

# LEGISLATIVE DRAFTING MANUAL



DEPARTMENT OF LEGISLATIVE SERVICES 2024

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# **Legislative Drafting Manual**

## **2024**

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**Department of Legislative Services  
Office of Policy Analysis  
Annapolis, Maryland**

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# Introduction

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The *Legislative Drafting Manual* is published each year by the Department of Legislative Services to assist those involved in the drafting of bills and amendments for the Maryland General Assembly. It also is available online on the department's website (<http://dls.state.md.us/>).

The manual is intended to serve as a teaching text for those new to legislative drafting, a ready reference guide for veteran legislative staff, and a source of useful information on legislative drafting and process for the general public. The fundamental goal of the manual is to ensure accuracy, clarity, and uniformity in the drafting of legislation in Maryland by promoting compliance with constitutional principles, rules of law and statutory interpretation, and accepted practices regarding style, form, and process.

In an effort to enhance its utility, the 2024 *Legislative Drafting Manual* has been edited to delete obsolete references, clarify explanations, and provide more useful examples. In addition, the appendix of the manual includes a list of constitutional, statutory, and rule provisions related to legislative drafting and example documents. The sources section lists additional sources of information on Maryland government and history, the legislative process, and legislative drafting. Readers are encouraged to use this manual in conjunction with the *Maryland Style Manual for Statutory Law*, available from the Department of Legislative Services.

Additionally, a description of important changes in this manual and a list of important dates and deadlines related to the legislative process have been included following this introduction to further aid legislative staff.

Comments and suggestions directed at improving future editions of the *Legislative Drafting Manual* are welcome.



# Changes in the 2024 *Legislative Drafting Manual*

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Most of the changes in this *Manual* are clarifying or technical in nature. The following significant changes should be noted as well:

- the linking of bill references, to the extent practicable, throughout the *Manual* to the appropriate bill page on the General Assembly’s website;
- the linking of statutory references, to the extent practicable, throughout the *Manual* to the appropriate statute in the statutory database on the General Assembly’s website;
- reorganization and expansion of the discussion regarding when to include a fifth line in a function paragraph (Chapter 6); and
- addition of examples of how to structure multiple termination provisions in a bill (Chapter 13).



## Important Dates and Deadlines

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Pre-file Request Deadline	November 1 (Wednesday)
Pre-file Drafting Deadline <sup>1</sup>	November 7 (Tuesday)
Pre-file Approval Deadline	November 20 (Monday)
General Assembly Convenes	January 10 (Wednesday)
Bill Request Guarantee Deadline	January 19 (Friday)
Session Drafting Deadline	January 26 (Friday)
Senate Introduction Deadline	February 5 (Monday)
House Introduction Deadline <sup>2</sup>	February 9 (Friday)
Final Date for Introduction Without the Suspension of the Rules	March 4 (Monday)
Committee Reporting Courtesy Date	March 12 (Tuesday)
Opposite Chamber Crossover	March 18 (Monday)
General Assembly Adjourns Sine Die	April 8 (Monday)
Final Day for Presentment of Bills to Governor	April 28 (Sunday)
Deadline for Governor to Sign or Veto Bills <sup>3</sup>	May 28 (Tuesday)

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Note: Dates are accurate as of the time of the publication of this manual.

<sup>1</sup> There are earlier drafting deadlines, set by the respective delegation, for local legislation from the Howard County, Montgomery County, and Prince George's County delegations.

<sup>2</sup> Hopper generally closes at 5 p.m. on the day before the introduction deadline.

<sup>3</sup> Bills must be signed or vetoed within 30 days after presentment. This deadline, therefore, applies only to any bill that was presented on the final day for presentment.





I will venture to affirm, that what is commonly called the *technical* part of legislation, is incomparably more difficult than what may be styled the *ethical*. In other words, it is far easier to conceive justly what would be useful law, than so to construct that same law that it may accomplish the design of the lawgiver.

– John Austin, *Jurisprudence*



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# Chapter 1. The Law and the Power of the General Assembly

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## The Law and Where It Is Found

The statutory law of the State of Maryland generally is found in Michie's Annotated Code of Maryland and West's Annotated Code of Maryland. However, some law is not codified and can be found only in the Session Laws, the publication of all the laws enacted during each session of the General Assembly. The Session Laws, published by the State and also referred to as the Laws of Maryland, are the basic source of State law. The Session Laws are organized chronologically by Chapter for each regular or special session of the General Assembly. (See p. 289, "Sample Chapter Law.") The Annotated Code, published by LexisNexis and West, is assembled from the Session Laws. The Annotated Code is a subject matter arrangement of the law organized by articles and annotated with case law, related citations, and appropriate notations. (See p. 279, "Sample Annotated Code Section.") It is often said that the Session Laws are the "law," while the Annotated Code is "evidence" of the law. (See § 10-201 of the Courts Article and *Tereshuk v. State*, 66 Md. App. 193 (1986).) (Note that while § 10-201 of the Courts Article gives both Michie's Annotated Code and West's Annotated Code legal status as evidence of the law, Michie's Annotated Code is used by bill drafters at the Department of Legislative Services. Therefore, all references to the Annotated Code and descriptions of Annotated Code volumes in this manual are to Michie's Annotated Code.)

The Annotated Code contains much law that is "local" in application. Provisions concerning local school boards, alcoholic beverages, sheriffs, and treasurers (to name only a few), as they apply to specific counties or Baltimore City, are contained in the Annotated Code. These are local laws and ordinarily are handled as such in the General Assembly. Other local laws are found in the separately published code of public local laws for each county and for Baltimore City. (See p. 139, "Code of Public Local Laws.") To determine the current status of a code of public local laws, it is necessary to check the Session Laws of the General Assembly enacted after the last respective edition of the code. The Department of Legislative Services prepares an unofficial compilation, entitled the *Compilation of the Changes in the Public Local Laws*, which generally is updated each year and can assist in updating the code of the political subdivision in question.

## Power of the General Assembly to Legislate

### Statewide

The General Assembly has full power to legislate for the State, subject only to limitations imposed by the U.S. Constitution and the Maryland Constitution, as well as any case law restrictions.

### Local Governments

The General Assembly has the power to legislate for the various forms of local government in Maryland, subject to the restrictions and limitations briefly described here. A more thorough discussion is included in the *Legislative Desk Reference Manual* (Department of Legislative Services, Office of Policy Analysis, 2023) and the *Legislative Handbook Series*, Volume VI (Department of Legislative Services, Office of Policy Analysis, 2022).

### Commission Counties

The commission counties, governed by boards of county commissioners, are Calvert, Carroll, Garrett, St. Mary's, Somerset, and Washington. The General Assembly has full power to legislate for these jurisdictions. The Local Government Article details the powers of the commission counties.

### Charter Home Rule Counties

The charter home rule counties are Anne Arundel, Baltimore, Cecil, Dorchester, Frederick, Harford, Howard, Montgomery, Prince George's, Talbot, and Wicomico. Article XI-A, § 2 of the Maryland Constitution requires the General Assembly to provide a grant of express powers to counties that adopt charter home rule. The list of express powers is contained in the Express Powers Act, Title 10 of the Local Government Article. On adoption of a charter, the county has full power to amend or enact local laws on matters covered by the Express Powers Act, including the power to amend local laws previously enacted by the General Assembly (Article XI-A, § 3 of the Maryland Constitution).

The General Assembly may not enact a public local law that affects only one charter county on any subject covered by the express grant of powers (Article XI-A, § 4 of the Maryland Constitution). However, the General Assembly may enact a law dealing with an express power if that law affects two or more counties, even if only one of the counties is not a charter county. Inclusion of another county makes the

enactment a public general law. The General Assembly also may legislate for all charter counties as a group by amending the Express Powers Act.

## **Baltimore City**

Essentially the same provisions of Article XI-A of the Maryland Constitution concerning charter counties are applicable to Baltimore City. The express grant of powers to Baltimore City is found in Article II of the Charter of Baltimore City. Although the General Assembly lacks the authority to amend the express powers of any single charter county, it may amend the express powers of Baltimore City. Note, however, that the Office of the Attorney General has advised that amending the express powers of Baltimore City to require that Baltimore City exercise its express powers in a particular way would violate the home rule requirements of Article XI-A, § 4 of the Maryland Constitution. (See Letter to the Honorable Dallya Attar dated March 19, 2019, re: SB 42 of 2019.)

## **Code Home Rule Counties**

Code home rule is provided for in Article XI-F of the Maryland Constitution. Allegany, Caroline, Charles, Kent, Queen Anne's, and Worcester counties have adopted this form of home rule. A code county has exclusive power to amend or enact the laws found in its code of public local laws, with certain exceptions (Article XI-F of the Maryland Constitution). The drafter should note that the phrase "public local law" is a defined term when used in reference to one of these six counties (Article XI-F, § 1 of the Maryland Constitution).

Chapter 666 of the Acts of 1997 established four classes of code counties based on the four geographic regions of the State: Central Maryland, Eastern Shore, Southern Maryland, and Western Maryland. Currently, four of the six code counties (Caroline, Kent, Queen Anne's, and Worcester) are in the Eastern Shore region, while Allegany County is the sole code county in the Western Maryland region, and Charles County is the sole code county in the Southern Maryland region. (See § 9-302 of the Local Government Article.) The General Assembly may enact a law dealing with the express powers of code counties only if all code counties are affected equally, or if all code counties in a particular class are affected equally. Note that this differs from the rule applicable to enactments affecting the express powers of charter counties, which requires only that at least two counties be affected. (See p. 2, "Charter Home Rule Counties.")

## **Bicounty and Multicounty Entities**

The General Assembly legislates for several entities that cross jurisdictional boundaries and serve two or more counties. For example, the Maryland-National Capital Park and Planning Commission (M-NCPPC) and the Washington Suburban Sanitary Commission (WSSC) were created by the General Assembly and operate largely in Montgomery and Prince George’s counties. The WSSC law is found in Division II of the Public Utilities Article, and the M-NCPPC law is found in Division II of the Land Use Article. The Tri-County Council for Southern Maryland, created as a regional planning and development agency for Calvert, Charles, and St. Mary’s counties, is an example of a multicounty entity. The provisions of law that establish and regulate the activities of the Tri-County Council are found in Title 13, Subtitle 6 of the Economic Development Article. Another example of a multicounty entity is the Tri-County Council for Western Maryland, which includes Allegany, Garrett, and Washington counties and is governed by Title 13, Subtitle 7 of the Economic Development Article.

## **Municipalities**

Because of the broad home rule powers of municipalities under Article XI-E of the Maryland Constitution, the General Assembly generally may legislate on matters relating to the incorporation, organization, government, or affairs of these units of local government only by public general laws that apply to all municipalities in one or more classes provided for by law (Article XI-E, § 1 of the Maryland Constitution). Although Article XI-E, § 2 of the Maryland Constitution authorizes the General Assembly to establish not more than four classes, Chapter 423 of the Acts of 1955 established only one class of municipalities and, therefore, laws passed by the General Assembly must, with a few exceptions, apply to all municipalities in the State. (*See* § 4-102 of the Local Government Article.)

The General Assembly, as a concurrent power, may amend the charter of a single municipality if the subject matter of the legislation is the regulation of the maximum municipal property tax rate or the maximum amount of municipal debt (Article XI-E, § 5 of the Maryland Constitution). Note that such legislation cannot take effect unless it is approved at a regular or special municipal election by a majority of the voters of the municipality who vote on the question (Article XI-E, § 5 of the Maryland Constitution). (For the requirements for these types of bills, *see* p. 149, “Amendment to Fix Tax Rates for Municipalities” and p. 150, “Amendment to Regulate Maximum Debt Created by Municipalities.”)

The General Assembly also may legislate for less than all municipalities or for a single municipality if the law relates to a subject under the exclusive

jurisdiction of the General Assembly, such as alcoholic beverages laws and Sunday blue laws (Article XI-E, § 6 of the Maryland Constitution) and urban renewal powers for slum clearance (Article III, § 61 of the Maryland Constitution). Alcoholic beverages laws and Sunday blue laws usually are drafted to the Annotated Code. Laws on the urban renewal powers for slum clearance are drafted to the charter of a municipality despite the General Assembly holding this power because municipalities have the authority to take property for a “public purpose,” and Maryland courts have construed this to include slum clearance and urban renewal purposes. Thus municipalities, through their powers of eminent domain, can legislate in this area, and the Office of the Attorney General has specifically advised that they may enact ordinances to limit their exercise of eminent domain authority. (See Letter to the Honorable Maggie McIntosh dated March 21, 2006.) (For the requirements for bills that grant a municipality urban renewal power, see p. 147, “Amendment to Grant Urban Renewal Power.”)

### **Conflict between Statewide and Local Law**

With respect to the several forms of local home rule in Maryland, a statewide law (public general law) enacted by the General Assembly prevails over any local home rule enactment. However, a public local law passed by the General Assembly prevails over a statewide law. (See § 1-206 of the General Provisions Article.)





## **Chapter 2. The Legislative Process (How a Bill Becomes Law)**

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### **In General**

The General Assembly consists of 47 Senators and 141 Delegates. The Senate of Maryland is presided over by the President of the Senate and is organized into four primary standing committees: Budget and Taxation; Education, Energy, and the Environment; Finance; and Judicial Proceedings. The House of Delegates is presided over by the Speaker of the House and is organized into six primary standing committees: Appropriations, Economic Matters, Environment and Transportation, Health and Government Operations, Judiciary, and Ways and Means. Note that the rules of the Senate and House specify additional standing committees, including the Senate Rules Committee, the Senate Executive Nominations Committee, and the House Rules and Executive Nominations Committee, to which bills occasionally are assigned for substantive consideration.

Each bill introduced in the General Assembly must be sponsored by a member of the General Assembly and assigned to a standing committee. A bill sponsored by a Senator is initially presented in the Senate of Maryland, and a bill sponsored by a Delegate is initially presented in the House of Delegates. The place where a bill is initially presented is referred to as the bill's "house of origin."

### **House of Origin**

#### **First Reading**

When the Senate or House convenes, the reading clerk reads the bill number, title, and committee assignment of each bill introduced into that day's proceedings. This is the first of three readings given the bill in the house of origin, as required by Article III, § 27 of the Maryland Constitution.

At this time, the officially introduced typed copy is printed by the legislative print shop. This printing of a bill is the first of several possible printings and is known by its technical name, the "first reading file bill" or "first reader." Note that the introduction and first reading date and committee assignment are included directly underneath the sponsor line on a "first reading file bill." (See p. 283, "Sample First Reading File Bill.") Additionally, a prefiled "first reading file bill" includes the "requested date" directly underneath the sponsor line and a notation that it was prefiled underneath the bill number.

Each first reader assigned to a committee must be considered by the committee (*see* Senate Rule 37 and House Rule 37). During this time, the bill may be debated, and amendments may be offered by any member of the General Assembly regardless of whether the bill is in the member's respective house. (Note that, since committee involvement in the enactment of legislation is not mandated by the Maryland Constitution, a standing committee may consider and approve legislation referred to the committee either before or after a session, including a special session, begins.)

## **Second Reading**

The next step in the passage of a bill is second reading and floor consideration. A first reading file bill is reported to the floor of the house of origin by the committee to which it was assigned. The report may be favorable, unfavorable, or with no recommendation. If favorable, it may be with or without committee amendments. If there are committee amendments, they are presented and considered at this time. The members of the house of origin may vote that the committee amendments be adopted or rejected, either in whole or in part. Following action on the committee amendments, the bill and, if adopted, the committee amendments are open to amendment from members on the floor. (Note that although there is no rule prohibiting the offering of amendments to committee amendments before their adoption, this is rarely done.) When any floor amendments have been voted on and no more are offered, the bill is ordered printed for third reading. All of this activity, which may occur over the course of several days, comprises the second reading of the bill. (Note that, on occasion, the vote to pass the bill on second reading fails and the bill dies.)

## **Third Reading**

After a bill has been ordered printed for third reading, it is brought back to the Department of Legislative Services for the insertion of any adopted amendments, is reprinted, and is referred to as a "third reading file bill" or "third reader." A "third reading file bill" will indicate, just below the sponsor and committee assignment information at the top of the bill, the committee and floor action taken on the bill. (*See* p. 285, "Sample Third Reading File Bill.") The bill is then returned to the house of origin on another "legislative" day, placed on the third reading calendar, and a vote is taken simply to pass or reject the bill. (The rules may be suspended to allow a third reading vote immediately after the second reading vote, which usually only occurs late in the session.) No amendments may be presented at this stage and, in order to pass, the bill must receive the affirmative vote of a majority (or three-fifths for an emergency measure to take effect on enactment or for a proposed constitutional amendment) of the elected membership.

This vote constitutes the third reading of the bill. If the bill passes on third reading, it is sent to the opposite house.

### **Committee Reprints**

On occasion, after a bill is assigned to a committee, the committee may propose extensive amendments to it and want to see how the bill would appear with the amendments incorporated. In this case, the presiding officer or the committee, with the approval of the presiding officer, orders the bill reprinted with the proposed committee amendments. These bills are identified by the words “Committee Reprint” printed at the top of the first page of the bill. Generally, committee reprints are prepared using a different color of paper to further distinguish them from other bills. With the exception of the operating and capital budget bills considered on second reading and committee reprints of House bills being considered in the House of Delegates, a “Committee Reprint” is for working purposes only and has no official status as a bill. Unless the Committee Reprint has official bill status, amendments may not be drafted to it. (*See Senate Rule 52 and House Rule 52.*) The rules may be waived, however, as is usually done for the Budget Reconciliation and Financing Act.

### **Bill As Printed for Third Reading**

On occasion, a bill that has been printed for third reading will be removed from the third reading calendar by the appropriate motion and placed on the second reading calendar so that additional amendments may be considered. The “third reading file bill” that had been printed for consideration on the third reading calendar is still the printing before the body. However, since the bill now has been removed from the third reading calendar, it cannot be referred to as the “third reading file bill.” Instead, it is given the technical name “bill as printed for third reading.” If the proposed amendments are adopted, the bill must be reprinted incorporating the adopted amendments, and again placed on the third reading calendar for a final vote. If the amendments are rejected, then the “bill as printed for third reading” again becomes the “third reading file bill” and is placed back on the third reading calendar. If the bill passes on third reading, it is sent to the opposite house.

## **Opposite House**

### **First Reading**

When the “third reading file bill” arrives in the opposite house, it receives three readings just as in the house of origin, again as required by the Maryland Constitution. However, on all of its readings in the opposite house, the bill being considered is the “third reading file bill” which retains the bill number assigned to it in the house of origin. (See p. 285, “Sample Third Reading File Bill.”) The “third reading file bill” is assigned to a standing committee in the opposite house by the presiding officer. The reading clerk then reads the bill number, title of the bill, and its committee assignment.

### **Second Reading**

Similar to the process for second reading in the house of origin, when the “third reading file bill” has been considered and reported out by the committee to which it was assigned, it is placed on the second reading calendar. Unlike the house of origin, the opposite house may amend the “third reading file bill” on both its second and third readings.

### **Third Reading**

When the committee amendments, if any, and the floor amendments, if any, have been considered, the “third reading file bill” with any adopted amendments is placed on the third reading calendar and adopted or rejected as in the house of origin. (The rules may be suspended to allow a third reading vote immediately after the second reading vote, which usually only occurs late in the session.) As a rule, because of time limitations, there is no reprinting of the “third reading file bill” in the opposite house for the consideration of the members on the third reading vote.

If no amendments are adopted by the opposite house, the “third reading file bill,” after being passed in the opposite house, is sent to the Governor for approval or veto.

Note that a bill passed by both houses in the same form is still considered passed even if the bill is not returned to the house of origin before that house adjourns sine die.

## Concurrence Votes and Conference Committees

If the opposite house adopts amendments to the “third reading file bill,” the bill must be returned to the house of origin for the sole purpose of allowing that house to accept or reject the amendments added to the bill by the opposite house. If the house of origin refuses to concur in the amendments of the opposite house and the opposite house refuses to recede from its insistence that the amendments be made, a conference committee generally composed of three members from each house may be appointed by the presiding officers (*see* Senate Rules 21 and 68 and House Rules 21 and 68). The conference committee meets and attempts to resolve the differences and reach a compromise. It makes recommendations concerning the adoption or rejection of amendments adopted in the opposite house and may suggest any conference committee amendments necessary to make the bill acceptable to both houses. If the conference committee resolves the differences, it issues a conference committee report that states its recommendations and includes any recommended amendments. The conference committee report may not be amended by either house. If the conference committee report is adopted by both houses, the bill is passed, reprinted if necessary to incorporate any adopted conference committee amendments, and sent to the Governor. If a conference committee is not appointed, or if the conference committee report is not adopted by both houses, the bill fails. (*See also* p. 273, “Conference Committee Reports.”)

## Enrollment and Recall

The bill sent to the Governor must reflect the amendments adopted by both the Senate and the House of Delegates. Therefore, if opposite house or conference committee amendments were adopted, a printing of the bill is prepared that incorporates all adopted amendments. This printing of the bill is known as the “enrolled bill.” (*See* p. 287, “Sample Enrolled Bill.”) On rare occasions, a bill passed by the General Assembly and sent to the Governor will be recalled from the Governor’s desk in order to consider further amendments. (*See Baltimore Fid. Whse. Co. v. Canton Lumber Co.*, 118 Md. 135 (1912).) In these instances, if the “enrolled bill” is recalled and amendments to it are adopted, it is reprinted to incorporate these amendments and becomes known as the “re-enrolled bill.” The “re-enrolled bill” is then sent to the Governor.

This concludes the course of the passage of a bill through a session of the General Assembly. (*See* p. 14 for chart depicting the steps of the “Legislative Process.”)

## Signature or Veto by the Governor

Bills passed by the General Assembly (other than those solely proposing amendments to the Maryland Constitution) must be presented to the Governor for the Governor's signature or veto. Article III, § 30 of the Maryland Constitution requires that bills be presented within 20 days after adjournment. This requirement applies whether the bill was passed during a regular or special session. Under Article II, § 17 of the Maryland Constitution, a bill that is presented to the Governor during the General Assembly session must be signed or vetoed within six days (not including Sundays). A bill that is presented within six days before adjournment (not including Sundays) or after adjournment must be signed or vetoed within 30 days. If a bill is not signed or vetoed within the required time period, the bill becomes law without the Governor's signature. Note that a bill will not become law without the Governor's signature if the six-day sign or veto requirement applies and the General Assembly prevents the return of the bill by adjourning.

Before the Governor signs or vetoes a bill, an assistant attorney general reviews it for constitutionality and legal sufficiency. Based on this review, the Attorney General sends a letter to the Governor describing any constitutional or legal issues and either approving the bill for signature or recommending a veto to avoid any issues presented by the bill. The bill review letter may also recommend ways of implementing the bill or steps the General Assembly should take, if the bill becomes law, to avoid or correct any problems.

Under Article II, § 17 of the Maryland Constitution, if the Governor vetoes a bill, the Governor must return the bill to the house of origin at the next regular or special session, along with the Governor's objections to the bill. The General Assembly then has the opportunity to override the veto by a three-fifths majority vote of each house. Note, however, that a vetoed bill cannot be returned to the General Assembly if a new General Assembly has been elected and sworn since the bill was passed (*i.e.* during the first year of a General Assembly term). Accordingly, any veto overrides of bills passed during the last year of a General Assembly term must be undertaken during that legislative session, unless a special session is held before the new term begins. If a veto is overridden, the bill takes effect 30 days after the override or the date specified in the bill, whichever is later, or immediately, if the bill is an emergency measure.

Note that if there is a conflict between the bills that become law, the bill that is enacted later prevails.

## Special Sessions

Under Article II, § 16 of the Maryland Constitution, the Governor is required to convene a special session of the General Assembly “on extraordinary occasions.” The Governor also is required under Article III, § 14 of the Maryland Constitution to issue a proclamation convening the General Assembly in “extraordinary session” if a majority of the members elected to the Senate and a majority of the members elected to the House of Delegates jointly petition the Governor to do so. (Note that the General Assembly has done this only once since being given the authority in 1970.) A special session convened by proclamation of the Governor is limited to 30 days and cannot be extended (Art. III, § 15(1) of the Maryland Constitution). A proclamation by the Governor of a special session for a particular reason cannot limit the subject matter of legislation introduced at the special session, and bills on any subject may be requested, introduced, and considered by the General Assembly. However, recent practice has been to refer any legislation not related to the reason for the special session to the rules committee of each house of the General Assembly where the legislation typically has died.

Special sessions that have been convened in recent years, and the primary topics of each special session, are listed below:

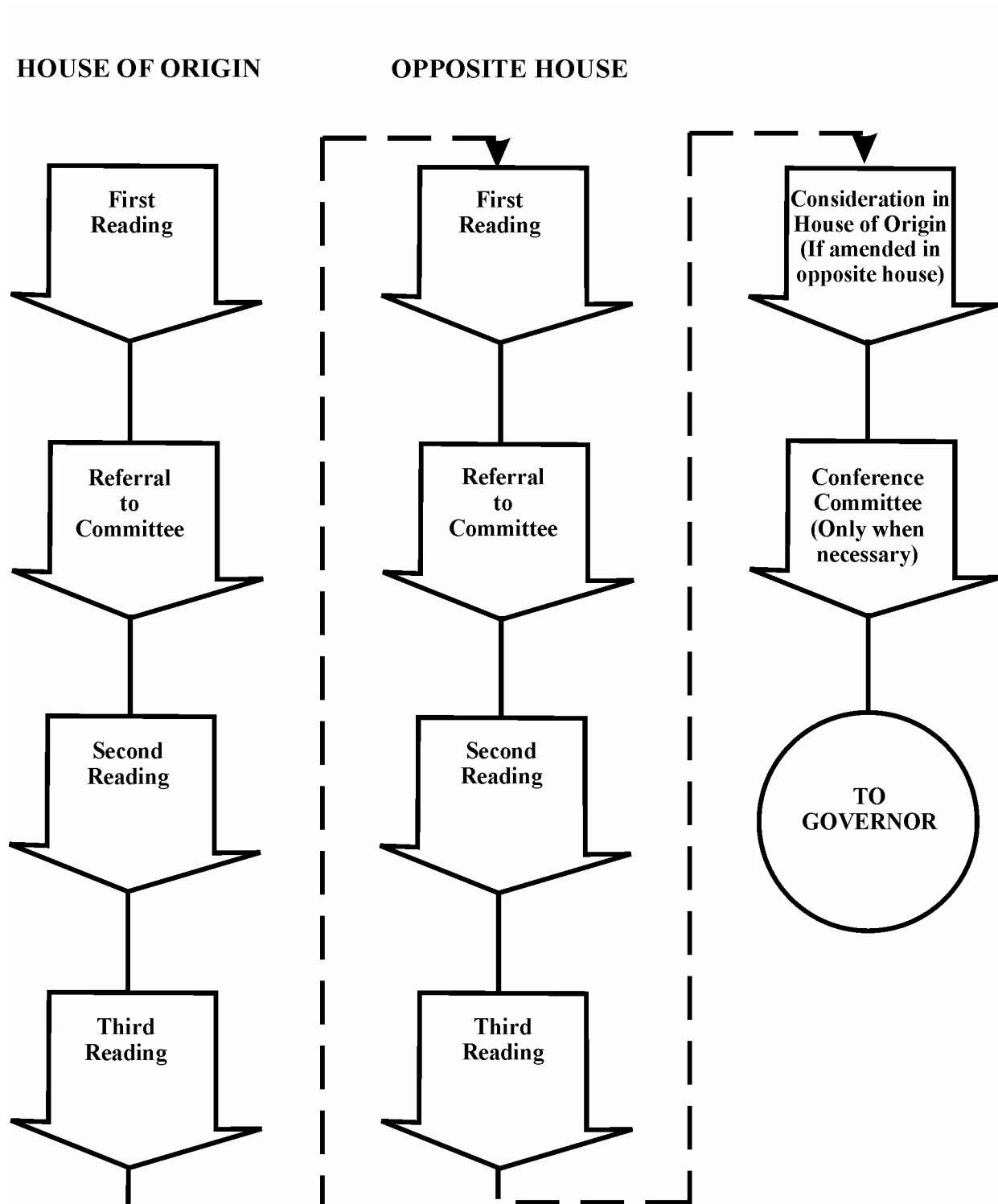
2004 .....	Medical Professional Liability Insurance; Malpractice Actions
2006 .....	Sexual Offenders; Electric Industry Restructuring
2007 ....	Tax Reform; Gaming; Transportation Funding; Health Care Coverage
2011 .....	Congressional Redistricting
2012 – First Special Session .....	Budget Reconciliation; Taxation
2012 – Second Special Session .....	Gaming Expansion
2021 .....	Congressional Redistricting

(Note that a special session was held in 2019 to elect a new Speaker of the House. Due to the extremely limited purpose for which the special session was called, no legislation was introduced.)

For a discussion of effective dates for bills introduced during a special session, see p. 187, “Effective Dates for Special Session Legislation.”



## LEGISLATIVE PROCESS



## Chapter 3. Overview of the Bill Drafting Process

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### Bill Requests

A request from a Senator or Delegate who wants to sponsor a bill initiates the bill drafting process. Members can request bills for drafting in person, by phone, by mail, or by email through the use of the electronic bill request form. The form is a PDF document located on each member's floor system and is accessible by the member or the member's staff. To submit a request by email, the form must be filled out and attached to an email sent to the bill drafting office or a bill drafter. Only one form may be sent per email and the email may include any supporting documents the sponsor wishes to provide. The subject matter and sponsor of each bill request, as well as the existence of the request, must be kept confidential unless the requester indicates otherwise.

While the initial communication requesting legislative drafting services often comes directly from the sponsor or the sponsor's legislative aide, it also can be made by a lobbyist. When a request is not received directly from a legislator or a member of a legislator's staff, the individual taking the request should make certain that the sponsor knows of the request and approves of the preparation of the bill by asking the individual requesting the bill to have the sponsor contact the individual taking the request with approval.

To avoid delays and confusion when taking a request, certain information should be obtained and recorded in the LR Bill Status system. It is often helpful to fill in the required spaces on the online request form at the beginning of the conversation with the requester. Accuracy and clarity in taking information for a request are essential. Note that the Supreme Court of Maryland has looked to request sheets for information relating to legislative history, including the intent of the sponsor. (*See, e.g., State v. One 1983 Chevrolet Van*, 309 Md. 327 (1987).)

In taking a request, first determine who the sponsor of the bill is. If there is more than one sponsor, verify the order in which the names are to be listed. The sponsorship line may include more information than a name or names. Occasionally, a standing committee or some other "institutional" sponsor (*e.g.*, a task force or a county delegation) will sponsor a bill or a legislator will sponsor a bill "by request" of an "institutional" sponsor or an outside person (*e.g.*, a county council). Although there is some flexibility, the preferred format for these bills would cite the name of a legislator, followed by the name of the group.

**Example**

Senator Smith (Chair, Joint Committee on Pensions)

**Example**

Senator Smith (By Request – Prince George’s County Council)

For bills sponsored by a county delegation, rather than listing an individual name of a legislator followed by the name of the county delegation, generally only the name of the county delegation is cited (*e.g.* Anne Arundel County Senators for a Senate bill or Anne Arundel County Delegation for a House bill).

The name and telephone number of the individual requesting the bill must be listed in LR Bill Status so that the individual can be contacted if questions arise during research and drafting. If the requester is not listed in the “Requested By” drop down box, the individual taking the request should select “Add, Requestor (410-000-0000)” and enter the requester’s name and telephone number in the “Special Handling” field. A bill drafting coordinator will then enter the requester information in the Bill Requester Table.

Care should be taken in completing the “Subject” line in LR Bill Status since this is the information that will be included in the acknowledgment sent by email to the sponsor. Accuracy at this stage will facilitate communications with the sponsor and tracking the request.

The file code line in LR Bill Status should be filled in at the time a bill request is taken. While only a maximum of three file codes will appear on a bill, the individual taking the request should assign as many file codes as are appropriate from the file codes listed under the “File Code” tab in LR Bill Status and also contained in the appendix of this manual. (*See* p. 303, “File Codes – 2024 Session.”) It is the responsibility of the drafter, however, to make sure that all appropriate file codes are entered in LR Bill Status and that they are correct. Note that file codes should be listed in the order of their relevance to the subject matter of the bill request. (*See also* p. 19, “File Codes.”)

Each bill request is assigned a number (called the “lr” number for “legislative request”) by the Department of Legislative Services to aid in tracking the bill request. The “lr” number consists of the last digit of the session year, the letters “lr,”

and the four-digit sequential number assigned to the request. For example, the first “lr” number assigned to a 2024 bill request would be “4lr0001.”

## **The Bill Drafting Process**

### **In General**

The process of legislative drafting consists of a number of stages through which the drafter transforms a legislator’s often broadly defined policy objectives into clear and concise statutory language that accomplishes the legislator’s goals. Various factors, such as the degree of autonomy afforded the drafter by the sponsor, the complexity of the legislative proposal, and time constraints, will impact the drafting process. Nonetheless, every legislative drafter goes through each of the following stages to some degree in the process of drafting a bill.

### **Determining the Sponsor’s Intent**

Communication with the sponsor is imperative during this stage as the drafter begins to establish the parameters of the legislative proposal. Because the individual requesting a bill may not have detailed information or supporting research on the proposed legislation, it is important to ask questions during the initial bill request conversation and throughout the drafting process. Depending on the nature of the request, the drafter should consider the following:

- What is the sponsor’s objective?
- What is the problem the sponsor seeks to remedy?
- What is the current situation?
- Who will be affected by the bill?
- When will the bill be effective? Is it an emergency bill?
- Where is additional information available?
- What unusual features does the bill request contain?
- How can the sponsor’s objective be implemented?

A bill request to raise the speed limit, for example, likely would require the drafter to answer some or all of the following questions to get a clear idea of the sponsor's objective:

- What will the new speed limit be?
- To which vehicles will the new speed limit apply?
- Which highways will be affected?
- What will the penalty be for a violation?
- How will the new law be enforced?

The drafter should consult with the sponsor or the sponsor's designee whenever necessary to ensure that there is an accurate understanding of the sponsor's intentions.

## **Researching the Existing Law**

It is essential for the drafter to have a working understanding of the current law relating to the subject of the bill request. With knowledge of the existing statutory scheme and, where appropriate, the relevant case law, the drafter can determine precisely what changes to the law are required to accomplish the sponsor's goals. In addition, in defining the legal context in which the bill is to be drafted, the drafter also must consider:

- federal and State constitutional provisions (*e.g.*, is the General Assembly's power to legislate in this area limited?);
- federal statutory law (*e.g.*, has the federal government preempted the field?); and
- regulations (*e.g.*, has the problem identified by the sponsor been addressed administratively by regulation?).

## **Developing an Outline**

Developing an outline assists the drafter in conceptualizing how best to approach the sponsor's legislative request. The goal at this stage is to achieve the

greatest possible clarity and the most logical organization. A well-considered outline will help eliminate gaps, duplication, and contradiction.

## Preparing a First Draft

At this stage, the drafter should develop a rough draft of the bill, concentrating on the substantive “big picture” and paying less attention to details and precision in language. Typically at this stage, additional questions regarding the substance of the bill will arise and further discussions with the sponsor or the sponsor’s designee may be required.

## Revising (And Revising Again!)

The ability of the drafter to think and read critically is crucial at this stage. The drafter should try to read the draft objectively, as someone else would reading it for the first time. This requires the drafter to focus on what the bill says, not on what it is intended to say.

Note the words of Lord Halsbury in *Hilder v. Dexter*, 1902 A.C. 474, 477:

... in construing a statute I believe the worst person to construe it is the person who is responsible for its drafting. He is very much disposed to confuse what he intended to do with the effect of the language which in fact has been employed.

In revising the draft, the drafter should consider the following:

- Is the bill clear and unambiguous? (For instance, is it clear to a person reading the bill for the first time what activity is prohibited and who is prohibited from doing it?)
- Is the bill internally consistent? (For instance, is the same term used to convey the same idea throughout the bill?)
- Is the bill externally consistent? (For instance, does the proposed statutory language fit in with the surrounding provisions of current law?)

## File Codes

Up to three two-figure codes known as “file codes” appear in the upper left corner of each bill (e.g., F2, D4). (See p. 283, “Sample First Reading File Bill.”) The capitalized letter in a file code refers to 1 of 18 general subject areas, while the

numerical designation refers to one of several subcategories. Space is provided in LR Bill Status under the “File Code” tab for the appropriate file code or codes. While file codes should have been entered by the individual taking the bill request, it is the responsibility of the drafter to make sure that the file codes are correct before an “lr” is sent to review. Note that file codes should be listed in the order of their relevance to the subject matter of the “lr.” A list of current file codes is included in the appendix of this manual. (*See* p. 303, “File Codes – 2024 Session.”)

## Bill Synopses

### In General

Section 2-1504(a) of the State Government Article requires the Department of Legislative Services to prepare and distribute a synopsis of each Senate and House bill introduced during a regular or special session of the General Assembly. Section 2-1504(b) and (c) establish specific requirements relating to bills that impose a mandate on a local government unit or require a mandated appropriation.

Before a draft is considered complete, a bill synopsis must be prepared online and submitted with the draft bill for review. (*See* p. 26, “Review of Draft.”) Some, but not all, information from the online bill synopsis will be published in the *Synopsis*, a document that describes all bills introduced on a given day during the legislative session. While most of the information for the synopsis is computer generated, the drafter is responsible for:

- completing the synopsis paragraph (*see* p. 21, “Synopsis Paragraph”);
- completing the code reference, which indicates the Annotated Code sections, public local laws, or Session Laws affected by the bill (*see* p. 21, “Code Reference”);
- filling out the bill’s effective date or dates (*see* p. 24, “Effective Date”);
- indicating whether or not the bill requires a mandated appropriation (*see* p. 24, “Mandated Appropriation”);
- making a preliminary assessment of whether the bill imposes a mandate on local government (*see* p. 24, “Local Government Mandate”);
- indicating whether the bill is contingent (*see* p. 25, “Contingency”); and

- indicating whether the bill creates a task force, a commission, or other similar entity, such as a workgroup or study group (see p. 25, “Task Force or Commission”).

Note that the bill’s short title as it appears in the online synopsis is limited to 100 characters (two 50-character lines). If the bill’s short title exceeds 100 characters, the online system will generate an abbreviated “voting machine” short title. The drafter should ensure that the abbreviated “voting machine” short title is readable and makes sense.

### Synopsis Paragraph

The synopsis paragraph is similar to the purpose paragraph of a bill and, in addition to being included in the *Synopsis*, is available on the bill’s page on the General Assembly’s website. However, since the only legal requirements regarding synopses are those discussed above, the drafter has considerably more leeway drafting synopsis paragraphs than purpose paragraphs. Generally, the synopsis paragraph is a short description of what the bill does in clear, plain language. Note that the body of the synopsis is limited to a space of eight 70-character lines.

Unlike a purpose paragraph, specific numbers, dates, etc., are used in the synopsis. For example, a “certain fee” should become a “\$25 fee” and “certain date” should become “June 1, 2024.” The synopsis also should use “the Act” instead of “this Act.”

If there is more than one clause in the synopsis paragraph, the last clause must begin with “and” and end with a period. If the number of clauses would exceed the eight 70-character line maximum, “; etc.” must follow the last clause shown and the last clause would not begin with the word “and.”

### Code Reference

References to text that is amended, added, repealed, renumbered, or transferred to other articles of the Annotated Code or the Session Laws should be included in the code reference section of the synopsis. No headings (titles, subtitles, parts, etc.) are shown. Use the two or three letter abbreviation (e.g., BOP, ED, HG) assigned to each article. A list of abbreviations for the articles of the Annotated Code that must be used in the “Code Ref.” field of the online synopsis may be found in the appendix of this manual. (See p. 308, “Synopsis Code Volume Abbreviations.”) As space allows, sections of the Annotated Code should be listed (down to the level of specific subsections, paragraphs, or items) to match the function paragraph of the “lr.” For sections being renumbered or transferred, the drafter should use the



section number of the current law and not the section number to which the text is being renumbered or transferred. If space is limited, references should be made to the relevant Annotated Code articles only with the phrase “Various Sections” followed by the action taken on those articles as shown in the examples below. For bills that only include new uncodified provisions, this section is left blank.

Note that the Department of Legislative Services maintains a list of public local law county abbreviations for use by bill drafters. An abbreviated version of a county name is used only if there is insufficient space to include the county’s full name.)

The following are examples of code references for provisions of the Annotated Code that are being added, amended, repealed, renumbered, or transferred.

### **Examples**

EN, § 9-1605.2(h)(2)(i)1 – amended

HG, §§ 5-101 and 5-206 – amended and §§ 5-07 and 5-208 – added

AC, §§ 3-101 and 3-107 and ED, §§ 6-101 and 6-102 – amended

AC, § 3-104 – repealed and ED, §§ 6-101 through 6-304 – transferred

AC, § 3-104(a)(3)(ii), ED, §§ 6-101 through 6-302, and TR, § 7-234 – repealed and added and ED, § 7-102 – renumbered

TR, §§ 7-101 through 7-405 – added and ED, EN, HG, FL, and LE, Various Sections – amended

The following are examples of code references for provisions of the Maryland Constitution, including the Declaration of Rights, that are being added, amended, or repealed.

### **Examples**

Maryland Constitution, Art. III, § 8 – added

Maryland Constitution, Art. II, § 4 and Art. III, § 5 – repealed

Maryland Constitution, Declaration of Rights, Art. 37 – amended

The following are examples of code references that are used if uncoded provisions in the Session Laws are being amended or repealed.

### **Examples**

Chapter 102 of the Acts of 2013, § 3 – amended

Chapter 102 of the Acts of 2013, § 3, as amended – repealed

Chapters 491 and 492 of the Acts of 2014, § 2, as amended and Chapter 734 of the Acts of 2018, § 4 – amended

Note that if space does not allow specific section numbers, the code reference should show the articles (and Chapter of the Session Laws, if applicable) only.

### **Example**

AC, AG, BR, FI, CR, CP, EL, NR, TP, and Chapter 111 of the Acts of 2018, Various Sections – added and amended

Finally, the following are examples of code references that are used if provisions of public local laws are being added, amended, or repealed.

### **Examples**

PLL of Washington Co, Art. 22, § 604 A. and C. – amended

The Charter of Baltimore City, Art. II, § (64) – added

## **Local Government Mandate**

Section 2-1504(b) of the State Government Article provides that if the Department of Legislative Services determines that a bill imposes a mandate on a local government unit, the synopsis prepared by the department must include a statement that “This bill imposes a mandate on a local government unit.” “Mandate” is defined as a “directive in a bill requiring a local government unit to perform a task or assume a responsibility that has a discernible fiscal impact on the local government unit.” “Local government unit” means a local agency established in a county or municipal corporation and funded, at least in part, at the county or municipal level. “Discernable fiscal impact” means any cost that materially affects the operations or finances of a local government unit. Note that the key to determining whether a bill has a discernable fiscal impact centers on the impact on the local government, not just the cost to the local government.

The statement “Preliminary Analysis: Local Government Mandate” will be included in a bill’s synopsis if “yes” is selected by the drafter in the online system, and nothing will appear if “no” is selected. The Department of Legislative Services maintains guidelines for determining whether a mandate is imposed on a local government unit for use by bill drafters.

## **Mandated Appropriation**

Section 2-1504(c) of the State Government Article provides that if the Department of Legislative Services determines that a bill requires a mandated appropriation, the synopsis prepared by the department must include a statement that “This bill requires a mandated appropriation in the annual budget bill.” This statement will be included in a bill’s synopsis if “yes” is selected by the drafter in the online system, and nothing will appear if “no” is selected. The drafter should select “yes” if the bill requires one-time funding or an annual appropriation from the State budget. For a discussion of the legal requirements for drafting mandatory funding provisions, *see* p. 157, “Mandatory Funding Provisions.”

## **Effective Date**

All effective dates, including October 1, should be entered and will be shown on the synopsis. If a bill has more than one effective date, the one that takes effect first will be shown first followed by the other effective dates in chronological order. If a bill is an emergency bill and does not have sections subject to other effective date provisions, this section is left blank.

### **Contingency**

If the bill is contingent on the enactment of another bill, a referendum, federal action, or some other event, “yes” should be selected by the drafter in the online system. Additionally, the drafter should select the type of contingency the bill includes. If, for example, a bill proposes a constitutional amendment, the drafter would select “yes” and “on a referendum,” and the synopsis contingency space would read “Yes – on a referendum.”

### **Task Force or Commission**

If a bill creates a task force, a commission, a workgroup, a study group, or other similar entity, regardless of whether the provision is codified, the drafter should check the appropriate box in the online system. If the box is checked, “yes” will appear on the synopsis. If the box is not checked, nothing will appear on the synopsis.

### **Submitting the Draft Bill for Review**

Having an experienced drafter review a draft bill with “a fresh pair of eyes” is invaluable in producing a quality product. A good reviewer may raise questions about apparent gaps or “loopholes” in the draft bill and suggest ways to enhance clarity and consistency. The drafter should carefully consider the reviewer’s comments in polishing the final draft. The ability to accept and use constructive criticism to improve the draft of a bill is a prized quality in a drafter.

## **Bill Preparation**

### **Online Bill Drafting System**

Bill drafts are created using an online bill drafting system. The system allows for the import of any necessary sections of the Annotated Code as well as prior legislation, which the drafter can then amend or add to as necessary. The drafter also adds the purpose paragraph and function paragraphs to the bill. The only variation from the online drafting of legislation occurs with the drafting of bills adding to, repealing, or amending public local laws. These bills are drafted using a combination of the online drafting system and insertions of marked up copies of local codes. Once completed, drafts are submitted electronically for review and final preparation.

While the technical details of computerized bill drafting are beyond the scope of this manual, the Department of Legislative Services' Office of Policy Analysis provides training in the techniques of online bill drafting. For drafters in the department, the "Legislation Preparation System Manual" provides detailed instructions on how to use the online bill drafting system and may be accessed online by clicking the "Help" tab either in LR Bill Status or by clicking "Documents" on the drop-down actions list in the Bill Drafting System.

## **Review of Draft**

The draft will be reviewed electronically by senior analysts in the Department of Legislative Services for form, style, and content. The draft may go through several revisions before it is ready to be sent to Editing and Bill Processing to be typed or formatted, proofread and edited, and printed for delivery to the sponsor. When a reviewer promotes a draft to send it to Review 2 (if there are two levels of review) or Editing and Bill Processing (if there is only one level of review), the reviewer will be prompted to complete an electronic bill draft review checklist.

## **Prior Introductions and Similar Bills**

A prior introduction is a bill that is identical to, or substantially similar in substance to, a bill introduced in a previous session. Except as discussed below, the fact that a bill is a prior introduction is noted in the upper left corner of the bill under the bill's file code or codes. (See p. 283, "Sample First Reading File Bill.") The prior introduction notation is composed of the bill number, the last two digits of the year of introduction, and the committee to which the bill was assigned in the house of origin. For example, the notation for House Bill 199 introduced in the 2023 session and assigned to the Health and Government Operations Committee would appear as "HB 199/23 – HGO." Space is provided in LR Bill Status under the "Related" tab for this information, which should be entered at the time the bill request is taken. The drafter should make sure the prior introduction notation appears correctly in LR Bill Status.

In drafting a "reintroduction," the drafter should make any necessary changes to the electronic copy of the bill that is imported through the LR Bill Status system. Be sure to check recent enactments to ascertain whether the source law has changed since the last time the bill was drafted, and note in LR Bill Status that this has been done. Update the volume and supplement citation line of all function paragraphs as necessary, as well as the bill's effective date. For reintroductions of bills originally introduced before the 2022 session, the purpose paragraph should also be updated to reflect the department's revised approach to purpose paragraphs. Additionally, the drafter should check whether the prior bill was printed as a third

reading file bill and, if so, whether the sponsor intends to carry over in the new draft any amendments that were included in the “third reader.” If using a third reader, remove any underlining and either delete any stricken language or, if the intent was to repeal existing law and not simply remove it from the bill, remove the strike-throughs and insert brackets before and after the restored language. Do not include cosponsor names from the prior bill unless the requester has specifically instructed otherwise. Finally, while it certainly is not necessary to start from scratch, read through the bill carefully to see if the bill could be improved or clarified.

If a bill from a previous session is only somewhat similar to the bill being drafted, this posture should be indicated in LR Bill Status, where space is provided under the “Related” tab to enter the year and bill number of the similar legislation. The drafter should make sure that this information appears correctly in LR Bill Status.

### **Cross-filed and Identical Bills**

If an identical bill has been “cross-filed” in the opposite house, that fact is noted in the second line from the top in the upper right corner of the bill under the “lr” number through the inclusion of the “lr” number or bill number. (See p. 283, “Sample First Reading File Bill.”) Space is provided in LR Bill Status under the “Related” tab for this information, which, if available, should be entered at the time the bill request is taken.

Note that two bills should be designated as cross-files only if the notation is specifically requested by one of the sponsors. Unlike for identical bills requested by sponsors in the same house as discussed below, a drafter should not call to see if sponsors would be willing to cross-file identical bills. As a result, two bills may be identical, but may not be “official” cross-files. If a cross-file designation has not been specifically requested, the bills are considered “identical” bills and not “cross-files,” and the drafter should make sure the identical bill information appears correctly in LR Bill Status. Note that while a bill may have only one “cross-file,” there may be two or more identical bills.

Note also that there may be identical bills requested by sponsors in the same house. In this situation, the bill drafter should attempt to consolidate the requests. To do so, the bill drafter must call the sponsor of the first request and ask whether the sponsor would waive confidentiality for purposes of having a cosponsor if identical requests have been received. If the first sponsor waives confidentiality, the bill drafter should then call the second sponsor to inform the sponsor that the first sponsor has already submitted the request and to ask whether the sponsor would be

willing to be a cosponsor. If the second sponsor consents to being a cosponsor, the drafter should inform the first sponsor and, if the first sponsor agrees to the addition of the cosponsor, cancel the second request and add the name of the second sponsor to the first request. If the first sponsor declines to waive confidentiality or if either sponsor does not agree to cosponsors, both requests should be drafted and the drafter should enter the identical bill information correctly in LR Bill Status so that the second bill is created based on the first.

Additionally, note that cross-filed and identical bills are not created by the drafter; rather, they are created in Editing and Bill Processing by document technicians based on information indicated in LR Bill Status. Therefore, the drafter should ensure that the cross-filed or identical bill information appears correctly in LR Bill Status.

## **Revising an “LR” Prepared for Introduction**

A sponsor may request changes to an “lr” after the review and editing of the “lr” has been completed. Requested changes can be incorporated into the “lr” by “yellow sheeting” or, after session begins, by marking up the “backing.” “Backings” are paper folders (white for Senate bills, blue for House bills) into which the “original” copy of the draft bill is stapled. The preferred method to be used depends on whether the “lr” has been prepared in a backing for introduction, the extent of the requested changes, and any time constraints.

### **“Yellow Sheeting”**

“Yellow sheeting” is a process that allows the drafter to make changes to an “lr” after it has gone through the review process but before the “lr” is introduced. Changes should be made through the “yellow sheeting” process in the online bill drafting system if (1) the changes are requested before the backing has been prepared for introduction or (2) the backing has been prepared, the requested changes are extensive, and there is time to put the “lr” back through the full review and editing process. Note that, once the “yellow sheet” button in LR Bill Status has been selected (under the “Workflow” tab in LR Bill Status) and the “lr” has been moved to “drafter hold,” the “yellow sheet” cannot be undone or deleted; therefore, the drafter should ensure that “yellow sheeting” is the appropriate process to use before beginning the “yellow sheet” process in LR Bill Status. If a bill is being “yellow sheeted,” all changes must be made to the electronic copy of the “lr” in the online bill drafting system.

Note that the reviewer need not revise or fill out a bill draft review checklist for an “lr” that has been “yellow sheeted.”

## Marking Up the Backing

Unless an “lr” has been requested for prefile, once the “lr” has been reviewed and edited, a backing is prepared for introduction. Changes can be made to an “lr” for which a backing has been prepared by writing changes directly on (*i.e.* marking up) one of the copies of the “lr” in the backing if (1) the backing has been prepared for introduction but has not yet been introduced and (2) the requested changes are not extensive or there is insufficient time to send the “lr” back through the full review and editing process (*see* p. 28, “Yellow Sheeting”). When marking up the backing, changes should be made by hand in **blue** ink to one of the copies of the “lr” included in the backing. Language that would be shown in **BOLD SMALL CAPS** if typed should be written in CAPITAL LETTERS. Note that longer changes may be typed as inserts and attached to the “lr” with the appropriate insertion points marked on the “lr” in **blue** ink. Note also that it is critical that the changes made are legible and stylistically and grammatically correct, and that any title (*i.e.* short title, purpose paragraph, and function paragraph), conforming, or other related changes are made since the “first reader” will be prepared to exactly match the marked-up backing copy.

Once the changes are made, the drafter must have a designated reviewer review and approve the changes and sign off on the front of the backing. The drafter then makes **five** copies of the marked-up “lr.” Note that the drafter should be careful to ensure that each copy is complete and clearly shows the changes being made. All five copies, along with the original marked-up “lr”, are to be returned to the sponsor in the backing. Before returning the backing, the drafter making changes to the backing must scan a copy of the marked-up “lr” and upload the electronic copy as a supporting document in LR Bill Status, with “backing mark-up” included in the document name and check the “Marked Backing” box under the “Request” tab in LR Bill Status. In the document comments field in LR Bill Status, the drafter must note who made the changes to the backing, the date, and who reviewed the changes. The uploaded copy will be used by Editing and Bill Processing to create the “first reader”. Any workpapers must also be uploaded as supporting documents in LR Bill Status.

## Computer Processing of Draft Bills

The computer processing of draft bills by the Department of Legislative Services continues in Editing and Bill Processing (EBP). Generally, a document technician will open the “Reviewer Copy” of the draft bill (*see* p. 280, “Sample



Reviewer Copy”), check it for formatting and typing errors, and otherwise ensure that it is ready for editing. Note that cross-filed and identical bills are created in EBP by document technicians based on information indicated in LR Bill Status by the drafter, and the bill drafts are not seen or reviewed by a drafter or reviewer. An additional exception to the normal process is the processing of Administration bills and departmental bills, which go to EBP to be created in the online bill drafting system by document technicians before being sent to review. These online bill drafts eventually come back to EBP as reviewer copies and follow the normal process.

Once the document technician ensures the “lr” is ready for editing, legislative editors check the draft bill against the current codified or uncoded law, as applicable. The “lr” also is checked for spelling, punctuation, and conformity to stylistic requirements. The legislative editors will contact the drafter with any questions they have during this process. Those questions will have to be addressed before the draft bill can proceed further.

After necessary corrections are made by the document technicians and once the legislative editors have signed off on the draft bill for the last time, the draft is either prepared to be emailed to the sponsor as a potential prefile or seven copies are printed (*see* p. 282, “Sample LR”) and the draft bill is produced in a format known as a “backing,” which are paper folders (white for Senate bills, blue for House bills) into which the “original” copy of the draft bill is stapled.

Copies of draft bills that are not prefiled are packaged together with the backing according to the rules of the respective houses in preparation for introduction by the sponsor. In addition to the original draft bill stapled inside the backing, the package includes five copies clipped to the backing (one of which will be retained by the sponsor and four of which will be distributed to various offices after the draft bill has been filed or “dropped in the hopper”).

