



A Report on the 2013 Session of the Maryland General Assembly April 2013

The DJS Office of Legislation and Policy

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Legislative Session Overview

The Maryland General Assembly convened for its 433rd session on Wednesday, January 9, 2013. During their 90 days in Annapolis, the legislature considered 2,610 pieces of legislation and the State's annual operating budget. Specifically, in the Senate 1,075 bills were introduced. In the House, there were 1,535 bill introductions. By *sine die* at midnight on April 8th, the 90th day of the 2013 regular session, the General Assembly passed 766 bills, including a balanced operating Budget Bill (HB 100). By the passing of a Budget Bill, the General Assembly avoid the extended session required by the Maryland Constitution, during which only the budget may be considered. The General Assembly also agreed to adopt the capital Budget Bill (HB 101).

The Office of Legislation and Policy

The primary role of the Office of Legislation and Policy during legislative session is to effectively represent the interests of the Department of Juvenile Services before the Maryland General Assembly. The Office of Legislation and Policy, in conjunction with the Secretary, Chief-of-Staff, and the Legislative Committee accomplishes its objectives by promoting, supporting or opposing legislation and policy decisions; analyzing, interpreting, reviewing, and drafting legislation; working with or referring issues to others with the requisite expertise and interest; and serving as a credible resource on juvenile justice issues for legislators and other relevant state agencies. This year the Office of Legislation and Policy welcomed an additional staff member to assist in coordinating the agency's legislative priorities.

2014 Budget:

1. Operating and Capital Budget

HB 100 Operating Budget: *passed*

The DJS fiscal team, led by the agency's CFO, was able to develop a budget, supporting materials, and analysis that resulted in DJS successfully advocating for a budget that resulted in no cuts to the Department's \$280.6 million general fund request. The Department's budget increases funding in contractual employment to support an additional 24 facility direct care positions. The budget also supports increased capacity in community residential placements. In addition, the Department received supplemental funding in the amount of \$308,537 to begin the process of complying with the federal Prison Rape Elimination Act (PREA). Supplemental funding was also received to establish a Child in Need of Supervision (CINS) Program in Prince George's County.

With respect to personnel, State employees receive a 3.0% general salary increase on January 1, 2014, and merit increments on April 1, 2014.

DJS was able to work closely with leadership in both budget committees and sub-committees, and legislative staff to provide necessary information and address issues quickly. In prior years the budget committees have required DJS to report on various fiscal and operational issues. Although the budget committees continue to request various

reports from the agency, this year the number of reports is substantially reduced. This is in part due to the agency's ability to successfully advocate for a reasonable budget and address concerns in a timely and comprehensive manner. (Please refer to page 32 for a full list of JCR requirements.)

HB 101 Capital Budget: *passed*

DJS Capital Team, led by the Director of Capital Projects, was also able to successfully advocate for a capital budget that continues to move the agency's capital priorities forward. DJS was successful in educating the budget committees of the agency's capital needs.

There were significant issues that occurred during the 2012 interim that resulted in a re-prioritization of the DJS capital projects. At the beginning of this legislative session, DJS in collaboration with DPSCS, announced an alternative plan to building the DPSCS Youth Detention Center in Baltimore City. A component of the alternative plan is to construct a DJS Treatment Center in Baltimore City. Additionally, DJS, after considerable effort, has been unable to identify a site for the Southern Maryland Detention Center. As a result, the Baltimore City Treatment Center is a high priority and the Southern Maryland Detention Center project has fallen to a lower priority. The changes permitted DJS to begin the process of replacing the Waxter Detention Center that houses a majority of our female detention population on the site of the O'Farrell Center in Carroll County.

Goals of the 2013 Legislative Session:

The DJS legislative agenda – set by the Secretary and developed, in part, by the Office of Legislation and Policy and the Governor's Office – was focused on improving public safety and supporting agency operations. Although DJS prioritized the agency's legislative agenda, much time was spent on defeating or amending legislation that would negatively impact DJS. During the 2013 Legislative Session, DJS achieved significant legislative and policy victories.

