or a member or candidate for the county council during the pendency of the application. *House Bill 282 (Ch. 151)* removes the county executive and a slate that includes the county executive from the persons that may not receive these contributions.

The Maryland Public Ethics Law requires a bi-county commission (the Maryland-National Capital Park and Planning Commission, the Washington Suburban Sanitary Commission, and the Washington Suburban Transit Commission) to submit annual reports to the governing body of each county in which it operates on (1) conflict of interest issues and regulations during the year covered and (2) lobbying before the bi-county commission and regulation of that lobbying by the commission. *House Bill 370 (Ch. 185)* requires a bi-county commission, on or before April 30 each year, to (1) prepare and submit the annual reports on conflicts of interest and lobbying covering the previous calendar year and (2) publish the reports on the bi-county commission's website.

Procurement

Procurement Preferences

Certified Local Farm Enterprise Program

During the 2019 interim, the Department of General Services (DGS), the Maryland Department of Agriculture (MDA), and the Maryland Agriculture and Resource-Based Industry Development Corporation (MARBIDCO) led a workgroup to study strategies for increasing the procurement of food grown in Maryland under State contracts. *Senate Bill 985/House Bill 1488 (both passed)* implement recommendations of that workgroup. The bills establish the Certified

Local Farm Enterprise Program in MDA to encourage State agencies (including public four-year universities) to achieve an overall goal of purchasing 20% of the agency’s total procurement contract dollar value for food from certified local farm enterprises. A certified local farm enterprise is one that meets specified nutrient management requirements in current law and is certified by MDA.

The Office for the Certified Local Farm Enterprise Program is established in MDA, to administer the program and must (1) develop guidelines for each unit to consider when determining the appropriate participation goal for each food contract procurement; (2) develop procedures governing how the participation of certified local farm enterprises is counted toward contract goals; and (3) adopt regulations to maximize notice to, and the opportunity to participate in the food procurement process by, a wide range of local farm enterprises. The bills further establish a Certified Local Farm Enterprise Food Aggregation Grant Fund, administered by MARBIDCO, to establish and operate food aggregation, storage, processing, and distribution sites across the State through grants and near-equity investments.

On May 7, 2020, the Governor vetoed the bills due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Minority Business Enterprise Program

The State’s Minority Business Enterprise (MBE) program requires that a statewide goal for participation by certified MBEs in State contracts be established biennially through the regulatory process. The current goal is 29% of the total value of contracts awarded with applicable subgoals for women- and minority-owned businesses.

Both public-private partnerships (P3) and offshore wind projects were previously subject to the requirements of the State’s MBE program, but statutory authorization for the application of the MBE program to these projects terminated several years ago. *Senate Bill 442 (Ch. 553)* restores the applicability of the State’s MBE program to P3s established under existing law and to offshore wind projects authorized in existing law. The Board of Public Works (BPW) may not approve a P3 agreement until a reporting agency, if permissible under the U.S. Constitution, establishes reasonable and appropriate MBE participation goals and procedures for the project, as specified. To the extent practicable and consistent with the U.S. Constitution, approved applicants for a proposed offshore wind project must comply with the State’s MBE program. Further, the Act extends the application of the MBE program to construction projects and procurements as they relate to video lottery terminals for three additional years – until July 1, 2023. The Maryland Department of Transportation must conduct specified analyses of MBE requirements for P3s and offshore wind energy projects to evaluate compliance with any federal and constitutional requirements. The provisions related to P3s and offshore wind projects terminate June 30, 2023, which coincides with the statutory termination of the MBE program.

Payment of Employee Health Care Expenses by State Contractors

Chapters 686 and 687 of 2019 require BPW to adopt regulations that require all bidders, contractors, and subcontractors on State-funded construction projects to pay certain employee

health care expenses. *House Bill 583 (Ch. 264)* alters the definition of subcontractor as it relates to the payment of employee health care expenses by contractors and subcontractors on State construction projects to include a person added to a construction contract with the State after the contract is awarded. The Act limits the application of existing provisions requiring the payment of employee health care expenses to subcontractors providing only construction services rather than providing goods or any type of services under a contract. The Act also extends less stringent compliance requirements for contractors and subcontractors by one year.

Energy Use in State Buildings

State law defines an energy performance contract (EPC) as an agreement for the provision of energy services in which a person agrees to design, install, finance, maintain, or manage energy systems or equipment to improve the energy efficiency of a building or facility in exchange for a portion of the energy savings. *House Bill 662 (Ch. 289)* codifies and implements the requirements of an executive order by the Governor, which requires that the State reduce energy consumption in State-owned buildings by 10% by 2029 compared with a fiscal 2018 baseline. Annually, DGS must analyze all State-owned buildings to identify which buildings are least energy-efficient and conduct an energy audit of at least two million square feet of the least energy-efficient State-owned buildings; the audits must identify low-cost measures to increase energy efficiency. State agencies that receive energy audits must implement the identified measures to the fullest extent practicable. Additionally, DGS must develop a comprehensive utility records management database and use the database to monitor each agency's energy use, track changes resulting from the measures, and calculate any energy cost savings. Beginning July 1, 2020, provisions promoting the State's energy efficiency goals must be included in Requests for Proposals for space to be leased to the State that would obligate the State to pay utility bills for the leased space. In addition to codifying the executive order, the Act also institutes new requirements for State agencies that plan, pursue, and enter into an EPC. Specifically, a State agency must consult with DGS during the development phase of a project that will require an EPC. An agency pursuing an EPC must receive final approval from DGS before submitting the proposed contract to BPW for approval. An agency that has entered into an EPC must submit any required annual measurement and verification reports to DGS for review. Finally, the Act repeals obsolete provisions related to energy conservation in State buildings.

Personnel

Impact of Budget Actions on State Employees

All State employees, except those represented by the American Federation of State, County, and Municipal Employees (AFSCME), received a 1.0% general salary increase effective January 1, 2020, as a result of overperforming revenues in fiscal 2019. In addition, the fiscal 2021 budget includes a 2.0% general salary increase effective January 1, 2021, although law enforcement union members are provided with a 5.0% increase and funding for increments effective on July 1, 2020. There is no funding for merit salary increases for most State employees.

The size of the regular State workforce decreases by 535 positions to 80,881 regular positions in fiscal 2021.

The Budget Reconciliation and Financing Act of 2020, *Senate Bill 192 (Ch. 538)*, includes a provision restricting estimated nonwithholding income tax revenues, if realized, to be used to provide employees belonging to specified collective bargaining units up to a 2.0% cost-of-living adjustment (or up to 3.0% for AFSCME represented units) in fiscal 2021. For a more detailed discussion of the impact of budget actions on State employees, see Part A – Budget and State Aid of the *2020 Session Major Issues Review*.

Compensation and Staffing Requirements

Within the State Personnel Management System (SPMS), there are two pay plans – the Standard Pay Plan and the Executive Pay Plan. The Standard Pay Plan includes all positions in SPMS and all other positions for which the Secretary of Budget and Management has authority to administer pay. A pay rate is subject to any limitations included in the State budget. An amendment to the Standard Pay Plan may not take effect unless sufficient money is available in the budget to cover the resulting pay rates.

Senate Bill 639 (Ch. 572) requires that, in a fiscal year in which an upward pay scale adjustment is made for initial appointments to specified nursing positions in a State facility, specified nursing supervisory positions must receive at least an equivalent upward pay scale adjustment. A facility is defined in the Act as specified health care facilities and a regulatory entity within the Maryland Department of Health (MDH). The Act also links the pay scale for a physician clinical specialist position, a physician clinical staff position, a security attendant position at the Clifton T. Perkins Hospital (Perkins) that is required to complete a correctional training course, and a nurse case reviewer position to the pay scale for other positions, generally those in the same or related facilities. General fund expenditures for MDH increase by at least \$4.65 million in fiscal 2021 for pay equity increases to specified physician, nursing, and security attendant positions.

Senate Bill 693 (Ch. 576) requires the pay rate for specified employees at Perkins who are not receiving a forensic pay premium to be at least two grades higher than their pay rate effective June 30, 2020. The Act requires the pay rate for certain Behavioral Health Administration and Developmental Disabilities Administration employees to be equal to the pay rate of similarly trained, qualified, or licensed Perkins employees under specified conditions. Additionally, the Act specifies staffing requirements for a facility that had a forensic admission rate greater than 75% for the immediately preceding fiscal year. General fund expenditures increase by at least \$10.1 million beginning in fiscal 2021 to increase the salary of specified employees within MDH.

State Employee Grievance Proceedings

An employee in SPMS may file a grievance. A grievance is a dispute between an employee and the employer about the interpretation of, and application to, the employee of a personnel policy or regulation adopted by the Secretary of Budget and Management or any other policy or regulation

over which management has control. Grievances are not permitted over pay grades, the timing or amount of statewide pay increases, or other specified items. In addition, Maryland Department of Transportation (MDOT) employees may file a grievance in writing within 30 days of the alleged cause of complaint or knowledge of the complaint. In the MDOT personnel system, a grievance is a cause of complaint arising between a Transportation Service employee and MDOT over the interpretation and application of regulations, rules, or policies over which management has control.

During the 2019 session, the General Assembly passed House Bill 891 (Ch. 6). The Governor vetoed the bill, but the General Assembly overrode the veto during the 2020 session, and the bill became law in January 2020. Chapter 6 expands the application of State employee grievance proceedings to include a dispute between an employee and the employer about the interpretation and application of any term or condition of a memorandum of understanding between the State and the exclusive representative. The State employee grievance proceedings apply to other independent personnel systems; however, the Act does not apply to Maryland Transit Administration employees. The Secretary of Transportation must adopt regulations that address procedures for redressing of grievances, under the broader application of “grievance” in the Act.

State Employee Transfer Practices

The Child Support Administration (CSA) of the Department of Human Services may enter into cooperative reimbursement agreements with local governments that wish to carry out child support enforcement within their jurisdiction. A county or circuit court under a cooperative agreement may request that the responsibility for support enforcement be transferred to CSA. Harford County has requested that its enforcement function be transferred to CSA.

Senate Bill 137/House Bill 407 (Chs. 196 and 197) transfer all the functions, powers, and duties of the child support unit of the Harford County State’s Attorney’s Office to CSA. The transfer includes all employees of the unit on June 30, 2020, other than the assistant State’s Attorneys. If appointed by the Office of the Attorney General (OAG) to continue providing child support enforcement services, the assistant State’s Attorney positions also transfer. All of these employees must remain members of the Employees’ Pension System.

State Employees and Safeguard Practices

Reasonable Accommodation

The Maryland Commission on Civil Rights enforces the State’s laws against employment discrimination and on reasonable accommodation found in Title 20 of the State Government Article. The State’s laws regarding discrimination in employment generally apply to employers with at least 15 employees, including the State. Disabilities caused or contributed to by pregnancy or childbirth are temporary disabilities for all job-related purposes, and must be treated as such, under any health or temporary disability insurance or sick leave plan available in connection with employment. Reasonable accommodation is defined as an accommodation for an employee’s disability caused or contributed to by pregnancy and that does not impose an undue hardship on

the employee's employer. If an employee requests a reasonable accommodation, the employer must explore with the employee all possible means of providing the reasonable accommodation.

Senate Bill 225/House Bill 523 (Chs. 233 and 234) generally codify existing practice for most State agencies by requiring a unit of State government to provide reasonable accommodations for an employee with a limitation caused or contributed to by pregnancy or childbirth. A limitation includes (1) a temporary disability caused or contributed to by pregnancy or childbirth and (2) a restriction on the ability of an employee to perform job functions caused or contributed to by pregnancy or childbirth. Reasonable accommodations include changing the employee's job duties or work hours, relocating the employee's work area, providing mechanical or electrical aids, transferring the employee to a less strenuous or less hazardous position, or providing leave.

Maryland Whistleblower Law

The Maryland Whistleblower Law protects State Executive Branch employees who disclose information believed to evidence abuse of authority, gross mismanagement of money, a substantial danger to public health or safety, and/or a violation of the law.

The Juvenile Justice Monitoring Unit within OAG investigates the needs of children under the jurisdiction of the Department of Juvenile Services (DJS) and determines whether their needs are being met in compliance with State law. This includes reporting on allegations of abuse and on treatment of and services for youth held in facilities. *House Bill 1514 (Ch. 483)* prohibits a supervisor, appointing authority, or head of a principal unit from taking or refusing to take any personnel action as a reprisal against an employee of DJS who discloses information to the Director of Juvenile Justice Monitoring or the unit's staff relating to the unit's duties. An employee who discloses information may seek a remedy as provided under the Maryland Whistleblower Law. The Secretary of Juvenile Services must provide all DJS employees with written notice of these protections and remedies, and information on the whistleblower protections and remedies must be included in the department's employee handbook and in any new employee orientation or training.

Maryland Competitive Pharmacy Benefits Manager Marketplace Act

House Bill 1150 (Ch. 434) requires the Department of Budget and Management to use a reverse auction to select a pharmacy benefits manager for the Maryland Rx Program under the State Employee and Retiree Health and Welfare Benefits Program. A reverse auction is an automated bidding process conducted online that starts with an opening price and allows qualified bidders to counteroffer a lower price for multiple rounds of bidding. For a further discussion of *House Bill 1150*, see the subpart "Health Insurance" within Part J – Health and Human Services of this *71 Day Report*.

Pensions and Retirement

Member Contributions

The State Police Retirement System (SPRS) and the Law Enforcement Officers' Pension System (LEOPS) are defined pension benefit plans for individuals serving in certain State and local law enforcement positions. Members of SPRS are required to contribute 8% of their normal salary and, at the current benefit accrual rate, stop accruing benefits after 28 years of service. Members of LEOPS are required to contribute 7% of their normal salary and, at the current benefit accrual rate, stop accruing benefits after 32 years and 6 months of service. [*Senate Bill 587/House Bill 588 \(Chs. 265 and 266\)*](#) exempt members of SPRS and LEOPS from making member contributions after they reach the maximum benefit accrual level for their respective plans.

Calculation of Pension Benefits

Under State pension law, an annuity is the part of a retirement allowance that is derived from the accumulated contributions of the member. [*Senate Bill 764/House Bill 948 \(Chs. 387 and 388\)*](#) require that, if the annuity of a member or former member of specified plans in the State Retirement and Pension System (SRPS) is greater than the individual's normal service retirement allowance, the retirement allowance must be equal to the annuity. The Acts apply (1) to members or former members of the Teachers' Combined System, the Employees' Combined System, SPRS, the Correctional Officers' Retirement System, and LEOPS and (2) retroactively to specified individuals who had their retirement accounts created or adjusted on or after October 1, 2013.

Member Services Administration

Chapter 214 of 2009 required the SRPS board to adopt regulations regarding the monitoring and recording of *incoming* telephone calls to employees of the Member Services Division of the State Retirement Agency for training and quality control purposes. [*Senate Bill 463 \(Ch. 557\)*](#) requires the SRPS board to also adopt regulations regarding the monitoring and recording of *outgoing* telephone conversations initiated by the virtual hold callback feature of the SRPS automated call distribution system for training and quality control purposes. The board must also adopt regulations that provide rules for the retention of call recordings and that prohibit the retention of any recordings, including recordings of incoming calls, for longer than 10 years.

General Assembly

Legislative Newsletters

[*Senate Bill 537 \(Ch. 563\)*](#) modifies and establishes rules governing official and unofficial legislative newsletters. The Act authorizes an official legislative newsletter to include a link to a legislator's social media account if the social media account meets the criteria established in the

Act. For a more detailed discussion of *Senate Bill 537*, see the subpart “Elections” within this part of this *71 Day Report*.

Commissions, Task Forces, and Workgroups with Legislative Membership

Each year, the General Assembly creates various groups to conduct in-depth studies of public policy issues. The following bills relate to commissions, task forces, and workgroups that include members of the General Assembly in their memberships.

House Bill 1363 (Ch. 460) establishes the Two Generation Family Economic Security Commission within the Department of Human Services to study and evaluate policies to mitigate multigenerational poverty. The commission includes two members of the Senate, including one member of the Senate Budget and Taxation Committee, and two members of the House of Delegates, including one member of the House Appropriations Committee. For a more detailed discussion of *House Bill 1363*, see the subpart “Social Services” within Part J – Health and Human Services of this *71 Day Report*.

House Bill 436 (Ch. 207) establishes the Task Force on the Economic Future of Western Maryland to study the current economic conditions of Western Maryland and make recommendations on potential methods to improve the economies of Allegany, Garrett, and Washington counties. The task force includes one member of the Senate and one member of the House of Delegates, both of whom must be members of the Western Maryland Delegation. For a more detailed discussion of *House Bill 436*, see the subpart “Economic Development” within Part H – Business and Economic Issues of this *71 Day Report*.

House Bill 739 (Ch. 309) establishes the Law Enforcement Body Camera Task Force to study options and make recommendations for the economical storage of audio and video recordings made by law enforcement body-worn cameras. The task force includes two members of the Senate and two members of the House of Delegates. For a more detailed discussion of *House Bill 739*, see the subpart “Public Safety” within Part E – Crimes, Corrections, and Public Safety of this *71 Day Report*.

House Bill 1336 (passed) establishes the Partial Expungement Workgroup to study and develop a plan and legislative recommendations for enabling the expungement of criminal charges that are not currently eligible for expungement under the “unit rule.” The workgroup includes two members of the Senate and two members of the House of Delegates. On May 7, 2020, the Governor vetoed the bill for policy reasons. For a more detailed discussion of *House Bill 1336*, see the subpart “Criminal Procedure” within Part E – Crimes, Corrections, and Public Safety of this *71 Day Report*.

Program Evaluation (Sunset Review)

The Maryland Program Evaluation Act (MPEA) is used by the General Assembly as a mechanism to monitor and evaluate approximately 70 regulatory boards, commissions, and other agencies of the Executive Branch of State government. Entities subject to MPEA may be evaluated by the Department of Legislative Services (DLS) as directed by the Legislative Policy Committee, the Joint Audit and Evaluation Committee, the Executive Director of DLS, the Director of the Office of Program Evaluation and Government Accountability, or by legislation. Most such entities are subject to termination. Accordingly, the evaluation process is better known as sunset review.

This session, legislation extended the termination dates of the following regulatory entities. Any significant substantive changes to an entity's powers and duties are discussed in the appropriate subject area parts of this *71 Day Report*.

The State Board of Veterinary Medical Examiners licenses and regulates veterinarians, registered veterinary technicians, veterinary hospitals, and animal control facilities in the State. [*House Bill 549 \(Ch. 249\)*](#) extends the termination date of the board by 10 years to July 1, 2031, and requires the board to report annually to the Governor and the General Assembly on its disciplinary activities for the previous fiscal year.

The State Board of Professional Counselors and Therapists licenses and regulates professional counselors, alcohol and drug counselors, marriage and family therapists, professional art therapists, and behavior analysts in the State. [*Senate Bill 182/House Bill 303 \(Chs. 158 and 159\)*](#) extend the termination date of the board by five years to July 1, 2026, and require the board to submit semiannual reports to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee beginning October 1, 2020, and until October 1, 2025.

The State Board of Dental Examiners licenses and regulates dentists and dental hygienists in the State. [*Senate Bill 306 \(Ch. 548\)*](#) extends the termination date of the board by 10 years to July 1, 2031, and requires the board to submit a specified report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee by December 1, 2020.

The Maryland Home Improvement Commission licenses and regulates home improvement contractors and salespersons in the State and administers the Home Improvement Guaranty Fund. [*Senate Bill 116 \(Ch. 530\)*](#) extends the termination date of the commission by 10 years to July 1, 2032.

The State Real Estate Commission licenses and regulates real estate brokers, associate brokers, and salespersons in the State and administers the Real Estate Guaranty Fund. [*Senate Bill 6 \(Ch. 493\)*](#) extends the termination date of the commission by 10 years to July 1, 2032.

The State Board of Pilots licenses and regulates pilots in the State. Pilotage is the act of guiding a marine vessel by a person who is licensed to conduct the ship into or out of port or through dangerous water. *Senate Bill 71 (Ch. 511)* extends the termination date of the board by 10 years to July 1, 2032.

Other legislation relating to the General Assembly, including sunset legislation related to the Maryland Program Evaluation Act, was addressed in Part C – State Government and Part J – Health and Human Services of the *2020 Major Issues Review*.

Part D

Local Government

Local Government – Generally

Resilience Authorities

Resilience financing authorities are generally quasi-governmental instrumentalities that can be established at the State, county, or municipal level that focus on infrastructure resilience and related issues. Many examples of such entities are referred to as “green banks” – particularly if they also fund clean or renewable energy initiatives. Many resilience projects do not generate an obvious revenue stream, which makes traditional forms of financing difficult. Financing for resilience infrastructure can incorporate nontraditional methods, such as resilience bonds, which monetize future avoided costs (such as losses due to a flood) to fund current investments.

Resilience authorities are a form of revenue authority. The structure of these entities depends on their purpose. A common characteristic is an ability to finance projects (for the public benefit) outside of the normal governmental budget/debt issuance process, meaning that the debt is not considered government debt. Bonds are a common financing method, although how the bonds are structured varies.

Senate Bill 457/House Bill 539 (Chs. 235 and 236) authorize counties and municipalities to solely or jointly establish and fund resilience authorities, subject to specified requirements. Resilience authorities may issue and sell State and local tax-exempt bonds for resilience infrastructure projects and other related financing purposes. Bonds issued by resilience authorities are limited obligations and are not a pledge of the faith and credit or taxing power of the local governments; however, the local governing body may dedicate any revenues of the local government for repayment of bonds and to support the operations or resilience infrastructure projects of a resilience authority. A resilience authority must, at least annually, report to the incorporating local government on the activities of the resilience authority, and a related report must also be provided to specified committees of the General Assembly each year.

Except as limited by local law, a resilience authority may exercise all powers necessary or convenient to undertake, finance, manage, acquire, own, convey, or support resilience infrastructure projects. Subject to certain limitations, *Senate Bill 457/House Bill 539* authorize a local government, by local law, to:

- set or change the powers, structure, organization, procedures, programs, or activities of the resilience authority;
- determine the revenue sources of the resilience authority, including the use of general fund revenue and general obligation bonds;
- establish the budgetary and financial procedures of the resilience authority; and
- terminate the resilience authority.

On termination of a resilience authority (1) title to all property of the resilience authority must be transferred to and be vested in the incorporating local government and (2) all obligations of the resilience authority must be transferred to and assumed by the incorporating local government.

Income Tax Disparity Grants

The disparity grant program provides noncategorical State aid to low-wealth jurisdictions for county government purposes. Disparity grants address the differences in the abilities of counties to raise revenues from the local income tax, which for most counties is one of the larger revenue sources.

House Bill 737 (passed) alters the enhanced State funding provided under the disparity grant program to jurisdictions with a local income tax rate of 3.2% by (1) increasing the minimum grant amount from 67.5% to 75% and (2) repealing the termination date for the enhanced funding. As a result, eligible jurisdictions will receive at least 75% of their formula allocation under the disparity grant program beginning in fiscal 2022. On May 7, 2020, the Governor vetoed the bill due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Land Use

Senate Bill 118 (Ch. 532) establishes statutory definitions for “alcohol production” and “agricultural alcohol production” in the Land Use Article. Either or both definitions may be (but are not required to be) adopted by a local jurisdiction by local ordinance, resolution, law, or rule.

Alcohol production is defined as an activity related to the manufacture, packaging, storage, promotion, or sale of alcoholic beverages that is carried out by an alcoholic beverages manufacturing license holder. It includes the use of an area to provide tastings of alcoholic beverages or accommodate the license holder’s customers. Agricultural alcohol production is defined as an activity that (1) is carried out by an alcoholic beverages manufacturing license holder; (2) occurs on agricultural land; and (3) is related to the manufacture, packaging, storage,

promotion, or sale of alcoholic beverages that use ingredients produced on the agricultural land or any associated agricultural land. It includes the use of an area to provide tastings of alcoholic beverages or accommodate the license holder’s customers.

Southern Maryland Code Counties – Collective Bargaining

There are four classes of code counties, based on the geographic region of the State where the county is located. The classes are Central Maryland, Eastern Shore, Southern Maryland, and Western Maryland.

Senate Bill 430/House Bill 443 (Chs. 209 and 210) grant Southern Maryland code counties the authority to enact a local law to provide regular county employees, with specified exceptions, collective bargaining rights with binding arbitration. A local collective bargaining law enacted by a Southern Maryland code county must provide definitions of and remedies for unfair labor practices and prohibit strikes or work stoppages by represented regular employees. A local law enacted in accordance with the Acts may not affect the rights and duties of a county and any exclusive representatives under local laws enacted in accordance with existing collective bargaining rights for public safety officers. The only county in the Southern Maryland class that has adopted code home rule is Charles County.

Eastern Shore Code Counties – Special Taxing Districts

Special taxing districts are defined geographic areas within which a special tax is imposed on property owners to fund infrastructure improvements or services. Most special taxing districts are created by local governments, but a small number of State-created special taxing districts also exist.

House Bill 1500 (Ch. 481) grants to Eastern Shore code counties broad authority to create special taxing districts, impose *ad valorem* taxes, and issue bonds for purposes of financing infrastructure improvements. The types of infrastructure improvements authorized include storm drainage systems, water and sewer systems, roads, lighting, parking, parks and recreational facilities, libraries, schools, transit facilities, and solid waste facilities. The Act applies to Caroline, Kent, Queen Anne’s, and Worcester counties.

Bi-county Agencies

Maryland has three bi-county agencies that operate within and on behalf of the residents of both Montgomery County and Prince George’s County – the Washington Suburban Sanitary Commission (WSSC), the Maryland-National Capital Park and Planning Commission (M-NCPPC), and the Washington Suburban Transit Commission (WSTC).

WSSC is among the largest water and wastewater utilities in the country, providing water and sewer services to 1.8 million residents in Montgomery and Prince George’s counties. It has approximately 460,000 customer accounts, serves an area of around 1,000 square miles, and currently employs more than 1,700 people. The commission operates three reservoirs, two water

filtration plants, and six wastewater treatment plants. The six wastewater treatment facilities, as well as the Blue Plains Advanced Wastewater Treatment Plant, handle more than 200 million gallons of wastewater per day. The commission maintains more than 5,700 miles of water main lines and more than 5,500 miles of sewer main lines.

M-NCPPC was empowered by the State in 1927 to acquire and administer a regional system of parks within the Maryland-Washington Metropolitan District and administer a general plan for the physical development of the area. Additionally, in 1970, M-NCPPC became responsible for managing the Prince George's County public recreation program.

WSTC, established in 1965, is responsible for administering the Washington Suburban Transit District and is authorized to develop a transportation system, including mass transit facilities, for Montgomery and Prince George's counties. It coordinates mass transit programs with the two county governments, the Washington Metropolitan Area Transit Authority (WMATA), and the Maryland Department of Transportation (MDOT). MDOT provides annual operating grants to the commission, which then provides funding to WMATA for operation of the Metrorail, Metrobus, and MetroAccess systems.

Washington Suburban Sanitary Commission

Prohibited Discrimination – Genetic Information and Family Responsibilities

WSSC is prohibited from discriminating against a person on the basis of sex, race, creed, color, age, mental or physical disability, sexual orientation, religion, marital status, gender identity, or national origin. *House Bill 1560 (Ch. 487)* prohibits WSSC from discriminating against a person on the basis of genetic information or family responsibilities.

The Act defines “genetic information” as information (1) about chromosomes, genes, gene products, or inherited characteristics that may derive from an individual or family member; (2) obtained for diagnostic and therapeutic purposes; and (3) obtained at a time when the individual to whom the information relates is asymptomatic for the disease. Genetic information does not include (1) routine physical measurements; (2) chemical, blood, and urine analyses that are widely accepted and in use in clinical practice; (3) tests for the use of drugs; or (4) tests for the presence of the human immunodeficiency virus. The Act defines family responsibilities as the legal responsibility for the care and support of a dependent individual.

In addition, WSSC may not enter into a contract unless the contract contains a provision obliging the contractor (1) not to discriminate in any manner against an employee or an applicant for employment on the basis of sex, race, creed, color, age, mental or physical disability, sexual orientation, religion, marital status, gender identity, or national origin and (2) to include a similar nondiscrimination provision in all subcontracts. The Act adds that the nondiscrimination provision must also prohibit discrimination on the basis of genetic information.

Legislation Affecting Multiple Bi-county Agencies

Income Tax Subtraction Modification

Chapter 519 of 2016 established a subtraction modification of up to \$5,000 of the income earned by a law enforcement officer if (1) the officer resides in the political subdivision in which the officer is employed and (2) the crime rate in the political subdivision exceeds the State’s crime rate. **House Bill 276 (Ch. 631)** extends eligibility for the subtraction modification to M-NCPPC Police and the WSSC Police Force. For a further discussion of **House Bill 276**, see the subpart “Income Tax” within Part B – Taxes of this *71 Day Report*.

Conflicts of Interest and Lobbying

The Maryland Public Ethics Law requires bi-county commissions to adopt and submit to the State Ethics Commission specified regulations relating to conflicts of interest and lobbying. **House Bill 370 (Ch. 185)** requires M-NCPPC, WSSC, and WSTC to (1) submit specified annual reports for the previous calendar year on conflicts of interest and lobbying by April 30 each year and (2) publish the reports on the commission’s website. For a further discussion of **House Bill 370**, see the subpart “Ethics” within Part C – State Government of this *71 Day Report*.

Part E

Crimes, Corrections, and Public Safety

Criminal Law

First Degree Assault – Strangulation

A person commits a first-degree assault if the person (1) intentionally causes or attempts to cause serious physical injury to another person or (2) commits an assault with a firearm. *Senate Bill 212/House Bill 233(Chs. 119 and 120)* expand the crime of felony first-degree assault to include the commission of an assault by intentionally strangling another. The Acts define strangling as impeding the normal breathing or blood circulation of another person by applying pressure to the other person’s throat or neck. A violator is subject to the existing statutory penalty for felony first-degree assault of imprisonment for up to 25 years.

Sexual Solicitation of a Minor through Parent, Guardian, or Custodian

A person may not knowingly solicit a minor or a law enforcement officer posing as a minor to engage in activities that would be unlawful for the person to engage in under the laws on (1) rape in the second degree; (2) sexual offense in the third degree; (3) engaging in prostitution; (4) receiving the earnings of a prostitute; (5) abduction of a child younger than age 16 for the commission of a sexual crime; (6) procuring or soliciting prostitution; or (7) maintaining a house of prostitution, with the intent to commit any of these crimes. *Senate Bill 231/House Bill 246 (Chs. 128 and 129)* add to the existing crime of sexual solicitation of a minor by prohibiting a person from knowingly soliciting the consent of a parent, guardian, or custodian of a minor, or a law enforcement officer posing as a parent, guardian, or custodian of a minor, to engage in activities with the minor that would be unlawful for the person to engage in under the above enumerated prohibitions with the intent to commit any of those crimes. The Acts retain the current maximum penalty of imprisonment for 10 years and/or a fine of \$25,000 for a first offense of sexual solicitation of a minor and create a new maximum penalty of imprisonment for 20 years and/or a fine of \$50,000 for a second or subsequent offense.

Hate Crimes

Motive – 2nd Lieutenant Richard Collins, III’s Law

Under the hate crime laws, a person may not engage in certain criminal acts because another person or group is homeless or because of another person’s or group’s race, color, religious beliefs, sexual orientation, gender, disability, or national origin. *Senate Bill 606/House Bill 917 (Chs. 367 and 368)* alter the law to prohibit the commission of these acts if they are motivated either in whole or in substantial part by another person’s or group’s race, color, religious beliefs, sexual orientation, gender, disability, or national origin.

Use of an Item or Symbol to Threaten or Intimidate

Senate Bill 161/House Bill 5 (Chs. 21 and 22) prohibit a person from placing or inscribing an item or a symbol, including an actual or depicted noose or swastika, whether temporary or permanent, on any real or personal property, public or private, without the express permission of the owner, owner’s agent, or lawful occupant of the property, with the intent to threaten or intimidate any person or group of persons. Violators are guilty of a misdemeanor, punishable by imprisonment for up to three years and/or a \$5,000 fine.

Interference with Equines

A person may not commit the following acts against a horse used for racing, breeding, or a competitive exhibition of skill, breed, or stamina: (1) willfully and maliciously interfere with, injure, destroy, or tamper with the horse; (2) willfully start, instigate, engage in, or further an act that interferes with, injures, destroys, or tampers with the horse; or (3) commit an act that tends to interfere with, injure, destroy, or tamper with the horse. *House Bill 171 (Ch. 93)* expands application of the existing prohibitions to all equines and applies the prohibitions to equines used for any lawful activity. “Equine” includes horses, donkeys, mules, and ponies. The Act specifies that the prohibitions do not apply to the owner of the equine or a person acting on behalf of or at the direction of the owner of the equine and alters the existing penalty provision such that violators are guilty of a misdemeanor, rather than a felony, and on conviction are subject to a fine of up to \$1,000 and/or imprisonment for up to one year, rather than imprisonment of between one and three years.

Abuse or Neglect of a Vulnerable Adult – Severe Emotional Distress

Under the prohibition on abuse or neglect of a vulnerable adult in the second degree, a caregiver, a parent, a household member, a family member, or other person who has permanent or temporary care or responsibility for the supervision of a vulnerable adult may not cause abuse or neglect of the vulnerable adult. *House Bill 33 (Ch. 34)* expands the crime of abuse or neglect of a vulnerable adult in the second degree by prohibiting a caregiver, a parent, a household member, a family member, or other person who has permanent or temporary care or responsibility for the supervision of a vulnerable adult from intentionally and maliciously inflicting severe emotional

distress on the vulnerable adult. A violation is a misdemeanor punishable by a maximum penalty of imprisonment for five years and/or a \$5,000 fine.

Criminal Organizations

House Bill 1083 (Ch. 422) makes several changes to provisions of law relating to criminal gangs. The Act (1) replaces references to “criminal gang” with “criminal organization” and makes corresponding changes; (2) expands the list of underlying crimes for criminal organization offenses; and (3) specifies that assets divested from criminal organizations as a result of local investigations and prosecutions must go to local jurisdictions to be used only on specified services and law enforcement-related efforts. The Act also requires the Attorney General, in consultation with the Maryland State’s Attorneys’ Association, to develop a plan for a formal process for oversight of prosecutions involving criminal organizations. The Attorney General must report to the Governor and the General Assembly on the plan that is developed by December 31, 2020.

Repeal of Crime of Sodomy

House Bill 81 (Ch. 45) repeals the crime of sodomy under State law and makes conforming and technical changes due to the repeal. The Act prohibits the expungement of a conviction for sodomy, as the offense existed prior to October 1, 2020, under certain circumstances, and clarifies that evidence of a witness’s conviction for sodomy as it existed prior to October 1, 2020, is not admissible as evidence to prove a witness’s conviction of an infamous crime.

Controlled Dangerous Substance Schedules

House Bill 674 (Ch. 298) alters the lists of substances designated as controlled dangerous substances (CDS) under schedules in the Maryland Controlled Dangerous Substances Act. The Act conforms the classification and nomenclature in the State’s statutory schedules to the federal CDS schedules while retaining the State’s more stringent classification and treatment of specified substances.

Criminal Procedure

Crime Victim Protections

Prohibition Against Waiver of Rights

An investigation by the *Baltimore Sun* determined that between 2017 and 2018, more than 200 sexual assault victims in the Baltimore region were prompted by law enforcement agencies to waive their rights to an investigation. *Senate Bill 807 (Ch. 584)* prohibits a law enforcement agency from presenting a victim of sexually assaultive behavior with a form that (1) relieves the law enforcement agency of an obligation to the victim; (2) precludes or defines the scope of an investigation into an act allegedly committed against the victim; (3) prevents or limits a prosecution of such an act; or (4) limits a private right of action of the victim pertaining to such an

act or to the victim's interaction with the law enforcement agency. Each law enforcement agency is required to adopt a policy to enforce this prohibition by January 1, 2021. If a law enforcement agency violates these provisions, an affected victim may bring an action seeking injunctive or declaratory relief.

Sexual Assault Evidence Kits

Senate Bill 406/House Bill 425 (Chs. 204 and 205) require a physician, a qualified health care provider, or a hospital, when seeking compensation from the Criminal Injuries Compensation Board (CICB) for services provided to a victim of an alleged rape, sexual offense, or child sexual abuse, to provide written or electronic verification, signed by a physician or qualified health care provider, to CICB that specified services were rendered to a victim of one of the applicable offenses. The request for compensation may not include a narrative describing the alleged offense or a photograph of the victim.

Chapter 659 of 2017 established the Maryland Sexual Assault Evidence Kit Policy and Funding Committee to, among other things, develop and disseminate best practice information and recommendations regarding the testing and retention of sexual assault evidence collection kits. The committee's 2019 annual report noted that because recent advancements in forensic science have extended the window during which DNA can be collected, policies should allow reimbursement for the collection and submission of cervical swabs taken within 15 days of a sexual assault. Accordingly, *Senate Bill 406/House Bill 425* also alter the services for which compensation from CICB may be requested by allowing a physical and sexual assault forensic examination to be eligible for compensation from CICB when the examination is conducted within 15 days of the alleged crime or a longer period as provided by regulation.

Victims of Human Trafficking – Motion to Vacate Judgment

Senate Bill 206/House Bill 242 (Chs. 126 and 127) authorize a person convicted of specified qualifying offenses to file a motion to vacate the judgment if the person's participation in the offense was a direct result of being a "victim of human trafficking." A victim of human trafficking is a person who has been subjected to an act of another committed in violation of Title 3, Subtitle 11 of the Criminal Law Article (sex trafficking and marriage trafficking) or specified federal statutes. The Acts (1) expand upon existing statutory provisions that authorize a person convicted of prostitution under such circumstances to petition to vacate the judgment; (2) eliminate an existing requirement that the motion to vacate be signed and consented to by the State's Attorney and make other procedural changes; and (3) authorize a person whose conviction is vacated to petition for expungement of the conviction.

Victims and Witnesses to Domestically Related Crimes

Senate Bill 213 (Ch. 539) authorizes the victim of or witness to a domestically related crime (one committed by a defendant against a victim who meets specified relationship requirements) or a delinquent act that would be a domestically related crime if committed by an adult, or a victim's representative, to request the withholding of the address or telephone number of the victim, victim's representative, or witness before the trial or adjudicatory hearing. The Act

expands the process under an existing statutory provision that only authorizes such requests in situations involving a felony or a delinquent act that would be a felony if committed by an adult.