## **Delivery and Filing of Draft Bills for Introduction**

### **In General**

The complete draft bill package then is ready to be picked up by the sponsor (or the primary sponsor if there are multiple sponsors). Note that bills drafted before the legislative session begins are available for pickup by the sponsor on the first day of session if the bill was not prefiled and the backing has been prepared. Under Senate Rule 29 and House Rule 29, only the sponsor of a draft bill (or the primary sponsor if there are multiple sponsors) may file a draft bill for introduction

with the office of the Secretary of the Senate or the Chief Clerk of the House of Delegates.

When a draft bill is filed with the Secretary or Chief Clerk, it is assigned to the appropriate standing committee in the house of origin under the direction of the presiding officer, dated with its introduction date, given a bill number, and initialized into the computerized LR Bill Status system. All copies of the introduced bill are numbered, dated, and stamped with the committee reference. The original copy of the introduced bill in its backing is the official copy from which the bill is printed on pre-drilled 6¾ inch by 9½ inch paper (cream for Senate bills and blue for House bills) for distribution to the members of the General Assembly and the public. Of the five duplicate copies of the introduced bill attached to the backing, one copy is retained in the Secretary's office or Chief Clerk's office, three are returned to the Department of Legislative Services, and one is returned to the sponsor of the bill.

## **Prefiling**

The process of delivering draft bills to sponsors is different during the "prefile" period in the interim. Section 2-1502 of the State Government Article provides for prefilming, which is the filing of a bill before the legislative session begins. Under § 2-1502, on or before November 1 (or November 20 in a Maryland legislative election year), a member or member-elect of the General Assembly may request that the Department of Legislative Services prepare a bill for prefilming. The proposed legislation is drafted by department staff and a copy is emailed to the sponsor. If the sponsor wants the department to file the draft bill for introduction, the sponsor must initial a printed copy of the draft bill and return it to the department on or before November 20 (or December 10 in a Maryland legislative election year). If the sponsor has not made any changes to the body of the bill, the sponsor needs only to return the initialed first page of the draft bill by fax or email. If the sponsor makes any changes or corrections, the sponsor must return the entire text of the draft bill. If the sponsor chooses not to prefile the legislation, it is prepared in the "backing" format and delivered to the sponsor on the first day of session.

Note that all prefiled bills receive a bill number and are available on the General Assembly website before the beginning of the legislative session. They are then automatically introduced on the first day of the legislative session. As a result, changes cannot be made to a bill that has been returned for prefile except by amendment during the legislative session.

Note also that a prefiled “first reading file bill” includes the “requested date” directly underneath the sponsor line and a notation that it was prefiled underneath the bill number.

## **Computerized Bill Status Information**

Once a sponsor introduces a bill, the bill number, title, sponsor, committee assignment, and subject of the bill are entered in the computerized LR Bill Status system. Each time that any action is taken on the bill during the session, such as a committee hearing or report or floor consideration, that action is recorded in the system. This information is available on the General Assembly website.

# Chapter 4. General Considerations for Drafting

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## Source Materials for Bills

In drafting a bill, the writer should consider the vast array of resources available. Primary resources for drafting bills include:

- sections of the Annotated Code on the same general subject;
- similar statutes from other states' codes (available in the Department of Legislative Services' library);
- bills introduced during previous sessions of the General Assembly (referred to as "prior introductions");
- reports produced by a task force, commission, workgroup, or other similar entity; and
- subject matter drafting guides.

Full text versions of bills introduced during a legislative session, along with fiscal and policy notes and amendments offered on the floor, are available on the General Assembly website beginning with the 1996 session. The legislation database can be searched by bill, resolution, or chapter number, sponsor, subject, file code, committee, and statute affected.

The Department of Legislative Services also publishes several indexes which may be consulted for information on previously introduced bills. These indexes, described below, are available in the department's library along with copies of previously introduced bills:

- Subject Index – lists the bill number, short title, and final status of each bill introduced during the legislative session, indexed by subject.
- Statute Index – lists the articles and sections of the Annotated Code affected by bills introduced during the legislative session.
- Sponsor Index – lists the bill number, short title, and final status of each bill introduced during the legislative session, arranged by sponsor name.

- Committee Index – lists the bill number, short title, and final status of each bill introduced during the legislative session, arranged by committee name.

In addition to these indexes, during each legislative session the department publishes online the *Synopsis*, a description of each bill introduced on a given day during the session. The *Synopsis* lists the bill number, short title, committee assignment, primary sponsor, and effective date (or notates that there are various effective dates) of each bill introduced and provides a short summary of the bill. Additionally, if applicable, the *Synopsis* includes information regarding the statute affected and whether the bill requires a mandated appropriation in the annual budget bill, creates a local government mandate, or is contingent. The synopses are available on the General Assembly website.

Committee bill files also may be available. Often, statements of witnesses who testified on a given bill and other background materials are maintained in these files. Generally, committee files on bills introduced in the immediately preceding session are kept in the committee offices, while committee files from other sessions are kept in the department's library. The library's committee files are available beginning with the 1975 session.

Recordings of floor proceedings and committee hearings may be available as well. Both Senate and House floor proceeding recordings are available on the General Assembly website beginning with the 2000 session. Recordings of Senate and House committee hearings are available on the General Assembly website beginning with the 2011 session. The library has recordings of Senate proceedings and committee hearings going back to the 1992 session.

In addition to the sources described above, bill pages on the General Assembly website may also include veto letters, bill review letters, and witness lists with written testimony. Veto letters are available beginning with the 1999 session. Bill review letters are available beginning with the 2007 session. Witness lists with written testimony are available beginning with the 2020 session.

When using prior introductions, statutes from other states, or other source materials in drafting a bill, consider adapting and improving, rather than simply copying the material. It is likely that the source material, while close to what is needed, will have to be altered and updated. Nonetheless, much time and effort can be saved by refining rather than recreating.

The department's library is available for use by the drafting staff. The library has extensive resource materials, including those listed below, for legislative drafting needs.

## **General Resource Materials**

- U.S.C.A., Annotated Code of Maryland, and codes of all other states and the District of Columbia
- Session Laws of Maryland
- Federal legal materials (digests, treatises, etc.)
- State agency publications
- Law reviews
- Books, pamphlets, reports, and periodicals on topics related to law, legislation, and government
- Files of news clippings on issues of interest

## **Online Database Research Capability**

- **The Code of Maryland** can be searched from the General Assembly website. Note that the Code found on the website is not annotated; however, a version of the Code that provides the history of each section can be accessed through the website by clicking on “Related Links” under the “Laws” tab on the homepage and then selecting “LexisNexis.”
- **Department of Legislative Services Library Catalog** provides access to records of materials held in the Department of Legislative Services library collection. A large part of the collection is composed of mandated reports that are sent in by state agencies in response to a legislative mandate. Other materials in the catalog include agencies’ annual reports, audits, and task force reports. The catalog also includes general interest materials meant to assist with research, including books on Maryland’s history, legal treatises, and topics of general interest to the legislature. Not all materials in the Department of Legislative Services library catalog are digitized, but links to electronic copies are provided if a digitized version is available.
- **National Conference of State Legislatures (NCSL) Website** provides access to NCSL’s publications and the publications of state legislatures and their staff agencies throughout the country. The publications range from one-page memoranda to book-length reports on topics of interest to state

legislatures. The NCSL website also provides links to the websites of all state legislatures that have a website.

- **Thurgood Marshall State Law Library Digital Collection** provides access to printed Maryland materials that are both fairly unique to the State Law Library and frequently used by legal researchers. The collection includes certain legislative bill files, task force reports, and legislative council materials, among other resources, and can be searched by keyword or browsed by topic.
- **Westlaw and Lexis** have full-text of U.S. primary law including court decisions, codes, and regulations. Various newspapers, legal treatises, and law review articles also are available. Department library staff can search these databases.
- **Websites** for other states.

In addition to the resources listed above, the Department of Legislative Services' library has partnerships with other institutions that allow the library to access databases on many subject areas (e.g. business and health) and which may include newspaper articles.

## **Uniform and Model Laws**

Uniform and model laws are prepared on many subjects by the Commissioners on Uniform State Laws and the American Law Institute. Other laws are prepared each year by the Suggested State Legislation Committee of the Council of State Governments. For more information regarding the drafting of uniform and model laws, see p. 108, "Uniform Laws, Model Laws, and Interstate Compacts."

## **Other Resources**

A number of additional resources are listed in the sources section of this manual. (See p. 311, "Sources.") In addition, there are many people who can be consulted for information, including legislative liaison personnel with various federal and State agencies, staff contacts with organizations such as the National Conference of State Legislatures, and legislative staff from other states. The staff of the Department of Legislative Services library can assist the drafter in contacting these sources. Library staff also can provide assistance and instruction in using print and online resources, as well as reference and inter-library loan services.

## Style – General Considerations

The object of statutory drafting is to set forth ideas clearly, succinctly, and consistently. The organization of sections and paragraphs should enhance the intended meaning. The drafter should observe the rules of formal writing and proper English usage. Avoid use of long sentences and long sections. Use short, familiar words and phrases. Do not use several words if one is sufficient.

The purpose and effect of a statute should be clear from its language, and the language should convey a simple meaning. A statute that requires an explanation to be understood, therefore, may not be drafted as well as it could be.

As required by § 2-1248 of the State Government Article, the Office of Policy Analysis maintains a *Maryland Style Manual for Statutory Law* (Department of Legislative Services, Office of Policy Analysis, 2018). The style manual includes all the basic rules of organization, grammar, usage, and style for precise legislative drafting. These rules should be followed in the drafting of all bills and amendments, subject to the structural requirements of the article being amended. (See additional discussion beginning at p. 67, “Annotated Code Organization.”)

Consideration of an article’s existing structure is especially important when drafting to the Alcoholic Beverages and Cannabis Article. The structure of that article is three divisions, with Division I containing alcoholic beverages provisions that generally apply statewide, Division II containing 25 titles governing alcoholic beverages in each county as well as Baltimore City and the City of Annapolis, and Division III containing provisions related to cannabis. To maintain the unique structure of Divisions I and II of the Alcoholic Beverages and Cannabis Article, the drafter must consider whether to amend provisions in Division I, Division II, or both. For more information regarding drafting to Divisions I and II of the article, the drafter should consult *Drafting to the Alcoholic Beverages Article: A Guide*.

While a bill drafter must carry out the wishes of the sponsor of a bill, as long as the principal purpose of the bill is not obscured by the stylistic changes, most sponsors will not object to stylistic improvement in language and general modernization as a secondary purpose of the legislation. Note, however, that in a bill that is subject to abrogation (*i.e.*, it will “sunset” at a given time), the drafter should avoid making stylistic changes to source law since there could be confusion regarding the status of the stylistic changes after the bill sunsets.



## **Drafting Defects Resulting in Vetoes or Implementation Advice**

### **In General**

Failure of the drafter to consider several other important elements that go into drafting could result in a veto of the bill by the Governor or in the Attorney General advising that the bill be implemented in a certain manner to avoid any constitutional violations. Bills rejected by a Governor for nonpolicy reasons or for which advice regarding implementation has been provided by the Attorney General usually have been held to contain:

- defective titles, including:
  - incorrect description of subject matter;
  - incorrect description of effect; and
  - title too narrow; or
- unconstitutional subject matter, including:
  - vague language;
  - violation of equal protection guarantee;
  - nonuniformity of taxation;
  - improper delegation of authority;
  - extra compensation for past services;
  - holding two offices of profit;
  - violation of separation of powers doctrine;
  - improper enactment of local laws;
  - violation of “one subject” rule; and
  - legislative entrenchment (binding future legislature).

## **Defective Titles**

A bill must be confined to a single subject, and that subject must be adequately described in the bill's title. (For a general discussion of the legal requirements for bill titles, *see* p. 51, "Title – Legal Requirements.") Often, a defective title results from amendments to the body of a bill that are not reflected in amendments to the title, thus spoiling what in the original bill may have been a good title. (*See* p. 235, "Checking the Title after Drafting a Change to the Body of a Bill.")

### **Incorrect Description of Subject Matter or Effect**

Below are some examples of inadequate descriptions of subject matter or effect that resulted in vetoes.

HB 349 of 1994 changed the standard of proof for a violation of certain civil zoning provisions from a criminal standard to a "clear and convincing" standard. The bill's title indicated that the change was to a "preponderance of evidence" standard.

HB 1484 of 1992 was vetoed, in part, because the title of the bill was misleading in that it did not adequately reflect the central issue of the bill, namely, a requirement in the bill that the Legislative Policy Committee was to determine if the Maryland Housing Fund had to seek an investment grade credit rating. (Note that this requirement also was seen as a "legislative veto" provision of questionable constitutionality.)

HB 825 of 1979 required educational institutions to provide a list of persons who had reasonable assurances of continued employment and who therefore were excluded from unemployment benefits. The title of the bill indicated that the unemployment insurance exclusion itself was to be altered.

HB 1712 of 1979 abolished the St. Mary's County Youth Commission, while the title indicated that a different body was to be substituted for the commission.

SB 460 of 1972 made two changes to a statute relating to public library records. The bill's title reflected only one change.

### **Title Too Narrow**

If a bill's subject matter is broader than its title, the bill is unconstitutional because the requirement of proper notice to legislators and citizens is not fulfilled.

Chapter 108 of the Acts of 2018, among other things, repealed the authority for the St. Mary's County Metropolitan Commission to "discharge at pleasure" certain personnel. This change, however, was not referenced in the title or purpose paragraph and the Attorney General advised that, until the matter could be addressed in a future curative bill, the commission could continue to discharge at pleasure certain personnel.

Chapter 666 of the Acts of 2008, among other things, made changes to the administration of the Bay Restoration Fund. The Attorney General, however, determined that these changes could not be given effect because they were not properly disclosed in the title.

HB 1157 of 1971 modified scholarship programs at teachers' colleges. The bill was vetoed because the title was thought not sufficiently broad to encompass all of the bill's eight subsections.

HB 91 of 1969 was vetoed because the bill stated that the Act was to apply to all premises. The title, however, restricted application of the bill to business premises only.

Occasionally, there is the opposite situation in which the title is broader than the body of the bill. Generally, the Supreme Court of Maryland has not held these titles to be invalid, and the extra matter in the title is treated as mere surplusage. Thus, a title was held valid that purported to repeal sections not referred to in the body of the Act (*Strauss v. Heiss*, 48 Md. 292 (1896)); a title was held valid that referred to a law as statewide in effect, while the body of the Act exempted a number of counties (*Mt. Vernon Co. v. Frankfort Co.*, 111 Md. 561 (1909)); and a title was held valid that indicated the law was statewide in effect, although the body of the Act applied only in three counties (*Neuenschwander v. Wash. San. Comm.*, 187 Md. 67 (1946)).

Note, however, that several veto messages appear not to accept these cases from the Supreme Court of Maryland on surplusage in a title.

SB 291 of 1967 was vetoed due to a similar situation, with the title indicating statewide application but the body of the bill exempting one county.

HB 367 of 1966 refers in the title to a statewide prohibition on leasing certain oyster beds. On the advice of the Office of the Attorney General, the bill was vetoed because two counties were exempt from its provisions.

## Unconstitutional Subject Matter

### Vagueness

Constitutional principles require that legislation be written with a reasonable degree of certainty so that citizens of average intelligence are not required to guess at the meaning of the statute and its application. Examples of terms that have resulted in vetoed bills are “unauthorized person,” “obscene,” “loitering,” “installment sales,” “interest,” and “loans.” Note that whether a term is unconstitutionally vague will depend on the context in which it is used, and the usage of any of these terms is permissible provided the drafter ensures that the constitutional principles discussed above are met. *See also Levin v. State*, 1 Md. App. 139 (1967), *cert. denied* 247 Md. 740 (1967), *cert. denied* 389 U.S. 1048 (1968), in which the Appellate Court of Maryland held that the term “obscene” as used in former Article 27, § 418(a) of the Annotated Code is not unconstitutionally vague when read in light of current U.S. Supreme Court case law.

HB 329 of 1979 was vetoed because it was “nearly unintelligible.” The Governor stated in his veto message, “If sense can be derived from the amended language, it can be accomplished only with an inordinate amount of effort, thereby opening the door to needless controversy regarding the proper construction of the enactment.”

### Equal Protection Guarantee

The Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution imposes restrictions on the extent to which the State may treat different classes of people in different ways. While the Maryland Constitution does not contain an express equal protection guarantee, the Supreme Court of Maryland has held that the concept of equal protection is embodied in the due process requirement of Article 24 of the Maryland Declaration of Rights. *Hornbeck v. Somerset County Board of Education*, 295 Md. 597 (1983).

***Classifications Based on Suspect Lines and Infringement of Fundamental Interests:*** Generally, a statute that draws distinctions between different classes of people will be upheld under an equal protection analysis if the statute is rationally related to a legitimate governmental purpose. However, a statute that classifies people along “suspect” lines (e.g., race, nationality, alienage), or that infringes on a fundamental interest (e.g., voting, interstate travel, access to courts), will be subject to “strict scrutiny,” which requires that the statute be shown to be necessary to achieve an overriding statutory purpose or a compelling State interest.

Chapters 250 and 251 of the Acts of 2020 established a Class C (small yacht club) alcoholic beverages license for Anne Arundel County. The Acts required that an applicant for a license be a resident, registered voter, and taxpayer of the County. The Attorney General advised that the registered voter requirement could be applied only to applicants who are citizens and could not be applied to applicants who were lawful permanent residents of the United States. The requirement effectively became a citizenship requirement, which would be unconstitutional.

Chapters 686 and 687 of the Acts of 2019 required the Board of Public Works to adopt regulations requiring all bidders, contractors, and subcontractors on State-funded construction projects to pay employee health care expenses; this requirement, however, did not apply to minority business enterprises or businesses with 30 or fewer employees. Though the Attorney General acknowledged that the State had a compelling interest, the Attorney General determined that the bills were not narrowly tailored to achieve the compelling interest, nor did the State consider workable race-neutral alternatives and did not include a planned duration for the exemption of minority business enterprises. Accordingly, the exemption was unconstitutional.

Chapter 757 of the Acts of 2019 required certain applicants for the State's renewable energy portfolio standard to sign a memorandum of understanding with the Public Service Commission that required the applicant to use best efforts and effective outreach to obtain as a goal contractors and subcontractors for the project that were minority business enterprises. The Attorney General advised that the bill was not clearly unconstitutional if implemented as outreach measures and not as numerical goals or preferences based on race or gender.

***Classifications Based on Gender:*** Classifications based on gender are subject to an “intermediate” level of scrutiny and will be upheld by a court only if they serve important governmental objectives and are substantially related to the achievement of those objectives. In addition, the Maryland Equal Rights Amendment (Article 46 of the Maryland Declaration of Rights) includes a specific guarantee of equal protection which prohibits the General Assembly from passing legislation that draws lines between men and women in the allocation of benefits, rights, burdens, and responsibilities.

***Classifications Based on Residency:*** There are many cases that support the conclusion that statutes that treat people differently based on their state or county of residence are subject to higher than normal rational basis scrutiny, including *Frankel v. Board of Regents*, 361 Md. 298 (2000); *Verzi v. Baltimore County*, 333 Md. 441 (1994); and *Bruce v. Director, Department of Chesapeake Bay Affairs*, 261 Md. 585 (1971). Note that while the statutes at issue in these cases should be distinguished from statutes that apply in only one county but affect any

person coming into the county equally or apply statewide and affect any person coming into the State equally, HB 781 of 1965, which limited the taking of crabs from certain counties to residents of those counties, was vetoed because it was held to be discriminatory against nonresidents despite all nonresidents being treated equally. Given the difficulties courts have in justifying residency requirements, drafters should use caution when asked to include residency requirements in a bill.

Similarly, statutes that include residency requirements (e.g. a requirement that an individual be a resident of the State or a county at the time of filing an application or for a specified period before being eligible to serve on an advisory board) can violate the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. Chapters 254 and 255 of the Acts of 2023 established a five-year residency requirement for members of an advisory board. Applying rational basis scrutiny, the Attorney General found that the five-year residency requirement for appointment to a board that merely operates in an advisory capacity to the State fails to satisfy the rational basis test and would therefore be unconstitutional.

Note that residency requirements could also be found to violate the dormant Commerce Clause to the U.S. Constitution. Chapters 405, 421, 422, 596, 597, and 598 of the Acts of 2023 changed residency requirements for alcoholic beverages licenses in multiple counties. The Attorney General could not justify the durational residency requirements as a public health or safety measure or on some other legitimate nonprotectionist ground under *Tennessee Wine and Spirits Retailers Ass'n v. Thomas*, 139 S. Ct. 2474 (2019) and accordingly advised that the residency provisions in the bills were unconstitutional. Additionally, the Attorney General noted that nondurational residency requirements would also likely be found unconstitutional due to a lack of sufficient justification for the requirement.

***One-Person, One-Vote Requirement:*** The Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution has been interpreted by the U.S. Supreme Court to require legislative voting districts to have about the same population. *Reynolds v. Sims*, 377 U.S. 533 (1964). SB 657 and HB 1239 of 2007 were vetoed because of the determination by the Attorney General that the bills violated the one-person, one-vote requirement.

### **Nonuniformity of Taxation**

Article 15 of the Maryland Declaration of Rights requires the State to fix and levy taxes under uniform rules.

HB 387 of 1969 tried to exempt residents of one county from payment of a distribution and production tax on natural gas. The bill was vetoed because it was held to be nonuniformly favorable tax treatment for some taxpayers.

HB 505 of 1963, which provided for an annual permit fee for trailers in Carroll County, was vetoed as improperly imposing a fee (tax) on the basis of size, instead of value.

### **Improper Delegation of Authority**

HB 1162 of 1965 required that the concurrence of the legislative delegations of certain counties be obtained before game seasons could be declared open. The bill was vetoed because of unconstitutional delegation of administrative authority by the General Assembly to a smaller group of legislators.

SB 373 of 1963 attempted to give insurance companies broad powers in case of a national emergency. The bill was vetoed because the granting of such broad powers was thought to be an improper delegation of legislative authority.

### **Extra Compensation for Past Services**

Some rejected legislation has attempted to provide salary increases or other compensation for certain government officials. These measures were considered a violation of Article III, § 35 of the Maryland Constitution, which prohibits the General Assembly from authorizing extra compensation to a “public Officer, Agent, Servant or Contractor” for services already rendered or after a contract has been entered into, or any increase or decrease, during the current term of office, in the salary or compensation of a public officer serving a term of four years or less. Note that providing government-funded health insurance to a public officer has been found to be an unconstitutional increase in compensation, while including the public officer in a noncontributory pension system has not. *See 78 Opinions of the Attorney General* 296 (1993).

For a discussion and examples of special section language that should be used in legislation increasing the salary or other compensation of a public officer, *see* p. 179, “Salary Increase or Decrease Not to Affect Incumbent.”

### **Holding Two Offices of Profit**

Article 35 of the Maryland Declaration of Rights prohibits a person from holding, at the same time, more than one “office of profit created by the Constitution or Laws of this State.” (For an analysis of what constitutes an “office,” *see* p. 179, “Salary Increase or Decrease Not to Affect Incumbent.”) If it is determined that the position in question is an “office,” the next question is whether it is “of profit.” If the legislative body creating the office determines that compensation is a benefit of the position, the office is one “of profit” even if particular office holders choose not to accept the compensation. *See 76 Opinions of the Attorney General* 347 (1991). Note

that the courts have held that when a person accepts a second office of profit, the first office is deemed to have been vacated. (*See, e.g., Truitt v. Collins*, 122 Md. 526 (1914).) Note also that the Attorney General has advised that a legislative declaration that a position does not constitute a State office would likely not be credited by a court reviewing the legislation for constitutionality. (*See* bill review letter for SB 821/HB 109 of 2018 (footnote 1) (May 7, 2018).)

SB 1096 of 1979 was vetoed because it violated the constitutional prohibition against holding two offices of profit.

### **Separation of Powers**

Article 8 of the Maryland Declaration of Rights mandates that the “Legislative, Executive and Judicial powers of government... be forever separate and distinct from each other.”

With respect to the separation of powers doctrine and the Executive Branch, the Attorney General has stated that:

While the cases define “Executive Power” only in quite general terms, it is clear that the essential attribute of this power is the power to carry out, implement and administer laws. It is this essential core power which the separation of powers doctrine protects from usurpation of another branch.

*See* bill review letter for HB 1589 of 1979 (May 26, 1979).

A legislative veto denotes a legislative action that countermands an action of the Executive without passage of a bill by both houses of the legislature and presentment to the Executive.

Chapters 39 and 40 of the Acts of 2023 established a process authorizing the Legislative Policy Committee, a committee composed exclusively of legislative members, to review and approve plans proposed by the Prescription Drug Affordability Board. However, under Chapters 39 and 40, if the Legislative Policy Committee did not approve a plan, the Governor and Attorney General would have an opportunity to approve the plan. The Attorney General determined this approval authority was not a legislative veto because the Legislative Policy Committee did not have ultimate authority to veto a plan.

Chapter 221 of the Acts of 2019 contained a provision authorizing the Maryland Stadium Authority, “with the approval of the budget committees,” to use up to \$1 million of the authority’s nonbudgeted funds each fiscal year for activities



authorized by § 10-622.1 of the Economic Development Article. The Attorney General determined that requiring the authority to obtain approval of the budget committees before using certain funds amounted to a legislative veto.

SB 857 and HB 952 of 1984 attempted to establish a ten-member State Donations Oversight Committee that would include six legislators. The committee's purpose was to certify State projects for which private donations could be solicited. The bill was vetoed because the proposed committee was to exercise an essential or "core" executive power (determined by the Attorney General in this case to be "the implementation of policy") and the inclusion of legislators would have violated the separation of powers clause. (See bill review letter for SB 857 of 1984 (May 24, 1984).)

Note that the common practice of creating an advisory commission composed of Legislative, Judicial, and Executive Branch appointees does not pose a constitutional problem if the commission is merely advisory and does not exercise an essential power of one branch of government. Chapter 659 of the Acts of 2017, among other things, established a committee that included legislative members and required the Attorney General, in consultation with the committee, to adopt regulations based on the committee's recommendations. The Attorney General advised, however, that the committee's recommendations be considered advisory only to avoid any potential violation of the separation of powers doctrine.

Chapters 360 and 361 of the Acts of 2023 established the Rare Disease Advisory Council. The membership of the Council included one member of the Senate and one member of the House of Delegates. Because the duties of the Council included the administration of State funds, the Attorney General advised that the legislator members of the Council refrain from managing the funds to address constitutional concerns regarding the involvement of legislators in a nonlegislative body that is empowered to administer State funds.

Chapter 460 of the Acts of 2020 established the Two General Family Economic Security Commission within the Department of Human Services. The membership included two members of the Senate and two members of the House of Delegates. The Attorney General noted that the inclusion of members of the General Assembly raised separation of powers concerns because some of the responsibilities of the commission involved implementing agency programs. As a result, the Attorney General advised that the role of the legislative members on the commission must be advisory only in order to avoid constitutional issues.

### **Improper Enactment of Local Legislation**

The powers of the General Assembly to enact legislation affecting units of local government are limited by both the Maryland Constitution and statutory law. For further discussion regarding the powers of the General as they relate to local government, *see* p. 2, “Power of the General Assembly to Legislate.”

HB 1368 and HB 1385 of 1979 were vetoed because they violated Article XI-A, § 4 of the Maryland Constitution, which prohibits General Assembly action “on any subject covered by the express powers” that are given to charter counties. (*See also* p. 2, “Charter Home Rule Counties.”)

HB 579 of 1963, which attempted to create a special tax zone in a municipality in Anne Arundel County, was held to be in violation of Article XI-E of the Maryland Constitution. Article XI-E prohibits the General Assembly from enacting certain local and special laws for municipalities. (*See also* p. 4, “Municipalities.”)

### **“One Subject” Rule**

Under Article III, § 29 of the Maryland Constitution, a bill may embrace only “one subject.” The purpose of this requirement is to prevent the combination in one Act of totally unrelated matters that would not receive support if offered independently. The “one subject” rule helps to “avoid the necessity for a legislator to acquiesce in a bill he or she opposes in order to secure useful and necessary legislation.” *Porten Sullivan Corp. v. State of Md.*, 318 Md. 387, 408 (1990) (striking down a portion of Chapter 244 of the Acts of 1989 which imposed mandatory ethical requirements on Prince George’s County Council members regarding zoning matters and extended the Council’s authority to impose certain taxes).

Note that while the requirements of Article III, § 29 of the Maryland Constitution do not apply to constitutional amendments (*see Hillman v. Stockett*, 183 Md. 641), Article XIV, § 1 of the Maryland Constitution contains a single subject requirement that applies to proposed constitutional amendments.

The basic test for determining whether a bill embraces more than one subject is whether or not all portions of the bill are “germane” (*i.e.*, connected, related, pertinent) or whether they are foreign to one another. Note that absent an express nonseverability clause, all statutes enacted after July 1, 1973, are presumed to be severable. (*See* § 1-210 of the General Provisions Article.) Therefore, on determining that a law embraces more than one subject, a court will attempt to define and give effect to the principal subject of the enactment and separate out the dissimilar

subjects. For an analysis of the application of the “one subject” rule to a legislative enactment, see *Migdal v. State*, 358 Md. 308 (2000).

Chapter 16 of the Acts of 2019 (the 2019 Budget Reconciliation and Financing Act) required, among other things, a certification of notice to members of the legislative delegation of a county for which a project was going to be included in the State’s Consolidated Transportation Program. Although the Attorney General determined that there was a general connection between the State budget and this provision, the connection was indirect and likely too tenuous to satisfy the Maryland Constitution’s one subject requirement and was therefore unconstitutional.

SB 788 of 1974 was found to contravene the “one subject” rule. Although the bill generally concerned Calvert County, it both altered the salary of the County Treasurer and permitted the County Commissioners to lend money for public streets. The only tie between the two matters was that they both occurred in Calvert County. This nexus was insufficient, and the bill was vetoed.

### **Legislative Entrenchment (Binding Future Legislature)**

One of the most basic rules of legislative procedure is that one legislature cannot limit the power of a subsequent legislature (also known as legislative entrenchment). *Wright v. Wright’s Lessee*, 2 Md. 249, 449 (1852) (“Within the purview of the constitution...all legislatures are co-equal; what one may do a succeeding one may also do or undo.”). Thus, the General Assembly cannot by ordinary legislation limit the authority of its successors. *Board of Cty. Comm’rs of Prince George’s Cty. V. Donohoe*, 220 Md. 362, 367 (1959) (General Assembly cannot bind its successors). This rule applies to ordinary legislation and does not apply to constitutional amendments.

Chapters 1 and 2 of the Acts of 2019 authorized the Governor to transfer funds by budget amendment from the Catastrophic Event Account to a new Federal Government Shutdown Employee Assistance Loan Fund that would be available “in perpetuity.” The Attorney General concluded that, even though Chapters 1 and 2 required that the fund be available in perpetuity, they did not limit the authority of a subsequent legislature to modify or repeal the fund.

In a letter of advice regarding the constitutionality of a provision in HB 449 of 2016 that prohibited the General Assembly from enacting legislation creating a new level of funding in the annual budget bill unless the General Assembly also enacted legislation during the same session that reduced or repealed an equivalent amount of the new level of funding for the same fiscal year, the Assistant Attorney General advised that the provision “impermissibly interferes with the General

Assembly’s constitutional authority to legislate” and was thus invalid because the provision “would limit the General Assembly’s authority to enact future legislation establishing a funding mandate or increasing the amount of an existing mandate.” Letter of advice discussing HB 449 of 2016 (March 8, 2016).

### **Miscellaneous Constitutional Violations**

Legislative drafters also should be careful in drafting provisions that could raise other potential constitutional problems. In the past, such problems have arisen regarding, for example, eminent domain, impairment of contracts, the supremacy clause (federal preemptive legislation), due process, and the First Amendment.

For a further discussion of constitutional provisions that may impact bill drafting, *see Legislative Desk Reference Manual* (Department of Legislative Services, Office of Policy Analysis, 2023).

### **Constitutional Amendments**

Although a proposed constitutional amendment is usually drafted in a bill that is separate from a bill that would add, repeal, or amend law contingent on the passage of the constitutional amendment, the Attorney General has advised that the combination of the proposed constitutional amendment and the statutory changes in a single bill does not violate the Maryland Constitution. (*See* Letter to the Honorable Robert J. Garagiola dated January 17, 2011.) Note that the statutory change does *not* need to be contingent on the constitutional change, but the bill must still comply with the one subject rule (*see* p. 47, ““One Subject” Rule”). For an example of a bill that contains both proposed constitutional amendments and statutory changes contingent on the passage of the constitutional amendments, *see* SB 333 of 2015. For the effective date provisions that must be included in such a bill, *see* p. 200. For an example of a bill that contains both proposed constitutional amendments and statutory changes that are *not* contingent on the passage of the constitutional amendments, *see* HB 1361 of 2018.

Note that, because Article XIV, § 1 of the Maryland Constitution gives sole authority to the General Assembly to propose an amendment to the Maryland Constitution, a bill proposing a constitutional amendment is not presented to the Governor for approval or veto unless the bill also includes statutory or substantive uncoded provisions.



# Chapter 5. Bills in General

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## In General

Bills are composed of two main parts: the title and the body. The title is legally required by Article III, § 29 of the Maryland Constitution for all bills (except those that propose only constitutional amendments) and is a technical part of the bill. The body of the bill contains the changes to the law, which can be drafted to the Annotated Code, as an uncodified provision, to an uncodified provision in the Session Laws, to the Maryland Constitution, or to a public local law. This chapter describes the title and body in more detail and provides the rules that generally apply to all types of bills. Chapters 6 through 10 discuss information that is specific to drafting to the Annotated Code or drafting uncodified provisions, changes to uncodified provisions in the Session Laws, constitutional amendments, or public local laws, respectively. Chapter 11 contains information specific to funding provisions and audits. Chapter 12 covers special sections and Chapter 13 covers effective dates, double drafting, and termination provisions.

## Title

### Legal Requirements

The title specifies, as applicable, the placement of the provisions of a bill in the Annotated Code, Maryland Constitution, public local laws, or, if any uncodified provisions in the Session Laws are being amended or repealed, the Chapter of the Session Laws affected. The title also contains a summary of the content and legal effect of the bill sufficient to satisfy the requirements of Article III, § 29 of the Maryland Constitution, which states:

... every Law enacted by the General Assembly shall embrace but one subject, and that shall be described in its title; ... nor shall any Law be construed by reason of its title, to grant powers, or confer rights which are not expressly contained in the body of the Act; ....

Because Maryland has one of the strictest title requirements of the 50 states, care must be taken when drafting titles. The title must put a reader on notice as to the contents of the bill. This does not mean that the title must include all of the details of the bill, but it must provide a fair indication of the real nature and subject matter of the bill. Titles that are misleading or deceptive must be avoided. As a general rule, the title of a bill is drafted after the body of the bill is completed.

There may be only one subject in a bill (Article III, § 29 of the Maryland Constitution), and the title must be at least as broad in scope as the body of the bill; it is fatal to the bill if the title is not as broad as the body of the bill. Note, however, that a portion of the bill that is adequately covered by the title may be upheld. (See *Porten Sullivan Corp. v. State of Md.*, 318 Md. 387 (1990) and p. 47, ““One Subject” Rule.”)

A title that is too broad may be accepted by the courts as being no more serious than surplusage, although the Office of the Attorney General has been critical of such titles. (See, e.g., the veto messages in 1967 for SB 291, SB 372, and HB 921 (1967 Session Laws, pp. 1,748, 1,749, and 1,773).)

Note that the requirements of Article III, § 29 of the Maryland Constitution do not apply to constitutional amendments (see *Hillman v. Stockett*, 183 Md. 641). However, Article Article XIV, § 1 of the Maryland Constitution contains a single subject requirement that applies to proposed constitutional amendments and a summary of the content and legal effect of the proposed constitutional amendment is included in the bill through practice.

For additional information on the constitutional requirements for bill titles, see p. 39, “Defective Titles.” For a history of the adoption of Article III, § 29 of the Maryland Constitution and a discussion of the interpretation by the Supreme Court of Maryland of bill title and one subject requirements before 1948, see C. Everstine, “Titles of Legislative Acts,” 9 *Maryland Law Review* 197 (1948).

## The Short Title

The purpose of the short title is to give a general indication of the content of the bill. The short title tells the reader what the bill is about. As a rule, no more than six to eight words should be used, and the drafter should avoid short titles that exceed 100 characters in length. Short titles commonly state the general subject of the bill first, followed by successively more detailed phrases separated by dashes.

If a bill relates to only one or two counties, their names should appear first, with a word or two about the subject matter after the dash. Bicounty agency bills should include the full name of the agency, followed by a very brief description of the content of the bill. For local bills, a local bill number, assigned by the county delegation that is sponsoring the bill, may appear on a separate line underneath the standard short title.

Note that a capitalized “The” should not be used in a short title due to the errors the use causes in the computerized indexing system. Note also that a special

title requested by the sponsor (e.g. Voter Registration List Protection Act or Grace’s Law) should be placed in parentheses and without quotation marks underneath the standard short title.

### Examples

AN ACT concerning

#### **Housing – Real Property Closing Costs**

AN ACT concerning

#### **Vehicle Laws – Abandoned Vehicles – Definition**

AN ACT concerning

#### **Washington County – Transient or Temporary Vendors – Licensure**

AN ACT concerning

#### **Prince George’s County – Board of Education – Compensation**

**PG 402-24**

AN ACT concerning

#### **Washington Suburban Sanitary Commission – Minority Business Program – Graduation**

**PG/MC 119-24**

AN ACT concerning

#### **Family Law – Minors – Emancipation (Emancipation of Minors Act of 2024)**

## **The Purpose Paragraph**

### **In General**

The purpose paragraph is the part of the title that describes in constitutionally acceptable detail what the bill does. This is the part of the title to



which the constitutional test of Article III, § 29 of the Maryland Constitution regarding titles is applied. (See discussion at p. 51, “Legal Requirements.”)

The Supreme Court of Maryland has stated that the purpose of the title requirement is “to inform legislators and the public of the general nature of the subject matter of pending legislation, so that, if interested, they will examine the body of the statute for its specific provisions.” *Jacobs v. Klawans*, 225 Md. 147, 153 (1961). Additionally, the Court has ruled that the title does not need to describe everything the bill does or include the means and methods by which the general purpose of the bill is to be carried out. (See *Ogrinz v. James*, 309 Md. 381, 398 (1987), *Dutton v. Tawes*, 225 Md. 484, 499 (1961), and *Dahler v. WSSC*, 133 Md. 644, 649-650 (1919).) In a letter of advice regarding the constitutionality of a proposed change in the drafting of purpose paragraphs, the Assistant Attorney General noted these cases and advised that shorter titles that have more general terms are more consistent with the constitutional purpose of titles than titles that describe in detail everything a bill does. The Assistant Attorney General also advised that the Court is generally most concerned with titles that are inaccurate or misleading and situations where the body of the bill contains provisions that are foreign or unrelated to what was described in the title. Letter of advice discussing the constitutionality of a proposed change in the drafting of purpose paragraphs (July 9, 2021).

A bill drafter must balance the need to ensure that the title is sufficiently informative with the need to ensure that the title does not contain so much information that the true purpose of the bill gets lost. The drafter should keep in mind the purpose of the title requirement and consider the following questions:

- Does the purpose paragraph adequately inform members of the General Assembly and the public as to the subject matter of the bill?
- Would the inclusion or exclusion of a specific clause or the way a change to the law is being described make the title inaccurate or misleading?
- Does the purpose paragraph describe provisions of the bill that would be considered foreign or unrelated to the subject matter described in the remainder of the purpose paragraph? (*E.g.* a bill on shoplifting that provides immunity for false arrest should include mention of the false arrest provision in the purpose paragraph because it could be considered foreign to the topic of shoplifting.)
- Are there clauses that could be eliminated because the provisions being described are necessary companions to other provisions in the bill? (*E.g.* in a

bill establishing a task force, there is no need to include that the bill provides for the composition, chair, and staffing of the task force because a bill establishing such an entity would logically include those provisions.)

- Are there clauses that could be combined to make the purpose of the bill clearer and more straightforward?
- Does the purpose paragraph include descriptions of provisions that would be the opposite of what is normally true under other provisions of law or jurisprudence? (*E.g.*, a clause that states the provisions of the bill apply retroactively should be included because it is generally presumed that bills apply only prospectively.)
- Does the purpose paragraph describe only proposed changes as they apply to existing law rather than the status of present law? (*I.e.*, it is not necessary to describe the present law in the purpose paragraph.)

### Technical Aspects

A purpose paragraph consists of descriptive clauses separated by semicolons, using the “ing” form of a verb (*e.g.*, “altering,” “authorizing,” “requiring,” “exempting,” “establishing,” “prohibiting”). It is preferred that the drafter use these “action” verbs instead of “providing that ...” For instance, use “requiring the Director to ...” rather than “providing that the Director shall ...” and “prohibiting a person from ...” instead of “providing that a person may not ....”

Except for bond authorization bills, avoid placing exact figures (dollar amounts, dates, measures, and other expressions of numerals) in the title of a bill since the figures may be amended several times during the legislative process. For example, salaries proposed in an introductory bill frequently are subject to change by amendment. If the purpose paragraph contains the precise amount of the salary, the failure to amend the purpose paragraph to reflect the change made to the body of the bill by the amendment would make the bill invalid.

If a bill alters dollar amounts, dates, measures, etc. and it is necessary to describe the change in the purpose paragraph, it is preferable to use a purpose paragraph clause analogous to the following example:

### Example

FOR the purpose of altering (or increasing) the salary of the treasurer of St. Mary’s County;

**Do not use:**

FOR the purpose of increasing to \$50,000 the salary of the treasurer of St. Mary's County;

The word “certain” also should be used in place of exact figures or dates (*e.g.*, “increasing to a certain amount the cost of a public work or improvement for which the County Commissioners may enter into a contract”).

In most circumstances, a broad catchall provision should be added at the end of a purpose paragraph, such as “and generally relating to freestanding health care clinics.” The “generally relating to” clause is a useful tool for drafting constitutionally acceptable titles as it provides the necessary notice for minor changes made by a bill that might not have been specifically addressed in the purpose paragraph. Note that, unlike in other clauses in the purpose paragraph, the word “certain” should not be used in the “generally relating to” clause.

Boilerplate purpose paragraph language and examples of purpose paragraph clauses are located throughout this *Manual*.

## **The Function Paragraph**

### **In General**

The function paragraph describes the action being taken, specifies the article and section of the Annotated Code, Maryland Constitution, or public local law or the Chapter of the Session Laws that the bill affects, and identifies where the affected law is found. Note that a corresponding function paragraph is not included for an uncodified provision, unless the uncodified provision was previously enacted and is being amended, repealed, or shown without amendments. The function paragraph generally includes the function line, the article line, the section line, the source law line, and the volume and supplement citation line. (For a discussion of when a fifth line may need to be added to a function paragraph, *see* p. 90, “The Fifth Line.”)

### **Example**

BY repealing and reenacting, with amendments,  
Article – Education  
Section 8-304(a) and (b)(2)  
Annotated Code of Maryland  
(2019 Replacement Volume and 2023 Supplement)

The structure and use of the function paragraph is controlled strictly. The basic rule for using more than one function paragraph is that multiple function paragraphs will be necessary if:

- the bill is drafted to more than one article of the Annotated Code (or more than one volume if the article is contained in two volumes with different publication dates);
- the bill is drafted to more than one source of law (Annotated Code, Maryland Constitution, public local law, or Chapter of the Session Laws); or
- the bill employs more than one function (*e.g.*, repealing with amendments, repealing and reenacting without amendments, adding, etc.) to accomplish the objective of the bill (even if, for example, only one article of the Annotated Code is affected).

Function paragraphs serve as a kind of “table of contents” of a bill, and multiple function paragraphs are listed in the sequence in which the changes appear in the body of the bill. Note, however, that each function paragraph will contain all sections within a given article of the Annotated Code, the Maryland Constitution, or the public local laws or within a specific Chapter of the Session Laws that are affected by that function, regardless of where the changes may appear in the bill.

If a section is repealed and a new section is added to replace it, the “repeal” function paragraph should appear before the “add” function paragraph. Similarly, if a section is renumbered and a new section is added where the renumbered section previously appeared, the renumbering function paragraph should come first. Good examples of the use of multiple function paragraphs can be found in Chapter 36 of the Acts of 2018, Chapter 628 of the Acts of 2020, SB 868 of 2020, and SB 414 of 2021.

For more information about the function paragraphs used for provisions drafted to the Annotated Code, an uncodified provision in the Session Laws, the Maryland Constitution, or public local laws, *see* the discussions beginning on p. 72, 129, 134, and 139 respectively.

### **The Function Line**

The function line describes the action being taken with respect to the sections of the Annotated Code, Maryland Constitution, public local laws, or Chapter of the

Session Laws affected by the bill. The most common actions that appear in a function line for sections of the Annotated Code or public local laws are:

- BY repealing and reenacting, with amendments;
- BY repealing;
- BY adding to; and
- BY repealing and reenacting, without amendments.

In some instances, a renumbering action may appear in the function line for sections of the Annotated Code or public local laws:

- BY renumbering.

The following special actions may appear in the function line for sections of the Annotated Code:

- BY transferring;
- BY repealing and reenacting, with amendments, and transferring; or
- BY repealing and reenacting, with amendments, and transferring to the Session Laws.

The actions that may appear in a function line for sections of a Chapter of the Session Laws are:

- BY repealing and reenacting, with amendments;
- BY repealing; and
- BY repealing and reenacting, without amendments.

These functions are applied in the same manner for sections of a Chapter of the Session Laws as they are for sections of the Annotated Code and public local laws.

For sections of the Maryland Constitution (or the Declaration of Rights), the following actions may appear in a function line:

- BY proposing an amendment to the Maryland Constitution;
- BY proposing an addition to the Maryland Constitution; and
- BY proposing a repeal of the Maryland Constitution.

Note that the special action of “BY withdrawing, recalling, and repealing” is used when withdrawing, recalling, and repealing a previously passed bill proposing a constitutional amendment. (See p. 135, “Withdrawing, Recalling, and Repealing a Bill Proposing a Constitutional Amendment.”)

### **The Article Line**

The article line is different for provisions drafted to the Annotated Code, public local laws, municipal charters, the Charter of Baltimore City, and Chapters of the Session Laws. For example, the article line for a provision drafted to the Family Law Article of the Annotated Code would look like the example below:

#### **Example**

Article – Family Law

While the article line for a provision drafted to a section of the public local laws would look like the example below:

#### **Example**

The Public Local Laws of Prince George’s County

### **The Section Line**

The section line references the section of the Annotated Code, public local law, Maryland Constitution, or Chapter of the Session Laws that is being affected by the bill. The word “Section” is always singular regardless of the number of sections listed. The example below lists sections of the Annotated Code.

**Example**

Section 12-314(a), 12-315, and 12-406(b)(1), (4), (7), and (9) and (d)

**The Source Law Line**

When a function paragraph is describing a change being made to the Annotated Code, a public local law, or a Chapter of the Session Laws, it must include a line describing where the law is found. The examples below show the line for a provision drafted to the Public Local Laws of St. Mary's County and the Public Utilities Article, respectively.

**Example**

Article 19 – Public Local Laws of Maryland

**Example**

Article – Public Utilities

This type of line is not included for function paragraphs describing changes to the Maryland Constitution as a reference to the Maryland Constitution is included in the function line. For examples, *see* the discussion beginning on p. 134.

**The Volume and Supplement Citation Line**

When a function paragraph is describing a change being made to the Annotated Code or a public local law, it must include a volume and supplement citation line. For more information, *see* the discussions beginning on p. 90 and p. 143, respectively. The first example below is the line for a provision of the Annotated Code, while the second example is for a provision of a public local law.

**Example**

(2018 Replacement Volume and 2022 Supplement)

### Example

(2007 Edition and March 2015 Supplement, as amended)

For changes to other types of law, a volume and supplement citation line is not used.

## Body

### In General

The body of a bill generally consists of one or more numbered sections (enacting clauses) that set out the precise legal effect of the bill, the text of the law affected by the bill, one or more “special sections” if included, and at least one effective date provision.

### Enacting Clauses

Article III, § 29 of the Maryland Constitution requires that each bill contain the phrase “BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND.” Once “BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND” is used in the first enacting clause, all subsequent enacting clauses use the phrase “AND BE IT FURTHER ENACTED.” For examples used for provisions drafted to the Annotated Code, as uncodified provisions, to uncodified provisions in the Session Laws, the Maryland Constitution, or the public local laws, *see* p. 98, 118, 130, 136, and 145, respectively.

Note that all bills will have at least two enacting clauses: one enacting clause under which the changes to the law will be made and another enacting clause addressing when those changes will take effect (*i.e.* the effective date). However, it is not unusual to have multiple enacting clauses in one bill. The following are common situations in which more than two enacting clauses must be used:

- a bill that amends the Maryland Constitution;
- a bill that makes changes to the Annotated Code or a public local law and includes uncodified sections that, for example, establish a task force and provide for the application of the statutory changes;



- a bill that adds a section to the Annotated Code or a public local law and further makes changes to that section that would take effect on a different date.

Changes to the Annotated Code, uncodified provisions in the Session Laws, and the public local laws can be included under the same enacting clause unless there is another reason for them to be separated into different enacting clauses (*e.g.* a need for the various provisions to take effect on different effective dates).

Also note that the enacting clause used in bills that are emergency measures are the same as those that would be used if the bill was not an emergency measure. (For a discussion and examples of effective date language that must be included in an emergency bill, *see* p. 191, “Emergency Effective Date.”)

## Bill Text

Bill text can be a codified provision (*i.e.* a provision drafted to the Annotated Code), an uncodified provision (*i.e.* a provision that will be shown only in the Session Laws), a provision drafted to the Maryland Constitution, a provision drafted to the public local laws, or an uncodified provision in the Session Laws that is being amended or repealed. Except for an uncodified provision, a heading describing the article of the Annotated Code, Maryland Constitution, or public local law where the law is being codified or the Chapter of the Session Laws that contains the previously enacted uncodified provision appears directly after the enacting clause. Note that if a Chapter of the Session Laws was subsequently amended, the heading must include references to the subsequent chapters in chronological order.

## Special Sections

The third component of the body of a bill is one or more “special sections.” These uncodified clauses follow the text of a bill, and often contain provisions that qualify or clarify the substantive provisions of the bill. Note that while special sections are uncodified, they have the same force and effect of law as the codified provisions of a bill. Also note that a bill need not include a “special section.”

For a more detailed explanation and examples of special sections, *see* Chapter 12, which begins on p. 169.

## Effective Dates and Termination Provisions

The final component that must be included in the body of a bill is a provision that addresses when the bill will take effect. A bill proposing a constitutional amendment has a constitutional referendum clause. All other bills have at least one effective date clause, which is always numbered and placed as the last section of the bill. Except for a constitutional amendment, a bill may also include a provision that terminates the changes being made to the law.

Note that except as provided in Article XIX, §1(e) of the Maryland Constitution regarding commercial gaming, the General Assembly may not require that a statewide bill be subject to a referendum. To do so has been construed to be an improper delegation of the lawmaking power of the General Assembly. (*See Brawner v. Supervisors*, 141 Md. 586 (1922), voiding Chapter 448 of the Acts of 1922.) Therefore, the only way to subject changes to law to referendum is to propose the changes as amendments to the Maryland Constitution.

For a further discussion of effective dates and termination provisions, see Chapter 13, which begins on p. 187.

## Miscellaneous

### Preambles in Bills

Although infrequently used, a preamble is sometimes desirable in legislation to state legislative intent or facts showing the background and necessity for a bill. For example, the sponsor of a bill with an emergency effective date may want the nature of the emergency to be explained in a preamble to the bill.

A preamble consists of any number of paragraphs, each beginning with the word “WHEREAS.” A preamble is placed in a bill between the title and the first enacting clause, and the word “Preamble” is centered on the line above the body of the preamble. A preamble always is uncodified and appears only in the Session Laws, although it may be referred to in an annotation in the Annotated Code. A preamble does not need to be mentioned in the purpose paragraph. The following example of a preamble is from HB 867 of 2020:

#### Example

##### Preamble

WHEREAS, Many states have adopted their own official tartans uniquely representing their culture, history, and traditions; and

WHEREAS, The State tartan incorporates the colors embodied in our State flag so that the tartan most fully represents our State’s history, culture, and heraldry; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

...

As an alternative to a preamble, a codified section stating the legislature’s intent, purpose, or findings may be included in the body of a bill. Such a statement may have more legal formality and will be more accessible than one that is not codified. A codified statement of intent, purpose, or findings is not drafted using the heading “Preamble” or “WHEREAS” clauses. Instead, the statement should begin with the words:

- “It is the intent of the General Assembly that ....”;
- “It is the purpose of the General Assembly in enacting....”; or
- “The General Assembly finds ....”.

### **Example**

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

#### **Article – Education**

**5-309.**

**IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE DEPARTMENT AND THE PUBLIC SCHOOL CONSTRUCTION PROGRAM ENCOURAGE LOCAL EDUCATION AGENCIES TO REUSE RECENTLY USED SCHOOL DESIGNS, WHEN EDUCATIONALLY APPROPRIATE AND COST EFFECTIVE OVER THE USEFUL LIFE OF THE PROJECT, WITHIN EACH COUNTY AND ACROSS LOCAL SCHOOL SYSTEM BOUNDARIES.**

As another alternative to a preamble, uncodified language may be used to state the legislative intent. For an example, see p. 185, “Statement of Legislative Intent.”

Note that, if the sponsor provides preamble language, the drafter should, to the extent possible, ask the sponsor for the sources of any objective statements made in the preamble and check the statements for accuracy.

## Regulations

The General Assembly frequently passes legislation that relates to administrative procedures. The legislation generally authorizes or requires an Executive Branch agency to adopt regulations to implement a particular statute. In most instances, an authorization or requirement for an agency “to adopt” regulations will suffice for purposes of bill drafting. If, however, it is necessary to introduce specific time periods into the adoption process for a regulation, then a distinction must be made between the publication, adoption, and effective date for the regulation.

The publication date for a proposed regulation not submitted for emergency adoption (a nonemergency regulation) is the date on which the text of the regulation appears in the *Maryland Register* for public notice and comment. In the case of a proposed regulation submitted for emergency adoption (an emergency regulation), the publication date is the date on which the Notice of Emergency Action appears in the *Maryland Register*.

The adoption date for a nonemergency regulation must be at least 45 days after the date the regulation is first published in the *Maryland Register* (§ 10-111(a)(1) of the State Government Article). Technically, “adoption” occurs on the date when the agency proposing the regulation decides internally that it will approve the text of the regulation in a final form. A Notice of Final Action subsequently will appear in the *Maryland Register* for that regulation and will indicate the date on which the agency actually “adopted” the regulation through its internal procedures. An agency may adopt an emergency regulation immediately if the agency (1) declares that emergency adoption is necessary; (2) submits the regulation to the Joint Committee on Administrative, Executive, and Legislative Review and the Department of Legislative Services; and (3) has approval of the committee for the emergency adoption (§ 10-111(b)(1) of the State Government Article). If approved by the committee in accordance with § 10-111(b)(2) of the State Government Article, a Notice of Emergency Action subsequently will appear in the *Maryland Register*. This notice, however, will refer only to the effective date for the regulation, discussed below.