Overall, DJS was supported a total of 13 bills, 6 of which passed. DJS opposed 21 bills, and all bills failed or were amended in a manner to address DJS's opposition. DJS successfully amended 6 bills.

The following sets out the goals and objectives during the 2013 Legislative Session:

Outcome of Top Priorities – DJS Legislative Agenda

1. HB 264 Juvenile Law – Juvenile Records – Disclosure: *passed*.

DJS is currently authorized to provide access to and the confidential use of a treatment plan of a child by an agency in the District of Columbia or a state agency in Virginia if the agency (1) performs the same functions in its jurisdiction as DJS does in Maryland; (2) has a reciprocity agreement with Maryland; and (3) has custody of the child. A shared record

may only provide information that is relevant to the supervision, care, and treatment of the child. **House Bill 264** expands access to juvenile records by authorizing access to juvenile court records by any agency described above or by any State agency in Delaware, Pennsylvania, or West Virginia that meets the established criteria. The bill also repeals the requirement that the agency have custody of the child in order to obtain access to the information.

2. HB 246 Juvenile Law – Placement Visits – Video Conferencing: failed

HB 246 would have permitted DJS case managers to utilize video conferencing to complete the requirement of visiting youth in placement once a month. HB 246 promoted efficient case management services; only permitted video conferencing in DJS operated facilities; and maintained the courts discretion to order increased visitation.

The leadership of the Judiciary Committee had several concerns regarding the use of video-conferencing in general, as well as its application in HB 246. Additionally, the Administrative Office of the Courts opposed the bill. HB 246 was voted unfavorable by the House Judiciary Committee.

3. Criminal Procedure – Restitution and Other Payments – Referral to the Central Collection Unit: (Not Introduced)

This bill was not introduced this session.

High Impact Legislation

Bill	Description	Result
HB 165/ SB 807- Elementary and Secondary Education - Security - School Resource Officers	Requiring each county superintendent of schools to enter into an agreement with an appropriate law enforcement agency to provide a school resource officer to each public elementary and secondary school; providing that additional funding required for school resource officers shall be paid from the Education Trust Fund from funds allocated from a specified source; and making the Act an emergency measure.	FAILED: Unfavorable W& M
HB 183/ SB 441- Correctional Training Commission - Members	Altering the membership of the Correctional Training Commission.	Returned Passed
HB 282/ SB 229 - Courts - Juveniles - Expungement of Records	Authorizing a person to file a specified petition for expungement of specified juvenile records; authorizing the court to order the expungement of a specified record under specified circumstances; requiring the court to consider specified criteria in its consideration of a specified petition for expungement of records; authorizing the court to rule on a petition for expungement with or without a hearing; etc.	FAILED: HB FAV in JUD UNFAV in JPR