Criminal History Records

Section 10-110 of the Criminal Procedure Article authorizes an individual who is convicted of any of a list of approximately 100 offenses or an attempt, a conspiracy, or a solicitation of any of these offenses, to file a petition for expungement of the conviction, subject to specified procedures and requirements. *House Bill 1336 (passed)* makes several changes to the law regarding expungement of criminal charges. Specifically, the bill (1) adds fourth-degree burglary to the list of misdemeanors eligible for expungement under these provisions (effective October 1, 2020); (2) prohibits the Maryland Judiciary Case Search from in any way referring to the existence of records of a charge in a case with electronic records if the charge resulted in acquittal, dismissal, or *nolle prosequi*, except *nolle prosequi* with the requirement of drug or alcohol treatment (effective January 1, 2021); and (3) establishes the Partial Expungement Workgroup to study and develop a plan and legislative recommendations for enabling the expungement of criminal charges that are not eligible for expungement due to the “unit rule” (effective June 1, 2020, and terminating June 30, 2021). In general, if two or more charges arise from the same incident, transaction, or set of facts, they are considered to be a unit. If a person is not entitled to expungement of one charge or conviction in a unit, the person is not entitled to expungement of any other charge in the unit. On May 7, 2020, the Governor vetoed the bill for policy reasons.

House Bill 83 (passed) also prohibits the Maryland Judiciary Case Search from in any way referring to the existence of a District Court criminal case in which a charge of possession of marijuana under § 5-601 of the Criminal Law Article is the only charge in the case and the charge was disposed of before October 1, 2014. On May 7, 2020, the Governor vetoed the bill for policy reasons.

Evidence

Testimony of In-custody Witnesses

Senate Bill 534/House Bill 637 (Chs. 281 and 282) require a State’s Attorney to take specified actions regarding testimony from an “in-custody witness.” An in-custody witness means an individual, other than an accomplice or a co-defendant, who (1) is incarcerated at the time that the individual offers or provides testimony against a suspect or defendant and (2) receives, or has an expectation of receiving, a benefit in return for the testimony. An in-custody witness does not include a confidential informant who does not provide testimony against a suspect or defendant. Among other requirements, if a State’s Attorney obtains testimony from an in-custody witness, the State’s Attorney must make a written record of specified information, including whether the witness received a benefit, and, if so, what the benefit is or will be. The information must be reported to the Governor’s Office of Crime Prevention, Youth, and Victim Services and disclosed to the defendant. The office must securely store and maintain the reported information and may

disclose it only to (1) a State's Attorney, or designee; (2) the Attorney General, or designee; and (3) the State Prosecutor, or designee.

Unavailability of Witness

While evidentiary rules generally exclude hearsay from being admitted into evidence, there are exceptions. For example, under § 10-901 of the Courts and Judicial Proceedings Article, a statement is not excluded by the hearsay rule and is admissible during the criminal trial of a defendant charged with specified crimes of violence or felony drug crimes if the statement is offered against a party who, through wrongdoing, has caused the unavailability of the witness who made the statement. *Senate Bill 64/House Bill 40 (Chs. 607 and 608)* are emergency measures that lower, from clear and convincing evidence to a preponderance of the evidence, the standard of proof needed to admit evidence under this limited exception to the hearsay rule. *Senate Bill 64* also expands the application of this hearsay exception to all felony criminal cases.

Use of Cell Site Simulators

A "cell site simulator" is a device that mimics a cell tower and captures identifying information of electronic devices that are in the range of the device. According to information published by the American Civil Liberties Union, numerous law enforcement agencies in over half the states, including Maryland and the District of Columbia, use cell site simulator technology to track the location of cell phones. *Senate Bill 246/House Bill 499 (Chs. 222 and 223)* authorize a court to issue an order authorizing or directing a law enforcement officer to use a cell site simulator. The Acts establish requirements for a court order and the use of any information obtained relating to the use of a cell site simulator and apply existing provisions relating to an application for an order to obtain location information by law enforcement and the duration of such an order to the use of cell site simulator technology by law enforcement. The Acts also require each law enforcement agency to post on its website and report to the Governor and the General Assembly the number of times a cell site simulator was used by the law enforcement agency during the previous calendar year; these requirements terminate September 30, 2025.

Compensation to Individuals Erroneously Sentenced, Convicted, and Confined

Senate Bill 797/House Bill 985 (both failed) would have made several changes to existing provisions pertaining to payments by the Board of Public Works (BPW) to an individual erroneously convicted, sentenced, and confined under State law for a crime the individual did not commit. Among other things, the bills would have (1) modified the procedures and criteria for eligibility, including requiring an Administrative Law Judge (ALJ) in the Office of Administrative Hearings to make specified findings related to eligibility and compensation; (2) authorized an ALJ to direct an appropriate State agency or service provider to provide the individual with specified benefits, such as health care and housing accommodations, free of charge; and (3) required, rather than authorized, BPW to provide compensation to such individuals using a newly established method of calculating compensation. The bills would have applied retroactively and would have increased general fund expenditures by at least \$2.7 million in fiscal 2021.

Juvenile Law

Subject to specified exceptions, the juvenile court has jurisdiction over children alleged to be delinquent or in need of supervision and children alleged to have committed a violation specified in a citation. The juvenile court also has jurisdiction over juvenile peace orders.

Fines, Fees, and Costs

A law enforcement officer authorized to make arrests is required to issue a citation to a child if the officer has probable cause to believe that the child is violating specified offenses, including prohibitions against (1) the use or possession of less than 10 grams of marijuana; (2) consuming or possessing alcohol on public school premises; or (3) using or possessing tobacco products. If the juvenile court finds that a child has committed a violation specified in a citation, it may impose a civil fine of up to \$25 for a first violation and up to \$100 for a second or subsequent violation. *House Bill 36 (Ch. 35)* repeals the authority of the juvenile court to impose a civil fine. Additionally, the Act repeals statutory provisions that authorize the juvenile court (1) to impose reasonable court costs against a respondent found to be delinquent, or the respondent's parent, guardian, or custodian; (2) to assess attorney's fees against any party or a parent of the child for the services of an attorney appointed to represent a child in a juvenile proceeding; and (3) after giving the parent a reasonable opportunity to be heard, to order either or both parents to pay a sum in the amount that the court directs to cover the support of the child wholly or partly. The Act further provides that on October 1, 2020, the balance of any court-ordered fines, fees, or costs previously assessed, as specified, are unenforceable and uncollectable, and the applicable portion of any judgment is vacated.

Juvenile Records

In general, police and court records concerning a child are confidential, and their contents may not be divulged, by subpoena or otherwise, except by court order upon a showing of good cause or in certain circumstances relating to notification of a local superintendent or nonpublic school principal upon the arrest of a child for specified offenses.

Juveniles Charged as Adults

Under current law, the juvenile court does not have jurisdiction over children at least 16 years old who are alleged to have committed specified violent crimes, children at least 14 years old who are charged with a crime punishable by life imprisonment, and children who have previously been convicted as an adult of a felony and are subsequently alleged to have committed an act that would be a felony if committed by an adult. However, a circuit court may transfer a case involving such a child to the juvenile court if such a transfer is believed to be in the interests of the child or society (reverse waiver). A reverse waiver is not permitted if the child was convicted in an unrelated case excluded from the jurisdiction of the juvenile court, or the alleged crime is murder in the first degree, and the accused child was at least 16 years old when the alleged crime was committed.

Senate Bill 314 (passed) establishes that certain provisions relating to the confidentiality of juvenile records apply to all police and court records concerning a child excluded from the jurisdiction of the juvenile court from the time of the child's arrest until (1) the time for the filing of a motion to transfer to juvenile court under the Maryland Rules has expired and no such motion has been filed or (2) a motion to transfer to juvenile court has been denied. In addition, the bill establishes certain exceptions to provisions of law relating to the confidentiality of juvenile police records. Specifically, provisions of law relating to the confidentiality of juvenile police records do not prohibit law enforcement agencies, the Department of Juvenile Services (DJS), or the criminal justice information system from including, in the law enforcement computer system, information about (1) an outstanding criminal court ordered writ of attachment for the sole purpose of apprehending a child named in the writ; (2) an outstanding criminal court issued warrant for the sole purpose of apprehending a child named in the warrant; or (3) a missing child.

A law enforcement agency is also not prohibited from releasing to the public photographs and identifying information regarding a missing child, a child who has escaped from a correctional unit, or a child over whom the court does not have jurisdiction pursuant to specified statutory provisions and who is subject to arrest or an arrest warrant issued by a criminal court. ***Senate Bill 314*** specifies that the release of photographs and information under these circumstances, as well as related circumstances authorized in current law, may only be when necessary and for the sole purpose of facilitating apprehension of a child and ensuring public safety. In addition, under the bill, if a case is transferred to the juvenile court, existing provisions relating to the confidentiality of juvenile records continue to apply to all police and court records concerning the child. The criminal charge is also subject to expungement, as authorized under current law. On May 7, 2020, the Governor vetoed the bill for policy reasons.

Children in Need of Assistance

All court records pertaining to a child in a child in need of assistance (CINA) proceeding are confidential, and their contents may not be divulged, by subpoena or otherwise, except by order of the court on good cause shown. However, personnel of the court, a party or a party's counsel, a court-appointed special advocate for the child, or authorized personnel of the Social Services Administration and local departments of social services (LDSS), as specified, may review the records.

House Bill 1069 (Ch. 419) specifies that provisions of law regarding the confidentiality of court records in CINA cases do not prohibit DJS from reviewing the court record, if DJS is providing treatment, services, or care to a child who is the subject of the record. The Act also alters statutory provisions regarding access to court records in juvenile matters by specifying that the Department of Human Services or LDSS may access and use the records if the entities are providing treatment, services, or care to a child who is the subject of the record. In addition, the Act repeals conditions that limited the use of the juvenile court records to circumstances in which the records were being used for a purpose relevant to the provision of the services or care and in coordination with DJS.

State Advisory Board for Juvenile Services

Among other duties, the State Advisory Board for Juvenile Services recommends policies and programs to improve juvenile services in the State, participates in planning the development and use of available resources to meet the needs of DJS, and consults with the Secretary of Juvenile Services on each aspect of the State’s juvenile services program.

The advisory board consists of representatives from various entities, including DJS, the Maryland State Department of Education, the Department of State Police (DSP), the Judiciary, and the General Assembly. It also includes seven members of the general public, some of whom must meet specified requirements. Advisory board members are appointed by the Governor. *Senate Bill 467/House Bill 872 (Chs. 353 and 354)* expand the membership of the advisory board to include two DJS employees with different job titles who are recommended by the President of the American Federation of State, County, and Municipal Employees, Council 3.

Department of Juvenile Services

Whistleblower Protection

The Maryland Whistleblower Law protects State Executive Branch employees who disclose information believed to evidence abuse of authority, gross mismanagement or waste of money, a substantial and specific danger to public health or safety, or a violation of the law. The Whistleblower Law prohibits reprisal against an employee who, after making a disclosure, seeks a remedy provided by any law or policy.

The Juvenile Justice Monitoring Unit within the Office of the Attorney General investigates the needs of children under the jurisdiction of DJS and determines whether the children’s needs are being met in compliance with State law. This includes reporting on allegations of abuse and on the treatment of and services for youth held in facilities.

House Bill 1514 (Ch. 483) prohibits a supervisor, appointing authority, or head of a principal unit from taking or refusing to take any personnel action as a reprisal against an employee of DJS who discloses information to the Director of Juvenile Justice Monitoring or staff of the Juvenile Justice Monitoring Unit relating to the unit’s duties. An employee who discloses information may seek a remedy as provided under current law. The Secretary of Juvenile Services must provide all DJS employees with written notice of these protections and remedies, and information on the whistleblower protections and remedies must be included in the department’s employee handbook and in any new employee orientation or training.

Public Resources Organizing to End Crime Together Program

Senate Bill 929 (passed) establishes the Public Resources Organizing to End Crime Together (P.R.O.T.E.C.T.) Program and related requirements for DSP, the Department of Public Safety and Correctional Services, DJS, and the Governor’s Office of Crime Prevention, Youth, and Victim Services. The bill requires DJS to work with various other entities to establish and operate (1) a warrant apprehension task force partnership and (2) collaborative district officer

supervision teams that provide intense supervision, including increased home visits, of juvenile violent offenders. DJS must make diligent efforts to fully implement the bill's provisions as quickly as possible and may adopt implementing regulations. By December 31 annually, DJS must report to the Governor and the General Assembly on the progress made in implementing the requirements of the bill, as specified. In addition, by December 1, 2020, DJS must submit to specified legislative committees and the Baltimore City Delegation a report detailing plans for reducing the number of sworn officers used to staff the Baltimore City Juvenile Justice Center. For a more detailed discussion of *Senate Bill 929*, see the subpart "Public Safety" within this part of this *71 Day Report*.

On May 7, 2020, the Governor vetoed the bill for policy reasons.

Facilities

DJS may establish and operate the facilities that are necessary to properly diagnose, care for, train, educate, and rehabilitate children who need such services. DJS operates 13 facilities across the State.

House Bill 673 (Ch. 297) includes the Garrett Children's Center as a facility that DJS is specifically authorized by statute to operate. The facility to be named the Garrett Children's Center is currently the Savage Mountain Youth Center (SMYC) in Garrett County. In 2018, SMYC was rebuilt into a hardware secure facility to serve youth with more significant needs. Renaming SMYC reflects the programming change and addresses concerns from local residents and legislators about the existing name. Furthermore, the new name is consistent with the current practice of naming DJS facilities by location.

Public Safety

Firearms

Repeal of Handgun Permit Review Board

During the 2019 session, the General Assembly passed Senate Bill 1000/House Bill 1343. The Governor vetoed the bills, but the General Assembly overrode the veto during the 2020 session, and the bills became law in January 2020 (Chs. 2 and 4). The Acts repeal the Handgun Permit Review Board. A person who is denied a permit to wear, carry, or transport a handgun, or a renewal of such a permit, or whose permit is revoked or issued with restrictions by the Secretary of State Police, may request to directly appeal the decision to the Office of Administrative Hearings (OAH) instead of requesting that the board review the decision and then appealing the board's decision to OAH. The Acts (1) authorize an individual with a hearing request pending before the board on the effective date of the Acts, after specified notice by the Department of Public Safety and Correctional Services, to file an amended request for a hearing by OAH and (2) require OAH to schedule and conduct a *de novo* hearing on the matter, as specified.

Firearm Crime Study

House Bill 1629 (Ch. 491) requires the Office of the Attorney General (OAG) to (1) study information regarding firearm crimes committed in the State since August 1, 2015, as specified; (2) identify specified information for each 9-1-1 request for emergency assistance involving a firearm crime; (3) study information regarding firearm injuries and fatalities occurring in the State since July 1, 2020, as specified; and (4) with regard to crime firearms, study, report, compile, collect, and gather specified information. All State and local law enforcement agencies and other governmental units must provide OAG with any and all information necessary to complete the study. OAG must report to the Governor and the General Assembly, by specified dates, specified findings and conclusions regarding firearm crimes committed, firearm injuries and fatalities occurring, and crime firearms recovered. The Act terminates December 31, 2022.

Other legislation relating to firearms was discussed in the *2020 Session Major Issues Review*.

Crime Fighting Measures

Crime Plan and Law Enforcement Councils

Senate Bill 907 (passed) is an emergency bill that establishes the Law Enforcement Coordinating Council within the Department of State Police (DSP) to prevent and reduce crime by (1) coordinating and focusing State resources and (2) ensuring interagency communications and intelligence sharing. DSP must establish a regional law enforcement council for each of the regions established by the council in the comprehensive crime plan established by the council. The bill establishes membership, duties, and reporting requirements for the council and the regional councils and requires DSP to provide staff for the council and each regional council. Beginning July 1, 2020, the Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) must submit a semiannual report describing how State assets are being deployed to prevent crime. On May 7, 2020, the Governor vetoed the bill for policy reasons.

Public Resources Organizing to End Crime Together Program

Senate Bill 929 (passed) establishes the Public Resources Organizing to End Crime Together (P.R.O.T.E.C.T.) Program and related requirements for DSP, the Department of Public Safety and Correctional Services (DPSCS), the Department of Juvenile Services (DJS), and GOCPYVS. For fiscal 2022 and each year thereafter, the Governor must include in the annual budget bill (1) an appropriation sufficient to fully fund the bill's requirements and (2) an additional appropriation of at least \$500,000 for GOCPYVS to hire and manage specified staff.

Specifically, the bill:

- requires GOCPYVS to select 10 high-crime micro-zones within the State and create, as a civilian position, an End the Violence P.R.O.T.E.C.T. coordinator position for each high-crime micro-zone;

- requires DSP, the Division of Parole and Probation (DPP), and DJS to establish and operate a warrant apprehension task force partnership;
- requires the Baltimore Police Department (BPD), DJS, and DPP to establish and operate collaborative district officer supervision teams that provide intensive supervision, including increased home visits, of adult and juvenile violent offenders;
- requires that the Baltimore Pretrial Complex be staffed by DPSCS and prohibits the use of BPD sworn officers to staff the Baltimore Pretrial Complex;
- authorizes the State and Baltimore City to enter into a memorandum of understanding to give State law enforcement agencies and BPD concurrent jurisdiction over I-83 and I-295 in Baltimore City;
- requires, on or before December 1, 2020, DJS and BPD to submit a report detailing plans for reducing the number of sworn officers used to staff the Baltimore City Juvenile Justice Center; and
- requires, by December 31 annually, DSP, DJS, DPSCS, GOCPYVS, and Baltimore City to each report to the Governor and the General Assembly on the progress made in implementing the requirements of the bill.

On May 7, 2020, the Governor vetoed the bill for policy reasons.

Maryland Violence Intervention and Prevention Program Fund and Advisory Council – Alterations

Senate Bill 708 (passed) requires the Governor to include in the annual budget bill an appropriation composed of at least \$3.0 million in general funds to the Maryland Violence Intervention and Prevention Program Fund; (2) alters the authorized uses of the fund; and (3) alters the application requirements for grants from the fund. The bill also (1) alters the membership of the Maryland Violence Intervention and Prevention Advisory Council and expands its duties and (2) expands the duties of the Executive Director of the Governor’s Office of Crime Prevention, Youth, and Victim Services relating to the fund and the council. In addition, the bill (1) authorizes Baltimore City to use funding appropriated for the Safe Streets Initiative to cover specified expenses and (2) increases the maximum grant amount that may be made under the initiative from \$300,000 to \$600,000 per initiative.

On May 7, 2020, the Governor vetoed the bill for policy reasons.

Law Enforcement

Hate Crimes Training

The Maryland Police Training and Standards Commission (MPTSC), an independent commission within DPSCS, operates approved police training schools and prescribes standards for and certifies schools that offer police and security training. In consultation and cooperation with various entities, it also sets minimum qualifications for instructors and certifies qualified instructors for approved training schools.

Senate Bill 633/House Bill 541 (Chs. 237 and 238) provide that MPTSC require, for entrance-level police training and at least every three years for in-service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include special training and attention to, and study of, the application and enforcement of the criminal laws concerning hate crimes, including the recognition of, response to, and reporting of incidents of hate crimes.

Employment by Cannabis Dispensary

Under the Code of Maryland Regulations, an agency head must perform a background and criminal history investigation on each applicant for a position as a police officer. As part of the background investigation, the agency head must investigate an applicant's prior use of a controlled dangerous substance (CDS), narcotic drugs, and marijuana and may conduct interviews of current and past employers within the last five years of the applicant. An individual is ineligible for initial certification or recertification as a police officer if the individual has been involved in illegal drug use, distribution, or manufacturing under specified circumstances. *Senate Bill 347/House Bill 857 (Chs. 345 and 346)* specify that employment by a business licensed as a medical cannabis dispensary, grower, or processor does not constitute involvement in the illegal distribution, production, cultivation, transportation, or sale of CDS for purposes of police officer certification or recertification if the individual's employment was not terminated for illegal or improper conduct.

Law Enforcement Body Camera Task Force

MPTSC has in place a policy for the issuance and use of body-worn cameras by law enforcement officers, which is based upon a 2015 report and recommendations of a legislatively established commission. MPTSC also published a *Body-worn Camera Procedural Reference Guide* that provides practical and detailed background information on body-worn cameras as well as advisory language for use by law enforcement agencies.

House Bill 739 (Ch. 309) establishes the Law Enforcement Body Camera Task Force. The task force must (1) study options for the economical storage of audio and video recordings made by law enforcement body-worn cameras and (2) make recommendations for storage considering the budgets of State, county, local, and campus law enforcement jurisdictions. The task force must report its findings and recommendations to the General Assembly by December 1, 2020.

Alternative Workdays

Senate Bill 485/House Bill 616 (Chs. 274 and 275) authorize the Secretary of State Police to allow a police employee to work an alternative workday of more than 12 hours.

Special Police Officers

The Governor may appoint and deputize an individual as a special police officer (SPO). Such a commission is granted arrest powers, but the scope of each commission is limited to the property cited in the commission. The Secretary of State Police must investigate the character, reputation, and qualifications of each applicant for a commission. Upon completion of the investigation, the Secretary must transmit to the Governor (1) the results of the investigation; (2) a recommendation on denying or granting the application; (3) the reasons for the recommendation; and (4) the final disposition of any appeal. The Governor may accept the recommendation of the Secretary but need not issue a commission if the Governor believes it not to be in the best interest of the State to do so.

House Bill 1111 (Ch. 426) repeals the authorization for the Secretary of State Police to require training and education for SPOs as the Secretary considers necessary. Instead, the Act requires, with specified exceptions, an SPO applicant for an initial commission to complete a training course approved by the Secretary in consultation with MPTSC consisting of at least 80 hours of instruction. Before submitting an application for renewal, an SPO must complete 12 hours of in-service training approved by the Secretary in consultation with MPTSC.

State Military

Tuition Reimbursement: According to the Military Department, all of the states surrounding Maryland and 16 of the 54 U.S. states and territories offer up to 100% tuition assistance to National Guard members of the state or territory. Tuition waiver programs help improve the knowledge base of members and are an important recruitment and retention benefit for members. Under current law, to the extent that funds are provided in the State budget, the Military Department is authorized to provide assistance to a Maryland National Guard member certified as eligible by the Adjutant General equal to 50% of the cost of in-state tuition for any regularly scheduled course, as specified. With specified exceptions, members who receive the benefit must remain active members for a specified amount of time after the course is completed.

Senate Bill 282/House Bill 362 (Chs. 180 and 181) increase the percentage of in-state tuition that the Military Department may reimburse from 50% to 100% for an eligible active member of the Maryland National Guard. The Acts also expand eligibility to include any member who holds a commission in the Maryland National Guard.

Maryland Code of Military Justice: Statutory provisions regarding the State Military Department are within the Public Safety Article. Subtitle 8 of the Public Safety Article includes limited provisions regarding courts martial, offenses subject to court-martial, and authorized penalties, sentencing, immunity, and fines. *Senate Bill 1010 (Ch. 592)* repeals Subtitle 8 of the

Public Safety Article and establishes a Maryland Code of Military Justice, which applies to all members of the State military forces at all times.

9-1-1 System

Fees

Senate Bill 61/House Bill 6 (Chs. 604 and 605) require telephone companies and commercial mobile radio service (CMRS) providers to keep records of 9-1-1 fees collected and remitted for at least four years after the fees are remitted. The Comptroller, in consultation with the Emergency Number Systems Board (ENSB), must adopt procedures for auditing fee collection and remittance by both telephone companies and CMRS providers (instead of the board being required to adopt procedures for auditing only CMRS providers). The Comptroller is entitled to 0.5% of the State 9-1-1 fees to cover the expenses of conducting audits. The Acts also reduce the percentage of State 9-1-1 fees that each 9-1-1 service carrier is entitled to keep to cover administrative costs, from 0.75% to 0.50% of the fees.

Emergency Number Systems Board

ENSB is the agency responsible for administering the 9-1-1 Trust Fund and overseeing the State's 9-1-1 system. Its responsibilities include, among other things, (1) dispersing funds to local governments from the 9-1-1 Trust Fund; (2) reviewing and approving or disapproving requests for reimbursement of the costs of enhancing 9-1-1 systems; (3) ensuring the inspection of public safety answering points (PSAP); (4) auditing counties to ensure that 9-1-1 trust funds are being used for authorized purposes; and (5) establishing training standards for PSAP personnel based on national best practices.

Senate Bill 838/House Bill 934 (Chs. 375 and 376) alter the statutory framework that governs the State's 9-1-1 system in the following ways:

- ENSB is renamed to be the Maryland 9-1-1 Board;
- the county additional charge is renamed to be the county 9-1-1 fee;
- the roles and responsibilities of the Maryland 9-1-1 Board, PSAPs, and counties are expanded;
- the percentage of State 9-1-1 fees that each 9-1-1 service carrier is entitled to keep to cover administrative costs is reduced from 0.75% to 0.50% of the fees collected;
- funds in the 9-1-1 Trust Fund are prohibited from being used for the maintenance or operation of communications centers other than PSAPs;
- any person that installs or operates a multiple-line telephone system must ensure that a line on the system can dial 9-1-1 without requiring the user to dial any other number or set of

numbers; however, State Executive Branch agencies must comply with this requirement on the date that the multiple-line telephone system of the unit is next upgraded. A county or municipality is responsible for enforcing this requirement and may set a fine or series of fines to do so; and

- by June 30, 2020, the Department of General Services must report on State agency compliance with the multiple-line telephone system requirement to the Commission to Advance Next Generation 9-1-1 Across Maryland and the General Assembly.

Commission to Advance Next Generation 9-1-1 Across Maryland – Extension and Reports

Chapters 301 and 302 of 2018 established the Commission to Advance Next Generation 9-1-1 Across Maryland to study and make recommendations regarding next generation 9-1-1 emergency communication services. The entities represented on the commission must jointly staff the commission; however, ENSB is authorized to contract with a third party to provide staff for the commission. *Senate Bill 47 (Ch. 506)* extends the termination date of the commission from June 30, 2020, to June 30, 2022.

The Act also requires the commission to submit two additional reports to the Governor and the General Assembly (one due December 15, 2020, and one due December 15, 2021) on the progress toward the implementation and evolution of Next Generation 9-1-1 service across the State. The additional reports that are to be submitted by the commission must include:

- a determination as to whether the State 9-1-1 fee and local additional charge generate sufficient revenue to cover eligible expenses;
- a determination as to whether the State and counties are receiving the fees;
- an evaluation of the operational needs of the 9-1-1 system, including specified staffing information;
- recommendations for potential statutory or administrative changes to protect against cybersecurity threats to the system; and
- an evaluation of county satisfaction with the current 9-1-1 statutory and regulatory framework for the management and funding of the 9-1-1 system, as specified, and any recommendations for changes to that framework.

Emergency and Crisis Management

The Maryland Emergency Management Agency (MEMA), a part of the Military Department, is responsible for coordinating the State response in any major emergency or disaster. This includes supporting local governments as needed or requested and coordinating assistance with the Federal Emergency Management Agency and other federal partners. MEMA manages

many of the federal grants that fund a broad range of initiatives leading to enhanced protection from and responses to the full range of natural and man-made disasters that could threaten the State's citizens.

Comprehensive Emergency Management System

House Bill 648 (Ch. 288) generally clarifies the responsibilities of MEMA. The Act specifies that, among other things, it is necessary to ensure that the State will be adequately prepared to deal with emergencies by authorizing a comprehensive emergency management system that empowers all State departments and agencies to systematically prepare for, mitigate, respond to, and recover from potential or actual emergencies through risk reduction and consequence management.

The Act establishes that it is the policy of the State that the initial governmental authority and responsibility for emergency management activities and operations be placed at the local level. The State must prepare for emergency management activities and operations and coordinate activity in support of the response but may not preempt local authority for responding to an emergency unless (1) the emergency involves more than one political subdivision and one or more of the political subdivisions involved makes a request for State-level authority to coordinate or intervene; (2) the political subdivision or subdivisions in which the emergency occurs issues a request from the senior elected official for the State to assume authority for the emergency; (3) evidence exists that the political subdivision is overwhelmed by the emergency; or (4) the Governor or the Governor's designee determines that additional resources are necessary to protect the public interest. The Act specifies that MEMA has primary responsibility and authority for developing emergency management policies and is responsible for coordinating disaster risk reduction, consequence management, and disaster recovery activities. MEMA may act to (1) reduce the disaster risk and vulnerability of persons and property located in the State; (2) develop and coordinate emergency planning and preparedness; and (3) coordinate emergency management activities and operations as specified.

Maryland Intrastate Emergency Management Assistance Compact

The Maryland Emergency Management Assistance Compact is a statewide program that provides for mutual aid between jurisdictions for emergency assistance. The compact provides for the procedures to request assistance and to resolve financial and liability issues for assistance given. Each county, Baltimore City, the City of Annapolis, and Ocean City belong to the compact.

Senate Bill 80 (Ch. 287) renames the Maryland Emergency Management Assistance Compact as the Maryland *Intrastate* Emergency Management Assistance Compact and makes several changes to the compact. Among other things, the Act alters provisions governing (1) how participating jurisdictions request assistance under the compact and (2) when the resource-sharing provisions of the compact are effective. Specifically, the Act requires the senior official of each participating jurisdiction to designate *more than one* representative who is authorized to make assistance requests from other participating compact member jurisdictions. Requests for assistance must include (1) the functional areas for which assistance is needed, as specified; (2) the mission, capability, size, and amount of the requested aid; and (3) the logistics, location, and time for staging

the aid from a responding party jurisdiction. Specified requirements relating to written requests are repealed. Additionally, jurisdictions are no longer required to declare a local state of emergency in order to activate the compact. Instead, the Act specifies that the provisions of the compact relating to resource sharing only take effect when resources loaned under the terms and conditions of the compact by the responding party jurisdiction arrive in the requesting party's jurisdiction. The provisions must continue in effect as long as resources loaned under the terms and conditions of the compact by the responding party jurisdiction remain in the requesting party jurisdiction.

Continuity of Operations Plans

Broadly, continuity of operations plans are guidelines that, in the event of an emergency, ensure the continuation of essential services. Continuity of government plans, in addition to ensuring the continuation of essential government services at the state and federal level, are designed to preserve the statutory and constitutional authority of elected officials across the government in the event of an emergency.

Senate Bill 81 (Ch. 516) requires each principal department of the Executive Branch of State government to develop and annually update a continuity of operations plan to maintain department operations if an emergency or other crisis disrupts normal operations, as specified. Each plan, and the required plan updates, must be submitted to MEMA. MEMA must develop guidelines and serve as the coordinating agency to assist each principal department in writing and maintaining a continuity of operations plan. MEMA must also (1) work with each department to develop and maintain a continuity of government plan; (2) present the plan to the Governor and the General Assembly, as specified; and (3) review the plan for revisions at least once every four years. The Act also expresses the intent of the General Assembly that MEMA implement the Act's provisions with existing personnel and resources.

Crisis Intervention Team Center of Excellence

The Maryland Behavioral Health Crisis Response System is required to (1) operate a statewide network utilizing existing resources and coordinating interjurisdictional services to develop efficient and effective crisis response systems to serve all individuals in the State, 24 hours a day and 7 days a week; (2) provide skilled clinical intervention to help prevent suicides, homicides, unnecessary hospitalizations, and arrests or detention and to reduce dangerous or threatening situations involving individuals in need of behavioral health services; and (3) respond quickly and effectively to community crisis situations. In each jurisdiction, a crisis communication center provides a single point of entry to the system and coordination with the local core service agency or local behavioral health authority, police, emergency medical service personnel, and behavioral health providers.

Senate Bill 305 (Ch. 547) establishes a Crisis Intervention Team Center of Excellence (CITCE) in GOCPYVS to (1) provide technical support to local governments, law enforcement, public safety agencies, behavioral health agencies, and crisis service providers and (2) develop and implement a crisis intervention model program. The office must appoint specified individuals to oversee CITCE. The Act also establishes a Collaborative Planning and Implementation Committee for CITCE and provides for the membership and duties of the committee. The operation of CITCE

is subject to the limitations of the State budget, and the operation of both CITCE and the committee must be supported by appropriations provided in the State budget, grants or other assistance from federal, State, or local government, and any other money made available to CITCE from any public or private source.

Building Safety

Sprinkler System Enforcement

The State Fire Marshal must enforce all laws of the State relating to, among other things, the installation and maintenance of equipment intended to control, detect, or extinguish fire. *Senate Bill 746/House Bill 823 (Chs. 334 and 335)* require the State Fire Marshal to enforce any requirements relating to the installation of automatic sprinkler systems in new one- and two-family dwellings.

Elevator Testing

Senate Bill 618 (Ch. 569) delays the requirement that certain annual tests on an elevator in a privately owned building be performed in the physical presence of a licensed third-party qualified elevator inspector. The requirement is delayed from October 1, 2020, to October 1, 2021, for all elevators in privately owned buildings, except for direct-acting hydraulic elevators, which must comply beginning October 1, 2022. The Act also establishes a related reporting requirement.

For a further discussion of *Senate Bill 618*, see the subpart “Business Regulation” within Part H – Business and Economic Issues of this *71 Day Report*.

Use of Firefighting Foam Containing PFAS Chemicals

PFAS are a group of synthetic chemicals that include PFOA, PFOS, GenX, and many other chemicals. PFAS have been manufactured and used in a variety of industries in the United States since the 1940s. PFAS can be found in firefighting foam, nonstick cookware (*e.g.*, Teflon), fast food wrappers, and stain-resistant sprays. PFAS manufacturing and processing facilities, facilities using PFAS in the production of other goods, airports, and military installations are some of the contributors of PFAS releases into the air, soil, and water. PFAS are persistent in the environment and the human body, which means they do not break down easily and can accumulate over time. Most people in the United States have been exposed to PFAS. There is evidence that exposure to PFAS can lead to adverse human health effects, including low infant birth weights, effects on the immune system, cancer, and thyroid hormone disruption.

Senate Bill 420/House Bill 619 (Chs. 276 and 277) generally prohibit, beginning October 1, 2021, the use of Class B fire-fighting foam that contains intentionally added PFAS chemicals for testing purposes, with specified exceptions, or training purposes. Nonfluorinated training foam must be used for firefighting training purposes. The Acts do not apply to firefighting foams used at the Baltimore-Washington International Thurgood Marshall Airport and do not restrict the manufacture, sale, distribution, discharge, or use of Class B firefighting foam that contains intentionally added PFAS chemicals in emergency firefighting or fire prevention

operations. A person who violates the provisions is subject to a civil penalty of up to \$500 for a first violation and up to \$1,000 for a second or subsequent violation.

Prerelease Unit for Women

The Division of Correction within DPSCS operates prerelease operations throughout the State correctional system identified as reentry programs. All inmates due for release have a transition plan. After an inmate is released, DPP continues to monitor an inmate's transition plan. DPSCS once operated a prerelease facility for women in Baltimore City; however, the facility is now closed. Since the closure of the facility, all prerelease programming for women has been transferred to the Maryland Correctional Institution for Women, where the women are housed throughout the facility.

Senate Bill 684 (passed) requires the Commissioner of Correction within DPSCS to operate a comprehensive rehabilitative prerelease unit for women that is a separate structure in which specified services are provided, has security features for specified female inmates, and matches security level on a validated gender-responsive risk measure. DPSCS must (1) identify a location, as specified, acquire property, and design a site plan for the unit by June 1, 2021; (2) begin construction or renovation of the facility by September 1, 2021; and (3) begin operating and providing services in the facility by June 1, 2023. The bill requires the commissioner to make evidence-based and gender-responsive services available to female inmates at the prerelease unit for women. The bill also alters existing requirements for comprehensive rehabilitative prerelease services to require the services to utilize evidence-based programs and practices and innovative programs and practices, as specified. Evidence-based programs and practices means programs proven by scientific research to reliably produce reductions in recidivism. Innovative programs and practices means programs that do not meet the standard of evidence-based practices but which preliminary research or data indicates will reduce the likelihood of offender recidivism.

On May 7, 2020, the Governor vetoed the bill for policy reasons.

Part F

Courts and Civil Proceedings

Judges and Court Administration

Court Dog and Child Witness Program

In recognition of the vulnerable emotional state of child witnesses in court proceedings, especially in cases related to child abuse or child sexual abuse, the use of therapy animals during the testimony of child witnesses has become increasingly popular. Chapter 467 of 2016 initially created a three-year pilot program in the circuit courts for Anne Arundel and Harford counties to determine whether to establish a systematic approach for providing a courthouse dog to a child witness in circuit court proceedings in the State. Under Chapter 467, a child witness was limited to witnesses who were minors when testifying in criminal proceedings. In subsequent years, the pilot program was extended until September 30, 2021, and was expanded to include minors testifying in civil proceedings.

Senate Bill 101/House Bill 311 (Chs. 161 and 162) expand upon these efforts and establish a Court Dog and Child Witness Program in the circuit court of each county that voluntarily participates in the program. The program's purpose is to provide a facility dog or therapy dog to a child witness in any circuit court proceeding or other related court process, meeting, or interview in the State, including meetings with custody evaluators and *in camera* reviews or other interactions with a judge or a magistrate. The Acts require the Administrative Office of the Courts to (1) develop a plan to implement the program; (2) establish the procedures that a party in a court proceeding must follow to request that a therapy dog and therapy dog handler, or facility dog and facility dog handler, assist a child witness; and (3) ensure that the details of the program are publicly available. The Acts also alter, from September 30, 2021, to September 30, 2020, the termination date for the pilot programs in the circuit courts for Anne Arundel and Harford counties.

Civil Actions and Procedures

Malpractice Claims Against Licensed Professionals

Generally, a claimant that files a claim against a licensed professional for an alleged negligent act or omission within the scope of the professional's license must also file a certificate of a qualified expert attesting that the licensed professional failed to meet the applicable standard of care. On written request of the claimant, a defendant/licensed professional must produce any documentary evidence that is otherwise discoverable and reasonably necessary to obtain a certificate of a qualified expert. *Senate Bill 249/House Bill 858 (Chs. 347 and 348)* authorize a defendant/licensed professional to move for a protective order to limit the disclosure of documentary evidence requested by a claimant to obtain a certificate of a qualified expert in order to protect the defendant from annoyance, embarrassment, oppression, or undue burden or expense. A court may issue a defendant a protective order for good cause shown.