The effective date for a nonemergency regulation is the tenth calendar day after the issue date of the *Maryland Register* in which the notice of adoption (*i.e.*, Notice of Final Action) for the regulation is published, unless a later date is specified in the notice (§ 10-117(a) of the State Government Article). For an emergency regulation, the effective date is that set by the Joint Committee on Administrative, Executive, and Legislative Review (§ 10-117(b) of the State Government Article). An emergency regulation's effective date will be indicated in the Notice of Emergency Action which appears in the *Maryland Register* for that regulation.

Again, it should be emphasized that for purposes of most bill drafting, a simple authorization or requirement for an agency “to adopt” regulations to carry out the underlying statute will suffice.

# Chapter 6. Drafting to the Annotated Code

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## Edition of the Annotated Code

The present edition of the Annotated Code is the 1957 Edition. All the original 1957 volumes have since been replaced and each year a cumulative “pocket part” supplement (or a replacement volume) is issued. The supplement (or replacement volume) incorporates all changes made to the Annotated Code since the last supplement (or replacement volume) for the article was published. The bill drafter must insert into a function paragraph references to both the volume or replacement volume and the supplement, if any. (*See* p. 90, “The Volume and Supplement Citation Line.”)

## Annotated Code Organization

### In General

The Annotated Code consists of a series of articles. Each article is contained in at least one bound red volume. Each article is divided into titles and subtitles that are designated by subject matter such as “Definitions,” “Court Personnel,” and “Prohibited Acts; Penalties.” The primary unit within each title or subtitle is a numbered section designated with the symbol “§” followed by an Arabic number. All articles of the Annotated Code use a hyphenated numbering system (*e.g.* § 3-701).

Note that some articles are divided into larger units called divisions. For example, the Public Utilities Article is divided into two divisions: “Division I. Public Services and Utilities” and “Division II. Washington Suburban Sanitary Commission.”

Note also that when a numbered section designated as “Reserved” is encountered in the Annotated Code, the section should not be repealed and may be used to add new text to the existing law. Similarly, the section number of provisions of law that have been repealed or have abrogated (as indicated below the section number) may be used to add new text.

## Numbering System for Titles, Subtitles, and Sections

### In General

A drafter must use a hyphenated numbering system (e.g., 12-205) within each article of the Annotated Code. This number designates the section; it also is a multipurpose designator. The digit or digits to the left of the hyphen designate the title within an article. The first digit or digits to the right of the hyphen designate the subtitle within the title. The remaining digits designate the section within the subtitle. Thus, the section number 12-205 designates Title 12, Subtitle 2, Section 5.

Titles are numbered consecutively throughout an article, subtitles consecutively throughout a title, and sections consecutively throughout a subtitle.

Note that uniform laws and interstate compacts may use unique numbering systems. For example, while the Maryland Uniform Commercial Code (Commercial Law Article, Titles 1 through 10 of the Annotated Code) uses hyphenated section numbers, in unrevised titles (Titles 2, 2A, 6, and 10), Arabic numerals rather than lower case letters are used for subsections. The numbering system for the Maryland Uniform Commercial Code was purposely left unchanged from the form adopted by the Uniform Laws Commissioners. For an example of an interstate compact with a unique numbering system, see, Washington Metropolitan Area Transit Authority Compact, § 10-204 of the Transportation Article.

### Adding a New Title Between Existing Titles

When adding a new title between existing titles, the decimal system is used. Thus, a new title added between Title 7 and Title 8 is numbered Title 7.5. A new title added between Title 7 and Title 7.5 is numbered Title 7.3, and a new title added between Title 7.5 and Title 8 is numbered Title 7.7. (See *Maryland Style Manual for Statutory Law* (Department of Legislative Services, Office of Policy Analysis, 2018).)

### Adding a New Subtitle Between Existing Subtitles

When adding a new subtitle between two existing subtitles, it is necessary to employ a number and letter system. For example, a new subtitle added between Subtitles 2 and 3 of Title 11 of an article is numbered Subtitle 2A. A double hyphen system is used to number the sections of the new subtitle: § 11-2A-01, § 11-2A-02, etc.

## Adding a New Section Between Existing Sections

As with adding a new title between existing titles, the decimal system also is used when adding a new section between existing sections. Thus, § 3-204.1 is inserted between § 3-204 and § 3-205.

## Subdivision of Sections

### In General

Use the following order of subdivision within a section:

12-502. Section

- (a) Subsection
  - (1) Paragraph (Item)
    - (i) Subparagraph (Item)
      - 1. Subsubparagraph (Item)
        - A. Subsubsubparagraph (Item)

The subdivision of sections is referred to as “tabulation.” Using the proper nomenclature is essential to ensure accuracy when drafting cross-references. For example, it could create confusion to refer to “subsection (iv)” or “paragraph (a)” when the correct designations are “**subparagraph** (or item) (iv)” and “**subsection** (a),” respectively.

Note that subdivisions that are not grammatically complete sentences are referred to as “items,” regardless of the level of subdivision to which the cross-reference refers. For example, in such a situation, a reference to “(i)” in §12-502(a)(1)(i) would be to “item (i) of this paragraph (or item),” not “subitem (i) of this paragraph (or item)” or “subparagraph (i) of this paragraph (or item).”

Additionally, for a subsubparagraph or item (e.g. “1.”) or subsubsubparagraph or item (e.g. “A.”), the period included in the subdivision designation is only included when the subdivision is referenced in a function paragraph and not when the subdivision is cross-referenced in the body.

Also, note that tabulation is intended to enhance clarity; therefore, avoid over tabulation that is hard to follow and is more likely to confuse the reader. The



drafter should consult the *Maryland Style Manual for Statutory Law* (Department of Legislative Services, Office of Policy Analysis, 2018) for more detailed instructions on tabulation.

### **Adding a New Subdivision Between Existing Subdivisions**

Almost all sections in the articles of the Annotated Code contain subsections designated by lower case letters in parentheses: (a), (b), (c), etc. To add a new *subsection* between existing subsections (a) and (b), the drafter may designate the new subsection “(a-1)” *only* when adding a defined term to a definitions section *or* if renumbering would require renumbering more than eight subsections. Note, however, that a hyphenated designation should not be used to insert a new *paragraph* (or item) between paragraphs (or items). For example, do not use the designation “(1-a)” to add a new paragraph between paragraphs (1) and (2). Rather, the existing paragraphs (or items) must be renumbered, using either of the forms shown below:

#### **Example**

(c) (1) At the time of service, the plaintiff shall pay to the Commissioner a fee of \$20 for each service of process.

(2) **THE FEE SHALL BE PAID IN THE MANNER REQUIRED BY THE COMMISSIONER.**

[(2)] (3) If the plaintiff prevails in the suit, the plaintiff may recover, as part of the taxable costs, any fee paid under this subsection.

#### **Example**

(c) (1) At the time of service, the plaintiff shall pay to the Commissioner a fee of \$20 for each service of process.

(2) **THE FEE SHALL BE PAID IN THE MANNER REQUIRED BY THE COMMISSIONER.**

(3) If the plaintiff prevails in the suit, the plaintiff may recover, as part of the taxable costs, any fee paid under this subsection.

Whenever sections or subsections are shifted by renumbering, the drafter must check to see that existing cross-references within the Annotated Code remain accurate. If cross-references would be rendered incorrect, the drafter should include the necessary changes in the bill to correct them, as well as the appropriate special section language authorizing the publisher of the Annotated Code to correct cross-references and terminology rendered incorrect (*see* p. 172, “Correction by Publisher of Incorrect Cross-references and Terminology”).

Note that the appropriate function paragraph or paragraphs to use when a new subdivision is being added between existing subdivisions depends on what is shown in the bill. In the example above, all of subsection (c) is being shown and, therefore, a “repealing and reenacting, with amendments,” function should be used. For an example of the function paragraphs to use when adding a new subdivision of a section using the designation of an existing subdivision of a section and showing only a portion of the section, *see* p. 74, “Adding Material to the Annotated Code.” For an example of the function paragraph to use when renumbering a subdivision of a section to “make space” for new material being added, *see* p. 78, “Renumbering.”

## Use of Parts

Note that with the exception of the inclusion of reserved sections, parts are organized and treated in the same manner as titles and subtitles. If a subtitle being added contains parts, or if parts are being added to an existing subtitle, the drafter should reserve two section numbers between each part for future use. For example, in adding a new Subtitle 5 with three parts to Title 8 of an article, the numbering sequence would be as follows:

### SUBTITLE 5. (NAME).

#### PART I. (NAME).

8-501. (TEXT)

8-502. (TEXT)

8-503. RESERVED.

8-504. RESERVED.

#### PART II. (NAME).

8-505. (TEXT)

**8-506. RESERVED.**

**8-507. RESERVED.**

**PART III. (NAME).**

**8-508. (TEXT)**

**8-509. (TEXT)**

Note that if a new Part IV were to be added at some future date, the drafter should reserve two sections at the end of Part III and use the number following the reserved sections as the first section in Part IV. For example, assume that § 8-511 is the last numbered section in Part III at the time a new Part IV is to be added. The numbering sequence would be as follows:

**8-512. RESERVED.**

**8-513. RESERVED.**

**PART IV. (NAME).**

**8-514. (TEXT)**

Note also that the function paragraph will indicate only the addition of the new § 8-514 (and the new part number and name), and not §§ 8-512 and 8-513 since these section numbers are merely “place holders.” For an example of a bill adding reserved sections and a new part, see HB 1208 of 2017 and Chapters 269 and 270 of the Acts of 2023.

Additionally note that titles should be reserved when adding a new division to an article in a similar manner as discussed above for adding reserved sections. For an example, see Chapters 254 and 255 of the Acts of 2023.

## **Function Paragraphs**

### **The Function Line**

#### **Repeal and Reenact, with Amendments**

This is the most commonly used function paragraph. It is used when existing language is altered in some manner, but is not repealed or added in its entirety. It

also is used when an existing section, subsection, paragraph, item, etc., is renumbered and the text of the material is being shown in the body of the bill. If only a portion of the existing language in a section is repealed, or if new language is added to an existing section and the entire section is shown, it is appropriate to use “BY repealing and reenacting, with amendments,” to describe the action.

### Example

BY repealing and reenacting, with amendments,  
Article – Transportation  
Section 21-901 through 21-910 to be under the amended subtitle “Subtitle 9.  
Miscellaneous Vehicle Laws”  
Annotated Code of Maryland  
((year) Replacement Volume and (year) Supplement)

### Total Repeal of a Section or Other Portion of the Annotated Code

If a section or other portion of the Annotated Code is to be repealed in its entirety, it is appropriate to use the “BY repealing” function paragraph. Note that if the same numbered section is replaced with new language, it also is necessary to use a “BY adding to” function as described below. (*See* p. 76, “Repeal of a Section and Enactment of a New Section to Replace It.”) Note also that while the Maryland Constitution and drafting rules do not require the repealed section to be shown enclosed in brackets as part of the body of the bill, it is preferable to do so, particularly if the section is relatively short in length. Since the section number, as well as the text, is being repealed, the opening bracket should be placed before the section number. If two or more sections in a series are being repealed, each section should be enclosed in a separate set of brackets. (For an alternative to showing the repealed material in the body of the bill, *see* p. 101, “Short Repealer.”)

### Example

BY repealing  
Article – Public Utilities  
Section 22-103 through 22-105  
Annotated Code of Maryland  
((year) Replacement Volume and (year) Supplement)

### **Adding Material to the Annotated Code**

If a new section is added to an existing title, subtitle, or part, or if a new subsection, paragraph, item, etc., is added to an existing section and the entire section is not shown, use “BY adding to” in the function line.

#### **Example**

BY adding to  
 Article – Health – General  
 Section 19-731(c)  
 Annotated Code of Maryland  
 ((year) Replacement Volume and (year) Supplement)

Note that multiple function paragraphs must be used if (1) a new subsection, paragraph, item, etc. is being added using the designation of an existing subsection, paragraph, item, etc.; (2) the existing subsection, paragraph, item, etc., is being renumbered as a result; and (3) the entire section is not being shown.

#### **Example**

BY adding to  
 Article – Election Law  
 Section 4-103(b)  
 Annotated Code of Maryland  
 ((year) Replacement Volume and (year) Supplement)

BY repealing and reenacting, with amendments,  
 Article – Election Law  
 Section 4-103(b)  
 Annotated Code of Maryland  
 ((year) Replacement Volume and (year) Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

#### **Article – Election Law**

4-103.

**(B) THE STATE BOARD SHALL PROMPTLY NOTIFY THE STATE CHAIRMAN OF A GROUP THAT LOSES ITS STATUS AS A POLITICAL PARTY.**

**[(b)] (C)** A group that loses its status as a political party may regain the status only by complying with all the requirements for qualifying as a new party under § 4-102 of this subtitle.

**Do not use:**

BY repealing and reenacting, with amendments,

Article – Election Law

Section 4-103(b) and (c)

Annotated Code of Maryland

((year) Replacement Volume and (year) Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Election Law**

4-103.

**(b) THE STATE BOARD SHALL PROMPTLY NOTIFY THE STATE CHAIRMAN OF A GROUP THAT LOSES ITS STATUS AS A POLITICAL PARTY.**

**[(b)] (C)** A group that loses its status as a political party may regain the status only by complying with all the requirements for qualifying as a new party under § 4-102 of this subtitle.

For information regarding the types of function paragraphs to use when a new subdivision is being added between existing subdivisions, *see* p. 70, “Adding a New Subdivision Between Existing Subdivisions.”

On occasion, it may be necessary to add a new article to the Annotated Code. The following form of function paragraph may be used for this purpose:

### Example

**BY adding**

New Article Local Government  
Section 1-101 through 30-108 and the various titles  
Annotated Code of Maryland

For examples of legislation enacting new articles of the Annotated Code, *see* Chapter 119 of the Acts of 2013, Chapter 94 of the Acts of 2014, and Chapter 41 of the Acts of 2016.

### **Repeal of a Section and Enactment of a New Section to Replace It**

If changes are made in a particular section that substantially alter the former wording, it often is desirable to repeal the old section in its entirety and set out the new wording as an unbroken whole. This requires the use of two function paragraphs. The first function paragraph is a “BY repealing” paragraph, and the second function paragraph is a “BY adding to” paragraph.

### Example

**BY repealing**

Article – Tax – Property  
Section 14-513  
Annotated Code of Maryland  
((year) Replacement Volume and (year) Supplement)

**BY adding to**

Article – Tax – Property  
Section 14-513  
Annotated Code of Maryland  
((year) Replacement Volume and (year) Supplement)

Note that a change made to a subdivision of a section also may require the use of both a “BY repealing” and a “BY adding to” function paragraph. For example, if an item in a subsection is being replaced in its entirety by new language, and the entire subsection is not being shown in the bill, this change should be accomplished as follows:

### Example

#### Article – Criminal Law

3-101.

(b) “Licensed health care professional” means a duly licensed or certified:

[(12) pharmacist; or]

**(12) PHARMACY ASSISTANT OR ANY OTHER DESIGNATED PERSON LISTED IN ITEMS (1) THROUGH (11) OF THIS SUBSECTION; OR**

In this situation, both a “repealing” and an “adding to” function paragraph are necessary, as shown below:

### Example

BY repealing

Article – Criminal Law

Section 3-101(b)(12)

Annotated Code of Maryland

((year) Replacement Volume and (year) Supplement)

BY adding to

Article – Criminal Law

Section 3-101(b)(12)

Annotated Code of Maryland

((year) Replacement Volume and (year) Supplement)

Note that the order of the function paragraphs in the above example is dictated by whether there are other provisions that are being added to the Criminal Law Article. For more information regarding the order of function paragraphs, see the discussion under “The Function Paragraph – In General” that begins on p. 56.

Alternatively, the drafter could show all of subsection (b) and use a “BY repealing and reenacting, with amendments,” function paragraph.



## Renumbering

This form of function paragraph is used for the purpose of renumbering sections (or subdivisions of a section) of an article of the Annotated Code without making any change in the text of the sections (or the subdivisions of a section). Note that the text of the material being renumbered is not shown in the body of the bill, but renumbering is instead accomplished by simply using the renumbering function paragraph in conjunction with the renumbering nonstandard enacting clause. (See p. 100, “Renumbering.”) If the text of the material being renumbered is shown in the body of the bill, the “BY repealing and reenacting, with amendments,” function paragraph must be used.

### Example

BY renumbering  
Article – Tax – Property  
Section 13-305  
to be Section 13-306  
Annotated Code of Maryland  
((year) Replacement Volume and (year) Supplement)

The renumbering function paragraph may be used to renumber several sections or subdivisions of a section sequentially by using the word “respectively” as shown in the following example:

### Example

BY renumbering  
Article – Tax – Property  
Section 13-305(d), (e), and (f)  
to be Section 13-305(f), (g), and (h), respectively  
Annotated Code of Maryland  
((year) Replacement Volume and (year) Supplement)

If a section or a subdivision of a section is being renumbered to “make a space” for new material being added, the “renumbering” function paragraph should be placed before the “adding to” function paragraph.

For a discussion of an alternative to renumbering the subsections of a section when adding a new subsection, see p. 69, “Subdivision of Sections.”

Note that whenever renumbering occurs, the drafter must search the Annotated Code to determine whether any cross-references would be rendered incorrect by the renumbering. If cross-references would be rendered incorrect, the drafter should include the necessary changes in the bill to correct them, as well as the appropriate special section language authorizing the publisher of the Annotated Code to correct cross-references rendered incorrect (*see* p. 172, “Correction by Publisher of Incorrect Cross-references and Terminology”).

### Transferring

The “transferring” function is used to move sections of one article to another article. It is not necessary to show the sections being transferred in the body of the bill; however, a “transferring” enacting clause must be used. (*See* p. 101, “Transferring.”)

### Example

BY transferring

Article – Tax – General

Section 7-228 and 7-231(e)

Annotated Code of Maryland

((year) Replacement Volume and (year) Supplement)

to be

Article – Estates and Trusts

Section 2-213 and 2-214, respectively

Annotated Code of Maryland

((year) Replacement Volume and (year) Supplement)

Use of the form shown above allows the drafter to use a nonstandard transferring enacting clause (*see* p. 101, “Transferring”) instead of showing all the transferred sections in the bill, and to show only the transferred sections that are being amended in the bill. Note that, if the nonstandard transferring enacting clause and the function paragraph above is used, a fifth line is necessary in the “repealing and reenacting, with amendments,” function paragraph to indicate that the sections being amended are those that were transferred in Section 1 of the bill.

While the form shown in the example above is preferred, the following function paragraph form, from HB 90 of 2001, may be appropriate when most or all of the transferred sections also are being amended:

**Example**

BY repealing and reenacting, with amendments, and transferring

Article – Tax – General

Section 7-228 and 7-231(e)

Annotated Code of Maryland

(1997 Replacement Volume and 2000 Supplement)

to be

Article – Estates and Trusts

Section 2-213

Annotated Code of Maryland

(1991 Replacement Volume and 2000 Supplement)

Note that a special enacting clause is necessary when transferring one section of an article to another article, as shown in the example below from HB 90 of 2001:

**Example**

SECTION 4. AND BE IT FURTHER ENACTED, That Section(s) 7-231(e) and 7-228 of Article – Tax – General of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to be Section(s) 2-213 of Article – Estates and Trusts of the Annotated Code of Maryland, to read as follows:

When transferring statutory provisions to the Session Laws with amendments, the following function paragraph form from HB 878 of 2018, modified as necessary, should be used:

**Example**

BY repealing and reenacting, with amendments, and transferring to the Session Laws

Article – Public Utilities

Section 7-701(f), (h), and (k), 7-704.2, and 7-706(a)(2)

Annotated Code of Maryland

(2010 Replacement Volume and 2017 Supplement)

For an example of an enacting clause to use with the function paragraph shown above, *see* p. 102, “Transferring to Session Laws.” For further information on transferring sections from one article to another, *see* p. 99, “Transferring.”

### **Repeal and Reenact, without Amendments**

If existing law is reprinted in a bill for informational purposes only, without changes, it is correct to use “BY repealing and reenacting, without amendments,” in the function line to identify the unchanged provision.

#### **Example**

BY repealing and reenacting, without amendments,  
Article – Education  
Section 2-303(h)(1), 8-411(c), and 22-203(c)  
Annotated Code of Maryland  
(year) Replacement Volume and (year) Supplement)

### **Renaming an Article**

On occasion, an article of the Annotated Code may have its name changed by a bill. Generally, the renaming of the article is a result of code revision or a division being added to an existing article. The example below is from Chapters 254 and 255 of the Acts of 2023:

#### **Example**

BY renaming  
Article – Alcoholic Beverages  
to be Article – Alcoholic Beverages and Cannabis  
Annotated Code of Maryland  
(2016 Volume and 2022 Supplement)

### **The Article Line**

The articles of the Annotated Code are organized by subject matter, as indicated by an article’s name, such as “Transportation,” “Education,” or “Family Law.” The article name is placed on this line to the right of the dash.

**Example**

Article – Family Law

**The Section Line****In General**

Any section that includes a decimal in its designation (*e.g.* 1-402.1) must be listed separately when a series of sections is included in the section line.

**Example**

Section 5-701 through 5-703, 5-703.1, and 5-704 through 5-706

Note that when referring in the section line to a subsubparagraph or item (*e.g.* “1.”) or a subsubsubparagraph or item (*e.g.*, “A.”), the period is included.

**Example**

Section 10-304(a)(ii)(2)A. and C.

Also note that the section line of a bill amending an interstate compact will need to follow the format of the law’s codification. The following example is based on Chapter 355 of the Acts of 2018, which amended the Washington Metropolitan Area Transit Authority Compact, § 10-204 of the Transportation Article:

**Example**

Section 10-204 Title III Article VI Section 14(c)(3) and 15(a)(10)

### Inclusion of the Name of a Title, Subtitle, or Part

***In General:*** Include the name of a title, subtitle, or part in quotation marks in the section line only if:

- there is to be a new title, subtitle, or part;
- a title, subtitle, or part name is being amended;
- a title, subtitle, or part is being repealed; or
- the title, subtitle, or part is being renumbered or transferred.

Only the name of the largest unit affected should be included unless the smaller unit is being amended or added and the larger unit is being renamed as a result. For example, if a new title composed of several subtitles is being added, the names of the subtitles should not be shown in the section line of the function paragraph.

### Example

BY adding to

Article – Health – General

Section 23-101 through 23-410 to be under the new title “Title 23. Children’s  
Products Safety Act”

Annotated Code of Maryland

((year) Replacement Volume and (year) Supplement)

Note that, if using the function paragraph above, the drafter should include in the body of the bill the number and name (in **BOLD, SMALL CAPS**) of each subtitle being added.

For an example of a function paragraph that includes both the largest unit and a smaller unit, *see* the last example on p. 87.

Note that in a bill with multiple function paragraphs, the name of the title, subtitle, or part should only be included in one function paragraph and the following rules apply.

- If the title, subtitle, or part is being repealed entirely, the name of the largest unit being repealed must be included in a repealing function paragraph, along with the section numbers that are being repealed. For an example, *see* p. 88.
- If the title, subtitle, or part is being renumbered using a short renumbering nonstandard enacting clause, the name of the largest unit being renumbered must be included in the renumbering function paragraph, along with the section numbers that are being renumbered. For an example, *see* p. 89.
- If the title, subtitle, or part is being transferred using the transferring enacting clause, the name of the title or subtitle or part must appear in the transferring function paragraph, along with the section numbers being transferred. For an example, *see* p. 89.
- If the name of the title, subtitle, or part is being added, the name should appear in a “BY adding to” function if sections are also being added to that title, subtitle, or part. For an example, *see* p. 85. If sections are not also being added to the title, subtitle, or part, the name should be included in a “BY repealing and reenacting, with amendments” function paragraph if sections from the title, subtitle, or part are being amended. For an example, *see* p. 87. If sections are not also being added to the title subtitle, or part and sections from the title, subtitle, or part are not being amended, then the new title, subtitle, or part must be added as discussed on p. 86.
- If the name of the title, subtitle, or part is being amended, the name should appear in a “BY repealing and reenacting, with amendments” function paragraph if sections from that title, subtitle, or part are also being amended. For an example, *see* p. 87. If sections in the title, subtitle, or part are not also being amended, the name should be included in a “BY adding to” function paragraph if sections from the title, subtitle, or part are being added. For an example, *see* p. 85. If sections from the title, subtitle, or part are not being amended and sections are not being added to the title subtitle, or part, then the title, subtitle, or part must be amended as discussed on p. 88.

Note that the form used when including both the name of a title, subtitle, or part in the section line and sections in the title, subtitle, or part will vary slightly depending on the number of sections being added. If three or more sections are being referenced, the following form, modified as necessary to reflect the action being taken, should be used:

**Example**

Section 9-1501 through 9-1505 to be under the new subtitle  
“Subtitle 15. Cleaning Agents”

If only two sections are being referenced, the following form, modified as necessary to reflect the action being taken, should be used:

**Example**

Section 9-1501 and 9-1502 and the subtitle “Subtitle 15. Cleaning Agents”

If only one section is being referenced, the following form, modified as necessary to reflect the action being taken, should be used:

**Example**

Section 9-1501 to be under the amended subtitle “Subtitle 15.  
Cleaning Agents”

If the same action is being taken with regard to several sections in the same article and the name of a title, subtitle, or part also is being included in the section line, a semicolon should be used to separate the sections that fall under the title, subtitle, or part and any sections that fall outside the title, subtitle, or part, as shown in the following example:

**Example**

Section 1-401(b)(9); 1-601 to be under the new subtitle “Subtitle 6.  
Miscellaneous”; and 10-103(b)(10)

***Adding a Title, Subtitle, or Part Designation:*** If a new title, subtitle, or part is being added along with sections in the new title, subtitle, or part, the new name and number of the title, subtitle, or part should be included in quotation marks in the section line.



### Example

BY adding to

Article – Health – General

Section 20-301 through 20-314 to be under the new subtitle “Subtitle 3.  
Nuisance Control”

Annotated Code of Maryland

((year) Replacement Volume and (year) Supplement)

If *only* a new title, subtitle, or part name is being added, the following form, modified as necessary, may be used:

### Example

BY adding to

Article – State Personnel and Pensions

New part designation “Part I. Membership Generally” to immediately  
precede Section 26-201

Annotated Code of Maryland

((year) Replacement Volume and (year) Supplement)

BY repealing and reenacting, without amendments,

Article – State Personnel and Pensions

Section 26-201

Annotated Code of Maryland

((year) Replacement Volume and (year) Supplement)

Note that, if using the function paragraphs above, the new part number and name (using **BOLD, SMALL CAPS**) must be shown in the body of the bill, followed by the text of § 26-201, without change. If the section that is to follow the new part number and name is lengthy, it is permissible to show the first subsection without change, rather than the whole section.

Also note that a nonstandard enacting clause may be used as an alternative to showing the new title, subtitle, or part and the section that follows it in the body of the bill. For the nonstandard enacting clause language, modified as necessary, to be used, *see* p. 103, “Adding a New Title, Subtitle, or Part.” If using this alternative, only the “BY adding to” function shown above and modified as necessary should be used.

***Amending a Title, Subtitle, or Part Designation:*** The renaming or renumbering of a title, subtitle, or part may be accomplished by showing and amending the designation in the body of the bill and including the amended name of the title, subtitle, or part designation in a function paragraph in accordance with the applicable rule discussed beginning on p. 83. The following example shows the addition of six new sections to an existing subtitle, as well as the renaming of the subtitle:

### Example

BY adding to

Article – Family Law

Section 5-590 through 5-595 to be under the amended subtitle “Subtitle 5.  
Child Care Facilities”

Annotated Code of Maryland

((year) Replacement Volume and (year) Supplement)

The following example shows changes made to one section of the Annotated Code as well as the renaming of the subtitle:

### Example

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions

Section 5-301 to be under the amended subtitle “Subtitle 3. Maryland  
Whistleblower Law”

Annotated Code of Maryland

((year) Replacement Volume and (year) Supplement)

If material is being added to the Annotated Code under a new subtitle and it also is necessary to amend the name of the title in which the new subtitle will appear, the following form, from Chapter 311 of the Acts of 2021, may be used:

### Example

BY adding to

Article – Estates and Trusts

Section 13-601 through 13-608 to be under the new subtitle “Subtitle 6. Financial Exploitation of Vulnerable Adults” and the amended title “Title 13. Protection of Minors, Disabled Persons, and Vulnerable Adults”

Annotated Code of Maryland  
(2017 Replacement Volume and 2020 Supplement)

Note however, that if sections from Title 13 that are outside of the new subtitle are being amended, the amended Title 13 designation would be included in the “BY repealing and reenacting, with amendments” function along with the sections being amended, rather than including the designation in the “BY adding to” function as shown above.

If *only* the title, subtitle, or part name is being repealed and reenacted, with amendments, the following form, modified as necessary, may be used:

### Example

BY repealing and reenacting, with amendments,

Article – Health Occupations

The subtitle designation “Subtitle 2. State Board of Chiropractic and Massage Therapy Examiners” immediately preceding Section 3-201

Annotated Code of Maryland

((year) Replacement Volume and (year) Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 3-201

Annotated Code of Maryland

((year) Replacement Volume and (year) Supplement)

Note that the subtitle number and the changes made to the subtitle name (using brackets and **BOLD, SMALL CAPS**) should be shown in the body of the bill, followed by the text of § 3-201, without change. If the section that follows the amended subtitle number and name is lengthy, it is permissible to show the first subsection without change, rather than the whole section.

***Repeal of the Entire Title, Subtitle, or Part:*** The function paragraph shown below describes the repeal of an entire subtitle. This language may be modified to describe the repeal of a title or a part.

**Example**

BY repealing

Article – Health – General

Section 20-301 through 20-314 and the subtitle “Subtitle 3. Nuisance Control”

Annotated Code of Maryland

((year) Replacement Volume and (year) Supplement)

***Renumbering a Title, Subtitle, or Part Designation:*** If a title, subtitle, or part designation is being renumbered using a short renumbering nonstandard enacting clause, the following form, modified as necessary, may be used:

**Example**

BY renumbering

Article – Insurance

Section 15-1301 through 15-1307 and the subtitle “Subtitle 13. Interdepartmental Committee on Mandated Health Insurance Benefits”

to be Section 15-1501 through 15-1507, respectively, and the subtitle “Subtitle 15. Interdepartmental Committee on Mandated Health Insurance Benefits”

Annotated Code of Maryland

((year) Replacement Volume and (year) Supplement)

***Transferring a Title, Subtitle, or Part Designation:*** If a title, subtitle, or part designation is being transferred using a transferring enacting clause, the following form, modified as necessary, may be used:

**Example**

BY transferring

Article – Environment

Section 6-301 through 6-304 and the subtitle “Subtitle 3. Lead-Based Paint”

Annotated Code of Maryland

((year) Replacement Volume and (year) Supplement)

to be

Article – Health – General  
 Section 17-601 through 17-604, respectively, and the subtitle “Subtitle 6.  
 Lead-Based Paint”  
 Annotated Code of Maryland  
 ((year) Replacement Volume and (year) Supplement)

## **The Source Law Line**

The following shows the source law line for a provision drafted to the Annotated Code:

### **Example**

Annotated Code of Maryland

## **The Volume and Supplement Citation Line**

Always list the year of both the volume (or replacement volume) and the supplement to the volume (or replacement volume). The correct year appears on the spine and title page of the volume (or replacement volume) and on the title page of the pocket part or free-standing supplement. If there is a volume (or replacement volume) and a supplement, both must be cited. It is incorrect to refer only to the volume (or replacement volume) if there is a supplement or only to the supplement, even if a bill is drafted only to the volume (or replacement volume) or only to the supplement. Note that some replacement volumes may not have supplements if the replacements volumes were printed recently.

### **Example**

((year) Replacement Volume and (year) Supplement)

## **The Fifth Line**

### **In General**

It may be necessary to add a fifth line to the function paragraph of a bill to indicate that the bill, or a portion of the bill, is being drafted to (1) statutory language in a Chapter of the Session Laws; (2) a statutory provision that is added,

amended, renumbered, or transferred earlier in the same bill; or (3) a statutory provision in another bill on which the bill being drafted is contingent, rather than to the Annotated Code.

### Example

(As enacted by Chapter 268 of the Acts of the General Assembly of 2020)

### Example

(As enacted by Section 1 of this Act)

### Example

(As enacted by Chapter \_\_ (S.B. 1000/H.B. 1300) of the Acts of the General Assembly of 2020)

A fifth line must be added to the function paragraph if the bill:

- does not reflect the Annotated Code because:
  - changes to the Annotated Code are being made in one section of the bill and further changes are being made to the same material later in the bill (*e.g.* a section is being added in Section 1 of the bill and material from that section is being amended in Section 2 with a delayed effective date) (*see* p. 92, “Further Changes to Annotated Code Affected in Previous Section of Bill”);
  - changes made by a Chapter of the Session Laws have not yet been printed in the Annotated Code (*e.g.* the Chapter Law was enacted after the last replacement volume or cumulative supplement was printed because it was subject to a veto override) (*see* p. 93, “Changes Made by a Chapter of the Session Laws Not Yet Printed”);

- the bill incorporates changes being made to the Annotated Code in a different bill on which the bill is contingent (*see* p. 94, “Incorporates Changes Being Made to the Annotated Code in a Different Bill”); or
- a Chapter of the Session Laws was incorrectly codified by the publishers (*see* p. 96, “Annotated Code Provision Incorrectly Codified by the Publishers”); or
- includes a provision of the Annotated Code that is not in effect because it has a delayed effective date, is subject to a contingency, or is reversionary text (*see* p. 96, “Annotated Code Provision Not in Effect”).

### **Bill Does not Reflect Annotated Code**

***Further Changes to Annotated Code Affected in Previous Section of Bill:*** A fifth line is necessary if changes to the Annotated Code are being made in one section of a bill and further changes to the same material are being made in a subsequent section. For example, if material is renumbered in Section 1 of the bill and then amended in Section 2 of the bill, the material shown in Section 2 would reflect the renumbering accomplished in Section 1. Another example is when material is amended in Section 1 of the bill and then further amended in Section 2 of the bill with a delayed effective date. The fifth line is included in the function paragraph describing the changes made in the subsequent section (Section 2 in the previous examples) to alert the reader to look at the previous section of the bill to find the source material reflected in the subsequent section, rather than the Annotated Code. The following example is from Chapter 95 of the Acts of 2020:

### **Example**

BY adding to

Article – Natural Resources  
Section 10-410(a)  
Annotated Code of Maryland  
(2012 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources  
Section 10-410(a)(3) through (5)  
Annotated Code of Maryland  
(2012 Replacement Volume and 2019 Supplement)  
(As enacted by Section 1 of this Act)

Section 1 of Chapter 95 repealed and added § 10-410(a) of the Natural Resources Article and had an effective date of June 1, 2020. Section 2 of Chapter 95 amended § 10-401(a), as enacted by Section 1, and had an effective date of July 1, 2022.

For additional examples, *see*:

- Chapter 799 of the Acts of 2021 (material being amended in Section 1 of the bill and then further amended in Section 2 of the bill, which had a delayed effective date);
- HB 1559 of 2020 (material being renumbered in Section 1 of the bill through a renumbering nonstandard enacting clause and then being amended in Section 2 of the bill); and
- Chapter 403 of the Acts of 2020 (material first being transferred, as is generally appropriate, in Section 1 of the bill and then being amended in Section 2 of the bill).

***Changes Made by a Chapter of the Session Laws Not Yet Printed:*** A fifth line must be used when a bill reflects changes to law that are not included in the Annotated Code due to changes that were enacted:

- during the same legislative session because another bill passed and has been signed by the Governor or otherwise became law;
- during the same legislative session because another bill was subject to a veto override; or
- at a previous legislative session and the changes have not been printed yet in a replacement volume or cumulative supplement.

The fifth line provides notice that the bill, or some part of the bill, is being drafted to a Chapter of the Session Laws and not to the Annotated Code. This form of function paragraph rarely is used. The following example is from Chapter 16 of the Acts of 2022.

### Example

BY repealing  
Article – Election Law



Section 8-702 through 8-709  
Annotated Code of Maryland  
(2017 Replacement Volume and 2021 Supplement)  
(As enacted by Chapter 32 of the Acts of the General Assembly of the 2021  
Special Session)

The fifth line was needed in the above example because Chapter 32 of the Acts of the 2021 Special Session enacted a new congressional districting plan by repealing §§ 8-702 through 8-709 of the Election Law Article through a repealing nonstandard enacting clause and then adding the new congressional districting plan using the same section numbers. During the 2021 regular session, the General Assembly was required by the Circuit Court for Anne Arundel County to enact a new congressional districting plan. Because the changes made during the 2021 Special Session had not yet been printed in the Annotated Code, the fifth line was necessary to indicate that the language being repealed was the language as shown in Chapter 32 and not what was in the printed version of the Annotated Code.

For additional examples of the use of a fifth line in the situations described above, *see*:

- Chapter 55 of the Acts of 2021 (fifth lines were necessary in multiple function paragraphs because the bill made changes to provisions of law that were affected by Chapter 36 of the Acts of 2021, which was enacted during the same session due to a veto override); and
- Chapter 47 of the Acts of 2021 (fifth lines were necessary in multiple function paragraphs because the bill made changes to provisions of law that were affected by Chapter 39 of the Acts of 2021, which was passed during the same session, was presented early to the Governor, and became law when the Governor signed the legislation).

Note that, if changes to the Annotated Code were enacted due to a veto override and have not yet been printed in the Code, a fifth line is included in a “BY adding function” only when new language is being added to the section subject to the veto override and the whole section is not being shown. (For a more detailed discussion of the veto process, *see* p. 12, “Signature or Veto by the Governor.”)

***Incorporates Changes Being Made to the Annotated Code in a Different Bill:*** On occasion, a fifth line must be used because a bill or a portion of the bill is drafted to a provision that is not yet law, but is included in another bill on

which the bill being drafted or a portion of that bill is contingent. The fifth line references the bill that contains the provision that is not yet law. One reason why this may occur is because the contingent bill alters an Annotated Code provision added by the other bill and the other bill has already passed during the same session but has not been signed by the Governor or otherwise become law. Another reason is that the contingent bill alters Annotated Code that is affected by the other bill, the other bill was passed during the immediately preceding session, but was vetoed and the General Assembly has yet to take up the veto override. The fifth line is needed to alert readers that the provision being affected is not yet law, is contained in another bill, and is not in the Annotated Code. The following example is from Chapters 411 and 412 of the Acts of 2022.

### Example

BY adding to  
Article – Environment  
Section 1-306(a)(b)(3)  
Annotated Code of Maryland  
(2013 Replacement Volume and 2021 Supplement)  
(As enacted by Chapter \_\_\_\_\_ (S.B. 90/H.B. 595) of the Acts of the General Assembly of 2022)

Chapters 411 and 412 added § 1-306(b)(3) to the Environment Article through amendment. At the time the amendment was drafted, § 1-306 was not law, but was being added to the Annotated Code by SB 90/HB 595 of 2022. (Note that SB 90 became Chapter 352 of the Acts of 2022, while HB 595 did not become law.)

For other examples, *see*:

- SB 688/HB 869 of 2021 (showing without amendment § 15-127(a) of the Education Article, as added by SB 1/HB 1 of 2021 and amending § 15-127(f) of the Education Article, as added by SB 1/HB 1);
- the enrolled version of SB 824 of 2021 and the third reading version of HB 1328 of 2021 (adding § 6.5-108 to Title 6.5 of the Housing and Community Development Article, which was being added by SB 66/HB 97 of 2021); and
- HB 1204 of 2020 (amending § 7-1A-04(c)(4) of the Education Article, as added by SB 1000/HB 1300 of 2020).

Note that if a bill that includes a fifth line as discussed above is enacted, the reference to the bill in the fifth line will be replaced with a Chapter number if that information is available. For an example, compare Chapter 632 of the Acts of 2021 with the third reading version of HB 1328 of 2021.

***Annotated Code Provision Incorrectly Codified by the Publishers:*** Since the Session Laws are “the law,” while the Annotated Codes published by LexisNexis and West are merely “evidence of the law,” the Session Laws control if there is a conflict between the two. While every effort is made by the publishing companies to avoid the introduction of errors into the Annotated Code, such errors, and therefore conflicts, occasionally do arise. When the drafter is aware of codification errors, the Annotated Code sections should be printed in a bill in a manner consistent with the Session Laws, not the erroneous codification. An additional fifth line is added to the function paragraph to provide notice that the Session Laws, rather than the Annotated Code, serve as the source for the Code sections printed in the bill. For an example, see Chapter 264 of the Acts of 2015. The bill amended § 9-217(e) of Article 2B – Alcoholic Beverages. A fifth line was necessary because changes to § 9-217(e) made by Chapter 144 of the Acts of 2013 were incorrectly codified in the 2014 supplement. (Note that Article 2B was recodified as the Alcoholic Beverages Article during the 2016 session as the result of code revision and was renamed to be the Alcoholic Beverages and Cannabis Article during the 2023 session.)

### **Annotated Code Provision Not in Effect**

***Annotated Code Provision with a Delayed Effective Date:*** Occasionally, a bill must be drafted to a provision of the Annotated Code that has not yet become effective because it was enacted with a delayed effective date. In this case, it is necessary to add a fifth line to the applicable function paragraph of the bill to provide notice that the source law to which the bill is drafted is actually a Chapter of the Session Laws, and not the Annotated Code. Note, however, that the same provisions contained in the Session Laws also will appear in the Annotated Code, but will be printed in italics to alert the reader that the provisions are not yet in effect. The following example is from HB 946 of 2022.

### **Example**

BY repealing and reenacting, with amendments,  
Article – Public Safety  
Section 3-104(a)  
Annotated Code of Maryland  
(2018 Replacement Volume and 2021 Supplement)  
(As enacted by Chapter 59 of the Acts of the General Assembly of 2021)

Chapter 59 of the Acts of 2021 added § 3-104 of the Public Safety Article, effective July 1, 2022. Because HB 946 was amending a provision that had a delayed effective date and was not yet in effect, a fifth line was required to indicate that the provision was drafted to a Chapter of the Session Laws and not to the Annotated Code.

Note that if there are two or more Chapters that amend the first Chapter law shown in the fifth line, the Chapter laws are listed chronologically from the earliest year of enactment to the latest, as shown in the following example:

### Example

BY repealing and reenacting, with amendments,  
Article – Election Law  
Section 2-201(l)  
Annotated Code of Maryland  
(2010 Replacement Volume and 2014 Supplement)  
(As enacted by Chapter 102 of the Acts of the General Assembly of 2012,  
as amended by Chapters 47 and 105 of the Acts of the General  
Assembly of 2014)

Note also that the requirement to add a fifth line to the function paragraph applies even if the bill being drafted is effective on the same date as the provisions with a delayed effective date. For example, since bills for a regular session of the General Assembly must be drafted to the law in effect on January 1 of the year of the legislative session, a bill drafted for the 2024 session to provisions taking effect on October 1, 2024, must contain a fifth line (even if the bill has an October 1, 2024, effective date) because as of January 1, 2024, the provisions being amended are not yet in effect.

For a discussion and an example of effective date language that must be included in a bill amending an Annotated Code section with a delayed effective date, see p. 190, “Delayed Effective Date.”

***Annotated Code Provision That Is Subject to a Contingency or Is Reversionary Text:*** The requirement for a fifth line also applies if the provision of the Annotated Code affected by the bill is not yet in effect because it is subject to a contingency that has not been met, or because the provision is reversionary text, *i.e.*, a version of the current law that will become effective at a future date when the current law terminates. In each case, the affected provision will need to be double drafted (see discussion beginning at p. 207, “Double Drafting”), a separate function

paragraph for the Code provision currently in effect and the Code provision effective at a future date is required, and the function paragraph for the Code provision not yet in effect must include a fifth line that refers to the Chapter law that enacted the Code provision. The following example is from Chapter 772 of the Acts of 2018.

### Example

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 21-2A-04.2(b)  
Annotated Code of Maryland  
(2015 Replacement Volume and 2017 Supplement)  
(As enacted by Chapter 147 of the Acts of the General Assembly of 2016)

Chapter 147 of the Acts of 2016 added § 21-2A-04.2 to the Health – General Article, contingent on a certain determination being made by the Secretary of Health. The Department of Legislative Services received notice that the contingency had been met on or before July 19, 2018. However, because the contingency had not been met when Chapter 772 was drafted, the use of a fifth line was required to indicate that the provision was being drafted to a Chapter of the Session Laws and not the Annotated Code.

For a discussion of double drafting and an example of effective date language that must be included in a bill amending an Annotated Code section with a delayed effective date, *see* p. 209, “Drafting to Provision with a Delayed Effective Date.”

For a discussion of double drafting and an example of effective date language that must be included in a bill amending reversionary text, *see* p. 208, “Drafting to Annotated Code Section Subject to Termination.”

## Enacting Clauses

### Standard Enacting Clauses

Current use dictates that a single enacting clause with standardized wording be set out, as shown in the example below, followed by the text of the law affected. (For another example of an enacting clause with standardized wording, *see* p. 283, “Sample First Reading File Bill.”)

### Example

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Once “BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND” is used in the first enacting clause, all subsequent enacting clauses use the phrase “AND BE IT FURTHER ENACTED.”

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Note that the language that would come after the enacting clause in the example above would either be codified law or changes to an uncoded provision in the Session Laws, due to the use of “That the Laws of Maryland read as follows:”. For an example of an enacting clause for an uncoded provision, *see* p. 118, “Enacting Clause.”

## Nonstandard Enacting Clauses

In a small number of situations, nonstandard enacting clauses may be used as an alternative to including the text of the Annotated Code affected in the bill. For example, if a bill inserts language in the middle of a section so that the numbering of later subsections must be altered, the renumbering may be done by a nonstandard renumbering enacting clause without the need to show the text of the renumbered subsections in the bill. (*See* discussion of an alternative to renumbering subsections at p. 69, “Subdivision of Sections.”) This renumbering clause would be followed by a standard enacting clause that sets out the language to be added. While it is often preferable to show all changes being made by setting out the entire text affected, these shortcuts may be used, for example, when it is desirable to put emphasis on the new material by keeping the text of the bill concise. Note that when using these shortcuts, it is still necessary to use the appropriate function paragraph to describe the changes in the law made by the bill. (*See* p. 56, “The Function Paragraph.”) Also note that if the same action is being taken with respect to provisions in different articles and a nonstandard enacting clause is being used, separate enacting clauses must be used for each article. For example, if sections in

three articles are being repealed, the drafter would need to use three separate nonstandard repealing enacting clauses, one for each article.

## **Renumbering**

The renumbering nonstandard enacting clause may be used to create space for the purpose of inserting language in between existing sections, subsections, paragraphs, etc., of law or to close a space that was created by the repeal of an existing section, subsection, paragraph, etc.

### **Examples**

#### **Subsections Renumbered**

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 13-305(d), (e), and (f) of Article – Tax – Property of the Annotated Code of Maryland be renumbered to be Section(s) 13-305(f), (g), and (h), respectively.

#### **Subtitle Renumbered**

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 15-1301 through 15-1307 and the subtitle “Subtitle 13. Interdepartmental Committee on Mandated Health Insurance Benefits” of Article – Insurance of the Annotated Code of Maryland be renumbered to be Section(s) 15-1501 through 15-1507, respectively, and the subtitle “Subtitle 15. Interdepartmental Committee on Mandated Health Insurance Benefits”.

Note that the renumbering function paragraph is used only if the renumbering nonstandard enacting clause is used. If the text is renumbered and shown in the bill, the appropriate function paragraph is the “reenacting and repealing, with amendment” function. Additionally, note that the renumbering clause is not necessarily the first enacting clause in a bill. Instead, the renumbering clause should be placed logically within the flow of the bill. As a result, if the renumbering clause is being used to “make space” for new material being added, the clause should be placed before the standard enacting clause that sets out the language to be added. If the renumbering clause is being used to “close a space” that has been created by the repeal of existing material, the clause should be placed after the standard enacting clause that sets out the language being repealed.

For an example of a renumbering clause that is not placed as Section 1 of a bill, see Chapter 144 of the Acts of 2019.

## **Transferring**

Provisions of law contained in one article of the Annotated Code may be transferred to another article, without showing the provisions being transferred, by using a transferring enacting clause.

### **Examples**

#### **Section and Subsection Transferred**

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 7-228 and 7-231(e) of Article – Tax – General of the Annotated Code of Maryland be transferred to be Section(s) 2-213 and 2-214, respectively, of Article – Estates and Trusts of the Annotated Code of Maryland.

#### **Subtitle Transferred**

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 6-301 through 6-304 and the subtitle “Subtitle 3. Lead-Based Paint” of Article – Environment of the Annotated Code of Maryland be transferred to be Section(s) 17-601 through 17-604, respectively, and the subtitle “Subtitle 6. Lead-Based Paint” of Article – Health – General of the Annotated Code of Maryland.

Note that the transferring nonstandard enacting clause is not used to move provisions of law within the same article. That change is accomplished by either repealing and reenacting the provisions with amendments or by using the renumbering nonstandard enacting clause. (See p. 100, “Renumbering.”)

## **Short Repealer**

It is possible to repeal sections of the Annotated Code through the use of a nonstandard enacting clause known as a “short repealer,” again without showing the text that is being repealed. Note that, when a nonstandard short repealer enacting clause is used, it is essential that the purpose paragraph describe the provisions being repealed in sufficient detail.



### **Example**

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8-215 through 8-218 of Article – Alcoholic Beverages and Cannabis of the Annotated Code of Maryland be repealed.

### **Example**

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 20-301 through 20-314 and the subtitle “Subtitle 3. Nuisance Control” of Article – Health – General of the Annotated Code of Maryland be repealed.

### **Renaming Article**

A nonstandard enacting clause may be used to rename an article of the Annotated Code. Note that this clause generally has only been used in bills that revised the Annotated Code during the bulk code revision project that was undertaken by the Department of Legislative Services and completed during the 2016 legislative session or when a new division is being added to an existing article. The example below is from Chapters 254 and 255 of the Acts of 2023 which added a Division III to the Alcoholic Beverages Article for the regulation of cannabis.

### **Example**

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Article – Alcoholic Beverages of the Annotated Code of Maryland be renamed to be Article – Alcoholic Beverages and Cannabis of the Annotated Code of Maryland.

### **Transferring to Session Laws**

Another type of, but rarely used, nonstandard enacting clause is the enacting clause that is used when text in the Annotated Code is being amended and transferred to the Session Laws. Text generally is transferred to the Session Laws when it is obsolete, but the drafter wishes to avoid any unintended consequences

that might result from a repeal of the language. In this situation, the following nonstandard enacting clause, taken from HB 878 of 2018 and modified as necessary, and the following purpose paragraph language should be used:

### Example

...; transferring certain obsolete provisions to the Session Laws; ...

SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 7-701(f), (h), and (k), and 7-704.2 of Article – Public Utilities of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

The text of the Annotated Code provisions referenced in the enacting clause are then shown in the body of the bill. A subheading is added in the same manner that a title, subtitle, or part designation would be added, but no subheading designation is included in the function paragraph. The section numbers are bracketed and replaced using a nonhyphenated numbering system (*e.g.* “1.”, “2.”, etc.). Finally, any other changes necessary to reflect that the provisions are now located in the Session Laws, rather than the Annotated Code, and any substantive changes are made using brackets and **BOLD, SMALL CAPS** language.

For another example of the use of a nonstandard enacting clause that transfers codified law to the Session Laws, *see* Chapter 426 of the Acts of 2012.

### Adding a New Title, Subtitle, or Part

As an alternative to showing a new title, subtitle, or part and the section that follows it in the body of the bill, the following nonstandard enacting clause form, modified as necessary, may be used:

### Example

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the new part designation “Part I. Membership Generally” be added to immediately precede Section 26-201 of Article – State Personnel and Pensions of the Annotated Code of Maryland.

## Bill Text

### In General

Following the enacting clause for a provision drafted to the Annotated Code, the full name of the article of the Annotated Code affected by the bill is inserted preceding the actual Annotated Code text.

If a bill is drafted to more than one article of the Annotated Code, a separate article heading is inserted before the text drafted to each article. Unless the meaning or continuity of a bill requires otherwise, in a bill that is drafted to more than one article, the material should be arranged so that articles appear alphabetically (*e.g.*, provisions drafted to the Agriculture Article should be arranged before material drafted to the Education Article).

After the article heading, the drafter should specify the section number but should not include the symbol for a section (§). Sections from the same article under the same enacting clause must be placed in numerical order. Note that if a title, subtitle, or part designation also is being added, amended, or repealed and is being shown in the bill, it should be centered and shown directly before the section number. A new title, subtitle, or part designation, or a change to a current title, subtitle, or part designation, should be shown in **BOLD, SMALL CAPS** font. The repeal of a title, subtitle, or part designation is shown using [brackets].

In drafting the text of a bill, use [brackets] to repeal existing language from the Annotated Code, and **BOLD, SMALL CAPS** font to indicate any new language, including subdivision designations (*e.g.*, “**(A)**,” “**(1)**,” and “**(I)**”).

### Cross-references

Sometimes it is necessary to cross-reference another provision of law in bill text. For the style rules regarding cross-references, *see* Chapter 5 of the *Maryland Style Manual for Statutory Law* (Department of Legislative Services, Office of Policy Analysis), 2018. Note that, due to the numbering system used in the Annotated Code, “of this part” generally is not used in cross-references. However, “in this part” is properly used in a definitions section to specify the unit of law to which the definitions apply.

### Catchlines and Captions

Do not amend existing catchlines or captions and, as a general rule, do not draft new catchlines or captions. Section 1-208 of the General Provisions Article

provides that the catchlines and captions that appear in the Annotated Code preceding the various sections and subsections, whether in bold print, italics, or otherwise, are not law, but rather are intended to be mere catchwords to indicate the contents of the sections or subsections. Unless otherwise provided by law, the catchline or caption may not be considered as a title of the section or subsection or as a title if the section, subsection, catchline, or caption is amended or reenacted. (See, e.g., § 1-107 of the Commercial Law Article, which provides that “[s]ection captions are part of the Maryland Uniform Commercial Code.”)

On occasion, however, a large piece of legislation will have catchlines or captions supplied by the drafter. When catchlines or captions are part of the original enactment of the General Assembly, and not merely inserted later by the publishers of the Annotated Code, they are part of the law (*Smelser v. Criterion Insurance Co.*, 293 Md. 384 (1982)). To avoid having catchlines or captions become part of the law, legislation containing catchlines or captions supplied by the drafter must include an uncoded “special section” declaring that the catchlines or captions are not part of the law. For the special section language to be used, see p. 172, “Catchline or Caption Not Part of the Law.”

## Example

The following example provides an outline of the main parts of a bill and includes some complex function paragraphs and a nonstandard enacting clause. Note that the text in the body of the bill does not include the full text of each section cited in the function paragraphs.

### Example

#### **Chesapeake Conservation Corps Program and Corps Board – Alterations**

FOR the purpose of altering the purpose of the Chesapeake Conservation Corps Program; altering the composition of the Corps Board; and generally relating to the Chesapeake Conservation Corps Program and Corps Board.