HB 327/ SB 385 - State Government - Health, Education, and Social Services - Submission of Documents in Electronic Form (DocVault/MARFY)	Requiring the Council for the Procurement of Health, Education, and Social Services to establish a workgroup to determine a process for specified entities to submit specified electronic documents to specified agencies; requiring the Council to report to specified committees of the General Assembly on or before January 1, 2014; etc.	Returned Passed
HB 433/ SB 412 - Agriculture - Lawn Care Pesticides - Child Care and School Facilities - Prohibition	Prohibiting, with a specified exception, a person from applying a lawn care pesticide on the grounds of specified child care facilities and schools; authorizing a person to apply a lawn care pesticide on the grounds of specified child care facilities and schools if the Secretary of Agriculture determines that the emergency application is necessary to eliminate an immediate threat to human health; requiring a specified notice of an emergency application; etc.	FAILED: Withdrawn
HB 588/ SB 473 - Baltimore City - Children - Records Access	Authorizing access to specified court records and police records by the Baltimore City Health Department's Office of Youth Violence Prevention and the Baltimore City Mayor's Office on Criminal Justice under specified circumstances; requiring that the Baltimore City Health Department's Office of Youth Violence Prevention and the Baltimore City Mayor's Office on Criminal Justice be liable for the unauthorized release of specified records and information; etc.	Returned Passed
HB 604/ SB 536 - Department of Juvenile Services - Graduated Responses - Report	Requiring the Department of Juvenile Services to report to specified committees of the General Assembly on or before December 1, 2014, on the implementation of a system of graduated responses for children under the jurisdiction of the Department.	Returned Passed
HB 679 - Juvenile Services - Group Homes and Institutions - Notice Requirement	Requiring the Department of Juvenile Services to provide a specified notice to a specified law enforcement agency before contracting for or authorizing the creation of a group home or an institution operated by a nonprofit or for-profit entity; requiring that specified information be included in the notice; etc.	FAILED: Unfavorable JUD
HB 711/ SB 732 - Juvenile Law - Prohibition Against Continued Detention	Prohibiting the continued detention, beyond emergency detention, of a child under the age of 14, unless the child is alleged to have committed an act that, if committed by an adult, would be punishable by death or life imprisonment.	FAILED: No action JUD
HB 786 - Juvenile Law - Task Force on Juvenile Court Jurisdiction	Establishing the Task Force on Juvenile Court Jurisdiction; establishing the duties of the Task Force; requiring the Task Force to study issues including whether to eliminate the existing exclusionary offenses that automatically result in adult charges for youth and restore juvenile court discretion; requiring the Task Force to report its findings to the Governor and General Assembly on or before December 1, 2013; etc.	Returned Passed
HB 823/ SB 764 - Task Force to Study Housing and Supportive Services for Unaccompanied Homeless Youth	Establishing the Task Force to Study Housing and Supportive Services for Unaccompanied Homeless Youth; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving specified compensation, but authorizing the reimbursement of specified expenses; establishing the duties of the Task Force; requiring the Task Force to submit a specified report on or before November 1, 2013; etc.	Returned Passed