Child Sexual Abuse

In response to growing recognition of the long-term impact of child sexual abuse, numerous states and the District of Columbia have enacted laws to address the statute of limitations for actions to recover damages stemming from this type of abuse. The most recent alteration of the statute of limitations relating to child sexual abuse in Maryland was enacted as Chapters 12 and 656 of 2017. Under those laws, an action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor must be filed (1) at any time before the victim reaches the age of majority or (2) within the later of 20 years after the date on which the victim reaches the age of majority or 3 years after the date that the defendant is convicted of a crime relating to the alleged incident or incidents, as specified.

House Bill 974 (failed) would have established that an action for damages arising out of an alleged incident or incidents of "sexual abuse," as defined under the bill, that occurred while the victim was a minor may be filed at any time. The bill would have applied retroactively to revive any action that was barred by the statutory period of limitations applicable before October 1, 2020, if the action was filed before October 1, 2022. The bill also would have repealed provisions from Chapters 12 and 656 of 2017, establishing that the statute of repose in existing statute must be construed to apply both prospectively and retroactively to provide repose to defendants regarding actions that were barred by the application of the period of limitations applicable before October 1, 2017.

Family Law

Child Support

Child Support Guidelines

In a proceeding to establish or modify child support, whether *pendente lite* or permanent, the court is required to use the child support guidelines. The basic child support obligation is established in accordance with a schedule provided in statute. The schedule uses the combined monthly adjusted actual income of both parents and the number of children for whom support is required to determine the basic child support obligation. The child support statute establishes a rebuttable presumption that the amount of child support that would result from the application of the child support guidelines is the correct amount of child support that the court is to award. States are required by federal regulation to review child support guidelines at least once every four years as a condition of receiving Title IV-D funds. Several bills in the 2020 session stemmed from the recommendations of the most recent Child Support Guidelines Advisory Committee coordinated by the Department of Human Services.

Revision of Child Support Guidelines

Schedule and Basic Child Support Obligation: *Senate Bill 847/House Bill 946 (Chs. 383 and 384)* (1) revise the schedule of basic child support obligations; (2) expand the schedule to include monthly incomes of up to \$30,000; and (3) specify amounts for monthly incomes between \$0 and \$1,200. The Acts authorize the court, when considering whether the application of the guidelines would be unjust or inappropriate in a particular case, to consider whether an obligor’s monthly child support obligation would leave the obligor with a monthly actual income below 110% of the 2019 federal poverty level for an individual. The Acts alter the definition of “basic child support obligation” to mean the base amount due for child support calculated using the combined adjusted actual incomes of both parents as adjusted by the self-support reserve. “Self-support reserve” means the adjustment to a basic child support obligation to ensure that a child support obligor maintains a minimum amount of monthly income after payment of child support and applicable taxes, as specified.

The Acts also authorize a court to decline to establish a child support order if the parent who would have the obligation to pay child support (1) lives with the child who would be the subject of the order and is contributing to the support of the child or (2) is unemployed, has no financial resources from which to pay child support, and meets one of other specified criteria, including being incarcerated or institutionalized in a psychiatric care facility. The fact that a parent meets or ceases to meet the criteria described constitutes a material change of circumstances for the purpose of a modification of a child support award.

Potential Income and Voluntary Impoverishment: If a parent is voluntarily impoverished, as discussed below, child support may be calculated based on a determination of potential income. A determination of potential income may not be made for a parent who is unable to work because of a physical or mental disability or is caring for a child younger than age two for

whom the parents are jointly and severally responsible. *Senate Bill 847/House Bill 946* also alter the definition of “potential income” to mean income attributed to a parent determined by the parent’s employment potential and probable earnings level based on, but not limited to, the parent’s (1) age; (2) physical and behavioral condition; (3) educational attainment; (4) special training or skills; (5) literacy; (6) residence; (7) occupational qualifications and job skills; (8) employment and earnings history; (9) record of efforts to obtain and retain employment; and (10) criminal record and other employment barriers. It also considers employment opportunities in the community where the parent lives, including the status of the job market, prevailing earnings levels, and the availability of employers willing to hire the parent. Finally, “potential income” includes the parent’s assets, actual income from any source, and any other factor bearing on the parent’s ability to obtain funds for child support.

“Voluntarily impoverished” is altered to mean that a parent has made the free and conscious choice, not compelled by factors beyond the parent’s control, to render the parent without adequate resources. If there is a dispute as to whether a parent is voluntarily impoverished, the court must (1) make a finding as to whether, based on the totality of the circumstances, the parent is voluntarily impoverished and (2) if the court finds that the parent is voluntarily impoverished, consider the factors specified above in determining the amount of potential income that should be imputed to the parent.

The Acts have prospective application and only affect cases filed on or after the effective date of October 1, 2021.

Shared Physical Custody: “Shared physical custody” means that each parent keeps the child or children overnight for a specified percentage of the year and that both parents contribute to the expenses of the child or children in addition to the payment of child support. The court may base a child support award on shared physical custody solely on the amount of visitation awarded and regardless of whether joint custody has been granted. In cases of shared physical custody, the adjusted basic child support obligation is first divided between the parents in proportion to their respective adjusted actual incomes. Each parent’s share of the adjusted basic child support obligation must be multiplied by the percentage of time the child or children spend with the other parent to determine the theoretical basic child support obligation owed to the other parent. The parent owing the greater amount owes the difference as child support.

Senate Bill 579/House Bill 269 (Chs. 142 and 143) alter the threshold of overnight stays, from more than 35% to more than 25%, that confers the status of shared physical custody for purposes of determining a child support obligation. The Acts also establish a formula for the calculation of a child support obligation under the child support guidelines when a parent with shared physical custody keeps the child or children overnight for more than 25% but less than 30% of the year. The Acts only apply to cases filed on or after the October 1, 2020 effective date.

Incarcerated Obligor

Federal law requires states, as a condition of receiving federal funding related to child support services, to review and adjust, as appropriate, child support orders when either parent has experienced a substantial change in circumstances. Accordingly, a child support payment is not

past due and arrearages may not accrue during an obligor's incarceration (and through the next 60 days after the obligor's release from confinement), if (1) the obligor is not on work release and has insufficient resources with which to make payment and (2) the obligor did not commit the crime with the intent of being incarcerated or otherwise becoming impoverished. The obligor must also have been sentenced to a term of imprisonment of 18 consecutive months or more. Recent federal regulations require a state, after learning that an obligor will be incarcerated for more than 180 calendar days, to either send a notice to both parents of the right to request a review and adjustment of a child support order or automatically initiate a review and adjustment with notice to the parents. *Senate Bill 1006/House Bill 234 (Chs. 121 and 122)* align the timeframes in State law with the federal requirements by changing the applicable timeframe from 18 consecutive months or more to 180 consecutive calendar days or more.

Protective Orders and Peace Orders

Eligibility for Relief

Only individuals who meet specified relationship requirements, including current or former spouses; individuals with a child in common; and persons related by blood, marriage, or adoption, are defined as "persons eligible for relief" and authorized to file for a protective order if certain acts of abuse are alleged to have occurred. Individuals who do not meet these relationship requirements but allege that specified acts have occurred within the past 30 days must instead file for a peace order. Among the types of relief that may be included in both peace orders and protective orders are provisions requiring a respondent to refrain from further abuse, contact, and harassment and to stay away from a person's residence and place of employment. However, protective orders may be issued and extended for longer periods of time and also require the surrender of any firearms owned by the respondent for the duration of the order. *Senate Bill 210/House Bill 248 (Chs. 132 and 133)* expand eligibility for a protective order by altering the definition of a person eligible for relief to include any individual who alleges the commission, within six months before the filing of the petition, of rape or specified sexual offenses, or attempted rape or sexual offense in any degree. The Acts also remove these offenses from the list of offenses for which an individual may seek relief under provisions of law regarding peace orders.

Extension of Orders

For good cause shown, a judge may extend the term of a final protective order for six months (and up to two years under specified circumstances) after giving notice to the affected parties and a hearing. If, during the term of a final protective order, a petitioner or person eligible for relief files a motion to extend the term of the order, the court must hold a hearing on the motion within 30 days after the motion is filed. If a hearing on the motion is scheduled to occur after the original expiration date of the final protective order, the court must extend the order and keep the terms of the order in full force and effect until the hearing on the motion. Statute also contains similar provisions for the extension of peace orders.

In a 2019 case in Queen Anne’s County, a petitioner, before the expiration of a final protective order, filed a motion to extend the order. Although a hearing was scheduled to occur within 30 days after the motion was filed, the District Court did not actually review the motion and order the matter to be scheduled for a hearing until after the final protective order had already expired. At the hearing, the District Court denied the extension request and opined that the request was moot since the final protective order had expired. The Circuit Court for Queen Anne’s County affirmed on appeal and noted that the applicable statute did not mandate the extension of the final protective order through the hearing date merely by the filing of a motion. Accordingly, once the final protective order expired, it could not be revived. *Senate Bill 227/House Bill 250 (Chs. 134 and 135)* specify that if a motion to extend the term of a final protective order or final peace order is filed during the term of the order, if the hearing on the motion is not held before the original expiration date of the final protective order or final peace order, the order must be automatically extended, and the terms of the order remain in full force and effect until the hearing on the motion.

Human Relations

Discrimination

Definition of Race

Discrimination based on race is prohibited under specified State laws, including those prohibiting discrimination in employment, housing, and places of public accommodation. *Senate Bill 531/House Bill 1444 (Chs. 473 and 474)* define “race” for the purposes of these laws as including traits associated with race, including hair texture, afro hairstyles, and protective hairstyles. The Acts also define “protective hairstyle” as a hairstyle that includes braids, twists, and locks.

Section 1557 of the Affordable Care Act

House Bill 1120 (Ch. 428) and *Senate Bill 872/House Bill 959 (Chs. 620 and 621)* ensure that nondiscrimination provisions established in Section 1557 of the Affordable Care Act apply to health care institutions, health care providers, and insurance carriers in Maryland. For a further discussion of *House Bill 1120*, see the subpart “Public Health – Generally” within Part J – Health and Human Services of this *71 Day Report*. For a further discussion of *Senate Bill 872/House Bill 959*, see the subpart “Health Insurance” within Part J – Health and Human Services of this *71 Day Report*.

Washington Suburban Sanitary Commission

House Bill 1560 (Ch. 487) prohibits the Washington Suburban Sanitary Commission from discriminating against a person on the basis of “genetic information” or “family responsibilities.” For a further discussion of *House Bill 1560*, see the subpart “Bi-county Agencies” within Part D – Local Government of this *71 Day Report*.

Other Legislation

Legislation discussing housing discrimination based on source of income was discussed in the *2020 Session Major Issues Review*.

Sexual Harassment Prevention Training

All State employees in the Executive, Judicial, and Legislative branches must complete at least two hours of in-person or virtual interactive training on sexual harassment prevention within (1) six months of an employee’s initial appointment and (2) every two-year period thereafter. The training must address specified items, including additional training for supervisors. Each unit must designate a representative to coordinate with the Maryland Commission on Civil Rights (MCCR) to implement the required training. *Senate Bill 961/House Bill 325 (Chs. 168 and 169)* repeal the requirement that a unit of the University System of Maryland (USM) designate the unit’s Title IX coordinator as the representative to coordinate with MCCR in regard to existing sexual harassment prevention training requirements for USM. The Acts also clarify that the existing sexual harassment prevention training requirements apply to each constituent institution of USM.

2026 FIFA World Cup – Protection of Human Rights

The 2026 Federation Internationale de Football Association (FIFA) World Cup, hosted jointly by Canada, Mexico, and the United States (United 2026) will be held in 16 cities, with Baltimore City and Washington, DC among the final bidding cities. *Senate Joint 1 (Joint Resolution 1)* declares the General Assembly’s support of the fundamental requirements for United 2026 as laid out in FIFA’s “Proposal for a United Human Rights Strategy.” The resolution also encourages all host stadiums, cities, ports of entry, and fan zones to provide specified policies and experiences for fans, spectators, players, officials, and volunteers at United 2026, including an atmosphere that celebrates diversity and welcomes international fans and players.

Real Property

Condominium and Homeowners Associations

Condominiums – Responsibility for Property Insurance Deductible

With specified exceptions, if a portion of the common elements and the units of a condominium is damaged or destroyed, the damage must promptly be repaired or replaced by the council of unit owners. Generally, the cost of repair or replacement in excess of insurance proceeds and reserves is a common expense. However, a property insurance deductible is not a cost of repair or replacement in excess of insurance proceeds.

Senate Bill 175/House Bill 108 (Chs. 56 and 57) (1) specify that the council of unit owners’ property insurance deductible is a common expense if the cause of damage to or destruction of the condominium originates from an event outside of the condominium units and common elements and (2) increase, from \$5,000 to \$10,000, the maximum amount of the council

of unit owners' property insurance deductible for which a unit owner is responsible when the cause of any damage to or destruction of the common elements or units of a condominium originates from an event inside the owner's unit. The Acts apply prospectively to all policies of property and casualty insurance issued, delivered, or renewed in the State to a condominium council of unit owners on or after October 1, 2020.

Submission of Annual Budget

Generally, the council of unit owners of a condominium must prepare and submit to the unit owners an annual proposed budget at least 30 days *before* the adoption of the budget. A similar requirement applies to a homeowners association (HOA) that is responsible for maintaining and repairing common areas under its declaration.

Senate Bill 472 (Ch. 559) requires a condominium association or an HOA to submit its annual *adopted* budget to the unit or lot owners within 30 days *after* the meeting at which the budget was adopted. The adopted annual budget may be submitted to the unit or lot owners by electronic transmission, posting on the entity's homepage, or inclusion in the entity's newsletter.

Amendments to Declarations and Governing Documents

The bylaws of a condominium may be amended without the explicit agreement of the holder of a mortgage or deed of trust under certain circumstances. *Senate Bill 293/House Bill 25 (Chs. 32 and 33)* establish similar authority for amendments to the declaration of a condominium and the governing documents of an HOA. Under the Acts, if a declaration or a governing document contains a provision requiring any action on the part of a holder of a mortgage or deed of trust for a unit in a condominium or a lot in an HOA in order to amend the declaration or governing document, the council of unit owners of a condominium or the HOA must deliver a copy of the proposed amendment to each holder of a mortgage or deed of trust entitled to notice. If the holder of the mortgage or deed of trust fails to object, in writing, within 60 days after the date of actual receipt of the proposed amendment, the holder is deemed to have consented to the adoption of the amendment. The authority to amend a declaration of a condominium or the governing documents of an HOA under the Acts does not extend to an amendment that (1) alters the priority of the lien of the mortgage or deed of trust; (2) materially impairs or affects the unit or lot as collateral; or (3) materially impairs or affects the right of the holder of the mortgage or deed of trust to exercise any rights under the mortgage, deed of trust, or applicable law.

Restrictive Covenant Modifications

While unenforceable, covenants that restrict the ownership of real property based on race, religious belief, or national origin persist in historic land recordings. *House Bill 1077 (Ch. 421)* permanently exempts from specified fees and surcharges the recordation of a covenant modification or an amendment to the common area deeds or other declarations of an HOA if the recordation is to modify or delete, in accordance with statutory provisions, a covenant or restriction that limits ownership based on these identifying characteristics. The Act also repeals a reference to an expired statutory deadline by which the governing body of an HOA was required to delete related recorded covenants or restrictions.

Ground Leases

Under a ground lease, a tenant makes periodic monetary payments (ground rent) to a ground lease holder in return for the right to dwell on the property (the land). The tenant's property interest is a leasehold estate that is personal – not real – property. The lease holder retains a reversionary interest in and fee simple title to the land. The General Assembly passed several bills relating to ground leases during the 2020 legislative session.

Past-due Ground Rent

Generally, if a ground lease is not registered with the State Department of Assessments and Taxation (SDAT) in accordance with specified statutory provisions, the ground lease holder may not (1) collect any ground rent payments due under the ground lease; (2) bring a civil action against the leasehold tenant to enforce any rights that the ground lease holder may have under the ground lease; or (3) bring an action against the leasehold tenant under specified statutory provisions related to ground leases. In any suit, action, or proceeding by a ground lease holder (or the transferee of the reversion in property subject to a ground lease) to recover past-due ground rent, the ground lease holder or the transferee may only recover up to three years of past-due ground rent, calculated from the date a specified notice required before filing an action for possession was sent by the ground lease holder.

Senate Bill 170/House Bill 241 (Chs. 124 and 125) prohibit a ground lease holder from bringing any suit, action, or proceeding against a current or former leasehold tenant to recover past due ground rent owed before the date that the current leasehold tenant acquired the interest in the residential property if the ground lease was not registered with SDAT prior to the current leasehold tenant acquiring title to the leasehold interest.

Redemption or Extinguishment of Ground Rent

The redemption or extinguishment of the ground rent is effective to conclusively vest a fee simple title in the ground lease tenant when the ground lease tenant records the certificate in the county land records. The title is free and clear of any and all right, title, or interest of the ground lease holder, any lien of a creditor of the ground lease holder, and any person making claims in relation to the ground lease holder. *Senate Bill 806/House Bill 1182 (Chs. 441 and 442)* alter these provisions by establishing that the redemption or extinguishment of the ground rent is effective to conclusively divest the ground lease holder of the reversion, vest the reversion in the leasehold tenant, and eliminate all rights, titles, or interests to the property, as specified, when the leasehold tenant records the certificate of redemption or extinguishment in the land records of the county in which the property is located.

House Bill 149 (Ch. 82) repeals a requirement for a ground lease holder to promptly notify SDAT of a change in the name or address of a leasehold tenant and authorizes a leasehold tenant or an interested party to submit documentation of the redemption of a ground lease to SDAT if the ground lease (1) was redeemed in a private transaction between the ground lease holder and the leasehold tenant and (2) the ground lease holder failed to notify SDAT of the redemption, as required under current law. The documentation submitted to SDAT must include a certified copy

of the ground lease redemption deed that has been filed in the land records of the appropriate county. After accepting documentation, SDAT must update the online registry to indicate that the ground lease has been terminated.

Registration Fee

The current registration fee per ground lease holder is \$10 for the first ground lease and \$5 for each additional ground lease. *House Bill 172 (Ch. 94)* repeals the fee for the registration of a ground lease with SDAT, effective October 1, 2020.

Recordation

Assignments of Rents or Leases without Certification

A deed other than a mortgage, deed of trust, or an assignment or release of a mortgage or deed of trust may not be recorded unless it bears the certification of an attorney admitted to the Maryland Bar or a party named in the instrument, which states that the instrument was prepared by the attorney, under the supervision of the attorney, or by the party. *Senate Bill 154/House Bill 1084 (Chs. 423 and 424)* authorize the recordation of an assignment of rents or an assignment of leases for security purposes without this certification.

Recording Costs and Surcharges – Exemptions for State Agencies

Senate Bill 291/House Bill 676 (Chs. 299 and 300) add any unit of State government to the list of governmental entities that are exempt from paying a fee to record land records under § 3-603 of the Real Property Article unless the entity first gives its consent. Under current law, any entity that is exempt from paying recordation fees under § 3-603 of the Real Property Article is also exempt from paying to the clerk of a circuit court a surcharge on each recordable instrument that is recorded in the jurisdiction's land records. Thus, the Acts also exempt any unit of State government from being required to pay these surcharges, which are deposited into the Circuit Court Real Property Records Improvement Fund.

Notice of Recorded Easements, Covenants, Restrictions, or Conditions

Senate Bill 570 (Ch. 566) authorizes, but does not require, the recordation of a notice of a recorded easement, covenant, restriction, or condition that affects an interest in real property in the land records of the county in which the property interest is located. The recorded notice must contain specified information and must be indexed in a specified manner. Failure to record a notice in accordance with the Act does not (1) impair the rights or interests of the holder of the easement, covenant, restriction, or condition or (2) waive, release, or otherwise affect the obligations of any person holding a real property interest burdened by the easement, covenant, restriction, or condition.

Liens

Subordination of Junior Liens – Government Exception

A mortgagor or grantor may refinance the full amount of the unpaid indebtedness secured by a first mortgage or deed of trust on residential property for a lower interest rate without securing the permission of the holder of a junior lien if (1) the principal amount secured by the junior lien does not exceed \$150,000 and (2) the principal amount secured by the refinance mortgage does not exceed the unpaid outstanding principal balance, plus closing and escrow costs of up to \$5,000. A refinance mortgage that meets these requirements must contain a specified notice and, on recordation, has the same lien priority as the first mortgage or deed of trust that it replaces. *House Bill 314 (Ch. 163)* exempts junior liens securing a loan made by a state or local government agency with a 0% interest rate from these provisions. Thus, a mortgagor or grantor may not refinance a mortgage or deed of trust without the permission of the holder of such a junior lien, and the loan secured by the junior lien is not automatically subordinated. The Act takes effect June 1, 2020, and applies prospectively so that it only affects applications to refinance any mortgage recorded on or after that date.

Estates and Trusts

Probate

Under the law governing distribution of a decedent's estate, the final approval of the final account of an estate automatically closes the estate and automatically terminates the appointment of the personal representative if the final account is accompanied by a request for termination. If the final account is approved and is not accompanied by a request for termination, the personal representative may petition the orphans' court for an order terminating the appointment. If property is discovered after an estate has been closed and the appointment of the personal representative has been terminated, the orphans' court, on petition of an interested person and on such notice as it may direct, may appoint the same or a successor personal representative and make other appropriate orders.

Senate Bill 151/House Bill 543 (Chs. 239 and 240) authorize an orphans' court, following the discovery of a check payable to a decedent or the estate of a decedent for a sum not exceeding \$1,000 after the estate is closed and the appointment of the personal representative is terminated, to enter an order authorizing an interested person who has made a verified petition, to endorse and deposit the check into the interested person's bank account for the limited purpose of distributing the funds in accordance with the will or, if the decedent died intestate, in accordance with applicable statutory provisions. The order may be entered without a hearing, unless requested by an interested person, and distribution of the funds must be made within 60 days after the court's order. An order may not be entered if (1) the estate of the decedent was insolvent when it was closed; (2) the check discovered after the estate was closed increases the value of the estate above the value that qualifies for administration as a small estate; or (3) any additional fees and inheritance taxes due as a result of the discovered check are not paid with the petition.

Trusts

Liability of Trustee – Report and Release by Interested Party

Senate Bill 886/House Bill 904 (Chs. 361 and 362) authorize a trustee, when a trust terminates in accordance with the terms of the trust or the Maryland Trust Act or on the removal or resignation of the trustee in accordance with the Maryland Trust Act, to send each interested party a specified report, by first-class, certified mail, return receipt requested, seeking the release of the trustee from liability for the administration of the trust. The Acts define “interested party” as a beneficiary, representative of a beneficiary, co-trustee, successor trustee, or any other person having an interest in or authority over a trust. An interested party’s failure to submit a written objection within 120 days after the trustee mailed the report results in the interested party releasing the trustee and consenting to and ratifying all actions of the trustee. If there are no objections submitted within the 120-day period, the trustee must distribute the trust property to the appropriate persons within a reasonable period of time. However, if an interested party submits a timely written objection, the objection may either be (1) submitted to the court, with notice to all interested parties, to commence a proceeding for resolution of the objection or (2) resolved by the agreement of all interested parties and the trustee. The Acts apply prospectively and only affect specified reports mailed on or after October 1, 2020.

Health Savings Accounts – Application of Trust Law

Health Savings Accounts (HSA) administered in Maryland are governed by the Maryland Trust Act, which dictates that a trust is established when the trustee accepts and takes legal ownership of the property to be placed in the trust. *Senate Bill 507/House Bill 671 (Chs. 616 and 617)* are emergency measures that generally exempt an HSA from the requirements of the Estates and Trusts Article and authorize an HSA to be established on the first day that an individual becomes covered by a high-deductible health plan. The HSA must be opened without a trustee or custodian within the time period prescribed by law, without extensions, for filing a federal income tax return for the year in which the HSA is established. In addition, an HSA is established regardless of whether there is a transfer of cash or other property to the account and, unless required by the trustee or custodian, it is not necessary for any party to sign an HSA trust or custodial agreement regarding the HSA. Under the Acts, an individual with an HSA could use the individual’s HSA to pay for medical expenses incurred prior to the date the individual actually opened the account with the HSA trustee.

Personal Representatives and Guardians

On receiving a petition and after notice and a hearing, a court may appoint a guardian for a disabled person, if it determines that the person lacks sufficient understanding or capacity to make or communicate responsible personal decisions due to a mental disability, disease, habitual drunkenness, or drug addiction and no less restrictive intervention is available.

Currently, the petition must include signed and verified certificates of competency from the following health care professionals: (1) two licensed physicians who have examined the

disabled person; or (2) one licensed physician who has examined the disabled person and either one licensed psychologist or one licensed certified social worker-clinical (LCSW-C) who has evaluated the disabled person. *Senate Bill 576 (Ch. 568)* adds a nurse practitioner as a health care professional who may sign a certificate. Under the Act, the two health care professionals that may sign a certificate may include one licensed physician and one licensed psychologist, LCSW-C, or nurse practitioner. For a further discussion of *Senate Bill 576*, see the subpart “Health Occupations” within Part J – Health and Human Services of this *71 Day Report*.

Orphans’ Court – Appeals

A party who wishes to appeal a final judgment of an orphans’ court may file a direct appeal to the Court of Special Appeals or appeal to the circuit court. An appeal to the circuit court must be heard *de novo* and treated as if it were a new proceeding. *Senate Bill 149/House Bill 247 (Chs. 130 and 131)* alter statutory provisions regarding the appeal of a final judgment of an orphans’ court by (1) requiring a notice of appeal, instead of an order for appeal, to be filed with the register of wills within a specified timeframe and (2) extending, from 30 days to 60 days, the time period by which the register of wills must transmit all pleadings and orders of the proceedings to the court to which the appeal is taken. The Acts apply prospectively and only affect an appeal filed on or after October 1, 2020.

Rule Against Perpetuities

With limited exceptions, the common law “rule against perpetuities” applies in Maryland. Under the common law rule, a future property interest, either real or personal, must vest within a life or lives in being (the lifetime of a living person) at the time of the interest’s creation, plus 21 years. The term of gestation is added in the case of a posthumous birth. An interest that will not or may not vest within the vesting period violates the rule and is void.

Under one statutory exception, the common law rule against perpetuities does not apply to an option of a tenant to purchase all or part of the premises leased by the tenant. *Senate Bill 152/House Bill 94 (Chs. 50 and 51)* limit application of this statutory exception by establishing that the common law rule does not apply to an option that is exercisable only during the term of the lease. The Acts apply prospectively and only affect an option to purchase leased premises granted on or after October 1, 2020.

Part G

Transportation and Motor Vehicles

Transportation

State Highways

The State Highway Administration (SHA) is responsible for more than 5,200 miles or approximately 16,800 lane miles of road, 2,500 bridges, 3,500 small stream crossing structures, and 80 miles of sound/noise barriers in the State. It also has responsibility for planning, designing, constructing, and maintaining these roads and bridges to safety and performance standards while considering sociological, ecological, and economic concerns.

Pedestrian Access at Work Sites

Senate Bill 285/House Bill 194 (Chs. 102 and 103) require an entity permitted by SHA to do work within one mile of Washington Metropolitan Area Transit Authority (WMATA) or Maryland Transit Administration (MTA) rail or bus rapid transit stations (including Maryland Area Regional Commuter (MARC) stations) to maintain a safe alternative pedestrian path at the work site; SHA must adopt regulations to implement the Acts. The Acts also require SHA to compile an inventory of best practices used to maintain pedestrian access in areas where construction or maintenance work is performed in State highway rights-of-way and publish and make available the inventory to any interested party.

Bikeways Network Program

The Maryland Department of Transportation (MDOT) currently administers a Bikeways Network Program that provides grant support for a wide range of bicycle network development activities. The program is designed to support projects that maximize bicycle access and fill

missing links in the State's bicycle system, focusing on connecting bicycle-friendly trails and roads and enhancing last-mile connections to work, school, shopping, and transit.

House Bill 748 (Ch. 310) codifies the Bikeways Network Program within MDOT and renames the program as the Kim Lamphier Bikeway Network Program. Kim Lamphier was a resident of Catonsville and a policy advocate for bicycle safety.

Signs Along Highways and Expressways

Senate Bill 810 (Ch. 585) authorizes SHA to post information on suicide prevention, including a hotline number, on electronic signs along any highway within a five-mile radius of a high suicide risk zone, as identified by SHA. The phone number for the National Suicide Prevention Lifeline is 1-800-273-8255. The lifeline provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week, across the United States.

A person may not place or maintain signs on State highway rights-of-way without SHA authorization. *Senate Bill 131 (Ch. 534)* increases the maximum civil penalty from \$25 per sign to \$100 per sign for affixing a commercial sign to a State highway sign, signal, or marker within a State highway right-of-way without SHA authorization.

Generally, a person that owns property may not use the property or allow the property to be used by any other person to erect or maintain an outdoor sign along or near any expressway unless the sign is in an urban area and more than 660 feet from the nearest edge of the right-of-way of the expressway. *Senate Bill 226 (passed)* authorizes a person to erect or maintain such a sign within 660 feet of an expressway in an urban area if the sign is in a commercial or industrial zone that meets certain requirements and is permitted by SHA. On May 7, 2020, the Governor vetoed the bill due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Public Transportation

Maryland Transit Administration

MTA operates a comprehensive transit system throughout the Baltimore-Washington metropolitan area, including more than 50 local bus lines in Baltimore and other services such as the light rail, the Baltimore Metro subway, commuter buses, MARC trains, and mobility/paratransit vehicles. MTA is also responsible for hundreds of transit stations.

House Bill 1236 (passed) requires MTA to negotiate in good faith with various entities to reach written agreements to extend MARC train service to Virginia and Delaware and, by December 1 of each year, submit a report related to the negotiations to the General Assembly. The bill also requires MTA to conduct a feasibility study on constructing a rail connection between Penn Station and Camden Station and submit a report of its findings and recommendations to the General Assembly by December 1, 2021. On May 7, 2020, the Governor vetoed the bill due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

MTA offers reduced fares for its transit services to various individuals, including people with disabilities and senior citizens age 65 or older. *Senate Bill 705 (Ch. 577)* requires MTA to make monthly transit passes available to opioid treatment programs for use by patients of the programs who qualify for MTA's Disabled Reduced Fare Program. The standard fare for such a pass is \$74, while the discounted fare is \$22.

Washington Metropolitan Area Transit Authority Funding

WMATA was established in 1967 through an interstate compact among Maryland, Virginia, and the District of Columbia. The original purpose was construction and operation of a rapid rail transit system for the Washington metropolitan area. In 1973, WMATA purchased the assets of four major private bus companies operating in the area. Maryland's overall participation in the Washington metropolitan transit system consists of the provision of annual funding to WMATA for capital and operating costs of the Metrorail, Metrobus, and MetroAccess systems.

The Maryland Metro/Transit Funding Act (enacted by Chapters 351 and 352 of 2018) mandates additional capital and operating funding for WMATA; however, the Governor or Secretary of Transportation must withhold a portion of the State's operating grant to WMATA if WMATA's operating expenditures, as defined by the Acts, increase by more than 3% compared to the previous fiscal year, excluding certain factors (*i.e.*, the cost of any service required by law or an approved capital project). *House Bill 86 (passed)* excludes the following additional factors from this calculation: any payments or obligations arising from or related to arbitration proceedings and any service increases approved by WMATA's board of directors. On May 7, 2020, the Governor vetoed the bill due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Washington Metropolitan Area Transit Authority Whistleblower Protections

House Bill 402 (Ch. 193) applies the Maryland Whistleblower Law to all employees of WMATA, subject to the Commonwealth of Virginia and the District of Columbia either enacting similar whistleblower protections or waiving their sovereign immunity as applied to WMATA for the purpose of providing whistleblower protections. The Act also amends the WMATA Compact to specify that the sovereign immunity of the District of Columbia, Maryland, and Virginia does not extend to WMATA for the purposes of claims brought against WMATA by an employee or former employee under the federal False Claims Act or a law enacted by one of the compact signatories that authorizes a private right of action for an alleged violation of a law intended to provide whistleblower protections.

Airports

The Maryland Aviation Administration (MAA) has responsibility for fostering, developing, and regulating aviation activity throughout the State. MAA is responsible for

operating, maintaining, and developing Baltimore-Washington International Thurgood Marshall Airport (BWI Marshall Airport) as a major center of commercial air carrier service in the State.

Study on the Health Effects of Air Traffic Noise

In 2003, the Federal Aviation Administration began developing the Next Generation Air Transportation System (NextGen) to modernize the national air transportation system. NextGen is intended to produce long-term economic and environmental benefits in an effort to make flying more safe, efficient, and predictable. Technological advances under NextGen have mitigated some airport noise; however, the number and frequency of flights continues to increase.

Senate Bill 184/House Bill 310 (both passed) require the University of Maryland, Baltimore (UMB) to study the health effects of air traffic noise on communities near the BWI Marshall Airport since the implementation of NextGen. By September 1, 2022, UMB must report the results of the study to the Governor; the General Assembly; and the county executives and county councils of Anne Arundel, Baltimore, Howard, Montgomery, and Prince George's counties. On May 7, 2020, the Governor vetoed the bills due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Donations at Security Checkpoints

House Bill 620 (Ch. 278) requires the Executive Director of MAA to work with the House of Ruth Maryland (HRM) to install secure donation boxes at the entrance to each security screening checkpoint at BWI Marshall Airport. Money collected in the donation boxes must be used only to support HRM. HRM is recognized as one of the nation's most comprehensive domestic violence centers and has a staff of more than 90 individuals. In fiscal 2017, HRM provided services to 13,856 individuals.

Bridges

Potomac River Bridges Towing Compact

The Potomac River Bridges Towing Compact generally authorizes law enforcement officers from each of the signatory jurisdictions (Maryland, Virginia, and Washington, DC) to order the removal of disabled and abandoned vehicles from the bridges specified in the compact. *House Bill 162 (Ch. 89)* expands the compact to also include the Governor Harry W. Nice/Senator Thomas "Mac" Middleton Bridge, the Sandy Hook Bridge, the Brunswick Bridge, the Point of Rocks Bridge, and the Arland D. Williams, Jr. Memorial Bridge.

Legislation concerning the Chesapeake Bay Bridge Reconstruction Advisory Group and the privatization of existing Maryland Transportation Authority transportation facilities was addressed in the *2020 Major Issues Review*.

Motor Vehicles

Licensing and Registration

Suspension of Driver's Licenses and Registrations

If a person fined under the Maryland Vehicle Law (or under a federal traffic law or regulation for a violation occurring in the State) does not pay the fine in accordance with a court's directive, the court may certify the failure to pay to the Motor Vehicle Administration (MVA). When MVA receives the certification, it may suspend the driving privileges or license of the person until the fine has been paid. The court may authorize an individual installment plan agreement for a defendant whose driver's license or driving privilege may be (or is) suspended for failure to pay a fine or fines that total at least \$300 for one or more traffic offenses.

Senate Bill 234/House Bill 280 (Chs. 149 and 150) repeal MVA's authorization to suspend a driver's license for nonpayment of fines or installments under a payment plan and instead authorize the court to process the unpaid fines in the same manner as other unpaid fines owed to the court or refer the amount of the unpaid outstanding fine to the Central Collection Unit. The Acts also reduce the fine threshold, from \$300 to \$150, that an individual must meet to enter into an installment plan and repeal a requirement that the defendant make installment payments of 10% per month on the total amount of the fine or fines covered by the agreement. Accordingly, installment payments may be set at any portion of the fine or fines and paid over any period of time. The Acts apply retroactively and require MVA to withdraw any suspensions for failure to pay motor vehicle fines or installment payments and the courts to process any outstanding debts underlying these suspensions under the installment plan payment program.

The Acts also alter the procedures for driver's license suspensions related to failure to respond to notice provided in a traffic citation. For this violation, the Acts (1) establish that an individual may avoid suspension of the individual's driver's license by entering into an installment payment plan; (2) require MVA to withdraw a suspension if the individual pays the fine, enters an installment payment plan, or requests a new date for trial or hearing; and (3) if an individual fails to appear for a new trial or hearing date, require MVA to suspend the individual's driver's license or privileges until the individual pays the fine, enters an installment payment plan, or appears at a trial or hearing. This provision also applies retroactively, and MVA is required to withdraw any suspensions of individuals' driver's licenses for failure to respond to a traffic citation and to subject the individuals to the above process.

Additionally, the Acts repeal a requirement that MVA suspend the driver's license of a debtor with unsatisfied motor vehicle judgements and the registrations of all vehicles owned by the debtor. Further, *Senate Bill 234* requires the Department of Legislative Services (DLS) to study the feasibility of eliminating the minimum amount of outstanding fines required in order to enter into an installment plan with the court and additional statutory changes to ensure that debts accrued through the criminal justice system do not result in the loss of driving privileges. DLS must submit a report to the General Assembly by December 31, 2020.

General fund expenditures for the Judiciary increase by \$1.5 million in fiscal 2021 for additional personnel, one-time Judicial Information Systems reprogramming, and other operating expenses related to implementing the Acts. Out-year general fund expenditures reflect ongoing personnel and operating expenses. Transportation Trust Fund expenditures for MVA increase by an estimated \$172,800 in fiscal 2021 to send notices to suspended licensees affected by the Acts.

Senate Bill 177/House Bill 46 (Chs. 39 and 40) similarly repeal the authority of MVA to suspend the registration of a motor vehicle if the owner or driver of the vehicle fails to pay the penalty assessed for a violation recorded by a traffic control signal monitoring system (red light camera) or a speed monitoring system (speed camera). MVA may still refuse to register or reregister the motor vehicle at the time of registration transfer or renewal.

Issuance of Recall Notices for Confiscated Driver's Licenses

Pursuant to federal regulations adopted under the REAL ID Act, MVA must verify the identity and lawful status of each applicant for a driver's license or ID card. Once fully enforced, driver's licenses and ID cards issued by states that are not in compliance with REAL ID standards will not be recognized for federal purposes, including accessing a federal facility and boarding a federally regulated commercial aircraft.