BY renumbering

Article – Natural Resources

Section 8-1913, 8-1914, and 8-1917 through 8-1924 and the part “Part II. Chesapeake Conservation Corps Program”; and 8-1915 and 8-1916, respectively to be Section 8-1918 through 8-1927 and the part “Part III. Chesapeake Conservation Corps Program”; and 8-1914 and 8-1915, respectively

Annotated Code of Maryland

((year) Replacement Volume and (year) Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 8-1914 to be under the new part “Part II. Corps Board”; and 8-918

Annotated Code of Maryland

((year) Replacement Volume and (year) Supplement)

(As enacted by Section 1 of this Act)

BY repealing and reenacting, without amendments,

Article – Natural Resources

Section 8-1915

Annotated Code of Maryland

((year) Replacement Volume and (year) Supplement)

(As enacted by Section 1 of this Act)

SECTION 1. BE IT ENACTED, That Section(s) 8-1913, 8-1914, and 8-1917 through 8-1924 and the part “Part II. Chesapeake Conservation Corps Program”; and 8-1915 and 8-1916, respectively, of Article – Natural Resources of the Annotated Code of Maryland be renumbered to be Section(s) 8-1918 through 8-1927 and the part “Part III. Chesapeake Conservation Corps Program”; and 8-1914 and 8-1915, respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

### **Article – Natural Resources**

**8-1912. RESERVED.**

**8-1913. RESERVED.**

### **PART II. CORPS BOARD.**

8-1914.

(a) (1) The purpose of the Corps Board is to advise the Trust in the development and implementation of the **CHESAPEAKE CONSERVATION** Corps Program.

(2) The Corps Board consists of the following [11] members:

(i) One member of the Senate of Maryland, appointed by the President of the Senate;

(ii) One member of the House of Delegates, appointed by the Speaker of the House;

(iii) One member appointed by the Chancellor of the University System of Maryland with the advice and consent of the Senate, to serve as a liaison between the Corps Board, the Chancellor, and the Board of Regents;

(iv) **ONE MEMBER APPOINTED BY THE PRESIDENT OF MORGAN STATE UNIVERSITY, TO SERVE AS A LIAISON BETWEEN THE CORPS BOARD, THE PRESIDENT, AND THE BOARD OF REGENTS;**

(v) Three members of the Board of Trustees of the Chesapeake Bay Trust, appointed by the Chair of the Board; and

[(v)] (VI) Five members appointed by the Governor with the advice and consent of the Senate, including at least one individual from the nonprofit sector with a background in education and student service and one with a background in workforce development.

...

8-1915.

(a) From among its members, the Corps Board shall elect a chair and a vice chair.

(b) The Trust shall provide staff support for the Corps Board.

**8-1916. RESERVED.**

**8-1917. RESERVED.**

Part III. Chesapeake Conservation Corps Program.

8-1918.

(a) In this part the following words have the meanings indicated.

(b) [“Corps Board” means the Advisory Board of the Corps Program.

(c)] “Corps Program” means the Chesapeake Conservation Corps Program established under § 8-1914 of this part.

[(d)] (c) “Energy conservation project” means a project to promote energy conservation or efficiency, including a project to:

(1) Improve energy efficiency of households and public structures through energy audits, weatherization, and other on-site energy conservation measures;

(2) Implement clean energy projects in communities to enhance the use of renewable energy, reduce carbon emissions, and mitigate climate change;

(3) Implement community greening and urban tree canopy projects that create energy savings; and

(4) Assist schools in becoming “green schools” and reducing energy costs.

...

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.

Note in the above example that a fifth line is necessary in the second and third function paragraphs to reflect the changes made in Section 1 of the bill and reflected in the first function paragraph.

## **Miscellaneous**

### **Uniform Laws, Model Laws, and Interstate Compacts**

Uniform laws, model laws, and interstate compacts are intended to be adopted and carried out by multiple states. Therefore, it is important that the

language adopted by the various states be substantively the same and most uniform laws state that they must be adopted in a substantially similar format. In drafting these types of legislation, the drafter should generally limit any changes to those necessary to:

- correct technical and grammatical errors (*e.g.* an incorrect internal reference or the incorrect use of “which”);
- address any issues that are unique to Maryland; and
- make language gender-neutral and change “shall not” to “may not.”

Additionally, the drafter has the responsibility, as with all types of legislation, to ensure that the language is clear and logical. The drafter should raise with the sponsor any issues with the language provided.

Note that it is not unusual for uniform acts and interstate compacts to use a unique numbering system and that numbering system should be maintained. For more information, *see* p. 68, “Numbering System for Titles, Subtitles, and Sections – In General.”

The function paragraphs used in legislation relating to an interstate compact may need to be modified from the standard form in order to be consistent with the style conventions of the particular compact. The following example is from Chapter 193 of the Acts of 2020, which amended the Washington Metropolitan Area Transit Authority Compact:

### Example

BY repealing and reenacting, with amendments,  
Article – Transportation  
Section 10-204 Title III Article XVI Section 80  
Annotated Code of Maryland  
(2012 Replacement Volume and 2019 Supplement)

### “Sunset Law”

The Maryland Program Evaluation Act, §§ 8-401 through 8-411 of the State Government Article (the “sunset law”), provides for legislative review of the Executive Branch governmental activities and units listed in § 8-403 of the



State Government Article, which are mainly regulatory boards and commissions. The law requires that an office in the Department of Legislative Services conduct an evaluation of an Executive Branch governmental activity or unit subject to the law under certain circumstances. If an evaluation is conducted, the committees of the General Assembly with subject matter jurisdiction are required to submit a report to the General Assembly recommending whether the governmental activity or unit should be reestablished, with or without changes, or allowed to terminate. The report must also be accompanied by a bill that implements the recommendations. Additionally, the mechanics of the law provide for the termination of the governmental activity or unit unless the General Assembly affirmatively reestablishes it. Under § 8-408 of the State Government Article, each governmental activity or unit subject to termination is required to ensure that legislation is requested to extend the termination date. If the sponsor intends to subject a new commission, board, etc., to the Maryland Program Evaluation Act, the name of the commission, board, etc., should be added to the list in § 8-403 of the State Government Article and the following new Annotated Code section should be included in the bill:

### Example

**(SECTION NUMBER).**

**SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE MARYLAND PROGRAM EVALUATION ACT, THIS (TITLE) (SUBTITLE), AND ALL REGULATIONS ADOPTED UNDER THIS (TITLE) (SUBTITLE) SHALL TERMINATE AND BE OF NO EFFECT AFTER \_\_\_\_\_ (DATE).**

The initial termination date for the commission, board, etc., should be at least 7 to 10 years after the effective date of the bill to provide sufficient time for the commission, board, etc., to become operational before legislation must be introduced to extend the termination date.

## Penalties and Sentencing

### Civil Penalties

A number of bills have been considered by the General Assembly that establish certain requirements or prohibit certain actions but delegate to an officer or a unit of State or local government the authority to impose a civil penalty for a violation. The Office of the Attorney General has advised, however, that the failure

of the legislature to provide express standards and guidelines for the imposition of such penalties could lead to invalidation of the authorizing legislation as an improper delegation of legislative authority. (*See, e.g.*, bill review letter for SB 529 of 1992, SB 562 of 1992, HB 917 of 1992, HB 1378 of 1992, and HB 1505 of 1992 (May 6, 1992).)

In drafting legislation to grant authority over the imposition of civil penalties to an officer or a unit of State or local government, the drafter should consider including in the legislation adequate standards and guidelines to limit the discretion of the officer or unit. Note that in the absence of standards and guidelines in the legislation, those set forth in § 10-1001 of the State Government Article will apply with respect to Executive Branch agencies if the legislation contains a maximum specific dollar amount for the civil penalty. *See also* § 1-1304 of the Local Government Article, which establishes similar standards and guidelines with respect to an officer or a unit of local government.

### **Criminal Penalties and Sentencing**

***Mandatory Minimum Sentences:*** In drafting a bill that is intended to establish a mandatory minimum penalty, the drafter should be aware that § 14-102 of the Criminal Law Article (formerly Article 27, § 643 of the Annotated Code) provides that if a law sets a minimum and maximum penalty, a court, in lieu of the prescribed minimum penalty, may impose a lesser penalty of the same character. Therefore, if the sponsor of the bill intends that the minimum penalty be mandatory, the drafter should use language substantially similar to the following:

#### **Example**

**( ) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION SHALL BE SENTENCED TO IMPRISONMENT FOR NOT LESS THAN 1 YEAR AND NOT EXCEEDING 10 YEARS.**

**(2) NOTWITHSTANDING § 14-102 OF THE CRIMINAL LAW ARTICLE, THE COURT MAY NOT IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF 1 YEAR.**

**(3) THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 1 YEAR.**

If the sponsor intends to establish a mandatory minimum fine, this language should be modified to refer to the amount of the mandatory minimum fine rather than the length of the mandatory minimum term of imprisonment.

Note that former Article 27, § 643 of the Annotated Code was enacted in 1906 and, as a matter of statutory construction, it is unclear whether it, or its successor, applies to statutes enacted after 1906. In *State v. Fisher*, 311 Md. 307, 315 (1953), *Robertson v. Warden*, 212 Md. 646, 648 (in dicta) (1956), *Woodfork v. State*, 3 Md. App. 622, 624-625 (1968), and *Dodson v. State*, 14 Md. App. 483, 485-486 (1972), the courts held that Article 27, § 643 was controlling only with regard to statutory penalty provisions that existed at its adoption in 1906, but that it might also be given effect as to subsequently enacted laws “by construction.” However, the General Assembly had repealed and reenacted Article 27, § 643 three times since the courts last spoke directly on this issue in 1972, before its recodification as § 14-102 of the Criminal Law Article. (See Chapter 181 of the Acts of 1972, Chapter 820 of the Acts of 1982, and Chapter 6 of the Acts of 1988.) Therefore, the reasoning of these cases may no longer be valid. To avoid any confusion as to whether a particular statute creates a mandatory minimum penalty, a drafter should follow the guidelines set forth in this manual, which reflect the rationale of the Supreme Court of Maryland in *State ex. Rel. Sonner v. Shearin*, 272 Md. 502, 508-509 (1974).

***Eligibility for Parole:*** If the sponsor of a bill intends to establish a mandatory minimum term of imprisonment, it is likely that the sponsor also intends that the offender not be eligible for parole before serving the mandatory minimum sentence. However, the drafter should discuss this issue with the sponsor. In light of § 4-305 of the Correctional Services Article, which allows individuals serving time in the Patuxent Institution to be paroled prior to serving the mandatory minimum sentence, if the intent of a bill is that the offender not be eligible for parole before serving the minimum sentence, the drafter should include language substantially similar to the following:

### Example

( ) EXCEPT AS PROVIDED IN § 4-305 OF THE CORRECTIONAL SERVICES ARTICLE, A PERSON SENTENCED UNDER THIS SECTION IS NOT ELIGIBLE FOR PAROLE IN LESS THAN 1 YEAR.

***Concurrent and Consecutive Sentences:*** Another issue the drafter should clarify with the sponsor is whether to require that a newly established mandatory minimum or other sentence be served consecutive to, rather than concurrent with, a sentence imposed for any underlying crime. If the sponsor’s intent is that the

sentence be served consecutive to any other sentence, the drafter should include language substantially similar to the following:

**Example**

( ) A SENTENCE IMPOSED UNDER THIS SECTION SHALL BE CONSECUTIVE TO AND NOT CONCURRENT WITH ANY OTHER SENTENCE IMPOSED FOR ANY CRIME BASED ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

If the intent of the sponsor is that the court be given discretion in determining how a sentence will be served, language substantially similar to the following may be used:

**Example**

( ) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE IMPOSED SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

***Place of Imprisonment:*** In establishing a new crime that is based on the law of another state, the drafter should not import the phrase “shall be imprisoned in the penitentiary” or similar language into Maryland law. In this State, while the court imposes a sentence of imprisonment on an individual convicted of a felony or misdemeanor, the Division of Correction in the Department of Public Safety and Correctional Services determines the actual facility in which the prisoner will serve the sentence. This is true even if the statute under which the individual is convicted requires that the imprisonment be served at a specific State correctional facility. (See § 9-103 of the Correctional Services Article.) Therefore, mandating imprisonment “in the penitentiary” for the purpose of establishing the place of confinement is unnecessary.

More importantly, use of this language in a bill establishing a misdemeanor may have unintended legal consequences. In Maryland, there are two types of misdemeanors: regular misdemeanors, which generally are subject to a one-year statute of limitations, and the more serious “penitentiary misdemeanors,” which may be prosecuted at any time and for which the person charged has a right to in banc review under Article IV, § 22 of the Maryland Constitution. (See § 5-106(a) and

(b) of the Courts Article.) Therefore, the legal impact of requiring that a person convicted of a misdemeanor “be imprisoned in the penitentiary” is not to specify the place of incarceration, but rather to eliminate the normal one-year limitation period and establish a right to in banc review. The drafter should determine if the latter is the sponsor’s intent. If it is, the following language, instead of a reference to “imprisonment in the penitentiary,” should be used to clarify this intent:

### Example

**( ) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO § 5-106(B) OF THE COURTS ARTICLE.**

## Criminal History Records Checks

The Criminal Justice Information System Central Repository in the Department of Public Safety and Correctional Services (DPSCS) collects, manages, and disseminates State criminal history record information for criminal justice and noncriminal justice (*e.g.*, employment and licensing) purposes and is the only avenue for obtaining national records checks from the Federal Bureau of Investigation (FBI). Statutory language authorizing or requiring a criminal history records check must be in technical compliance with FBI standards in order to access national criminal history records. If a sponsor of a bill intends to require a State and national criminal history records check for a noncriminal justice purpose, the drafter should obtain the sponsor’s permission to consult DPSCS to ensure that the language of the bill meets FBI standards.

The following example is based on language commonly used in the Health Occupations Article to require an individual who is applying for a license or certificate, or for renewal of a license or certificate, from a health occupations board to obtain a criminal history records check. It may be adapted as necessary when a criminal history records check is required for a licensing purpose.

### Example

**(SECTION NUMBER.)**

**(A) IN THIS SECTION, “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.**

**(B) AN APPLICANT [include “, A LICENSEE, OR A CERTIFICATE HOLDER” if appropriate] SHALL APPLY TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK.**

**(C) AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, AN INDIVIDUAL SHALL COMPLETE AND SUBMIT TO THE CENTRAL REPOSITORY:**

**(1) A COMPLETE SET OF LEGIBLE FINGERPRINTS TAKEN IN A FORMAT APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;**

**(2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS; AND**

**(3) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.**

**(D) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-229 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE BOARD AND THE INDIVIDUAL THE INDIVIDUAL’S CRIMINAL HISTORY RECORD INFORMATION.**

**(E) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION:**

**(1) IS CONFIDENTIAL;**

**(2) MAY NOT BE REDISSEMINATED; AND**

**(3) MAY BE USED ONLY FOR THE LICENSING PURPOSE AUTHORIZED BY THIS [SUBTITLE] [TITLE].**

**(F) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SECTION MAY CONTEST THE CONTENTS OF THE CRIMINAL HISTORY RECORD INFORMATION ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL PROCEDURE ARTICLE.**

**(G) IF CRIMINAL HISTORY RECORD INFORMATION IS REPORTED TO THE CENTRAL REPOSITORY AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK, THE CENTRAL REPOSITORY SHALL PROVIDE TO THE BOARD AND THE INDIVIDUAL REVISED CRIMINAL HISTORY RECORD INFORMATION FOR THE INDIVIDUAL.** (Note: Only include this subsection if specifically requested by the sponsor.)

For online drafting, the language shown above may be accessed by clicking “Boilerplate” on the bill drafting tab and selecting “Other Clause (Whereas, etc.): Criminal History Records Check.”

For examples of language that may be used in situations in which a unit of State or local government or another entity will request a criminal history records check on behalf of a potential employee, an applicant for a permit, or another individual, *see* § 5-117.1(f) of the Public Safety Article and § 7-103 of the State Personnel and Pensions Article.

## Revisor’s Notes

During the formal bulk revision of the Annotated Code, code revisors in the Office of Policy Analysis inserted “Revisor’s Notes” in the revised articles. Revisor’s Notes are an extrinsic aid designed to explain changes in the law that result from the revision process, and to assist the reader in using and interpreting the revised statute. While Revisor’s Notes are never amended, they can be of value to drafting staff in the preparation and research of legislation. Revisor’s Notes also have been used by courts to determine the intent of the General Assembly and the legislative history of statutory provisions. (*See, e.g., Sanchez v. Potomac Abatement*, 198 Md. App. 436 (2011).) Although the formal bulk revision of the Annotated Code was completed in the 2016 legislative session, the Office of Policy Analysis will continue to maintain the Annotated Code by engaging in a more limited revision process in which “Revisor’s Notes” will continue to be used.

# Chapter 7. Drafting Uncodified Provisions

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## In General

Provisions of law need not be codified to be legally binding. Some bills, such as the Budget Bill, are always uncodified. Uncodified provisions may also be included in bills that make changes to the Annotated Code, the Maryland Constitution, the public local laws, or a uncodified provision in the Session Laws. To avoid clogging the Annotated Code with provisions that will rapidly become obsolete, a general rule is that a provision that can stand on its own and will be effective for a relatively short period of time (generally two years or less) should be uncodified. (See p. 291, “Sample Uncodified Bill” and p. 289, “Sample Chapter Law.”)

Examples of uncodified Acts or provisions of temporary effect are:

- Acts granting a commission county the authority to sell bonds (*see, e.g.*, Chapter 115 of the Acts of 2018);
- Acts granting authority to a State agency to condemn property;
- the annual State operating budget (Budget Bill) (*see, e.g.*, Chapter 101 of the Acts of 2023);
- the annual Maryland Consolidated Capital Bond Loan (Capital Budget) (which also may contain one or more codified provisions) (*see, e.g.*, Chapter 102 of the Acts of 2023);
- a provision establishing a task force (*see, e.g.*, Chapter 179 of the Acts of 2023 and Chapter 410 of the Acts of 2022);
- a provision establishing a reporting requirement of short duration (note that annual reporting requirements and annual funding requirements should be placed in the codified provisions of a bill) (*see, e.g.*, Section 3 of HB 1022 of 2023);
- a provision requiring the Maryland Historical Trust to extinguish or terminate the easement granted by Montgomery County to the Trust on Warner Manor (*see* Chapter 505 of the Acts of 2023); and



- a provision requiring the Maryland Department of Health to apply to the federal Department of Health and Human Services for a planning grant for the establishment of certified community behavioral health clinics (*see* SB 807 of 2015).

An uncodified provision appears only in the Session Laws for the year in which it is enacted and is cited by the Chapter number. While an uncodified provision does not appear in the Annotated Code, it may be referred to in editor's notes or other Code annotations.

## Function Paragraphs

Uncodified provisions do not have corresponding function paragraphs because there is no codification or existing text to refer back to. However, an uncodified provision that amends an earlier enacted uncodified provision does have a unique function paragraph. (*See* p. 129, "Function Paragraphs.")

## Enacting Clause

Enacting clauses used for uncodified provisions are the same as the standard enacting clauses used for codified provisions (and previously enacted uncodified provisions that are being amended), except that they do not include "the Laws of Maryland read as follows." Rather, the word "That" follows the required language *i.e* "BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND" or "AND BE IT FURTHER ENACTED."

### Example

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

### Example

SECTION 3. AND BE IT FURTHER ENACTED, That:

For an example of an uncodified bill, *see* p. 291, "Sample Uncodified Bill." For discussion regarding and examples of enacting clauses for a codified provision or

changes to an uncodified provision in the Session Laws, *see* p. 98, “Enacting Clause” and p. 118, “Enacting Clause,” respectively.

## Bill Text

For an uncodified provision, the text of the law follows directly after the enacting clause.

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That on or before January 1, 2025, the State Retirement Agency shall notify the individuals who are affected by this Act of their right to transfer service credit from the Employees’ Retirement System or the Employees’ Pension System to the Correctional Officers’ Retirement System.

### Example

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) (1) The Maryland Health Commission shall convene a workgroup of interested stakeholders to study palliative care services and make recommendations to improve palliative care services in the State.

...

## Font Type

An uncodified provision is drafted in regular, upper and lower case type, not **BOLD, SMALL CAPS** type, even though it is “new language.”

## Tabulation

Note that an uncodified section may be tabulated into subsections designated using “(a),” “(b),” etc. or items designated using “(1),” “(2),” etc., which can be further tabulated in the same manner as a codified section. (*See* p. 69, “Subdivision of

Sections.”) The appropriate tabulation is determined by what follows the colon in the enacting clause. As shown in the following example, if the colon is followed by grammatically complete sentences, the section is tabulated into subsections.

### Example

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY, That:

(a) The Governor’s Office of Small, Minority, and Women Business Affairs shall convene a workgroup of interested stakeholders to study and make recommendations regarding the collection of data by State agencies that may be used to assist small businesses in accessing State resources and bidding on State contracts.

(b) ....

If, however, the colon is followed by grammatically incomplete sentences, the section is tabulated into items, as shown in the following example:

### Example

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, on or before October 1, 2024, the Board of Public Works and the Department of Budget and Management shall:

(1) review the job title, classifications, and compensation for procurement-related positions in the State Personnel Management System; and

(2) (i) rename and reclassify procurement-related positions in the State Personnel and Management System; and

(ii) in renaming and reclassifying procurement-related positions as required under item (i) of this item, ensure that no current employees experience a diminution in responsibilities or compensation as a result of the reclassification.

Another way to determine the appropriate tabulation is to look at the placement of the colon in the enacting clause. Note that, in the first example above, the colon is placed directly after the capitalized “That.” Therefore, the section must be tabulated into subsections. In the second example above, the colon is placed

directly after a word other than the capitalized “That.” Therefore, the section must be tabulated into items.

Note that the same terminology is used when cross-referencing tabulated uncodified provisions that is used when cross-referencing tabulated codified provisions (*i.e.* subdivisions that are complete sentences are referred to as subsections, paragraphs, subparagraphs, etc., and subdivisions that are incomplete sentences are referred to as items).

## **Special Sections**

Special sections are uncodified provisions that appear after the body of a bill and are generally qualifying or clarifying in nature. The language for frequently used special sections has been standardized over the years. Further discussion on these special sections, along with examples, begins on p. 169.

## **Miscellaneous**

### **Legalization of Revisions to Public Local Laws**

If a county makes nonsubstantive revisions to its code of public local laws, the revised code must be “legalized” by the General Assembly to the extent that local laws enacted by the General Assembly and contained in the county’s code are affected by the nonsubstantive revisions. This is accomplished through an uncodified Act that appears only in the Session Laws for the year of enactment. The following example of the purpose paragraph form for this type of legislation is from Chapters 123 and 124 of the Acts of 2019:

#### **Example**

AN ACT concerning

#### **Washington County – Code of Public Local Laws – Legalization**

FOR the purpose of legalizing the 2019 edition of the Code of Public Local Laws of Washington County, being Article 22 of the Code of Public Local Laws of Maryland, published under the direction of the Board of County Commissioners of Washington County; and generally relating to the legalization of the Code of Public Local Laws of Washington County.

For additional examples of this type of uncodified Act, *see* Chapter 159 of the Acts of 2015 and Chapter 253 of the Acts of 2016. Note, however, that the purpose paragraph language to be used for these types of legislation was modified under the 2022 edition of this *Manual*, and therefore the drafter should not use the introductory purpose paragraph language used in those bills.

## Establishing a Task Force

### In General

If the sponsor of a bill wants to establish a task force to conduct a study or other inquiry and intends that the task force be of limited duration, the drafter should use an uncodified provision format to establish the task force in its own section of the bill, and should include a “sunset” provision in the bill that will terminate the section after the work of the task force is completed (*see* p. 210, “Effective Date with a Termination Provision (Sunset)”). The following format, adapted to the specific requirements of the task force being established and for whether the task force is being established by itself in an uncodified Act or as part of another bill, should be used in drafting the purpose paragraph and body:

### Example

... establishing the (name of task force) to study \_\_\_\_; and generally relating to the (name of task force).

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force (*e.g.*, on \_\_\_\_; to Study \_\_\_\_).

(b) The Task Force consists of the following members:

(1) \_\_\_\_ members of the Senate of Maryland, appointed by the President of the Senate;

(2) \_\_\_\_ members of the House of Delegates, appointed by the Speaker of the House;

(3) the Secretary of \_\_\_\_, or the Secretary’s designee; and

(4) the following members, appointed by the (*e.g.*, Governor; Secretary of \_\_\_\_):

- (i) one representative of \_\_\_\_;
- (ii) one representative of \_\_\_\_;
- (iii) one representative of \_\_\_\_; and
- (iv) one representative of \_\_\_\_.

(c) The \_\_\_\_ (*e.g.*, Governor; Secretary of \_\_\_\_) shall designate the chair of the Task Force.

(d) The \_\_\_\_ (*e.g.*, Department of Legislative Services; Office of the Governor; Department of Budget and Management; State agencies represented on the Task Force) shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force;  
but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) \_\_\_\_ (*e.g.*, study \_\_\_\_); and

(2) \_\_\_\_ (*e.g.*, make recommendations regarding \_\_\_\_).

(g) On or before \_\_\_\_\_, the Task Force shall report \_\_\_\_\_ (*e.g.*, its findings and recommendations) to \_\_\_\_\_ (*e.g.*, the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly).

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect \_\_\_\_\_. It shall remain effective for a period of \_\_\_\_ year(s) and, at the end of \_\_\_\_, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

For online drafting, note that a template for establishing a task force may be accessed by clicking “Boilerplate” on the bill drafting tab and selecting “Other

Clause (Whereas, etc.): Task Force.” The standard purpose paragraph language used in a bill creating a task force, as shown in the example above, also may be accessed online by clicking “Boilerplate” on the bill drafting tab and selecting “Purpose Paragraph: Task Force.” Note that the boilerplate language for the body and purpose paragraph should be modified as needed to accurately describe the task force being established by the bill.

## Membership

Note that in establishing the membership of a task force, the drafter should not state the number of its members but should instead use the phrase, “The Task Force consists of the following members”, as illustrated in Section 1(b) in the example on p. 122. This avoids the necessity of changing the number of members as originally stated in the bill if the composition of the task force is changed by amendment. Note also that, if members of the task force are to be selected by private entities, it is preferred to specify that member as being designated rather than appointed and the head of the private entity should make the designation (*e.g.* one public school superintendent, designated by the Executive Director of the Public School Superintendents’ Association).

Note that an *ex officio* member of a task force has the same rights and privileges as other members of the task force, including the right to vote. Accordingly, any limitations that are intended to be placed on the rights and privileges of an *ex officio* member must be clearly stated in the bill. Also note that an *ex officio* member serves on a board, commission, or task force by virtue of holding a specific office. This raises two issues of which the drafter should be aware. First, the drafter must specify the office that the *ex officio* member holds (*i.e.*, the State Treasurer, the Secretary of Planning, the Secretary of Agriculture, etc.) in the list of members of the task force. Second, an individual who is an *ex officio* member of a task force is a member only for the time that the individual holds the specified office. Once the individual vacates the office, the *ex officio* membership passes to the next individual who holds that specific office.

Sometimes a sponsor will want the membership of a task force to reflect the gender, racial, ethnic, and geographic diversity of the State. In that case, the drafter should include a provision that states “To the extent practicable, the membership of the Task Force shall reflect the gender, racial, ethnic, and geographic diversity of the State.”

## Staffing

In providing for the staffing of a task force, consider whether it is appropriate or not for the Department of Legislative Services to be given this role. It is

appropriate for the department to provide staff services if the task force being established will have several legislators serving on it and the issues with which the task force is concerned have strong legislative involvement or interest. However, if there are only one or two (or no) legislators on the task force or if the task force is to conduct a study or other inquiry that is more within the realm of Executive Branch activity, it would be more appropriate for an Executive Branch agency or the Office of the Governor to provide staff for the task force.

Note that while a private entity may voluntarily agree to provide staffing services for a task force, the General Assembly may not require it to do so. If a bill request specifies staffing by a private entity, the drafter should make sure that the sponsor is aware of this limitation. The drafter also may want to suggest to the sponsor that the task force be staffed by a State agency in consultation with the private entity, thereby avoiding the possibility of an unstaffed task force should the private entity decline to provide staffing services.

For a task force that will study only local issues, the drafter should consider whether it is appropriate for the staffing to be provided by a unit of the local government identified in the bill or jointly by a unit of State government and a unit of local government. Note, however, that the General Assembly may not require a unit of a charter county to provide staffing if the subject of the task force is within the scope of the express powers granted to charter counties. (*See* the bill review letter for HB 236 of 2018 (May 10, 2018)).

### **Reimbursement of Expenses**

Note that while the task force template uses standard boilerplate language regarding compensation and reimbursement of task force members, the phrase “as provided in the State budget” does not mean that the bill will not have a fiscal effect.

### **Reporting Requirement**

If the bill establishing a task force includes a reporting requirement, the drafter should consider the length of time that may be required to appoint the members and for the members to complete their report when selecting the bill’s effective date and reporting deadline. For example, a bill with an October 1, 2024, effective date and a December 1, 2024, reporting deadline probably will not provide sufficient time for the task force to be appointed and complete its work.



## Termination Date

In deciding what date to use for the termination of an uncodified Act or provision establishing a task force, consider that a date set before the session immediately following the one in which the task force is established or during that session will not allow the General Assembly to extend the task force if it does not complete its work on time. Unless there is a compelling reason not to do so, the termination date should be at the end of June 30 or September 30, depending on the bill's effective date. For example, if a bill's effective date is July 1, 2024, and the task force it establishes must report to the General Assembly on or before January 1, 2025, the bill should be given a June 30, 2025, termination date. This will allow the General Assembly, during the 2025 legislative session, to extend the termination date of the task force if it does not complete its report by the January 1, 2025, deadline and avoid the necessity of reconstituting the entity. If a bill's effective date is June 1, it is preferred that the bill be given a June 30 termination date. Since any legislation to extend the termination date generally cannot go into effect before June 1, a June 30 termination, rather than May 31, avoids questions regarding whether an extension of the termination date is effective. In the event a task force or other entity has terminated and must be reconstituted or reestablished, *see* HB 1223 of 2011, which reconstitutes a task force, and Chapter 537 of the Acts of 2009, which reestablishes a commission.

## Requiring a Study

If the sponsor of a bill wants to require a governmental entity (*e.g.* a department) to conduct a study of limited duration, the drafter should use uncodified language. The language should address the following questions:

- What entity will be doing the study?
- What is the issue to be studied?
- Do specifics about the study need to be included (*e.g.* should the entity be required to compile and examine certain information related to the issue)?
- Are recommendations to be made based on the results of the study?
- To whom should the results of the study (and any recommendations, if being required) be submitted?

- What is the deadline for submitting the results of the study (and any recommendations, if being required)?

Note that an entity may be required to complete the study in consultation with another governmental entity, an outside organization, or stakeholders.

Additionally, note that a termination provision (sunset) should not be included for a provision that merely requires a study and does not establish a task force (or similar entity) or include a statutory provision that needs to terminate on a particular date. *See* p. 210, “Effective Date with a Termination Provision (Sunset).”

For examples of bills that require a study, *see* HB 1282 of 2017 and Chapter 102 of the Acts of 2019.

## Straw Ballots

Occasionally, it is desirable for the electorate to be given the opportunity to directly express its opinion on a particular subject. By posing a question to the voters in the form of a straw ballot, it is possible to solicit the opinion of the electorate without creating any binding legal effect; therefore, a straw ballot is nothing more than an officially sanctioned opinion poll.

In an Opinion of the Attorney General dated March 9, 1973, addressed to the Honorable Charles J. Krysiak, Clarence W. Sharp, Esq., and the Honorable Francis B. Burch, the Attorney General discussed and approved the use of straw ballots. The following form may be used to draft a straw ballot:

### Example

AN ACT concerning

\_\_\_\_\_ County – (Subject) – Straw Ballot

FOR the purpose of requiring that a straw ballot be held on the issue of \_\_\_\_\_ in \_\_\_\_\_ County; and generally relating to the holding of a straw ballot in \_\_\_\_\_ County.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That under the provisions of the Election Law Article, the (name of county) Board of Elections, in consultation with the State Board of Elections, shall prepare and include on the ballot for the November general election of (year) the following question:

“Do you favor (describe the subject of the straw ballot)?”

SECTION 2. AND BE IT FURTHER ENACTED, That the (name of county) Board of Elections and the (county governing body) of \_\_\_\_\_ County shall do those things necessary and proper to place this question on the ballot prepared for the November general election of (year), so that each participating voter in the County may have the opportunity to cast a vote on the question. The question shall be proposed, presented, tallied, and reported in general accordance with the provisions of the Election Law Article. The vote on this question is advisory only.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, (year).

For examples of a straw ballot, *see* SB 981/HB 1324 of 2011 and Chapter 509 of the Acts of 2016.

For online drafting, note that standard purpose paragraph and enacting clause language can be inserted into a draft bill that provides for a straw ballot by clicking “Boilerplate” on the bill drafting tab and selecting “Purpose Paragraph: Straw Ballot” or “Enacting Clause: Straw Ballot,” as appropriate.

## Chapter 8. Drafting Changes to Uncodified Provisions in the Session Laws

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### In General

Occasionally, a provision that appears only in the Session Laws (*i.e.* an uncodified provision from a previous legislative session) is changed. Common examples are a change in the requirements of a bond authorization or an extension of a reporting or termination date. As discussed in this chapter, because the text of the uncodified provision is treated as if it were codified, many of the same rules that apply to drafting to the Annotated Code apply when drafting a change to an uncodified provision in the Session Laws.

### Function Paragraphs

An uncodified provision in the Session Laws may be amended by treating the provision in much the same way as a provision of the Annotated Code. The provision is cited in the function paragraph by the number of the Chapter law in which the provision was included and the year in which the Chapter was enacted. Cite the section number corresponding to the enacting clause containing the uncodified provision being amended. For example, if a termination date in Section 2 of the Chapter law is being extended or repealed, the function paragraph describing this change would appear as follows:

#### Example

BY repealing and reenacting, with amendments,  
Chapter 463 of the Acts of the General Assembly of 2017  
Section 2

Note that instead of citing to an article of the Annotated Code in the article line, the line includes a citation to the applicable Chapter of the Session Laws and the year in which the Chapter was enacted. Note also that there is no volume and supplement citation line.

If the uncodified provision has been amended previously, the function paragraph should cite each applicable Chapter number chronologically from the

earliest year of enactment to the latest as shown in the example below from Chapter 118 of the Acts of 2020:

### Example

BY repealing and reenacting, with amendments,

Chapter 400 of the Acts of the General Assembly of 2011, as amended by  
Chapters 64 and 65 of the Acts of the General Assembly of 2013 and  
Chapter 378 of the Acts of the General Assembly of 2015

Section 2

For a discussion of amending uncodified language in cross-filed bills that were both enacted, *see* p. 131.

## Enacting Clause

If a bill amends an uncodified provision in the Session Laws, the following enacting clause, followed by the Chapter number of the Act that contains the provision being amended (and the Chapter numbers of any other bills that amended that Act listed chronologically from the earliest year of enactment to the latest) should be used:

### Example

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Chapter 337 of the Acts of 2009, as amended by Chapter 200 of the Acts of 2011 and Chapter 57 of the Acts of 2013**

Note that if the bill is making statutory changes as well as changes to an uncodified provision, both types of changes can be included under the same enacting clause. There is no need to separate them into different enacting clauses unless there is another reason to do so (*e.g.* the statutory changes need a different effective date than the changes to the uncodified provision).

## Bill Text

When amending an uncodified provision in the Session Laws, treat the text of the provision as if it were codified (*i.e.*, place brackets around the text to be repealed, and insert new material in **BOLD, SMALL CAPS** type).

### Example

#### Chapter 180 of the Acts of 2022

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022. It shall remain effective for a period of [1 year] **3 YEARS** and, at the end of September 30, [2023] **2025**, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Note that in amending a previously amended uncodified provision, the drafter needs to remove all bracketed language and show language previously added in regular type. For example, assume that the bill amending Section 2 of Chapter 180, as shown above, became Chapter 5 of the Acts of 2023. If a bill was requested during the 2024 session to extend the sunset for another nine months, the bill text would appear as follows:

### Example

#### Chapter 180 of the Acts of 2022, as amended by Chapter 5 of the Acts of 2023

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022. It shall remain effective for a period of 3 years **AND 9 MONTHS** and, at the end of [September 30, 2025] **JUNE 30, 2026**, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Note also that when cross-filed bills both have been enacted, the text of both Chapter laws, with identical changes, should be shown in the body of the bill amending the Chapter laws as shown below:

### Example

**Chapter 491 of the Acts of 2014, as amended by Chapters 64 and 65 of the Acts of 2017 and Chapter 734 of the Acts of 2020**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014. It shall remain effective for a period of [9] 11 years and, at the end of September 30, [2023] 2025, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

**Chapter 492 of the Acts of 2014, as amended by Chapters 64 and 65 of the Acts of 2017 and Chapter 734 of the Acts of 2020**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014. It shall remain effective for a period of [9] 11 years and, at the end of September 30, [2023] 2025, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

For additional examples, *see* HB 1011 of 2020, HB 1223 of 2020, and Chapter 118 of the Acts of 2020. Additionally, each Chapter law should also be referenced in a separate function paragraph. (*See* p. 129, “Function Paragraphs.”)

Unless it is too lengthy, the drafter should set out, without amendment, any provision of the Annotated Code that is necessary to show the context of the change that is being made to an uncodified provision of law in the bill being drafted.

Note that when extending a termination date, the drafter should select an effective date for the extension that ensures that the extension takes effect before the provision terminates under the existing termination provision. For example, a bill introduced in the 2024 session that extends a termination provision from September 30, 2024, to September 30, 2025, should not have an October 1 effective date. Rather, the bill should have, for example, a July 1 effective date to avoid any question as to whether the law terminated before the extension took effect.

# Chapter 9. Drafting Constitutional Amendments

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## In General

Article XIV of the Maryland Constitution authorizes the General Assembly to propose amendments to the Constitution and imposes restrictions and requirements related to legislation that proposes the amendments. Generally, constitutional amendments follow similar drafting guidelines and bill processes as an ordinary bill; however, the drafter should note the differences outlined below regarding the title, enacting clause, and bill text.

Because Article XIV, § 1 of the Maryland Constitution gives sole authority to the General Assembly to propose an amendment to the Maryland Constitution, a bill proposing a constitutional amendment is not presented to the Governor for approval unless the bill also includes substantive uncodified provisions or changes to the Annotated Code, previously enacted uncodified provisions, or public local laws.

For examples of an amendment to the Maryland Constitution and an amendment to the Declaration of Rights, *see* Chapter 539 of the Acts of 2022 and Chapters 244 and 245 of the Acts of 2023, respectively.

## Title Requirements

### In General

Although a bill that proposes a constitutional amendment is not subject to the constitutional standard for titles under Article III, § 29 of the Maryland Constitution (*see Hillman v. Stockett*, 183 Md. 641, 647 (1944)), the guidelines applicable to bill titles generally should be followed in drafting the title of a constitutional amendment.

### Purpose Paragraph

The purpose paragraph does not include a “generally relating to” clause unless the bill also includes a substantive uncodified provisions or changes to the Annotated Code, previously enacted uncodified provisions, or public local laws.



**Example**

FOR the purpose of imposing a certain limit on the number of consecutive terms that an individual may serve in the office of Senator or Delegate in the General Assembly.

**Function Paragraphs**

The phraseology of the function paragraph in the title of a constitutional amendment, including an amendment to the Declaration of Rights, is different from an ordinary bill, as illustrated in the examples below.

**Amending a Section of the Constitution****Example**

BY proposing an amendment to the Maryland Constitution  
Article III – Legislative Department  
Section 3

**Adding a New Section to the Constitution****Example**

BY proposing an addition to the Maryland Constitution  
Article III – Legislative Department  
Section 3

**Adding a New Article to the Constitution****Example**

BY proposing an addition to the Maryland Constitution  
New Article XIX – Video Lottery Terminals  
Section 1

## Repealing a Section of the Constitution

### Example

BY proposing a repeal of the Maryland Constitution  
Article III – Legislative Department  
Section 3

## Withdrawing, Recalling, and Repealing a Bill Proposing a Constitutional Amendment

The Supreme Court of Maryland has held that the General Assembly may withdraw, recall, and repeal a bill that proposed an amendment to the Maryland Constitution and was duly passed at an earlier session of the General Assembly, and substitute a revised version of the proposed amendment (as occurred in Chapter 532 of the Acts of 1970), before notice of the originally proposed amendment is published in accordance with the requirements of Article XIV, § 1 of the Maryland Constitution. *See Bourbon v. Governor of Maryland*, 258 Md. 252 (1970). The following form of function paragraph should be used to withdraw, recall, and repeal a previously passed bill proposing a constitutional amendment:

### Example

BY withdrawing, recalling, and repealing  
Chapter \_\_\_\_\_ of the Acts of the General Assembly of \_\_\_\_\_

## Amending, Adding to, or Repealing the Declaration of Rights

The Supreme Court of Maryland has long characterized the Declaration of Rights as part of the Maryland Constitution. *See Schisler v. State*, 394 Md. 519, 551 (2006) (citing *Brd. Of Supervisors of Elections v. Todd*, 97 Md. 247, 263 (1903)). Accordingly, a similar function paragraph form to those shown in the examples above for the Maryland Constitution is used to amend, add to, or repeal an article of the Declaration of Rights.

### Example

BY proposing (an amendment to) (an addition to) (a repeal of) the Maryland  
Constitution  
Declaration of Rights  
Article 8

## Enacting Clause

A bill that proposes an amendment to the Maryland Constitution, including to the Declaration of Rights, must contain an enacting clause in the following form:

### Example

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
MARYLAND, (Three-fifths of all the members elected to each of the two Houses  
concurring), That it be proposed that the Maryland Constitution read as follows:

Note that it is inappropriate to use nonstandard enacting clauses to make changes to the Maryland Constitution, including to the Declaration of Rights, because sections of the Maryland Constitution must be shown in full in a bill (*see* “Bill Text – In General” below for further discussion).

## Bill Text

### In General

In contrast to provisions of the Annotated Code, uncodified law, or the public local laws, sections of the Maryland Constitution must be shown in full in a bill. For example, if a change is being made to Article III, § 13(a) of the Maryland Constitution, it would be improper to show only subsection (a) in the bill; rather, the full text of § 13 must be included. The same rule applies if, for example, a new subsection is being added to an existing section. Further note that it is improper to show a provision of the Maryland Constitution as being repealed and reenacted, without amendment (*see Hillman v. Stockett*, 183 Md. 641, 647 (1944)).

If a constitutional amendment which, by provisions that are of limited duration, provides for a period of transition or a unique schedule under which the terms of the amendment are to become effective, Article XIV, § 1A of the Maryland Constitution requires that those provisions be a section or sections in a separate article, to be known as “Provisions of Limited Duration” and state the date on which or the circumstances under which those provisions expire. Article XVIII of the Maryland Constitution contains the provisions of limited duration. (*See also* p. 196, “Statewide Referendum – Constitutional Amendments.”) For an example of a bill that included a provision of limited duration being added to the Maryland Constitution, *see* HB 886 of 2018.

*See also* p. 49, “Constitutional Amendments,” relating to the combination of a proposed constitutional amendment and statutory changes in a single bill; discussion beginning at p. 133, “Title Requirements” relating to title requirements for bills proposing a constitutional amendment; and p. 196, “Statewide Referendum – Constitutional Amendments,” relating to effective date provisions required for bills proposing a constitutional amendment.

## **Effective Dates and Special Sections**

Additionally, a constitutional amendment always has a constitutional referendum clause in the body of the bill in place of the effective date clause (*see* p. 196, “Statewide Referendum – Constitutional Amendments”). Note that Article XIV, § 1 requires that a proposed constitutional amendment be submitted to the qualified voters of the State at the “next ensuing general election.” Therefore, an amendment proposed by the General Assembly during the 2024 session must appear on the ballot for the 2024 general election. Note also that if cross-filed bills proposing an identical constitutional amendment are both passed by the General Assembly, the ballot will include two separate, but identical questions, one for each cross-filed bill.

Note that a bill that includes a constitutional amendment cannot include a provision that terminates the constitutional amendment or delays the date on which the constitutional amendment becomes effective. Under Article XIV, § 1 of the Maryland Constitution, a constitutional amendment takes effect on the proclamation of the Governor that a majority of the votes cast at the election on the question were in favor of the amendment. If the intent of the General Assembly is that the amendment begin to apply at a later time, language to that effect must be included in the amendment itself.

Note also that the General Assembly may include in a bill proposing a constitutional amendment the question to which the ballot question submitted to

the voters must be substantially similar. For examples, see Chapter 492 of the Acts of 2020, Chapter 645 of the Acts of 2020, Chapter 45 of the Acts of 2022, and Chapters 244 and 245 of the Acts of 2023.

## Chapter 10. Drafting to the Public Local Laws

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### In General

Public local laws are laws that (1) affect a single county, (2) are drafted to the public local law of the county, and (3) are passed by the General Assembly. Public local laws include municipal charters and the Charter of Baltimore City. In determining whether a request should be drafted to a public local law, the drafter should consider whether (1) the request applies to a single county or Baltimore City and (2) the subject matter of the request is appropriate for inclusion in a public local law (*e.g.* a request related to a subject matter already covered by a public local law or a request that is not covered in the Annotated Code). The drafter should consult with the reviewer assigned to the request if uncertain about whether the request should be drafted to a public local law.

### Code of Public Local Laws

The original edition of the Code of Public Local Laws is the two-volume 1930 Edition, which assigned a numerical designation to each county and Baltimore City. An example is:

“The Public Local Laws of Garrett County, being Article 12 of the Public Local Laws of Maryland (1930 Edition).”

Note that each county code also includes the public local laws for that county, which may be set out as stand-alone provisions or interspersed with provisions enacted by the county. The General Assembly may only amend provisions passed by the General Assembly and may not amend provisions enacted by a county. Accordingly, the drafter should take care to avoid drafting a bill to a provision enacted by a county.

### Function Paragraphs

#### In General

The format and types of function paragraphs used when drafting to public local laws are generally the same as when drafting to the Annotated Code. For additional information on function paragraph formats, *see* p. 56, “The Function Paragraph.”

## Function Line

### Repeal and Reenact, with Amendments

This type of function paragraph is used when existing language is altered in some manner, but is not repealed or added in its entirety. It also is used when an existing section, subsection, paragraph, item, etc., is renumbered and the text of the material is being shown in the body of the bill. If only a portion of the existing language in a section is repealed, or if new language is added to an existing section and the entire section is shown, it is appropriate to use “BY repealing and reenacting, with amendments,” to describe the action.

#### Example

BY repealing and reenacting, with amendments,  
The Public Local Laws of Prince George’s County  
Section 21A-112  
Article 17 – Public Local Laws of Maryland  
((year) Edition and (month) (year) Supplement, as amended)

### Total Repeal of a Section or Other Portion of a Public Local Law

If a section or other portion of a public local law is to be repealed in its entirety, it is appropriate to use the “BY repealing” function paragraph. For additional information, *see* p. 73, “Total Repeal of a Section or Other Portion of the Annotated Code.”

#### Example

BY repealing  
The Public Local Laws of Somerset County  
Section 2-102(b) through (f)  
Article 20 – Public Local Laws of Maryland  
((year) Edition, as amended)

### **Adding a New Section or Subsection**

If a new section is added to an existing title, subtitle, or part, or if a new subsection, paragraph, item, etc., is added to an existing section and the entire section is not shown, use “BY adding to” in the function line. For additional information, *see* p. 74, “Adding Material to the Annotated Code.”

#### **Example**

BY adding to

The Public Local Laws of Frederick County

Section 1-5-26

Article 11 – Public Local Laws of Maryland

((year) Edition and (month) (year) Supplement, as amended)

### **Repeal of a Section and Enactment of a New Section to Replace It**

If changes are made in a particular section that substantially alter the former wording, it often is desirable to repeal the old section in its entirety and set out the new wording as an unbroken whole. This requires the use of two function paragraphs. The first function paragraph is a “BY repealing” paragraph, and the second function paragraph is a “BY adding to” paragraph.

#### **Example**

BY repealing

The Public Local Laws of Anne Arundel County

Section 9-4

Article 2 – Public Local Laws of Maryland

((year) Edition and (month) (year) Supplement, as amended)

BY adding to

The Public Local Laws of Anne Arundel County

Section 9-4

Article 2 – Public Local Laws of Maryland

((year) Edition and (month) (year) Supplement, as amended)

For additional information, *see* p. 76, “Repeal of a Section and Enactment of a New Section to Replace It.”



## Renumbering

This form of function paragraph is used for the purpose of renumbering sections (or subdivisions of a section) of a public local law without making any change in the text of the sections (or the subdivisions of a section). Note that the text of the material being renumbered is not shown in the body of the bill, but renumbering is instead accomplished by simply using the renumbering function paragraph in conjunction with the renumbering nonstandard enacting clause. (See p. 98, “Enacting Clauses.”) If the text of the material being renumbered is shown in the body of the bill, the “BY repealing and reenacting, with amendments,” function paragraph must be used.

### Example

#### BY renumbering

The Public Local Laws of Carroll County  
 Section 3-101  
 to be Section 3-102  
 Article 7 – Public Local Laws of Maryland  
 ((year) Edition and (month) (year) Supplement, as amended)

The renumbering function paragraph may be used to renumber several sections or subdivisions of a section sequentially by using the word “respectively” as shown in the following example:

### Example

#### BY renumbering

The Public Local Laws of Baltimore City  
 Section 9-9, 9-9A, and 9-10 through 9-14.2, respectively  
 to be Section 9-5 through 9-13, respectively  
 Article 4 – Public Local Laws of Maryland  
 ((year) Edition and (month) (year) Supplement and (month) (year)  
 Supplement, as amended)

If a section or a subdivision of a section is being renumbered to “make a space” for new material being added, the “renumbering” function paragraph should be placed before the “adding to” function paragraph.

For additional information, see p. 78, “Renumbering.”

### **Repeal and Reenact, without Amendments**

If existing law is reprinted in a bill for informational purposes only, without changes, it is correct to use “BY repealing and reenacting, without amendments,” in the function line to identify the unchanged provision.

#### **Example**

BY repealing and reenacting, without amendments,  
The Public Local Laws of Prince George’s County  
Section 21A-108  
Article 17 – Public Local Laws of Maryland  
((year) Edition and (month) (year) Supplement, as amended)

### **Source and Volume and Supplement Citation Lines**

Since each major jurisdiction now has a more recent edition of its public local laws, the reference in the volume and supplement citation line is to that edition and any supplements to it (which includes the month, if available, and the year), while the source line references the article number assigned to the county or Baltimore City in the original 1930 local code.

#### **Example**

The Public Local Laws of Garrett County  
Section \_\_\_\_\_  
Article 12 – Public Local Laws of Maryland  
((year) Edition and (month) (year) Supplement, as amended)

Because the various editions of the public local laws of the major political subdivisions are updated often and at irregular intervals, it is imperative that the drafter carefully check the date of the edition and its supplement (if applicable) when drafting a bill to these local laws. The Department of Legislative Services maintains an edition and supplement list for use by bill drafters.

### **Fifth Line**

Note that when a bill affects a section of a public local law that was amended by the General Assembly after the most recent edition or supplement of the Code of

Public Local Laws was printed, or if the changes were made before that edition or supplement was printed but were not included, it is necessary to include a fifth line in the function paragraph referencing the Chapter number of the Act that amended the section, as shown in the following example from Chapter 329 of the Acts of 2020:

### Example

BY repealing and reenacting, with amendments,  
The Public Local Laws of Montgomery County  
Section 2-151A  
Article 16 – Public Local Laws of Maryland  
(2004 Edition and July-August 2019 Supplement, as amended)  
(As enacted by Chapter 167 of the Acts of the General Assembly of 2019)

To determine whether the situation described above applies and, if so, the appropriate information to be included in the fifth line, the drafter should check the *Compilation of the Changes in the Public Local Laws*. If the most recent *Compilation* was prepared before the last session of the General Assembly, the drafter should then check the latest edition of the *Statute Index of Proposed Legislation* to determine whether any changes were made to the public local law during that session.

If the Chapter law that amended the public local law section is itself subsequently amended, reference to that Chapter number also must be included in the fifth line, as shown in the following example from Chapter 66 of the Acts of 2020:

### Example

BY repealing and reenacting, with amendments,  
The Public Local Laws of St. Mary's County  
Section 113-6  
Article 19 – Public Local Laws of Maryland  
(2007 Edition and March 2015 Supplement, as amended)  
(As enacted by Chapter 284 of the Acts of the General Assembly of 2016, as amended by Chapter 424 of the Acts of the General Assembly of 2017 and Chapter 108 of the Acts of the General Assembly of 2018)

Note that if there are two or more Chapters that amend the first Chapter law shown in the fifth line, the Chapter laws must be listed chronologically from the earliest year of enactment to the latest.

For additional information on fifth lines, *see* p. 90, “The Fifth Line.”

## **Enacting Clauses**

### **Standard Enacting Clauses**

The conventions and format used when drafting a standard enacting clause for a bill amending the public local laws are the same as those used when drafting a standard enacting clause for a bill amending the Annotated Code.

#### **Example**

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

*See* the discussion beginning at p. 98 for additional information.

### **Nonstandard Enacting Clauses**

#### **Renumbering**

The renumbering nonstandard enacting clause may be used to create space for the purpose of inserting language in between existing sections, subsections, paragraphs, etc., of law or to close a space that was created by the repeal of an existing section, subsection, paragraph, etc. For additional information, *see* p. 100, “Renumbering.”

#### **Example**

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 10-1 of Article 12 – Garrett County of the Code of Public Local Laws of Maryland be renumbered to be Section(s) 10-3.

## Short Repealer

It is possible to repeal sections of public local laws through the use of a nonstandard enacting clause known as a “short repealer,” again without showing the text that is being repealed. Note that, when a nonstandard short repealer enacting clause is used, it is essential that the purpose paragraph describe the provisions being repealed in sufficient detail.

### Example

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 11-1 through 11-18 of Article 2 – Anne Arundel County of the Code of Public Local Laws of Maryland be repealed.

## Bill Text

Generally the same drafting conventions used for drafting to the Annotated Code are also used for drafting to public local laws. As is done for provisions drafted to the Annotated Code, the article number and name of the public local law affected by the bill is inserted following the enacting clause and preceding the public local law text.

### Example

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

#### Article 4 – Baltimore City

16-41.

(a) In this subheading the following words have the meaning indicated.

...

If a bill is drafted to both the Annotated Code and a public local law, the drafter may place either the Annotated Code or the public local law material first, unless the meaning or continuity of the bill requires a particular order.

Also, as with drafting to the Annotated Code, the drafter should use [brackets] to repeal existing language from public local laws and **BOLD, SMALL CAPS** font to indicate any new language, including subdivision designations (e.g., “(A),” “(1),” and “(I).”).

## Amendment to Grant Urban Renewal Power

Article III, § 61 of the Maryland Constitution authorizes the General Assembly to enable by public local law counties and municipalities to engage in urban renewal projects for slum clearance. This section expressly prevails over the home rule restrictions in Article XI-A and Article XI-E of the Maryland Constitution; that is, urban renewal is *not* within the home rule powers of counties and municipalities. See p. 80 *Opinions of the Attorney General* 232 (1995).