HB 829 - Correctional Services - Pregnant Detainees and Inmates - Restraint Restrictions	Requiring that the medical professional responsible for the care of an inmate determine when the inmate's health allows the inmate to be returned to a correctional facility after giving birth; providing that it is the policy of the State that restraint of pregnant inmates during labor and delivery should not be used unless determined necessary by an attending medical professional or specified others; requiring the security officer of a correctional facility to make and maintain specified written findings; etc.	FAILED: Conference Committee – No concurrence
HB 848/ SB 454 - Juveniles - Confinement in Juvenile Facilities	Requiring a specified child for whom the juvenile court has waived jurisdiction under specified circumstances to remain detained in a juvenile facility except under specified circumstances; requiring a specified child to be transferred to a specified juvenile facility except under specified circumstances; etc.	FAILED: Withdrawn
HB 870 - Criminal Procedure - Confidentiality of Police and Court Records Pertaining to Minor	Providing that specified police and court records pertaining to a minor are confidential and their contents may not be divulged except under specified circumstances; etc.	FAILED: Unfavorable JUD
HB 916/ SB 791 - Juvenile Law - Dispositions - Placement Guidance	Prohibiting the juvenile court, except under specified circumstances, from committing a child who has committed a specified offense to the Department of Juvenile Services for out-of-home placement; etc.	Passed Enrolled
HB 945 - Children's Cabinet in the Governor's Office for Children - Study on Health and Social Services Needs of Juveniles	Requiring the Children's Cabinet in the Governor's Office for Children to review, compile, and report on specified information regarding efforts or programs related to mental, emotional, and behavioral disorders in juveniles; requiring the Children's Cabinet to make recommendations on the development of a specified combined care management model and the development of a specified screening tool; and requiring the Children's Cabinet to report its findings and recommendations to the General Assembly on or before December 1, 2013.	FAILED: Withdrawn
HB 966/ SB 788 - Task Force to Study Citations for Children and Law Enforcement Diversion Practices	Establishing the Task Force to Study Citations for Children and Law Enforcement Diversion Practices; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving specified compensation, but authorizing the reimbursement of specified expenses; requiring the Task Force to study and make recommendations regarding specified matters; etc.	FAILED: Withdrawn
HB 1010 - Public Safety - Inappropriate Search of Minor by Public Servant - Penalties	Prohibiting a public servant from conducting a specified inappropriate search of a minor without probable cause that the minor is concealing contraband or a weapon or without the consent of the parent or guardian of the minor; establishing penalties for a violation of the Act; and defining terms.	FAILED: Unfavorable JUD
HB 1125/ SB 388 - Victims of Crime - Identity Theft Passport - Children	Requiring the Department of Human Resources to assist a child who has been identified as a victim of identity fraud to apply for an identity theft passport under specified circumstances; and requiring the Department of Juvenile Services to assist a child who has been identified as a victim of identity fraud to apply for an identity theft passport under specified circumstances.	FAILED: Unfavorable JUD
HB 1186 - Task Force on the Prevention of Child Abuse and Neglect	Establishing the Task Force on the Prevention of Child Abuse and Neglect; providing for the composition, chair, and staffing of the Task Force; requiring the Task Force to study and make recommendations regarding matters including methods to adopt and implement policy addressing the prevention of child abuse that may include age-appropriate curricula for students in pre-kindergarten through fifth grade; requiring a report on or before December 1, 2013; etc.	FAILED: House FAV/PASSED No action JPR
HB 1188/ SB 215 - Criminal Law - Human Trafficking - Victims	Altering a provision concerning the age of a victim for purposes of specified prohibitions against felony human trafficking.	FAILED: No action JUD
HB 1201 - Baltimore City - New Youth Detention Facility - Commission on Delinquency and Youth Detention Prevention	Establishing the Commission on Delinquency and Youth Detention Prevention; providing for the composition, chair, and staffing of the Commission; prohibiting a member of the Commission from receiving compensation, but authorizing the reimbursement of specified expenses; requiring the Commission to administer a specified fund; requiring the Commission to report allocations from the fund to the Governor and the General Assembly annually on or before a specified date; etc.	FAILED: Unfavorable APP
HB 1228 - Commission to Study the Disproportionate Justice Impact on Minorities	Establishing the Commission to Study the Disproportionate Justice Impact on Minorities; providing for the composition, chair, and staffing of the Commission; prohibiting a member of the Commission from receiving specified compensation, but authorizing the reimbursement of specified expenses; requiring the Commission to identify, study, report on, and make recommendations regarding specified matters; requiring the Commission to hold at least two public hearings within a specified period of time; etc.	FAILED: Unfavorable JUD