In 2014, MVA began compliance with the REAL ID Act under guidance from the federal Homeland Security Administration (HSA) that required only new driver's license applicants, and not applicants for renewal, to have the required identity and lawful status documentation on file with MVA. In 2016, HSA revised its guidance to require all driver's license holders to have the required documentation on file, and as a result, MVA had to require more than 1.1 million driver's license holders who had a REAL ID compliant license in appearance to provide the proper documentation. An affected driver's license holder who misses the compliance deadline is flagged, and as required by HSA, law enforcement is required to confiscate a flagged driver's license if encountered in the field. An individual whose driver's license is confiscated does not lose the individual's driving privileges but would be unable to meet the requirement to possess the driver's license while operating a motor vehicle on a highway and to display the driver's license to law enforcement on demand. *House Bill 28 (Ch. 610)* is an emergency measure that requires a law enforcement officer who confiscates an individual's driver's license for failure to submit required documentation to issue the individual a written recall notice. A person may satisfy the requirement that each individual driving a motor vehicle on a highway in the State possess a driver's license and display the driver's license to law enforcement on demand by possessing and displaying a recall notice issued within the previous 60 days. The Act terminates December 31, 2024.

Issuance of Identification Cards to Inmates

The Department of Public Safety and Correctional Services (DPSCS) must issue an identification (ID) card to an inmate before release from confinement in a State correctional facility. The ID card must meet the requirements for secondary identification for the purpose of an ID card issued by MVA. DPSCS advises that, since 2012, it has issued approximately 19,000 MVA ID cards to inmates prior to and after release.

Senate Bill 77 (Ch. 514) requires local correctional facilities to develop and implement a policy for assisting inmates to obtain ID cards issued by MVA, either before or after release from confinement. MVA must issue an ID card at no cost to an applicant who presents a specified ID card issued by the Division of Correction and a Social Security card. Additionally, the Act requires DPSCS to obtain an inmate's birth certificate and Social Security card after taking custody of an inmate (unless the inmate does not consent) and report specified data related to the Act's provisions to the General Assembly by January 5, 2022, and each year thereafter through 2024.

Motor Vehicle Registration Plates

MVA offers special registration plates for honorably discharged veterans; recipients of individually earned, combat-related armed forces medals; and recipients of a U.S. Department of Defense Gold Star indicating status as a surviving spouse, parent, or next of kin of a member of the armed forces who lost his or her life in combat. **House Bill 646 (Ch. 286)** requires MVA to charge an additional fee of at least \$10 for the issuance of these special registration plates. The additional fee must be credited to the Maryland Veterans Trust Fund.

Motor vehicle registration plates must be fastened in accordance with specified requirements and maintained free from foreign materials, including registration plate covers, and in a condition to be clearly legible. **Senate Bill 859/House Bill 200 (Chs. 106 and 107)** subject only to secondary enforcement a violation involving the placement of an object framing or bordering the edges of a registration plate. Under secondary enforcement, a police officer may not issue a citation to a driver for a violation unless the officer has first detained the driver for another suspected violation of State law.

Suspension of Business and Occupational Licenses for Safety Inspection Violations

MVA licenses and regulates motor vehicle manufacturers, distributors, factory branches, vehicle dealers, vehicle salespersons, automotive dismantlers and recyclers, scrap processors, title service agents, driver's schools, and driving instructors. MVA may only suspend or revoke a specified business or occupational license after holding a hearing. **House Bill 157 (Ch. 85)** authorizes MVA to immediately suspend a business or occupational license before holding an administrative hearing if MVA determines that the person is violating the used vehicle safety inspection requirements and that there is a danger of immediate, substantial, and continuing harm to the public if the license is continued pending a hearing. MVA must grant a hearing on the license suspension within seven days of a request for a hearing and render an immediate decision after the hearing, as specified.

Transfer of Vehicle Dealer Franchises

A dealer or an owner, partner, or stockholder of a vehicle dealership may not sell, assign, or otherwise transfer a franchise or any right under a franchise without the consent of the manufacturer. **Senate Bill 813/House Bill 1064 (Chs. 417 and 418)** require an owner, partner, or stockholder of a vehicle dealership seeking to sell, assign, or otherwise transfer a franchise (or any right under a franchise) to provide written notice to the vehicle manufacturer of the proposed transfer. The Acts establish timeframes within which the manufacturer must (1) provide the

transferor with all forms and requests for information considered necessary to evaluate the proposed transfer and (2) give consent to the transfer or provide a written statement of the specific grounds for its refusal to consent to the transfer.

Rules of the Road

Overtaking and Passing Bicycles

When overtaking a bicycle, a driver generally must safely pass the bicycle at a distance of at least three feet. *Senate Bill 199/House Bill 230 (Chs. 114 and 115)* authorize a driver to drive on the left side of the roadway in a no-passing zone to make the minimum adjustment necessary to overtake and pass, at a safe distance, a bicycle traveling in the same direction while yielding to the right-of-way of the bicycle and oncoming traffic.

Automated Enforcement

After cost recovery, the fines collected by Prince George's County as a result of violations enforced by speed monitoring systems on Maryland Route 210 (Indian Head Highway) are deposited in the Criminal Injuries Compensation Fund (CICF). *House Bill 275 (Ch. 147)* repeals the requirement that these fine revenues be distributed to CICF and instead requires the revenues to be distributed to the State Highway Administration (SHA). SHA must use the fine revenues solely to assist in covering the costs of (1) examining the engineering, infrastructure, and other relevant factors that may contribute to safety issues on Maryland Route 210 in Prince George's County; (2) reporting its findings and recommendations on any solutions to these safety issues; and (3) implementing any solutions to these safety issues.

Senate Bill 41 (Ch. 504) authorizes Baltimore County to place vehicle height monitoring systems on highways in the county if authorized by the Baltimore County Council after notice and a public hearing. Before a vehicle height monitoring system may be installed, the county must convene a workgroup to perform specified tasks and make recommendations to the Baltimore County Council. Should the authorization be used in Baltimore County, the county police department may issue warnings or citations to a vehicle owner for violating a State or local law restricting the presence of certain vehicles on certain highways or at certain times. The county police department must issue a warning for a vehicle's first violation. The maximum fine for a citation is \$250 for a second violation and \$500 for a third or subsequent violation.

Worcester County Special Event Zones

SHA, on its own initiative or at the request of a local authority, may designate an area on a State highway in Worcester County as a special event zone. Likewise, a local authority in Worcester County may designate an area on a highway under its jurisdiction as a special event zone. SHA or the local authority may reduce speed limits in a special event zone after a determination that the change is necessary for public safety, and an individual who violates these reduced speed limits is subject to enhanced fines. *Senate Bill 878/House Bill 1493 (Chs. 622 and 623)* are emergency measures that prohibit a person from engaging in "exhibition driving" as defined under the Acts within a special event zone. A violator is subject to imprisonment for up to

60 days or a fine of up to \$1,000 or both. The Acts also subject specified violations of the Maryland Vehicle Law (negligent driving, driving in a race or speed contest, participating in a race or speed contest as a timekeeper or flagman, *etc.*) to higher maximum fines when these violations occur in special event zones.

Equipment and Inspections

House Bill 158 (Ch. 86) modifies vehicle equipment and safety standards set forth in the Maryland Vehicle Law, generally to conform to federal requirements, address technology advancements, and repeal outdated or obsolete requirements. The Act affects several provisions of law related to equipment and safety standards for windshields, lighting equipment (*e.g.*, headlamps, stop lamps, signal lamps, *etc.*), and the performance ability of brakes. The Act also revises standards for the licensing of inspection stations and mechanics.

Chapter 91 of 2014 required the Automotive Safety Enforcement Division of the Department of State Police (DSP) to establish the manner and format for the submission of an inspection certificate for the transfer of a used vehicle and authorized electronic submission of these inspection certificates while maintaining the option of paper submission. Chapter 670 of 2017 extended the termination date for the electronic inspection certificate program for used vehicles by three years to June 30, 2020. **House Bill 154 (Ch. 83)** makes the program permanent and authorizes DSP to require electronic submission of used vehicle inspection certificates.

Under the Vehicle Emissions Inspection Program (VEIP), certain vehicles registered in the State must undergo emissions inspections every two years. **House Bill 133 (Ch. 68)** exempts from the VEIP requirement motor vehicles owned by at least one active-duty member of the U.S. armed services if the owner has received military orders (1) for deployment outside of the United States or (2) to a duty station in a jurisdiction that is not subject to a vehicle emissions control inspection and maintenance program. In order to qualify for the exemption, all owners of the vehicle must certify that at least one owner of the vehicle has received military orders for deployment, as specified. The exemption does not apply if prohibited by federal law.

Miscellaneous

Maryland Zero Emission Electric Vehicle Council

The Maryland Zero Emission Electric Vehicle Infrastructure Council (ZEEVIC), originally established as the Maryland Electric Vehicle Infrastructure Council, is generally charged with developing a plan to facilitate the integration of electric vehicles into the State's transportation network and developing statewide charging infrastructure. **House Bill 232 (Ch. 118)** extends the termination date and establishes new interim and final reporting deadlines for ZEEVIC. The final reporting deadline is extended by six years to June 30, 2026.

Rental Vehicles: Driver's License Verification

A person may not rent a motor vehicle, trailer, or semitrailer to any other person unless the individual who will operate the rented vehicle has an appropriate driver's license. The lessor of

the rented vehicle (or agent) must inspect a renter's license to ensure rented signature and physical description match and keep specified records of the transaction. *House Bill 1013 (Ch. 404)* prohibits a person from renting a motor vehicle, trailer, or semitrailer to any person unless the lessor (or agent) has verified that the license of the individual who will drive the rented vehicle is not expired. Additionally, the Act authorizes the inspection of a license and maintenance of related records through electronic or digital means and license confirmation and inspection requirements to be fulfilled for transactions that are not in person through membership or master program agreements.

Motor Vehicle Liens: Electronic Recordation

MVA has a voluntary process in place to record liens and lien releases electronically. *Senate Bill 778/House Bill 1033 (Chs. 411 and 412)* require a lien release pertaining to a motor vehicle to be filed electronically with MVA within five business days, as specified, and require rather than authorize MVA to develop and implement an electronic system for recording and releasing security interests. The electronic system may provide for the electronic transmission of publicly available electronic vehicle records. A motor vehicle lienholder must file electronically with MVA (1) each of its liens and (2) when a lien is paid in full, the lien release. These requirements do not apply to a lienholder that is not regularly engaged in the business or practice of financing motor vehicles.

Voluntary Developmental Disability Self-disclosure Cards

House Bill 1118 (Ch. 427) requires MVA to develop a voluntary developmental disability self-disclosure card in consultation with the Maryland Chiefs of Police Association and at least one independent organization that advocates on behalf of individuals with developmental disabilities. The card must meet specified physical and informational requirements, and MVA must make the card available beginning January 1, 2021. MVA may not maintain any records related to the issuance of a card, except for records related to matters before the Medical Advisory Board.

Part H

Business and Economic Issues

Business Occupations

Program Evaluations and Extensions (Sunset Review)

Approximately 70 regulatory entities and activities are subject to evaluation under the Maryland Program Evaluation Act (MPEA). Entities subject to MPEA may be evaluated by the Department of Legislative Services only as directed by specified entities or by legislation. Most such entities are subject to termination and must be reauthorized periodically – regardless of whether an evaluation has been undertaken. This session, legislation extended the termination dates for a number of regulatory agencies.

The State Board of Pilots is responsible for licensing individuals who are tasked with guiding marine vessels into or out of a port or through dangerous waters. *Senate Bill 71 (Ch. 511)* extends the termination date of the board by 10 years – from July 1, 2022, until July 1, 2032.

Generally, an individual must be licensed by the State Real Estate Commission as a real estate broker, associate broker, or salesperson before the individual may provide real estate brokerage services in the State, subject to specified requirements for licensure and ongoing licensee behavior. The commission also administers a guaranty fund for the purpose of reimbursing persons for actual losses due to acts or omissions that occur in the provision of real estate brokerage services by licensees or unlicensed employees of licensed real estate brokers. *Senate Bill 6 (Ch. 493)* extends the termination date of the commission by 10 years – from July 1, 2022, until July 1, 2032.

Licensing Requirements

Professional Engineers

Generally, an individual must be licensed by the State Board for Professional Engineers before being authorized to practice engineering in Maryland. There are several pathways to licensure. *Senate Bill 12 (Ch. 497)* repeals a provision of law that required an applicant to have

served in a supervisory capacity for at least five years in order to qualify for licensure on one of the pathways.

Real Estate Appraisers and Real Estate Appraiser Trainees

Statute requires that, in addition to other requirements, an applicant for initial licensure or certification by the State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors complete at least 2,000 hours of real estate appraiser services as a trainee under the supervision of a certified appraiser in order to be eligible for the credential. However, regulations specify requirements of 2,000 hours for licensure, 2,500 hours for residential certification, and 3,000 hours for general real estate certification, completed over a minimum of two to two and a half years. *Senate Bill 117 (Ch. 531)* reduces the *statutory* 2,000-hour minimum work experience requirements for licensure or certification as a real estate appraiser to 1,000 hours and 1,500 hours, respectively, and alters various requirements related to reinstatement of a license or certificate. For real estate appraiser trainees, the Act further removes the limitation on the number of times a real estate appraiser trainee license may be renewed, repeals the related renewal fee, and establishes conforming reinstatement requirements.

State Real Estate Commission Licensees

Each individual licensed by the State Real Estate Commission as an associate real estate broker, real estate broker, or real estate salesperson must generally complete 15-clock hours of continuing education every two years in order to qualify for license renewal. *Senate Bill 350/House Bill 1446 (Chs. 475 and 476)* alter the subject matter required to be covered by continuing education to include a discussion of fraudulent real estate practices and professionalism as it relates to the Maryland Code of Ethics.

Workgroup

The State Board of Master Electricians in the Maryland Department of Labor (MDL) issues master electrician licenses to qualified individuals under the Maryland Master Electricians Act. Each county is required to *either* adopt licensing qualifications comparable to or more stringent than specified State qualifications *or* require a State license and enforce compliance with State licensing requirements. In a local jurisdiction that requires a local license, the State license does not authorize the provision of electrical services but serves only as a reciprocal mechanism for obtaining licenses in each local jurisdiction.

Over the last 10 years, the General Assembly has considered the costs and benefits of establishing statewide licensing requirements for master electricians and other individuals involved in the provision of electrical services. *Senate Bill 994 (Ch. 591)* requires that MDL convene a workgroup to study and make recommendations regarding the licensing of master, journeyman, and apprentice electricians; the provision of low-voltage electrical services; and several related issues. By December 1, 2020, the department must report the workgroup's findings and recommendations to specified committees of the General Assembly.

Business Regulation

Program Evaluation and Extension (Sunset Review)

Approximately 70 regulatory entities and activities are subject to evaluation under the Maryland Program Evaluation Act (MPEA). Entities subject to MPEA may be evaluated by the Department of Legislative Services only as directed by specified entities or by legislation. Most such entities are subject to termination and must be reauthorized periodically – regardless of whether an evaluation has been undertaken.

Maryland Home Improvement Commission

The Maryland Home Improvement Commission (MHIC) in the Maryland Department of Labor (MDL) licenses and regulates home improvement contractors and salespersons, subject to specified requirements for licensure and ongoing licensee behavior. MHIC also administers a guaranty fund for the purpose of reimbursing homeowners for actual losses due to the errors and omissions of licensed contractors and their subcontractors, salespersons, and employees. MHIC licenses approximately 21,500 individuals, with annual revenues of approximately \$2.5 million and annual operating expenditures of approximately \$1.8 million. *Senate Bill 116 (Ch. 530)* extends the termination date of MHIC by 10 years – from July 1, 2022, until July 1, 2032.

Licensing Requirements

The Veterans Full Employment Act of 2013 facilitates professional licensing for active military personnel, veterans, and their spouses. The Act applies to the State’s major licensing agencies, including MDL. Under the Act, as amended by Chapter 312 of 2019, occupational and professional licensing units within MDL must issue expedited standard licenses, registrations, or certificates to military service members, veterans, and military spouses if specified education, training, and experience conditions are met. One of the conditions is that the applicant holds a valid license in good standing from another State.

Senate Bill 280/House Bill 349 (Chs. 176 and 177) alter the eligibility requirements for a service member, veteran, or military spouse to apply for an expedited occupational or professional license from MDL. In order to obtain an expedited standard license from MDL, the applicant must, in addition to other requirements, provide proof that the applicant has held an equivalent valid license from another state for at least one year. Each valid license issued by another state must be in good standing. If an applicant has held the license for less than one year, an expedited temporary license may be issued instead, as long as the issuance does not pose a risk to public health, welfare, or safety. The temporary license allows the individual to perform regulated services while completing additional requirements for licensure in the State.

Under the Acts, MDL is no longer required to determine that the requirements for licensure in another state are substantially equivalent to, or exceed the requirements for, licensure in Maryland prior to issuing an expedited license. Also, the requirement that an expedited temporary license be issued for nonequivalent licenses is repealed.

Miscellaneous

Elevator Inspections

Elevators in Maryland must be inspected, tested, and maintained in a safe operating condition in accordance with the State Safety Code and regulations adopted by the Commissioner of Labor and Industry. Chapter 337 of 2018 phased in a requirement that annual and five-year tests performed on elevators in both privately and publicly owned buildings be conducted in the physical presence of a third-party qualified elevator inspector. Prior to enactment of Chapter 337, State inspectors, rather than third-party qualified elevator inspectors, conducted some of these inspections. The first two phases of implementation went into effect on October 1, 2018, and October 1, 2019. The final phase – annual inspections of privately owned elevators – is scheduled to go into effect on October 1, 2020.

Senate Bill 618 (Ch. 569) delays the requirement that certain annual tests on an elevator in a privately owned building be performed in the physical presence of a licensed third-party qualified elevator inspector. The Act delays the requirement from October 1, 2020, to October 1, 2021, for all elevators in privately owned buildings, except for direct-acting hydraulic elevators, which must comply beginning October 1, 2022. The Secretary of Labor must report to the Senate Finance Committee and the House Economic Matters Committee by January 1, 2021, and January 1, 2022, on the status of how elevator inspections are being conducted in accordance with the Act.

Home Builders

The Home Builder Guaranty Fund, administered by the Consumer Protection Division (CPD) of the Office of the Attorney General, allows consumers to seek compensation for actual losses resulting from an act or omission by a registered home builder who constructs a new home for a consumer. The fund is supported by fees collected by local governments from home builders upon application for a construction permit. *Senate Bill 164/House Bill 116 (Chs. 58 and 59)* increase, from \$300,000 to \$500,000, the maximum amount CPD may award from the Home Builder Guaranty Fund to all claimants for acts or omissions of one registered home builder before the registered home builder reimburses the fund.

Lodging Establishments

The federal Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability by public and private entities in the provision of public services and accommodations. Under the 2010 ADA Standards for Accessible Design, newly constructed or altered places of lodging must provide a specified minimum number of guest rooms with mobility features, and those guest rooms must meet certain specifications. However, the specifications do not include requirements for bed height.

House Bill 771 (Ch. 319) requires each accessible room in an inn, hotel, motel, or other establishment that has at least four rooms available for a fee to be furnished with a bed that (1) measures at least 20 inches but no more than 23 inches high from the floor to the top of the

mattress, whether or not the mattress is compressed, and (2) has at least a 7-inch vertical clearance under the bed for lift access. The Act's requirement is phased in over the course of four years and each accessible room must comply by December 31, 2024.

Regulations Affecting Small Businesses

The Joint Committee on Administrative, Executive, and Legislative Review (also known as the AELR Committee) is a legislative committee that reviews any regulations that are proposed for adoption by a unit of the Executive Branch of State government to determine whether the regulations conform to the statutory authority of the unit and the legislative intent of the statute under which the regulations are proposed.

House Bill 817 (Ch. 333) requires an Executive Branch agency, when submitting regulations to the AELR Committee, to include, in its economic impact analysis relating to small businesses, a certification stating (after posting the regulation or scope of the regulation on its website) whether the agency has received notice of whether any existing regulation of a comparable nature that is at least as stringent as the proposed regulation has been adopted by a unit of local government. If the promulgating unit certifies that the unit has received notice of and determined that an existing local regulation is at least as stringent as the proposed regulation, the unit may also include a statement that compliance with the local regulation will constitute compliance with the proposed regulation.

Trademarks

An applicant for registration of a trademark must submit to the Secretary of State (SOS) an application on a form provided by SOS and three specimens or reproductions of the mark. An application must be signed under oath. The application form must require (1) the name and business address of the applicant; (2) the state of incorporation for an applicant that is a corporation; (3) the goods or services with which the applicant uses the mark; (4) the way the applicant uses the mark with the goods or services; (5) the class to which the goods or services belong; (6) the dates when the applicant or applicant's predecessor first used the mark anywhere and first used the mark in the State; and (7) a specified statement.

Senate Bill 23 (Ch. 501) makes several changes to provisions governing the registration of trademarks, service marks, and trade names, including (1) modifying definitions; (2) altering the classes of goods and services for which a person may register a mark; (3) generally prohibiting registration of a mark that is primarily an individual's name; (4) specifying application and renewal requirements; (5) altering the contents of a certificate of registration; (6) modifying renewal notice and application requirements; and (7) authorizing an officer of an assignor to submit an instrument of assignment for the registration of a mark.

Vehicle Dealers

House Bill 164 (Ch. 90) authorizes a vehicle dealer in Harford County to sell, barter, deliver, give away, show, or offer for sale a motorcycle or certificate of title for a motorcycle on Sundays effective June 1, 2020. The existing prohibition against Sunday sales for other motor

vehicles in the county is otherwise unchanged. *House Bill 600 (Ch. 270)* similarly authorizes motorcycle transactions on Sundays in Baltimore County effective June 1, 2020, without changing existing prohibitions for other motor vehicle transactions.

Public Service Companies

Public Service Commission

The Public Service Commission (PSC) regulates gas, electric, telephone, water, sewage disposal, and certain passenger transportation companies doing business in Maryland. The costs and expenses of PSC must be borne by the public service companies that are subject to PSC's jurisdiction. *Senate Bill 676/House Bill 102 (Chs. 54 and 55)* increase the maximum amount that PSC may assess each public service company to fund its operations each year from 0.17% to 0.25% of each company's gross operating revenues derived from intrastate utility and electricity supplier operations in the preceding calendar year.

Senate Bill 603/House Bill 928 (Chs. 373 and 374) require PSC to develop a training and educational program, in consultation with interested stakeholders, for any entity or individual that is licensed by PSC as an electricity supplier or a gas supplier, subject to specified requirements. The program must require that a designated representative of each licensed electricity supplier or licensed gas supplier demonstrate a thorough understanding of relevant PSC regulations. PSC must conduct an examination at the end of the training and certify that the designated representative has successfully completed the training. PSC may recover the initial costs of the program through its standard assessment and may establish reasonable fees for the program.

Utilities

Senate Bill 628 (Ch. 570) requires a "utility," as defined, in the event of an account owner's death, to provide assistance to a surviving spouse related to the administration of the utility account. On receiving proof of the relevant circumstances from the surviving spouse, a utility must either (1) keep the deceased's account open for at least six months with the surviving spouse as a joint account holder or (2) transfer the account to the surviving spouse. Generally, the utility must complete the entire process without requiring any further information, other than updated contact information, or imposing any fee or penalty; however, a utility may impose a fee or penalty or terminate an account for nonpayment. The utility may also close the account at the request of the surviving spouse.

On August 17, 2016, the four-story Flower Branch apartment building in Silver Spring caught fire and exploded. An adjacent building was also heavily damaged. The accident resulted in seven fatalities. The National Transportation Safety Board determined that the probable cause of the explosion was the failure of an indoor service regulator with an unconnected vent line that allowed natural gas into the meter room where the gas then accumulated and ignited. *House Bill 408 (failed)* would have required gas service regulators to be installed or relocated

outside of specified structures, subject to certain requirements and exemptions. The bill would have established multiple planning, review, and reporting requirements.

9-1-1 Modernization

The 9-1-1 system is funded through the 9-1-1 Trust Fund. Each telephone company and commercial mobile radio service (CMRS) provider in the State must act as a collection agent for the 9-1-1 Trust Fund and must remit all money collected on a monthly basis. *Senate Bill 61/House Bill 6 (Chs. 604 and 605)* require telephone companies and CMRS providers to keep records of 9-1-1 fees collected and remitted for at least four years after the fees are remitted. For a further discussion of *Senate Bill 61/House Bill 6*, see the subpart “Public Safety” of Part E – Crimes, Corrections, and Public Safety of this *71 Day Report*.

Underground Facilities

To protect underground facilities such as natural gas, telephone, cable, television, water, and sewer lines, Chapter 635 of 2010 established the Maryland Underground Facilities Damage Prevention Authority. Over the past decade, the authority’s participants identified several areas where its operations and procedures could be improved. *Senate Bill 877 (passed)* modernizes the authority’s statutory charter by making various changes to the authority, its composition and powers, and specifying related procedures for the ongoing protection of underground facilities. By October 1, 2021, any previously detectable or underground facility locatable during planned or emergency work must be restored to be detectable or locatable. Also, beginning on that date, except as otherwise provided, any newly installed specified underground facility must be detectable or locatable. Nothing in the bill may be construed to abrogate, modify, or infringe on the permitting requirements or any requirement of any permit issued by any governmental agency or entity. On May 7, 2020, the Governor vetoed the bill due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Transportation

Generally, a motor carrier permit is required for a passenger motor vehicle used in the transportation of persons for hire. *Senate Bill 171/House Bill 120 (Chs. 64 and 65)* exempt specified nonprofit organizations from this requirement when the organization uses a volunteer driver and the driver’s personal vehicle, or the organization uses drivers to provide transportation services solely for clients of supportive services. A related change excludes transportation services provided by nonprofits from the definition of “transportation network services.”

Workforce Development

Senate Bill 224/House Bill 1029 (Chs. 409 and 410) alter the allocation of funds for the Clean Energy Account within the Maryland Employment Advancement Right Now program established under the Clean Energy Jobs Act of 2019. For a further discussion of *Senate Bill 224/House Bill 1029*, see the subpart “Labor and Industry” of this part of this *71 Day Report*.

Other legislation related to public service companies was included in the *2020 Session Major Issues Review*.

Insurance (Other Than Health Insurance)

Property and Casualty Insurance – Generally

Insurers

The National Association of Insurance Commissioners (NAIC) is a national standard-setting and regulatory support organization created and governed by the chief insurance regulators from 50 states, the District of Columbia, and five U.S. territories. NAIC regularly develops model legislation concerning new and existing insurance issues and encourages its member regulators to adopt the legislation. *Senate Bill 167/House Bill 189 (Chs. 100 and 101)* update Maryland’s version of the NAIC Model Act #785 “Credit for Reinsurance Model Law,” by defining “covered agreement” and “reciprocal jurisdiction,” requiring creation and publication of a list of reciprocal jurisdictions and authorized assuming insurers and specifying when credit must be allowed whenever reinsurance is ceded to an assuming insurer.

Insurance Professionals

An insurance producer is a person licensed by the Maryland Insurance Administration (MIA) to sell insurance in the State on behalf of an insurer. If an applicant for an insurance producer license is not a resident of the State, the applicant may instead obtain a nonresident insurance producer license. *Senate Bill 93 (Ch. 520)* establishes qualifications for maintaining a nonresident insurance producer license. Additionally, the Act authorizes the Insurance Commissioner to cancel, rather than having to deny, suspend, or revoke, the license of a nonresident insurance producer after receiving notice that the person is no longer licensed in the person’s home state. Cancelling is not considered an adverse action and, therefore, does not have to be reported by the producer to other jurisdictions.

A “public adjuster” is a person who for compensation acts or aids, solely in relation to first-party claims arising under a policy of real or personal property, on behalf of the insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance policy. *Senate Bill 95 (Ch. 521)* requires a public adjuster to disburse insurance settlement payments received from an insurer on behalf of an insured within 15 business days.

A third-party administrator (TPA) is a person that acts for an insurer or plan sponsor. To act as a TPA, an applicant must register with the Insurance Commissioner and meet other specified requirements. *Senate Bill 96 (Ch. 522)* allows for the staggering of expiration dates for TPA registrations with MIA. Specifically, the Act alters registration terms to expire two years after the date of issuance, rather than every other June 30. The Act also authorizes a TPA to renew a lapsed registration within one year after the expiration date, rather than within three months, establishes a \$100 reinstatement fee, and repeals the existing tiered reinstatement fee schedule.

Policy Rating

Senate Bill 470 (Ch. 558) expressly authorizes a private passenger motor vehicle insurer to consider an applicant's homeowner's insurance claim history when initially rating a private passenger motor vehicle policy, but it prohibits the insurer from increasing the private passenger motor vehicle policy premium at the time of renewal based on a homeowner's insurance claim. Likewise, the Act expressly authorizes a homeowner's insurer to consider an applicant's private passenger motor vehicle insurance claim history when initially rating a policy, but it prohibits the insurer from increasing the homeowner's policy premium at the time of renewal based on a private passenger motor vehicle insurance claim.

Motor Vehicle Insurance

Policy Cancellation and Failure to Renew

A private passenger motor vehicle liability insurer may cancel or fail to renew a policy or binder or reduce coverage under a policy with specified exceptions and increase the total premium for a policy under certain circumstances. Generally, the insurer must notify an insured of any such action in a specified manner and follow other specified procedures. Additionally, when proposing to increase the premium of a policy, an insurer must notify the policyholder of certain information directly related to the premium increase. The insured generally has the right to protest the proposed action and request a hearing before the Insurance Commissioner.

Senate Bill 97 (Ch. 523) allows an insured to file with MIA a protest of certain actions by a private passenger motor vehicle insurer through the consumer complaint portal on MIA's website and generally simplifies the protest process.

Senate Bill 125/House Bill 118 (Chs. 62 and 63) prohibit a private passenger motor vehicle insurer from cancelling, refusing to renew, or otherwise terminating coverage for a policy because of a claim under the towing or emergency roadside service (ERS) coverage in the policy. However, the Acts expressly authorize such an insurer to remove the towing or ERS coverage from a policy at the time of renewal based on the number of towing or ERS claims and increase the premium of a policy as a result of a towing or ERS claim.

Usage-Based Insurance Programs

Usage-Based Insurance (UBI) programs use telematics devices installed on or used in an insured vehicle to directly monitor driving behavior, such as distances driven, speeding, or hard braking. Once the data are collected and analyzed, an insurer adjusts the premiums accordingly. *Senate Bill 195/House Bill 270 (Chs. 144 and 145)* make various changes to the regulatory framework governing automobile insurance with respect to telematics and UBI programs. Among other things, the Acts exempt UBI program policies from the three-year window for review of claims and driving record and the ability to exclude a named individual from a policy, expressly allow a premium increase based on usage under specified circumstances, and prohibit an insurer from using telematics to cancel or refuse to renew a policy. The Acts generally prohibit an insurer

from requiring an applicant or policyholder to use telematics unless the insurer only offers UBI policies.

Uninsured Motorist Coverage

Uninsured motorist coverage (UM) and enhanced underinsured motorist coverage (EUIM) pay for injury and damages caused by an uninsured, underinsured, or hit-and-run motorist. The coverage reimburses the policyholder, members of the policyholder's family, or a designated driver for an accident caused by the motorist. *House Bill 144 (Ch. 77)* clarifies that UM or EUIM coverage must entitle the insured to recover from the owner or operator of an uninsured motor vehicle because of property damage, including the loss of use of the insured vehicle. The Act requires that the minimum security amounts for bodily injury and property damage must include any loss of use of the insured vehicle.

Rental Vehicles

Class E (truck) rental motor vehicles include pickup trucks, dump trucks, tow trucks, and similar vehicles. *House Bill 1142 (Ch. 433)* authorizes the lessor of a Class E (truck) rental motor vehicle to offer the lessee a collision damage waiver if the truck being rented is used primarily for personal, household, family, or agricultural purposes and does not exceed a three-quarter ton capacity or 7,000 pounds gross vehicle weight.

Life Insurance

Senate Bill 111 (Ch. 527) requires universal and variable life insurers to provide written notice to a policyholder if a policy allows the policyholder to reduce the face amount of the policy. The notice must be sent at the beginning of the grace period for paying premiums and state that the policy allows for a reduction of the face amount of the policy as an option to retain coverage, among other information. The notice must be sent to a policyholder's last known address at the beginning of the grace period required for payment of premiums for life insurance policies and at least 30 days before termination of coverage.

Horse Racing and Gaming

Video Lottery Facilities

Chapter 4 of the 2007 special session, which authorized video lottery facilities in the State, included a requirement that construction and procurement related to the operation of the facilities meet the same participation requirements for State agencies under the State's Minority Business Enterprise (MBE) program. That requirement, reauthorized in 2011, 2018, and 2019, is scheduled to terminate July 1, 2020. *Senate Bill 442 (Ch. 553)* extends for three years the application of the State's MBE program requirements to video lottery facility operations and restores the application of the MBE program to public-private partnerships and offshore wind projects. For a more detailed

discussion of *Senate Bill 442*, see the subpart “Procurement” within Part C – State Government of this *71 Day Report*.

Through federal Bank Secrecy Act (BSA) reporting and recordkeeping requirements, paper trails of transactions are created that law enforcement and others can use to combat money laundering. The State Lottery and Gaming Control Agency (SLGCA) is responsible for ensuring that casino operators comply with the BSA. *Senate Bill 79 (Ch. 515)* alters the definition of “video lottery facility” to include a casino for purposes of the BSA, which would enable federal regulators to share specified financial transaction data with SLGCA.

Local Gaming

The State admissions and amusement (A&A) tax is imposed on the net proceeds derived from any charge for the operation of electronic bingo machines or electronic tip jars for commercial purposes. *Senate Bill 465* (passed) makes permanent the distribution of A&A tax revenues from electronic gaming devices to the E-Innovation Initiative Fund and the Maryland State Arts Council and provides, beginning in fiscal 2021, for the distribution of specified revenues to the Town of Chesapeake Beach and the Michael Erin Busch Sports Fund, subject to a certain contingency. For further discussion of the A&A tax under the bill, see the subpart “Miscellaneous Taxes” within Part B – Taxes of this *71 Day Report*. On May 7, 2020, the Governor vetoed the bill due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Horse Racing

Legislation related to horse racing was covered in the *2020 Major Issues Review*.

Economic Development

Opportunity Zones

The Federal Tax Cuts and Jobs Act of 2017 established the Qualified Opportunity Zones Program to incentivize private investment in distressed communities. Under the Act, states may nominate up to 25% of specified low-income census tracts for designation by the U.S. Treasury as opportunity zones. The program offers federal tax incentives related to capital gains for persons who make qualifying investments within these designated opportunity zones. Chapter 211 of 2019 established the Opportunity Zone Enhancement Program to be administered by the Department of Commerce (Commerce). Under the program, certain businesses within an opportunity zone may qualify for enhanced incentives under the following tax credit programs in the State: (1) job creation; (2) One Maryland; (3) enterprise zone; (4) biotechnology investment incentive; (5) cybersecurity investment incentive; and (6) More Jobs for Marylanders.

Opportunity Zone Enhancement Program Alterations

House Bill 45 (Ch. 38) alters the Opportunity Zone Enhancement Program by (1) limiting the enhanced tax benefits available under the program to tax years 2019 through 2026; (2) restricting eligibility for the enhanced benefits under the biotechnology investment incentive and cybersecurity investment incentive tax credit programs to investments made in a company that is newly established or expands into an opportunity zone on or after March 1, 2018; (3) requiring businesses in a county with a minimum wage that exceeds the State minimum wage to pay the greater of 120% of the State or county minimum wage; and (4) altering certain application and reporting requirements. The Act also prohibits golf courses, country clubs, tanning salons, and bail bondsmen from participating in the More Jobs for Marylanders Program.

Senate Bill 713/House Bill 566 (Chs. 254 and 255) alter the information that must be provided by an applicant for an enhanced tax credit under the Opportunity Zone Enhancement Program to include information related to lead-based paint abatement in specified circumstances, such as providing proof of registration with the Maryland Department of Environment's Lead Poisoning Prevention Program and proof of certain lead inspections, if applicable.

Department of Commerce

Data Collection, Tracking, and Reporting Requirements

House Bill 1026 (Ch. 408) adds the More Jobs for Marylanders Tax Credit, the Purchase of Cybersecurity Technology or Service Tax Credit, the Opportunity Zone Enhancement Tax Credit, and the Small Business Relief Tax Credit to the definition of economic development program for specified data collection, tracking, and reporting requirements under the Maryland Jobs Development Act. Additionally, the Act requires Commerce to establish, maintain, and annually update a publicly available database on the department's website that provides related specified information on its economic development programs.

The State's Minority Business Enterprise (MBE) program requires that a statewide goal for MBE contract participation be established biennially through the regulatory process under the Administrative Procedure Act, with the goal currently set at 29%. **Senate Bill 499/House Bill 404 (Chs. 194 and 195)** require Commerce to include specified information related to MBEs in its annual consolidated report on economic development programs.

Maryland Technology Development Corporation

The Maryland Technology Development Corporation (TEDCO) is an independent entity established by the General Assembly to facilitate the creation of technology companies and encourage collaboration between these emerging businesses and federal and State research laboratories.

Small Business Innovation Research and Technology Transfer Programs

The U.S. Small Business Administration’s Office of Technology administers the Small Business Innovation Research and Technology Transfer (SBIR/STTR) programs, which are competitive federal grant programs for small high-tech innovative businesses. The National Institutes of Health award SBIR/STTR grants to businesses engaging in research and development that has a strong potential for commercialization.

To enhance federally awarded SBIR/STTR grants, *Senate Bill 398/House Bill 514 (both passed)* establish the Maryland Small Business Innovation Research and Technology Transfer Incentive Program, administered by TEDCO. An eligible small business may apply for a State award or investment of 25% of an SBIR/STTR federal grant, limited to \$25,000 for Phase I funding or \$75,000 for Phase II funding. TEDCO may make up to 20 Phase I distributions and 10 Phase II distributions per fiscal year. Recipients of similar grants to SBIR/STTR are also eligible, and awards or investments may exceed the maximum amount under specified circumstances. The bills also establish a special fund for the grant awards and administration of the program.

On May 7, 2020, the Governor vetoed the bills due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Senate Bill 583/House Bill 521 (Chs. 231 and 232) establish the Maryland Small Business Innovation Research Technical Assistance Program, administered by TEDCO, to provide technical assistance to eligible small businesses (those with no more than 50 employees, in addition to other criteria) to encourage and facilitate the receipt of grants under the federal SBIR/STTR programs.