When a bill request seeks to grant this authority to a county, the bill should be drafted to the public local laws of the county. When a bill request concerns a municipality, the following title format should be used:

### Example

AN ACT concerning

**(City)(Town) of \_\_\_\_\_ (\_\_\_\_\_ County) – Urban Renewal Authority  
for Slum Clearance**

FOR the purpose of granting (municipality name) in \_\_\_\_\_ County the authority to exercise urban renewal powers for slum clearance and redevelopment under Article III, Section 61 of the Maryland Constitution; requiring the municipality to develop an urban renewal plan before exercising certain urban renewal powers; authorizing the municipality to create an urban renewal agency to carry out certain urban renewal projects; authorizing the municipality to levy certain taxes and issue general obligation bonds and revenue bonds to carry out urban renewal powers; clarifying that the provisions of this Act may be amended or repealed only by the General Assembly; and generally relating to urban renewal authority for slum clearance for (municipality name) in \_\_\_\_\_ County.

BY adding to

Chapter \_\_\_\_\_ – Charter of the (City)(Town) of \_\_\_\_\_  
Section \_\_\_\_\_ to be under the new heading  
“Appendix \_\_\_\_\_ – Urban Renewal Authority for Slum Clearance”  
Public Local Laws of Maryland – Compilation of Municipal Charters  
(year) Replacement Edition and (year) Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

...

Note that in the example shown above (based on HB 1385 of 2020), the enactment adds powers of urban renewal by way of an appendix to the municipal charter, rather than by adding new sections to the body of the charter. Because legislation relating to the urban renewal powers for slum clearance is under the exclusive jurisdiction of the General Assembly, only the General Assembly may add to or amend an appendix to a municipal charter relating to urban renewal powers for slum clearance.

To date, more than half of the 156 municipalities in the State have been granted urban renewal powers. The most recent grants of authority were to the Town of Williamsport (Washington County) by Chapter 599 of the Acts of 2022 and the Town of Hancock (Washington County) by Chapter 600 of the Acts of 2022.

## **Municipal Charters**

### **In General**

A municipal charter is a type of public local law that establishes a municipality. Unless noted below, the style and technical aspects used when drafting to the Annotated Code or Code of Public Local Laws also applies when drafting to municipal charters.

### **Title**

Generally the title requirements that apply to bills drafted to the Annotated Code also apply to bills drafted to a municipal charter (*See* discussion beginning on p. 51). Short titles follow a similar format as those used when drafting to the Annotated Code, except that bills drafted to municipal charters should identify the city or town and the corresponding county first in the short title, as shown in the example below.

**Example**

**Town of Williamsport (Washington County) – Urban Renewal Authority for Blight Clearance**

**Example**

**Town of Mount Airy (Carroll County and Frederick County) – Urban Renewal Authority**

**Amending a Municipal Charter**

The charter of a single municipality may be amended by the General Assembly only under very limited circumstances. (See discussion at p. 4, “Municipalities.”)

**Amendment to Fix Tax Rates for Municipalities**

The form for this type of bill is required under Article XI-E, § 5 of the Maryland Constitution that, as an exception to the general prohibition in that article against municipal enactments by the General Assembly, authorizes the General Assembly to modify by local law the maximum tax rate for a municipality. Note that this power of the General Assembly is permissive and, by ruling of the Supreme Court of Maryland, it is a concurrent power; that is, a municipality also may amend its charter to change the maximum tax rate. (See *Woelfell v. Mayor and Aldermen of the City of Annapolis*, 209 Md. 314 (1956).) Note also that such legislation cannot take effect unless it is approved at a regular or special municipal election by a majority of the voters of the municipality who vote on the question (Article XI-E, § 5 of the Maryland Constitution).

**Example**

AN ACT concerning

**(City)(Town) of \_\_\_\_\_ (\_\_\_\_\_ County) – Modification of Tax Limits**



FOR the purpose of modifying the tax limit of the (City)(Town) of \_\_\_\_\_, subject to the provisions of Article XI-E, Section 5 of the Maryland Constitution; and submitting this Act to the required referendum of the voters.

BY repealing and reenacting, with amendments,  
Chapter \_\_\_\_\_ – Charter of the (City)(Town) of \_\_\_\_\_  
Section \_\_\_\_\_ (or Article \_\_\_\_\_, Section \_\_\_\_\_)  
Public Local Laws of Maryland – Compilation of Municipal Charters  
(year) Replacement Edition and (year) Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

(text)

SECTION 2. AND BE IT FURTHER ENACTED, That the effectiveness of this Act is subject to the requirements of Article XI-E, § 5 of the Maryland Constitution, that no such local law shall become effective in regard to a municipality until and unless it has been approved at a regular or special municipal election by a majority of the voters of the municipality voting on the question.

SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 2 of this Act and for the sole purpose of providing for the referendum required by Section 2 of this Act, this Act shall take effect \_\_\_\_\_, (year).

### **Amendment to Regulate Maximum Debt Created by Municipalities**

The form for this type of bill is required under Article XI-E, § 5 of the Maryland Constitution that, as an exception to the general prohibition in that article against municipal enactments by the General Assembly, authorizes the General Assembly to regulate by local law the maximum amount of bonded indebtedness created by a municipality. Note that this power of the General Assembly is permissive and, by ruling of the Supreme Court of Maryland, it is a concurrent power; that is, a municipality also may amend its charter to change the maximum debt limitations. (*See Woelfell v. Mayor and Aldermen of the City of Annapolis*, 209 Md. 314 (1956).) Note also that such legislation cannot take effect unless it is approved at a regular or special municipal election by a majority of the voters of the municipality who vote on the question (Article XI-E, § 5 of the Maryland Constitution).

### Example

AN ACT concerning

**(City)(Town) of \_\_\_\_\_ (\_\_\_\_\_ County) – Maximum Amount of  
Bonded Indebtedness**

FOR the purpose of regulating the maximum amount of debt which may be incurred by the (City)(Town) of \_\_\_\_\_ under the provisions of Article XI-E, Section 5 of the Maryland Constitution; and submitting this Act to the required referendum of the voters.

BY repealing and reenacting, with amendments,  
Chapter \_\_\_\_\_ – Charter of the (City)(Town) of \_\_\_\_\_  
Section \_\_\_\_\_ (or Article \_\_\_\_\_, Section \_\_\_\_\_)  
Public Local Laws of Maryland – Compilation of Municipal Charters  
(year) Replacement Edition and (year) Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

(text)

SECTION 2. AND BE IT FURTHER ENACTED, That the effectiveness of this Act is subject to the requirements of Article XI-E, § 5 of the Maryland Constitution, that no such local law shall become effective in regard to a municipality until and unless it has been approved at a regular or special municipal election by a majority of the voters of the municipality voting on the question.

SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 2 of this Act and for the sole purpose of providing for the referendum required by Section 2 of this Act, this Act shall take effect \_\_\_\_\_, (year).

## Baltimore City Charter Amendment

The Charter of Baltimore City may be amended by the General Assembly under certain circumstances. (See discussion at p. 3, “Baltimore City.”) Many bills relating to the authority of Baltimore City are drafted to Article II of the Baltimore City Charter, since this is where most of the “express powers” of Baltimore City are

located. Note that when drafting to Article II, the lead-in language of that article must be included in the body of the bill, as shown in the example below from HB 665 of 2018.

### Example

AN ACT concerning

#### **Baltimore City Charter Amendment – Department of Public Works – Frozen-Pipe Prevention Rebate Program**

FOR the purpose of authorizing the Baltimore City Department of Public Works to establish a rebate program to assist customers with charges for increased water usage due to certain activities undertaken to prevent pipes from freezing on designated Code Blue days; requiring, if the Department establishes a certain rebate program, that participation be at the option of the customer and rebates be provided on a per diem basis; and generally relating to frozen–pipe prevention in Baltimore City.

BY adding to

The Charter of Baltimore City  
Article II – General Powers  
Section (70)  
((year) Replacement Volume, as amended)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

#### **The Charter of Baltimore City**

##### **Article II – General Powers**

The Mayor and City Council of Baltimore shall have full power and authority to exercise all of the powers heretofore or hereafter granted to it by the Constitution of Maryland or by any Public General or Public Local Laws of the State of Maryland; and in particular, without limitation upon the foregoing, shall have power by ordinance, or such other method as may be provided for in its Charter, subject to the provisions of said Constitution and Public General Laws:

**(70)**

**(A) THE DEPARTMENT OF PUBLIC WORKS MAY ESTABLISH A REBATE PROGRAM TO ASSIST CUSTOMERS WITH CHARGES FOR INCREASED WATER USAGE DUE TO RUNNING A TRICKLE OF WATER THROUGH FAUCETS TO PREVENT PIPES FROM FREEZING ON DESIGNATED CODE BLUE DAYS.**

**(B) IF THE DEPARTMENT ESTABLISHES A REBATE PROGRAM UNDER SUBSECTION (A) OF THIS SECTION:**

**(1) PARTICIPATION IN THE PROGRAM SHALL BE AT THE OPTION OF THE CUSTOMER; AND**

**(2) A REBATE SHALL BE PROVIDED ON A PER DIEM BASIS.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, (year).

Note also that a fifth line needs to be added to the function paragraph if prior changes to the Baltimore City Charter are not reflected in the most recent hard copy publication of the Charter. Bills should not be drafted to the online version of the Baltimore City Charter.



# Chapter 11. Funding Provisions and Audits

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## State Budget and State Debt

The executive budget consists of two major bills: the operating budget, generally referred to as the Budget Bill, and the capital budget, referred to as the Maryland Consolidated Capital Bond Loan Bill. Appropriations may also be made through a supplementary appropriation bill. For a further discussion of the State budget, see *Legislative Desk Reference Manual* (Department of Legislative Services, Office of Policy Analysis, 2023).

### Budget Bill

#### In General

Under Article III, § 52 of the Maryland Constitution, the Governor submits the Budget Bill, which includes all proposed appropriations for the General Assembly, the Judiciary, and the Executive Department. The Budget Bill is usually about 200 pages long and consists of three major parts: the specified proposed appropriation for each State government unit; a detailed section with specific directions on the expenditure of each unit's proposed appropriation; and the "Budget Summary." The Governor proposes appropriations in the Budget Bill and the General Assembly makes the appropriation by enacting the bill.

The Budget Bill is introduced in each house of the General Assembly, sponsored by the presiding officers, and is an uncodified Act that appears only in the Session Laws. Prior to fiscal year 2024, the General Assembly was authorized to increase or decrease the appropriations in the Budget Bill relating to the General Assembly and the Judiciary, but prohibited from increasing appropriations for the Executive Branch. However, beginning in fiscal year 2024, the General Assembly has explicit authority to add items to appropriations and increase appropriations for all three branches of government. If the General Assembly increases appropriations for the Executive Branch, the total appropriation for the Executive Branch approved by the General Assembly may not exceed the total proposed appropriation for the Executive Branch submitted by the Governor. The General Assembly's expanded authority over the Budget Bill is the result of voters approving amendments to the Maryland Constitution that were proposed in Chapter 645 of the Acts of 2020.

## **Title Requirements**

The form for the title of the budget bill has been standardized over time. The following form should be used:

### **Example**

#### **Budget Bill**

#### **(Fiscal Year 2025)**

FOR the purpose of making the proposed appropriations contained in the State Budget for the fiscal year ending June 30, 2025, in accordance with Article III, Section 52 of the Maryland Constitution; and generally relating to appropriations and budgetary provisions made in accordance with that section.

## **Maryland Consolidated Capital Bond Loan Bill**

The Maryland Consolidated Capital Bond Loan Bill also is introduced in each house of the General Assembly, sponsored by the presiding officers. The vast majority of provisions in the Capital Bill are uncoded; however, the Capital Bill may contain some provisions that are drafted to the Annotated Code. The General Assembly has the power to amend the Capital Bill in any manner, including adding items to appropriations and increasing appropriations.

## **Supplementary Appropriation Bill**

In addition to appropriations in the Budget Bill, Article III, § 52(8) of the Maryland Constitution authorizes appropriations to be made through “Supplementary Appropriation Bills,” subject to the limitations contained in Article III, § 52(8). These bills originate with the General Assembly in the same manner as ordinary bills and are subject to the Governor’s veto power. However, bills that add or increase appropriations for the operating budget are relatively rare.

## Mandatory Funding Provisions

Article III, § 52 of the Maryland Constitution allows the General Assembly to enact a statute that requires the Governor to include a particular level of funding for a particular program in a future State budget. In drafting a bill that includes a mandatory funding provision, the drafter must ensure that two issues are addressed.

First, the mandatory funding law must be enacted before July 1 of the year before the fiscal year to which the mandate first applies (e.g., before July 1, 2024, for the fiscal year beginning July 1, 2025, which is fiscal year 2026). Note, however, that the requirement under Article III, § 52(11) of the Maryland Constitution that a mandated funding law be “enacted before July 1 of the fiscal year prior to” the fiscal year to which the mandate first applies does not mean that the effective date of the bill must be before July 1. What is required is that the mandate be “enacted” (i.e., passed by the General Assembly and signed by the Governor or become law without the Governor’s signature) before July 1, the start of the fiscal year before the fiscal year to which the mandate would apply. This requirement is necessary to give the Governor sufficient notice that the funding must be included in the annual budget.

Second, it is the understanding of the Office of the Attorney General that the bill must prescribe either a dollar amount or an objective basis from which a level of funding can easily be computed. (See 65 *Opinions of the Attorney General* 108, 110 (1980).) If this requirement is not met, the level of funding is left entirely to the Governor’s discretion. Note that the Office of the Attorney General has advised that language requiring that funds be included in the budget in an amount equal to the costs incurred or necessary to offset costs does not constitute an objective basis for computing the level of funding and, therefore, the funding language would be an expression of legislative intent. (See the bill review letters for HB 1240 of 2017 (April 17, 2017), HB 601 of 2017 (April 25, 2017), and HB 941 of 2017 (April 27, 2017) and *Bill Review Letters – 2017 (An Analysis of Selected Bill Review Letters of the Attorney General of Maryland on Legislation Passed at the 2017 Session of the General Assembly)* (Department of Legislative Services, Office of Policy Analysis, November 2017), pp. 33-34.) Additionally, the Office of the Attorney General has advised that language requiring that funding for a certain number of slots in a program be provided also does not meet the standard for a mandated appropriation. (See the bill review letter for SB 255/HB 322 of 2023 (April 19, 2023).) Also note that the Office of the Attorney General has advised that adding “subject to the limitations of the State budget” to what would otherwise be considered to be a mandatory funding provision makes the funding discretionary. (See the bill review letters for HB 1513 of 2017 (April 27, 2017), SB 531/HB 269 of 2017 (April 28, 2017),



and SB 278/HB 586 of 2017 (April 26, 2017) and *Bill Review Letters – 2017 (An Analysis of Selected Bill Review Letters of the Attorney General of Maryland on Legislation Passed at the 2017 Session of the General Assembly)* (Department of Legislative Services, Office of Policy Analysis, November 2017), pp. 23-24.)

If a sponsor wishes to prescribe the dollar amount of the mandated funding in a bill, the following language, modified as necessary, should be used:

**Example**

**(X) FOR EACH FISCAL YEAR, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF \$1,000,000 TO THE PROGRAM.**

**Example**

**(X) FOR FISCAL YEAR 2025 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF \$1,000,000 TO THE FUND.**

If the sponsor wishes to prescribe an objective basis from which the level of mandated funding is to be determined, the following language, modified as necessary, should be used:

**Example**

**(X) FOR EACH FISCAL YEAR, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION IN AN AMOUNT SUFFICIENT TO EMPLOY NOT LESS THAN 110 FIELD PERSONNEL IN THE SOIL CONSERVATION DISTRICTS UNDER THIS TITLE.**

### Example

**(X) FOR EACH FISCAL YEAR, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION IN AN AMOUNT EQUAL TO THE LESSER OF \$100,000,000 OR 90% OF THE FUNDS ESTIMATED TO BE AVAILABLE TO THE FUND IN THE FISCAL YEAR FOR WHICH THE APPROPRIATIONS ARE MADE.**

For a mandatory funding provision that is only for one year, the following language, modified as necessary, should be used:

### Example

(x) For fiscal year 2026, the Governor shall include in the annual budget bill an appropriation of \$5,000,000 for the completion of the study.

For online drafting, a template for mandatory funding may be accessed by clicking “Boilerplate” on the bill drafting tab and selecting “Other Clause (Whereas, etc.): Mandatory Funding.”

Note that bills containing mandatory funding provisions are to be distinguished from supplementary appropriations bills that require an additional revenue source. (For a discussion of supplementary appropriations bills, see p. 156, “State Budget and State Debt.”)

Also note that the use of language stating that expenditures from a new funding source “are supplemental to” and are not intended to replace funds that “otherwise would be appropriated” does not mandate that other revenue be appropriated for the purpose. (See the bill review letter for SB 700/HB 621 of 2014 (footnote 3) (April 24, 2014).)

For a further discussion of mandatory funding issues, see the Attorney General’s bill review letter for HB 1172 of 2000 (April 18, 2000) and related letter of advice discussing HB 1172 of 2000 (March 20, 2000) and *Bill Review Letters – 2000 (An Analysis of Selected Bill Review Letters of the Attorney General of Maryland on Legislation Passed at the 2000 Session of the General Assembly)* (Department of Legislative Services, Office of Policy Analysis, December 2000), pp. 141-142.

## Bills Creating Special Funds

### In General

Special funds are revenues that by law are dedicated to support a particular purpose and may not be used for other purposes. Although the Governor is not required to propose an appropriation of these funds for the dedicated purpose (unless the law also mandates a minimum funding level, as discussed at p. 157, “Mandatory Funding Provisions”), the revenues may not be included in the budget for a different purpose unless the statute dedicating the revenues is amended.

Because of the various special circumstances that may be associated with each request for the creation of a special fund, there is no standard language for establishing and specifying the parameters of a special fund. All that is technically required for a simple dedication of revenues to a particular purpose is language directing that specified revenues be distributed to a special fund and that the fund may be used only for specified purposes.

### Example

**(SECTION NUMBER).**

**THE REVENUES FROM THE** (specify the tax, fee, or other revenue source) **SHALL BE DISTRIBUTED TO A SPECIAL FUND, TO BE USED ONLY FOR** (specify the allowable uses of the special fund).

In most cases, however, it may be necessary or appropriate to use more elaborate language in creating a special fund, for example to provide a name for the fund, to provide for the appropriation of money in the State budget to the fund or for the distribution of revenues from multiple sources to the fund, or to clarify the treatment of the special fund in various regards, including whether the fund may be used for administrative expenses.

Note that for online drafting, a template for each of the special fund forms may be accessed by clicking “Boilerplate” on the bill drafting tab and selecting “Other Clause (Whereas, etc.): Creation of Special Fund – Simple” or “Other Clause (Whereas, etc.): Creation of Special Fund – Complex.” The purpose paragraph language shown with the “Complex” Special Fund example below also may be accessed online by clicking “Boilerplate” on the bill drafting tab and selecting “Purpose Paragraph: Special Fund”.

Note that § 6-226(a)(2)(i) of the State Finance and Procurement Article provides that, notwithstanding any other provision of law, all interest earnings of special funds accrue to the General Fund of the State. Therefore, if it is the intent of the sponsor that investment earnings be credited to the special fund being created, the drafter should amend § 6-226(a)(2)(ii) to add the special fund to the list of exceptions to the general rule stated in § 6-226(a)(2)(i). For a further discussion of this issue and examples, *see* p. 163, “Interest Earnings of Special Funds.”

For examples of special funds, *see* § 11-405 of the Education Article and § 8-7A-02 of the Agriculture Article.

### **Complex Special Fund Language**

The following example includes a number of provisions commonly included in bills establishing special funds, as well as the corresponding purpose paragraph clause that should be included:

#### **Example**

... establishing the (name of special fund) as a special, nonlapsing fund; ...

**(SECTION NUMBER).**

**(A) IN THIS SECTION, “FUND” MEANS** (specify the name of the special fund).

**(B) THERE IS A** (specify the name of the special fund).

**(C) THE PURPOSE OF THE FUND IS** (state the purpose of the special fund).

**(D) THE** (specify the Secretary, Department, or other person responsible for administering the special fund) **SHALL ADMINISTER THE FUND.**

**(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

**(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

**(F) THE FUND CONSISTS OF:**

**(1) REVENUE DISTRIBUTED TO THE FUND UNDER** (cross-reference section of law requiring that revenues be distributed to the special fund);

**(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**

**(3) INTEREST EARNINGS** (include only if interest earnings are to be credited to the Fund under subsection (h)(2)); **AND**

**(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.**

**(G) THE FUND MAY BE USED ONLY FOR** (specify allowable uses of the special fund, in particular if it may be used for administrative expenses).

**(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

**(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO THE GENERAL FUND OF THE STATE.** (Alternative: Specify that interest earnings of the special fund shall be credited to the special fund; include interest earnings under subsection (f); and amend § 6-226(a)(2)(ii) of the State Finance and Procurement Article to add the name of the special fund.)

**(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.**

**(J) MONEY EXPENDED FROM THE FUND FOR** (specify the program for which the special fund is to be used) **IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR** (specify the program). (Note: This subsection is appropriate if the special fund is not intended to be the exclusive source of funding for a program.)

## Audits of Special Funds

Note that the form for a complex special fund shown above does not contain a requirement that the fund be audited. Such language is not necessary because

§ 2-1220 of the State Government Article requires the Office of Legislative Audits to conduct a fiscal/compliance audit of special funds. If a bill request to establish a special fund includes an audit requirement, the drafter should make the sponsor aware that this is not necessary in light of § 2-1220. If the sponsor still wants audit language included in the bill, but does not specifically request that an audit be required, the following language should be used:

### Example

**(X) THE FUND IS SUBJECT TO AUDIT BY THE OFFICE OF LEGISLATIVE AUDITS AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.**

This language, which does not mandate an audit, provides more flexibility to the Office of Legislative Audits in the audit planning process, including determining the necessary audit steps to perform or not to perform based on the professional judgment of auditors in the Office.

If the sponsor insists on requiring an audit, the drafter should use the following language:

### Example

**(X) THE OFFICE OF LEGISLATIVE AUDITS SHALL AUDIT THE FUND AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.**

For more information regarding audits, *see* p. 165, “Audits.”

## Interest Earnings of Special Funds

If interest earnings of the special fund are to remain in the special fund (*see* “Alternative” discussion following subsection (h)(2) in the example on p. 162), the drafter should include the following function paragraphs in the bill:

### Example

BY repealing and reenacting, without amendments,  
Article – State Finance and Procurement  
Section 6-226(a)(2)(i)

Annotated Code of Maryland  
(\_\_\_\_ Replacement Volume and \_\_\_\_ Supplement)

BY repealing and reenacting, with amendments,  
Article – State Finance and Procurement  
Section 6-226(a)(2)(ii)\_\_\_\_. and \_\_\_\_.  
Annotated Code of Maryland  
(\_\_\_\_ Replacement Volume and \_\_\_\_ Supplement)

BY adding to  
Article – State Finance and Procurement  
Section 6-226(a)(2)(ii)\_\_\_\_.  
Annotated Code of Maryland  
(\_\_\_\_ Replacement Volume and \_\_\_\_ Supplement)

Note that the three function paragraphs shown above reflect the three steps necessary to add a special fund to the list contained in § 6-226(a)(2)(ii) of the State Finance and Procurement Article: first, to show the general rule contained in § 6-226(a)(2)(i) without amendments; second, to amend the last two items listed in § 6-226(a)(2)(ii); and third, to add to the list the new special fund created in the bill. The example below illustrates how the statutory law that corresponds to the function paragraphs would appear in the bill:

### **Example**

... requiring interest earnings of the Fund to be credited to the Fund; ...

#### **Article – State Finance and Procurement**

6-226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

169. the Cannabis Public Health Fund; [and]

170. the Homeowner Protection Fund; AND

**171. THE VOTER EDUCATION FUND.**

A template for the function paragraphs shown above may be accessed by the online drafter by clicking “Boilerplate” on the bill drafting tab and selecting “Other Clause (Whereas, etc.): Complex Special Fund – Interest Earnings Credited to Fund.”

## Audits

Section 2-1220 of the State Government Article requires the Office of Legislative Audits to conduct a fiscal/compliance audit of each unit of State government (except units in the Legislative Branch) at an interval ranging from three to four years unless the Legislative Auditor determines, on a case-by-case basis, that more frequent audits are required. “Unit” is defined to include each State agency and program and, therefore, a specific audit requirement for a unit or program, including a special fund, is not necessary. On occasion, a sponsor may still want audit language included in a bill establishing a special fund. For examples of language to use in this situation, see p. 160, “Bills Creating Special Funds.”

Legislation may specify that a unit of State government is subject to an audit by an independent auditor. Note that the drafter should not require that the independent auditor be approved by the Office of Legislative Audits since this requirement was removed from the law by Chapter 49 of the Acts of 2016.

## Local Bond Issues

### County Bond Issues

The exact language used for a county bond issue should be that of the last previous bond issue for the particular county. Note that Article III, § 54 of the Maryland Constitution prohibits counties from contracting certain debts unless authorized by an Act of the General Assembly. As to charter counties, the General Assembly is authorized by Article XI-A, § 2 of the Maryland Constitution to provide a grant of powers. In § 10-203 of the Local Government Article, the General Assembly has authorized charter counties to borrow money, and it has specified



certain conditions and limitations on the borrowing. Note that there is no function paragraph in county bond issue legislation.

### Example

AN ACT concerning

#### **\_\_\_\_\_ County – Bonding Authority – Public Facilities**

FOR the purpose of authorizing the County Commissioners of \_\_\_\_\_ County to borrow not more than \$\_\_\_\_\_ to finance the cost of certain public facilities in \_\_\_\_\_ County by the issuance and sale of its general obligation bonds from time to time; authorizing the County, by resolution, to set all details pertinent to the issuance and sale of the bonds; authorizing the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; requiring the County to levy, impose and collect ad valorem taxes in rate and amount sufficient to pay the maturing principal of and interest on the bonds each year; exempting the bonds, refunding bonds, and the interest or income earned from the bonds, from all State, county, municipal, and other taxation in the State; and generally relating to the issuance and sale of bonds.

### **Baltimore City Bond Issues**

The purpose of this type of Act is to comply with Article XI, § 7 of the Maryland Constitution, which requires debt created by Baltimore City to be authorized by an Act of the General Assembly or by approval of the Baltimore City delegation to the General Assembly before being submitted to the voters of Baltimore City for their approval. Further conditions relating to the creation of debt by the City are found in Article XI, § 7 of the Maryland Constitution. Note that all other municipalities in the State are governed by Article XI-E, § 5 of the Maryland Constitution, under which the General Assembly and the municipalities have (by judicial construction) a concurrent power to regulate the maximum amount of debt that may be incurred by the municipality. (See p. 150, “Amendment to Regulate Maximum Debt Created by Municipalities.”)

The form used for this purpose for Baltimore City is a special form, which is included below. These bills normally are drafted by the Law Department of Baltimore City.

**Example**

AN ACT concerning

**Baltimore City – Bond Issue**

FOR the purpose of authorizing the Mayor and City Council of Baltimore to create a debt, in an amount not exceeding \$\_\_\_\_\_and to issue and sell its certificates of indebtedness as evidence of the debt; authorizing the Mayor and City Council of Baltimore to use the proceeds derived from the sale of the certificates of indebtedness to acquire land and property rights and construct, reconstruct, renovate, and equip certain public facilities, and for architectural or engineering services or surveys, and any other activities related to the planning of current or future projects; imposing certain conditions in connection with the expenditure of the proceeds derived from the sale of the certificates of indebtedness; authorizing the Mayor and City County of Baltimore to submit an ordinance for this purpose to the legal voters of Baltimore City; and generally relating to the issuance and sale of certificates of indebtedness.



## Chapter 12. Special Sections

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### In General

There are a number of qualifying or clarifying clauses that may be written into bills. These clauses, generally called “special sections,” follow the enacting clause and bill text and are numbered consecutively. A special section is uncodified language that will appear only in the Session Laws and will not be published in the Annotated Code as part of the statutory law, although a special section may be mentioned or quoted in a Code annotation. Some bills may contain more than one special section and, while there is no required order of placement, logic should indicate the most sensible order.

The following special sections have become fairly uniform over the years and should be used as needed. Most of these special sections are available to the drafter by clicking “Boilerplate” on the bill drafting tab. Note that, if there is a standard purpose paragraph clause that may or must be included to describe the special section, the purpose paragraph clause language precedes the special section example. Most of the purpose paragraph clauses also are available by clicking on “Boilerplate” on the bill drafting tab.

Since special sections are uncodified provisions, they may be tabulated for clarity in the same manner as any other uncodified provision. For a discussion regarding proper tabulation of uncodified provisions, *see* p. 119.

### Applicability

A special section may be used to clarify the application of bills that affect existing contracts, pending litigation, or court cases, or that create tax exemptions, deductions, or credits.

### Prospective Effect

#### Example

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any transportation construction contract awarded before the effective date of this Act.

**Example**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after January 1, 2025.

**Example**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any cause of action arising before the effective date of this Act.

**Example**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed prospectively to apply only to postconviction petitions that arise out of offenses that were committed on or after the effective date of this Act and may not be applied or interpreted to have any effect on or application to postconviction petitions that arise out of offenses that were committed before the effective date of this Act.

**Retroactive Effect****Example**

...; applying this Act retroactively; ...

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect any certificate of sale or assignment of certificate of sale recorded on or after January 1, 2024.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2024.

Note that Article 17 of the Maryland Declaration of Rights prohibits enactment of an *ex post facto* law that either makes criminal an act that was not a crime at the time the act occurred or increases a criminal penalty retroactively. (See the third special section example on p. 170 dealing with “postconviction petitions” that was drafted to respond to *ex post facto* concerns. See also *John Doe v. Department of Public Safety and Correctional Services*, 430 Md. 535 (2013), in which a three-judge plurality found that the retroactive application of the Maryland sex offender registration law to an individual as a result of statutes enacted after the commission of a crime violated the prohibition against *ex post facto* criminal laws contained in Article 17 of the Maryland Declaration of Rights.) In addition, retroactive laws that impair the obligation of a contract are invalid. A retrospective statute that abrogates vested property rights, including contractual rights, also has been found to violate the Maryland Constitution. See *Dua v. Comcast Cable*, 370 Md. 604 (2002). See also p. 175, “Impairment of Rights or Contracts.”

For a further discussion of legal issues relating to *ex post facto* laws, see *Legislative Desk Reference Manual* (Department of Legislative Services, Office of Policy Analysis, 2023).

## Legacy Clause

A “legacy clause” is a provision used to prohibit application of new requirements to a specific group already engaged in the activity that the bill is regulating. The following example is from House Bill 592 of 2020, Section 6:

### Example

SECTION 6. AND BE IT FURTHER ENACTED, That the State Board of Common Ownership Community Managers shall grant a waiver of the training and examination requirements for a license issued under § 22-304 or a limited license issued under § 22-404 of the Business Occupations and Professions Article, as enacted by Section 2 of this Act, to any applicant who presents to the Board not later than October 1, 2022, satisfactory evidence that the applicant provided management services in the State for the 2 years immediately before the date of application.

Note that a legacy clause need not be drafted in an uncodified special section, but may be included in the codified portion of a bill. (See, e.g., § 10-303 of the Health Occupations Article.)

## Catchline or Caption Not Part of the Law

If a catchline or caption is included in a bill, special section language also should be included to specify that the catchline or caption is not part of the law. The following example is from SB 478/HB 772 of 2020 which included a catchline:

### Example

...; providing that a certain catchline is not law and may not be considered to have been enacted as part of this Act; ...

SECTION 4. AND BE IT FURTHER ENACTED, That the catchline contained in this Act is not law and may not be considered to have been enacted as part of this Act.

For further discussion of catchlines and captions, *see* p. 104, “Catchlines and Captions.”

## Correction by Publisher of Incorrect Cross-references and Terminology

Legislation that alters the name of a department, council, committee, etc., repeals or adds large portions of law, or alters terminology may render cross-references or terminology used elsewhere in the Annotated Code incorrect. While an effort should be made to find and correct any cross-references or terminology, the following language may be included to require the publisher of the Annotated Code to make any necessary corrections that may have been missed:

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act. The publisher shall adequately describe any correction that is made in an editor’s note following the section affected.

## Government Reorganization

Legislation that transfers a unit or duties of a unit of State government from the domain of one State agency to another should include uncodified provisions addressing the transition. For instance, the drafter should provide for the transfer of the records, papers, furniture, and employees of the agency to be transferred, perhaps specifying that there should be no diminution in salary, benefits, etc. The drafter should include, as applicable, provisions related to:

- the transfer of responsibility for carrying out the services or duties of the previous unit;
- the transfer of the appropriations held by agencies and units of the State to carry out the functions, programs, and services transferred under the legislation;
- the provision of funding for services and programs under the new unit;
- the transfer of federal or State grants;
- the transfer of the functions, powers, duties, books and records, real and personal property, equipment, fixtures, assets, liabilities, obligations, credits, rights, and privileges of the unit that is transferred under the legislation;
- the abolishment of the old unit and any related boards or other units and the new unit and boards and other entities being the successor;
- the transfer of employees to the new unit and the effect of the transfer on the employee's rights, benefits, employment, or retirement status;
- the validity of transactions affected by or flowing from statutory changes made in the legislation and rights, duties, or interests flowing from the transactions;
- the continuance of existing laws, regulations, proposed regulations, standards and guidelines, policies, orders and other directives, forms, plans, memberships, contracts, property, investigations, administrative and judicial responsibilities, rights to sue and be sued, and other duties and responsibilities associated with the functions of the units and other entities that are subject to the legislation;



- the effect of the transfer on the terms of office of a member of a board, council, commission, etc. and the functions powers, duties, etc. of the board, council, commission, etc.;
- the effect of the transfer on a license, registration, permit, or certification issued by an entity transferred by the legislation; and
- whether or not the individual serving as the head of the entity being transferred may be appointed as the head of the new entity.

SB 764/HB 1146 of 2009 includes provisions related to all the matters listed above. For examples of bills that address some, but not all, of the matters listed above, *see* Chapter 338 of the Acts of 2016, Chapter 422 of the Acts of 2018, and HB 62 of 2021.

Note that special sections also may be appropriate in a bill that changes the name of a unit of State government to another. *See, e.g.*, Chapter 205 of the Acts of 2017 (renaming the “Department of Human Resources” to be the “Department of Human Services”), Chapter 214 of the Acts of 2017 (renaming the “Department of Health and Mental Hygiene” to be the “Maryland Department of Health”), and Chapter 91 of the Acts of 2019 (renaming the “Department of Labor, Licensing, and Regulation” to be the “Maryland Department of Labor”).

Note also that Article II, § 24 of the Maryland Constitution authorizes the Governor to reorganize the Executive Branch, including by establishing or abolishing departments, offices, etc. and reallocating or reassigning functions, powers and duties among departments, offices, etc. If the changes are inconsistent with or create new governmental programs, they must be set out in an executive order in statutory form and submitted to the General Assembly with the first 10 days of a regular session. The changes become effective unless they are disapproved by the General Assembly, within 50 days after submission, by a resolution of disapproval concurred in by a majority vote of all members of either house of the General Assembly. The Governor cannot use this power to abolish offices established or change the powers and duties delegated by the Maryland Constitution. For an example, *see* Chapter 1 of the Acts of 2023.

## Hold Harmless Clause

On occasion, it is desirable to ensure that certain entities do not suffer a diminution of funds as a result of an enactment. To prevent this loss from occurring, a “hold harmless clause” is used.

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That this Act confirms and codifies authority thought to exist before the enactment of this Act, and a municipality may not be required to refund any tax or fee, collected before the effective date of this Act, which would be valid under the terms of this Act.

## Impairment of Rights or Contracts

The Contract Clause of the U.S. Constitution (Article 1, § 10, Clause 1) prohibits a state from passing any law impairing the obligation of contracts. A drafter may want to include the following special section language in a bill that may impact the rights and obligations of the parties to a contract:

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That a presently existing obligation or contract right may not be impaired in any way by this Act.

For a further discussion of legal issues relating to the prohibition on the impairment of contracts, *see Legislative Desk Reference Manual* (Department of Legislative Services, Office of Policy Analysis, 2023).

## Legislative Mandate

A bill may require a unit of State government or a person to take an action that must be accomplished by a certain date or within a limited time period. Since the mandated action is of limited duration, it is appropriate to place the requirement in an uncodified special section.

**Example**

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Department of Health shall phase in the additional placements provided for in this Act, consistent with the funding provided in this Act, so that all of the specified placements are made on or before (date).

**Example**

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before (date), the State Retirement Agency shall notify the individuals who are affected by this Act of their right to transfer service credit from the Employees' Retirement System or the Employees' Pension System to the Correctional Officers' Retirement System.

**“More Stringent” Provisions**

Special sections have been used on occasion to clarify that an Act does not preempt or prevail over other legislation that has provisions “more stringent” than those in the Act.

**Example**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to preempt or prevail over any ordinance, resolution, law, or rule more stringent than this Act.

However, a word of caution against the use of such a provision. These provisions in a bill can get more than slightly ridiculous. They are generally found in a long, complicated bill with many provisions. When such a bill is compared to another complicated law, it can be “more” stringent in some respects and “less” stringent in other respects. It seems best simply to avoid the whole concept.

## **Repeal of Inconsistent Laws**

Although special section language purporting to repeal inconsistent laws or parts of laws without specifically identifying and repealing those laws has been used on occasion, such language should be avoided. In the bill review letter for SB 505/HB 777 of 2013 (footnote 12) (April 16, 2013), the Attorney General found that the following special section language did not comply with requirements of the Maryland Constitution and, therefore, was ineffective for its intended purpose:

“SECTION 2. AND BE IT FURTHER ENACTED, That all laws or parts of laws, public general or public local, inconsistent with this Act, are repealed to the extent of the inconsistency.”

The Attorney General noted that Article III, § 29 of the Maryland Constitution requires that the legislature “in amending any article, or section of the Code of Laws of this State” must “enact the same, as the said article, or section would read when amended.” The Attorney General advised that “[i]f the legislature wishes to repeal a law, it needs to specifically identify which one.”

While a drafter may use special section language to express the intent of the General Assembly with regard to provisions of law inconsistent with those of a bill being drafted, such language should not be used as a substitute for a thorough search of the law for inconsistent statutory provisions. These provisions should be amended or repealed as is necessary to avoid any conflicts.

## **Reporting Requirements**

### **In General**

Often, the General Assembly will direct an agency, task force, commission, etc., to report to the Governor, the General Assembly, or a committee, staff agency, or employee of the General Assembly. If the bill requires a report to the General Assembly or a committee, staff agency, or employee of the General Assembly, the drafter should include a reference to § 2-1257 of the State Government Article, which relates to the distribution of publications submitted to the General Assembly and its committees, staff agencies, and employees. The reference to § 2-1257 of the State Government Article also should be included when requiring the submission of an electronic report, or when requiring that a report only be posted on a website, if the intent is that the report be authenticated and preserved.

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That on or before (date), the Department of Transportation shall report to the General Assembly, in accordance with § 2-1257 of the State Government Article, on the implementation of this Act.

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That on or before (date), the Department of Transportation shall report to the Senate Finance Committee and the House Environment and Transportation Committee, in accordance with § 2-1257 of the State Government Article, on the implementation of this Act.

Note that a requirement to report on an ongoing annual or other periodic basis should not be drafted as an uncodified special section, but rather should be part of the codified provisions of the bill. Also, if the bill merely requires an entity to submit a report, but does not include a task force (or similar entity) or a statutory provision that needs to terminate on a particular date, a termination provision (sunset) need not be included. *See* p. 210, “Effective Date with a Termination Provision (Sunset).”

### Report to a Delegation

Note that if a report is to be made to a group of legislators who represent a particular subdivision (a county or Baltimore City) in the General Assembly, the appropriate way to refer to these individuals is “the members of the (\_\_\_\_\_ County) (Baltimore City) delegation to the General Assembly.” If the report, however, is to be made only to the Delegates or only to the Senators representing the particular subdivision, then “Senate” or “House” must be added, as appropriate, after the name of the political subdivision. In either scenario, the reference to § 2-1257 of the State Government Article also must be included.

**Example**

SECTION 2. AND BE IT FURTHER ENACTED, That on or before (date), the Maryland Department of Health shall report to the members of the Baltimore County delegation to the General Assembly, in accordance with § 2-1257 of the State Government Article, on the implementation of this Act.

**Example**

SECTION 2. AND BE IT FURTHER ENACTED, That on or before (date), the Board of License Commissioners for Prince George's County shall report to the Prince George's County House Delegation to the General Assembly, in accordance with § 2-1257 of the State Government Article, on the implementation of this Act.

**Interim and Final Reports**

A sponsor may request that a bill include a provision that requires an agency, task force, commission, etc., to submit both an interim and a final report. In this case, the following form, modified as necessary, may be used:

**Example**

(x) (1) On or before January 1, 2025, the Task Force shall submit an interim report of its findings and recommendations to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

(2) On or before December 1, 2025, the Task Force shall submit a final report of its findings and recommendations to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

**Salary Increase or Decrease Not to Affect Incumbent**

Article III, § 35 of the Maryland Constitution provides that neither the salary nor the compensation of any public officer may be increased or diminished during the official's term in office "except those whose full term of office is fixed by law in excess of 4 years." The test for determining whether a position is a public office,

summarized below, was set out by the Supreme Court of Maryland in *Board of Supervisors of Elections v. Attorney General*, 246 Md. 417, 439 (1967):

- the position was created by law and casts upon the incumbent duties that are continuing in nature and not occasional;
- the incumbent performs an important public duty;
- the position calls for the exercise of some portion of the sovereign power of the State;
- the position has a definite term, for which a commission is issued, and a bond and an oath are required; and
- the position is one of dignity and importance.

Not all of these criteria are of equal importance. The Supreme Court of Maryland has ascribed the least significance to the “dignity and importance” component of the test and has given the greatest weight to whether the person exercises some portion of the sovereign power of the State. (*See 72 Opinions of the Attorney General* at 288.)

The following positions have been found to be “public officers” subject to Article III, § 35 of the Maryland Constitution:

- State’s Attorney;
- sheriff;
- clerk of a circuit court;
- orphans’ court judge;
- register of wills;
- member of a local board of supervisors of elections;
- chair of a board of license commissioners;
- member of a board of license commissioners;

- commissioner of the Maryland-National Capital Park and Planning Commission;
- commissioner of the Washington Suburban Sanitary Commission;
- commissioner of the Washington Suburban Transit Commission; and
- county commissioner.

A deputy or assistant State's Attorney and a deputy sheriff, however, are not "public officers" subject to Article III, § 35 of the Maryland Constitution.

If legislation increases or diminishes the salary of a public officer, a special section modeled after the following language should be included:

### **Example**

SECTION 2. AND BE IT FURTHER ENACTED, That, in accordance with Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the President and members of the Montgomery County Board of Education while serving in a term of office beginning before the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the President and members of the Montgomery County Board of Education shall take effect at the beginning of the next following term of office. This limitation does not apply to an individual appointed or elected after the effective date of this Act to fill out an unexpired term.

### **Example**

SECTION 2. AND BE IT FURTHER ENACTED, That, in accordance with Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the State's Attorney for Dorchester County while serving in a term of office beginning before the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the State's Attorney for Dorchester County shall take effect at the beginning of the next following term of office. This limitation does not apply to an individual appointed or elected after the effective date of this Act to fill out an unexpired term.



Note that if the General Assembly delegates its authority to set the compensation of a public officer to another governmental entity (e.g. a county government), the prohibition in Article III, § 35 of the Maryland Constitution applies to any future increases in the salary of the public officer that results from an action taken by that governmental entity. As a result, a bill delegating the General Assembly's compensation-setting authority should include the language above, modified as necessary, to clarify that the prohibition also applies to any future increases. (See the bill review letters for SB 173/HB 225 of 2018 (footnote 1) (April 4, 2018) and HB 1247 of 2018 (footnote 7) (May 2, 2018) and *Bill Review Letters – 2018 (An Analysis of Selected Bill Review Letters of the Attorney General of Maryland on Legislation Passed at the 2018 Session of the General Assembly)* (Department of Legislative Services, Office of Policy Analysis, November 2018), pp. 63-64.)

Salary increases that are to be implemented in a step manner over a period of time are permissible if implemented before the beginning of the term (approval suggested in a Letter of Counsel to the Honorable John R. Hargreaves from the then Counsel to the General Assembly, Judson P. Garrett, Jr., Esq., dated January 17, 1978).

The Supreme Court of Maryland has held that the General Assembly could tie a State's Attorney's salary to that of a judge, but only as to the salary being paid the judge when the State's Attorney's term begins, not subsequent judicial pay raises. See *Marshall v. Director of Finance*, 294 Md. 435 (1982). (See also bill review letter for SB 187 of 1990.)

## Severability Clause and Nonseverability Clause

Section 1-210(a) of the General Provisions Article states that “[e]xcept as otherwise provided, the provisions of all statutes enacted after July 1, 1973, are severable.” However, the following clause may be used to reinforce this rule:

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application of any provision of this Act to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

Conversely, the General Assembly expressly may state its intent that the entire Act be void if any provision or the application of any provision is found to be invalid.

### Example

...; declaring that the provisions of this Act are not severable; ...

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the provisions of § 1-210 of the General Provisions Article, the provisions of this Act are not severable, and if any provision of this Act or the application of any provision of this Act to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, no other provision or application of this Act may be given effect.

Note that, if a severability provision does not apply to all provisions of a bill, the severability language should be included in the codified text of the bill rather than a special section and should specifically indicate which provisions of the bill are severable. (*See, e.g.*, § 3-413 of the Courts Article.)

## Staggered Terms of Office

Requests are sometimes made to establish or reconstitute a board, commission, committee, or similar entity so that the terms of the members are staggered. There are two aspects to implementing this request. First, the length of the terms and the manner of appointment and succession are stated in a codified part of the bill.

### Example

(SECTION NUMBER).

( ) (1) THE TERM OF A MEMBER IS \_\_\_\_ YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON (DATE) (use the proposed effective date of the bill, *e.g.*, October 1, 2024).

**(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

**(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

Second, an uncodified provision that describes the staggered initial terms of members is inserted at the end of the bill.

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial members of the Board of Examiners of Professional Counselors shall expire as follows:

- (1) two members in 2025;
- (2) two members in 2026; and
- (3) three members in 2027.

While the form for establishing the terms of the initial members shown above, which specifies only the number of members whose terms expire in a particular year, is most commonly used, a sponsor also may want to specify which members' terms expire in a particular year. For examples of the language used in this situation, *see* Sections 2 and 3 of HB 949 of 2018 and Section 2 of SB 766 of 2020.

Note that if the number of members of an existing board, commission, committee, or similar entity with staggered terms is being increased or decreased, the drafter should consider whether language clarifying the expiration of new or current members' terms going forward should be included in a special section of the bill. *See, e.g.,* Section 2 of HB 1026 of 2021 (providing for the reduction of appointed members to the Baltimore City Board of School Commissioners of the Baltimore City Public School System and the increase in elected members), Section 2 of Chapters 154 and 258 of the Acts of 2014 (providing for the implementation of the reduction of members of the Electrology Practice Committee), Section 3 of Chapters

689 and 690 of the Acts of 2022 (providing for the expiration of the terms of assisted living managers added as members to the State Board of Long-Term Care Administrators), and Section 3 of Chapter 195 and 196 of the Acts of 2021 (providing for the expiration of the terms of members added to the Maryland Technology Development Corporation).

## **Statement of Legislative Intent**

It is sometimes necessary or desirable to express the legislative intent of the General Assembly regarding an Act or part of an Act. This may be done in an uncodified provision as shown in the example below.

### **Example**

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that enactment of a mandatory automobile safety belt usage law under Section 1 of this Act be compatible with support for federal safety standards requiring automatic crash protection and should not be implemented in any manner to rescind federal requirements for installation of automatic restraints in new cars.

Note that legislative intent may also be expressed through a preamble or through codified language. For a discussion of these alternatives, *see* p. 63 “Preambles in Bills.”

Note also that legislative intent does not create a requirement. If the intent is to create a requirement, legislative mandate language should be used instead. For special section language creating a mandate, *see* p. 175 “Legislative Mandate.”

## **Supplemental Powers**

The following language may be used to clarify that the powers and authority granted by a bill to a unit of State or local government are intended to supplement, and not diminish, the existing powers and authority of the unit:

**Example**

SECTION 2. AND BE IT FURTHER ENACTED, That the powers and authority conferred by (cite to section or sections of Annotated Code added by bill), as enacted by Section 1 of this Act, shall be regarded as supplemental and additional to the powers and authority conferred by other laws on the (name of State department, board, agency, or other governmental unit) and may not be regarded as in derogation of any powers now existing in the (name of State department, board, agency, or other governmental unit).

# Chapter 13. Effective Dates, Double Drafting, and Termination Provisions

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## In General

Regardless of how many enacting clauses or special sections used in a bill, the effective date clause is always numbered and placed last. Under current practice, October 1 is the standard effective date in order to extend the time available for the publication of new laws.

Fiscal bills that affect the State budget generally have a July 1 effective date because the State's fiscal year begins on July 1. For a discussion regarding the enactment of mandatory funding provisions, *see* p. 157, "Mandatory Funding Provisions." If in doubt regarding whether a bill warrants a July 1 effective date, the drafter should consult with a reviewer assigned to the bill.

There also are alternative approaches to effective dates that can or must be used, depending on the situation. They are:

- using a delayed effective date (*see* p. 190, "Delayed Effective Date");
- making the bill an emergency measure or using another pre-June 1 effective date as allowed under the Maryland Constitution (*see* p. 191, "Pre-June 1 Effective Dates");
- subjecting the effectiveness of the bill to a contingency (*see* p. 193, "Effective Date Subject to a Contingency"); and
- using multiple effective dates (*see* p. 207, "Multiple Effective Dates").

Note that a bill may also be given an effective date that is earlier than October 1, but later than June 1 (*e.g.* August 1, 2024). However, the use of these types of dates is extremely rare.

## Effective Dates for Special Session Legislation

The general rules regarding effective dates for bills drafted for a regular session of the General Assembly apply to bills drafted for a special session. Thus, whether drafted for a regular or special session, a bill may not take effect before the June 1 following the session at which the bill was enacted unless the bill is an

emergency measure or the bill is of the type that is not subject to referendum under the Maryland Constitution. (See p. 191, “Pre-June 1 Effective Dates.”)

For a general discussion of special sessions, see p. 13, “Special Sessions.”

## Special Considerations

Particular care is necessary in assigning an effective date to a bill if the provisions of the bill conceivably could have retroactive effect. While constitutional provisions prohibit an *ex post facto* law in the criminal law area, laws with civil effect may apply retroactively. Thus, for example, if a bill modifies the procedural rights of a party to a civil case or adds a new ground for divorce, the question arises whether the changes made apply to circumstances occurring before the effective date of the bill, or only prospectively to circumstances occurring on or after the bill’s effective date. Determining the application of a law is properly a legislative function that the drafter should consider and clarify if necessary. Failure to do so may require resolution of this question by a court. (See p. 169, “Applicability” for a discussion of special section language clarifying the application of a bill.)

Note also that it sometimes may be desirable to specify the date on which a provision of a bill is effective in the codified portion of the bill, for example, a reporting requirement that begins after the effective date of the bill (see, e.g., § 10-722(k)(1)(ix) of the Tax – General Article), or a provision such as a tax rate or credit that is subject to change effective on certain future dates (see, e.g., § 8-406(b)(2)(iv) of the Tax – General Article). While these effective date provisions could be placed in an uncoded portion of the bill, they would be less accessible since they would appear only in the Session Laws.

Finally, note that, in some cases, a bill may need to be double drafted. This occurs when the bill amends or adds a provision of law in one section and then makes changes to that same provision in another section that has a different effective date or the bill amends a statute that is subject to termination or to a law that, on a particular date in the future, will be repealed and replaced by another law. In the latter cases, whether the bill needs to be double drafted depends on what the change being made is and whether it should carry over to the future version of the law. For further discussion on double drafting and language to be used regarding the effectiveness of the bill, see p. 207, “Double Drafting.”

## Standard Effective Dates

The usual effective date of a bill is October 1 following the session at which the bill was enacted, with the following exceptions:

- tax and budget-related bills (June 1 or July 1 to coincide with the start of the State fiscal year);
- election law bills introduced in an election year (June 1 or a delayed effective date of January 1, as necessary to avoid a bill becoming effective between the primary and general election);
- education bills (generally July 1 so that the bill is in effect before the next school year);
- hunting and fishing bills (generally July 1 so that the bill is in effect before the next hunting or fishing season);
- health insurance bills (January 1 to coincide with the plan year);
- situations that logically require an earlier effective date (*e.g.*, adding additional members to a board if the terms begin July 1); and
- specific request by the sponsor.

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, (year).

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, (year).

The earliest standard effective date a sponsor may request is June 1 following enactment, unless the bill is being made an emergency measure or cannot



be petitioned to referendum. For more information about pre-June 1 effective dates, *see* p. 191, “Pre-June 1 Effective Dates.”

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, (year).

## Delayed Effective Date

An increasing number of bills have been given delayed effective dates by the General Assembly. One of the policies behind delayed effective dates is to allow the public to become familiar with new legislation of a comprehensive nature. For example, HB 275 of 2021, which altered income tax rates, was given a July 1, 2022, effective date to provide adequate notice to the public of the tax rate increase before the increase went into effect. Legislation with a delayed effective date is printed in the Annotated Code in italics until the effective date has passed, after which the provisions are reprinted in the next supplement in regular type. Any effective date that is after October 1 is considered to be a “delayed” effective date.

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2025.

If a bill must be drafted to a section in the Annotated Code that has not yet become effective because it was enacted by the General Assembly with a delayed effective date, the following uncodified “SECTION 2.” should be included in the bill:

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect \_\_\_\_, (year), the effective date of Chapter \_\_\_\_ of the Acts of the General Assembly of (year). If the effective date of Chapter \_\_\_\_ is amended, this Act shall take effect on the taking effect of Chapter \_\_\_\_.

If not all of the provisions of a Chapter law are subject to a delayed effective date, the bill's effective date clause should reference the applicable delayed effective date and the section of the Chapter law to which that date applies. For an example, *see* HB 1207 of 2022.

Note that the function paragraph of a bill drafted to an Annotated Code section with a delayed effective date must contain a fifth line that refers to the Chapter law that enacted the Annotated Code section. For a discussion and an example of the use of a fifth line, *see* p. **Error! Bookmark not defined.**<sup>96</sup>, “Annotated Code Provision with a Delayed Effective Date.” (*See also* p. 209, “Drafting to Provision with a Delayed Effective Date.”)

## Pre-June 1 Effective Dates

There are two exceptions to the general rule that a bill cannot become effective before June 1 following the session of enactment: emergency bills and bills that are exempt from the referendum provisions of Article XVI of the Maryland Constitution (*i.e.*, the process by which signatures are gathered on a petition to put an enactment on the ballot for approval of the voters).