HB 1297/ SB 897 - Consumer Protection - Security Freezes - Children in Foster Care Settings	Requiring the Social Services Administration of the Maryland Department of Human Resources to request a security freeze on the consumer report or a specified record of specified protected consumers who are minor children in the custody of a local department of social services who have been placed in a foster care setting in accordance with specified application procedures; requiring a consumer reporting agency to place a security freeze for a protected consumer under specified circumstances and within a specified period of time; etc.	Passed Enrolled
HB 1307/ SB 939 - Juvenile Services - Group Homes and Institutions - Notice	Requiring the Department of Juvenile Services to provide a specified notice to the head of a specified law enforcement agency before contracting with a specified group home or institution for the placement of children under the jurisdiction of the Department of Juvenile Services.	FAILED: Unfavorable JUD
HB 1320 - Baltimore City and Baltimore County - Child in Need of Supervision Pilot Program - Extension	Extending the termination date of the Child in Need of Supervision Pilot Program in Baltimore City and Baltimore County.	Returned Passed
HB 1338 - Prince George's County Juvenile Court and School Safety Workgroup PG 306-13	Establishing the Prince George's County Juvenile Court and School Safety Workgroup; providing for the composition, co-chairs, and staffing of the Workgroup; prohibiting a member of the Workgroup from receiving compensation, but authorizing specified reimbursement; requiring the Workgroup to develop policies and protocols, create a specified process, develop criteria for programs, and hold specified meetings; requiring the Workgroup to present a specified report to the Prince George's County Delegation on or before December 15, 2013; etc.	Returned Passed
HB 1377/ SB 956 - State Government - Mental Health and Law Enforcement Advisory Board	Establishing the Mental Health and Law Enforcement Advisory Board; providing for the composition, chair, and staffing of the Board; requiring the Board to make recommendations regarding the establishment of a Maryland Criminal Justice and Behavioral Health State Technical Assistance Center, report its findings and recommendations on or before June 30, 2014, to the Governor and specified committees of the General Assembly, and provide ongoing support and assistance to the Center; etc.	FAILED: Withdrawn
SB 297 - Criminal Law - Possession of Marijuana - De Minimis Quantity	Altering the penalty for use or possession of less than 10 grams of marijuana; making the violation a civil offense punishable by a fine not exceeding \$100; etc.	FAILED: Passed the Senate - No action in House
SB 395 - Juvenile Services - State-Licensed Facilities - Size Limit Exception - Repeal	Altering an exception that allows a committed facility licensed by the Department of Juvenile Services to serve more than 48 children at one time under specified circumstances if the Secretary of Juvenile Services finds good cause.	FAILED: Withdrawn
SB 442- Residential Child Care Programs - Memorandum of Understanding	Requiring a contract awarded or renewed between a specified agency and a provider of a residential child care program to require the provider to enter into a memorandum of understanding with a specified community organization and post the memorandum of understanding in a specified location; specifying the contents of a memorandum of understanding; requiring a memorandum of understanding to be in writing and signed by specified representatives; etc.	FAILED: Unfavorable EHE
SB 648 - Juvenile Law - Jurisdiction and Detention	Establishing that the juvenile court has jurisdiction over a specified child alleged to have committed specified acts that, if committed by an adult, would be specified crimes, or over a specified child who has previously been convicted of a felony; prohibiting a child from waiving the right to counsel at a waiver hearing; etc.	FAILED: No action JPR
SB 654 - Criminal Law - Safe Harbor for Minors Act of 2013	Establishing a minimum age at which a person may be charged with prostitution offenses; establishing a presumption that if a minor who is 16 or 17 years of age is charged with a prostitution offense, the minor was coerced into committing the offense; and establishing that it is not a defense to a prosecution of prostitution and human trafficking offenses that a person who consented to specified acts may not be prosecuted due to the person's age.	FAILED: Withdrawn
SB 678 - Juvenile Services - Community-Based Diversion Pilot Program	Requiring the Secretary of Juvenile Services to develop a Community-Based Diversion Pilot Program; requiring the Secretary to consult with representatives from the Annie E. Casey Foundation when developing the Pilot Program; establishing the purpose of the Pilot Program; requiring the Secretary to establish a specified juvenile day-treatment center in Baltimore City, require specified juveniles to report daily to the treatment center, establish specified community monitoring, and hire specified counselors; etc.	FAILED: Withdrawn
SB 818 - Community Juvenile Services Program	Establishing the Community Juvenile Services Program; requiring the Governor to appoint a State Coordinator for Community Juvenile Services; establishing the compensation of the State Coordinator; establishing the Community Juvenile Services Committee; providing for the membership and duties of the Committee; establishing the purpose of the Program; authorizing counties to participate in the Program by developing a specified local plan; etc.	FAILED: No action in JPR