Recodification of TEDCO Statutes

In response, in part, to a February 2019 fiscal compliance audit of TEDCO conducted by the Office of Legislative Audits, Chapters 487 and 488 of 2019 required the Department of Legislative Services to review TEDCO’s statute and make recommendations for clarity and consistency. *Senate Bill 747 (Ch. 580)* revises, restates, and recodifies the laws of the State related to TEDCO by adding a new subtitle. The Act also requires TEDCO, by December 1, 2020, to review the entirety of TEDCO-related statutory provisions and report recommended changes to the General Assembly.

Maryland Stadium Authority

Youth and Amateur Sports Grants Program and Michael Erin Busch Sports Fund

Maryland Sports under the Maryland Stadium Authority brings regional, national, and international sporting events at all levels of competition to the State for the purposes of utilizing sports facilities in the State, enhancing the economic development of the State, and promoting the State as a destination for amateur and professional sporting events. *House Bill 1659 (passed)* establishes the Youth and Amateur Sports Grants Program under Maryland Sports to bring new youth and amateur sporting events to the State and attract sports fans, participants, and tourists. Generally, Maryland Sports may award grants of up to \$75,000 to nonprofit organizations,

counties, business entities, or individuals to bring youth and amateur sporting events to the State. The bill also establishes the Michael Erin Busch Sports Fund for the grants and administration of the program. Beginning in fiscal 2021, \$1.0 million annually must be allocated to the fund from the remaining money in the State Lottery Fund after other specified distributions are made.

On May 7, 2020, the Governor vetoed the bill due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Regional and Local Economic Development

Baltimore Symphony Orchestra

In response to the Baltimore Symphony Orchestra's (BSO) past financial difficulties, *Senate Bill 1065/House Bill 1658 (both passed)* require the Governor to include annual appropriations in the State budget for BSO for fiscal 2022 through 2026. The required amount is as follows: (1) \$1.5 million in fiscal 2022; (2) \$1.3 million in fiscal 2023; (3) \$1.1 million in fiscal 2024; (4) \$0.9 million in fiscal 2025; and (5) \$0.7 million in fiscal 2026. The bills also establish related financial reporting requirements for BSO for five years, beginning in 2022.

On May 7, 2020, the Governor vetoed the bills due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Prince George's County Multiphase Economic Development Projects

Chapter 402 of 2012 authorized Prince George's County, by resolution, to exempt specified economic development projects located in designated focus areas from county real property taxes if certain specified conditions were met. *House Bill 434 (Ch. 206)* repeals the June 30, 2021 termination date of the authorization for the county to exempt these projects from county real property taxes. The Act also authorizes Prince George's County to enter into multiple payment in lieu of taxes agreements for different phases of an economic development project.

Charles County Tax Increment Financing and Special Taxing District

Senate Bill 431/House Bill 345 (Chs. 174 and 175) expand the authority of Charles County to use tax increment financing (TIF) and special taxing districts to finance convention, conference, and visitors' centers and related purposes, subject to specified conditions. *Senate Bill 431* limits TIF to be used only in the Waldorf Urban Redevelopment Corridor, while *House Bill 345* does not establish such a limitation.

Tri-County Council for Southern Maryland

The Tri-County Council for Southern Maryland is a cooperative planning and development unit for Calvert, Charles, and St. Mary's counties. The council initiates and coordinates plans and projects for the development of human and economic resources of the region as a Southern Maryland planning and development unit. *Senate Bill 805/House Bill 387 (Chs. 191 and 192)* increase the amount of money that Calvert, Charles, and St. Mary's counties must each appropriate

to the council to \$125,000 annually, beginning in fiscal 2021. Under current law, Calvert County must appropriate \$7,000 annually, and Charles and St. Mary’s counties must each appropriate \$9,000; however, in practice, each county provided \$94,200 in fiscal 2020.

Tri-County Council for Western Maryland

The Tri-County Council for Western Maryland is a 26-member regional economic development organization representing Allegany, Garrett, and Washington counties. A board of directors governs the council and includes representatives from both the public and private sectors. In contrast to other analogous councils across the State, local Maryland Municipal League chapters appoint two mayors from each county to the council. *Senate Bill 292 (Ch. 545)* alters the appointment process by requiring the mayors to be appointed by the commissioners from their respective member county.

Task Force on the Economic Future of Western Maryland

House Bill 436 (Ch. 207) establishes the Task Force on the Economic Future of Western Maryland to study the current economic conditions of Western Maryland and make recommendations on potential methods to improve the economies of Allegany, Garrett, and Washington counties. Potential methods may include opportunities to expand economic activity in technology-based industry, to strengthen tourism related-businesses, and strategies to overcome barriers to the creation and expansion of new small businesses. The task force must report its findings and recommendations to the Governor and General Assembly by January 1, 2021.

Miscellaneous

Small Business Development Center Network Fund

The Small Business Development Center offers free business consulting services to new and existing small businesses. The network is organized across five regions, with more than 20 offices located throughout the State; in order to receive federal funds the State must provide at least a one-to-one match. *Senate Bill 493 (passed)* increases the minimum required general fund appropriation to at least \$1,150,000 beginning in fiscal 2022 from at least \$950,000 under current law.

On May 7, 2020, the Governor vetoed the bill due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Maryland E-Novation Initiative Program

Chapters 532 and 533 of 2014 established the Maryland E-Novation Initiative Program, Authority, and Fund. Subject to a matching requirement, the program provides funds to qualifying nonprofit institutions of higher education in the State to create and administer research endowments. Each year, revenues attributable to a State admissions and amusement (A&A) tax rate of 20% imposed on electronic bingo and tip jars are dedicated to fund the program. If this amount is not at least \$8.5 million, then the Governor is required to make up the difference in the

annual budget appropriation. These requirements were set to expire after fiscal 2021. In addition to specified programmatic changes, *Senate Bill 465 (passed)* makes permanent the requirement that the State A&A tax attributable to a 20% tax rate be dedicated to the E-Innovation Fund and extends the \$8.5 million annual minimum through fiscal 2026.

Regarding other required distributions of the State A&A tax, the bill makes permanent the distribution equal to a tax rate of 5% to the following purposes: (1) \$1 million to the Maryland State Arts Council; (2) \$300,000 to the Town of Chesapeake Beach; and (3) the remainder to the Preservation of Cultural Arts within Commerce. Contingent on the enactment of *House Bill 1659*, which was vetoed by the Governor, the bill also requires \$500,000 to be distributed to the Michael Erin Busch Sports Fund.

On May 7, 2020, the Governor vetoed the bill due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Housing and Community Development

Youth Homelessness

Chapter 553 of 2019 established the Workgroup to Study the Shelter and Supportive Services for Unaccompanied Homeless Minors. The workgroup was required to, among other things, study the unique needs of unaccompanied homeless minors, identify the public and private sector programs and resources available to meet those needs, identify barriers unaccompanied homeless minors face in accessing safe shelter, and make related recommendations. In its final report, the workgroup recommended that legislation be introduced to (1) allow minors to consent to housing and shelter services; (2) require minors to understand the responsibilities, risks, and limits of the shelter and services; and (3) establish a registry of service providers that serve unaccompanied homeless minors.

Senate Bill 207/House Bill 206 (Chs. 108 and 109) implement recommendations of the workgroup. The Acts authorize an unaccompanied minor in need of shelter to consent to shelter and supportive services if the service provider reasonably believes that (1) the unaccompanied minor understands the significant benefits, responsibilities, risks, and limits of the shelter and services and can communicate informed consent; (2) the unaccompanied minor understands the requirements and rules of the shelter and services; and (3) the shelter and services are necessary to ensure the unaccompanied minor's safety and well-being. An unaccompanied minor in need of shelter who is a parent may consent to shelter and supportive services for the minor's child.

The Acts require service providers to (1) register with the Department of Housing and Community Development (DHCD); (2) develop and implement a procedure to screen each staff member who works with minors; and (3) obtain written consent from the unaccompanied minor in need of shelter. After providing shelter to an unaccompanied minor in need of shelter, a service provider must, as soon as possible and within 72 hours, contact a parent, a guardian, or an adult relative of the minor; however, if the service provider suspects abuse or neglect of the minor, the service provider must immediately notify the appropriate authorities. Other requirements are

established in the event that contact cannot be made or when the service provider receives information that an unaccompanied minor is missing. DHCD is also required to establish and maintain a service provider registry.

Local Housing Authorities

Generally, local housing authorities are established under State law to undertake, construct, operate, and maintain housing projects and administer other housing assistance programs.

Annapolis Housing Authority

Senate Bill 288/House Bill 544 (Chs. 241 and 242) prohibit a State public body from making an exception for the Housing Authority of the City of Annapolis (HACA) to a law, a rule, a regulation, or an ordinance that operates in the City of Annapolis and relates to licensure or the inspection of real property. However, for HACA, such a public body may (1) extend the time period, within an inspection cycle, for the reinspection of a unit that fails an initial inspection or (2) waive a fee or fine that is associated with the licensure or inspection of real property.

Montgomery County

House Bill 800 (Ch. 330) requires the Housing Opportunities Commission of Montgomery County (HOC) to (1) prepare written minutes of each meeting as soon as practicable; (2) stream live video of its open meetings; (3) on or before December 15 each year, publish on its website a financial report and a full and complete copy of the certified audit report for the previous fiscal year; (4) publish in a public record all information that relates to a financial report or certified audit report, subject to specified exceptions; and (5) report payment data on a searchable website developed and operated by HOC.

Workers' Compensation

If an employee covered under workers' compensation insurance has suffered an accidental personal injury, compensable hernia, or occupational disease, the employee is entitled to compensation benefits paid by the employer, its insurer, the Subsequent Injury Fund (SIF), or the Uninsured Employers' Fund (UEF), as appropriate. Workers' compensation benefits include wage replacement, medical treatment, and vocational rehabilitation expenses. Wage replacement benefits are calculated based on the covered employee's average weekly wage, while medical benefits are generally fully or partially covered depending on how the treatment is related to the personal injury, hernia, or occupational disease.

Eligibility and Extent of Benefits

House Bill 810 (Ch. 332) specifies that a member of a volunteer company in Washington County is a covered employee for purposes of workers' compensation benefits if the individual is at least 15 years old and is enrolled in the fire and rescue academy program operated by the Washington County Board of Education.

Generally, an employee who is awarded compensation for a permanent partial disability for a period less than 75 weeks is eligible to receive weekly benefits of one-third of his or her average weekly wage, up to a limit of 16.7% of the State average weekly wage. However, a public safety employee awarded compensation for less than 75 weeks is entitled to receive weekly benefits of two-thirds of his or her average weekly wage, up to a limit of one-third of the State average weekly wage. *House Bill 685 (Ch. 303)* alters the definition of “public safety employee” to include Harford County deputy sheriffs, correctional officers, and detention officers, thereby making those individuals eligible for the enhanced workers’ compensation benefits for claims arising on or after October 1, 2020.

Reporting an Injury

Generally, a covered employee that suffers an accidental personal injury must report the injury to the employer within 10 days and file a claim with the Workers’ Compensation Commission within 60 days of the injury. A covered employee may file a claim within two years after the injury under limited circumstances. Failure to do so generally bars a compensation claim. For a hernia caused by an accidental personal injury or by a strain arising out of and in the course of employment, an employer must provide workers’ compensation benefits to a covered employee if (1) the covered employee provides definite proof that the hernia either did not exist prior to the injury or strain or, as a result of the injury or strain, a preexisting hernia requires an immediate operation; and (2) the injury or strain was reported to the employer within 30 days after it occurred. The two-year claim filing exception is not available to a covered employee who develops a hernia.

Senate Bill 784 (Ch. 582) alters the reporting requirements for hernias by (1) increasing, from 30 days to 45 days, the time within which an employee must report an accidental personal injury or strain that causes or exacerbates a preexisting hernia and (2) allowing an employee to file a workers’ compensation claim for a hernia up to two years after the injury or strain occurred unless the employer or its insurer has been prejudiced by the failure to do so within the typical 60-day timeframe.

Injured Workers’ Insurance Fund

Chapter 570 of 2012 converted the Injured Workers’ Insurance Fund (IWIF) into Chesapeake Employers’ Insurance Company (Chesapeake), a private, nonprofit, and nonstock workers’ compensation insurer, as of October 1, 2013. The functions, powers, duties, assets, real and personal property, accounts, liabilities, contracts, and obligations of IWIF transferred to Chesapeake; however, some staff remained IWIF employees. Chesapeake was required to serve as the workers’ compensation insurer of last resort in the State. IWIF was authorized to be the third-party administrator for the State’s Self-Insured Workers’ Compensation Program for State Employees; currently Chesapeake and IWIF administer the program together.

Senate Bill 616/House Bill 99 (Chs. 52 and 53) make various changes to the administration and leadership of IWIF and Chesapeake. Changes include (1) requiring IWIF to be the third-party administrator for the State’s Self-Insured Workers’ Compensation Program for State Employees; (2) expressly authorizing IWIF to use nonsupervisory employees of Chesapeake

in its operations and requiring Chesapeake to annually execute an agreement listing which employees are affected and meeting other specified requirements; (3) repealing the requirement that the President of IWIF be the President of Chesapeake and instead specifying that the President of IWIF must be an IWIF employee; and (4) repealing the requirement that IWIF's board be the same as Chesapeake's board, and specifying the composition of IWIF's board.

Uninsured Employers' Fund

Two entities – UEF and SIF – support the State's workers' compensation system to ensure that an injured worker receives the full extent of workers' compensation benefits, regardless of the employer's ability to pay. Both UEF and SIF are special funded, and their revenues are primarily derived from an assessment on awards against employers or insurers for permanent disability or death and amounts payable by employers or insurers under settlement agreements. The fiscal 2021 budget analysis of UEF projects that UEF would likely become insolvent in fiscal 2021 without some kind of financial assistance. *Senate Bill 8 (Ch. 495)* alters the assessments that fund UEF and SIF by decreasing SIF's assessment from 6.5% to 5.5% and increasing UEF's base assessment by 1%, meaning that the maximum amount that may be assessed to fund UEF's operations increases from 2% to 3%. The percent changes remain in effect for one year and expire on June 30, 2021.

Unemployment Insurance

The only significant legislation in the area of unemployment insurance was addressed in the *2020 Major Issues Review*.

Labor and Industry

Wages

In the past several years, the General Assembly has made several updates to the State's Equal Pay for Equal Work Law. *House Bill 123 (Ch. 67)* requires an employer to provide, on request by an applicant for employment, the wage range for the position for which the applicant applied. The Act generally prohibits an employer from seeking wage history information about an applicant, or from using the applicant's wage history while screening or considering an applicant for employment. An employer is also prohibited from determining an applicant's wages based on the applicant's wage history. However, an applicant is not prohibited from voluntarily sharing wage history information with an employer. An employer may not retaliate against or refuse to interview, hire, or employ an applicant because the applicant did not provide a wage history or requested the wage range. The Act includes civil penalties for employers who violate specified provisions multiple times.

Maryland's Wage Payment and Collection Law regulates the payment of wages by employers in the State. The law requires employers to pay workers the wage promised, establishes

regular paydays, requires that most employees be paid at least once every two weeks or twice in each month, requires that employees receive a statement of gross earnings, and requires that employees be paid all wages due on termination of employment, among other requirements. Several years ago, the General Assembly established an administrative process for smaller claims for unpaid wages. *Senate Bill 119 (Ch. 533)* increases the threshold from \$3,000 to \$5,000 for a complaint of unpaid wages to be subject to an order by the Commissioner of Labor and Industry for an employer to pay wages.

Hiring and Employment Practices

Inquiries into Criminal Records

Senate Bill 839/House Bill 994 passed in the 2019 session and prohibit an employer with 15 or more full-time employees from, before the first in-person interview, requiring an applicant for employment to disclose whether the applicant has a criminal record or has had criminal accusations brought against the applicant. The prohibition does not apply to an employer that is expressly authorized to do so by another federal or State law or if the employer provides programs, services, or direct care to minors or to vulnerable adults. The Acts may not be construed to preempt a local jurisdiction's authority to enact or enforce a more restrictive criminal record screening law, and employers may not retaliate against an applicant or employee who claims a violation of the law. For a first violation, the commissioner must issue an order compelling compliance; for subsequent violations, the commissioner may assess a civil penalty of up to \$300 for each violation but must consider various factors in determining the amount of the civil penalty. The Governor vetoed the legislation, but the General Assembly overrode the vetoes during the 2020 session (Chs. 3 and 8 of 2020).

Facial Recognition Services

House Bill 1202 (Ch. 446) prohibits an employer from using a facial recognition service for the purpose of creating a facial template during an applicant's interview for employment unless an applicant consents by signing a waiver. "Facial recognition service" is defined as technology that analyzes facial features and is used for recognition or persistent tracking of individuals in still or video images.

Revision – Maryland Healthy Working Families Act

The Maryland Healthy Working Families Act requires an employer to have a sick and safe leave policy under which an employee earns at least 1 hour of sick and safe leave at the same rate as the employee normally earns, for every 30 hours an employee works. An employee is eligible to use sick and safe leave under specified circumstances, including to care for the employee's family member. *House Bill 880 (Ch. 355)* expands the definition of "family member" under the Maryland Healthy Working Families Act to include the ward of an employee and the ward or legal guardian of the employee's spouse.

Lay Offs

Economic Stabilization Act

The Economic Stabilization Act established a quick response program to provide both employers and employees with services to assist in mitigating the impact on employees because of a reduction in operations. *Senate Bill 780/House Bill 1018 (Chs. 406 and 407)* slightly alter the applicability of the Economic Stabilization Act by defining an “employer” as a person who employs “employees” rather than “individuals” and adds a new definition of “employee.” The Acts require an employer with at least 50 employees that operates an industrial, commercial, or business enterprise in the State to provide written notice at least 60 days before initiating a reduction in operations to specified employees, collective bargaining representatives, individuals, elected officials, and the dislocated worker unit within the Division of Workforce Development and Adult Learning of the Maryland Department of Labor (MDL). The Secretary of Labor, in cooperation with the Workforce Development Board, must develop mandatory (rather than voluntary) guidelines that employers must adhere to during a reduction in operations.

Hospital Employee Retraining and Placement

Senate Bill 938/House Bill 1571 (Chs. 489 and 490) specify that, if a hospital closes, merges, or is fully delicensed and workers are displaced, each hospital must pay a fee to MDL for the Hospital Employees Retraining Fund. In any year, if the balance of the fund is depleted, the Health Services Cost Review Commission must require each hospital to pay a direct remittance to MDL in order to address the needs of any partial closure, downsizing, acquisition, or partial delicensure of a hospital. The Acts expand the existing hospital retraining program to include retraining and job-seeking assistance for nonexecutive hospital employees, who are not licensed physicians or physician assistants, and who are unemployed or who may become unemployed as a result of the change in a hospital’s status. After a three-year period of implementation, the Acts’ provisions terminate on September 30, 2023. For a further discussion of the Acts, see the subpart “Health Care Facilities and Regulation” in Part J of this *71 Day Report*.

Apprenticeships

The Maryland Energy Administration must invest in pre-apprenticeship, youth apprenticeship, and registered apprenticeship programs with funding from the Strategic Energy Investment Fund to establish career paths in the clean energy industry under the Maryland Employment Advancement Right Now (EARN) program. *Senate Bill 224/House Bill 1029 (Chs. 409 and 410)* redirect funds from pre-apprenticeship and apprenticeship programs to provide funding for the recruitment of individuals, including veterans and formerly incarcerated individuals, to the pre-apprenticeship jobs training programs and the registered apprenticeship jobs training programs. The funding changes go into effect in fiscal 2021 and continue until all funds are spent. The Acts add energy efficiency and geothermal careers as permissible career fields for youth apprenticeship jobs training programs and registered apprenticeship jobs training programs under EARN. The Acts also expand the definition of “clean energy industry” under EARN to include carpenters, pile-driver operators, millwrights, insulation workers, and well drillers that

provide specified products and services. For a further discussion of these Acts, see the subpart “Public Service Companies” of this part in this *71 Day Report*.

Employment Safety Standards

House Bill 722 (Ch. 308) requires the Commissioner of Labor and Industry, in consultation with the Maryland Occupational Safety and Health (MOSH) Advisory Board, to develop and adopt regulations by October 1, 2022, which require employers to protect employees from heat-related illness caused by heat stress. Before the commissioner begins the process for developing and adopting the regulations, MOSH must hold informational hearings in four different geographical areas of the State to obtain input from interested parties. In developing the regulations, the commissioner must consider specified national standards. By January 1, 2022, the commissioner must report to specified committees of the General Assembly on the implementation of the Act.

Reporting Requirements

House Bill 835 (Ch. 336) requires MDL to develop a list of any federal or State incentive programs available to an employer who hires and trains formerly incarcerated individuals. MDL must make the list accessible on the main page of its website.

House Bill 1141 (Ch. 432) requires MDL to report to the General Assembly, by September 30, each year on the progress in achieving the purposes of the Apprenticeship Career Training Pilot Program for Formerly Incarcerated Individuals for the immediately preceding calendar year. The report must also include the number and types of employers that received grants, the grant amount by employer, and the total number of apprentices and number of apprentices by employer that participated in the program.

Alcoholic Beverages (Statewide)

Implementation of United States Supreme Court Decision

In June 2019, the U.S. Supreme Court decided *Tennessee Wine and Spirits Retailers Ass’n v. Thomas*, 588 U.S. ___, 139 S. Ct. 2449 (2019). In the case, the court struck down a residency requirement to obtain and maintain an alcoholic beverages license in Tennessee. Specifically, Tennessee had required an applicant for a retail liquor store license to have lived in the state for 2 years as a qualification for receiving a license, while an applicant for license renewal must have lived in the state for 10 years. The court found that this kind of residency requirement violates the Commerce Clause of the U.S. Constitution.

Many alcoholic beverages licenses and permits in Maryland law include residency requirements similar to those struck down in the *Thomas* decision. In order to maintain consistency of State law while respecting the federal decision, **House Bill 902 (Ch. 462)** codifies the court’s decision as it would apply to Maryland law by repealing various requirements that an alcoholic beverages license applicant or license holder be a registered voter, taxpayer, or resident of a

jurisdiction for a period of time, generally one or more years, as a condition for obtaining or maintaining a license. Instead, the Act generally requires the applicant or licensee to be a resident, voter, or taxpayer of the State or a local jurisdiction at the time of application and during the license period. The Act applies to various State- and locally issued alcoholic beverages licenses and permits.

Other legislation relating to the regulation of alcoholic beverages at the State level was addressed in the *2020 Session Major Issues Review*.

Alcoholic Beverages (Local)

Legislation

City of Annapolis

Club Public Event Permit: *Senate Bill 503/House Bill 844 (Chs. 338 and 339)* establish a club public event permit and authorize the board of license commissioners to issue the permit to holders of a Class C alcoholic beverages license. The permit authorizes a club to sell alcoholic beverages that are allowed under the club’s Class C license during a public event, at the place described in the license, to an individual who is not a member of the club or the guest of a member for on-premises consumption. The board may approve up to 12 public events per permit holder in a calendar year.

Anne Arundel County

Board of License Commissioners

Meetings: *Senate Bill 163/House Bill 285 (Chs. 152 and 153)* require the board of license commissioners to (1) publish a meeting agenda no later than one week before the hearing; (2) make each open meeting available to the public with live video and audio streaming; (3) publish the minutes of each open meeting, as specified, no later than one month after the meeting; and (4) archive and store recordings of each open meeting and records of the minutes of each opening meeting.

Staff and Compensation: *Senate Bill 221/House Bill 758 (Chs. 312 and 313)* require the board of license commissioners to employ one full-time executive director and one full-time administrator and specify the pay grades for these positions. The Acts also increase, from one to two, the number of full-time secretaries the board must employ.

In addition, *Senate Bill 141/House Bill 461 (Chs. 213 and 214)* increase the salaries of specified employees of the board.

Licenses and Applications

Creditor Claims: *Senate Bill 143/House Bill 638 (Chs. 283 and 284)* alter the requirements for the approval of alcoholic beverages license transfers. The board of license commissioners is not bound by a specific statutory limitation if a creditor's claim involves indebtedness incurred through the purchase or sale of alcoholic beverages in connection with the licensed premises. Additionally, the Acts authorize the board, if the board determines that a properly filed claim is outside its expertise, to approve an application for the transfer of a license or an application for a new license if there is (1) an amicable resolution of the claim or (2) a judicial determination on the claim.

License Transfers: *House Bill 536 (Ch. 601)* authorizes the board of license commissioners to allow an approved applicant to transfer an alcoholic beverages license to certain other premises within one-half mile of the premises for which the license was originally issued within one year after final approval by the board and in accordance with existing statutory provisions and applicable regulations on license transfers.

Notice of Application: *Senate Bill 180/House Bill 329 (Chs. 170 and 171)* authorize the board of license commissioners to post a completed alcoholic beverages license application online at least 10 days before the date of the hearing on the application instead of posting this notification in a newspaper as is currently required. The board must require an applicant to post a suitable notice in a conspicuous place at the location described in the application for at least 10 days.

Assessment Districts: *Senate Bill 52/House Bill 138 (Chs. 69 and 70)* clarify that the board of license commissioners may consider, when issuing a Class A, Class B, or Class D off-sale alcoholic beverages license, whether an establishment is located in an assessment district in which the ratio of Class A, Class B, or Class D off-sale licenses per individual is more or less than one license per 4,000 individuals.

Petition of Support: Generally, an application to a local licensing board in the State for an alcoholic beverages license must include a petition of support signed by at least 10 residents who own real estate in and are registered voters of the precinct in which the potential licensed establishment is located. *Senate Bill 57/House Bill 330 (Chs. 599 and 600)* repeal the petition of support requirement for alcoholic beverages license applications in Anne Arundel County.

Specific Licenses and Permits

Barbershop and Beauty Salon License: *Senate Bill 361 (Ch. 551)* establishes a barbershop and beauty salon beer and wine alcoholic beverages license and authorizes the board of license commissioners to issue the license to the holders of specified beauty salon or barbershop permits. A license holder may provide up to 12 ounces of beer or 5 ounces of wine by the glass for on-premises consumption only while performing activities generally related to beauty salons or barbershops or while the customer is attending a fundraising event at the barbershop or beauty salon. The license holder may provide beer and wine for on-premises consumption during normal business hours but not after 9:00 p.m.

Class B and Class H Licenses: *Senate Bill 37 (Ch. 503)* requires a license holder, before each renewal of specified Class B or Class H alcoholic beverages licenses, to attest in a sworn statement that the gross receipts from food sales for the 12-month period immediately preceding the application for renewal were equal to at least 51% of the gross receipts from the sale of food and alcoholic beverages sold for on-premises consumption.

Entertainment Facilities: *Senate Bill 126 (Ch. 626)* alters the manner in which the holder of an entertainment facility license may sell beer, wine, and liquor and expands the scope of authorized entertainment activities that may be performed in the licensed facility. The Act also authorizes the board of license commissioners to allow the holder of an entertainment facility license to sell alcoholic beverages for promotional events in an area adjacent to the entertainment facility if that area is both under controlled access of the license holder and is a parking lot, picnic ground, building, or terrace controlled by the license holder. Additionally, the Act authorizes, rather than requires, the board to revoke an entertainment facility license for displays of nudity and sexual acts at the entertainment facility, as specified.

Gift Basket Permits: *Senate Bill 525/House Bill 714 (Chs. 306 and 307)* establish a gift basket permit and authorize the board of license commissioners to issue the permit to persons whose primary business is the sale and delivery of flowers, as specified. The board may not issue the permit for use on the premises of a chain store, supermarket, or discount house. The total annual sales from alcoholic beverages cannot exceed 10% of the annual gross sales of the permit holder.

Small Yacht Club License: *Senate Bill 239/House Bill 554 (Chs. 250 and 251)* establish the Class C (Small Yacht Club) license and authorize the board of license commissioners to issue the license to a small yacht club that meets specified requirements. A license holder may sell beer, wine, and liquor to yacht club members and guests accompanied by members on the yacht club premises. The license holder may purchase alcoholic beverages from a retail dealer.

Baltimore City

Class A, A-2, and A-7 Licenses: *Senate Bill 69 (Ch. 510)* (1) extends the date after which the board of license commissioners may no longer issue a Class A-7 license from July 1, 2020, to June 30, 2022, and makes a conforming change; (2) prohibits a Class A-7 license from being issued in the 43rd legislative district; (3) alters the hours of sale for a Class A-7 license to be from 10 a.m. to midnight; and (4) requires the holder of Class A beer, wine, and liquor license; a Class A-2 beer, wine, and liquor license; or Class A-7 beer, wine, and liquor license to operate a digital surveillance system on the licensed premises. In consultation with the appropriate authorities, the board must adopt regulations relating to digital surveillance on or before December 31, 2020.

Neighborhood Licenses and Restrictions

Class B and Class C Beer, Wine, and Liquor Licenses: *House Bill 954 (Ch. 389)* makes a number of changes to beer, wine, and liquor licenses in specific neighborhoods of

Baltimore City. The Act (1) authorizes the exchange of a Class B beer, wine, and liquor license for a Class B-D-7 beer, wine, and liquor license in a specified area of the Mount Vernon-Belvedere neighborhood if the applicant executes a memorandum of understanding (MOU) with the Mount Vernon-Belvedere Improvement Association; (2) alters the hours of sale for a Class B-D-7 license holder in a specified geographical area in central Baltimore; and (3) authorizes the board of license commissioners to issue a Class C beer, wine, and liquor license in a specified area in the Charles North neighborhood if the applicant executes an MOU with the Charles North Community Association.

Class B Beer, Wine, and Liquor License Exchange: *Senate Bill 328 (Ch. 390)* authorizes the exchange of a Class B beer, wine, and liquor license for a Class B-D-7 license if (1) the licensed premises is in an area bounded by the unit block of West Preston Street, the 1200 block of North Charles Street, the 1200 block of Morton Street, and the unit block of West Biddle Street and (2) the applicant executes an MOU with the Mount Vernon-Belvedere Improvement Association. The holder of an exchanged license may provide outdoor table service. In addition, the board may condition the issuance or renewal of the license on the substantial compliance of the applicant with the MOU.

Class B-D-7 License: *Senate Bill 181/House Bill 168 (Chs. 91 and 92)* clarify that the hours of sale for a Class B-D-7 license located in specified areas in Baltimore City bounded by Liberty Heights Avenue, Northern Parkway, Druid Park Drive, and Wabash Avenue are from 9 a.m. to 9 p.m.

In addition, *Senate Bill 73/House Bill 228 (Chs. 112 and 113)* authorize the board of license commissioners to issue a Class B-D-7 license in the 5400 block of Harford Road in the 45th alcoholic beverages district under specified conditions.

Class D License: *House Bill 924 (Ch. 372)* prohibits the board of license commissioners from charging a fee for a temporary license permit extension under specified conditions. In addition, the Act (1) authorizes the board to waive distance restrictions for license transfer applicants under specified circumstances in the area bounded by Fagley Street, Gough Street, Grundy Street, and Chestle Place and (2) alters the geographic area within which the board may issue a Class B-D-7 license in the Old Goucher Revitalization District.

Carroll County

Hours and Days for Consumption and Sale: *Senate Bill 238/House Bill 571 (Chs. 258 and 259)* alter the hours of sale for specified types of Class B, C, D, and H alcoholic beverages licenses in the county.

Dorchester County

License Issuance: *Senate Bill 100/House Bill 24 (Chs. 30 and 31)* clarify that the board of license commissioners, not the Dorchester County Council, is authorized to issue a Class C beer, wine, and liquor license. In addition, the Acts authorize the board to issue a Class C beer,

wine, and liquor license to a nonprofit operating on the premises known as Governors Hall at Sailwinds Park.

Frederick County

Repeal of License Quotas: *Senate Bill 215/House Bill 145 (Chs. 78 and 79)* repeal the quota on the number of Class B (on-sale) beer and Class B (on-sale) beer and wine licenses the board of license commissioners may issue in any election district.

Cinema/Theater License: *House Bill 322 (Ch. 167)* authorizes the holder of a Class CT (cinema/theater) (on-sale) beer, wine, and liquor license to sell beer, wine, and liquor for on-premises consumption in a lobby, screening room, or performance hall of a for-profit cinema or theater with at least one screening room or performance hall. The Act also repeals the limitation that sales of beer, wine, and liquor may be consumed only in a designated area of the lobby and only for 45 minutes before a movie or theater performance starts.

Municipal Golf Course License: *House Bill 1062 (Ch. 416)* establishes a Class M-G beer, wine, and liquor license and authorizes the board of license commissioners to issue the license for use at a municipal golf course operated by a municipal golf course manager or a golf course manager under a management agreement with the City of Frederick. The board may issue the license to a manager of a municipal golf course. The license authorizes the licensee to sell beer, wine, and liquor for on-premises consumption on the land and in the facilities used for golfing purposes on Monday through Saturday from 6 a.m. to 10 p.m. and on Sunday from 10 a.m. to 10 p.m.

Weinberg Center License: *Senate Bill 214/House Bill 146 (Chs. 80 and 81)* allow alcoholic beverages to be consumed anywhere on the licensed premises at the Weinberg Center for the Arts, as specified.

Garrett County

Alcoholic Beverages Act of 2020: *Senate Bill 643 (Ch. 573)* authorizes a holder of a manufacturer's license to sell and deliver alcoholic beverages to a licensed retail establishment on an Election Day. The Act also authorizes the board of license commissioners to issue a Class BDR (deluxe restaurant) beer, wine, and liquor license to the holder of any Class B license issued by the board or to a holder of a specified license issued by a local licensing board of a different jurisdiction and alters the minimum seating requirements for the license. Finally, the Act authorizes the board to issue a refillable container permit for wine.

Harford County

On-sale License Record Keeping and Enforcement: An alcoholic beverages license holder with an on-sale privilege must keep complete and accurate books of account of daily receipts and expenditures and procure vouchers or purchase slips for all alcoholic beverages, food, and other items bought for sale. *Senate Bill 496/House Bill 963 (Chs. 391 and 392)* require these records to be kept at the location designated in the license or another location in the county

and, on at least five days' notice, make the records available for inspection by the board of license commissioners or a designee of the board. The Acts also alter the penalty provision relating to violations committed by license holders with on-sale privileges. If charges at a hearing are sustained, the board (1) must impose a fine of between \$250 and \$2,000 and (2) may suspend or revoke the license holder's license immediately.

Place of Worship Restrictions – Exemption and Waivers: Generally, the board of license commissioners may not issue an alcoholic beverages license for an establishment that is located within 300 feet of a place of worship. ***House Bill 1318 (Ch. 458)*** exempts breweries and distilleries in a municipality from this distance restriction. The Act also authorizes the board to waive the distance restrictions from a place of worship and issue a license on a case-by-case basis, as specified.

Specific Licenses

Class C-3 License: A social organization that may be issued a six-day or seven-day Class C-3 beer, wine, and liquor license must meet specified membership requirements. ***Senate Bill 379/House Bill 972 (Chs. 396 and 397)*** alter the membership requirements to include active or retired first responders rather than only policemen.

Class GCR (Golf Course Restaurant): ***Senate Bill 376/House Bill 971 (Chs. 394 and 395)*** establish a class GCR (Golf Course Restaurant) beer, wine, and liquor license in the county. The board of license commissioners may issue a Class GCR license to the owner or operator of a golf course that (1) is open to the public; (2) is operated for profit; (3) has a minimum of 18 holes; and (4) has a kitchen facility that has been approved by the appropriate local governmental unit.

Class MT (Movie Theater) License: ***Senate Bill 385/House Bill 923 (Chs. 370 and 371)*** prohibit the board of license commissioners from issuing more than five Class MT beer, wine, and liquor licenses to the same person. In addition, the Acts increase the annual license fee for a Class MT license from \$500 to \$1,000.

Hotel Lobby License: ***Senate Bill 375/House Bill 864 (Chs. 350 and 351)*** establish a hotel lobby license and authorize the sale of beer, wine, and liquor from a store in the hotel lobby to patrons of the hotel for on-premises consumption. The board of license commissioners may issue a hotel lobby license for use by a hotel that does not have a restaurant and to sell beer, wine, and liquor from a store in the hotel lobby to patrons of the hotel for on-premises consumption.

Kent County

Kent County Alcohol Act of 2020: Senate Bill 792/House Bill 777 (Chs. 322 and 323) establish a Class C multiple event beer, wine, and liquor license in the county for events held by a volunteer fire company. The Acts also alter the hours of sale for Class B wine shop and lounge licenses in the county and authorize the board of license commissioners to issue a refillable container permit for draft beer to specified alcoholic beverages license holders.

Montgomery County

Hours of Consumption: Generally, an individual may not consume alcoholic beverages in a licensed premises in the county from 2 a.m. to 6 a.m. on any day. *House Bill 298 (Ch. 157)* alters the hours of consumption for specified alcoholic beverages licenses in the county. Unless otherwise provided, an individual may consume alcoholic beverages in a licensed premises only during the hours of sale permitted under the license of the premises. The Act also clarifies that a license holder must remove all containers of alcoholic beverages from the tables and bar service area in the licensed premises at the end of the license holder's permitted hours of sale. In addition, the Act repeals the board's authorization to issue a specified permit allowing a license holder to sell alcoholic beverages for on-premises consumption until 2 a.m. on January 1.

Consumption Only Marketplace License: *House Bill 377 (Ch. 186)* establishes a consumption only marketplace license in the county. The board of license commissioners may issue the license to the developer of a commercial shopping center if the shopping center meets specified criteria. The license authorizes the holder to allow the consumption of beer, wine, and liquor in a designated outdoor area located within the commercial shopping center if the alcohol is purchased at a certain establishment, as specified.

Catering Extension: *House Bill 297 (Ch. 156)* expands the types of licenses to which the board of license commissioners may issue a catering extension to include the holder of a Class D beer, wine, and liquor license.

Town of Kensington: *House Bill 860 (Ch. 349)* makes numerous changes to the manner in which alcoholic beverages licenses are regulated in the Town of Kensington. Among other changes, the Act extends the authorized hours of operation of specified licenses, alters requirements for applicants of specified licenses, and increases the number of authorized licenses.

Prince George's County

Alcohol Awareness: Generally, for a premises that is licensed to sell alcoholic beverages with an off-sale privilege or a premises that is licensed with on-sale privileges and sells alcoholic beverages directly to a customer from a bar or service bar, the license holder or specified employees must complete training in an approved alcohol awareness program in order to obtain and retain their alcoholic beverages license. For licensed premises in Prince George's County, *House Bill 288 (Ch. 155)* requires an alcoholic beverages license holder or an individual designated by the license holder who is employed in a supervisory capacity to be certified by an approved alcohol awareness program and be present on the licensed premises at all times when alcoholic beverages may be sold. For a first offense, a license holder who violates these requirements is subject to a \$250 fine; for a second offense, a \$500 fine; and for each subsequent offense, a fine of up to \$1,000 or a suspension or revocation of the license, or both.

