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Maryland: Recent / Pending Legislation

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MARYLAND LEGISLATION

** Changes in the law are only proposed changes. The cited changes were passed by the Maryland General Assembly but have not been signed into law by Governor William D. Schaefer as of the date of this publication.*

CIVIL PROCEDURE

New law proposes that notwithstanding when the Treasurer or designee finally denies a claim, a claimant has three years after the cause of action arises to bring an action under the Maryland Tort Claims Act. *See H.R. 472, 408th Legis., 1st Sess. (1994).*

Proposed law declares that the 180-day written requirement of the Maryland Tort Claims Act does not apply to third-party claims. *See H.R. 470, 408th Legis., 1st Sess. (1994).*

New law changes circumstances under which parties can inspect and/or copy documents used by a jury commissioner or clerk of the court during the jury selection process, and declares a party no longer has the right to copy jury selection records or papers. *See S. 476, 408th Legis., 1st Sess. (1994).*

COMMERCIAL LAW

Proposed law requires central filing in the Office of the Maryland State Department of Assessments and Taxation in order to perfect a security interest under the Uniform Commercial Code except for certain commodities that relate to real estate, in which case the filing is to be in the circuit court of the county where the real estate is located. *See S. 497, 408th Legis., 1st Sess. (1994).*

CONSTITUTIONAL LAW

Proposed constitutional amendment would change the name of the Court of Appeals of Maryland to the Supreme Court and would alter the boundaries of the judicial circuits from which members of the Supreme

Court are selected. This amendment would be submitted to State of Maryland voters. *See H.R. 635, 408th Legis., 1st Sess. (1994).*

New law seeks to change the name of the Court of Special Appeals of Maryland to the Court of Appeals, and repeal the requirement that at least two members of the Court of Appeals be appointed from the Sixth Judicial Appellate Circuit. *See H.R. 662, 408th Legis., 1st Sess. (1994).*

Proposed law would increase by one the number of judges of the circuit court for Charles, Harford and Prince George's Counties, and associate judges of the district court for Montgomery County. *See S. 170, 408th Legis., 1st Sess. (1994).*

New law seeks to add a new article to the Maryland Declaration of Rights which would proclaim that victims of crime have a constitutional right to be treated with dignity, respect, and sensitivity during each phase of the criminal process, to be told of this constitutional right, and be notified of, attend, and be heard at certain criminal justice proceedings. *See S. 300, 408th Legis., 1st Sess. (1994).*

CRIMINAL LAW

Proposed law would repeal the ban on prosecuting a person for rape or specified sexual offenses when the victim is the person's spouse. *See H.R. 630, 408th Legis., 1st Sess. (1994).*

New law establishes a DNA data base system and repository. It requires DNA samples from those convicted of violent crimes, and states who is entitled to the results of a DNA test. *See S. 298, 408th Legis., 1st Sess. (1994).*

Proposed law changes the manner in which the death penalty is carried out in the State of Maryland. Death by lethal injection replaces the existent death by lethal gas. It further permits a person who has

been sentenced to death prior to the effective date to elect death by lethal injection rather than lethal gas. See H.R. 498, 408th Legis., 1st Sess. (1994).

Proposed law declares that a person, who has served two separate terms of imprisonment due to two separate convictions for a crime of violence and is convicted a third time for a crime of violence, may be sentenced to a mandatory sentence of life imprisonment without the possibility of parole. See H.R. 1112, 408th Legis., 1st Sess. (1994).

New law would permit the State to appeal a pre-trial dismissal of charging documents in a criminal case in the district court. Appeals are to be made to the circuit court, which is restricted to reviewing only the judgment of the district court, and the circuit court's review will be based exclusively on the record made in the district court. See H.R. 653, 408th Legis., 1st Sess. (1994).

Proposed law creates the crime of first, second, third, and fourth degree burglary, and burglary with explosives. It further abolishes the distinction between burglary and daytime housebreaking. See S. 322, 408th Legis., 1st Sess. (1994) and H.R. 471, 408th Legis., 1st Sess. (1994).

New law clarifies how consecutive sentences are to be served when multiple jurisdictions are involved. It further modifies the holding in *Gantt v. State* and overrules *State v. Parker*. See H.R. 580, 408th Legis., 1st Sess. (1994).

DAMAGES/REMEDIES

New law states that the cap on noneconomic damages applies to wrongful death actions, and that this limitation applies to each direct victim of tortious conduct, all persons who claim they were injured by or through the victim and each wrongful death action regardless of the number of claimants or beneficiaries. New law also increases the noneconomic damages cap to \$450,000 for causes of action arising on or after October 1, 1994, and provides for an annual increase of \$15,000. See S. 283, 408th Legis., 1st Sess. (1994).

EVIDENCE

New law changes rule regarding the admissibility of an out of court statement made by a child victim in juvenile court proceedings. See H.R. 340, 408th

Legis., 1st Sess. (1994).

Proposed law allows into evidence in criminal cases and juvenile court proceedings, out of court statements made by a child victim, regardless of whether the child testifies at trial. See H.R. 1442, 408th Legis., 1st Sess. (1994).

FAMILY LAW

New law requires the Public Defender's office to represent destitute parents in all stages of an involuntary termination of parental rights hearing or disrupted placement review hearing. A public defender is prohibited, however, from such representation until the parent makes certain affirmations under oath. See H.R. 710, 408th Legis., 1st Sess. (1994).

Proposed law states that a court is not required to determine the value of retirement benefits in a proceeding for annulment or divorce unless a party has given notice in his original pleading that the party objects to a distribution of the benefits on an "if, as, and when" basis. See H.R. 1267, 408th Legis., 1st Sess. (1994).

Proposed law grants sibling children, separated by specific proceedings, the right to petition the court for visitation of another sibling. The court is required to use a "best interest of the sibling children" standard when determining whether to amend a decree or order. See H.R. 1361, 408th Legis., 1st Sess. (1994).

New law changes the definition of "marital property" to include all property held as tenants-by-the-entireties. It further requires the court to consider the contribution by either party of nonmarital property to the acquisition of property held as tenants by the entirety when determining the amount and method of payment of a monetary award. See H.R. 1262, 408th Legis., 1st Sess. (1994).

New law creates a rebuttable presumption that certain property titled jointly during a marriage is marital property, notwithstanding how it was acquired. See S. 41, 408th Legis., 1st Sess. (1994).

- John M. Oliveri

SOURCE: Maryland General Assembly, Department of Legislative Reference, Status Report and WESTLAW Bill-tracking.

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