SB 831 - State Budget - Evidence-Based Policy Options	Establishing the Committee on State Budget Evidence-Based Policy Options; requiring the Committee annually to determine the policy areas in the State operating budget that should receive an analysis of evidence-based policy options and to report on the analysis on or before October 1 of each year beginning in 2013; requesting the Governor to review the Committee's report during the preparation of a proposed budget; requiring the Secretary of Budget and Management to include consideration of the Committee's report in studies; etc.	FAILED: Passed the Senate – No action in APP
SB 1033 - Public Education - Alternative Schooling	Adding and modifying an exception to the requirement that specified students attend a public school regularly during the entire school year; requiring the State Department of Education to adopt standards for the suspension or expulsion of a student under a provision of law and the readmission of a student to a specified school; requiring county boards of education and the Board of School Commissioners of Baltimore City to establish alternative schooling for specified students under specified circumstances; etc.	FAILED: Withdrawn

Passed Legislation

State Agencies

Procedures for Protecting Personal Information

In response to concerns regarding the handling and protection of personal information by State and local governments, ***Senate Bill 676 (passed)*** establishes, for units of State and local government (not including legislative or judicial agencies), specified requirements for protecting an individual's private information from unauthorized access. A unit that collects an individual's personal information must implement and maintain reasonable security procedures and practices appropriate to the nature of the information collected and the nature of the unit and its operations. Similarly, a unit that uses a nonaffiliated third party as a service provider and discloses personal information about an individual must require that the third party implement and maintain reasonable security procedures and practices, as specified by the bill. A unit that discovers or is notified of a breach of the security system is required to take specified actions.

The provisions of ***Senate Bill 676*** preempt local law and do not relieve a unit of a duty under federal law to protect personal information. However, a government unit or nonaffiliated third party that complies with specified federal laws and guidelines shall be deemed to be in compliance with the provisions of the bill.

Commissions and Workgroups

The Council for the Procurement of Health, Education, and Social Services was established by Chapters 212 and 213 of 2012 to advise the Board of Public Works on the implementation of the recommendations of the Task Force to Study the Procurement of Health, Education, and Social Services by State Agencies. ***Senate Bill 385/House Bill 327 (both passed)*** require the council to establish a workgroup to determine a process for nongovernmental entities that provide health, education, or social services in the State to submit documents in an electronic form to State agencies that license health, education, or social services programs. On or before January 1, 2014, the council is required to submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee on the process determined by the workgroup.

Open Meetings Act

House Bill 139 (passed) requires each public body to designate at least one individual who is an employee, an officer, or a member of the public body to receive training on the requirements of the Open Meetings Act. The public body also must forward a list of the individuals designated to the State Open Meetings Law Compliance Board. Within 90 days of being designated as the individual to receive training, the individual is required to complete a class on the requirements of the law that is offered online by the Office of the Attorney General and the University of Maryland's Institute for Governmental Service and Research or that is offered by the Maryland Association of Counties or the Maryland Municipal League through the Academy for Excellence in Local Governance.

The State Open Meetings Law Compliance Board handles complaints alleging violations of the Open Meetings Act. The opinions of the board are advisory only, and the board may not require or compel any specific actions by a public body. A member of a public body that willfully participates in a meeting of the body with knowledge that the meeting is being held in violation of the Open Meetings Act is subject to a civil penalty of up to \$100. Under **House Bill 331 (passed)**, if the State Open Meetings Law Compliance Board determines that a violation of the Open Meetings Act has occurred, (1) a member of the public body must, at the public body's next open meeting after the board has issued its opinion, announce the violation and orally summarize the opinion and (2) a majority of the public body's members must sign and return to the board a copy of the opinion. These required actions are not to be considered as an admission to a violation and may not be used as evidence in a proceeding before a circuit court. However, the bill repeals a prohibition on the introduction of a written opinion of the board as evidence in a court proceeding. The civil penalty for meeting in violation of the Open Meetings Act is increased from up to \$100 to (1) up to \$250 for the first violation and (2) up to \$1,000 for each subsequent violation occurring within three years after the first violation. When determining the amount of a fine, the court must consider the financial resources of the public body.

For the purposes of the Open Meetings Act, with several exceptions, "public body" is defined as an entity that consists of at least two individuals and is created by, among other things, the Maryland Constitution, a State statute, or an executive order of the Governor. Under **Senate Bill 230 (passed)**, that definition is expanded to include an entity that is created by a memorandum of understanding or a master agreement to which a majority of the county boards of education and the State Department of Education are signatories. The purpose of the change is to subject the Maryland Public Secondary Schools Athletic Association, which is created by a master agreement signed by the local superintendents of schools, to the requirements of the Open Meetings Act.