Carillon Development: The Carillon Development is a large, multiphase mixed-development area located near the Arena Drive exit of the Capital Beltway in the county. *House Bill 845 (Ch. 340)* authorizes the board of license commissioners to issue up to

10 Class B-DD (Development District) licenses to restaurants located within the Carillon Development.

Queen Anne's County

License Applications

Financial Interest: An application for an alcoholic beverages license must state whether the applicant has a financial interest in the business to be conducted under the license and requires other disclosures of financial interest. ***House Bill 463 (Ch. 215)*** defines “financial interest” as it applies to applications for alcoholic beverages licenses in the county as an applicant who is the owner of a controlling interest in a place of business for which a license has been applied for or issued. The Act also defines “controlling interest” as the ownership or control of sufficient shares or interest in a business to allow for an exercise of control over that business.

Petition of Support: ***House Bill 467 (Ch. 217)*** repeals the requirement that applicants for an alcoholic beverages license include a petition of support as a part of the application.

Washington County

Wineries – Special Event Permits: ***House Bill 789 (Ch. 609)*** reauthorizes the board of license commissioners to issue a special event permit to a holder of a Class 3 winery license or a Class 4 limited winery license. The permit authorizes the holder to sell beer, wine produced by the holder, sparkling wine that is naturally or artificially carbonated, and liquor for on-premises consumption at an event for which the entire licensed premises has been rented. The license holder must purchase the beer, sparkling wine, or liquor intended for sale under the permit from a licensed retailer. A license holder must also keep all receipts of purchase of alcoholic beverages for one year after the date of purchase. In addition, a license holder that intends to use the permit must notify the board at least one week before the event is to occur and may use the permit up to 32 times in a year.

Wicomico County

Board of License Commissioners: ***House Bill 1319 (Ch. 459)*** increases, from three to five, the number of members that the Governor must appoint to the board of license commissioners and requires each member of the board to be nominated by the Wicomico County Executive. In addition, the Act requires three members of the board to be residents of the City of Salisbury, nominated jointly by the county executive and the Mayor of Salisbury. The Act also requires that the terms of the members be staggered as required by the terms provided for the members of the board on July 1, 2020.

Part I

Financial Institutions, Commercial Law, and Corporations

Financial Institutions

Check Cashing Services

Chapter 614 of 2000 requires persons offering check cashing services to be licensed by the Office of the Commissioner of Financial Regulation (OCFR). However, certain persons are exempt from this requirement. *Senate Bill 939/House Bill 1196 (Chs. 443 and 444)* repeal the licensure exemption for check cashing services (1) for which a fee of up to 1.5% of the face amount of the payment instrument is charged per payment instrument and (2) that are incidental to the retail sale of goods or services by the check casher. Instead, the Acts authorize persons offering check cashing services to register with OCFR, rather than obtain licensure, if the person provides check cashing services that are incidental to the retail sale of goods or services by the person that is providing the check cashing services and other conditions are met. In addition, the check cashing service must provide OCFR with the information required under the Acts through the Nationwide Multistate Licensing System and Registry. Registrants are exempt from various regulatory requirements but are generally subject to the same enforcement mechanisms as check cashing licensees. The Acts also require check cashing licensees to include, in the notice required to be posted at certain locations, the number of the Commissioner of Financial Regulation for customers to file complaints.

Office of the Commissioner of Financial Regulation

Banking Institution Powers

If the Commissioner approves, banking institutions may engage in any additional banking activity, service, or other practice in which, under federal law, national banking associations may engage. The Commissioner may grant an approval only if the approval imposes the same conditions that federal law requires or permits as to national banking associations, and the Commissioner determines that approval is (1) reasonably required to protect the welfare of the general economy of the State and of banking institutions or (2) not detrimental to the public interest or to banking institutions. *Senate Bill 15 (Ch. 499)* modifies the process and circumstances under

which a banking institution may engage in those additional practices. The Act repeals the requirement that banking institutions file an application with and receive the approval of the Commissioner. Instead, the Act requires a banking institution to file certain notice with the Commissioner at least 45 days before engaging in such an additional practice. A banking institution that files the required notice may engage in the activity, service, or other practice on the first business day that is at least 45 calendar days after the date that the notice is filed unless the Commissioner specifies a different date or prohibits the activity, service, or practice. The Act also outlines the conditions under which the Commissioner may extend the 45-day period or prohibit a banking institution from performing the activity, service, or other practice.

State Banks, Trust Companies, and Savings Banks

To incorporate, Maryland-chartered banks and savings banks are required to have 5 or more and 15 or more, respectively, Maryland residents for each institution acting as incorporators. In contrast, national banks require only five adults to act as incorporators and incorporating a regular corporation in Maryland requires only one adult. In addition, many states (including most surrounding states) require three or fewer individuals to incorporate a bank. *Senate Bill 14 (Ch. 498)* reduces the number of incorporators, from 5 to 3, required to form a State bank or trust company, and from 15 to 3, to form a savings bank. The Act also repeals a requirement that each incorporator be a citizen of Maryland and instead requires that at least 1 be a citizen of Maryland.

In addition, the Act repeals a provision that allows stockholders of a commercial bank to create up to two additional directorships that may be left vacant to be filled in the discretion of the board of directors.

Nondepository Special Fund

Chapter 296 of 2019 prohibits a credit card processor from assessing or charging a fee, fine, or penalty of more than \$500 if a business entity cancels a merchant processing agreement *before* the expiration of the initial term. Additionally, a credit card processor may not assess a fee, fine, or penalty if a business entity terminates the merchant processing agreement *after* the expiration of the initial term unless the parties enter into a separate renewal agreement. Chapter 296 requires a merchant processing agreement to disclose specified information. The Commissioner is authorized to investigate any complaints received regarding violations of the Act and to use any of the investigative and enforcement powers granted under Title 2, Subtitle 1 of the Financial Institutions Article. Because Chapter 296 did not authorize the Nondepository Special Fund to be used to implement and enforce the Act, OCFR's enforcement abilities are limited.

Senate Bill 409/House Bill 774 (Chs. 320 and 321) alter the contents of the Nondepository Special Fund to include certain fees, assessments, and revenues received by the Commissioner under Title 12, Subtitle 14 of the Commercial Law Article, which governs credit card processors. Additionally, the Acts alter the purpose of the Nondepository Special Fund to include covering the direct and indirect costs of fulfilling the statutory and regulatory duties of the Commissioner and the State Collection Agency Licensing Board related to the entirety of Title 12 of the Commercial Law Article (rather than just specified portions). As a result, the Acts authorize OCFR to use funds

from the Nondepository Special Fund to investigate complaints of violations by credit card processors.

Commercial Law – Generally

Abandoned Property in the Possession of a Museum

Maryland law has not previously expressly addressed how unclaimed property left with a museum may be handled. *Senate Bill 88/House Bill 21 (Chs. 28 and 29)* do so by authorizing a museum to acquire title, after giving certain notices, for (1) property that either is on permanent loan to the museum or was loaned for a specified term that has expired; (2) undocumented property held by the museum for at least three years; or (3) property that is an unsolicited donation found on museum property. The Acts also establish requirements for a museum to presume that specific property in the museum’s possession is abandoned. More specifically, if a loan of property to a museum is not a permanent loan and does not have an expiration date, the property is presumed abandoned if there has been no written communication between the museum and the lender – or the lender’s designated agent – for at least seven years after the museum took possession.

In addition, the Acts authorize a museum to apply conservation measures to property on loan and to establish a lien on the property under specified circumstances.

Commercial Law – Consumer Protection

Manufactured Housing

In 2018, the Maryland Financial Consumer Protection Commission issued a final report that, among other things, made recommendations related to manufactured housing financing. *Senate Bill 155/House Bill 93 (Chs. 48 and 49)* generally implement those recommendations. The Acts (1) codify the federal definition of “dwelling” within the Maryland Mortgage Lender Law and establish a State definition of “mobile home”; (2) impose a duty of good faith and fair dealing on mobile home retailers; and (3) generally require a foreclosure notice to be provided at least 30 days before a lender or credit grantor repossesses a mobile home.

Electronic Sale and Lease of Vehicles

The Maryland Uniform Electronic Transactions Act (MUETA) gives legal effect to an electronic record or signature (provided required procedures in the MUETA are met). Under the MUETA, a contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation and, if a law requires a record to be in writing, an electronic record satisfies the law. Similarly, if a law requires a signature, an electronic signature satisfies the law.

Senate Bill 134/House Bill 139 (Chs. 71 and 72) alter the MUETA to establish that, generally, only a vehicle dealer may contract for the sale and delivery of a vehicle by electronic means. Further, a consumer is deemed not to have agreed to enter into a transaction for the sale or

lease of a vehicle with a dealer by electronic means, unless the dealer provides the consumer with a clear and readable copy of each document signed by the consumer and dealer in an electronic or written format and reasonable opportunity for the consumer to review the documents before providing an electronic signature. If the vehicle is not delivered to the consumer at the dealership, the dealer must deliver the vehicle to a physical address provided by the consumer and at a date and time agreed on by the buyer and dealer and that is within seven days after the execution of the contract, unless the consumer agrees in writing to a different delivery date. Finally, the Acts authorize certain nondealer entities to contract for the sale of a vehicle by electronic means under similar parameters as vehicle dealers.

Exploitation of Vulnerable Adults

Chapter 114 of 2016 generally authorizes the Division of Consumer Protection in the Office of the Attorney General (OAG) to bring a civil action for damages against a person who violates the State's prohibition against exploitation of a vulnerable adult on behalf of a victim of the offense or, if the victim is deceased, the victim's estate. Chapter 794 of 2018 extends this authority to the Securities Commissioner of the Division of Securities in OAG. The division and commissioner may recover damages for property loss or damage. If the division or commissioner prevails in an action, the costs of the action may be recovered for the use of OAG. A conviction for the criminal offense is not a prerequisite for maintenance of an action. *House Bill 304 (Ch. 160)* establishes that exploitation of a vulnerable adult is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA's civil and criminal penalty provisions.

Senate Bill 407 (passed) establishes the Senior and Vulnerable Adult Asset Recovery Unit within OAG. The unit is authorized to bring certain civil actions for damages against a person who engages in certain actions with the intent to deprive a vulnerable adult or an adult who is at least 68 years old of the adult's property. Beginning in fiscal 2022, the Governor must include annually an appropriation of at least \$250,000 in the State budget to carry out the bill's requirements. At the direction of the Attorney General, the unit must use the required funding to hire new staff for the unit and investigate and assist the unit in bringing civil actions. On May 7, 2020, the Governor vetoed the bill due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Debt Collection (Exemptions from Attachment and Execution)

Senate Bill 425/House Bill 365 (Chs. 183 and 184) alter the amount of wages of a judgment debtor that are exempt from attachment. The Acts exempt from attachment the greater of 75% of the disposable wages due or 30 times the State minimum hourly wage in effect at the time that the wages are due, multiplied by the number of weeks during which the wages due were earned. The Acts also repeal provisions that apply only in Caroline, Kent, Queen Anne's, and Worcester counties.

Corporations and Associations

In the 2020 session, the General Assembly acted on recommendations of the Maryland State Bar Association whose Committee on Corporation Law and Committee on Unincorporated Associations monitor the Maryland General Corporation Law.

Miscellaneous Revisions of General Corporate Law

House Bill 668/Senate Bill 469 (Chs. 292 and 293) alter numerous provisions relating to (1) various types of corporation filings with the State Department of Assessments and Taxation and their effective dates; (2) the additional right of inspection of specified stockholders; (3) the process for determining whether indemnification of directors is proper; (4) various approvals by specified Maryland corporations that are registered as open-end companies; (5) modernizing and clarifying the contents of charters or bylaws of nonstock corporations; and (6) the authority of real estate investment trusts. The Acts also make other technical and clarifying changes.

Limited Liability Corporations and Series

House Bill 983/Senate Bill 888 (Chs. 400 and 401) change the process for dissolution of a limited liability company (LLC) that has no living or competent members and that is also without an alternative arrangement for settling those affairs. The Acts provide that in the event of the death of the last member, or a ruling of incompetency of the last member, the personal representative or guardian of that member must be admitted as a new member unless the personal representative or guardian renounces the admission in writing or designates a willing new member. The Acts state that an operating agreement may provide that the last remaining member's guardian must agree in writing to continue the LLC and to be admitted as a member or appoint a designee. The personal representative, guardian, or other successor may settle the LLC's affairs.

In addition, the Acts alter the registration process of a foreign LLC that is a series company, repeal certain redundant provisions, and define certain terms.

Part J

Health and Human Services

Public Health – Generally

Medicaid

Telehealth

Senate Bill 502/House Bill 1208 (Chs. 17 and 18) require Medicaid, subject to the limitations of the State budget, to provide mental health services appropriately delivered through telehealth to a patient in the patient’s home setting. The Acts also expand the definition of “telehealth” for purposes of private insurance coverage to include the delivery of mental health care services to a patient in the patient’s home. By December 1, 2020, the Maryland Department of Health (MDH) must apply for a § 1115 waiver to implement a specified telehealth pilot program and, if approved, administer the pilot program. MDH must also study and report on whether substance use disorder services may be appropriately provided through telehealth to a patient in the patient’s home setting. The pilot program and study provisions terminate June 30, 2025.

School-based Health Centers

School-based health centers (SBHC) are health centers located in a school or on a school campus that provide onsite comprehensive preventive and primary health services. *House Bill 409 (Ch. 198)* requires MDH, by January 1, 2021, to revise its regulations regarding SBHCs that may participate in Medicaid to include SBHCs that have a written agreement with a sponsoring agency that meets the specified requirements identified by the Maryland State Department of Education (MSDE), including a sponsoring agency that (1) has a clinical director who is either a physician or a nurse practitioner; (2) is a local health department, a federally qualified health center, a community health center, a hospital, a private medical practice, a university medical center, or any other sponsor approved by MDH and MSDE; and (3) has met all other applicable Medicaid requirements.

Funding

Information regarding Medicaid funding was included in the *2020 Session Major Issues Review*.

Drugs and Devices

Prescription Drug Affordability Board

Chapter 692 of 2019 established the Prescription Drug Affordability Board. Among other duties, the board must collect data and identify specified prescription drug products that may cause affordability issues. The board may conduct a cost review of each identified drug product and, if warranted, must draft a plan of action that includes the criteria to set upper payment limits for prescription drug products.

Senate Bill 669/House Bill 1095 (both passed) repeal the requirement that the board determine a funding source and report to specified committees of the General Assembly with a recommendation on legislation necessary to establish a funding source. The bills instead require the board to assess and collect an annual fee on manufacturers that sell or offer for sale prescription drug products to persons in the State, pharmacy benefits managers, carriers, and wholesale distributors that sell or offer for sale prescription drug products to persons in the State. On May 7, 2020, the Governor vetoed the bills due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

House Bill 1100 (Ch. 425) repeals the requirement that the board hire legal counsel. Instead, the Act specifies that the Attorney General is the legal adviser to the board and must designate an assistant Attorney General as counsel to the board. The Act also clarifies the authority of the board to set upper payment limits for prescription drug products in accordance with a specified plan of action, reduces the frequency by which the board is required to meet from at least once every six weeks to at least four times per year, and delays certain study and reporting requirements.

Prescription Drug Monitoring Program

The Prescription Drug Monitoring Program (PDMP) assists with the identification and prevention of prescription drug abuse and the identification and investigation of unlawful prescription drug diversion. PDMP must monitor the prescribing and dispensing of Schedule II through V controlled dangerous substances (CDS).

House Bill 663 (Ch. 290) alters the definition of “pharmacist” to include a pharmacist licensed by another state to dispense monitored prescription drugs for purposes of PDMP. With this change, pharmacists licensed in other states (who work at nonresident pharmacies dispensing to Maryland addresses) and pharmacists working at federal facilities in Maryland (but who are licensed in another state) may access PDMP data when making dispensing decisions in the care of Maryland patients. The Act also adds failure to comply with the requirements of PDMP to

disciplinary grounds for dentists, physicians, and physician assistants by the appropriate health occupations board.

Controlled Dangerous Substances

Senate Bill 166/House Bill 512 (Chs. 229 and 230) require a health practitioner to issue a prescription for CDS electronically, except under specified circumstances. Among other exceptions, a health practitioner may issue an oral or written prescription for CDS if electronic prescribing is not available due to temporary technological or electrical failure; the prescription is to be dispensed by a pharmacy located outside the State; or the prescription is for an individual who (1) resides in a nursing or assisted living facility; (2) is receiving care through a hospice or palliative care program or at an outpatient renal dialysis facility and the prescription is related to the care provided; or (3) is detained or confined in a correctional facility. The Acts require the adoption of regulations to establish a waiver of the electronic prescription requirement.

A pharmacist may dispense a drug on a written or oral prescription for CDS that meets the exception requirements, and a pharmacist is not required to verify that the prescription is an authorized exception to the electronic prescription requirement. In addition, the Acts authorize the appropriate health occupations board to take disciplinary action against a health practitioner who violates the electronic prescribing requirement.

House Bill 674 (Ch. 298) alters the lists of substances designated as CDS under schedules in the Maryland Controlled Dangerous Substances Act. The Act conforms the classification and nomenclature in the State’s statutory schedules to the federal CDS schedules.

Behavioral Health

Registry and Referral System

House Bill 1121 (passed) establishes a Maryland Mental Health and Substance Use Disorder Registry and Referral System (and a related advisory committee) to provide a statewide system through which health care providers can identify and access available inpatient and outpatient mental health and substance use services for patients. By December 1, 2021, MDH, in collaboration with the State-designated health information exchange, must (1) develop and make available a specified resource directory; (2) develop a specified registry and referral pilot program; (3) develop a plan for funding the statewide expansion of the registry and referral system; and (4) submit a report to specified committees of the General Assembly. On May 7, 2020, the Governor vetoed the bill due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Medical Records and Emergency Facilities List

Senate Bill 441/House Bill 332 (Chs. 172 and 173) authorize MDH, in the list of emergency facilities published annually related to emergency mental health evaluations, to include (1) comprehensive crisis response centers; (2) crisis stabilization centers; (3) crisis treatment centers; and (4) outpatient mental health clinics. MDH must give the list to each local behavioral

health authority. Before including a facility on the list, MDH must consult with stakeholders to develop a model program structure that ensures that a program wishing to serve as an emergency facility meets specified requirements. MDH may not add an emergency facility to the list until the model facility standards have been developed. By September 30 of each year, MDH must report to the General Assembly on emergency facilities and the model facility standards. The Acts also alter the definition of health care provider as it pertains to the confidentiality of medical records to include a comprehensive crisis response center, a crisis stabilization center, and a crisis treatment center.

Emergency Evaluations

House Bill 1564 (Ch. 488) authorizes emergency facility personnel (rather than only a physician) to ask a peace officer to remain at an emergency facility when a peace officer brings an emergency evaluatee to the facility. A peace officer, to the extent practicable, must notify the emergency facility in advance that the peace officer is bringing an emergency evaluatee to the emergency facility.

Medical Cannabis

The Natalie M. LaPrade Medical Cannabis Commission is responsible for implementation of the State's medical cannabis program, which is intended to make medical cannabis available to qualifying patients in a safe and effective manner. There is a framework to certify health care providers, qualifying patients, and their caregivers to provide qualifying patients with medical cannabis legally under State law via written certification.

Senate Bill 304/House Bill 378 (Chs. 187 and 188) authorize physician assistants to be certifying providers under the State's medical cannabis program. The Acts also alter the composition of the commission to include physician assistants on the list of professions from which the two licensed noncertified provider commission members must be selected.

The Natalie M. LaPrade Medical Cannabis Compassionate Use Fund is a special nonlapsing fund administered by MDH to establish a program to allow individuals enrolled in Medicaid or in the Veterans Affairs Maryland Health Care System to obtain medical cannabis from a licensed dispensary free of charge or at a reduced cost. *House Bill 870 (Ch. 352)* requires the commission, rather than MDH, to administer and adopt regulations to implement the fund and related statutory provisions. The Act also expresses the intent of the General Assembly that the commission establish a fee structure to assess fees in a certain manner on licensed growers, processors, and dispensaries to support the fund.

Legislation relating to medical cannabis in schools was addressed in the *2020 Session Major Issues Review*.

Food Safety

A cottage food product is a nonhazardous food that is sold in the State (1) directly to a consumer from a residence, at a farmer's market or a public event, by personal delivery, or by mail

delivery or (2) to a retail food store, including a grocery store or a food cooperative. A cottage food business is a business that (1) produces or packages cottage food products in a residential kitchen in Maryland; (2) sells cottage food products; and (3) has annual revenues from the sale of cottage food products that do not exceed \$25,000. *House Bill 1017 (Ch. 405)* requires MDH, at the request of a cottage food business, to provide the cottage food business a unique identification number that the business may use on the label of a cottage food product. This identification number can be included on its label instead of the name and address of the business.

Vital Records

Senate Bill 102 (Ch. 526) authorizes MDH to change the name on the birth certificate of a child without a court order once within 12 months following birth even if only one parent is named on the birth certificate. The named parent must present MDH with (1) a written request for the name change and (2) an affidavit that has been sworn before a notary public of the State affirming that the individual is the parent of the child and is making the request of their own free will.

Environmental Health

Products Containing a Flame-retardant Chemical

Senate Bill 447 (Ch. 555) prohibits a person from importing, selling, or offering for sale any juvenile product, mattress, upholstered furniture, or reupholstered furniture that contains more than one-tenth of 1% by mass of a flame-retardant chemical. Certain products are exempt from the prohibition, such as a product that is not primarily intended for use in the home. The prohibition also does not apply to a juvenile product, mattress, upholstered furniture, or reupholstered furniture that is resold, offered for resale, or distributed by a consumer for consumer use.

Air Traffic Noise

In 2003, the Federal Aviation Administration began developing the Next Generation Air Transportation System (NextGen) to modernize the national air transportation system. NextGen is intended to produce long-term economic and environmental benefits in an effort to make flying more safe, efficient, and predictable. Technological advances under NextGen have mitigated some airport noise; however, the number and frequency of flights continues to increase. *Senate Bill 184/House Bill 310 (both passed)* require the University of Maryland, Baltimore Campus to study and report on the health effects of air traffic noise on communities near the Baltimore-Washington International Thurgood Marshall Airport since the implementation of NextGen. On May 7, 2020, the Governor vetoed the bills due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Health Awareness, Studies, and Protection

Maternal and Child Health

House Bill 286 (Ch. 154) requires that the stakeholders convened by the Secretary of Health as part of the Maternal Mortality Review Program must include (1) families of women who

have experienced a near maternal death, a high-risk pregnancy, other challenges during pregnancy, or a maternal death or (2) women who have experienced a near maternal death, a high-risk pregnancy, or other challenges during pregnancy. The Secretary, when convening the stakeholder workgroup, must contact specified organizations to seek input and recruitment support.

House Bill 837 (Ch. 337) requires the Cultural and Linguistic Health Care Professional Competency Program in MDH to establish and provide an evidence-based implicit bias training program for health care professionals involved in perinatal care of patients. By January 1, 2021, the program must establish an implicit-bias training program. By January 1, 2022, and at least once every two years thereafter, health care professionals involved in the care of patients at a perinatal care facility must complete the training. Any individual who completes the training (and a facility, on request) must be issued a certificate of training completion. The Maryland Maternal Mortality Review Program must study maternal morbidity and report its findings and recommendations to the General Assembly by December 31, 2020.

COVID-19 Public Health Emergency Protection Act

Information regarding the COVID-19 Public Health Emergency Protection Act was included in the *2020 Session Major Issues Review*.

Developmental Disabilities Administration

The Developmental Disabilities Administration (DDA) is undergoing a transformation that simultaneously launches community service functionalities on MDH's care management tracking system, new provider reimbursement rates, a fee-for-service payment model, and new service options on the Long Term Services and Supports (LTSS) software system. **Senate Bill 796 (passed)** requires MDH to ensure that providers of and individuals who receive DDA services are not adversely impacted when using LTSS or the Electronic Visit Verification (EVV) function. DDA must ensure that providers, including coordinators of community services, have the ability to automatically exchange electronic data with MDH through an application program interface with LTSS. MDH must meet specified requirements at least 90 days before requiring providers to use LTSS, including several benchmarks by October 31, 2020, to ensure that providers are able to effectively use LTSS. MDH must delay implementation of changes to EVV until December 1, 2020; by this date, MDH must also submit two specified reports to the General Assembly. On May 7, 2020, the Governor vetoed the bill due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Miscellaneous Health Programs and Requirements

Health and Human Services Referral System

The Health and Human Services Referral Board (HHSRB) oversees the 2-1-1 Maryland call centers and operation of the Health and Human Services Referral System in the State. **Senate Bill 584/House Bill 669 (Chs. 294 and 295)** repeal HHSRB and instead require MDH to assume HHSRB's duties, in consultation with 2-1-1 Maryland. Funding for 2-1-1 Maryland is subject to an audit by the Office of Legislative Audits. The Acts also repeal a limitation on the

number of call centers that may be approved by 2-1-1 Maryland in the State. By December 1, 2020, MDH must conduct a cost analysis of the 2-1-1 services provided in the State and report the results to the Governor, the General Assembly, and the Chair of the Board of Directors of 2-1-1 Maryland.

Emergency Use Auto-Injectable Epinephrine Program

Senate Bill 477/House Bill 1462 (Chs. 478 and 479) rename the Emergency Use Auto-Injectable Epinephrine Program at Institutions of Higher Education to be the Emergency Use Auto-Injectable Epinephrine Program and expand eligible participants to include any food service facility in the State that voluntarily participates in the program.

Maryland Children’s Service Animal Program

Chapter 416 of 2017 created the Maryland Veteran Service Animal Program to refer eligible veterans to nonprofit organizations to be paired with a service or support dog and facilitate their training. Chapter 465 of 2019 expanded the program to include nonprofit organizations that use trained therapy horses for interaction with veterans. *Senate Bill 455/House Bill 547 (Chs. 247 and 248)* establish the Maryland Children’s Service Animal Program in MDH to refer eligible children to selected nonprofit entities to be paired with service or support animals or interact with therapy horses and facilitate their training or therapy. MDH must select at least one nonprofit entity that meets specified qualifications to carry out elements of the program. The Acts establish a Maryland Children’s Service Animal Program Fund to support the program, which includes donations and money appropriated in the State budget to the fund.

Disposition of Remains

Senate Bill 528/House Bill 1229 (Chs. 450 and 451) clarify several provisions related to identifying an authorizing agent to make decisions regarding the disposition of a person’s body after death. The Acts expressly authorize a person to identify an authorizing agent by (1) executing a document that expresses this wish or (2) entering into a pre-need contract. If a person is identified by such a document, the authorizing agent is bound by any valid document executed under this provision of law in making decisions regarding the final disposition of the decedent’s body. The Acts clarify that the person designated to direct disposition on a specified form, or the person designated as an authorizing agent, have the right to serve as the authorizing agent for a decedent if the decedent executed a valid document.

Health Occupations

In General

Under the Health Occupations Article, licensed and certified health care practitioners are subject to a range of disciplinary actions by the appropriate health occupations boards. *Senate Bill 103/House Bill 259 (Chs. 139 and 140)* prohibit a health occupations board or disciplinary panel from reprimanding a licensee or certificate holder, placing a licensee or certificate holder on probation, or suspending or revoking a license or certificate solely on the basis

of the licensee's or certificate holder's use of a diagnostic evaluation or treatment of a patient that is integrative, complementary, alternative, or nonconventional. The prohibition may not be construed to release a licensee or certificate holder from the duty to exercise a professional standard of care when evaluating and treating a patient's medical condition.

Senate Bill 402/House Bill 448 (Chs. 15 and 16) authorize a health care practitioner to establish a practitioner-patient relationship through a telehealth interaction under specified circumstances. A health care practitioner providing telehealth services must (1) be held to the same standards of practice applicable to in-person health care settings; (2) provide or refer a patient to in-person health care services or another type of telehealth service, if clinically appropriate; (3) perform a clinical evaluation before providing treatment or issuing a prescription through telehealth; (4) document in a patient's medical record the health care services provided through telehealth; and (5) be licensed, certified, or otherwise authorized by law to provide health care services in the State if the health care services are being provided to a patient located in the State. A health care practitioner may not prescribe a Schedule II opiate for the treatment of pain through telehealth unless the individual receiving the prescription is in a specified health care facility, or the Governor has declared a state of emergency due to a catastrophic health emergency.

Athletic Trainers

Senate Bill 732 (Ch. 579) makes several revisions to the statute governing athletic trainers. The Act (1) alters the definition of "practice athletic training"; (2) defines "athletic individual"; (3) repeals limitations on the settings in which athletic trainers may practice; (4) repeals the requirement that an evaluation and treatment protocol describe the settings where the athletic trainer may practice; (5) repeals obsolete language regarding the three athletic trainer members of the Athletic Trainer Advisory Committee; and (6) specifies that an athletic trainer may provide treatment for not more than 14 days to an athletic individual with an injury that affects job function or job-related activity except under specified circumstances.

Board of Professional Counselors and Therapists

In 2017, the Department of Legislative Services (DLS) conducted a full sunset evaluation of the State Board of Professional Counselors and Therapists. Chapters 756 and 757 of 2018 implemented the extensive recommendations from the evaluation. As a part of the ongoing monitoring of the board, DLS made additional recommendations regarding the board in 2019, which are implemented in *Senate Bill 182/House Bill 303 (Chs. 158 and 159)*. The Acts extend the termination date of the board by five years to July 1, 2026, and repeal a requirement for the board to submit semiannual progress reports to DLS. Instead, such reports must be submitted to specified committees of the General Assembly beginning October 1, 2020. The reports must address progress made in addressing the board's complaint backlog, adopting regulations, and establishing an Alcohol and Drug Counselor Subcommittee.

Dentists and Dental Hygienists

The State Board of Dental Examiners (BDE) regulates and issues licenses for the practice of dentistry and dental hygiene in the State. *Senate Bill 306 (Ch. 548)* extends the termination date of BDE by 10 years to July 1, 2031, subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act. BDE must, by December 1, 2020, report to the General Assembly regarding the status of staff vacancies and the complaint and enforcement process of the board for the past five years.

Senate Bill 174/House Bill 939 (Chs. 379 and 380) alter the definition of “practice dentistry” and require a dental practice to be owned by a licensed dentist or dental professional corporation. The Acts specify duties that may only be performed by a licensed dentist and specify that it is unlawful for any person who is not a licensed dentist to direct, control, or interfere with the independent professional judgement of a dentist or dental hygienist regarding the diagnosis, care, or treatment of a patient’s dental disease, disorder, or physical condition.

Senate Bill 169/House Bill 947 (Chs. 385 and 386) increase the criminal penalties for practicing dentistry without a license and misrepresentation to the public and categorizes the offense as a felony rather than a misdemeanor. The Acts also increase the criminal penalty for specified provisions relating to dental laboratory work and advertising a dental appliance. BDE may issue a cease and desist order for practicing dentistry without a license or for misrepresentation to the public as well as for violations of specified provisions relating to dental laboratory work.

A licensed dentist may not represent to the public that the licensee is a specialist in any field of specialized dental practice unless BDE identifies the licensee as a specialist in that field. *Senate Bill 663 (Ch. 574)* authorizes BDE to approve any area of specialty recognized by the National Commission on Recognition of Dental Specialties and Certifying Boards (National Commission) rather than the Commission on Dental Accreditation. The qualifications required for board identification as a specialist may include requirements established by specialty certifying boards recognized by the American Dental Association or the National Commission. An applicant for a teacher’s license to practice dentistry who is engaged in teaching a dental specialty must meet the requirements established by the National Commission.

Chapters 106 and 111 of 2016 authorized dental hygienists to administer nitrous oxide and local anesthesia, respectively, under certain circumstances and under the supervision of a dentist. *House Bill 749 (Ch. 311)* authorizes a dental hygienist to prescribe or administer certain medications, after completing educational requirements established by BDE. A dental hygienist must only prescribe or administer medication (1) under the general supervision of a licensed dentist; (2) in compliance with regulations adopted by BDE; and (3) in compliance with applicable provisions of law regarding prescription packaging, labeling, and record keeping. Furthermore, a dental hygienist may not administer a controlled dangerous substance or controlled substance; a medication the prescription of which requires a federal Drug Enforcement Agency registration; or a medication that is administered by intramuscular, subcutaneous, intravenous, or intradermal injection except for certain local anesthesia.

Morticians and Funeral Directors

Senate Bill 439/House Bill 106 (Chs. 602 and 603) alter education requirements for obtaining a mortician or funeral director apprenticeship license from the State Board of Morticians and Funeral Directors. An applicant for an apprentice license must be enrolled in or have graduated from an approved mortuary science program with a grade point average of 2.0 or higher. A licensed apprentice must remain enrolled in the program for the duration of the apprenticeship and complete at least 1,000 working hours in a licensed funeral establishment under the direct supervision of the apprentice sponsor. A licensed apprentice may spend up to four years as a licensed apprentice before obtaining a mortician or funeral director license.

Nurse Practitioners

If a disabled person is determined to lack sufficient understanding or capacity to make or communicate specified personal decisions as a result of any mental disability, disease, or substance abuse, a court may appoint a guardian of the disabled person. The petition for guardianship must include signed and verified certificates of competency from two specified health care professionals. *Senate Bill 576 (Ch. 568)* authorizes a nurse practitioner who has examined a disabled person to sign a certificate of competency for a petition for guardianship of a disabled person. The Act also authorizes a nurse practitioner to be one of the two health care practitioners permitted, under specified circumstances, to certify that a patient is (1) incapable of making an informed decision regarding specified treatment or (2) in a terminal condition or has an end stage condition.

Nursing Home Administrators

The State Board of Examiners of Nursing Home Administrators consists of 14 members; 6 of whom must be licensed and actively practicing nursing home administrators with at least five years of experience. The Secretary of Health must recommend members of the board after consulting with associations and societies appropriate to the disciplines and professions representative of the vacancy to be filled. *Senate Bill 444/House Bill 631 (Chs. 279 and 280)* remove the requirement that members of the board be actively practicing nursing home administrators with at least five years of experience and require the Secretary of Health to recommend individuals for membership on the board who meet specified requirements, rather than after the previously required consultations.

Pharmacists

The Prescription Drug Monitoring Program (PDMP) assists with the identification and prevention of prescription drug abuse and the identification and investigation of unlawful prescription drug diversion. *House Bill 663 (Ch. 290)* alters the definition of “pharmacist” to include a pharmacist licensed by another state to dispense monitored prescription drugs for purposes of PDMP. The Act also adds failure to comply with the requirements of PDMP to disciplinary grounds for dentists, physicians, and physician assistants by the appropriate health

occupations board. For a further discussion of the Act and access to PDMP by pharmacists, see the subpart “Public Health – Generally” within this part of this *71 Day Report*.

Physical Therapists

Senate Bill 692 (Ch. 575) requires an applicant for a physical therapist assistant license educated in limited physical therapy outside of the United States to have graduated from a program that in the year of graduation has educational requirements equivalent to a degree from an accredited program in the United States. For applicants educated in the United States, the Act clarifies that an applicant for a physical therapist license must have graduated from a program approved by the American Physical Therapy Association (APTA) or accredited by the Commission on the Accreditation in Physical Therapy Education (CAPTE). An applicant for a physical therapist assistant license must have graduated from a program approved by APTA or accredited by CAPTE. An applicant for a physical therapy or physical therapy assistant license must have satisfactorily completed the clinical education required by the physical therapy or physical therapist assistant program.

Physicians

The Maryland Loan Assistance Repayment Program (MLARP) for Physicians and Physician Assistants provides student loan repayment assistance in exchange for certain service commitments to help ensure that underserved areas of the State have sufficient numbers of primary care physicians and physician assistants. ***Senate Bill 501/House Bill 998 (Chs. 402 and 403)*** transfer oversight of MLARP from the Office of Student Financial Assistance within the Maryland Higher Education Commission to the Maryland Department of Health (MDH). The Acts establish a stakeholder workgroup that must review and report on specified information, including a permanent funding structure for MLARP other than licensing fees from the State Board of Physicians Fund and budget appropriations. For fiscal 2022, the minimum funding for MLARP for Physicians and Physician Assistants increases by \$600,000 to \$1.0 million. For fiscal 2023 and beyond, unless MDH implements an alternative permanent funding structure, funding will be \$400,000 annually. Each year beginning on October 1, 2021, MDH must report on the program.

Other legislation relating to physicians and the State Board of Physicians was discussed in the *2020 Session Major Issues Review*.

Social Workers

Senate Bill 245 (Ch. 543) makes several revisions to the Maryland Social Workers Act. The Act alters the definition of “practice social work” to include counseling for alcohol and drug use and addictive behavior and clarifies that treatment of biopsychosocial conditions by certain social workers must be under the supervision of a licensed certified social worker-clinical. The State Board of Social Worker Examiners is prohibited from construing certain provisions of law to prohibit certain licensees from applying or qualifying to engage in independent practice. Lastly, the board must approve certain licensees to provide supervision if the licensee meets specified education, training, and practice criteria.

Health Care Facilities and Regulations

Health Services Cost Review Commission

The Health Services Cost Review Commission (HSCRC) was established to contain hospital costs, maintain fairness in hospital payments, and provide financial access to hospital care. HSCRC is responsible for implementing the All-Payer Model Contract with the federal Center for Medicare and Medicaid Innovation. *Senate Bill 42 (Ch. 505)* modifies the timing and required contents of HSCRC's annual report to include detailed information on the contract. The Act repeals provisions related to a separate report on the status of the contract and a requirement that HSCRC publish information about acute care hospital charges. HSCRC is authorized to assist in the implementation of federally approved model programs consistent with the contract, upon request of the Secretary of Health. The rates that HSCRC permits a hospital to charge for services must be consistent with the contract.