### Emergency Effective Date

Under Article XVI, § 2 of the Maryland Constitution, a law may take effect before June 1 if “it contains a Section declaring such law an emergency law and necessary for the immediate preservation of the public health or safety ...” and it has received a three-fifths vote for passage in each house of the General Assembly. Generally, an emergency bill takes effect from the date it is enacted. Note that the use of emergency effective dates is restricted by Article XVI, § 2, which provides that no measure changing the salary of an officer, granting a franchise or special privilege, or creating a vested right or interest may be enacted as an emergency law.

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

On occasion, it may be necessary for some provisions of a bill to have an emergency effective date, while other provisions have a standard, delayed, or other type of effective date. In this event, the drafter should group the provisions that will have an emergency effective date into “SECTION 1.” of the body of the bill and the other provisions into “SECTION 2.” and use separate effective date clauses, as shown in the following:

### Example

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2024.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and, except as provided in Section 3 of this Act, shall take effect from the date it is enacted.

Note that a bill that is introduced as an emergency measure but passes one or both houses by a simple majority rather than the three-fifths vote required for an emergency bill still becomes law if signed, or not vetoed, by the Governor within the time periods specified in Article II, § 17 of the Maryland Constitution. However, it will not become effective before June 1 following the session in which the bill was enacted. *See County Council v. Carl M. Freeman Associates, Inc.*, 281 Md. 70 (1977).

For examples of effective date language to be used with an emergency bill that is subject to termination, *see* p. 210, “Effective Date with a Termination Provision (Sunset).” For a discussion of the steps a drafter must take to amend a bill to make it an emergency measure or to make an emergency measure into a bill with a standard effective date, *see* p. 254, “Amendment to Make a Bill an Emergency Measure.”

## Laws Not Subject to Referendum

Under Article XVI, § 2 of the Maryland Constitution, laws that make an appropriation for maintaining the State government, or for maintaining or aiding a public institution, are exempt from the referendum provisions of Article XVI if the appropriation does not exceed “the next previous appropriation for the same

purpose.” For example, Chapter 1 (HB 2), 1st Spec. Sess. of 1991 was passed and signed by the Governor on June 26, 1991, and went into effect on June 28, 1991, the effective date provided for in the bill. Because the bill made an appropriation for State government, it was not necessary either to delay the effective date to June 1, 1992, or to pass the bill as an emergency measure. *See also* letter of advice discussing the effective date of SB 2 of the 2004 Special Session (December 27, 2004.) Additionally, under Article XVI, § 6, laws regulating alcoholic beverages are also exempt from the referendum provisions. As a result, these types of laws are not governed by the provisions of Article XVI, § 2, but rather are governed by Article III, § 31 which allows certain nonemergency legislation to have a pre-June 1 effective date. For an example, *see* Chapter 142 of the Acts of 2018.

## **Effective Date Subject to a Contingency**

### **In General**

Occasionally, bills are drafted with effective dates subject to contingencies. Standard contingencies are the enactment, passage, or failure of concurrent legislation, a referendum, or the ratification by other signatories to an interstate compact. There are situations in which a bill takes effect on another type of contingency. A nonstandard contingency may be requested by the sponsor specifically or may be required due to the nature of the bill. For example, a bill that expands the services provided by the Maryland Medical Assistance Program may need to be contingent on the grant of a waiver of federal requirements by the Centers for Medicare and Medicaid Services.

For an example of a bill that repealed a contingency, *see* Chapter 412 of the Acts of 2019.

### **Bill Contingent on Another Bill**

When two bills are to be introduced and one is to take effect only if the other is enacted, the following contingency clause is used:

**Example**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect \_\_\_\_, (year), contingent on the taking effect of Chapter \_\_\_\_ (S.B. \_\_\_\_) (H.B. \_\_\_\_) (\_\_lr \_\_\_\_) of the Acts of the General Assembly of (year), and if Chapter \_\_\_\_ (S.B. \_\_\_\_) (H.B. \_\_\_\_) (\_\_lr \_\_\_\_) does not take effect, this Act, with no further action required by the General Assembly, shall be null and void.

Note that the drafter should include in the clause information for the bill that reflects its status at the time of drafting. For example, if the bill number, but not the Chapter number, has been assigned at the time the clause is drafted, the space for the Chapter number should be left blank and the drafter should include the bill number but not the “lr” number. The example above and the following examples reflect all bill status options that may be applicable for the type of contingency clause shown in the example; the drafter should determine the appropriate status options to include in the clause.

On occasion, a sponsor may wish to make the effectiveness of a bill contingent on the passage of another bill by the General Assembly, rather than on the bill taking effect.

**Example**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect \_\_\_\_, (year), contingent on the passage of (S.B. \_\_\_\_) (H.B. \_\_\_\_) (\_\_lr \_\_\_\_) of (year) by both houses of the General Assembly, and if (S.B. \_\_\_\_) (H.B. \_\_\_\_) (\_\_lr \_\_\_\_) of (year) is not passed by both houses of the General Assembly, this Act, with no further action required by the General Assembly, shall be null and void.

If the bill on which the other bill is contingent is cross-filed, the examples shown above may be modified as necessary to account for the possibility that one of the cross-filed bills may take effect, pass, or fail while the other does not.

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect \_\_\_\_, (year), contingent on the taking effect of Chapter \_\_\_\_ or \_\_\_\_ (S.B. \_\_\_\_ or H.B. \_\_\_\_) (\_\_lr\_\_\_\_ or \_\_lr\_\_\_\_) of the Acts of the General Assembly of (year), and if Chapter \_\_\_\_ or \_\_\_\_ (S.B. \_\_\_\_ or H.B. \_\_\_\_) (\_\_lr \_\_\_\_ or \_\_lr\_\_\_\_) does not take effect, this Act, with no further action required by the General Assembly, shall be null and void.

The effectiveness of a bill also may be made contingent on the *failure* of another bill.

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect \_\_\_\_, (year), contingent on the failure of (S.B. \_\_\_\_ ) (H.B. \_\_\_\_ ) (\_\_lr\_\_\_\_) during the \_\_\_\_ Session of the General Assembly. If (S.B. \_\_\_\_ ) (H.B. \_\_\_\_ ) (\_\_lr\_\_\_\_) is enacted, this Act, with no further action required by the General Assembly, shall be null and void.

Note that contingent bills are subject to the “one subject” rule; that is, a nexus must exist between the subject matter of the bills sufficient to satisfy the one subject requirement under Article III, § 29 of the Maryland Constitution. (*See* p. 47, ““One Subject” Rule,” for a further discussion of this constitutional requirement.) *Cf. Andrews v. Governor of Maryland*, 294 Md. 285 (1982) (holding that reciprocally contingent bills both amending the Maryland Constitution were so functionally interdependent as to present a single subject and, therefore, did not violate Article XIV, § 1 of the Maryland Constitution, which requires a separate vote on each amendment to the Constitution).

Also note that the contingency clauses discussed above may be modified for the situation in which the bill contains two sections, one of which is to become effective contingent on another bill and the other would only take effect if the contingency is not met. For an example, *see* HB 1147 of 2023. Both sections must be adequately described in the purpose paragraph.

For examples of contingency language to use for a bill that is contingent on the passage and ratification of a constitutional amendment, *see* p. 199, “Constitutional Amendment Contingency Clauses.”

## Statewide Referendum – Constitutional Amendments

A bill that proposes an amendment to the Maryland Constitution must include the following provisions:

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly determines that the amendment to the Maryland Constitution proposed by Section 1 of this Act affects (only one county/the City of Baltimore/multiple jurisdictions) and that the provisions of Article XIV, § 1 of the Maryland Constitution concerning local approval of constitutional amendments (apply/do not apply).

SECTION 3. AND BE IT FURTHER ENACTED, That the amendment to the Maryland Constitution proposed by Section 1 of this Act shall be submitted to the qualified voters of the State at the next general election to be held in November (year) for adoption or rejection in accordance with Article XIV of the Maryland Constitution. At that general election, the vote on the proposed amendment to the Constitution shall be by ballot, and on each ballot there shall be printed the words “For the Constitutional Amendment” and “Against the Constitutional Amendment”, as now provided by law. Immediately after the election, all returns shall be made to the Governor of the vote for and against the proposed amendment, as directed by Article XIV of the Maryland Constitution, and further proceedings held in accordance with Article XIV.

Note that in using the constitutional amendment form shown above, the drafter must choose between the alternatives presented within the parentheses.

For a further discussion of legal issues relating to constitutional amendments, see *Legislative Desk Reference Manual* (Department of Legislative Services, Office of Policy Analysis, 2023).

See also p. 49, “Constitutional Amendments,” and p. 199, “Constitutional Amendment Contingency Clauses” relating to the combination of a proposed constitutional amendment and statutory changes in a single bill; and Chapter 9, which begins on p. 133, for more information regarding title and enacting clause requirements for bills proposing a constitutional amendment.

## Statewide Referendum – Commercial Gaming

Article XIX, § 1 of the Maryland Constitution, which authorizes video lottery operation licenses to be issued in the State, establishes an exception to the general rule that the General Assembly may not require a statewide bill to be subject to a referendum. Specifically, § 1(e) prohibits the General Assembly from authorizing additional forms or the expansion of commercial gaming unless “approval is granted through a referendum, authorized by an act of the General Assembly, in a general election by a majority of the qualified voters in the State.” To comply with Article XIX, § 1(e), the following referendum clauses should be used in a bill that provides for additional forms or the expansion of commercial gaming:

### Example

...; submitting this Act to a referendum of the qualified voters of the State; ...

SECTION 2. AND BE IT FURTHER ENACTED, That before this Act, which authorizes additional forms or expansion of commercial gaming, becomes effective, it first shall be submitted to a referendum of the qualified voters of the State at the general election to be held in November (year), in accordance with Article XIX, § 1(e) of the Maryland Constitution. The State Board of Elections shall do those things necessary and proper to provide for and hold the referendum required by this section. If a majority of the votes cast on the question are “For the referred law”, this Act shall become effective on (the 30th day following the official canvass of votes for the referendum) (a specified date), but if a majority of the votes cast on the question are “Against the referred law”, this Act, with no further action required by the General Assembly, shall be null and void.

SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 2 of this Act and for the sole purpose of providing for the referendum required by Section 2 of this Act, this Act shall take effect July 1, (year).

Note that in the example shown above, the drafter must choose between the alternatives presented within the parentheses.

## Local Referendum Provisions

Except for bills authorizing additional forms or the expansion of commercial gaming (*see* p. 197, “Statewide Referendum – Commercial Gaming”), the General Assembly may not require a statewide bill to be subject to a referendum.



There is no objection, however, to making the effectiveness of a public local law subject to a referendum.

Note that in the following example, the drafter must choose between the alternatives presented within the parentheses:

### **Example**

...; submitting this Act to a referendum of the qualified voters of (\_\_\_\_\_) County; ...

SECTION 2. AND BE IT FURTHER ENACTED, That before this Act becomes effective, it first shall be submitted to a referendum of the qualified voters of (\_\_\_\_\_) County (at the general election to be held in November (year)) (at a special election to be held on (date). The cost of the special election shall be paid by the County governing body). The County governing body and the (name of county) Board of Elections shall do those things necessary and proper to provide for and hold the referendum required by this section. If a majority of the votes cast on the question are “For the referred law” this Act shall become effective on (the 30th day following the official canvass of votes for the referendum) (a specified date), but if a majority of the votes cast on the question are “Against the referred law” this Act, with no further action required by the General Assembly, shall be null and void.

SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 2 of this Act and for the sole purpose of providing for the referendum required by Section 2 of this Act, this Act shall take effect July 1, (year).

Occasionally, a sponsor will request to have a local referendum drafted that allows the voters to choose between two options, described in Sections 1 and 2 of the bill, respectively. The example below may be used as a model for the referendum clauses of the bill:

### **Example**

...; submitting this Act to a referendum of the qualified voters of (\_\_\_\_\_) County; ...

SECTION 3. AND BE IT FURTHER ENACTED, That before this Act becomes effective, it first shall be submitted to a referendum of the qualified voters of (\_\_\_\_\_) County (at the general election to be held in November (year))

(at a special election to be held on (date). The cost of the special election shall be paid by the County governing body). The County governing body and the (name of county) Board of Elections shall do those things necessary and proper to provide for and hold the referendum required by this section. There shall be printed on the ballot to be used at the election the title of this Act and underneath the title, on separate lines, a square or box opposite the words “For (option No. 1)” and a corresponding square or box opposite the words “For (option No. 2)”. A voter may choose only one of the two options. If a majority of the votes cast on the question are “For (option No. 1)”, Section 1 of this Act shall become effective on (the 30th day following the official canvass of votes for the referendum) (a specified date) and Section 2 of this Act, with no further action required by the General Assembly, shall be null and void. If a majority of the votes cast on the question are “For (option No. 2)”, Section 2 of this Act shall become effective on (the 30th day following the official canvass of votes for the referendum) (a specified date) and Section 1 of this Act, with no further action required by the General Assembly, shall be null and void.

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act and for the sole purpose of providing for the referendum required by Section 3 of this Act, this Act shall take effect July 1, (year).

For a further discussion of legal issues relating to a local referendum, *see Legislative Desk Reference Manual* (Department of Legislative Services, Office of Policy Analysis, 2023).

## Constitutional Amendment Contingency Clauses

To make a bill contingent on the passage of a constitutional amendment, the drafter should use a constitutional amendment contingency clause. The drafter should include in the clause information for the constitutional amendment that reflects its status at the time of drafting. For example, if the bill number has been assigned, but the Chapter number has not, the drafter should leave a blank for the Chapter number and refer to the measure by the bill number. The reference to the “lr” number is unnecessary and should not be included.

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is contingent on the passage of Chapter \_\_\_\_ (S.B. \_\_\_\_ ) (H.B. \_\_\_\_ ) ( \_\_lr\_\_\_\_ ) of the Acts of the General Assembly of (year), a constitutional amendment, and its ratification by the voters of the State.

SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 2 of this Act, this Act shall take effect on the proclamation of the Governor that the constitutional amendment, having received a majority of the votes cast at the general election, has been adopted by the people of Maryland.

If the proposed constitutional amendment is cross-filed, Section 2 in the example above may be modified to account for the possibility that one of the cross-filed bills may be passed by the General Assembly and placed on the ballot while the other is not.

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is contingent on the passage of Chapter(s) \_\_\_\_ (S.B. \_\_\_\_ or H.B. \_\_\_\_ ) ( \_\_lr\_\_\_\_ or \_\_lr\_\_\_\_ ) of the Acts of the General Assembly of (year), a constitutional amendment, and its ratification by the voters of the State.

Note that, if a bill contains a constitutional amendment and makes changes to provisions of law that are not subject to the constitutional amendment, the proposed constitutional amendment is generally shown in Section 1 of the bill and the statutory change in Section 2. The bill must include as Sections 3 and 4 the provisions required for a proposed constitutional amendment (*see* p. 196, “Statewide Referendum – Constitutional Amendments”), and must have an effective date for the provisions of law that are not subject to the constitutional amendment.

For a bill that includes a proposed constitutional amendment and a statutory change that is contingent on the proposed constitutional amendment, the bill would include the same sections discussed above for a bill containing a constitutional amendment and changes to provisions of law that are not subject to the constitutional amendment. However, rather than including an effective date for the statutory changes, the bill must include the following provisions:

### Example

SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act is contingent on the passage of Section 1 of this Act, a constitutional amendment, and its ratification by voters of the State.

SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the

provisions of Section 5 of this Act, Section 2 of this Act shall take effect on the proclamation of the Governor that the constitutional amendment, having received a majority of the votes cast at the general election, has been adopted by the people of Maryland.

## Local Referendum Contingency Clauses

Occasionally, a bill is drafted to a section of the Annotated Code that is itself subject to a local referendum. If the intent is that the changes proposed by the bill being drafted also be subject to the same referendum, the following local referendum contingency clause is used:

### Example

...; submitting this Act to a referendum of the qualified voters of (\_\_\_\_\_) County; ...

SECTION 2. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be subject to the same referendum for which provision is made by Section \_\_\_\_ of Chapter \_\_\_\_ of the Acts of the General Assembly of (year).

SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the approval by the electorate at the referendum for which provision is made by Chapter \_\_\_\_ of the Acts of the General Assembly of (year), this Act shall take effect October 1, (year).

## Effective Date Subject to Concurrence (Interstate Compacts)

The form shown below may be used to add a new interstate compact or modify the provisions of an existing interstate compact that requires the concurrence of the signatories to the compact and the approval of the U.S. Congress. This is actually just another type of contingency.

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) This Act may not take effect until a similar Act is enacted by the Commonwealth of Virginia.

(b) The Commonwealth of Virginia is requested to concur in this Act of the General Assembly of Maryland by the enactment of a similar Act.

(c) The Department of Legislative Services shall notify the appropriate officials of the Commonwealth of Virginia and the U.S. Congress of the enactment of this Act.

(d) On the concurrence in this Act by the Commonwealth of Virginia and approval by the U.S. Congress, the Governor of the State of Maryland shall issue a proclamation declaring this Act valid and effective and shall forward a copy of the proclamation to the Executive Director of the Department of Legislative Services.

SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of this Act, this Act shall take effect October 1, (year).

Note that not all interstate compacts require congressional approval, and it is up to the drafter to determine if it is necessary. Also, the drafter should consider, and discuss with the sponsor, whether language terminating the Act after a specified period of time should be included in the bill so that the compact does not remain in the Annotated Code indefinitely if the contingency is not met.

For a further discussion of interstate compacts, including when congressional approval is required, *see Legislative Desk Reference Manual* (Department of Legislative Services, Office of Policy Analysis, 2023).

For an example of an interstate compact that does *not* require congressional approval, *see* Chapters 521 and 522 of the Acts of 2018.

## Nonstandard Contingencies

If the contingency is not of the “standard” variety (*e.g.*, effective contingent on the enactment or nonenactment of concurrent legislation, on a referendum, or on ratification by other signatories to an interstate compact), the drafter should give special care to the wording of the contingency. Because it is not always clear when, or whether, a contingency has been fulfilled, there may be uncertainty as to the legal status of the enactment. In drafting contingent effective date language (*i.e.*, describing what must occur before an Act may take effect), the drafter should strive to be as clear and precise as possible and should consider:

- the period of time within which the contingent event must take place (*i.e.*, avoid “open-ended contingencies” that leave the state of the law unclear for extended periods);
- what will happen if the contingency is **not** fulfilled; and
- who will monitor whether the contingency has been fulfilled and report back to the Department of Legislative Services (*e.g.*, the secretary of the affected agency, who may be in the best position to perform this function).

Since the Department of Legislative Services is charged with the responsibility of working with the publishers of the Annotated Code to ensure the accuracy and integrity of the Annotated Code, it is essential that bills with an effective date subject to a contingency contain a provision that will enable the department to determine whether, and when, the contingency has occurred. Usually, this will take the form of a notice provision requiring an appropriate individual or entity to report back to the department when the contingency has been fulfilled.

Note in the following example that each of the considerations discussed above is addressed, including the need for notice to be provided to the department within a defined time period on the status of the contingency:

### Example

#### SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) On or before July 1, 2024, the State Retirement Agency shall request a determination letter from the Internal Revenue Service confirming the continued qualification under § 401 of the Internal Revenue Code of the Correctional Officers’ Retirement System, as amended by the Deferred Retirement Option Program established under Section 2 of this Act.

(b) Within 5 days after receiving the determination letter requested under subsection (a) of this section from the Internal Revenue Service, the State Retirement Agency shall forward a copy of the letter to the Department of Legislative Services.

#### SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) Sections 1 and 2 of this Act shall take effect contingent on the receipt by the State Retirement Agency of a favorable determination letter requested under

Section 3 of this Act from the Internal Revenue Service confirming that the Correctional Officers' Retirement System, as amended by the Deferred Retirement Option Program, is a qualified plan under § 401 of the Internal Revenue Code.

(b) If a favorable determination letter requested under Section 3 of this Act is received on or before July 1, 2026, Sections 1 and 2 of this Act shall take effect on the date notice of the letter is received by the Department of Legislative Services in accordance with Section 3 of this Act.

(c) If the State Retirement Agency does not receive a favorable determination letter requested under Section 3 of this Act on or before July 1, 2026, Sections 1 and 2 of this Act, with no further action required by the General Assembly, shall be null and void.

SECTION 5. AND BE IT FURTHER ENACTED, That, subject to Section 4 of this Act, this Act shall take effect June 1, 2023.

If a bill does not require an official or unit of State government to interact with a third party (e.g., to request a determination letter from the Internal Revenue Service or submit a waiver request to the Centers for Medicare and Medicaid Services), the following example, modified as necessary, may be used:

### **Example**

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) Section 1 of this Act is contingent on the receipt of a Race to the Top grant of at least \$200,000,000 by the State Department of Education.

(b) Within 5 days after the Race to the Top grant is received, the State Department of Education shall notify the Department of Legislative Services.

(c) If notice of the receipt of the grant is received by the Department of Legislative Services on or before December 31, 2024, Section 1 of this Act shall take effect on the date the notice is received by the Department of Legislative Services in accordance with subsection (b) of this section.

(d) If notice of the receipt of the grant is not received by the Department of Legislative Services on or before December 31, 2024, Section 1 of this Act, with no further action required by the General Assembly, shall be null and void.

SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of this Act, this Act shall take effect July 1, 2024.

While most contingent bills are contingent on an event occurring or an action being taken, a bill may be made contingent on the opposite situation (*i.e.* an event not occurring or an action not being taken).

### Example

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) Sections 1, 2, and 3 of this Act are contingent on the Department of Agriculture adopting regulations, on or before October 1, 2024, that ban the use of chlorpyrifos in the State by December 31, 2025.

(b) On or before October 1, 2023, the Department of Agriculture shall notify the Department of Legislative Services whether regulations have been adopted that ban the use of chlorpyrifos in the State by December 31, 2025.

(c) (1) If the Department of Legislative Services receives notification that the Department of Agriculture has failed to adopt the regulations on or before October 1, 2024, Sections 1, 2, and 3 of this Act shall take effect on the date the notice is received by the Department of Legislative Services in accordance with subsection (b) of this section.

(2) If the Department of Legislative Services receives notice that the Department of Agriculture has adopted regulations on or before October 1, 2024, Sections 1, 2, and 3 of this Act, with no further action required by the General Assembly, shall be null and void.

If certainty is the goal of good legislative drafting, the following Acts may be considered examples of language to avoid:

- Chapter 623 of the Acts of 1981 was contingent on “the availability” of matching federal funds;
- Chapter 587 of the Acts of 1981 provided that “if on July 1, 1981 any litigation challenging the construction of a contained area at the Hart-Miller-Pleasure Island chain is pending in any court, the effective date of this Act shall be delayed until 30 days after the conclusion of that litigation.”; and



- Chapter 500 of the Acts of 1995 included the following *inadequate* contingency language:

“SECTION 2. AND BE IT FURTHER ENACTED, That Section 1 of this Act may not take effect until the beginning of the period covered by a waiver approved by the U.S. Department of Health and Human Services under § 1115 of the Social Security Act and shall be effective only as long as the period covered under the waiver.

SECTION 3. ...

SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act may not take effect until the General Assembly gives legislative approval to the proposed plan of the Secretary of Health and Mental Hygiene to implement the program to require enrollment in managed care plans provided under this Act, including the feasibility of expanding benefits to unserved individuals who are unable to afford health insurance or long-term care, or to other populations.”

Each of the Acts discussed above shares the common characteristic of uncertainty as to their effective date, and each fails to require notice to the department regarding the status of the contingency provided in the Act.

Note that care should be taken to ensure that the contingency is not an improper delegation of the General Assembly’s legislative authority. For example, Chapter 721 of the Acts of 2017 made the effectiveness of statutory changes regarding the provision of Medicaid dental services for certain adults contingent on a private entity determining that the statutory changes were advisable as part of the private entity’s findings of a study authorized under the Act. In the bill review letter for SB 169 of 2017 (April 28, 2017), the Attorney General noted that the language would likely be struck down as an unconstitutional delegation of the General Assembly’s authority and advised that the sections containing the statutory changes and the contingency be severed from the rest of the bill and that the outcome of the study be treated as a recommendation only. As a result of this advice and to clarify the status of the law, the contingency was repealed by Chapter 412 of the Acts of 2019.

Information about bills passed during the previous session that are subject to contingencies not yet met, have delayed effective dates, or are of limited duration is available to bill drafters in the Department of Legislative Services.

## Multiple Effective Dates

It is permissible for one part of an Act to be effective on one date and another part on another date. For example, part of a bill may have a standard effective date and part may have an emergency effective date. In these instances, the effective dates of the different parts of the bill are established in uncodified sections that follow the bill text. For bills with multiple effective dates, one effective date that applies to the entire bill and is the earliest effective date must be included as the last section of the bill.

### Example

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect October 1, 2024.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect July 1, 2024.

## Double Drafting

Generally, double drafting is necessary only if a bill:

- amends or adds an Annotated Code section in one section of the bill (*i.e.* Section 1) and then makes further changes to that provision in another section of the bill (*i.e.* Section 2) that is subject to a delayed effective date; or
- includes an Annotated Code section subject to termination or a delayed effective date and the bill's proposed change to the current law affects or substantively "touches" a part of the section that is directly affected by the termination or delayed effective date.

For example, if an Annotated Code section specifies requirements for Anne Arundel, Montgomery, and Prince George's counties (*i.e.* In Anne Arundel County, Montgomery County, and Prince George's County, the Department shall...) but the application to Anne Arundel County is subject to termination, a bill expanding the requirements to apply in Baltimore County would not need to be double drafted since the termination provision affects a minor and nonsubstantive portion of the section in relation to the changes the bill is making. Conversely, if the Annotated Code section instead specified requirements for Anne Arundel County

only that were subject to termination and a bill sought to apply the requirements to Baltimore County also with no termination date or a termination date later than the date applying to Anne Arundel County, the bill would need to be double drafted because the section of law establishing the requirements would terminate and a framework would not remain to apply to Baltimore County.

Note that double drafting is not necessary if the changes being made to an Annotated Code section that is subject to termination or a delayed effective date would only impact the tabulation of the future version. For example, there is a list of special funds in § 6-226 of the State Finance and Procurement Article that are excluded from the general requirement that interest earnings be credited to the General Fund of the State. If a bill adds a special fund to the list, there is no need to double draft to any future version of that section to account for any funds that are added or removed due to legislation that terminates or has a delayed effective date since the addition or removal only impacts the numbering of the funds in the list.

### **Drafting to Annotated Code Section Amended or Added and then Further Amended in Same Bill**

Double drafting is necessary if (1) the bill amends or adds an Annotated Code section in one section (*e.g.* Section 1); (2) the Annotated Code section is further being altered in a separate section of the bill (*e.g.* Section 2); (3) the separate sections have different effective dates; and (4) some or all of the changes with the earlier effective date are intended to carry over to the new law with the later effective date. For an example, see Chapter 799 of the Acts of 2021. Note that if the section with the later effective date merely repeals the changes made in the section with the earlier effective date, the bill should not be double drafted to repeal the changes using brackets. Rather, a termination provision should be included. See p. 210, “Termination Provisions.”

### **Drafting to Annotated Code Section Subject to Termination**

The following example is meant to address problems related to drafting a bill that amends a statute that is subject to termination. Typically, the problems arise when the Annotated Code section to which the bill is being drafted was amended at a previous session and that amendment was to terminate, for example, in three years. The changes made by the bill currently being drafted are intended to remain in effect regardless of whether the termination occurs and are not intended to affect the termination one way or the other. (Note that LexisNexis, publisher of Michie’s Annotated Code, “flags” these situations and sets out the reversionary text in italics to show how the law will read after the termination provision takes effect.)

When drafting in these circumstances, it may be necessary to double draft the text, with “SECTION 1.” being the law now in effect and “SECTION 2.” being the post-termination reversion. In addition, uncodified sections substantially similar to the following should be included:

### Example

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the taking effect of the termination provision specified in Section \_\_\_\_\_ of Chapter \_\_\_\_\_ of the Acts of the General Assembly of (year). If that termination provision takes effect, Section 1 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act, this Act shall take effect \_\_\_\_, (year).

Note that separate function paragraphs are required for the Annotated Code section shown in “SECTION 1.” and in “SECTION 2.” of the bill, and the function paragraph for the Annotated Code section shown in “SECTION 2.” of the bill will need an additional fifth line that refers to the Chapter law that enacted the Annotated Code section. *See* discussion at p. 96, “Annotated Code Provision with a Delayed Effective Date.”

For an example of this type of bill, *see* Chapter 202 of the Acts of 2015.

### Drafting to Provision with a Delayed Effective Date

Occasionally, a bill must be drafted to a law that, on a particular date in the future, will be repealed and replaced by another law. If the change being made in the bill is intended to both affect current law and be carried over into the new law when it becomes effective, it is necessary to double draft the text, with “SECTION 1.” being the law now in effect and “SECTION 2.” being the law as it will appear in the future. Since it is possible that the effective date of the provision with a delayed effective date might be amended before the provision takes effect, the following uncodified “SECTION 3.,” “SECTION 4.,” and “SECTION 5.” should be included to address potential problems that would arise in that event:

### Example

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect \_\_\_\_\_, (year). It shall remain effective until the taking effect of Section 2 of this Act. If Section 2 of this Act takes effect, Section 1 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect \_\_\_\_\_, (year), the effective date of Chapter \_\_\_\_ of the Acts of the General Assembly of (year). If the effective date of Chapter \_\_\_\_ is amended, Section 2 of this Act shall take effect on the taking effect of Chapter \_\_\_\_.

SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions of Sections 3 and 4 of this Act, this Act shall take effect \_\_\_\_\_, (year).

Note that separate function paragraphs are required for the Annotated Code section shown in “SECTION 1.” and in “SECTION 2.” of the bill, and the function paragraph for the Annotated Code section shown in “SECTION 2.” of the bill will need an additional fifth line that refers to the Chapter law that enacted the Annotated Code section. *See* discussion at p. 96, “Annotated Code Provision with a Delayed Effective Date.” *See also* p. 190, “Delayed Effective Date.”

For an example of this type of bill, *see* Chapter 38 of the Acts of 2017.

## Termination Provisions

### Effective Date with a Termination Provision (Sunset)

The following language should be used in the case of a bill that expressly provides for its own termination:

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, (year). It shall remain effective for a period of \_\_\_\_ year(s) and, at the end of September 30, (year), this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

If only part of a bill is subject to termination, and the parts of the bill have different effective dates, language similar to the following should be used:

**Example**

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2024. It shall remain effective for a period of 2 years and, at the end of September 30, 2026, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect July 1, 2024.

If only part of a bill is subject to termination, and the parts of the bill have the same effective date, language similar to the following should be used:

**Example**

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2024. Section 1 of this Act shall remain effective for a period of 1 year and, at the end of June 30, 2025, Section 1 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

A bill may contain multiple termination provisions. If the sections being terminated are to take effect on the same date, the termination provisions should be included in the effective date clause, ordered by section number as seen in the example below.

### Example

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024. Section 1 of this Act shall remain effective for a period of 2 years and, at the end of September 30, 2026, Section 1 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect. Section 3 of this Act shall remain effective for a period of 1 year and 9 months and, at the end of June 30, 2026, Section 3 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect. Section 4 of this Act shall remain effective for a period of 3 years and, at the end of September 30, 2027, Section 4 of this At, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

If the sections being terminated take effect on different dates, the termination provisions should be included in the effective date clause that applies to the section being terminated.

### Example

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2024. It shall remain effective for a period of 2 years and, at the end of September 30, 2026, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect June 1, 2024. Section 3 of this Act shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2025, Section 3 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Note that for a bill with a June 1 effective date, the termination date should be a date that occurs after May 31 (usually June 30), rather than May 31. This allows any extension of the termination date to take effect without having to be an emergency measure to avoid questions regarding whether an extension of the termination date is effective. For an example of a bill that recodifies a statutory provision that had a May 31 termination date and was allowed to expire rather than making the bill an emergency bill to extend the termination date, *see* HB 617 of 2023. Note that the example conditions the bill taking effect on the termination of

the original Chapter law to account for the possibility that an emergency bill that extends the original termination date may pass and take effect.

When drafting an emergency bill that is subject to termination, one of the following forms may be used:

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. It shall remain effective through (date), (year), and, at the end of (date), (year), this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. It shall remain effective for a period of \_\_\_ year(s) from the date it is enacted and, at the end of the \_\_\_-year period, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

For a discussion of drafting a bill to a section of the Annotated Code that is *itself* subject to a termination provision, see p. 208, “Drafting to an Annotated Code Section Subject to Termination.”

Note that a termination provision is not needed in a bill that merely requires an individual or an entity to submit a report and does not include a task force (or similar entity) or a statutory provision that needs to terminate on a particular date.



## Adding New Material to Provisions of Limited Duration

When drafting a bill that adds a new provision of law to a title, subtitle, section, or subdivision of a section that is of limited duration, if the intent is that the new provision being added will terminate at the same time as the law of limited duration, it may be necessary to clarify this intent if the material being added arguably could “stand alone” without the law that will terminate. In this case, if there are no provisions that will replace the law of limited duration when it terminates, the bill should contain the following uncodified “SECTION 2.”:

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, (year). It shall remain effective until the taking effect of the termination provision specified in Section \_\_\_\_\_ of Chapter \_\_\_\_\_ of the Acts of the General Assembly of (year). If that termination provision takes effect, this Act shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

Note that if the provisions of limited duration will be replaced by other law, the bill will need to be double drafted. For a discussion and examples of double drafting, *see* p. 207, “Double Drafting.”

## Termination Subject to Contingency

On occasion, rather than making the effectiveness of a bill contingent, a sponsor may wish to terminate the bill subject to a contingency. The language to be used in this situation is very similar to that used when making the effectiveness of a bill contingent. The following example is from HB 1643 of 2018.

### Example

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) If Congress, the President by executive order, or the Internal Revenue Service expressly disallows a deduction under § 170 of the Internal Revenue Code for contributions of the type authorized in this Act, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

(b) The Comptroller shall notify the Department of Legislative Services within 5 days after receiving notice of the federal law, executive order, or determination by the Internal Revenue Service described under this section.



## Chapter 14. Resolutions

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### In General

Resolutions have one important feature that distinguishes them from bills: they generally are not law but are merely requests or expressions of the opinion of the General Assembly. (See “Joint Resolutions” below for examples of joint resolutions that have the force and effect of law.) Accordingly, resolutions are not presented to the Governor for approval or veto.

There are three types of resolutions in the Senate – a Senate Joint Resolution, a Senate Simple Resolution, and a Senate Resolution (*see* Senate Rule 25). There are two types of resolutions in the House – a House Joint Resolution and a House Simple Resolution (*see* House Rule 25).

Joint resolutions differ from simple resolutions and resolutions in that joint resolutions are referred to a committee and must receive the same readings in both houses as a bill does, whereas simple resolutions and resolutions are presented only in the house of origin. A simple resolution is referred to a committee in the house of origin and, if reported back by the committee, may be adopted or rejected in the house of origin, which concludes action on the simple resolution. Note that, unless the rules are suspended, Senate Rules 26(d)(2) and 33 and House Rule 33 require that all joint resolutions and simple resolutions be referred to a standing committee. A resolution may be adopted immediately on introduction in the Senate without being referred to a committee.

There also are differences in the subject matter of the three types of resolutions. For example, a matter that relates to public policy must be introduced as a joint resolution; a directive to staff or one concerning the internal operations of a particular chamber must be introduced as a simple resolution; and an expression of appreciation, condolences, or congratulations must be introduced as a resolution.

### Joint Resolutions

#### In General

A matter that is of general import, is substantial, or relates to public policy must be introduced as a joint resolution. A joint resolution can express the opinion, either as approval or disapproval, of both bodies of the General Assembly on a subject, and often is directed to the members of the Maryland Delegation of the U.S.

Congress or to the Governor urging action on a particular subject. (See p. 293, “Sample Joint Resolution.”) Joint resolutions also may be used to request the establishment of a temporary or ad hoc task force, committee, or commission to study and report on one or more issues; however, a joint resolution is rarely used for that purpose. If an adopted joint resolution asks the Governor or an official of a unit of the Executive Branch to take an action, the Governor or official is required under § 2-1514 of the State Government Article to give the Legislative Policy Committee and each sponsor of the resolution notice of the action taken. The notice must be given on or before any date established by the resolution.

The General Assembly is required by the Maryland Constitution and other law to address the following subjects by joint resolution: (1) reapportionment of legislative districts (Art. III, § 5 of the Maryland Constitution); (2) disapproval of an executive order that reorganizes the Executive Branch (Art. II, § 24 of the Maryland Constitution); and (3) compensation of members of the General Assembly, the Judiciary, and the Governor (Art. III, § 15 of the Maryland Constitution, § 1-708 of the Courts Article, and Art. II, § 21A of the Maryland Constitution, respectively). Additionally, under Article V, § 3(a)(2) and (3) of the Maryland Constitution, the General Assembly may require the Attorney General by joint resolution to take certain actions. For an example of such a joint resolution, see JR 1 of the Acts of 2017. The General Assembly, by practice, also addresses proposed amendments to the U.S. Constitution by joint resolution. For examples, see JR 2 and JR 3 of the Acts of 2017, and SJ 7 and HJ 11 of 2018. In contrast to the majority of joint resolutions that merely make a request or express the opinion of the General Assembly, the joint resolutions described in this paragraph have the force and effect of law.

For other actions that may or must be taken by the General Assembly under certain circumstances by joint resolution, see § 3-106 of the Natural Resources Article (approval of a five-year plan of the Maryland Environmental Services), § 3-605 of the Natural Resources Article (modification of a Governor’s recommendation regarding deep water port siting), § 14-107 of the Public Safety Article (termination of a Governor-declared state of emergency), § 5-805 of the State Finance and Procurement Article (approval of the Patuxent River Policy Plan), and § 2-707 of the State Government Article (a change to the rules of legislative ethics). Note that unlike the joint resolutions discussed in the paragraph above, these joint resolutions do not have the force and effect of law.

Joint resolutions are prepared and passed in the same manner as bills. In form, however, a joint resolution is unlike a bill in that it does not contain a function paragraph or an enacting clause and is not drafted to the Annotated Code, the Session Laws, the Maryland Constitution, or the public local laws. The only exception to this is a joint resolution that reapportions the legislative districts. Also

unlike bills, a previously adopted joint resolution cannot be amended during a subsequent General Assembly session.

It is important to note that once a request has been created as a joint resolution in LR Bill Status it cannot be changed to a bill or vice versa, so the drafter should take care when determining whether a request should be drafted as a bill or joint resolution. Also, a bill cannot be amended to become a joint resolution or vice versa.

The following elements comprise a joint resolution: a title, one or more “WHEREAS” clauses, and one or more “RESOLVED” clauses.

### **Title**

The title of a joint resolution contains a summary statement of the content of the joint resolution and contains only a short title and a purpose paragraph.

### **Example**

A House Joint Resolution concerning

#### **United States of America – District of Columbia – Statehood**

FOR the purpose of urging the members of the U.S. Congress to enact federal legislation or propose a constitutional amendment granting legislative autonomy and statehood to the District of Columbia; and generally relating to the granting of statehood for the District of Columbia.

### **“WHEREAS” Clauses**

The “WHEREAS” clauses recite the facts or circumstances showing a need for the action requested in the joint resolution. There can be as many of these clauses as needed. Each letter in the word “WHEREAS” is capitalized, followed by a comma and the desired text. Note that the first letter of the first word after the comma is capitalized. Also note that the word “and” connects each “WHEREAS” clause and that the phrase “now, therefore, be it” is included at the end of the last “WHEREAS” clause in lieu of the “and.”

### Example

WHEREAS, The residents of the District of Columbia lack full democracy, equality, and citizenship enjoyed by the residents of the 50 states; and

WHEREAS, The United Nations Human Rights Committee has called on the U.S. Congress to address the District of Columbia’s lack of political equality, and the Organization of American States has declared the disenfranchisement of the District of Columbia residents a violation of its charter agreement, to which the United States is a signatory; now, therefore, be it

## “RESOLVED” Clauses

### In General

The “RESOLVED” clauses contain statements that support the purpose of the joint resolution.

### Example

RESOLVED BY THE GENERAL ASSEMBLY OF MARYLAND, That the members of the U.S. Congress are urged to enact federal legislation or propose a constitutional amendment granting legislative autonomy and statehood to the District of Columbia; and be it further

The final “RESOLVED” clause of most joint resolutions directs the Department of Legislative Services to forward copies of the joint resolution to the appropriate parties. Except for a joint resolution directed to the Governor, President of the Senate, Speaker of the House of Delegates, or the Maryland Congressional Delegation, the clause should include the complete name, title, street address, and zip code for each individual.

When a joint resolution is to be forwarded to members of the Maryland Congressional Delegation, the drafter can simply “click” on “Boilerplate” under the bill drafting tab, select “Other Clauses,” and select “Resolved – Copy to Congressional Delegation” to insert the appropriate clause.

### Example

RESOLVED, That a copy of this Resolution be forwarded by the Department of Legislative Services to the Maryland Congressional Delegation.

Likewise, for a joint resolution directed to the Governor, the President of the Senate, and the Speaker of the House of Delegates, the drafter simply may select “Resolved – Copy to Governor, President, and Speaker” to insert the appropriate information.

### Example

RESOLVED, That a copy of this Resolution be forwarded by the Department of Legislative Services to the Honorable (name of Governor), Governor of Maryland; the Honorable (name of President of the Senate), President of the Senate of Maryland; and the Honorable (name of Speaker of the House), Speaker of the House of Delegates.

## Amendments to the U.S. Constitution

A joint resolution that relates to State legislative actions on amendments to the U.S. Constitution must contain a special “RESOLVED” clause requiring that a copy of the resolution be sent to the Archivist of the United States, as the Archivist manages the ratification process at the federal level. Practice also dictates that copies be forwarded to the Vice President of the United States, the President Pro Tempore of the United States Senate, and the Speaker of the House of Representatives of the United States and that the Secretary of State be charged with forwarding the copies. For an example of the language to be used for this kind of joint resolution, *see* JR 2 and JR 3 of the Acts of 2017, HJ 5 of 2020, HJ 6 of 2021, and SJ 7 of 2021.

Note that a joint resolution that is an application made to the U.S. Congress to call a convention to propose amendments to the U.S. Constitution under Article V of the U.S. Constitution must include several special “RESOLVED” clauses that address certain issues related to the application, including whether the application constitutes a continuing application and whether delegates to the convention from Maryland may propose amendments that do not have the primary goals of addressing the goals listed in the joint resolution. For an example, *see* HJ 6 of 2021 and SJ 7 of 2021.



Similarly, special “RESOLVED” clauses must be included in a joint resolution that repeals and withdraws an application made to the U.S. Congress to call a convention to propose amendments to the U.S. Constitution under Article V of the U.S. Constitution. For an example of language to be used in this situation, see JR 2 and JR 3 of the Acts of 2017.

## **Simple Resolutions**

Simple resolutions must be used to: (1) reflect an independent action of a particular chamber that is authorized by the chamber’s rules, the Maryland Constitution, or other applicable law; (2) give a directive to staff; or (3) give a directive concerning the internal operations of a particular chamber. Simple resolutions are drafted in a style and format similar to that of joint resolutions, but with two differences. First, instead of the word “JOINT,” the word “SIMPLE” is used. Second, the “RESOLVED” clause should read, as appropriate to the house of origin, “RESOLVED BY THE (SENATE OF MARYLAND)(HOUSE OF DELEGATES), That ....”

Simple resolutions have substantive import and, therefore, usually are prepared by the Department of Legislative Services. For examples of simple resolutions, see HS 1 of 2010, HS 1 of 2012, HS 1 of 2017, and SS 1 of 2021. Note that simple resolutions are rare and are generally drafted only at the request of a presiding officer. If a drafter believes that this is the appropriate type of resolution based on the legislative request and no such directive has been given, the drafter should discuss what type of resolution is appropriate with a reviewer.

## **Resolutions**

Resolutions express appreciation, congratulations, or condolences or concern other matters of a nonsubstantive or personal nature. Senate Rule 25 establishes guidelines for determining when use of a resolution is appropriate in the Senate. Note that, while the House of Delegates amended House Rule 25 during the 2019 legislative session to repeal House resolutions, House resolutions are still used.

By decision of the Legislative Policy Committee of the General Assembly, resolutions are prepared by, and handled through, the office of the Secretary of the Senate. Sponsors of resolutions should be asked to take their requests to the Secretary of the Senate’s office.

# Chapter 15. Amendments to Bills and Other Documents

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## Background

Once a bill is introduced by its sponsor, the bill can be changed only through a formal act of either house adopting an amendment that changes the bill's language. Amendments are typed instructions that locate and describe the changes to be made in a bill. The basic documents that can be amended are bills, joint resolutions, committee amendments, and floor amendments.

Note that while the discussion of amendment drafting that follows refers only to bills, the same procedures and drafting rules also apply to joint resolutions, with two exceptions. (See discussion at p. 268, "Amendments to a Joint Resolution.")

## Types of Amendments

### County Delegation Amendments

Groups of legislators who represent a particular political subdivision (a county or Baltimore City) or a group of political subdivisions in the Senate or House of Delegates may request amendments to any bill. However, the majority of amendment requests from these groups are for amendments to bills that affect only the political subdivision or subdivisions represented by the group (*i.e.* local bills). While such a group of legislators in the Senate is technically a "select committee" (*e.g.*, Select Committee No. 1), when sponsoring an amendment, the group is referred to as the "county Senators" (*e.g.*, Prince George's County Senators). In the House of Delegates, the group is referred to as a "county delegation" (*e.g.*, Montgomery County Delegation). These group sponsored amendments may be offered in committee or on the floor. Individual members of a county delegation may offer amendments in the county delegation in addition to offering amendments in committee or on the floor.

Amendments that will be offered either by or in a county delegation are handled in different ways depending on whether counsel to the delegation is provided by the Department of Legislative Services. If the delegation has counsel provided by the department, the amendment request should be submitted to the counsel provided. For information regarding the procedures for handling amendments if the delegation has delegation counsel, see the *Delegation Staffing*

*Manual*, (Department of Legislative Services, Office of Policy Analysis, 2018). If the delegation does not have a delegation counsel, amendment requests should be submitted to the Amendment Office and are then handled in the same manner as any nondelegation amendment.

A list of Senate Select Committees and House County Delegations may be found in the *Maryland General Assembly Roster and List of Committees*, which is published twice a year by the Department of Legislative Services, Office of Policy Analysis. This document also is available on the General Assembly website and may be accessed by clicking on “Publications” under the “Search & Archives” tab.

## **Amendments Offered in Standing Committees**

The sponsor of a bill or other legislators frequently will offer amendments in the committee to which the bill has been assigned. (See p. 295, “Sample Amendments to be Offered in Committee.”) These amendments may be presented by an individual legislator and are not to be confused with floor amendments. Amendments that are being offered in a standing committee may only amend a bill or joint resolution and may not be drafted as amendments to amendments. While the vast majority of these amendments are drafted by drafters assigned by the Amendment Office, occasionally such amendments are drafted by the Department of Legislative Services committee staff who are assigned to the standing committees of the General Assembly.

## **Committee Amendments**

Amendments offered in a standing committee that receive a favorable vote of the committee are prepared to be offered on the floor once the relevant bill is voted out of the committee (*i.e.* the relevant bill is on a committee report and has a favorable with amendments vote). These amendments become known as “committee amendments” because the standing committee becomes the sponsor of the amendments. If multiple sets of amendments are adopted by the standing committee, all the amendments will usually be consolidated into a single document for the committee report.

## **Floor Amendments**

Floor amendments are amendments that are generally sponsored by an individual legislator and can be offered by that legislator during second reading or, if offered in the opposite house, during either second or third reading consideration of a bill. Floor amendments can amend a bill or joint resolution, a committee amendment, a floor amendment, or any combination of those documents.

(See p. 297, “Sample Amendments to Bill to be Offered on the Floor,” p. 298, “Sample Amendments to Amendments to be Offered on the Floor,” and p. 300, “Sample Amendments to Bill and Amendments to be Offered on the Floor.”) As a rule, proposed floor amendments are drafted by a drafter assigned by the Amendment Office and duplicated and delivered by the Amendment Office of the Department of Legislative Services.

## **Preparation of Amendments**

### **Confidentiality**

The drafter should keep any request and information regarding an amendment confidential until the sponsor offers the amendment by presenting it in committee or on the floor, or until the sponsor approves the release of information.

Additionally, note that copies of proposed floor amendments and amendments to be offered in committee are to remain confidential unless the sponsor agrees to their release or until after they have been offered for consideration in committee or on the floor.

### **Accuracy**

The need for extraordinary care and attention to detail in drafting and preparing amendments cannot be overemphasized. Failure to draft and prepare amendments with care and precision may be fatal to the amendments or to the bill. Correcting defective amendments is very time-consuming and slows the legislative process.

## **Determination of the Sponsor of an Amendment**

### **Requesters**

Amendment requests are often submitted to the Amendment Office by legislative aides, interns, and lobbyists. If the drafter is uncertain whether the requester is working on behalf of a legislator or if the requester is a lobbyist, the drafter should ask the requester to have the legislator who will be the sponsor of the amendment contact the Amendment Office with approval. It is inappropriate to prepare amendments for a nonlegislator who is “shopping” for a sponsor.

## Sponsors

Amendments may have only one sponsor and may be sponsored only by:

- a committee, which may be either a standing committee (e.g., the Finance Committee) or a county delegation; or
- one member of the Senate or House of Delegates.

Members of one body cannot sponsor amendments to be offered on the floor of the opposite body. However, a member of one body may propose written amendments to be offered in a standing committee in the opposite body.

When given an amendment to prepare, the drafter initially should determine who the sponsor of the amendment will be.

Each amendment includes a sponsor line indicating the individual or group sponsoring the amendment.

## Examples

<u>If the sponsor is a:</u>	<u>Then the drafter should use:</u>
Standing Committee	BY: Education, Energy, and the Environment Committee BY: Chair, Environment and Transportation Committee BY: Judiciary Committee BY: Ways and Means Committee
County Delegation	BY: Baltimore County Delegation BY: Anne Arundel County Senators
Member	BY: Delegate Kelly BY: Senator Hunt

Note that due to the configuration of the amendment system, all standing committee names in the “BY” line, including that for the Committee on Education, Energy, and the Environment, follow a format like that shown above for the

Environment and Transportation Committee; that is, the committee's name, with no designation of "Senate" or "House," followed by the word "Committee."

## **Determination of the Place and Time an Amendment Will Be Offered**

### **In General**

Amendments often are needed immediately on request, but occasionally are not needed for several hours or even days. The drafter's top priority should be those amendments that will be offered first.

The drafter should determine when and where a requested amendment is to be offered; that is, in committee or on the floor.

### **Amendments to be Offered in Committee**

If the amendment will be presented in committee, the amendment form includes a line under the sponsorship line to indicate the place where the amendment is to be offered.

#### **Example**

BY: Delegate Jones  
(To be offered in the Judicial Proceedings Committee)

#### **Example**

BY: Delegate Hunt  
(To be offered in the Montgomery County House Delegation)

#### **Example**

BY: Senator White  
(To be offered in the Baltimore County Senate Delegation)

### **Jointly Assigned Bills**

If a bill is jointly assigned to two committees and the amendment is being offered in committee, both committees should be indicated in the “to be offered in” line in the same order that they are listed on the bill.

#### **Example**

BY: Delegate Green  
(To be offered in the Ways and Means Committee and the Appropriations Committee)

### **Floor Amendments**

Note that there is no “to be offered in” line if the amendment is to be offered on the floor.

### **Determination of the Status of the Document to Be Amended**

A bill may be amended at any one of following five stages in its passage through the General Assembly:

- on second reading in the house of origin;
- on second reading in the opposite house;
- on third reading in the opposite house;
- if it is recalled from the Governor’s desk (rare occurrence); and
- if the bill is in a conference committee.

The status of a bill may be checked through the Department of Legislative Services’ computerized LR Bill Status system and on the General Assembly website.

## Printings of a Bill

### In General

Various printings of a bill are made at the different stages of the legislative process. Since each subsequent printing makes a prior printing obsolete, and since each subsequent printing may incorporate new material, the amendment drafter must be careful in determining which printing of the bill is being considered at the time the amendments are drafted to ensure that they are drafted to the printing of the bill currently under consideration.

The various printings of a bill may be amended at the following stages:

- A “first reading file bill” may be amended on second reading in the house of origin.
- Since a bill may not be amended on third reading in the house of origin, if the bill is to be amended after it has passed second reading in the house of origin, it must be placed back on second reading. This requires a motion “to reconsider the vote” by which the bill passed second reading. If the motion is successful, the bill is placed back on second reading and open to amendment. If the bill has already been printed as a “third reader” at the time it is placed back on second reading, amendments must be drawn to the “bill as printed for third reading.” (This is relatively rare.)
- A bill may be amended on second or third reading in the opposite house. If a bill has passed the house of origin and is to be amended on second or third reading in the opposite house, the bill always is referred to as the “third reading file bill.” There is no printing of a bill known as a “second reading file bill.” (*But see* “Second Printing of a Bill” on p. 231.)
- If a bill is passed by both houses, is sent to the Governor, and then is recalled, the bill is referred to in one of two ways. If it passed both houses and was amended only in the house of origin, the bill is referred to as the “third reading file bill.” If it passed both houses and was amended by both houses or the opposite house, the bill is referred to as the “enrolled bill.”
- If a bill is passed by both houses, was amended in the opposite house, neither body yields, and a conference committee is appointed, the bill is referred to as the “third reading file bill.”



Note that under Senate Rule 65 and House Rule 65, if a bill on third reading in the house of origin is committed or recommitted to any committee, the bill is on second reading when it is reported back to the floor. Since amendments to a third reading file bill in the house of origin normally are not considered on second reading, amendments to a bill reported back to the house of origin under Rule 65 should be drafted to “the bill as printed for third reading.”

In summary, the correct references to a bill being amended are as follows:

<u>Stage</u>	<u>Correct Reference</u>
Bill is on second reading in house of origin (including a bill that is placed back on second reading for purposes of an amendment but has not been printed for third reading).	The first reading file bill.
Bill has passed second reading in house of origin, been printed for third reading, and placed back on second reading; or is a third reading bill that was recommitted to committee in the house of origin, has been reported back to the floor, and is to be amended on second reading.	The bill as printed for third reading.
Bill has passed house of origin and is to be amended on second or third reading in opposite house or in conference committee; or has passed both houses, was amended only in the house of origin, and was recalled from the Governor.	The third reading file bill.
Bill has passed both houses, was amended in the opposite house, and was recalled from the Governor.	The enrolled bill.
Bill is passed by both houses, was amended in the opposite house, neither body yields, and a conference committee is appointed.	The third reading file bill.

## Second Printing of a Bill

As previously noted, there is no printing of a bill known as a “second reading file bill.” However, a first or third reading file bill, on occasion, may contain errors requiring another printing. A first or third reading file bill that has been reprinted with corrections is known and identified as a “second printing.” If the bill is a second printing, this fact should be noted in the heading of the amendment.

### Example

AMENDMENT TO SENATE BILL 1  
(First Reading File Bill – Second Printing)

## Committee Reprints

Under Senate Rule 52 and House Rule 52, if a committee proposes extensive amendments to a bill and wishes to see the proposed amendments incorporated in the bill as part of its (or the full Senate’s or House’s) consideration, the appropriate presiding officer or the committee, with the approval of the appropriate presiding officer, may order the bill reprinted to incorporate the proposed committee amendments as part of the text. As a rule, the committee amendments must be prepared in proper form before the reprint is produced. The reprint is prepared with the words “COMMITTEE REPRINT” at the top of the first page and generally is printed on paper of a distinctive color, such as green or yellow.