Personnel

Impact of Budget Actions on State Employees

For the second consecutive year, the budget included a cost-of-living adjustment (COLA) for State employees – on January 1, 2014, State employees will receive a 3%

COLA. In addition, effective April 1, 2014, State employees performing at or above established standards will receive merit or step increases – the first time such an increase has been provided in five years. The State match of \$600 for employees participating in deferred compensation plans, however, was not included in the budget. In fiscal 2014, the size of the regular State workforce, including State higher education institution employees, will be 79,750 positions. This number represents an increase of 178 positions over fiscal 2013 and is within the limit established by the Spending Affordability Committee.

Collective Bargaining

Chapter 187 of 2009 authorized the State to collectively bargain with the exclusive representative of a bargaining unit for service fees from State employees who are not members of that exclusive representative. Employees of the State's higher education institutions were not included in that Act. **Senate Bill 841/House Bill 863 (both passed)** authorize an employee organization to collectively bargain with institutions of the University System of Maryland, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College regarding the right of the employee organization to collect service fees from nonmembers. If a fee is negotiated and collected, employees of the affected institutions whose religious beliefs preclude them from supporting collective bargaining organizations must make an equivalent payment to a charitable organization and provide written proof of payment.

Compensation and Benefits

In an effort to stem increasing health insurance and medical costs, many employers offer wellness programs such as smoking cessation, weight management, stress management, and nutrition education. Wellness programs are designed to promote health or prevent or detect disease or illness, improve clinical outcomes, prevent or reduce admission and readmissions to health care facilities, improve treatment compliance for chronic conditions, promote healthy behaviors, or prevent or control injury. **Senate Bill 224/House Bill 391 (both passed)** require the Secretary of Budget and Management to include a "wellness program" in the State Employee and Retiree Health and Wellness Benefits Program. The wellness program must be developed in consultation with the Secretary of Health and Mental Hygiene; promote the goals of the Department of Health and Mental Hygiene State Health Improvement Process; and aim to achieve savings in the State plan over time, from having a healthier workforce for example, that exceed the costs of the wellness program.

Currently, noncommissioned State Police officers and Department of Natural Resources law enforcement officers at the rank of sergeant or below who work on Thanksgiving, Christmas, or New Year's Day are entitled to compensatory time and overtime pay. **House Bill 665 (Ch. 131)** expands the application of provisions requiring compensatory time and overtime pay for all State law enforcement officers who work on Thanksgiving, Christmas Day, or New Year's Day. Enactment is contingent on the execution of a collective bargaining agreement between the State and the State Law Enforcement Officers' Labor Alliance, as specified in the Act.

Teleworking

The State Personnel Management System, University System of Maryland, and the Maryland Department of Transportation all have teleworking policies. **House Bill 136 (Ch. 83)** establishes a goal of having 15% of eligible Executive Branch employees, including those in agencies with independent personnel management systems; participate in a statewide telework program. The Secretary of Budget and Management must establish the program as well as a statewide telework policy and guidelines. Each unit head in the Executive Branch may designate positions eligible for teleworking.

Hiring Practices

Senate Bill 4 (passed) prohibits any State appointing authority in the Executive, Legislative, or Judicial Branch from inquiring into the criminal record or history of an applicant for employment until the applicant has been given an opportunity for an interview. The bill includes exemptions for the Department of Public Safety and Correctional Services, any position for which an appointing authority is required by law to conduct a criminal history records check, positions in sheriffs' offices, or any position within the State Personnel Management System exempted by the Secretary of Budget and Management. An appointing authority may still notify an applicant that prior criminal convictions may prohibit employment for some positions.

For more information regarding retirement and pensions, please refer to the 90-day report, page C-20, <http://mgaleg.maryland.gov/Pubs/LegisLegal/2013rs-90-day-report.pdf>.

Criminal Law

Controlled Dangerous Substances

Cannabimimetic Agents

Cannabimimetic agents, also referred to as "synthetic marijuana" or "synthetic cannabinoids," are chemical substances that are not derived from the marijuana plant but are designed to affect the body in ways similar to THC, the primary psychoactive ingredient in marijuana. Synthetic cannabinoids are typically sprayed onto plant material and marketed under names such as "Spice" or "K2." The popularity and availability of these substances has grown in recent years, and criminal enforcement of the sale and possession of these substances has been challenging, since manufacturers can elude legal bans on products by making slight changes to their chemical structures.