Each regulated hospital in the State is required to annually submit a community benefit report to HSCRC. *Senate Bill 774/House Bill 1169 (Chs. 436 and 437)* repeal specified requirements for nonprofit hospitals regarding community benefit reporting and instead require HSCRC to establish a Community Benefit Reporting Workgroup comprised of individuals and stakeholder groups that have knowledge of, and are impacted by, hospital community benefit spending. The workgroup must establish a standard reporting format and determine the dates on which each nonprofit hospital must submit an annual community benefit report. The Acts require HSCRC to adopt regulations that implement the recommendations of the workgroup and establish a method through which State and local governing bodies are made aware of the meetings of the workgroup.

Hospitals

Facility Fees

Hospitals have been acquiring physician practices that are often colocated in the hospital complex. As a result, patients visiting these practices for outpatient services may be charged a hospital outpatient facility fee that is added to the patient's bill from the medical provider. *Senate Bill 632/House Bill 915 (Chs. 365 and 366)* require patients to be notified orally and in writing that a hospital may charge an outpatient facility fee for an appointment at the hospital. The Acts specify the required contents of the notice that must be provided by a hospital, the timing by which the notice must be provided, and how a patient must acknowledge receipt of the notice. In addition, hospitals must determine the range of outpatient facility fees and fee estimates to be provided in the notice. A hospital may not charge, bill, or attempt to collect an outpatient facility fee unless the patient is provided the notice in accordance with these requirements.

Financial Assistance Policies and Debt Collection

In response to media attention related to hospital billing practices, legislation was introduced that altered mandated hospital financial assistance policy requirements and hospital debt collection practices.

House Bill 1420 (Ch. 470) alters required elements of hospital financial assistance policies, including increasing the family income limit for which a hospital's financial assistance policy must provide reduced-cost care from 150% to 200% of the federal poverty level. Each hospital must annually submit its policy and report information about patients who receive financial assistance to HSCRC. HSCRC must evaluate the impact of additional changes to hospital financial assistance policies and report its findings and recommendations regarding any impact of the changes on the amount of hospital uncompensated care included in hospital rates, and the total cost of care for Medicare, Medicaid, commercial insurers, and self-pay individuals.

Senate Bill 873/House Bill 1081 (both failed) would have altered requirements relating to hospital debt collection policies and payment plans and prohibited a hospital from taking specified actions when collecting debt. In addition, hospitals would have been required to submit annual reports to HSCRC, including the number of patients against whom the hospital had filed an action to collect debt owed, the number of patients the hospital had or had not reported or classified as bad debt, and the dollar amount of the cost of the hospital services provided to patients but not collected by the hospital.

Employee Retraining

A hospital closure, merger, or conversion to a freestanding medical facility may result in the displacement of hospital employees. **Senate Bill 938/House Bill 1571 (Chs. 489 and 490)** modify several provisions of law regarding a change in status of a hospital or health care facility that results in HSCRC assessing hospitals specified dollar amounts to provide funds for the Hospital Employees Retraining Fund. If a hospital closes, merges, or is fully delicensed, HSCRC must charge a fee to all hospitals sufficient to cover closing costs and to provide funds for the retraining fund. Each hospital must also pay an additional one-time capped fee to the retraining fund. In addition, hospitals must annually remit a specified amount to the retraining fund to assist employees affected by a reduction in workforce due to any type of change in status. The Acts also specify the types of employees who may access funds. The Acts terminate September 30, 2023.

Health Facilities and Providers

Freestanding Ambulatory Care Facilities

Senate Bill 728/House Bill 935 (Chs. 377 and 378) require the Maryland Department of Health (MDH) to establish by regulation procedures for ensuring that an anesthesia practitioner is not precluded from providing the highest level of anesthesia support that may be required to safely treat patients undergoing procedures in a nonsterile procedure room or a sterile operating room in a freestanding ambulatory surgical facility.

Prohibition on Discrimination

House Bill 1120 (Ch. 428) prohibits a hospital, a related institution, or a person licensed or regulated by MDH or a unit in MDH from discriminating against any individual with respect to the individual's medical care because of the person's race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability.

Health Insurance

Health Reform Implementation

Health Insurance Consumer Protections

The federal Patient Protection and Affordable Care Act (ACA) protects consumer access to health care through provisions such as prohibiting the denial of coverage for individuals with preexisting conditions and requiring coverage of dependents up to age 26. Section 1557 of the ACA prohibits health insurance carriers that offer plans in the health insurance marketplaces from discriminating against individuals based on criteria specified in federal law. In response to continued threats to the ACA, Chapters 417 and 418 of 2019 required the Maryland Health Insurance Coverage Protection Commission to establish a workgroup to, among other things, determine the most effective manner of ensuring that Maryland consumers can obtain and retain quality health insurance, independent of any action or inaction on the part of the federal government or any changes to federal law or its interpretation.

Senate Bill 872/House Bill 959 (Chs. 620 and 621) implement recommendations of the commission based on legislation proposed by the workgroup. The Acts establish, in a new subtitle, the consumer protections of the ACA that are currently specified through cross-references in Maryland law. The Acts also specify similar nondiscrimination provisions to Section 1557 of the ACA in State law by prohibiting health insurance carriers from refusing, withholding, or denying coverage under a health benefit plan to, or otherwise discriminating against, any individual on the grounds of race, sex, color, creed, national origin, marital status, sexual orientation, age, gender identity, or disability.

Maryland Health Benefit Exchange

Chapters 37 and 38 of 2018 established a health insurance provider fee assessment on specified entities for calendar 2019 only to support the State Reinsurance Program. Chapters 597 and 598 of 2019 extended the assessment through calendar 2023 and specified that the amount of the assessment must be 1% on all amounts used to calculate the entity's premium tax liability for the immediately preceding calendar year. *Senate Bill 124/House Bill 196 (Chs. 104 and 105)* clarify that the assessment continues to apply through calendar 2023 notwithstanding a change in federal law that repealed the related health insurance provider fee under the ACA. The Acts also require the Maryland Health Benefit Exchange to report to specified legislative committees on matters relating to the establishment of State-based individual market health insurance subsidies.

Conformity to and Implementation of Federal Law

Senate Bill 98 (Ch. 524) updates a provision of health insurance law to conform with regulations relating to the ACA. Specifically, the Act expands the types of coverage that an eligible employee or dependent may have had prior to a permanent move that trigger a special enrollment period. An individual who had coverage for prenatal care or services (including coverage under Medicaid or the Children’s Health Insurance Program) or medically needy Medicaid coverage for 1 or more days during the 60-day period preceding the date of the permanent move qualifies for a special enrollment period.

Mandated Coverage and Cost-sharing

In Vitro Fertilization

Under Maryland law, certain health insurance carriers must provide coverage for in vitro fertilization (IVF) to a married patient who meets specified qualifications. *Senate Bill 988/House Bill 781 (Chs. 324 and 325)* extend the requirement for coverage for IVF benefits to a qualified, unmarried patient and alter the qualifications for coverage for a married patient. To qualify for IVF benefits, an unmarried patient must have (1) had three attempts of artificial insemination over the course of one year failing to result in pregnancy or (2) infertility associated with endometriosis, diethylstilbestrol exposure, blockage or removal of one or both fallopian tubes, or abnormal male factors. The Acts alter the requirements for a married patient to qualify for IVF benefits by (1) reducing the length of required involuntary infertility for the patient and the patient’s spouse from at least two years’ duration to at least one year’s duration and (2) for same sex couples, reducing the number of required attempts of artificial insemination from six attempts over the course of two years to three attempts over the course of one year.

Pediatric Autoimmune Neuropsychiatric Disorders

Pediatric Autoimmune Neuropsychiatric Disorders Associated with Streptococcal Infections (PANDAS) is a disorder that typically presents in children as obsessive-compulsive disorder (OCD), tic disorder, or both that suddenly become worse following a strep infection. Pediatric Acute Onset Neuropsychiatric Syndrome (PANS) includes all cases of acute onset OCD, not just those associated with streptococcal infection. PANDAS/PANS may affect as many as 1 in 200 children. *Senate Bill 475 (Ch. 560)* requires health insurance carriers to provide coverage for medically necessary diagnosis, evaluation, and treatment of PANDAS and PANS, including the use of intravenous immunoglobulin therapy. Additionally, the Act specifies how PANDAS and PANS must be coded for billing and diagnosis purposes and provides that carriers are not required to cover rituximab unless the U.S. Food and Drug Administration approves it for the treatment of PANDAS and PANS.

Prostate Cancer Screening

Senate Bill 661/House Bill 852 (Chs. 343 and 344) prohibit health insurance carriers, subject to certain federal guidance, from applying a deductible, copayment, or coinsurance to

coverage for preventive care screenings for prostate cancer, which must include a digital rectal exam and a prostate-specific antigen blood test.

Telehealth and Mental Health Services

Health insurance carriers must provide coverage for health care services appropriately delivered through telehealth. *Senate Bill 502/House Bill 1208 (Chs. 17 and 18)* specify that telehealth, under these coverage requirements, includes the delivery of mental health services to a patient in the patient's home. For further discussion of the Acts and the requirements relating to Medicaid coverage of telehealth, see the subpart "Public Health – Generally" within this part of this *71 Day Report*.

Compliance with Federal Mental Health Parity and Addiction Equity Act

The federal Mental Health Parity and Addiction Equity Act (Parity Act) requires group health plans of large employers as well as qualified health plans sold in health insurance exchanges and in the small group and individual markets as of January 1, 2014, to equalize health benefits for addiction and mental health care and medical and surgical services in many fundamental ways. Among other standards, the Parity Act prohibits group health plans from imposing separate or more restrictive financial requirements or treatment limitations on mental health and substance use disorder (SUD) benefits than those imposed on other general medical benefits.

Senate Bill 334/House Bill 455 (Chs. 211 and 212) require health insurance carriers that provide health benefit plans in the State to submit two specified reports to the Maryland Insurance Commissioner to demonstrate compliance with the Parity Act. Carriers must also conduct a comparative analysis for the nonquantitative treatment limitations identified in a compliance report as those limitations are written and in operation. The comparative analysis must demonstrate that the processes, strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and each nonquantitative treatment limitation to mental health and SUD benefits are comparable to, and are applied no more stringently than, those used for medical and surgical benefits.

Pharmacy Benefits and Services

Specialty Drugs – Drugs for the Treatment of Diabetes, HIV, and AIDS

"Specialty drug" means a prescription drug that (1) is prescribed for an individual with a complex, chronic, or rare medical condition; (2) costs \$600 or more for up to a 30-day supply; (3) is not typically stocked at retail pharmacies; and (4) requires a difficult or unusual process of delivery to the patient in the preparation, handling, storage, inventory, or distribution of the drug or requires enhanced patient education, management, or support, beyond those required for traditional dispensing before or after administration of the drug. *Senate Bill 931/House Bill 652 (Chs. 614 and 615)* exclude a prescription drug prescribed to treat diabetes, HIV, or AIDS from the definition of specialty drug for the purpose of precluding a health insurance carrier from requiring the drug to be obtained through a designated pharmacy or other authorized source or a pharmacy participating in the carrier's network, if the carrier determines that the pharmacy meets

the carrier's performance standards and accepts the carrier's network reimbursement. The Acts also prohibit the Secretary of Health from considering drugs prescribed to treat diabetes, HIV, or AIDS to be specialty drugs for the purpose of providing services under Medicaid.

Pharmacy Services Administrative Organizations

A pharmacy services administrative organization (PSAO) is an entity that provides a contracted pharmacy with contracting administrative services relating to prescription drug benefits. *Senate Bill 915/House Bill 978 (Chs. 398 and 399)* require a PSAO to register with the Insurance Commissioner, beginning July 1, 2021, before providing services as a PSAO to independent pharmacies in the State. A PSAO that has not registered may not enter into an agreement or a contract with an independent pharmacy or a pharmacy benefits manager (PBM).

Credentialing and Reimbursement Practices of Pharmacy Benefit Managers and Purchasers

A PBM is a business that administers and manages prescription drug benefits for purchasers. *House Bill 1307 (Ch. 455)* establishes protections for pharmacies and pharmacists that participate in a PBM's or purchaser's network. The Act prohibits a PBM or purchaser from, as a condition of participating in a PBM's or purchaser's network, requiring a pharmacy or pharmacist to renew credentialing more frequently than once every three years or charging a pharmacy or pharmacist a fee for initial credentialing or to renew credentialing.

In addition, the Act prohibits a PBM or purchaser from directly or indirectly charging a contracted pharmacy, or holding a contracted pharmacy responsible for, a fee or performance-based reimbursement related to the adjudication of a claim or an incentive program, regardless of whether it is specifically enumerated at the time of claim processing or reported on the initial remittance advice. PBMs and purchasers are prohibited from making or allowing any reduction in payment for pharmacy services or directly or indirectly reducing a payment for a pharmacy service under a reconciliation process to an effective rate or reimbursement, including generic effective rates, brand effective rates, direct and indirect remuneration fees, or any other reduction or aggregate reduction of payments.

Maryland Competitive Pharmacy Benefit Manager Marketplace Act

In an effort to optimize prescription drug savings by the State, *House Bill 1150 (Ch. 434)* requires the Department of Budget and Management (DBM) to use a "reverse auction" to select a PBM for the Maryland Rx Program under the State Employee and Retiree Health and Welfare Benefits Program. At least three months before a PBM reverse auction is scheduled to be completed, DBM must procure a technology platform (as well as any associated professional services) to evaluate the qualifications of prospective PBMs, automatically adjudicate prescription drug claims, and collect data on pharmacy reimbursement. DBM may perform annual market checks of PBM services during the term of a PBM contract to ensure continuing competitiveness of prescription drug pricing over the life of the contract.

Life and Health Insurance Guaranty Corporation Act

The Life and Health Insurance Guaranty Corporation was established in 1970 to provide limited protection to State residents holding insurance policies or annuities issued by member insurers in the event that such an insurer becomes insolvent. The corporation operates under the supervision of the Insurance Commissioner and consists of all insurers licensed to sell life insurance, accident insurance, health insurance, and individual annuities in the State. *Senate Bill 186/House Bill 141 (Chs. 73 and 74)* revise various provisions of the Life and Health Insurance Guaranty Corporation Act, including adding health maintenance organizations as assessable member insurers and establishing a mechanism to more fairly assess for receiverships involving long-term care insurers.

Other Health Insurance Issues

Provider Panels and Community-based Services

Chapter 551 of 2019 prohibits a carrier from rejecting a provider who provides community-based health services for an accredited program for participation on the carrier's provider panel solely because the provider is a licensed graduate social worker, a licensed master social worker, a licensed graduate alcohol and drug counselor, a licensed graduate marriage and family therapist, a licensed graduate professional art therapist, or a licensed graduate professional counselor. *House Bill 601 (Ch. 271)* extends this prohibition to include registered psychology associates and clarifies that the prohibition applies if the provider practices within the scope of the provider's license and holds a specified license or credential.

Health Insurance and Prescription Drug Benefit Cards

Senate Bill 99 (Ch. 525) requires health insurance carriers, as well as Medicaid managed care organizations (MCO) and PBMs that contract with MCOs, to print on a health insurance benefit card or prescription benefit card the acronym used for the State agency that regulates the policy or contract.

Social Services

Benefit Program Modifications

Family Investment Program and Temporary Cash Assistance

Families and individuals applying for or receiving Temporary Cash Assistance (TCA) benefits may receive support in becoming self-sufficient through the Family Investment Program (FIP). TCA and FIP are administered by the Department of Human Services (DHS) through local departments of social services (LDSS). FIP participants generally must meet certain work requirements, except cases that are child only or have certain other characteristics. Participants are assessed for work activities based on education level and job readiness. FIP recipients must also comply with child support requirements, including assigning rights to the State.

If a TCA assistance unit is found to be noncompliant with FIP requirements, including work-related or child support requirements, TCA benefits for the entire case are terminated (known as a sanction) unless certain good cause criteria are met. For work-related sanctions, benefits remain terminated for varying lengths of time after restoring compliance. The evaluation of good cause criteria is established by DHS policy, not in statute.

House Bill 1313 (Ch. 457) creates several statutory changes for DHS' administration of FIP, effective July 1, 2021; among other things:

- the benefit structure for TCA assistance units with adults and children or minor parents and children is altered so that the amount of assistance must be (1) 75% for the child(ren) in the assistance unit and (2) 25% for the adult member(s) or minor parent(s) of the assistance unit;
- work-related sanctions on a noncompliant TCA assistance unit are limited to 30% of the adult portion of the case;
- upon compliance with work requirements, benefits resume at the full level instead of the existing time-lagged resumption based on the number of sanctions applied to the unit;
- certain good cause provisions related to work requirements are established in statute rather than policy, for example, certain circumstances (temporary illness, family crisis, breakdown of transportation or child care arrangements) that impede an individual's ability to comply with requirements are sufficient to establish good cause; and
- the sanction for noncompliance with child support requirements is 25% of the whole TCA grant, rather than termination of the case.

The Maryland Minimum Living Level (MMLL) is an inflation-adjusted calculation of the income necessary to support a minimal standard of living for a family of three in Maryland. The Governor is required to include sufficient funds in the budget to ensure that the value of the TCA benefit combined with federal Supplemental Nutrition Assistance Program (SNAP) benefits equals at least 61% of MMLL. **Senate Bill 452 (passed)** increases the level of benefit that must be funded from 61% to 61.25%, beginning in fiscal 2022. On May 7, 2020, the Governor vetoed the bill due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Food Supplement Program

Eligible low-income families and individuals receive federally funded benefits for the purchase of food items through SNAP, previously known as the Food Stamp Program. In Maryland, this program is called the Food Supplement Program and is administered by DHS through LDSS. **Senate Bill 49 (Ch. 508)** changes the name of the Food Supplement Program to SNAP, to align with the name of the federal program. This allows the State to use federally provided educational graphics and other relevant communication materials.

Disabilities

The Department of Information Technology (DoIT) administers the Telecommunications Access of Maryland (TAM) and the Telecommunications Devices and Distribution of Accessible Information for Disabled Individuals programs. A surcharge on phone bills funds the Universal Services Trust Fund (USTF), which funds TAM, the Maryland Relay Service, and the Senior Call Check Service. The Maryland Department of Disabilities (MDOD) administers the Assistive Technology and the Technology Loan programs. MDOD is also leading a statewide information technology accessibility initiative. *Senate Bill 851 (Ch. 586)* consolidates State efforts to improve telecommunications accessibility under MDOD. TAM, the Telecommunications Devices and Distribution of Accessible Information for Disabled Individuals program, and USTF are transferred from DoIT to MDOD. The Act also (1) expands the membership of the Maryland Commission on Disabilities; (2) expands the membership of the Governor's Advisory Board for Telecommunications Relay and requires MDOD to provide the board with a director; and (3) expands responsibilities for the Telecommunications Devices and Distribution of Accessible Information for Disabled Individuals program.

House Bill 847 (Ch. 341) establishes a State Coordinator for Autism Strategy to (1) identify and evaluate existing services for individuals with autism and their families; (2) develop a strategic plan for addressing autism-related needs by July 1, 2021; (3) identify national benchmarks and other performance measures; and (4) monitor and evaluate the implementation of the strategic plan and the success of the State in addressing autism-related needs. An Advisory Stakeholder Group on Autism-Related Needs is also established.

Age-targeted Services

Services for the Elderly

Chapters 308 and 309 of 2019 authorized the Maryland Department of Aging to fund grants to aging-in-place programs hosted by nonprofits or Area Agencies on Aging, dependent on the availability of resources in the budget. Aging-in-place programs allow an individual to live in their own homes and communities safely, independently, and comfortably. *House Bill 498 (passed)* authorizes the grants to be used to provide seniors the opportunity to live in a senior village (local, member-driven, nonprofit organizations that support members who choose to age in place by fostering social connections and coordinating volunteer help). The bill repeals the requirement that funding for such grants be as provided in the State budget; instead, the Governor must include at least \$100,000 in the annual budget for the grants. At least 20% of funding must be used to support senior villages. On May 7, 2020, the Governor vetoed the bill due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Services for Youth

Senate Bill 207/House Bill 206 (Chs. 108 and 109) allow an unaccompanied minor in need of shelter to consent to shelter and supportive services under specified circumstances. For

further discussion of *Senate Bill 207/House Bill 206*, see the subpart “Housing and Community Development” within Part H – Business and Economic Issues of this *71 Day Report*.

Other Social Services

The Two-Generation Family Economic Security Commission, established by executive order in March 2017, was charged with investigating policy challenges, opportunities, and recommendations regarding the mitigation of multigenerational poverty in the State. The commission terminated on December 31, 2018. *House Bill 1363 (Ch. 460)* reestablishes the commission in DHS and expands its charge to include collecting data to evaluate the effectiveness of programs.

Part K

Natural Resources, Environment, and Agriculture

Natural Resources

Boating

The State Boat Act authorizes the Department of Natural Resources (DNR) to seize, remove, and take into custody any abandoned or sunken vessel. DNR may use its own personnel, equipment, and facilities or use other persons, equipment, and facilities for removing, preserving, or storing abandoned or sunken vessels. Additionally, DNR may delegate its authority to remove and dispose of abandoned or sunken vessels to any local jurisdiction that consents to the delegation. *Senate Bill 219/House Bill 143 (Chs. 75 and 76)* make changes to provisions of law governing abandoned or sunken vessels, including (1) requiring DNR to take custody of specified abandoned or sunken vessels without advance notice to the last known registered owner; (2) modifying the definition of an abandoned or sunken vessel; and (3) prohibiting DNR from using Natural Resources Police funds for removal or storage of abandoned or sunken vessels.

The Acts require DNR – upon a determination that an abandoned or sunken vessel poses an immediate hazard or obstruction to navigation, a potential health hazard, or a potential environmental hazard – to take the vessel into custody without providing advance notice to the last known registered owner of the vessel. DNR must keep a written record of the determination, including the actual or potential hazards mitigated by removal of the vessel. Consistent with existing notice requirements, as soon as reasonably possible but not later than 15 days after DNR takes an abandoned or sunken vessel into custody pursuant to the above requirement, DNR must send a notice to the last known registered owner of the vessel and to each known secured party. The notice must describe the actual or potential hazard mitigated by removal of the vessel.

Additionally, the Acts modify a portion of the definition of an abandoned or sunken vessel that includes a vessel that has remained at a private marina or boatyard, or property operated by a private marina or boatyard, for more than 90 days without the consent of the owner or person in control of the property. The Acts reduce the duration for which the vessel must have remained without consent from 90 days to 60 days. The Acts also modify the portion of the definition of an abandoned or sunken vessel that includes a vessel that (1) has been found adrift or unattended in

or upon the waters of the State; (2) is found in a condition of disrepair as to constitute a hazard or obstruction to the use of the waters of the State or presents a potential health or environmental hazard; and (3) is not specified historic property. The Acts break up the second portion of that definition (“is found in a condition of disrepair...”) so that a vessel must be found in a condition of disrepair *or* present a hazard or obstruction to the use of the waters of the State (not both) or present a potential health or environmental hazard.

Tree Expert Licenses

The Maryland Tree Expert Law addresses tree care work done for compensation on private or public property in the State and protects consumers by licensing qualified and insured tree care companies and individuals. Currently – in addition to being age 18 or older, passing a DNR examination, and paying an application fee – to obtain a tree expert license in the State, an individual must (1) have two years of relevant college education plus a minimum of one year of experience with a licensed tree expert in Maryland or an acceptable tree expert company in another state or (2) have three years of continuous experience with a licensed tree expert in Maryland or with an acceptable tree expert company in another state immediately preceding the date of application.

House Bill 1311 (Ch. 456) modifies the experience and education qualifications needed to obtain a tree expert license by allowing a person to qualify if they have, within the immediately preceding three years, (1) achieved active master logger status from the University of Maryland Extension’s Maryland-Delaware Master Logger Program and (2) held a forest product operator’s license. The Act terminates September 30, 2022.

Wildlife

The Black Bear Damage Reimbursement Fund within DNR is used to reimburse farmers for bear damage to agricultural products and livestock. Reimbursable damages include damage to a person’s beehives, fruit, or other crops as well as damage to livestock and poultry. A person is eligible for reimbursement if (1) the person has followed all black bear damage preventive measures recommended by DNR; (2) the damage amount is determined by a specified agent; and (3) DNR has verified that the damage was caused by a black bear. Subject to available funding, a person may be reimbursed in an amount not less than \$200 or more than \$3,000 per year.

Senate Bill 353/House Bill 897 (Chs. 357 and 358) authorize DNR to reimburse a person from the Black Bear Damage Reimbursement Fund for any damage to the person’s “pets” as defined in the Family Law Article. The Family Law Article defines pet as a domesticated animal, not including livestock.

Hunting and Fishing

Hunting

Sunday Hunting

Hunting game birds or mammals on Sunday is generally prohibited, subject to various exceptions (with many of the exceptions being county specific). Numerous changes to Sunday hunting provisions over the years have resulted in the statute being difficult to understand. *House Bill 173 (Ch. 95)* generally reorganizes and clarifies provisions of law that authorize Sunday hunting. The Act also explicitly authorizes the Department of Natural Resources (DNR) to set all Sunday hunting seasons.

Deer Management Permits – Baltimore County

Maryland landowners or agricultural lessees who are experiencing severe economic loss from deer to commercially grown crops may be eligible to receive a deer management permit. Deer management permits allow the permit holder or an agent of a permit holder to remove deer from the designated property outside of any deer bag limits and the established deer hunting seasons, including on any Sunday throughout the year. *Senate Bill 427/House Bill 1304 (Chs. 453 and 454)* make current provisions relating to deer management permits that are applicable in Calvert, Charles, Harford, and St. Mary’s counties also applicable in Baltimore County. The provisions (1) allow an individual hunting under a deer management permit to use a shotgun or breech loading center fired rifle approved by DNR to hunt deer throughout the year in the locations and under the conditions set forth in the permit and (2) allow a permit holder who leases State land for crop cultivation to hunt deer on the leased land under the permit.

Repeal of Waterfowl Feeding License

DNR may issue a license to feed waterfowl over certain land. The purpose of the license is to (1) supplement the dwindling supply of waterfowl feed; (2) provide relief from crop depredation; and (3) regulate waterfowl feeding to prevent its use in hunting. DNR, however, has come to believe that feeding wildlife may do more harm than good and has not issued a waterfowl feeding license in decades. *Senate Bill 242 (Ch. 542)* repeals the authority of DNR to issue a waterfowl feeding license.

Fishing

Modification of Limited Fishing Guide License

A limited fishing guide license authorizes a license holder to guide individuals in up to three boats or vessels that (1) have one or two occupants and (2) are propelled by oars or paddles. DNR may issue a special charter boat license to limited fishing guides, allowing them to guide individuals in tidal waters without each individual needing to possess a recreational fishing license. *Senate Bill 793/House Bill 1131 (Chs. 430 and 431)* alter the required method of propulsion for

a boat or vessel operated by a limited fishing guide from oars or paddles to human power, authorizing the use of boats or vessels with other drive systems (typically pedals).

Authorization to Empty a Haul Seine during Weekend Hours

In general, a person may not fish with a haul seine during the period from 12:01 a.m., Saturday, until sunrise on Monday in the tidal waters of the State. This prohibition limits the ability of a commercial harvester to use haul seines on a Friday because, depending on the size of the catch, the harvester may not have time to empty the net before midnight. *Senate Bill 510/House Bill 1399 (Chs. 464 and 465)* establish an exception to that prohibition by authorizing a person who sets a haul seine on a Friday to empty the haul seine during the period from 12:01 a.m. on Saturday until sunrise on Monday, if the person notifies the Natural Resources Police (1) that the person will be emptying the haul seine over that weekend; (2) of the location of the haul seine; and (3) of the contact information for the license holder responsible for the haul seine.

Nuisance Organism Pilot Projects and Modified Northern Snakehead License

DNR may use pilot projects as an adaptive management tool as part of a fishery management plan. *Senate Bill 114 (Ch. 528)* allows DNR to apply this process to nuisance organism control by authorizing DNR to adopt regulations to conduct pilot projects to demonstrate and evaluate new approaches for the management and control of nuisance organisms (which likely would not be subject to fishery management plans). In particular, DNR could use pilot projects in its efforts to control the northern snakehead and blue catfish.

Senate Bill 114 also modifies the “commercial northern snakehead bowfishing license” by renaming it as the “commercial northern snakehead license” and authorizing the license holder to catch for sale northern snakeheads in the tidal waters of the State using a hook and line in addition to a bow and arrow attached to a retrieval line.

Study on Recreational Striped Bass Harvest Data

DNR is implementing striped bass conservation measures that impose limitations on the recreational fishery under an Atlantic States Marine Fisheries Commission requirement that states achieve an 18% reduction in total striped bass removals relative to 2017 levels. To improve the management of the striped bass fishery, *Senate Bill 882 (Ch. 587)* requires DNR to (1) conduct a study on methods of obtaining more accurate harvest data for the recreational striped bass fishery, including consideration of the benefits of more accurate data, the types of information to be collected, and enforcement measures and (2) report its findings and recommendations by December 1, 2020.

Fishing License Penalty Reciprocity

The Potomac River Fisheries Commission (PRFC), comprised of representatives of Maryland and Virginia, regulates fisheries (including recreational and commercial licensing) in the mainstem tidal Potomac River, from Washington, DC, to the Chesapeake Bay. *Senate Bill 1025 (Ch. 594)* establishes a Task Force on Fishing License Penalties to study and make

recommendations, by December 1, 2021, on (1) fishing license penalty reciprocity between Maryland and PRFC; (2) if Virginia participates in the task force, fishing license penalty reciprocity between Virginia and PRFC; (3) the logistics associated with providing fishing license penalty reciprocity; and (4) specified enforcement actions PRFC can take, consistent with the Interstate Wildlife Violator Compact. The Act also states the intent of the General Assembly that the task force constitute a commission to study and make recommendations on revisions and amendments to the Potomac River Compact of 1958.

Licensing

Discounted and Complimentary Licenses

Chapters 461, 462, and 463 of 2017, taken together, established discounted and complimentary hunting and recreational fishing privileges for certain individuals by (1) authorizing DNR to issue a lifetime complimentary angler's or sport fishing license to an out-of-state former prisoner of war or 100% service-connected disabled American veteran (and exempting such angler's licensees from trout stamp requirements) if the person's state of residence extends similar, reciprocal privileges and (2) requiring DNR to implement programs to provide discounted angler's, sport fishing, and hunting licenses and associated stamps and permits to Maryland residents who are recipients of the Purple Heart award. *House Bill 236 (Ch. 123)* makes Chapters 461, 462, and 463 permanent, repealing their June 30, 2020 termination date.

Healing Hunting and Fishing Fund

Chapter 424 of 2016 established a program through which a person may purchase and donate an angler's license, a sport fishing license, or a hunting license and any corresponding stamps, for use by a Gold Star recipient, a disabled veteran, a disabled member of the U.S. Armed Forces, or a permanently disabled person who requires the use of a wheelchair. The Healing Hunting and Fishing Fund holds funds for the program. *Senate Bill 142 (Ch. 536)* repeals the license donation program and modifies provisions relating to the Healing Hunting and Fishing Fund to allow for grants to be made from the fund to eligible sponsor organizations to provide recreational outdoor opportunities (including hunting and fishing opportunities) or workforce training for green jobs to the groups of individuals the license donation program benefited as well as specified others. The Act also (1) makes the fund permanent, repealing its June 30, 2022 termination date; (2) requires DNR to establish a process to allow an individual who purchases specified fishing or hunting licenses or stamps through DNR's electronic system to make a donation to the fund at the time of purchase; and (3) requires the Chesapeake Bay Trust, rather than DNR, to administer the fund.

Other Legislation

Other legislation relating to hunting and fishing (oyster management) was addressed in the *2020 Session Major Issues Review*.

Environment

Bay Restoration Fund

Chapter 428 of 2004 established the Bay Restoration Fund (BRF), which is administered by the Water Quality Financing Administration within the Maryland Department of the Environment (MDE). The primary purpose of the fund is to support upgrades to Maryland's major publicly owned wastewater treatment plants (WWTP) with enhanced nutrient removal (ENR) technology; funds are also used to support, among other things, onsite sewage disposal system (commonly referred to as a septic system) upgrades and the planting of cover crops.

As a revenue source for the fund, Chapter 428 established a bay restoration fee on users of wastewater facilities, septic systems, and sewage holding tanks, which was doubled for most users under Chapter 150 of 2012. Fee revenue generated from users of wastewater facilities is deposited into MDE's Wastewater Account and used to, among other specified uses, provide grants for up to 100% of the eligible costs of upgrading WWTPs to ENR.

Project funding from the Wastewater Account is subject to several priorities, one of which requires MDE to determine funding awards based on water quality and public health benefits when allocating funding for (1) combined sewer overflow abatement, rehabilitation of existing sewers, and upgrading conveyance systems, including pumping stations; (2) nitrogen reduction from septic systems; and (3) the most cost-effective and efficient stormwater control measures by local governments who have implemented a system of charges to fully fund a stormwater management program. *House Bill 78 (Ch. 44)* expands the criteria used to determine how to allocate funding for these projects by including climate resiliency and flood control as issues that MDE must consider when determining the priority of funding. The Act also specifies that the types of stormwater control measures that a local government that has implemented a system of charges to fully fund a stormwater program may receive BRF funding for include stormwater measures relating to water quality, climate resiliency, and flood control.

Of the BRF fee revenue collected from users of septic systems and sewage holding tanks, 60% must be deposited into a separate account, commonly referred to as the Septics Account. Among other things, the Septics Account may be used for grants or loans for up to 100% of the cost of connecting a property using a septic system to an existing municipal wastewater facility that is achieving specified levels of treatment. *House Bill 1035 (Ch. 413)* expands the authorized uses of the Septics Account to include specified costs associated with connecting a property served by a septic system to an existing municipal wastewater facility that has signed a funding agreement with MDE and is under construction to achieve ENR or biological nutrient removal level treatment.

Hazardous and Toxic Substances

Firefighting Foam and Perfluoroalkyl and Polyfluoroalkyl Chemicals

Perfluoroalkyl and polyfluoroalkyl substances (PFAS) are a group of synthetic chemicals that include PFOA, PFOS, GenX, and many other chemicals. PFAS have been manufactured and used in a variety of industries in the United States since the 1940s, including for use in firefighting foam. PFAS are persistent in the environment and the human body, meaning that they do not break down easily and can accumulate over time, and there is evidence that exposure to PFAS can lead to a number of adverse human health effects. The U.S. Environmental Protection Agency has taken a range of regulatory actions to address PFAS substances in manufacturing and consumer products. Additionally, certain PFAS chemicals are no longer manufactured in the United States as a result of phase-outs that were agreed on by major chemical manufacturers.

In 2019, MDE announced the formation of a task force involving several of the department's administrations. MDE also established a three-step approach to the challenges of PFAS in the State, which includes (1) understanding the risk through science, inspection, and assessment; (2) communicating the risk through public education; and (3) managing the risk through appropriate funding, regulation, and agency coordination.

Senate Bill 420 /House Bill 619 (Chs. 276 and 277) generally prohibit, on or after October 1, 2021, the use of Class B firefighting foam that contains intentionally added PFAS chemicals for (1) testing purposes (unless the use is required by law or relevant agency and the testing facility has implemented appropriate containment, treatment, and disposal measures) or (2) training purposes. Additionally, nonfluorinated training foam is required for firefighting training purposes. The Acts establish a civil penalty for violations. For a further discussion of the Acts, see the subpart "Public Safety" under Part E – Crimes, Corrections, and Public Safety of this *71 Day Report*.

Lead

The Lead Poisoning Prevention Commission studies and collects information on several matters, including the effectiveness of the Lead Poisoning Prevention Program, and may appoint subcommittees to study specified subjects relating to lead and lead poisoning. ***Senate Bill 18 (Ch. 500)*** alters the membership of the commission and changes and adds topics on which the commission may appoint a subcommittee to study. The Act also (1) repeals and amends several obsolete provisions that require the commission to develop recommendations and standards and to study and collect information on various topics related to lead, lead poisoning, and remediation and (2) repeals an obsolete provision that requires MDE to consult with the commission on establishing specified standards.

The Opportunity Zone Enhancement Program, administered by the Department of Commerce (Commerce), provides enhanced incentives for qualifying businesses located within a federal opportunity zone. Businesses qualify by meeting certain requirements and providing specific information to Commerce. ***Senate Bill 713/House Bill 566 (Chs. 254 and 255)*** alter the information that must be provided to Commerce in order to qualify for tax enhancements under

the program to include information related to lead-based paint abatement in specified circumstances. For a more detailed discussion of this issue, see the subpart “Economic Development” within Part H – Business and Economic Development of this *71 Day Report*.

Water Infrastructure and Marine Contractors

Water Infrastructure Assets

MDE’s Dam Safety Program is responsible for regulating the design, construction, operation, and maintenance of dams in Maryland to prevent dam failures and the consequences of failure. MDE conducts inspections based on hazard classes of dams; issues permits for construction, repairs, and modifications; conducts construction inspections; and works with dam owners and emergency management professionals to develop and exercise an emergency action plan in the event of a dam failure.

House Bill 177 (Ch. 97) modifies MDE’s authority to respond to emergency situations related to a “water infrastructure asset” (defined as a reservoir, dam, or any other waterway construction) by authorizing MDE to take emergency actions necessary to protect life, property, or the environment if (1) MDE determines that a water infrastructure asset is in imminent danger of failure, MDE has issued notice to the asset owner, and the owner has not completed the work within the time prescribed in the notice or (2) MDE determines that a water infrastructure asset is failing and that the asset owner is not taking adequate protective actions. If MDE takes control of a water infrastructure asset, MDE must remain in control of the asset until it has been rendered safe or the circumstances requiring the emergency actions have ceased. The asset owner must reimburse MDE for costs incurred, and a lien must be established for nonpayment under specified circumstances. The Act also establishes legal protections for MDE and the State.

Marine Contractors Licensing Board

Chapter 286 of 2010 established the Marine Contractors Licensing Board within MDE but did not explicitly establish the board as a “unit” in MDE. The board is responsible for the licensing and regulation of individuals and entities that provide marine contractor services in the State. *Senate Bill 74 (Ch. 513)* explicitly establishes the board as a unit in MDE and subjects the board to termination under the Maryland Program Evaluation Act. The Act also amends the definition of “marine contractor services” to exclude specified activities over State or private tidal wetlands. Finally, the Act authorizes the board to establish, by regulation, license categories that specify the marine contractor services each license authorizes a licensee to perform.