Except for the annual operating and capital budget bill reprints and reprints of House bills being considered in the House of Delegates, under the rules of each house, committee reprints have no official status and, therefore, no amendments may be made directly to a committee reprint. The rules may be waived to allow a committee reprint to have official status. This is usually done with respect to the Budget Reconciliation and Financing Act. Unless the reprint constitutes an official printing of the bill, any floor amendments offered by a legislator to the bill or to committee amendments incorporated into the reprint must be made directly to the bill or to the set of formally prepared and adopted committee amendments and not to the reprint.

In the case of an amendment to a committee reprint with official status, such as the Budget Bill, the bill would be identified as follows:

### **Example**

AMENDMENT TO SENATE BILL 52  
(Third Reading File Bill – Committee Reprint)

### **Status of an Amendment**

A drafter frequently is requested to amend committee amendments or floor amendments when the full Senate or House is in session. To amend either or both of these documents, the drafter should first ascertain their status. The status of a committee or floor amendment may be checked through the General Assembly website on the bill's page under "History" and on the proceedings for the day the amendment was offered. Once the drafter has ascertained the current status of the amendments, the drafter can proceed to prepare the "amendments to amendments." The drafter should be careful not to amend rejected or withdrawn amendments.

The drafter also may prepare amendments to committee or floor amendments in anticipation of their adoption. In this case, it is up to the sponsor to determine whether or not to offer the amendments. The drafter should remind the sponsor to be careful when the sponsor is offering amendments that have been drafted in anticipation of the adoption of other amendments. A mistake here could result in the proposed amendments being ruled out of order.

On rare occasions, a sponsor may wish to amend committee amendments before they are adopted. While this is not the preferred procedure, there is no rule prohibiting it and the Amendment Office will comply with the sponsor's wishes.

### **Amendment Headings**

Amendment headings are used to indicate the nature and status of the document to be amended. The correct amendment heading to use depends on whether the proposed amendments will amend the bill, previously adopted amendments, both the bill and amendments, or committee amendments that have not yet been adopted, or whether the proposed amendments will be offered as a substitute for committee amendments that are being withdrawn.

### **Amendments to Bill Only**

If the proposed amendments amend a bill that has not already been amended in the house where the bill currently is being considered, or a bill that has been

amended (through adoption of a committee or floor amendment) and the proposed amendments go only to the bill and not to any of the amendments, use the following, as appropriate:

### Examples

AMENDMENTS TO HOUSE (SENATE) BILL 1  
(First Reading File Bill)

AMENDMENTS TO HOUSE (SENATE) BILL 1  
(Third Reading File Bill)

AMENDMENTS TO HOUSE (SENATE) BILL 1  
(Bill as Printed for Third Reading)

### Amendments to Previously Adopted Amendments Only

If the proposed amendments amend a bill that has been amended previously in the house where the bill currently is being considered (through adoption of a committee or floor amendment), and the proposed amendments go only to the adopted amendments (*see* p. 255, “Amendments to Amendments”) and not to the bill itself, use the following:

### Example

AMENDMENTS TO HOUSE (SENATE) BILL 1, AS AMENDED

Note that it also may be appropriate, as determined by the amendment drafter, to use the designation “AS AMENDED” in the case of amendments to a previously amended bill, even when the proposed amendments do not “touch” the prior amendments, if reference to the prior amendments is necessary for the new amendment to make sense.

For example, assume that the prior amendment added a new subsection (d) to a section of the Annotated Code. A subsequently proposed amendment adding a new subsection (e) would appear to be a technical error if one only read the bill since the bill itself contains only subsections (a), (b), and (c). It is only when one also reads the prior amendment, which added subsection (d), that the new amendment adding a subsection (e) makes sense. In this situation, the “AS AMENDED” heading

puts the reader on notice that even though the new amendment does not touch the prior amendment, the two really should be read together for a complete understanding of the new amendment and how it fits into the bill in light of the previously adopted amendment.

### **Amendments to Bill and Previously Adopted Amendments**

If the proposed amendments amend a bill that previously has been amended in the house where the bill currently is being considered (through adoption of a committee or floor amendment), and the proposed amendments go to both the bill and the adopted amendments, use the following, as appropriate:

#### **Examples**

AMENDMENTS TO HOUSE (SENATE) BILL 1, AS AMENDED  
(First Reading File Bill)

AMENDMENTS TO HOUSE (SENATE) BILL 1, AS AMENDED  
(Third Reading File Bill)

AMENDMENTS TO HOUSE (SENATE) BILL 1, AS AMENDED  
(Bill as Printed for Third Reading)

### **Amendments to Committee Amendments Before Adoption**

Rarely, a sponsor may wish to propose amendments to the committee amendments (or to the committee amendments and the bill) before the committee amendments are adopted on the floor. In this case, if the proposed amendments amend the unadopted committee amendments only, use the following:

#### **Example**

AMENDMENTS TO COMMITTEE AMENDMENTS TO HOUSE (SENATE) BILL 1

If the proposed amendments amend both the unadopted committee amendments and the bill, use the following:

**Example**

AMENDMENTS TO COMMITTEE AMENDMENTS TO HOUSE (SENATE) BILL 1  
(First Reading File Bill)

**Substitute Committee Amendments**

If the proposed amendments are intended to replace committee amendments that were withdrawn on the floor by the committee before being adopted or, if adopted, after a successful motion to reconsider the vote by which the committee amendments were adopted, use the following:

**Example**

SUBSTITUTE AMENDMENTS TO HOUSE (SENATE) BILL 1  
(First Reading File Bill)

**Amendments to Bills – Substantive Aspects****Checking the Title after Drafting a Change to the Body of a Bill**

One of the most common errors in drafting amendments is to prepare an amendment that makes a change in the body of the bill and then fail to make necessary changes to the short title, purpose paragraph, or function paragraphs of the bill. Since the Maryland Constitution requires that a bill's title accurately summarize what is in the body of the bill, an amendment to the body that renders the title inaccurate may be fatal to the bill and invite a veto. Therefore, the amendment drafter must be certain to amend the short title, purpose paragraph, and function paragraphs of the title as necessary.

**Maintenance of the “One Subject” Requirement of the Constitution**

The rules of the Senate and House of Delegates, in conformity with the requirement of Article III, § 29 of the Maryland Constitution that every law enacted by the General Assembly “shall embrace but one subject,” prohibit the offering of an

amendment to a bill on a subject that is different from the subject of the bill under consideration (Senate Rule 45 and House Rule 45). For a case applying the “one subject” rule to an amended bill, see *Migdal v. State*, 358 Md. 308 (2000).

## Amendments to Bills – Technical Aspects

### Application of the Rules of Bill Drafting

The rules of legislative bill drafting regarding codification, capitalization, tabulation, and punctuation also apply to amendment drafting. The only difference is that all material being added by an amendment is underscored and enclosed in “quotation marks.” The underscoring is included when the amended bill is printed as a third reading file bill or an enrolled bill so one can see that the material was inserted by amendment and was not in the introductory copy of the bill. In an enrolled bill, the amendments adopted by the opposite house are also *italicized*. If an amendment proposes adding new language to the Annotated Code, or if new language is added to an uncodified provision in the Session Laws, the language is shown in **BOLD, SMALL CAPS** font in the amendment.

The rule above regarding the application of legislative bill drafting to amendment drafting also applies when an amendment makes changes to statutory references. As in bill drafting, parts of statutory references are treated as one unit. For example, in a reference to § 7-217(a)(2), (b), and (c)(1) there are three units: “§ 7-217(a)(2),” “(b),” and “(c)(1).” Similarly, in a reference to “subsection (a)(3) and (b)(7),” there are three units: “subsection,” “(a)(3),” and “(b)(7).” Accordingly, when amending a statutory reference, the drafter needs to be mindful of the various units within the reference and amend an entire unit.

#### Example

On page 2, in line 4, strike “§ 7-217(a)(2)” and substitute “§ 7-217(a)(2)(I)”

#### Do not use:

On page 2, in line 4, after “§ 7-217(a)(2)” insert “(I)”

### Example

On page 4, in line 12, strike “(b)(3)” and substitute “(B)(4)”

#### Do not use:

On page 4, in line 12, strike “(3)” and substitute “(4)”

Note that this approach of treating statutory references as units should be used each time a reference is amended, including when amending references in function paragraphs.

### Line References

For the purposes of preparing an amendment, the drafter should note that the pages of a bill are numbered and that the lines of text in the bill also are numbered by a column of numerals running vertically down the left-hand margin of each page. These line numbers are used to locate the point in the bill where a change is being made.

### Flow of an Amendment

As a rule, the flow of an amendment should follow the flow of a bill: changes to the sponsor line, short title, purpose paragraph, function paragraphs, preamble, substantive provisions, special sections, and effective date generally should be made in the order in which they appear in the bill. When changes are being made to both the title and bill or the sponsor line and bill, the changes to the sponsor line, short title, purpose paragraph, function paragraph, and preamble should be shown in Amendment No. 1. Changes to substantive provisions and special sections should be shown in a subsequent amendment number separate from Amendment No. 1. (See p. 244, “Multiple Amendments.”)

### Directional Language

The substantive text of an amendment indicates where changes in a bill are to be made and describes the changes to be made. This is accomplished first by making reference to the page number and line number of the bill as follows:



### Example

On page 12, in line 44, ...

References in an amendment to parts of a bill (such as the title, a section, etc.) are unnecessary.

Note that for a bill that is only one page in length, reference to a page number is not included. (See p. 245, “One-page Bills.”) Also note that a reference to the line number is not used when the amendment changes the sponsorship of a bill or inserts or strikes “**EMERGENCY BILL**” at the top of the page because the bill is being made into an emergency measure or changed from being an emergency measure. (See p. 252, “Amendment to Change the Sponsorship of a Bill” and p. 254, “Amendment to Make a Bill an Emergency Measure.”)

The remainder of the directional language of an amendment consists of simple instructions explaining what is to be done, for example, to insert a word, strike a word from the text of the bill, or strike a word and substitute another.

### Multiple Changes in Same Line

When making two or more different changes in one line of bill text, the drafter should not repeat references to the line number, but rather should use the phrase “in the same line,” as shown in the following example:

### Example

On page 4, in line 34, strike “**(A)**” and substitute “**(B)**”; in the same line, strike “**THE**” and substitute “**A**”; and in the same line, after “**SECRETARY**” insert “**OF HEALTH**”.

### Striking Words within Quotation Marks

Generally, when striking a word in a bill that appears within quotation marks, the drafter should include any quotation marks that are to be stricken from the body of the bill inside another set of quotation marks that indicate the amendment, despite the violation of the rules of English usage.

However, sometimes striking words that appear within quotation marks will result in the use of double quotes – a situation where the opening quotation mark that indicates the amendment is placed directly next to the opening quotation mark that is being stricken from the bill. The drafter should avoid double quotation marks by striking and substituting a portion of the bill text that comes directly before or after the quotation marks in the bill.

### Example

On page 12, in line 26, strike “section, “person” includes” and substitute **“SECTION, “INDIVIDUAL” DOES NOT INCLUDE”**.

### “Strike” vs. Use of Brackets

When an amendment is intended to repeal existing statutory law that already appears in the bill, the drafter should use the directional language “strike” to repeal the material rather than inserting an underscored opening and closing bracket around the material to be repealed. The directional language “strike” is preferred in this situation because it is easier to detect the changes made by amendment in the third reading file copy of the bill. “Third readers” (as well as enrolled bills) are prepared using strike-through type to indicate matter stricken by amendment.

### Example

On page 7, in line 24, strike “at least”.

On page 8, strike in their entirety lines 7 through 14, inclusive, and substitute **“THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.”**.

Note that it is not necessary to substitute anything for the language being stricken.

It is important to understand that by striking an entire portion (section, subsection, etc.) of the Annotated Code from a bill, two very different results can occur:

- removing the language from the bill; or



22 16-103.1

23 The Administration may not issue a driver's license to an individual:

24 (1) During any period for which the individual's license to  
25 drive is revoked, suspended, refused, or canceled in this or any other state,  
26 unless the individual is eligible for a restricted license under § 16-113(e) of  
28 this subtitle;  
29 ...

To add a new subsection (a) designation, the following amendment language is necessary:

### Example

On page 1, in line 23, before “The” insert “(A)”.

When referring to a word to use as a point of reference for the insertion of material in a bill, the drafter should reproduce the material cited as a point of reference in the amendment exactly as it appears in the bill.

### Use of Punctuation as a Point of Reference

Punctuation as a sole point of reference should be avoided because it may be difficult for the reader to pinpoint the punctuation in the line, or there may be two or more of the same punctuation marks in the same line. However, if punctuation must be used as the reference point, it should be spelled out.

### Example

On page 2, in line 12, after the comma insert “EXCEPT”.

### Do not use:

On page 2, in line 12, after “,” insert “EXCEPT”.

## Punctuation

When inserting a word or phrase, or when striking a sentence or phrase and replacing it with other language, the drafter must not insert or strike punctuation that will have the effect of causing double punctuation or eliminating any necessary punctuation when the bill is reprinted.

When adding or striking a single punctuation mark, the drafter should spell out the punctuation mark rather than using the punctuation mark itself and placing it in quotes.

### Example

On page 4, in line 23, after the first “and” insert a comma.

### Do not use:

On page 4, in line 23, after the first “and” insert “,”.

For additional information on striking a punctuation mark that is struck or added by amendment, see p. 264, “Striking Punctuation in an Adopted Amendment.”

## Portion of Word

The drafter should not strike a letter or other portion of a word; instead, the drafter must strike the entire word and substitute the corrected version.

### Example

On page 2, in line 12, strike “MINORS” and substitute “MINOR”.

### Do not use:

On page 2, in line 12, strike “S” in “MINORS”.

## Repetitive Words – Reference in Amendment

In drafting the directional language of an amendment, if the same word appears more than once in the line of bill text to which an amendment is drafted, the drafter should indicate which word is the intended point of reference by designating whether the word appears for the first, second, etc., time in the line.

For example, assume that a line of bill text contained the words “**THE GOVERNOR SHALL APPOINT THE CHAIR OF THE COMMISSION.**” Notice that the lower-case word “**THE**” appears two times in this line of text. The drafter should indicate the object of the intended change in the following manner:

### Example

On page 7, in line 2, strike the first “**THE**” and substitute “A”.

Note that in the example discussed above, since the first “**THE**” in the line of text is spelled with an uppercase “**T**,” it is distinguishable from the two occurrences of the word “**THE**” and should not be counted in locating the word to be changed. Similarly, if the same word should appear in a line once in regular type and again in **BOLD, SMALL CAPS** font, the drafter need not designate which is the first or second occurrence of that word in the line.

### Example

On page 7, in line 2, strike “the”; and in the same line, strike “**THE**” and substitute “AN”.

## Single Amendments

When drafting a single amendment to a bill, the drafter should not number that amendment as “AMENDMENT NO. 1.” One amendment may include several clauses relating to different portions of the bill text. However, whenever a single amendment encompasses changes on different pages of a bill, the drafter should group the changes made on each respective page into a separate paragraph. (Note the exception of drafting multiple but identical changes on different pages of a bill discussed at p. 251, “Amendment to Make Multiple but Identical Changes.”)

### Example

On page 1, in line 24, after “PERSON” insert “OF ANY HANDGUN ON THE HANDGUN ROSTER PREPARED BY THE SUPERINTENDENT OF STATE POLICE”.

On page 2, in line 3, strike “FIREARM” and substitute “HANDGUN”.

Also, while two or more clauses or paragraphs may be included in one amendment, it is preferred that the drafter, when amending both the title and the body of a bill, group the title amendments together in “AMENDMENT NO. 1,” with the body amendments grouped separately in one or more subsequent amendments. See “Multiple Amendments” below.

### Multiple Amendments

When drafting amendments to both the title and the body of a bill, the drafter should group the title amendments and any amendments to a preamble together in “AMENDMENT NO. 1,” with the body amendments grouped separately in one or more subsequent amendments. Each subsequent amendment should be labeled in numerical order (*i.e.*, “AMENDMENT NO. 2,” “AMENDMENT NO. 3,” etc.). If more than one subsequent amendment is being used, the drafter should group the amendments together in a logical order; for example, by page number or topic. Note that it is not necessary to use a separate numbered amendment simply because changes to the body of a bill are made on two or more pages. The drafter should use a separate paragraph, however, for each page on which a change is made. (See p. 251, “Amendment to Make Multiple but Identical Changes,” for an exception to this rule.)

### Example

#### AMENDMENT NO. 1

On page 1, in line 21, after “required;” insert “exempting the sale of clothing from the sales and use tax;”.

#### AMENDMENT NO. 2

On page 4, strike beginning with “(a)” in line 23 down through “less” in line 34 and substitute “THE SALES AND USE TAX DOES NOT APPLY TO THE SALE OF ANY ITEM OF CLOTHING”.

On page 7, in line 3, strike “6” and substitute “8”.

## One-page Bills

When drafting amendments to a bill that is only one page in length, the drafter should not indicate the page number of the bill.

### Example

In line 3, after “ARTICLE;” insert “OR”; and in line 15, strike “, THE COURT SHALL”.

## Types of Amendments

### Amendment to Insert Material after a Line of Text

If material is to be inserted in a blank space on a bill that happens to fall between two numbered lines of text (*e.g.*, lines 12 and 13), the drafter should not refer to that space as the “unnumbered line following line 12.” References to unnumbered lines are inappropriate. The proper reference in this situation is to the previous numbered line.

### Example

On page 4, after line 12, insert:

“(B) EACH COUNTY SHALL REPORT TO THE DEPARTMENT OF THE ENVIRONMENT INFORMATION REGARDING THE COUNTY’S PUBLIC SCHOOL BUS FLEET IN ACCORDANCE WITH § 2-1203(C)(1) OF THE ENVIRONMENT ARTICLE.”.

### Amendment to Strike Words in a Line

When striking part of a line in a bill, it is preferable for the drafter to show the text verbatim within quotation marks. However, if most of the line is being stricken, the following form may be used:

### Example



On page 3, in line 2, strike beginning with “**LICENSED**” through “**BEEN**”.

Note in the example above that, since the text being stricken appears only in one line, the correct directional language is “through” and not “down through,” which is used in the examples of amendments to strike a long sentence or group of sentences shown below.

### **Amendment to Strike a Long Sentence**

To strike a long sentence or group of sentences without the necessity of setting forth the full text verbatim within quotation marks, the drafter should use the following form:

#### **Example**

On page 2, strike beginning with “**BASIC**” in line 12 down through “**PERFORM**” in line 16.

If the sentence spans two pages, the following form should be used:

#### **Example**

On pages 2 and 3, strike beginning with “**BASIC**” in line 32 on page 2 down through “**PERFORM**” in line 3 on page 3.

If new language is to be substituted for the stricken language, the drafter should use the following form:

#### **Example**

On page 2, strike beginning with “**BASIC**” in line 12 down through “**PERFORM**” in line 16 and substitute “**GENERAL GUIDELINES FOR PERFORMING**”.

## Amendment to Substantially Rewrite a Bill

### In General

When making numerous changes within a sentence or long block of text, it may enhance the clarity of the amendment to merely strike the entire sentence or block of text and substitute a “clean” sentence or block of text. In that situation, the drafter may use the following handy short cut to strike material from the bill and substitute new language:

### Example

On page 2, strike in their entirety lines 1 through 46, inclusive, and substitute “**(INCLUDE FULL TEXT IN BOLD, SMALL CAPS FONT (if codified), UNDERSCORED, IN QUOTATION MARKS)**”.

To strike text on two or more pages of a bill, the drafter can use either of the following forms, as appropriate:

### Example

On pages 5 through 7, strike in their entirety the lines beginning with line 15 on page 5 through line 12 on page 7, inclusive.

**or**

On pages 5 through 7, strike beginning with “**VEHICLE**” in line 2 on page 5 down through “**ADMINISTRATION**” in line 12 on page 7.

In this fashion, an entire bill may be redrafted by amendment by striking all the lines of the bill comprising the short title, purpose and function paragraphs, and substantive provisions. Note, however, that the new title should be kept on the first page of the bill after it is reprinted. This necessitates striking the lines of the old title (short title, purpose paragraph, and function paragraph) and substituting the new title before striking the lines of the body of the bill and substituting new text. Note that each part of the title should be struck and replaced separately (*i.e.* the short title should be struck and replaced, then the purpose paragraph should be struck and replaced, etc.).

### **Amendment that Changes Purpose or Includes Constitutional Amendment**

Senate Rule 46(a) and House Rule 46(a) prohibit an amendment or a series of amendments that have the effect of changing the original purpose of a bill, unless a motion to suspend that rule, with a statement as to the reason for the proposed suspension, is approved.

Senate Rule 46(b)(1) and House Rule 46(b) also prohibit a bill from being amended to include a proposed constitutional amendment, although Senate Rule 46(b)(2) exempts an amendment that includes a proposed constitutional amendment if the amendment is (1) adopted by a standing committee and (2) included in the committee's favorable report of the bill. The Attorney General has advised that a bill proposing a constitutional amendment may be amended to instead establish a commission to study the subject matter of the proposed constitutional amendment without violating Senate Rule 46(a) or House Rule 46(a) (regarding the prohibition on a change in purpose). (See letter of advice discussing HB 1024 of 2001 (March 1, 2001).)

### **Amendment to Add Uncodified Language to a Bill**

Generally, any new language to be added by amendment to the codified portion of a bill or to uncodified Chapter law contained in a bill appears in **BOLD, SMALL CAPS** font. However, changes made to the purpose paragraph, function paragraphs, effective date, or other uncodified part of a bill appear in regular, unbolded type. Changes made to the sponsor line are shown in regular, **bold** type.

### **Amendment to Insert Existing Section of Codified Law into a Bill**

If amending a bill to insert a provision of current law, the drafter should set forth the language in regular, unbolded type, underscore it, and enclose it in “quotation marks.”

If the current law being inserted is to be changed by amendment, simply insert [brackets] around the language to be stricken, show any new material that is to be inserted in **BOLD, SMALL CAPS** font, and underscore all the inserted language.

**Example**

On page 2, after line 12, insert:

“2-510.

The Governor [shall] MAY appoint the members of the Board[, subject to the advice and consent of the Senate of Maryland].”.

The section being added by amendment looks as it would have looked had it been included in the bill as originally drafted, except that the entire passage is underscored and enclosed in “quotation marks.” Give particular attention to the correct use of brackets to enclose material to be repealed from existing law. Note that when existing law is inserted in a bill by amendment, the drafter should also make any appropriate changes in the short title and the purpose and function paragraphs of the bill.

**Amendment to Return to the Law Words in a Bill Proposed for Repeal**

When, by amendment, a sponsor seeks to return language to the law that was originally proposed for repeal, and thus appears in the bill enclosed in brackets, the drafter can accomplish this result by using the following amendment language:

**Example**

On page 2, in lines 16 and 25, in each instance, strike the bracket.

If brackets are being struck in multiple lines and each of the lines referenced includes only a set or sets of brackets, rather than a single bracket, the directional language should reference a plural “brackets” as shown in the following:

**Example**

On page 3, in lines 3, 9, 12, and 15, in each instance, strike the brackets.

By striking the brackets, the effect is to remove them from the bill, thereby restoring to law the language that initially had been enclosed in the brackets.

Alternatively, if the portion of law (*e.g.*, a subsection) originally proposed for repeal is no longer needed for context, it may be stricken from the bill but retained in current law by simply striking the text.

In either case, it is imperative for the drafter to amend the bill's short title and the purpose and function paragraphs as necessary to reflect the changes made. Note that in the alternative above, failing to update the function paragraph could result in ambiguity as to whether the stricken text is being removed from the bill but retained in current law or repealed altogether.

Also note that, if the bill in its original version only proposed the repeal of a provision of law and the proposed amendment removes the brackets, the result is a bill that simply sets out the provision of law without change. Since this makes the bill meaningless, the amendment would be inappropriate and ruled out of order by the presiding officer of the body in which it is offered.

### **Amendment to Propose the Repeal of Existing Law in a Bill**

If a sponsor wants to propose, by amendment, the repeal of existing law contained in a bill, the drafter should use the direction “strike.” While this is the preferred method (*see* discussion at p. 239, “‘Strike’ vs. Use of Brackets”), certain situations may necessitate the insertion of opening and closing brackets around the language proposed for repeal. For example, if the drafter needs to alter how much text is being repealed in the existing law shown in a bill, striking an opening or closing bracket in the bill and inserting a new opening or closing bracket in a different location would be necessary.

#### **Example**

On page 2, in line 27, strike the opening bracket; and in the same line, before “shall” insert an opening bracket.

Whichever method is used, appropriate short title, purpose paragraph, and function paragraph changes must be made.

## Amendment to Make Multiple but Identical Changes

There are instances in which a drafter can combine multiple but identical changes into a single amendment because the same change is made in each place on one or more pages of the bill.

### Example

On page 12, in lines 30 and 36, in each instance, strike “MAY” and substitute “SHALL”.

### Example

On page 1 in lines 2 and 4, on page 2 in lines 7 and 10, and on page 3 in lines 4 and 6, in each instance, strike “MAY” and substitute “SHALL”.

The following form can be used when the language being struck appears on more than one page in the bill, sometimes entirely in one line and in other instances in two lines:

### Example

On page 1 in lines 7, 10 and 11, and 15 and 16, and on page 2 in lines 18 and 21 and 22, in each instance, strike “**DIRECTOR OF FINANCE**” and substitute “TREASURER”.

The drafter should note the use of the phrase “in each instance” in each of the examples shown above. Note also that in the second and third examples, the comma after the page number has been eliminated, which ties the page number and line numbers together for greater clarity.

The following form can be used when two or more sets of multiple but identical changes are being made to language appearing on the same lines.

### Example

On page 2, in lines 7 and 9, in each instance, strike “MAY” and substitute “SHALL”; and in the same lines, in each instance, strike “A” and substitute “THE”.

### Example

On page 1 in lines 2 and 4, on page 2 in lines 7 and 10, and on page 3 in lines 4 and 6, in each instance, strike “MAY” and substitute “SHALL”; and in the same lines, in each instance, strike “A” and substitute “THE”.

Note that this form may not be used for renumbering sections or making changes to subdivision designations since the change being made on each page is not the same. Rather, the form for making multiple but different changes may be used. (See below, “Amendment to Make Multiple but Different Changes.”)

## Amendment to Make Multiple but Different Changes to Tabulation

The drafter can combine multiple, different changes into a single clause when making changes to tabulation only.

### Example

On page 6, in lines 9, 12, 15, 19, 27, and 30, strike “(a)”, “(b)”, “(c)”, “(d)”, “(e)”, and “(f)”, respectively, and substitute “(B)”, “(C)”, “(D)”, “(E)”, “(F)”, and “(G)”, respectively.

The drafter should note the use of the word “respectively” after both the stricken and the added text.

## Amendment to Change the Sponsorship of a Bill

To amend the sponsorship of a bill, the drafter should use one of the following forms, as appropriate:

**Example**

On page 1, in the sponsor line, strike “**Delegate Jones**” and substitute “**Delegates Jones and Brown**”.

**Example**

On page 1, in the sponsor line, strike “**and Jones**” and substitute “**, Jones, and Smith**”.

**Example**

On page 1, in the sponsor line, strike “**and Jones**” and substitute “**Jones, Smith, and Williams**”.

Note that the sponsor names are shown in **bold** type. Also note that the form shown in the second example above (which includes a comma before “**Jones**”) is appropriate when amending a bill with only two sponsors, while the third example above is appropriate when amending a bill with three or more sponsors.

Also note that sponsor names are not inserted alphabetically in the sponsor line unless a specific request to do so is made by the sponsor of the amendment. Rather, as shown in the above examples, the sponsor names are added to the end of the sponsor line in alphabetical order.

If it is necessary to strike two or more sponsors whose names are not listed consecutively, the following form may be used:

**Example**

On page 1, in the sponsor line, strike “**Brown,**”; and in the same line, strike “**Jones,**”.

Note that a bill may be amended to change the sponsorship from an individual sponsor or sponsors to a standing committee or county delegation (or vice versa).



### Example

On page 1, in the sponsor line, strike “**Delegate Cole**” and substitute “**Baltimore County Delegation**”.

Also note that, under Senate Rule 47 and House Rule 47, the sponsor of a bill may offer an amendment to the bill to remove the sponsor’s name if the bill is amended in a manner that is inconsistent with the intent of the sponsor or for other compelling reason. In the event of the removal of the name of the sole sponsor of a bill, the reporting committee must be substituted as the sponsor of the bill.

Additionally, practice dictates that a request to add a cosponsor is not drafted by the Amendment Office unless a substantive change is also being requested or the amendment will be offered on the floor. Rather, the request must be made to the committee to which the bill is assigned.

### Amendment to Make a Bill an Emergency Measure

Occasionally, a bill is amended to make it an “emergency measure” so that it can take effect immediately on enactment. In those instances, the drafter should:

- include directional language that states:

On page 1, at the top of the page, insert “**EMERGENCY BILL**”; and

- strike the effective date so you are only left with “SECTION \_\_. AND BE IT FURTHER ENACTED, That this Act” and substitute the following standard boilerplate emergency effective date language after “Act”: “is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.”.

Note that a drafter may strike the effective date clause in its entirety and insert the emergency effective date clause in its entirety.

Conversely, if a bill with an emergency effective date is to be amended to have, for example, an October 1 effective date, the drafter should:

- include directional language that states:

On page 1, at the top of the page, strike “**EMERGENCY BILL**”; and

- strike the standard boilerplate emergency effective date language shown above, beginning with “is an emergency measure down through “date it is enacted”, and substitute the following language after “Act”: “shall take effect October 1, (year).”.

Note that a drafter may strike the emergency effective date clause in its entirety and insert the new effective date clause in its entirety.

## Amendments to Amendments

In addition to the substantive and technical aspects of drafting amendments to a bill, the drafter of an amendment to an amendment also must consider the issues discussed below.

### Order of Amendments to Amendments

In accordance with parliamentary procedures in the Senate and the House of Delegates, proposed committee amendments are submitted, considered, and adopted (or rejected) by the body before any proposed floor amendments to the bill are considered. This also is usually the procedure for floor amendments that would amend the committee amendments. (Note, however, that while practice dictates that committee amendments usually are disposed of first, there is no rule prohibiting the offering of amendments to committee amendments before their adoption. See p. 232, “Amendment Headings” and p. 265, “Examples of Amendments to Amendments.”)

Once the committee amendments are adopted, they immediately become part of the bill (even without a reprinting), and any further amendments that affect the adopted committee amendments should be drafted to the bill “as amended.” This explains the use of the heading “AMENDMENTS TO HOUSE (SENATE) BILL \_\_\_\_\_, AS AMENDED” when preparing a floor amendment to adopted committee amendments. Similarly, once a floor amendment is adopted, conceptually it becomes part of the bill, and that amendment can be the subject of a subsequent amendment.

## Directional Language and Heading

The directional language used in preparing amendments to amendments is similar to that used in amending a bill. One major difference is that amendments to amendments must include references to the sponsor and the identifier number of the amendment to be amended. Additionally, since the text of an amendment is not given line numbers when printed (as bill text is), the drafter must determine and include the correct amendment line number in which the change is to be made. If the amendment amends both a bill and an amendment, then references to the page number “of the bill” or “of the \_\_\_\_\_ Committee Amendments” must also be used in the directional language to identify which document is being amended. Finally, the heading of the amendment must include the phrase “AS AMENDED” following the bill number. The line indicating the printing of the bill (*i.e.* “First Reading File Bill”) is omitted unless the proposed amendments affect the bill as well as the adopted amendments. (See p. 232, “Amendment Headings.”)

Note that, similar to directional language used when amending a one-page bill, a reference to a page number is not included when amending a one-page amendment.

### Example

BY: Senator Smith

#### AMENDMENT TO SENATE BILL 14, AS AMENDED

In the Committee on Education, Energy, and the Environment Amendments (SB0014/123834/1), in line 4 of Amendment No. 2, strike “MAY” and substitute “SHALL”.

### Example

BY: Delegate Jones

#### AMENDMENT TO HOUSE BILL 3, AS AMENDED

In line 6 of the Appropriations Committee Amendment (HB0003/927031/1), after “90” insert “CALENDAR”.

## Identifier Number

In amending an adopted amendment, the drafter should include the adopted amendment's identifier number, which can be found in the upper left corner of the amendment. For example, an amendment to House Bill 1 might have the identifier number "HB0001/037399/1." The number "037399" is a unique computer-generated number.

Note that, generally, the identifier number only needs to be included once, after the first reference to the amendment that is being amended, whether the subsequent reference appears in the same or a different numbered amendment. (See p. 265, "Examples of Amendments to Amendments".) The one exception to this rule is when multiple amendments offered by the same sponsor have been adopted and one or more of those amendments is subsequently being amended. In this case, the identifier number must be included in each instance to make it clear which amendment is being amended.

## Counting Lines

In counting lines in an amendment, the drafter should not count the heading of the amendment or the line specifying the amendment number, but rather should count only the lines that make up the body of the amendment. For instance, if the drafter needed to amend "may" in Amendment No. 1 of the example below, the drafter would count only the lines of text that are below the Amendment No. 1 header, so the amendment direction would be "in line 3 of Amendment No. 1..."

### Example

BY: Delegate Smith

#### AMENDMENTS TO HOUSE BILL 1, AS AMENDED

##### AMENDMENT NO. 1

On page 1 of the Economic Matters Committee Amendments (HB0001/730142/1), in line 12 of Amendment No. 1, strike "shall" and substitute "may".

For an amendment amending an amendment that contains multiple amendments (*i.e.*, Amendment No. 1, Amendment No. 2, Amendment No. 3), the phrase "of Amendment No." is used in the first direction of each paragraph to clarify which amendment number is being amended.

BY: Senator Jones

AMENDMENTS TO SENATE BILL 541, AS AMENDED

AMENDMENT NO. 1

On page 1 of the Budget and Taxation Committee Amendments (SB0541/343823/1), in line 16 of Amendment No. 1, strike “5-2A-05,”; and in the same line, strike “5-2A-09,”.

AMENDMENT NO. 2

On page 9 of the Budget and Taxation Committee Amendments, in Amendment No. 2, strike beginning with “5-2A-06” in line 7 down through “Columbia.” in line 11.

On page 12 of the Budget and Taxation Committee Amendments, in line 2 of Amendment No. 2, after “section.” insert:

**“(I) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE PROPERTY ACQUIRED UNDER SUBSECTION (H) OF THIS SECTION BE A PARTNERSHIP PARK.”**

Note the reference to “of Amendment No. 2” is repeated in the first direction of each paragraph under Amendment No. 2 to further clarify which amendment is being amended.

Preferably, line counting should start from the beginning of an amendment. However, if the amendment is lengthy and the portion to be amended is near the end, the counting may start from the end of the amendment. In this case, the drafter should indicate that the counting starts “from the bottom.”

**Example**

BY: Senator Jones

AMENDMENT TO SENATE BILL 1, AS AMENDED

On page 2 of the Budget and Taxation Committee Amendments (SB0001/529530/1), in the fourth line from the bottom of Amendment No. 2, after “circumstances.” insert:

**“(C) A PERSON MAY NOT OWN MORE THAN TWO VIDEO LOTTERY FACILITIES.”.**

Counting from the bottom of a page is extremely rare. If it is used, to avoid any confusion, once counting “from the bottom” is referenced, every subsequent change should indicate from where the counting starts, *i.e.*, “from the top” or “from the bottom.”

Additionally, if an amendment is printed on more than one page, the counting should start on the page containing the language being changed, rather than from the beginning of the amendment, to minimize the amount of counting and facilitate locating the change.

If an amendment amends both a bill and an amendment, the directional language “of the bill” or “of the \_\_\_ Committee Amendments” must be used in the first direction of each paragraph to clarify which document is being amended.

### **Example**

BY: Delegate Smith

**AMENDMENT TO HOUSE BILL 937, AS AMENDED**  
(First Reading File Bill)

**AMENDMENT NO. 1**

On page 1 of the bill, strike beginning with “establishing” in line 6 down through “State;” in line 7; and in line 17, strike “20–103 and 20–207 through 20–209”.

On page 1 of the Health and Government Operations Committee Amendments (HB0937/823122/1), in line 21 of Amendment No. 1, strike “comma”.

**AMENDMENT NO. 2**

On page 3 of the bill, in lines 23 and 24, strike “**QUALIFIED PROVIDERS**” and substitute “**PHYSICIANS**”; and in line 27, strike “**50**” and substitute “**75**”.

On pages 5 through 8 of the bill, strike in their entirety the lines beginning with line 26 on page 5 through line 6 on page 8, inclusive.

On page 2 of the Health and Government Operations Committee Amendments, in line 7 of Amendment No. 2, strike “period”; and in line 10, strike “**50**” and substitute “**75**”.

## **Striking Language in an Adopted Amendment**

When preparing amendments to amendments, generally only the words within quotation marks may be struck; that is, it usually is impermissible to strike “directional language.”

For example, assume that the following amendments were adopted by the Environment and Transportation Committee and presented on the House floor on second reading:

### **Example**

HB0475/493589/1

BY: Environment and Transportation Committee

#### **AMENDMENTS TO HOUSE BILL 475** (First Reading File Bill)

**AMENDMENT NO. 1**

On page 1, in line 7, after “terms,” insert “requiring the Commissioner to establish an application process”.

**AMENDMENT NO. 2**

On page 5, in line 4, after “program” insert “**CERTIFIED BY THE COMMISSIONER**”; strike beginning with “certified” in line 5 down through “organization” in line 6 and substitute “**LICENSED BY THE COMMISSIONER**”; and in line 20, strike “60” and substitute “**45**”.

On page 7, in line 10, strike “October 1, 2023” and substitute “January 1, 2024”.

Assume further that Delegate Smith wants a floor amendment drafted to change the number “**45**” to “**90**” in Amendment No. 2. It would be incorrect to draft the amendment to say “In the Environment and Transportation Committee Amendments (HB0475/493589/1), in Amendment No. 2, strike line 4 in its entirety” since this approach strikes the directional language “and in line 20, strike” and “and substitute.” Since the drafter generally is allowed to strike only the language within quotation marks, the correct approach would be to say “In the Environment and Transportation Committee Amendments (HB0475/493589/1), in line 4 of Amendment No. 2, strike “45” and substitute “90”.”

Another possible scenario would be for Delegate Smith to request a floor amendment to change the number “**45**” back to the original number, “60” (*i.e.* undo the change made by the committee amendment). Like in the situation described above, it would be incorrect to strike line 4 in its entirety. Rather, there are two different ways the requested change can be made.

First, the amendment may be worded in the same way described above, but substitute the number “60” instead of the “90”. The amendment language would then read “In the Environment and Transportation Committee Amendments (HB0475/493589/1), in line 4 of Amendment No. 2, strike “45” and substitute “60”.” Note that because “60” is current law and is being added back in to the bill, it should be shown in regular type font (*i.e.*, not **BOLD SMALL CAPS**).

Second, both the “60” and the “45” may be struck in the amendment. By striking what is within the quotation marks, there is nothing left to strike or substitute. In other words, such language would be read as directing the document technician to strike nothing and substitute nothing. Such amendment language would read “In the Environment and Transportation Committee Amendments (HB0475/493589/1), in line 4 of Amendment No. 2, strike “60”; and in the same line, strike “45”.”

Note that, if a sponsor requests a floor amendment after a bill has been printed for third reading to strike language in an adopted amendment that was incorporated into the third reader, the amendment must be drafted to the bill as printed for third reading, rather than to the previously adopted amendment itself (as is done in the situations described above). Also, the bill must be placed back on second reading before the amendment may be offered. *See* p. 229, “Printings of a Bill – In General.”



## Striking an Adopted Amendment in its Entirety

An exception to the general prohibition against striking directional language is a floor amendment that strikes in its entirety an adopted committee amendment or an adopted floor amendment. Note, however, that the procedures of the Senate and House of Delegates do not allow a legislator to offer an amendment that simply would strike in its entirety a previously adopted committee or floor amendment. The rationale is that such an amendment would amount to a reconsideration of the vote by which the previous amendment was adopted. A reconsideration of an amendment, if it is to occur, must be handled through the appropriate motion made in accordance with Senate Rule 88 or House Rule 88.

However, a floor amendment that strikes in its entirety an adopted committee or adopted floor amendment and simultaneously replaces the adopted amendment with new language that incorporates some of the language in the stricken amendment usually is not considered to be a reconsideration and is permissible. For example, assume Delegate Smith wants a floor amendment to the Environment and Transportation Committee Amendments shown above that would retain the changes made by Amendment Nos. 1 and 3, but with regard to Amendment No. 2, would only make the change in line 4. An amendment to accomplish the sponsor's request could be drafted as follows:

### Example

BY: Delegate Smith

AMENDMENTS TO HOUSE BILL 475, AS AMENDED  
(First Reading File Bill)

AMENDMENT NO. 1

In the Environment and Transportation Committee Amendments (HB0475/493589/1), strike Amendment No. 2 in its entirety.

AMENDMENT NO. 2

On page 5 of the bill, in line 20, strike “60” and substitute “45”.

Even though Amendment No. 2 in the example above retains some of the language from Committee Amendment No. 2, Delegate Smith's floor amendments are different enough from the previously adopted committee amendments so as not to be ruled out of order.

Similarly, a floor amendment that strikes in its entirety an adopted committee or adopted floor amendment and simultaneously makes a change to the bill that was not included in the adopted committee or adopted floor amendment usually is not considered to be a reconsideration and is permissible. For example, if a sponsor wished to strike the Environment and Transportation Committee Amendments in their entirety and also change a reporting date, an amendment to accomplish the sponsor's request could be drafted as follows:

### Example

BY: Delegate Smith

AMENDMENTS TO HOUSE BILL 475, AS AMENDED  
(First Reading File Bill)

AMENDMENT NO. 1

Strike in their entirety the Environment and Transportation Committee Amendments (HB0475/493589/1).

AMENDMENT NO. 2

On page 7 of the bill, in line 13, strike “**JUNE**” and substitute “**OCTOBER**”.

Note that, as shown the examples above, committee amendments should be struck first. This takes provisions in the bill that were affected by the struck amendments back to their original language. As a result, once the amendments are struck, the drafter no longer has to consider the committee amendments in drafting.

Note that a floor amendment that does not add new language may be considered permissible if it does not simply strike *all* of the adopted committee or adopted floor amendments. For example, a floor amendment to the Environment and Transportation Committee Amendments shown above that struck Amendment Nos. 1 and 3, but not Amendment No. 2, probably would be permissible.

### Example

BY: Delegate Smith

AMENDMENT TO HOUSE BILL 475, AS AMENDED

In the Environment and Transportation Committee Amendments (HB0475/493589/1), strike in their entirety Amendment Nos. 1 and 3.

Note that, if a sponsor requests a floor amendment after a bill has been printed for third reading to strike in its entirety an adopted amendment that has been incorporated into the third reader, the amendment must be drafted to the bill as printed for third reading, rather than to the previously adopted amendment itself (as is done in the situations described above). Also, the bill must be placed back on second reading before the amendment may be offered. *See* p. 229, “Printings of a Bill – In General.”

### Striking Punctuation in an Adopted Amendment

An exception to the general prohibition against striking language that is not in quotation marks is a floor amendment that strikes a punctuation mark that is spelled out because it was added or struck by amendment (*e.g.* “and substitute a comma”). (*See* p. 242, “Punctuation.”) The floor amendment should place the spelled-out punctuation mark in quotation marks.

#### Example

BY: Delegate Bowie

#### AMENDMENT TO HOUSE BILL 485, AS AMENDED

In the Ways and Means Committee Amendments (HB0781/903681/1), in line 4 of Amendment No. 2, strike “comma”.

### Adding Language to an Adopted Amendment

Generally, the same rules apply when adding language to an adopted amendment as apply when adding language to a bill. One exception is that when language is being added to an adopted amendment, words can be added only to the language that is within quotation marks.

For example, assume that the following amendment was part of a set of amendments that were adopted by the Finance Committee and presented on the Senate floor on second reading:

#### Example

SB0319/456159/1

BY: Finance Committee

AMENDMENTS TO SENATE BILL 319  
(First Reading File Bill)

AMENDMENT NO. 1

On page 3, after line 29, insert:

**“2-103.**

**(A) DIESEL EMISSIONS CONTROL GRANTS AWARDED BY THE DEPARTMENT SHALL BE FUNDED BY FEDERAL DIESEL EMISSIONS FUNDS AWARDED TO THE STATE.**

**(B) THE DEPARTMENT SHALL PROVIDE A REASONABLE OPPORTUNITY FOR ALL ELIGIBLE ENTITIES TO BE AWARDED A DIESEL EMISSIONS CONTROL GRANT.”.**

Assume further that Senator Smith wants a floor amendment drafted to add a new subsection (c). It would be incorrect to write the amendment to say “In the Finance Committee Amendments (SB0319/456159/1), after line 8 of Amendment No. 1, insert ...” as would be done when amending a bill. Since the drafter of an amendment to an amendment may generally make changes only with respect to material within quotation marks, the correct approach would be to say “In the Finance Committee Amendments (SB0319/456159/1), in line 8 of Amendment No. 1, after “GRANT.” insert ...”.

## Examples of Amendments to Amendments

### Amendments to Adopted Committee Amendments

#### Example

BY: Delegate Smith

AMENDMENT TO HOUSE BILL 1, AS AMENDED

On page 1 of the Environment and Transportation Committee Amendments (HB0001/602044/1), in line 12 of Amendment No. 2, strike “SHALL” and substitute “MAY”.

On page 3 of the Environment and Transportation Committee Amendments, in lines 9 and 10 of Amendment No. 2, strike “MAY NOT APPOINT” and substitute “SHALL ELECT THE”.

### Example

BY: Senator Jones

#### AMENDMENTS TO SENATE BILL 10, AS AMENDED

##### AMENDMENT NO. 1

On page 1 of the Judicial Proceedings Committee Amendments (SB0010/593871/1), in Amendment No. 1, strike beginning with “providing” in line 3 down through “practitioners;” in line 5.

##### AMENDMENT NO. 2

On page 4 of the Judicial Proceedings Committee Amendments, in Amendment No. 3, strike in their entirety lines 8 through 10, inclusive; and in line 11, strike “(E)” and substitute “(D)”.

### Amendment to an Adopted Floor Amendment

### Example

BY: Delegate Doe

#### AMENDMENT TO HOUSE BILL 1, AS AMENDED

On page 1 of Delegate Smith’s Amendments (HB0001/722446/1), in line 3 of Amendment No. 1, strike “70” and substitute “90”.

### Substitute Committee Amendment

### Example

BY: Education, Energy, and the Environment Committee

SUBSTITUTE AMENDMENT TO SENATE BILL 191  
(First Reading File Bill)

On page 1, after line 20, insert:

**“(A) IN THIS SECTION, “DELINQUENT TAXES, FEES, FINES, OR OTHER ASSESSMENTS” MEANS TAXES, FEES, FINES, OR OTHER ASSESSMENTS THAT ARE:**

**(1) DUE AND UNPAID; AND**

**(2) (I) NOT CURRENTLY UNDER APPEAL; OR**

**(II) NOT ON A PAYMENT SCHEDULE ESTABLISHED BY THE STATE OR A LOCAL JURISDICTION UNLESS THE SCHEDULE IS BREACHED.”;**

and in lines 21, 25, and 29, strike “(A)”, “(B)”, and “(C)”, respectively, and substitute “(B)”, “(C)”, and “(D)”, respectively.

**Amendment to Both an Adopted Committee Amendment and the Bill**

**Example**

BY: Delegate Brown

AMENDMENT TO HOUSE BILL 1, AS AMENDED  
(First Reading File Bill)

On page 12 of the bill, in line 6, strike “**BEFORE**” and substitute “**AFTER**”.

On page 4 of the Environment and Transportation Committee Amendments (HB0001/594230/1), in line 3 of Amendment No. 2, strike “**MORE THAN**” and substitute “**NOT TO EXCEED**”.

On page 13 of the bill, in line 9, after “members” insert “**MAY NOT**”.

Note the use of the phrase “of the bill” for purposes of clarity in the example above. Also, note the insertion of the printing of the bill under the heading since the

amendments go to the bill as well as to the previously adopted committee amendments.

If the drafter uses the phrase “AS AMENDED” to reference an amendment for context rather than because the amendment is being amended, the drafter does not need to use the phrase “of the bill” in the directional language of the amendment as is normally used when amending both an amendment and a bill because the bill is the only document being amended. (See p. 232, “Amendment Headings” and p. 267, “Amendment to Both an Adopted Committee Amendment and the Bill.”)

### **Amendment to Committee Amendments Not Yet Adopted**

#### **Example**

BY: Senator Smith

#### **AMENDMENT TO COMMITTEE AMENDMENTS TO SENATE BILL 1**

On page 2 of the Committee on Education, Energy, and the Environment Amendments (SB0001/940544/1), in line 5 of Amendment No. 2, strike “ASSOCIATION OR ASSOCIATIONS” and substitute “ORGANIZATION OR ORGANIZATIONS”.

Note that although there is no rule prohibiting the offering of amendments to committee amendments before their adoption, this rarely is done. (See p. 232 “Amendment Headings” and p. 255, “Order of Amendments to Amendments.”)

### **Amendments to a Joint Resolution**

Joint resolutions are treated as bills in the amendment process, with two distinctions. First, the reference to the printing of a joint resolution is as follows:

- (First Reading File Joint Resolution);
- (First Reading File Joint Resolution – Second Printing);
- (Third Reading File Joint Resolution);

- (Third Reading File Joint Resolution – Second Printing); or
- (Joint Resolution as Printed for Third Reading).

Second, all language in a joint resolution is in regular, unbolded type. Therefore, if adding language to a joint resolution, it should be set forth in regular, unbolded type instead of **BOLD**, **SMALL CAPS** font.

Except for these two differences, the drafter should follow the same procedures in amending a joint resolution that are used in amending a bill (*e.g.* using underlining to indicate language being added by amendment). Note that a joint resolution cannot be amended to be a bill and vice versa.

## **Administrative Preparation of Amendments**

### **Amendment Office Staff**

The Amendment Office is located on the ground floor of the State House in Room H-9 and is staffed whenever the General Assembly is in session. The staff usually consists of a small group of analysts from the Office of Policy Analysis of the Department of Legislative Services who, along with additional Office of Policy Analysis analysts not physically located in the Amendment Office, are responsible for drafting and reviewing amendments and advising members of the General Assembly with respect to substantive and technical aspects of the amendment process. In addition, support staff in the office, under the direction of the Amendment Office Coordinator, oversee the intake of amendment requests and the printing and delivery of amendment documents.

### **Recording of Requests**

All requests for amendments are logged into the amendment system by bill number and sponsor. To further aid in locating and tracking an amendment request, each amendment is given a unique computer-generated identifier number when it is logged and additional information (*e.g.* a short description and the name of the requester) must be entered into the amendment system. Other information (*e.g.* comments and supporting documents) also may be entered at the time a request is logged to assist in the drafting and review process.



## **Review**

Individually sponsored amendments to be offered on the floor or in committee, as well as committee amendments prepared by committee staff, are reviewed by senior analysts in the Office of Policy Analysis before being processed.

To ensure the timely review and processing of amendments to be offered in committee or on the floor, the amendment drafter always should check the status of the bill to be amended and make sure the date (and time, if appropriate) that the amendment is needed is indicated in the amendment system. If in doubt, the drafter should contact the sponsor to verify when the amendment will be needed. If an amendment must be turned around quickly (*i.e.*, within one hour), the drafter should select “rush” as the priority in the amendment system and otherwise make sure the reviewer knows of the need for a quick turnaround.

Before submitting an amendment for review, the drafter should run a reprint and read through it to make sure there are no technical or substantive errors in the amendment. In addition, the drafter should ensure that any work papers used in drafting the amendment, such as notes, research materials, email or other correspondence, and drafts are uploaded to the amendment system.

## **Proofreading; Stamps of Approval**

After amendments are drafted and reviewed, they are proofread against the bill and against the Annotated Code or other appropriate source law by legislative editors. When the amendments have been proofread and corrected as necessary, they are “finalized.” The finalized version of the amendment contains a printed stamp in the upper right corner which specifies when the amendment was finalized. Once an amendment has been finalized, no changes can be made to it. If changes are necessary, the drafter must log a new amendment request and create a new amendment using the text of the previous amendment.

## **Copying of Amendments**

Once finalized, amendments to be offered on the floor are printed at the Copy Center Annex on the ground floor of the State House on bill-sized, pre-drilled paper. Note that finalized amendments to be offered in committee are not printed, but are rather emailed to the sponsor and available through the floor system on the member’s laptop.

## **Delivery of Amendments**

All amendments, whether they are to be offered in a committee or on the floor, are emailed to the sponsor of the amendment once they are finalized, regardless of whether the sponsor is the requester of the amendments.

Copies of amendments to be offered on the floor of the Senate are delivered on the floor, directly to the sponsor of the amendments, regardless of whether another Senator is the requester of the amendments.

Copies of amendments to be offered on the floor of the House of Delegates are delivered to the Office of the Chief Clerk of the House of Delegates.

## **Access to Amendment Copies**

Finalized amendments are available to a drafter on the drafter's computer through the amendment system. A drafter also may access finalized amendments from prior General Assembly sessions on the drafter's computer under G:\HOME\AMD\_OFC.

A Senator or Delegate who is the sponsor of an amendment may access the amendment, once it has been finalized, using the floor system on the member's laptop computer.

Requests by lobbyists and the general public for copies of adopted amendments should be referred to the information counter in the Legislative Services Building or the State House.

## **Confidentiality of Amendments**

Proposed floor and committee amendments not yet offered are to remain confidential unless the sponsor agrees to their release or until they have been offered for consideration in committee or on the floor.

## **Other Documents Prepared by the Amendment Office**

### **Change in Rules of Senate or House**

Amendments to the Senate Rules or House Rules follow a similar format to statutory changes made in bills. All matter to be repealed from a rule is enclosed in [brackets] shown in bolded type, all language to be added is shown in **BOLD, SMALL CAPS** font, and the new language added is not underlined.

### Example

BY: Senator Doe

#### AMENDMENT TO SENATE RULE 18

ORDERED by the Senate of Maryland, that Senate Rule 18(a)(1)(iii), as adopted by the Senate for the (year) Session be, and it is hereby, repealed and readopted, with amendments, to read as follows:

“18.

(a) There are the following standing committees, the Members of which shall be appointed by the President at the beginning of each session of the General Assembly, each to have a membership as follows:

(1) Legislative Committees:

(iii) Finance, [11] 12;”.

### Petition of a Bill from Committee

Under Rule 42 of each house of the General Assembly, a bill may be petitioned from a standing committee if the bill has not been reported out for the period fixed in the Rule. The signatures of 16 Senators or 47 Delegates are required on the petition. The petition is typed as an original by staff in the Amendment Office and a copy is made. The original is given to the individual requesting the petition, and the copy is retained in the Amendment Office’s files.