Solid Waste Management

Chapters 579 and 580 of 2019 established a prohibition, beginning July 1, 2020, against (1) a person selling or offering for sale in the State an “expanded polystyrene food service product” and (2) a food service business or school from selling or providing food or beverages in an expanded polystyrene food service product. An “expanded polystyrene food service product” is a product made of expanded polystyrene that is (1) used for selling or providing food or beverages

and (2) intended by the manufacturer to be used once for eating or drinking or generally recognized by the public as an item to be discarded after one use and includes food containers, plates, beverage cups, trays, and cartons for eggs or other food. There are a number of exceptions to the definition. *Senate Bill 840/House Bill 1442 (Chs. 471 and 472)* expand the exceptions to the definition of an expanded polystyrene food service product by excluding (1) cartons for eggs that are made of expanded polystyrene that are shipped into the State for packaging and (2) cartons of eggs that have been packaged within the State for sale within the State.

Renewable Energy

The Voluntary Cleanup Program (VCP), which is administered by MDE, was established in 1997 to encourage the investigation of eligible brownfields properties, to protect public health and the environment, to accelerate the cleanup of “eligible properties,” and to provide predictability and finality to the cleanup process. An eligible property is a property that is contaminated or perceived to be contaminated.

VCP provides owners or purchasers of a contaminated site liability relief if cleanup goals are met. The initial application fee for VCP is \$6,000, but MDE may reduce that fee on a demonstration of financial hardship. An application fee of \$2,000 applies for each application submitted subsequent to the initial application for the same property. An application fee of \$2,000 also applies for each application submitted subsequent to the initial application for contiguous or adjacent properties that are part of the same planned unit development or a similar development plan. All application fees are paid into the Voluntary Cleanup Fund. *Senate Bill 281 (Ch. 544)* requires MDE to waive application fees for VCP for a qualifying applicant who intends to use eligible property to generate clean or renewable energy. The Act also expands the definition of eligible property, as it applies to VCP, to include sites listed on the Superfund Enterprise Management System.

Lastly, *Senate Bill 281* exempts a public service company that is a public-private partnership (P3) formed for the generation of clean or renewable energy from the existing public service company franchise tax if (1) 30% or more of the electricity generated through the P3 is purchased by the public partner and (2) the clean or renewable energy generating station is sited on an eligible clean and renewable energy generation site, as determined by MDE.

Agriculture

Nutrient and Sediment Management

Maryland Agricultural Water Quality Cost-Share Program

The Maryland Agricultural Water Quality Cost-Share Program (MACS) was established by the General Assembly as one of several initiatives to improve water quality and achieve water quality goals. Administered by the Maryland Department of Agriculture (MDA), MACS provides farmers with grants to cover up to 87.5% of the cost of implementing best management practices

that reduce soil and nutrient runoff from farmland. The fiscal 2021 capital budget includes \$8.0 million in general obligation bond funding for the installation of best management practices under MACS.

Senate Bill 597/House Bill 687 (Chs. 304 and 305) modify the provisions governing MACS to allow for State cost-sharing for “fixed natural filter practices” and to establish specified standards and requirements applicable to State cost-sharing. “Fixed natural filter practice” means one of the following practices: (1) planting of riparian forest buffers; (2) planting of riparian herbaceous cover; (3) tree plantings that are on agricultural land and outside a riparian buffer; (4) wetland restoration; or (5) pasture management, including rotational grazing systems, such as livestock fencing and watering systems implemented as part of the conversion of cropland to pasture. State cost-sharing funds may not be used to fund a conservation practice that does not either address a natural resource concern identified by the U.S. Department of Agriculture’s (USDA) Natural Resources Conservation Service or result in an improved conservation benefit. The Acts also prohibit a reduction in State cost-sharing rates for riparian forest buffers, riparian herbaceous cover, wetland restoration, or pasture management if the reduction is based on tons of soil saved or an amortization formula. State cost-sharing rates for pasture management must be based on the applicable rate established by USDA’s Environmental Quality Incentives Program. Additionally, State cost-sharing rates paid for the planting of multiple species of cover crops must equal or exceed the rates paid for the planting of a single species of cover crop.

Nonagricultural Fertilizer Application

The Fertilizer Use Act of 2011 (Chapters 484 and 485) is a component of the State’s strategy to reach the State’s targets for reducing nitrogen, phosphorus, and sediment loads under the Chesapeake Bay Total Maximum Daily Load that was established by the U.S. Environmental Protection Agency in December 2010. The law was enacted to reduce nutrient runoff from nonagricultural fertilizer application on turf, including golf courses, athletic fields, parks, recreation areas, businesses, and urban and suburban lawns. It established fertilizer content, labeling, and application requirements, as well as requirements applicable to professional fertilizer applicators. A professional fertilizer applicator must, among other things, be certified by MDA (or work under the direct supervision of an individual who is certified) before applying fertilizer to turf. A person who violates the restrictions applicable to professional fertilizer applicators is subject to a civil penalty of up to \$1,000 for a first violation and up to \$2,000 for each subsequent violation.

MDA regulations implementing the Fertilizer Use Act require, among other things, each business location that employs a person who is paid to fertilize turf to be licensed by MDA. To obtain or renew a license, an applicant must (1) apply to MDA on a departmental form; (2) designate an employee who is a certified professional fertilizer applicator; and (3) pay a \$50 fee. *House Bill 161 (Ch. 88)* generally codifies the regulations to clarify the authority of MDA to require the business license. The Act also expands the application of the existing civil penalty provisions to apply to a person who employs a person who violates related professional fertilizer applicator provisions.

Agricultural Land Preservation

The Maryland Agricultural Land Preservation Foundation (MALPF), a program within MDA, purchases agricultural preservation easements that restrict development on prime farmland and woodland in perpetuity. In addition to funding from the State transfer tax, MALPF is funded with agricultural land transfer taxes, local matching funds, and federal grant funds. As of the end of fiscal 2019, MALPF has acquired 2,347 agricultural preservation easements covering 318,216 acres statewide.

Valuation of Easement

Subject to certain exceptions, the maximum value of any easement to be purchased by MALPF is the lower of (1) the asking price or (2) the difference between the fair market value of the land and the agricultural value of the land. The value of the easement is determined at the time that MALPF is requested in writing to purchase the easement. The fair market value is determined by the Department of General Services based on one or more appraisals by the State appraisers and appraisals, if any, of the landowner. MALPF indicates that, in any easement application cycle, there may not be sufficient funding to extend offers to all applicants, and those who do not receive offers may reapply during the next cycle. However, new appraisals are required in each application cycle for all applications. *Senate Bill 244/House Bill 17 (Chs. 26 and 27)* allow MALPF to use an appraised fair market value (for the determination of the value of an easement) for up to two years after the date on which MALPF was first requested in writing to purchase the easement.

Montgomery County Agricultural Land Transfer Tax

House Bill 848 (Ch. 342) alters the Montgomery County agricultural land transfer tax by (1) requiring that revenue derived from the tax be used for agricultural land preservation programs or other programs that support agriculture in the county; (2) prohibiting the tax from applying to a land transfer if the land was subject to the tax at the time of a previous transfer; and (3) requiring that the tax be reduced by 65% if the land was assessed on the basis of any assessment other than the farm or agricultural use assessment for five or more full consecutive taxable years before the transfer.

Agricultural Production and Promotion

Maryland Egg Law

The Maryland Egg Law regulates shell eggs, defined as raw or treated chicken eggs that are still in the shell and intended for human consumption. A person may not donate, sell, advertise, offer, or in any manner represent for sale shell eggs to any person unless the shell eggs meet standards of quality, grade, and size classification under the Maryland Egg Law. *Senate Bill 9 (Ch. 496)* modifies the Maryland Egg Law by (1) expanding the definition of “shell eggs” to apply to poultry eggs in general (and not just domesticated chicken eggs); (2) expanding the Secretary of Agriculture’s enforcement authority to include additional locations that the Secretary may enter and additional items that the Secretary may examine; (3) establishing a definition of adulterated

shell eggs; (4) establishing additional registration requirements for packers and distributors of shell eggs, including compliance with specified federal standards established by the U.S. Food and Drug Administration for the prevention of *Salmonella enteritidis* in shell eggs during production, storage, and transportation, as applicable; and (5) requiring retailers and food service facilities to retain shell egg invoice delivery tickets for 90 days.

Agricultural Alcohol Production

MDA advises that many farmers who need to diversify their businesses are looking toward value-added productions such as breweries, wineries, and distilleries. To act as a reference in State law to help local jurisdictions regulate their own agricultural alcohol producers, *Senate Bill 118 (Ch. 532)* establishes definitions of “alcohol production” and “agricultural alcohol production.” The Act also authorizes a local jurisdiction to adopt either or both definitions by local ordinance, resolution, law, or rule. For a more detailed discussion of *Senate Bill 118*, see the subpart “Local Government – Generally” within Part D – Local Government of this *71 Day Report*.

Buildings Used for Agritourism in Montgomery County

The construction, alteration, or modification of an agricultural building for which agritourism is an intended subordinate use is exempted from adhering to the Maryland Building Performance Standards in several counties. In those counties, an existing agricultural building used for agritourism is not considered a change of occupancy that requires a building permit if specified conditions are met. *House Bill 805 (Ch. 331)* extends this exemption to an agricultural building in Montgomery County that meets the specified conditions. The Act also exempts an existing agricultural building used for agritourism in Montgomery County from obtaining a change of occupancy permit if the use (1) is in accordance with limitations established by the Maryland Department of Labor; (2) occupies only levels of the building on which a ground level exit is located; and (3) does not require more than 50 people to occupy an individual building at any one time. However, if the subordinate use of agritourism requires more than 50 people but fewer than 100 people to occupy an individual building at any one time, the width and number of means of egress must meet specified additional standards.

Maryland Farm Bureau Property Tax Exemption

The Maryland Farm Bureau is a private, nonprofit organization with more than 15,350 members in the 23 county farm bureaus in the State. The purpose of the Maryland Farm Bureau is to increase net farm income and improve the quality of life by providing a legislative voice, increasing public understanding, and promoting member involvement. *Senate Bill 802/House Bill 889 (Chs. 634 and 635)* exempt from State and local property taxes property owned by the Maryland Farm Bureau that is used exclusively for, among other things, (1) the agricultural education of the public; (2) aiding and encouraging agriculture in the State; or (3) assisting in the collection, analysis, and dissemination of information relating to agriculture. For a further discussion of the Acts, see the subpart “Property Tax” within Part B – Taxes of this *71 Day Report*.

Departmental Programs and Functions

State Board of Veterinary Medical Examiners

The State Board of Veterinary Medical Examiners (SBVME) is responsible for licensing and registering veterinarians, licensing and inspecting veterinary hospitals, registering veterinary technicians, and licensing animal control facilities to administer drugs needed to sedate and/or euthanize animals. SBVME regulates more than 3,000 veterinarians and registered veterinary technicians, 600 veterinary hospitals, and 30 animal control facilities.

Sunset Evaluation: While Chapters 510 and 511 of 2019 eliminated the periodic evaluations of regulatory entities and activities that were required under the Maryland Program Evaluation Act, uncodified language established the intent of the General Assembly that the Department of Legislative Services (DLS) conduct an evaluation of SBVME and make recommendations on a new termination date for SBVME. Accordingly, DLS conducted a full evaluation of SBVME in 2019, which focused on issues identified in the 2018 preliminary evaluation. ***House Bill 549 (Ch. 249)*** implements the statutory recommendations from the full evaluation report by extending the termination date of SBVME to July 1, 2031, and requiring SBVME to report each year on its disciplinary activities for the previous fiscal year.

Cease and Desist Orders and Civil Penalties: SBVME has the authority to bring an action for an injunction against a person who violates the statutory provisions governing SBVME and the practice of veterinary medicine. Additionally, a violation of any of those statutory provisions is a misdemeanor and subject to specified fines and/or imprisonment. SBVME may also take specified disciplinary actions against a veterinarian or veterinary practitioner, including the suspension or revocation of a license. To establish additional enforcement options for SBVME, ***Senate Bill 189/House Bill 545 (Chs. 243 and 244)*** authorize SBVME, on review and approval of the Secretary of Agriculture or the Secretary's designee, to issue a cease and desist order to a person who (1) practices, attempts to practice, or offers to practice veterinary medicine in violation of specified existing prohibitions; (2) takes an action for which SBVME determines there is a preponderance of evidence of grounds for discipline under specified existing provisions, including certain violations of veterinary standards of conduct, ethics, and license requirements; or (3) takes an action that poses a serious risk to the health, safety, and welfare of an animal patient. In lieu of a cease and desist order, SBVME may impose a civil penalty of up to \$5,000 for a first offense and \$10,000 for a second or subsequent offense. The Acts also establish notice and hearing requirements for the imposition of civil penalties by SBVME, authorize a person to seek review under the Administrative Procedure Act of a cease and desist order or civil penalty imposed by SBVME, and clarify that these remedies are in addition to the other remedies available to SBVME.

Certified Local Farm Enterprise Program

Senate Bill 985/House Bill 1488 (both passed) establish the Certified Local Farm Enterprise Program and office within MDA to encourage State agencies, including public four-year universities, to achieve an overall goal of purchasing 20% of food from certified local farm enterprises. A certified local farm enterprise is one that meets specified nutrient management

requirements and is certified by MDA. Among other things, the office must adopt regulations to maximize notice to, and the opportunity to participate in the food procurement process by, a wide range of local farm enterprises. MDA must develop and maintain a directory of all certified local farm enterprises and make the directory accessible to the public on its website. The bills also establish a nonbudgeted Certified Local Farm Enterprise Food Aggregation Grant Fund within the Maryland Agricultural and Resource-Based Industry Development Corporation to establish and operate food aggregation, storage, processing, and distribution sites across the State through grants and near-equity investments. For a more detailed discussion of *Senate Bill 985/House Bill 1488*, see the subpart “Procurement” within Part C – State Government of this *71 Day Report*.

On May 7, 2020, the Governor vetoed the bills due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Noxious Weed Control

The Secretary of Agriculture has specified authority and responsibility under State law to control noxious weeds and other plant species, including the authority to enter into agreements with a county or other political subdivision of the State, an adjoining state, or an agency of the federal government to implement a program for the control and eradication of noxious weeds. *Senate Bill 92 (Ch. 519)* modifies certain provisions that specifically govern an agreement between the Secretary and a county for cooperative efforts to control or eradicate a noxious weed or other plant species within the county to make the provisions applicable to an agreement between the Secretary and a county or other “subdivision of the State,” which is defined to include a Soil Conservation District.

Other Legislation

Other legislation relating to agriculture (pesticides) was discussed in the *2020 Session Major Issues Review*.

Part L

Education

Education – Primary and Secondary

School Governance

Maryland established an Interstate Compact on Educational Opportunity for Military Children (Chapters 501 and 502 of 2009) to facilitate the transfer of children in military families between schools in different states. *Senate Bill 391/House Bill 503 (Chs. 224 and 225)* build on this framework by requiring a local superintendent to allow a dependent child of an active-duty service member who is relocating to the State on military orders to apply for enrollment in a public school in the same manner and at the same time as individuals who reside in the county (including Baltimore City). Within 10 days of the published arrival date on the service member's military orders, the service member must provide the school with (1) satisfactory evidence of the dependent child's status as a dependent child of the service member; (2) a copy of the service member's military orders to relocate; and (3) proof of residence in the county.

Senate Bill 564 (Ch. 565) requires a local board of education to waive all local high school graduation requirements, including required coursework, that are in addition to the State high school graduation requirements established by the State Board of Education for a student in foster care or who is a homeless youth, if the student transfers into the local school system from a different local school system in the State while in grades 11 or 12. However, the local board of education is prohibited from waiving the local requirements if it makes a finding that the student is reasonably able to complete the local high school graduation requirements in time to graduate from high school while remaining eligible for foster care benefits.

Health and Nutrition

Senate Bill 760 (Ch. 581) requires a public school to notify a parent of a student when the student's meal account has a low balance and before the student accrues unpaid meal debt. A public school may provide an alternative meal instead of a standard meal if the meal meets specified federal nutritional requirements and is a meal offered to all students regardless of meal debt. If a student has unpaid meal debt, the Act prohibits a public school from (1) requiring the

student to wear a wristband, hand stamp, sticker, or other identifying mark; (2) requiring the student to complete chores or tasks; (3) denying a meal to a student or disposing of a meal after it has been served; or (4) restricting a student from access to school records or participation in any school-related extracurricular activity. Finally, the Act requires that a public school notify the parent of each student about the application process and eligibility requirements for the school's free or reduced-price meal programs.

House Bill 277 (Ch. 148) requires the Maryland State Department of Education (MSDE), in consultation with the Maryland Department of Health (MDH) and the Department of Human Services, to develop guidelines for schools on a trauma-informed approach to education. A trauma-informed approach is a method for understanding and responding to an individual with symptoms of chronic interpersonal trauma or traumatic stress. MSDE must distribute the guidelines to local school systems and publish the guidelines on its website.

Regulations adopted by MSDE, in consultation with MDH, require a physical examination for children entering the Maryland public school system for the first time. Each child must have a physical examination completed within the nine-month period before entering the public school system or six months after entering the public school system. **Senate Bill 726 (Ch. 578)** authorizes a licensed physician or licensed physician assistant with a delegation agreement approved by the State Board of Physicians to complete the physical examination, in addition to a certified nurse practitioner.

House Bill 409 (Ch. 198) requires MDH, by January 1, 2021, to revise its regulations regarding school-based health centers (SBHC) that may participate in Medicaid to include SBHCs that have a written agreement with a sponsoring agency that meets the specified requirements identified by MSDE. For more information on this Act, see the subpart "Public Health – Generally" within Part J – Health and Human Services of this *71 Day Report*.

Other Legislation

Senate Bill 504 (Ch. 562) establishes the Special Education Ombudsman in the Office of the Attorney General to serve as a resource to provide information and support to parents, students, and educators regarding special education rights and services. For a more detailed discussion of the Act, see the subpart "State Agencies, Offices, and Officials/Regulations" under Part C – State Government of this *71 Day Report*.

The Maryland School for the Blind (MSB) serves students from birth to age 21 who are blind or visually impaired, including some with multiple disabilities. MSB educates students whose needs cannot be met in their respective 24 local school systems through community-based outreach and comprehensive on-campus programs on a day or residential basis. MSB is governed by a board consisting of 25 members. **Senate Bill 640/House Bill 760 (Chs. 315 and 316)** alter the terms of membership for a member of the Board of Directors for MSB to allow any member of the board who serves three consecutive terms to be reappointed for an additional term after waiting one year from the completion of a third consecutive term.

Other legislation relating to primary and secondary education was discussed in the *2020 Session Major Issues Review*.

Higher Education

Capital Funding

Capital funding for public four-year institutions totals \$297.0 million for fiscal 2021, including \$32.0 million in academic revenue bonds for University System of Maryland (USM) institutions authorized by *Senate Bill 344 (Ch. 550)* and \$77.0 million in bond premiums. Local community colleges receive \$87.3 million for the Community College Construction Grant Program and \$4.0 million for the facilities renewal grant program. In addition, Garrett Community College receives \$9.2 million for a Community Education and Performing Arts Center. Baltimore City Community College receives \$4.6 million, and independent institutions receive \$12.0 million in capital funding for fiscal 2021.

For information on the fiscal 2021 operating budget and authorized capital projects for higher education, see the *2020 Session Major Issues Review*.

Student Financial Assistance

Scholarships

Maryland Community College Promise Scholarship: Chapter 554 of 2018 created the Maryland Community College Promise Scholarship (MCCPS) program in Maryland to provide tuition assistance to students who attend a community college in the State and who meet specified eligibility criteria. MCCPS is a last-dollar award that is applied after all nonloan aid to eligible recipients has been applied. The Governor must appropriate at least \$15.0 million annually for the program. *Senate Bill 307/House Bill 415 (Chs. 200 and 201)* alter the eligibility requirements for the MCCPS program such that an applicant (1) can apply any time after graduating from high school or completing a GED rather than being limited to two years from the date of high school graduation and (2) must meet altered grade point average requirements, as specified. The Acts also repeal the service obligation for all recipients, including for individuals who are recipients at the time the Acts take effect. In addition, only State or federal student financial aid, other than a student loan, received by a recipient must be credited to the recipient's tuition before the calculation of the award amount. The Maryland Higher Education Commission (MHEC) and each community college must publicize the MCCPS program as specified.

Edward T. and Mary A. Conroy Memorial, Jean B. Cryor Memorial, and Veterans of the Afghanistan and Iraq Conflicts Scholarships: The Edward T. and Mary A. Conroy Memorial Scholarship makes awards to specified public safety personnel and their eligible dependents to attend a postsecondary institution in the State for five years of full-time study or eight years of part-time study. *House Bill 596 (Ch. 267)* expands the eligibility requirements for the Edward T. and Mary A. Conroy Memorial Scholarship Program by removing the residency requirements for

the following categories of individuals: (1) a child or surviving spouse of a State or local public safety employee who was killed in the line of duty or who suffered an injury in the line of duty resulting in 100% disability; and (2) a disabled public safety employee. Eligibility requirements for the Jean B. Cryor Memorial Scholarship for school employees who died or are 100% disabled in the line of duty are unchanged.

Veterans of the Afghanistan and Iraq Conflicts Scholarships are available to veterans and active-duty members of the U.S. Armed Forces who served in Afghanistan and Iraq, members of the reserve or Maryland National Guard who were activated as a result of the conflicts, and their children and spouses. The scholarship supplements federal education benefits for which an applicant is eligible and may be used to pay for educational expenses, including tuition, mandatory fees, and room and board. **House Bill 596** allows initial scholarships under the Veterans of the Afghanistan and Iraq Conflicts Scholarships to continue to be awarded for another 10 years, until June 30, 2030; thereafter, existing scholarships may be renewed. Funds are included in the fiscal 2021 budget to continue the scholarship program.

Tuition Assistance

Nonresident Tuition Exemption for Military Personnel, Spouses, and Dependents: Public institutions of higher education in Maryland charge in-state tuition rates to three categories of military individuals: (1) active-duty members of the U.S. Armed Forces who are stationed, reside, or are domiciled in Maryland; (2) the spouses and dependent children of active-duty members of the U.S. Armed Forces; and (3) honorably discharged veterans of the U.S. Armed Forces. **Senate Bill 458/House Bill 506 (Chs. 227 and 228)** expand the conditions under which a spouse or financially dependent child of an active-duty service member of the U.S. Armed Forces is eligible for resident tuition to include a spouse or dependent who was *accepted* to attend a public institution of higher education when the member was stationed, residing, or domiciled in the State. A spouse or dependent must remain continuously enrolled and domiciled in the State to continue receiving the benefit. Thus, the Acts affect the dependents of active-duty members who are reassigned to another state after the dependent has been accepted but before enrolling in a public institution of higher education.

Maryland National Guard Tuition Assistance Program: Senate Bill 282/House Bill 362 (Chs. 180 and 181) increase the percentage of in-state tuition that the Military Department may reimburse from 50% to 100% for an eligible active member of the Maryland National Guard. The Acts also expand eligibility to include any member who holds a commission in the Maryland National Guard. The fiscal 2021 budget includes funds to cover the estimated cost of reimbursing 100% of in-state tuition.

Tuition Waiver for Student Members of the USM Board of Regents: The Board of Regents of USM is composed of 21 members, including two student members. **Senate Bill 1022 (Ch. 593)** authorizes the Board of Regents of USM to grant a tuition waiver to student members. The tuition waiver may not exceed the amount of the tuition incurred by the student member during the second year of a two-year term. Additionally, the tuition waiver may not (1) be considered a gift or compensation under the Maryland Public Ethics Law; (2) be considered compensation under

the Maryland Tort Claims Act; or (3) cause the student member to be classified as an employee of USM.

Other Assistance Programs

Maryland Loan Assistance Repayment Program for Physicians and Physician Assistants: The Maryland Loan Assistance Repayment Program (MLARP) for Physicians and Physician Assistants provides student loan repayment assistance in exchange for certain service commitments to help ensure underserved areas of the State have sufficient numbers of primary care physicians and physician assistants. *Senate Bill 501/House Bill 998 (Chs. 402 and 403)* transfer oversight of MLARP for Physicians and Physician Assistants from the Office of Student Financial Assistance within MHEC to the Maryland Department of Health (MDH), among other things. For a further discussion of *Senate Bill 501/House Bill 998*, see the subpart “Health Occupations” within Part J – Health and Human Services of this *71 Day Report*.

Maryland Corps Program Fund: The Maryland Corps Program and the Maryland Corps Program Fund were established to provide at least 100 young people with meaningful service opportunities, equip corps participants with skills that will enable them to successfully transition from high school to an institution of higher education, and provide scholarships to corps participants who have completed the program. *Senate Bill 845 (passed)* expands the purpose and authorized uses of the Maryland Corps Program Fund and mandates annual funding for the program beginning in fiscal 2022. Due to concerns regarding the economic challenges resulting from the COVID-19 pandemic, the Governor vetoed the bill on May 7, 2020.

Maryland E-Innovation Initiative Program: Chapters 532 and 533 of 2014 created the Maryland E-Innovation Initiative (MEI) Program authorizing nonprofit institutions of higher education in the State that meet specified eligibility requirements to create research endowments and, upon securing matching private donations and approval, receive Maryland E-Innovation Initiative Funds that may be distributed to the endowments. *Senate Bill 465 (passed)* requires the Governor to continue funding the MEI Program through 2026; however, the Governor vetoed the bill on May 7, 2020, due to concerns regarding the economic challenges resulting from the COVID-19 pandemic. For a more detailed discussion of *Senate Bill 465*, see the subpart “Miscellaneous Tax” within Part B – Taxes of this *71 Day Report*.

Consumer Protection

Veterans’ Education Protection Act: A federal rule known as 90/10 caps the share of revenue for-profit institutions of higher education and private career schools can take in from federal aid at 90%; however, the cap exempts federal tuition benefits for veterans, active members of the U.S. military, and their spouses and financially dependent children because the law only applies to federal Title IV education funds. *Senate Bill 294 (Ch. 546)* prohibits, beginning in fiscal 2023, specified for-profit institutions of higher education and private career schools from enrolling new Maryland residents in a program if the institution or school fails to have at least 10% of its annual revenue, as specified, from a source other than federal funds, including civilian and

military education aid. The 10% threshold applies to either (1) two out of three of the immediately preceding fiscal years or (2) two consecutive years.

Disorderly School Closures at Institutions of Postsecondary Education: Senate Bill 446 (Ch. 554) requires institutions of postsecondary education and private career schools to meet specified requirements regarding school and program closures, including having specified close-out agreements and meeting certain requirements for teach-out agreements. To that end, schools and school leadership must meet specified financial and record transferring obligations. The Act establishes additional protections for any student who attends a program, school, or institution that closes related to tuition and fee reimbursement, student debt collection, transcripts, close-out agreements, and teach-out agreements. Violation of specified provisions of the Act is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act, subject to the Maryland Consumer Protection Act’s civil and criminal penalty provisions.

Institutions of Higher Education

Public Institutions of Higher Education

Outbreak Response Plan: In fall 2018, more than 40 students at the University of Maryland, College Park Campus (UMCP) were sickened with adenovirus, with 15 students receiving treatment at hospitals. One student passed away, with adenovirus listed as one of the causes of death. ***Senate Bill 329/House Bill 187 (Chs. 98 and 99)*** require each public institution of higher education without residential housing or a health center to submit an outbreak response plan to MDH by August 1 each year, beginning in 2021. The outbreak response plan must be customized to the public institution of higher education and include (1) a process for expediently notifying students, families of students, faculty, and staff about the outbreak and providing them with related information; (2) processes for implementing evidence-based outbreak response measures; (3) the provision of staff to successfully implement the outbreak response plan; (4) a process for reporting an outbreak to specified entities; and (5) any other measure required by MDH. If there is an outbreak of a contagious disease at a public institution of higher education, the institution must implement the outbreak response plan.

Personally Identifiable Information: Chapter 304 of 2013 requires a unit of State or local government (except for the Legislative and Judicial branches of State government) that collects an individual’s personal information to implement and maintain reasonable security procedures and practices appropriate to the nature of the information collected and the nature of the unit and its operations. ***House Bill 1122 (Ch. 429)*** excludes public institutions of higher education from these requirements and instead establishes security protocols that govern the collection, processing, sharing, and disposal of personally identifiable information by public institutions of higher education in the State. For a more detailed discussion of ***House Bill 1122***, see the subpart “State Agencies, Offices, and Officials/Regulations” within Part C – State Government of this *71 Day Report*.

University System of Maryland

Textbook Transparency Act of 2020: *Senate Bill 667/House Bill 318 (Chs. 165 and 166)* require each USM constituent institution to develop a method to clearly and conspicuously show in the online scheduling application which courses (1) provide student access to all required course materials in the form of free or low-cost digital materials and (2) may provide students access to course materials with a low-cost print option as an alternative to free or low-cost digital materials. The free or low-cost digital materials must, to the extent practicable, include openly licensed educational resources and must be equally accessible to and independently usable by individuals with disabilities. The Acts have a delayed effective date of July 1, 2021.

UMCP: The Small Business Development Center Network Fund is administered by UMCP. The Small Business Development Center offers free business consulting services to new and existing small businesses. ***Senate Bill 493 (passed)*** increases the minimum general fund appropriation to the Small Business Development Center by \$100,000 annually beginning in fiscal 2022, but the bill was vetoed by the Governor on May 7, 2020, due to concerns regarding the economic challenges resulting from the COVID-19 pandemic. For a further discussion of ***Senate Bill 493***, see the subpart “Economic Development” within Part H – Business and Economic Issues of this *71 Day Report*.

Universities at Shady Grove: The Universities at Shady Grove (USG) was established in its current form by USM as a regional higher education center in Montgomery County, but it is not established by statute. ***Senate Bill 553/House Bill 1205 (Chs. 447 and 448)*** establish the Universities at Shady Grove Regional Higher Education Center within USM in statute and specify its purpose and funding. The Acts specify that the academic programs offered at USG must be upper division undergraduate and graduate level programs. In addition, ***Senate Bill 553*** specifies that advanced postgraduate certificates and credentials may be offered.

Community Colleges

College of Southern Maryland: The College of Southern Maryland is a public, regional community college serving Calvert, Charles, and St. Mary’s counties. ***House Bill 966 (Ch. 393)*** changes the local budgetary process for the College of Southern Maryland by establishing a unified budget. The county commissioners in each county that support the college must review and approve the College of Southern Maryland budget request made to that county, rather than just for the campus in their county, and may reduce it. The Act also repeals a number of specified elements of the operating budget.

Anne Arundel County Community College: The Board of Community College Trustees for Anne Arundel County consists of eight members, appointed by the Governor with the advice and consent of the Senate. Except for the student member, members of the board serve six-year terms from July 1 of the year the appointment is made and until a successor is appointed and qualifies. ***Senate Bill 31/House Bill 546 (Chs. 245 and 246)*** change the requirements of the seven nonstudent members of the Board of Community College Trustees for Anne Arundel County. Under the Acts, a nonstudent board member (1) must be a resident of Anne Arundel

County; (2) serves a four-year rather than a six-year term; and (3) may serve no more than three consecutive full terms. The Acts apply prospectively beginning on July 1, 2020.

Other legislation relating to higher education was discussed in the *2020 Session Major Issues Review*.

Education – Local Bills

Local Boards of Education

Allegany County

Prior to the passage of legislation during the 2020 session, the Governor was required to appoint a new member to fill any vacancy of an elected member's position on the Allegany County Board of Education. *Senate Bill 240 (Ch. 541)* requires the Allegany County Commissioners, rather than the Governor, to fill a vacancy in an elected member's position on the board. The commissioners must appoint a qualified individual who serves for a certain period of time as specified by law.

Anne Arundel County

Each county board of education is required to hold an annual meeting on or, as near as possible to, the second Tuesday in July unless otherwise specified. *Senate Bill 222 (Ch. 540)* requires the Anne Arundel County Board of Education to hold its annual meeting on or, as near as possible to, the first Wednesday in December. In addition, at the annual meeting, the board is required to elect a president and vice president from among its elected members, and each officer serves a one-year term. The Act also allows an individual who fills a vacancy of an elected member on the board to be elected to serve as president or vice president.

Baltimore County

There is one student member of the Baltimore County Board of Education. *House Bill 598 (Ch. 268)* increases, from \$1,000 to \$7,500, the amount of the higher education scholarship granted to a student member who completes a full term on the board beginning on or after July 1, 2020. Additionally, *House Bill 599 (Ch. 269)* requires the student member of the board to be elected by middle and high school students in Baltimore County in accordance with procedures established by the Baltimore County student councils.

Frederick County

Senate Bill 744/House Bill 909 (Chs. 363 and 364) increase the annual compensation amount for nonstudent voting members of the Frederick County Board of Education by \$4,000 beginning with the terms of office commencing on December 6, 2022. The president of the county board will receive \$15,000 annually, rather than \$11,000, while the other voting members will receive \$14,000 annually, rather than \$10,000.

Montgomery County

The Montgomery County Office of the Inspector General was established in 1997 to combat fraud while enhancing productivity and efficiency of programs within the county government and its independent agencies. *House Bill 795 (Ch. 329)* authorizes the Montgomery County Council, by local law, to grant to the Inspector General of Montgomery County the same authority over the Montgomery County Board of Education and public schools that the inspector general has over a department of county government.

Other Bills

Carroll County

In Maryland, certificated and noncertificated school employees bargain separately. However, in some counties, specific categories of noncertificated professionals are included with certificated employees for collective bargaining purposes. *Senate Bill 366/House Bill 570 (Chs. 256 and 257)* alter the definition of certificated public school employees for collective bargaining purposes in Carroll County by including Junior Reserve Officer Training Corps (JROTC) instructors. In Baltimore, Calvert, Charles, Garrett, Prince George's, and St. Mary's counties, a public school employee already includes JROTC instructors for collective bargaining purposes.

Regional Career and Technical Education Schools on the Eastern Shore

Under the federal Strengthening Career and Technical Education for the 21st Century Act, states are provided grants to implement career and technical education (CTE) programs in their secondary schools and postsecondary institutions. In addition, the law requires states to develop sequences of academic and CTE coursework, called programs of study, that prepare students for postsecondary degrees or industry-recognized credentials. Many of the programs of study, which range from plumbing and culinary arts to aerospace engineering and cybersecurity, include or encourage apprenticeship or pre-apprenticeship opportunities. *Senate Bill 794 (Ch. 583)* authorizes the county boards of education of Caroline, Dorchester, Kent, Queen Anne's, and Talbot counties to establish a regional CTE school under certain conditions. However, the Act is contingent on the enactment of *House Bill 1300 (passed)*, which was vetoed by the Governor on May 7, 2020, due to concerns regarding the economic challenges resulting from the COVID-19 pandemic. *House Bill 1300*, the Blueprint for Maryland's Future – Implementation, is discussed in the *2020 Session Major Issues Review*.

The Act specifies that a regional CTE school may be established only if the county boards of education and governing bodies of two or more of the specified counties as well as the board of trustees of a public institution of higher education in any of those counties, if applicable, approve of the school. Each of the parties to the agreement must enter into a binding memorandum of understanding (MOU) that provides for the governance, operations, financing, and maintenance of the regional CTE school. In addition, any State or local education aid required by State law must be calculated and distributed as required by law unless otherwise agreed to in the MOU. Further,

a regional CTE school must comply with all regulations and statutory provisions governing other public schools and must operate under the terms of the collective bargaining agreement in effect in the county where the school is located. Finally, the Act requires the Interagency Commission on School Construction (IAC) to study and develop a State and local cost-share formula for county boards of education that choose to collaborate and operate a regional school involving one or more county boards. IAC must report its findings and recommendations to the Governor and the General Assembly by January 1, 2021.

Education – Libraries

Public Libraries

Since 1888, the State has provided funds to support public libraries throughout the State under what is now known as the State library network. The network consists of the Central Library of the Enoch Pratt Free Library System in Baltimore City, which operates as the designated State Library Resource Center (SLRC), three regional resource centers, and metropolitan cooperative service programs. All of these systems receive State funding for operating expenses. Additionally, the Maryland Library for the Blind and Physically Handicapped receives a funding amount equivalent to at least 25% of the general fund appropriation for SLRC.

The State and local governments share in the cost of funding local public library systems through the library aid formula, which establishes minimum State and local per capita contributions. The formula distributes funds on the basis of county population and wealth. In addition to these funds, since fiscal 2008, State funding for county library capital projects has been mandated at \$5 million annually.

Overdue Library Materials and Funding

Senate Bill 524/House Bill 1000 (both passed) make several changes to policy and funding regarding libraries in the State. The bills prohibit a public library from charging a fine and establish restrictions on charging a fee for overdue library materials for a minor. Additionally, the bills increase the State per capita funding that SLRC and county public library systems receive beginning in fiscal 2022 as well as the mandated appropriation for county library capital projects. Specifically, State per capita aid for SLRC increases by \$0.04 annually from fiscal 2022 through 2024, when it reaches \$1.97 and remains at that amount in subsequent years. State per capita aid for county public library systems increases by \$0.40 beginning in fiscal 2022. Finally, the bills increase the mandated appropriation for county library capital projects by \$2.5 million beginning in fiscal 2022. As a result of these changes, general fund expenditures increase by approximately \$1.3 million in fiscal 2022 and by \$1.9 million in fiscal 2025. The bills are assumed to have no overall effect on State capital budget spending; instead, funds are assumed to be reallocated from other purposes.

On May 7, 2020, the Governor vetoed the bills due to concerns regarding the economic challenges resulting from the COVID-19 pandemic.

Library Services for Blind and Print Disabled Individuals

The Maryland State Library for the Blind and Physically Handicapped provides comprehensive library services to eligible blind and physically handicapped residents of Maryland, which include individuals who are legally blind, visually or physically limited, or reading disabled. The library is part of the national network of the National Library Services for the Blind and Physically Handicapped through the Library of Congress. The library's services are free, statewide, and can be provided to individuals via the U.S. mail. Approximately 10,000 Maryland residents receive the services provided by the library annually.

Senate Bill 326/House Bill 604 (Chs. 272 and 273) rename the Maryland Library for the Blind and Physically Handicapped to be the Maryland Library for the Blind and Print Disabled. The Acts define a print disabled individual as an individual who cannot effectively read print because of a visual, physical, perceptual, developmental, cognitive, or learning disability. The Acts also alter the membership of the Maryland State Library Board by requiring one of the appointed members to be a blind patron of the Maryland Library for the Blind and Print Disabled.

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