### Example

#### PETITION

Acting pursuant to (Senate Rule 42) (House Rule 42) as adopted for the (year) Session of the General Assembly, We, the undersigned members of the (Senate of Maryland) (House of Delegates of Maryland), respectfully petition (Senate) (House) Bill \_\_\_\_ from the (Committee name) and request that this bill be reported to the floor as therein provided:


## Conference Committee Reports

Occasionally, an amendment or a set of amendments added to a bill in the opposite house is rejected by the house of origin when the amended bill is returned for concurrence. If neither body will yield, the bill may be referred to a conference committee which, under the Senate and House rules, generally consists of three members from each body appointed by the presiding officers. (*See* Senate Rules 21 and 68 and House Rules 21 and 68.) A chair also is appointed from among each set of conferees.

Once all the members of a conference committee have been appointed, one of the conference committee chairs must obtain the conference committee folder from the Secretary of the Senate or the Chief Clerk of the House, as appropriate. The folder contains documentation regarding the appointment of the conference committee and other related information. The folder is brought to the Amendment Office so that the conference committee request can be recorded and the conference committee report can be prepared (the report includes a cover sheet, the opposite house amendments if adoption is being recommended, and conference committee amendments, if any). The folder also is used by the Amendment Office to track the progress of the preparation of the conference committee report. Note that as a general rule, the folder should be brought to the Amendment Office only after the conference committee members have reached an agreement regarding a recommendation. If the conference committee folder is brought to the Amendment Office before an agreement is reached, the Amendment Office still logs the report request, but the report cannot be completed until the drafter is made aware of what recommendations the conference committee is making.

Once the Amendment Office receives the folder, a drafter from the legislative function of the Office of Policy Analysis is assigned to prepare the cover sheet and conference committee amendments, if any. Note that the cover sheet and conference committee amendments must be prepared with scrupulous care. Typically, conference committee reports are needed in the final days and waning hours of the legislative session, and they may be considered with much haste in the Senate and House.

To draft the conference committee report cover sheet, the drafter must have the recommendation of the conference committee. The recommendations of the conference committee can be to:

- adopt all of the amendments of the opposite house;
- adopt all of the amendments of the opposite house and adopt additional conference committee amendments;
- adopt some of the amendments of the opposite house and reject the other amendments of the opposite house;
- adopt some of the amendments of the opposite house, reject the other amendments of the opposite house, and adopt additional conference committee amendments;
- reject all of the amendments of the opposite house; or
- reject all of the amendments of the opposite house and adopt new conference committee amendments.

Note that, if the conference committee is recommending that any or all of the opposite house amendments be adopted, conference committee amendments can amend those opposite house amendments. Note also that, if the conference committee is recommending the adoption of the opposite house amendments with additional amendments (whether or not the additional amendments “touch” the opposite house amendments), the preference is to reject the opposite house amendments and create a set of conference committee amendments that encompasses all of the conference committee’s recommendations. This allows for the creation of a reprint of the bill that reflects all of the recommendations of the conference committee.

After the recommendation of the conference committee has been obtained, the drafter then creates the cover sheet electronically. The conference committee report cover sheet identifies the bill number, the Senate and House third reading calendar numbers, and the decision of the conference committee, setting out new amendments if required. (See p. 302, “Sample Conference Committee Report Cover Sheet.”) All information identified on the cover sheet, except for the decision of the conference committee, is automatically inserted in the cover sheet when it is initially generated. Space is also provided for the drafter to insert the decision of the conference committee and for the members of the conference committee to sign one copy of the cover sheet.

Any conference committee amendments are usually prepared by the drafter of the conference committee cover sheet, but also may be prepared by committee staff. (Note that this is different than the drafting of the conference committee report cover sheet, which is always drafted by a drafter in the legislative function of the Office of Policy Analysis.) The amendments are prepared electronically in the same manner that other amendments are prepared, with the conference committee being the sponsor.

If the conference committee recommends that all or some of the opposite house amendments be adopted, support staff in the Amendment Office will print a copy of those amendments, with the stamp indicating the amendments were finalized, and will attach the amendments to the report cover sheet. Note that, if the conference committee is recommending that all amendments in a set of amendments be rejected, a copy of the set is not attached to the report cover sheet.

Once the conference committee report, including any necessary amendments, is prepared, the report is delivered to a chair of the conference committee, unless special delivery instructions have been given. If both houses are in session, the report is delivered to the chair appointed from the house of origin. If only one house is in session, it is delivered to the chair appointed from that house. It is the chair's responsibility to obtain the signatures of at least four out of the six members of the conference committee if the report is to proceed. The chair is responsible for returning the report to the Amendment Office where support staff will have the report copied. Sufficient quantities of the report are copied for distribution. All of the copies are delivered by the Amendment Office to the Secretary of the Senate's Office or Chief Clerk's Office, depending on whether the Senate or House has possession of the bill. The copies, in turn, are brought to the floor by staff in the Secretary's or Chief Clerk's Office as soon as possible. Once the body that has possession of the bill has considered and adopted the conference committee report, the remaining copies of the report are sent to the opposite body for consideration and adoption. If either body fails to adopt the conference committee report, the bill usually dies. On very rare occasions, a new conference committee is appointed or the existing committee is directed to meet again and develop another set of recommendations. *See also* p. 11, "Concurrence Votes and Conference Committees."

After the committee report is delivered to the appropriate house, copies of the committee report are added to the folder that was brought to the Amendment Office at the beginning of the process. These folders are sent to the library after the end of the session.

## Amendments to the Annual Operating and Capital Budget Bills

The procedures for amending the annual operating and capital budget bills, which provide for the appropriation of money, differ somewhat from the amendment procedures for all other legislation. First, budget analysts draft the amendments rather than bill drafters, but the amendments are still reviewed and processed by the Amendment Office. Second, the committee reprints of the operating and capital budgets have official status under Senate Rule 52(d) and House Rule 52(d) so that they may be directly amended by a legislator. Finally, restrictions exist on the insertion of language in the operating budget that would have the effect of “legislating” through the budget process.

A member of the General Assembly may request funding for capital projects through a legislative bond initiative (LBI). LBIs are basically requests for amendments to the capital budget. The prior authorization process is the process through which a member may request a modification to a capital project that was funded through a legislative bond initiative in a prior year. Note that amendments to an LBI are not drafted because an LBI is not a bill. If a member wants to modify an LBI, the member should contact the lead analyst for the Capital Budget Subcommittee in the member’s respective chamber or the Department of Legislative Services staff member assigned to LBIs.

For a further discussion regarding LBIs and other matters related to the capital budget, see *Guidelines for the Submission of Legislative Bond Initiative Requests to the General Assembly of Maryland* (Department of Legislative Services, Office of Policy Analysis, 2019).

For a further discussion of legal issues relating to the budget process, see *Legislative Desk Reference Manual* (Department of Legislative Services, Office of Policy Analysis, 2023).

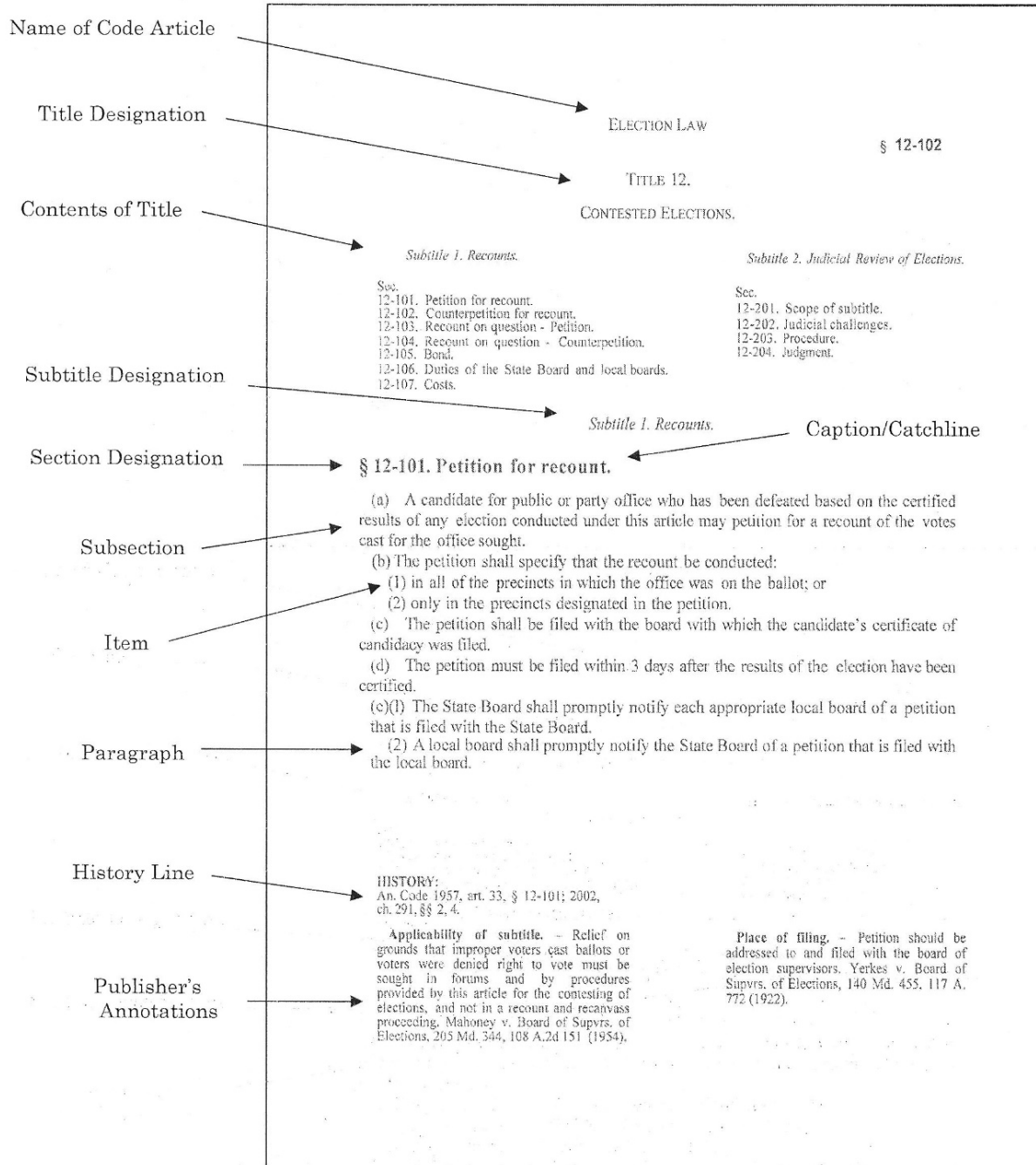
## Appendix

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## Sample Annotated Code Section



## Sample Bill Request Form

<b>BILL REQUEST FORM</b>		Date Submitted <input style="width: 100px;" type="text"/>
<b>REQUESTER INFORMATION</b>		
Name	Phone	E-mail
<input style="width: 150px;" type="text"/>	<input style="width: 80px;" type="text"/>	<input style="width: 250px;" type="text"/>
<b>REQUEST INFORMATION</b>		
Sponsor(s)	<input style="width: 450px;" type="text"/>	
Subject	<input style="width: 450px;" type="text"/>	
Name(s) and contact information of individual(s) the drafter is authorized to contact		
<input style="width: 550px;" type="text"/>		
Is this a reintroduction of a prior bill or LR? <input type="radio"/> Yes <input type="radio"/> No		
Prior bill or LR #	Year	Version <input style="width: 100px;" type="text"/>
Additional changes? <input type="radio"/> Yes <input type="radio"/> No		<small>*IF YES, PLEASE DESCRIBE THE CHANGES IN THE COMMENTS.</small>
Is this similar to another bill or LR? <input type="radio"/> Yes <input type="radio"/> No		
Similar bill or LR #	Year	Version <input style="width: 100px;" type="text"/>
Is this a cross-file of an LR already requested? <input type="radio"/> Yes <input type="radio"/> No		Cross-file # <input style="width: 100px;" type="text"/>
Would you also like to request a cross-file of this request for another sponsor? <input type="radio"/> Yes <input type="radio"/> No		Sponsor <input style="width: 100px;" type="text"/>
Comments	<div style="border: 1px solid black; background-color: #e6f2ff; width: 100%;"></div>	
<b>**PLEASE ATTACH ANY ADDITIONAL COMMENTS AND SUPPORTING DOCUMENTS TO THE EMAIL WITH THIS FORM**</b>		
Please click the SUBMIT button to create an email to send this form.		<input style="background-color: #6c757d; color: white; padding: 5px 15px; border: none;" type="button" value="SUBMIT"/> Updated: 1/31/2022

## Sample Reviewer Copy

### REVIEWER COPY

P1  
SB 29/14 – EHE

Xlr5091  
CFXlr5092

Bill No.: \_\_\_\_\_

Drafted by: Chilson

Requested: \_\_\_\_\_

Committee: \_\_\_\_\_

By: **Senator Smith**

### A BILL ENTITLED

AN ACT concerning

#### **State Designations – State Sandwich – Soft-Shell Crab Sandwich**

FOR the purpose of designating the soft-shell crab sandwich as the State sandwich.

BY adding to

Article – State Government

Section 13–322

Annotated Code of Maryland

(20XX Replacement Volume and 20XX Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That the Laws of Maryland read as follows:

#### **Article – State Government**

#### **13–322.**

**THE SOFT-SHELL CRAB SANDWICH IS THE STATE SANDWICH.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
October 1, 20XX.

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



## Sample LR

P1  
SB 29/14 – EHE

Xlr5091  
CFXlr5092

Bill No.: \_\_\_\_\_

Drafted by: Chilson

Typed by: David

Requested: \_\_\_\_\_

Stored – 07/31/XX

Committee: \_\_\_\_\_

Proofread by \_\_\_\_\_

Checked by \_\_\_\_\_

By: Senator Smith

### A BILL ENTITLED

1 AN ACT concerning

2 **State Designations – State Sandwich – Soft-Shell Crab Sandwich**

3 FOR the purpose of designating the soft-shell crab sandwich as the State sandwich.

4 BY adding to

5 Article – State Government

6 Section 13–322

7 Annotated Code of Maryland

8 (20XX Replacement Volume and 20XX Supplement)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

10 That the Laws of Maryland read as follows:

11 **Article – State Government**

12 **13–322.**

13 **THE SOFT-SHELL CRAB SANDWICH IS THE STATE SANDWICH.**

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

15 October 1, 20XX.

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



## Sample First Reading File Bill

Contents		Legislative Request Number ("lr") (Numeral Before "lr" Indicates the Session Year)	
		Cross-Filed Bill Number (If Applicable)	
Bill Number	HOUSE BILL 92		9lr1059
File Code	E4		CF SB 113
Sponsor	By: Delegate Dumais		
First Reading and Committee Assignment	Introduced and read first time: January 18, 2019 Assigned to: Judiciary		
A BILL ENTITLED			
1 AN ACT concerning			
2 <b>Public Safety – Handgun Permits – Payment of Fees</b>			
Short Title	3 FOR the purpose of altering the manner in which an applicant for a handgun permit is		
Purpose Paragraph	4 required to pay a certain fee to allow any method of payment approved by the		
Function Paragraph	5 Secretary of State Police; and generally relating to handgun permits.		
Line Numbers	6 BY repealing and reenacting, with amendments,		
	7 Article – Public Safety		
	8 Section 5–304		
	9 Annotated Code of Maryland		
	10 (2018 Replacement Volume)		
	11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,		
	12 That the Laws of Maryland read as follows:		
	13 <b>Article – Public Safety</b>		
Enacting Clause	14 5–304.		
Article of Code Affected	15 (a) An application for a permit shall be made under oath.		
Section of Article Affected	16 (b) (1) Subject to subsections (c) and (d) of this section, the Secretary may		
Current Law	17 charge a nonrefundable fee payable when an application is filed for a permit.		
Explanation of Symbology	18 (2) The fee may not exceed:		
	19 (i) \$75 for an initial application;		
	20 (ii) \$50 for a renewal or subsequent application; and		
	21 (iii) \$10 for a duplicate or modified permit.		
EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law.			

## Sample First Reading File Bill

### Body of Bill

Text Proposed for  
Repeal from Law

Text Proposed to be  
Added to Law

Effective Date Clause

2

#### HOUSE BILL 92

1 (3) The fees under this subsection are in addition to the fees authorized  
2 under § 5-305 of this subtitle.

3 (c) The Secretary may reduce the fee under subsection (b) of this section  
4 accordingly for a permit that is granted for one day only and at one place only.

5 (d) The Secretary may not charge a fee under subsection (b) of this section to:

6 (1) a State, county, or municipal public safety employee who is required to  
7 carry, wear, or transport a handgun as a condition of governmental employment; or

8 (2) a retired law enforcement officer of the State or a county or municipal  
9 corporation of the State.

10 (e) The applicant [may] SHALL pay a fee under this section by [a personal check,  
11 business check, certified check, or money order] A METHOD OF PAYMENT APPROVED BY  
12 THE SECRETARY.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2019.

## Sample Third Reading File Bill

## HOUSE BILL 92

E4

9lr1059  
CF SB 113

---

By: Delegate Dumais

Introduced and read first time: January 18, 2019

Assigned to: Judiciary

---

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2019

---

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Safety – Handgun Permits – Payment of Fees**

3 FOR the purpose of altering the manner in which an applicant for a handgun permit ~~is~~  
4 ~~required to~~ may pay a certain fee to allow ~~any method of~~ for payment by credit card  
5 or a method of online payment approved by the Secretary of State Police; and  
6 generally relating to handgun permits.

7 BY repealing and reenacting, with amendments,  
8 Article – Public Safety  
9 Section 5–304  
10 Annotated Code of Maryland  
11 (2018 Replacement Volume)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
13 That the Laws of Maryland read as follows:

14 **Article – Public Safety**

15 5–304.

16 (a) An application for a permit shall be made under oath.

17 (b) (1) Subject to subsections (c) and (d) of this section, the Secretary may  
18 charge a nonrefundable fee payable when an application is filed for a permit.

---

**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



## Sample Third Reading File Bill

2

### HOUSE BILL 92

- 1                   (2)    The fee may not exceed:
- 2                           (i)     \$75 for an initial application;
- 3                           (ii)    \$50 for a renewal or subsequent application; and
- 4                           (iii)   \$10 for a duplicate or modified permit.
- 5                   (3)    The fees under this subsection are in addition to the fees authorized
- 6   under § 5–305 of this subtitle.
- 7                   (c)    The Secretary may reduce the fee under subsection (b) of this section
- 8   accordingly for a permit that is granted for one day only and at one place only.
- 9                   (d)    The Secretary may not charge a fee under subsection (b) of this section to:
- 10                           (1)    a State, county, or municipal public safety employee who is required to
- 11   carry, wear, or transport a handgun as a condition of governmental employment; or
- 12                           (2)    a retired law enforcement officer of the State or a county or municipal
- 13   corporation of the State.
- 14                   (e)    The applicant ~~may~~ **SHALL** pay a fee under this section by ~~a~~ a personal check,
- 15   business check, certified check, ~~or~~ money order, **CREDIT CARD, OR** ~~A METHOD OF~~
- 16   **ONLINE PAYMENT APPROVED BY THE SECRETARY.**
- 17                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 18   October 1, 2019.

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
Speaker of the House of Delegates.

\_\_\_\_\_  
President of the Senate.

## Sample Enrolled Bill

### HOUSE BILL 92

E4

(9lr1059)

#### ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegate Dumais**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

#### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Safety – Handgun Permits – Payment of Fees**

3 FOR the purpose of altering the manner in which an applicant for a handgun permit ~~is~~  
4 ~~required to pay~~ may is required to pay a certain fee to allow ~~any method of for payment~~  
5 by electronic check, credit card, or a method of online payment approved by the  
6 Secretary of State Police; and generally relating to handgun permits.

7 BY repealing and reenacting, with amendments,

8 Article – Public Safety

9 Section 5–304

10 Annotated Code of Maryland

11 (2018 Replacement Volume)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

13 That the Laws of Maryland read as follows:

---

**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber / conference committee amendments.*



## Sample Enrolled Bill

2

### HOUSE BILL 92

1

#### Article – Public Safety

2 5–304.

3 (a) An application for a permit shall be made under oath.

4 (b) (1) Subject to subsections (c) and (d) of this section, the Secretary may  
5 charge a nonrefundable fee payable when an application is filed for a permit.

6 (2) The fee may not exceed:

7 (i) \$75 for an initial application;

8 (ii) \$50 for a renewal or subsequent application; and

9 (iii) \$10 for a duplicate or modified permit.

10 (3) The fees under this subsection are in addition to the fees authorized  
11 under § 5–305 of this subtitle.12 (c) The Secretary may reduce the fee under subsection (b) of this section  
13 accordingly for a permit that is granted for one day only and at one place only.

14 (d) The Secretary may not charge a fee under subsection (b) of this section to:

15 (1) a State, county, or municipal public safety employee who is required to  
16 carry, wear, or transport a handgun as a condition of governmental employment; or17 (2) a retired law enforcement officer of the State or a county or municipal  
18 corporation of the State.19 (e) The applicant ~~may~~ **SHALL** pay a fee under this section by ~~a personal~~  
20 ~~check, business check, certified check, or money order~~ **AN ELECTRONIC CHECK, A CREDIT**  
21 **CARD, OR A METHOD OF ONLINE PAYMENT APPROVED BY THE SECRETARY.**22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 2019.

## Sample Chapter Law

LAWRENCE J. HOGAN, JR., Governor

Ch. 43

Chapter 43

(House Bill 92)

AN ACT concerning

### Public Safety – Handgun Permits – Payment of Fees

FOR the purpose of altering the manner in which an applicant for a handgun permit ~~is required to~~ may is required to pay a certain fee to allow ~~any method of for payment~~ by electronic check, credit card, or a method of online payment approved by the Secretary of State Police; and generally relating to handgun permits.

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 5–304

Annotated Code of Maryland

(2018 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That the Laws of Maryland read as follows:

### Article – Public Safety

5–304.

- (a) An application for a permit shall be made under oath.
- (b) (1) Subject to subsections (c) and (d) of this section, the Secretary may charge a nonrefundable fee payable when an application is filed for a permit.
  - (2) The fee may not exceed:
    - (i) \$75 for an initial application;
    - (ii) \$50 for a renewal or subsequent application; and
    - (iii) \$10 for a duplicate or modified permit.
  - (3) The fees under this subsection are in addition to the fees authorized under § 5–305 of this subtitle.
- (c) The Secretary may reduce the fee under subsection (b) of this section accordingly for a permit that is granted for one day only and at one place only.
- (d) The Secretary may not charge a fee under subsection (b) of this section to:

## Sample Chapter Law

Ch. 43

2019 LAWS OF MARYLAND

(1) a State, county, or municipal public safety employee who is required to carry, wear, or transport a handgun as a condition of governmental employment; or

(2) a retired law enforcement officer of the State or a county or municipal corporation of the State.

(e) The applicant ~~may~~ SHALL pay a fee under this section by ~~a personal check, business check, certified check, or money order~~ AN ELECTRONIC CHECK, A CREDIT CARD, OR A METHOD OF ONLINE PAYMENT APPROVED BY THE SECRETARY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

**Approved by the Governor, April 18, 2019.**

## Sample Uncodified Bill

## HOUSE BILL 902

J2

2lr2440

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By: Delegate Ivey

Introduced and read first time: February 7, 2022

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 State Board of Professional Counselors and Therapists – Out-of-State Licensing  
3 Reciprocity – Study4 FOR the purpose of requiring the State Board of Professional Counselors and Therapists  
5 to conduct a study and make recommendations on licensure reciprocity for clinical  
6 marriage and family therapists licensed in certain states and jurisdictions; and  
7 generally relating to the licensure of clinical marriage and family therapists.8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
9 That:10 (a) The State Board of Professional Counselors and Therapists shall study and  
11 make recommendations on updating State law granting reciprocity for clinical marriage  
12 and family therapists licensed in the District of Columbia and Virginia to practice in the  
13 State.

14 (b) In conducting the study and making the recommendations, the Board shall:

15 (1) review the laws and regulations in the State that authorize clinical  
16 marriage and family therapists licensed in the District of Columbia and Virginia to practice  
17 in the State;18 (2) determine the feasibility of establishing an agreement between the  
19 State, the District of Columbia, and Virginia for granting reciprocity for clinical marriage  
20 and family therapists licensed in one of the three jurisdictions to practice in another of the  
21 three jurisdictions that will:

22 (i) maintain existing licensing requirements within the State;

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



## Sample Uncodified Bill

2

### HOUSE BILL 902

1                   (ii)     authorize clinical marriage and family therapists licensed in the  
2 District of Columbia or Virginia to apply for licensure in the State without unnecessary  
3 barriers; and

4                   (iii)    establish substantively similar requirements for licensure as a  
5 clinical marriage and family therapy license in the District of Columbia, Virginia, and the  
6 State.

7           (c)     On or before December 1, 2022, the Board shall report its findings and  
8 recommendations to the Senate Education, Health, and Environmental Affairs Committee  
9 and the House Health and Government Operations Committee, in accordance with §  
10 2-1257 of the State Government Article.

11           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
12 1, 2022.



## Sample Joint Resolution

### HOUSE JOINT RESOLUTION 6

P1

0lr1209

By: Delegates Wilkins, Acevero, Bagnall, D. Barnes, Boyce, Cain, Crosby, Crutchfield, Cullison, Dumais, Ebersole, Feldmark, W. Fisher, Guyton, Harrison, Haynes, Ivey, Kaiser, Kipke, Korman, Krimm, J. Lewis, Lierman, Lopez, Luedtke, McIntosh, Palakovich Carr, Proctor, Queen, Reznik, Shetty, Solomon, Valderrama, Valentino-Smith, Washington, C. Watson, R. Watson, and K. Young

Introduced and read first time: February 3, 2020

Assigned to: Rules and Executive Nominations

#### HOUSE JOINT RESOLUTION

A House Joint Resolution concerning

#### Participation by Maryland Residents in the 2020 Census

FOR the purpose of stating that all practical efforts should be made to ensure that, for the 2020 Census, every Maryland resident is counted once and in a certain place on a certain day; urging all Maryland residents to work with certain persons to ensure that every Maryland resident is counted; strongly encouraging all Maryland residents to participate fully in the 2020 Census; and generally relating to the 2020 Census.

WHEREAS, The U.S. Constitution places the census at the foundation of democracy by calling for a count of the nation's residents every 10 years; and

WHEREAS, The census results will determine the number of seats Maryland will have in the U.S. House of Representatives and guide the distribution of more than \$16 billion in federal funding to the State; and

WHEREAS, The results of the census will aid in the making of decisions regarding job creation, housing, emergency preparedness, and the construction of schools, roads, and hospitals; and

WHEREAS, Maryland's overall response rate of 76% in the 2010 Census required costly follow-up to nonrespondents and a likely loss in resources for certain communities; and

WHEREAS, The census has historically undercounted certain communities, which has disproportionately affected people of color, low-income individuals, non-English speakers, and young children; and





## Sample Joint Resolution

2

### HOUSE JOINT RESOLUTION 6

WHEREAS, The 2020 Census will be the first census in history to be conducted mostly online, presenting additional challenges to the 14% of Maryland residents lacking reliable Internet access; and

WHEREAS, Several states, including Maryland, successfully blocked the inclusion of an untested and unnecessary citizenship question on the 2020 Census form; now, therefore, be it

RESOLVED BY THE GENERAL ASSEMBLY OF MARYLAND, That all practical efforts should be made to ensure that, for the 2020 Census, every Maryland resident is counted once and in the correct place according to where they live on Census Day, April 1, 2020; and be it further

RESOLVED, That the General Assembly urges all Maryland residents to work with nonprofit organizations, community leaders, and trusted voices to ensure that every Maryland resident is counted; and be it further

RESOLVED, That the General Assembly strongly encourages all Maryland residents to participate fully in the 2020 Census; and be it further

RESOLVED, That a copy of this Resolution be forwarded by the Department of Legislative Services to the Honorable Lawrence J. Hogan, Jr., Governor of Maryland; the Honorable William C. Ferguson, IV, President of the Senate of Maryland; and the Honorable Adrienne A. Jones, Speaker of the House of Delegates.

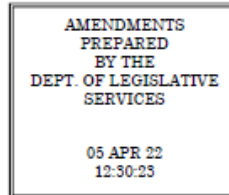
## Sample Amendment Request Form

AMENDMENT REQUEST FORM		Date Submitted
<b>REQUESTER INFORMATION</b>		
Name	Phone	E-mail
<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>REQUEST INFORMATION</b>		
Bill No.	<input type="text"/>	Bill Title <input type="text"/>
Amendment Sponsor	<input type="text"/>	
Hearing Date	<input type="text"/>	Date Needed <input type="text"/>
Name(s) and contact information of individual(s) the drafter is authorized to contact		
<input type="text"/>		
To Be Offered	<input type="text"/>	
Description and Comments		
<input type="text"/>		
<b>**PLEASE ATTACH ANY ADDITIONAL COMMENTS AND SUPPORTING DOCUMENTS TO THE EMAIL WITH THIS FORM.**</b>		
Please click the SUBMIT button to create an email to send this form.		<input type="button" value="SUBMIT"/> Updated: 1/31/2022

## Sample Amendments to be Offered in Committee



SB0163/393928/1



BY: Senator Kagan  
(To be offered in the Ways and Means Committee)

### AMENDMENT TO SENATE BILL 163 (Third Reading File Bill)

On page 3, in line 22, strike “A” and substitute “ON AND AFTER JANUARY 1, 2024, A”; in line 23, strike “RELEASE” and substitute “TABULATE”; in the same line, strike “VOTE TOTALS” and substitute “RESULTS”; and in the same line, after “BEFORE” insert “THE CLOSING OF THE POLLS ON”.

On page 6, strike in their entirety lines 13 through 28, inclusive, and substitute:

“IF A LOCAL BOARD RECEIVES MORE THAN ONE BALLOT, IN SEPARATE ENVELOPES, FROM THE SAME INDIVIDUAL, THE LOCAL BOARD SHALL:

(1) COUNT THE FIRST BALLOT FROM THE INDIVIDUAL THAT IS DETERMINED TO BE LEGALLY SUFFICIENT; AND

(2) REJECT ANY OTHER BALLOT.”

On page 7, after line 24, insert:

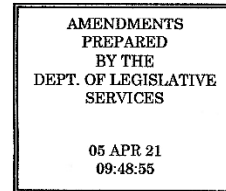
“SECTION 2. AND BE IT FURTHER ENACTED, That, for the 2022 primary and general elections, a local board of elections or an employee of a local board may tabulate absentee ballot results before the closing of the polls on election day, but may not release the vote totals before the closing of the polls on election day.”;

and in line 25, strike “2.” and substitute “3.”

## Sample Amendments to Bill to be Offered on the Floor



HB0108/126083/1



BY: Health and Government Operations Committee

### AMENDMENTS TO HOUSE BILL 108 (First Reading File Bill)

#### AMENDMENT NO. 1

On page 1, strike beginning with "requiring" in line 3 down through "standards;" in line 5; in line 5, after the second "the" insert "Maryland"; and in the same line, after "Department" insert "of Health".

#### AMENDMENT NO. 2

On page 3, strike in their entirety lines 9 through 11, inclusive; in line 12, strike the brackets; and in the same line, strike "(5)".

On page 4, in lines 1 and 8, strike the brackets; in the same lines, strike "(6)" and "(7)", respectively; in line 27, strike "\$8,000,000" and substitute "\$5,000,000"; and in line 28, strike "\$9,000,000" and substitute "\$5,000,000".

On page 5, in line 1, strike "\$10,000,000" and substitute "\$5,000,000".

On page 6, strike beginning with "LIMITING" in line 4 down through "(II)" in line 6; and in line 9, strike "(III)" and substitute "(II)".

On page 7, in line 2, strike "9-1-1 DISPATCH,"; in line 4, strike the brackets; strike in their entirety lines 5 and 6; in line 7, strike the brackets; and in the same line, strike "(IV)".

## Sample Amendments to Amendments to be Offered on the Floor



SB0275/183125/1

BY: Delegate Rose

AMENDMENTS  
PREPARED  
BY THE  
DEPT. OF LEGISLATIVE  
SERVICES

30 MAR 22  
16:32:16

AMENDMENT TO SENATE BILL 275, AS AMENDED

On page 2 of the Economic Matters Committee Amendments (SB0275/383324/1), in line 8 of Amendment No. 2, after “(B)” insert “(1) (i) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE SECRETARY ANNUALLY SHALL SET A TOTAL RATE OF CONTRIBUTION TO BE PAID IN ACCORDANCE WITH THIS SUBSECTION.”

(ii) THE TOTAL RATE OF CONTRIBUTION ESTABLISHED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. MAY NOT EXCEED 0.75% OF AN EMPLOYEE’S WAGES;

2. SHALL BE APPLIED TO ALL WAGES UP TO AND INCLUDING THE SOCIAL SECURITY WAGE BASE;

3. SHALL BE SHARED EQUALLY BY EMPLOYERS AND EMPLOYEES; AND

4. SHALL BE SUFFICIENT TO FUND THE BENEFITS PAYABLE UNDER THIS TITLE.

(2) EACH EMPLOYER SHALL CONTRIBUTE AN AMOUNT EQUAL TO 25% OF THE TOTAL RATE OF CONTRIBUTION FOR EACH EMPLOYEE EMPLOYED BY THE EMPLOYER.

(C)”.

## Sample Amendments to Amendments to be Offered on the Floor

SB0275/183125/01  
Amendments to SB 275  
Page 2 of 2

Rose

In Amendment No. 2 of the Economic Matters Committee Amendments, on pages 2 through 4, strike beginning with “(C)” in line 13 on page 2 down through “EMPLOYERS.” in line 13 on page 4.

On page 4 of the Economic Matters Committee Amendments, in line 14 of Amendment No. 2, strike “(E)” and substitute “(D)”; and in line 22, strike “(F)” and substitute “(E)”.

On page 5 of the Economic Matters Committee Amendments, in line 1 of Amendment No. 2, strike “(D)” and substitute “(B)”.

On page 1 of Delegate Crosby’s Amendment (SB0275/793028/1), in line 2, strike “2025” and substitute “2023”; in line 3, strike “2025”; in line 5, strike “2025”; in line 6, strike “(C)”; in line 15, strike “11(2)” and substitute “11(1)”; and in line 17, strike “2025” and substitute “2024”.

On page 2 of Delegate Crosby’s Amendment, in line 4, after “Act.” insert “and”; strike in their entirety lines 5 and 6; and in line 7, strike “(3)” and substitute “(2)”.

## Sample Amendments to Bill and Amendments to be Offered on the Floor



SB0275/143029/1

BY: Senator Hettleman

AMENDMENTS  
PREPARED  
BY THE  
DEPT. OF LEGISLATIVE  
SERVICES

17 MAR 22  
10:39:37

### AMENDMENT TO SENATE BILL 275, AS AMENDED (First Reading File Bill)

On page 5 of the Finance Committee Amendments (SB0275/283522/1), in line 15 of Amendment No. 4, after "TITLE," insert "AND"; and strike beginning with "PROCEDURES" in line 16 down through "(IV)" in line 19.

On page 6 of the Finance Committee Amendments, in line 21 of Amendment No. 4, strike "A" and substitute "EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A".

On page 16 of the bill, in line 9, after "(A)" insert "(1)"; and after line 17, insert:

"(2) A COVERED INDIVIDUAL MAY RECEIVE AN ADDITIONAL 12 WEEKS OF BENEFITS IF THE COVERED INDIVIDUAL DURING THE SAME APPLICATION YEAR:

(I) 1. RECEIVED BENEFITS BECAUSE THE COVERED INDIVIDUAL WAS ELIGIBLE FOR BENEFITS UNDER § 8.3-701(A)(1)(I) OF THIS SUBTITLE; AND

2. BECOMES ELIGIBLE FOR BENEFITS UNDER § 8.3-701(A)(1)(III) OF THIS SUBTITLE; OR

(II) 1. RECEIVED BENEFITS BECAUSE THE COVERED INDIVIDUAL WAS ELIGIBLE FOR BENEFITS UNDER § 8.3-701(A)(1)(III) OF THIS SUBTITLE; AND

## Sample Amendments to Bill and Amendments to be Offered on the Floor

SB0275/143029/01  
Amendments to SB 275  
Page 2 of 2

Hettleman

2. BECOMES ELIGIBLE FOR BENEFITS UNDER § 8.3-701(A)(1)(I) OF THIS SUBTITLE.”.

On page 21 of the bill, in line 3, strike “IF” and substitute “EXCEPT AS PROVIDED IN SUBSECTION (C)(2) OF THIS SECTION, IF”; and after line 7, insert:

“(C) AN EMPLOYER MAY:

(1) DURING A PERIOD OF LEAVE FROM WORK FOR WHICH BENEFITS MAY BE PAID UNDER THIS TITLE, TERMINATE EMPLOYMENT OF THE COVERED INDIVIDUAL TAKING THE LEAVE ONLY FOR CAUSE; AND

(2) DENY RESTORATION OF A COVERED INDIVIDUAL’S POSITION OF EMPLOYMENT UNDER SUBSECTION (B) OF THIS SECTION IF:

(I) THE DENIAL IS NECESSARY TO PREVENT SUBSTANTIAL AND GRIEVOUS ECONOMIC INJURY TO THE OPERATIONS OF THE EMPLOYER;

(II) THE EMPLOYER NOTIFIES THE COVERED INDIVIDUAL OF THE INTENT OF THE EMPLOYER TO DENY RESTORATION OF THE COVERED INDIVIDUAL’S POSITION OF EMPLOYMENT AT THE TIME THE EMPLOYER DETERMINES THE ECONOMIC INJURY WOULD OCCUR; AND

(III) IF THE LEAVE HAS ALREADY BEGUN IN A CASE OF LEAVE FROM WORK FOR WHICH BENEFITS MAY PAID UNDER THIS TITLE, THE COVERED INDIVIDUAL ELECTS NOT TO RETURN TO EMPLOYMENT AFTER RECEIVING NOTICE OF THE EMPLOYER’S INTENTION TO DENY RESTORATION OF THE COVERED INDIVIDUAL’S POSITION OF EMPLOYMENT.”.

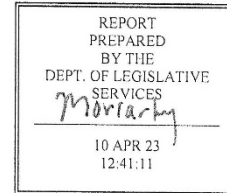


## Sample Conference Committee Report Cover Sheet



SB0781/913322/1

### CONFERENCE COMMITTEE REPORT



BILL NO.: SB 781      SPONSOR: Senator Hester

SUBJECT: Offshore Wind Energy - State Goals and  
Procurement (Promoting Offshore Wind Energy  
Resources Act)

THIRD READING CALENDAR      HOUSE NO. 30      SENATE NO. 37

Hon. William C. Ferguson, IV, President of the Senate  
Hon. Adrienne A. Jones, Speaker of the House of Delegates

Your Conference Committee on the Disagreeing votes of the two Houses has  
met and, after full and free conference, recommends:

(1) That the attached House Economic Matters Committee Amendments  
(SB0781/403428/1) be adopted.

(2) That the attached Conference Committee Amendments  
(SB0781/133324/1) be adopted.

Senate Members:

Chair, Katie Fry Hester

Brian J. Feldman

Jason C. Gallion

House Members:

Chair, Lorig Charkoudian

Brian M. Crosby

David Fraser-Hidalgo

Read in the Senate:

Read in the House of Delegates:

Amendment Office Delivers Report to:

( ) Chief Clerk  
(X) Secretary, Senate

## File Codes – 2024 Session

### ALCOHOLIC BEVERAGES AND CANNABIS ISSUES

- A1 Statewide Alcoholic Beverages Bills
- A2 Local Alcoholic Beverages Bills
- A3 Cannabis

### BUDGETS AND PUBLIC DEBT

- B1 Operating Budget
  - Includes budget-related issues
- B3 Local Debt
  - County bonding authority
- B4 Prior Authorizations
- B5 Capital Budget
  - Includes academic facilities bonding authority

### BUSINESS AND ECONOMIC ISSUES

- C1 Corporations and Associations
- C2 Business Regulation
- C3 Business Occupations and Professions
  - NOT health occupations (J2)
- C4 Insurance – Other than Health
- C5 Utility Regulation
  - Includes PSC
  - NOT WSSC (L5)
- C6 Horse Racing
- C7 Gaming
  - Includes lottery
- C8 Economic Development
  - NOT housing (C9)
- C9 Housing and Community Development

### COURTS AND CIVIL PROCEEDINGS

- D1 Courts and Court Personnel – Statewide
  - Statewide or multicounty bill
  - Includes attorneys and judges
- D2 Courts and Court Personnel – Local
  - Single county
  - Includes Sheriffs and State’s Attorneys
- D3 Civil Actions and Procedures
  - Includes evidence, immunity, and judgments
- D4 Family Law
  - Includes domestic abuse
- D5 Human Relations
  - Includes civil rights (Title 20 of State Government)

## File Codes – 2024 Session

### CRIMES AND PUBLIC SAFETY

E1 Criminal Law – Substantive Crimes

E2 Criminal Law – Procedures

- Includes victims' rights and sentencing

E3 Juvenile Law

E4 Public Safety

- Includes gun regulation, law enforcement officers, fire safety, and explosives

E5 Corrections

### EDUCATION

F1 Primary and Secondary Education

- NOT public libraries

F2 Higher Education

- Includes scholarships and community colleges

F3 Education – Local Bills

- Single county

F4 Community Colleges – Local Bills

F5 Education – Miscellaneous

- Includes public libraries, Maryland Public Broadcasting, and interstate compacts related to education

### ELECTIONS AND ETHICS

G1 Elections

- Includes single county bills

G2 Ethics

- Includes single county bills

### FINANCIAL INSTITUTIONS AND COMMERCIAL LAW

I1 Financial Institutions

- Includes credit unions

I2 Commercial Law – Credit Regulation

I3 Commercial Law – Consumer Protection

I4 Commercial Law – Generally

- Includes UCC

## File Codes – 2024 Session

### HEALTH

- J1 Public Health
  - Includes smoking, abortions, medical assistance, and miscellaneous health issues
- J2 Health Occupations
- J3 Health Care Facilities and Regulation
- J4 Health Maintenance Organizations
  - NOT general health insurance bills or regulation by the Insurance Administration
- J5 Health – Insurance
  - Includes HMOs only in the context of regulation by the Insurance Administration
  - NOT medical assistance (J1)

### LABOR AND EMPLOYMENT

- K1 Workers' Compensation
- K2 Unemployment Insurance
- K3 Private Sector Labor and Industry
  - Includes occupational safety and the Wage and Hour Law

### LOCAL GOVERNMENT

- L1 Counties – Generally
  - Powers or structure of multiple counties
- L2 Counties – Local Laws
  - Single county bills
  - Includes zoning and land use bills that apply to a single county
  - NOT Alcoholic Beverages (A2), Bonds (B3), Courts (D2), Education (F3), Elections (G1), Ethics (G2), Gaming (C7), Taxes (Q2 or Q8), or Vehicle Laws (R3–R7)
- L3 Municipalities
  - Includes single jurisdiction bills
- L5 Bi-County Agencies
  - WSSC, M-NCPPC
- L6 Local Government – Generally
  - Bills concerning multiple types of local governments, including zoning and land use that applies to multiple counties, municipalities in multiple counties, or the entire State

## File Codes – 2024 Session

### NATURAL RESOURCES, ENVIRONMENT, AND AGRICULTURE

- |    |                               |   |
|----|-------------------------------|---|
| M1 | Natural Resources – Generally | <ul style="list-style-type: none"> <li>• Includes Program Open Space</li> </ul>     |
| M2 | Hunting and Fishing           |   |
| M3 | Environment                   | <ul style="list-style-type: none"> <li>• Includes climate change</li> </ul>         |
| M4 | Agriculture                   | <ul style="list-style-type: none"> <li>• Includes pesticide regulation</li> </ul>   |
| M5 | Energy                        | <ul style="list-style-type: none"> <li>• MEA, SEIF, and renewable energy</li> </ul> |

### PROPERTY, ESTATES, AND TRUSTS

- |    |                    |  |
|----|--------------------|--|
| N1 | Real Property      |  |
| N2 | Estates and Trusts | <ul style="list-style-type: none"> <li>• NOT Orphans' Court Judges (D1 or D2)</li> </ul> |

### HUMAN RESOURCES

- |    |                             |  |
|----|-----------------------------|--|
| O1 | Social Services – Generally | <ul style="list-style-type: none"> <li>• Includes public assistance<br/>NOT medical assistance (J1) or housing (C9)</li> </ul> |
| O2 | Elderly                     |  |
| O3 | Disabled                    | <ul style="list-style-type: none"> <li>• Includes developmental disabilities</li> </ul>  |
| O4 | Children                    | <ul style="list-style-type: none"> <li>• Includes day care</li> </ul>  |

### STATE GOVERNMENT

- |    |                                  |   |
|----|----------------------------------|---|
| P1 | Agencies, Offices, and Officials | <ul style="list-style-type: none"> <li>• Includes veterans and miscellaneous State government bills</li> <li>• NOT Title 20 of State Government (D5)</li> </ul> |
| P2 | Procurement                      | <ul style="list-style-type: none"> <li>• Includes prevailing wage and contract appeals</li> </ul>   |
| P3 | Regulations and Procedures       | <ul style="list-style-type: none"> <li>• Includes regulatory review and the Administrative Procedure Act</li> </ul>   |
| P4 | Personnel                        | <ul style="list-style-type: none"> <li>• Includes government collective bargaining<br/>NOT pensions (P6)</li> </ul>   |
| P5 | General Assembly                 | <ul style="list-style-type: none"> <li>• NOT joint resolutions (code JRs by subject)</li> </ul>   |
| P6 | Pensions and Retirement          |   |

## File Codes – 2024 Session

### TAXES

- |    |                          |  |
|----|--------------------------|--|
| Q1 | Property                 | <ul style="list-style-type: none"> <li>• Statewide or multiple jurisdictions</li> </ul>  |
| Q2 | Property – Local         | <ul style="list-style-type: none"> <li>• Single county</li> </ul>  |
| Q3 | Income                   |  |
| Q4 | Sales and Use            |  |
| Q5 | Transportation           | <ul style="list-style-type: none"> <li>• Includes fuel, road, and motor carrier taxes</li> <li>• NOT motor vehicle registration fees (R4)</li> </ul> |
| Q6 | Recordation and Transfer |  |
| Q7 | Miscellaneous            | <ul style="list-style-type: none"> <li>• Includes estate, inheritance, admission and amusement, hotel/motel, tobacco, and franchise taxes</li> </ul> |
| Q8 | Miscellaneous – Local    | <ul style="list-style-type: none"> <li>• Single county</li> <li>• Includes special taxing districts</li> </ul>                                       |

### TRANSPORTATION

- |    |  |  |
|----|--|--|
| R1 | Transportation – Highways                | <ul style="list-style-type: none"> <li>• Title 8 of Transportation</li> </ul>                              |
| R2 | Transportation – Generally               | <ul style="list-style-type: none"> <li>• Titles 1-7, 9, and 10 of Transportation</li> </ul>                |
| R3 | Vehicle Laws – Drunk Driving             |  |
| R4 | Vehicle Laws – Licensing and Regulation  | <ul style="list-style-type: none"> <li>• Includes registration fees and licensing of businesses</li> </ul> |
| R5 | Vehicle Laws – Rules of the Road         |  |
| R6 | Vehicle Laws – Equipment and Inspections | <ul style="list-style-type: none"> <li>• Includes VEIP, size, weight, and load</li> </ul>                  |
| R7 | Vehicle Laws – Miscellaneous             |  |

### TECHNOLOGY

- |    |                                    |  |
|----|------------------------------------|--|
| S1 | Information Technology – Generally | <ul style="list-style-type: none"> <li>• Includes broadband, State and local government information technology issues</li> </ul> |
| S2 | Cybersecurity                      | <ul style="list-style-type: none"> <li>• Includes State and local government cybersecurity</li> </ul>                            |

\*References to “county” include Baltimore City.

\*\* Constitutional amendments are assigned the file code for the subject of the amendment.

\*\*\* Joint resolutions are assigned the file code for the subject of the resolution.

\*\*\*\* For additional information on file codes, see p. 19, “File Codes.”

## Synopsis Code Volume Abbreviations

AG -	Agriculture	HG -	Health – General
AC -	Alcoholic Beverages and Cannabis	HO -	Health Occupations
BOP -	Business Occupations and Professions	HS -	Housing and Community Development
BR -	Business Regulation	HU -	Human Services
CL -	Commercial Law	IN -	Insurance
CA -	Corporations and Associations	LE -	Labor and Employment
CS -	Correctional Services	LU -	Land Use
CJ -	Courts and Judicial Proceedings	LG -	Local Government
CR -	Criminal Law	NR -	Natural Resources
CP -	Criminal Procedure	PS -	Public Safety
EC -	Economic Development	PU -	Public Utilities
ED -	Education	RP -	Real Property
EL -	Election Law	SF -	State Finance and Procurement
EN -	Environment	SG -	State Government
ET -	Estates and Trusts	SP -	State Personnel and Pensions
FL -	Family Law	TG -	Tax – General
FI -	Financial Institutions	TP -	Tax – Property
GP -	General Provisions	TR -	Transportation

## Constitutional, Statutory, and Rule Provisions Related to Legislative Drafting

### Maryland Constitution

- |                                |   |
|--------------------------------|---|
| Declaration of Rights, Art. 8  | <ul style="list-style-type: none"><li>• Separation of powers</li></ul>  |
| Declaration of Rights, Art. 17 | <ul style="list-style-type: none"><li>• Ex post facto laws</li><li>• Retrospective oaths or restrictions</li></ul>  |
| Declaration of Rights, Art. 24 | <ul style="list-style-type: none"><li>• Due process</li></ul>   |
| Art. III, § 29                 | <ul style="list-style-type: none"><li>• Bill title and enacting clause requirements</li><li>• Single subject rule</li><li>• Rules governing enactment of amendments to Code</li></ul> |
| Art. III, § 31                 | <ul style="list-style-type: none"><li>• Effective dates</li></ul>   |
| Art. III, § 33                 | <ul style="list-style-type: none"><li>• Local and special laws</li></ul>  |
| Art. III, § 35                 | <ul style="list-style-type: none"><li>• Extra compensation to public officer, agent, or contractor</li><li>• Increasing or diminishing compensation during term of office</li></ul>   |
| Art. III, § 52                 | <ul style="list-style-type: none"><li>• How appropriations to be made</li><li>• Budget</li></ul>  |
| Art. XI–A, § 2                 | <ul style="list-style-type: none"><li>• Requirement of adoption of express powers for charter counties</li></ul>  |
| Art. XI–A, § 4                 | <ul style="list-style-type: none"><li>• Prohibition on General Assembly enacting local laws on subjects covered by express powers of charter counties</li></ul>                       |
| Art. XI–F, § 4                 | <ul style="list-style-type: none"><li>• Power of General Assembly to enact local laws affecting code counties</li></ul>   |
| Art. XIV, § 1                  | <ul style="list-style-type: none"><li>• Rules governing amendments to the Maryland Constitution</li></ul>   |
| Art. XVI, §§ 2 and 6           | <ul style="list-style-type: none"><li>• Effective dates</li></ul>   |
| Art. XIX, § 1                  | <ul style="list-style-type: none"><li>• Statewide referendums for commercial gaming</li></ul>   |



## **Constitutional, Statutory, and Rule Provisions Related to Legislative Drafting**

### **Statutory Provisions**

- |                               |                           |
|-------------------------------|---------------------------|
| Title 1 of General Provisions | • Rules of Interpretation |
| § 2–1502 of State Government  | • Pre-filing of bills     |
| § 2–1504 of State Government  | • Bill synopses           |

### **Senate and House Rules\***

- |         |                                       |
|---------|---------------------------------------|
| Rule 45 | • Single subject (Amendments)         |
| Rule 46 | • Change of purpose (Amendments)      |
| Rule 47 | • Effect on sponsor (Amendments)      |
| Rule 48 | • Extraordinary majority (Amendments) |
| Rule 52 | • Committee reprints (Amendments)     |
| Rule 64 | • Amendments (Third reading)          |

\* Rule numbers are the same for these rules in both the Senate and House Rules.

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(All sources cited are available in the Department of Legislative Services (DLS) Library and online as indicated.)

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*Compilation of the Changes in the Public Local Laws of Maryland.\*\** DLS, Office of Policy Analysis. (This document is updated annually and describes the current status of public local laws. Electronic copies dating back to 1998 are available through the DLS Library’s online catalog.)

*Issue Papers.\** DLS, Office of Policy Analysis. (Issue briefs on matters likely to be considered during upcoming legislative session. They are published annually in the fall prior to session. Electronic copies for 1998 through 2022 are available through the DLS Library’s online catalog.)

*Legislative Desk Reference Manual.* DLS, Office of Policy Analysis, 2023. (Black letter statements of law relevant to legislative drafting, e.g., local government powers; “one subject” rule; federal preemption; rules of legislative procedure. An electronic copy is available through the DLS Library’s online catalog.)

*Legislative Handbook Series.\** DLS, Office of Policy Analysis, 2022. (9 volumes: Vol. I, Maryland Legislator’s Handbook; Vol. II, Government Services in Maryland; Vol. III, Maryland’s Revenue Structure; Vol. IV, Maryland’s Budget Process; Vol. V, Maryland State Personnel, Pensions, and Procurement; Vol. VI, Maryland Local Government; Vol. VII, Business Regulation in Maryland; Vol. VIII, Maryland’s Criminal and Juvenile Justice Process; Vol. IX, Education in Maryland. This series is published once every four years. To access on the General Assembly website, go to “Publications” under the “Search & Archives” tab and use the drop down lists to select “Legislative Handbook” and the 2022 Session. An electronic copy of each volume also is available through the DLS Library’s online catalog.)

*Maryland Clipper.* DLS, Library and Information Services. (Compilation of news clippings on issues of interest to the General Assembly, arranged by subject. Published daily during session and weekly during the interim. Also available in Microsoft Teams: DLS/Maryland Clipper.)

*Maryland Documents.* DLS, Library and Information Services. (Monthly compilation of all State and local publications catalogued by the DLS Library during the previous month. The State and local publications also are available in the DLS Library. Electronic copies from 2007 through the present are available through the DLS Library's online catalog.)

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*Model Guide for Drafting Governmental Units and Licensing Provisions.\** DLS, 2008. (An electronic copy is available through the DLS Library's online catalog.)

*The 90 Day Report.* \* DLS, Office of Policy Analysis. (Published at the conclusion of each annual legislative session. Discusses legislation passed by the General Assembly with an overview of legislative activity arranged by subject area. Successor to *Session Review* and *Sine Die Report*, which were published annually by the former Dept. of Legislative Reference and the former Dept. of Fiscal Services from 1985 through 1997. Electronic copies of *The 90 Day Report* from 2001 through 2023 are available through the DLS Library's online catalog. Note that, due to the shortened session in 2020, the 2020 issue is titled *The 71 Day Report*.)

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*Rules of the Maryland Senate.* Secretary of the Senate, 2022.

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*Code of Federal Regulations (CFR) and Federal Register.* (A codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.)

Division of State Documents. (Provides online version of the Code of Maryland Regulations (COMAR) and the Maryland Register.)

*United States Code (USC) Annotated (USCA).* (A consolidation and codification by subject matter of the general and permanent laws of the United States.)

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\* Available on the General Assembly website on the “Publications” page under “Search and Archives”



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\* Bolding indicates the page on which the main discussion is located or begins



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