On July 9, 2012, President Obama signed the Synthetic Drug Abuse Prevention Act of 2012 (SDAPA). SDAPA placed 26 substances in the federal list of Schedule I controlled dangerous substances. **Senate Bill 109/House Bill 1 (both passed)** codify cannabimimetic agents identified under SDAPA to the State's list of Schedule I controlled dangerous substances. Cannabimimetic agents are defined as substances that are cannabinoid receptor type 1 (CB1 receptor) agonists as demonstrated by binding studies and functional assays within one of several specified structural classes. The bills also specifically list several chemical substances that are considered cannabimimetic agents.

Accessory after the Fact to Murder

A person convicted of being an accessory after the fact to a felony is guilty of a felony and subject to imprisonment for up to five years or the maximum penalty for the underlying felony, whichever is lesser. **House Bill 709 (passed)** increases the maximum penalty for being an accessory after the fact to murder in the first or second degree from 5 to 10 years.

Theft – Related Crimes -Penalties

Chapter 655 of 2009 increased the maximum property value for misdemeanor theft from less than \$500 to less than \$1,000 and created the three tiers of felony theft listed below:

Value of Property and/or Services - Maximum Penalty

At least \$1,000 and less than \$10,000 10 years imprisonment and/or a \$10,000 fine

At least \$10,000 and less than \$100,000 15 years imprisonment and/or a \$15,000 fine

At least \$100,000 or more 25 years imprisonment and/or a \$25,000 fine

House Bill 1396 (passed) modifies the penalties for several theft-related offenses to reflect Chapter 655, including extortion, malicious destruction of property, obtaining property or services by bad check, identity fraud, and exploitation of a vulnerable adult. The bill also amends the charging document for robbery to reflect Chapter 655 and amends the “Notice of Dishonored Check” form to reflect the amended penalties under the bill.

Charging Document for Robbery

A violator of the prohibition against committing or attempting to commit a robbery is guilty of a felony and is subject to imprisonment for up to 15 years. **House Bill 338 (Ch. 97)** increases the minimum value of property or service specified in a charging document for robbery from \$500 to \$1,000 and makes conforming changes to the robbery charging document statute.

The Act’s changes to the minimum value of property or service specified in a charging document for robbery makes the minimum property value listed in the charging document for felony robbery consistent with the minimum property value for felony theft.

Reporting Death or Disappearance of a Minor

According to the National Conference of State Legislatures, as of September 19, 2012, 11 states have enacted legislation criminalizing the failure to report a missing or deceased child. **House Bill 311 (passed)** prohibits a parent or other person who has permanent care or custody or responsibility for the supervision of a minor who is under the age of 13 from recklessly or willfully failing to notify the appropriate law enforcement agency that the minor is a “missing child” within 24 hours of the time at which the parent or other person knew or should have known that the minor is a missing child, unless the disappearance of the minor has already been reported to the appropriate law enforcement agency. “Missing child” is defined as a minor whose whereabouts are

unknown to a parent or other person who has permanent care and custody or responsibility for the supervision of the minor. A violator is guilty of a misdemeanor and subject to imprisonment for up to three years. The bill also requires a parent or other person who has permanent care or custody or responsibility for the supervision of a minor to report the death of a minor to the appropriate law enforcement agency or medical authority within five hours of becoming aware of the death unless the death has already been reported to the appropriate law enforcement agency or medical authority. A violator is guilty of a misdemeanor and subject to imprisonment for up to three years.

Electronic Harassment of a Minor

According to the U.S. Centers for Disease Control and Prevention's 2011 Youth Risk Behavior Surveillance System, 16% of high school students reported being electronically bullied in the past year. **House Bill 396 (passed)**, "Grace's Law," prohibits a person from using an "interactive computer service" to maliciously engage in a course of conduct that inflicts serious emotional distress on a minor or places a minor in reasonable fear of death or serious bodily injury with the intent (1) to kill, injure, harass, or cause serious emotional distress to the minor or (2) to place the minor in reasonable fear of death or serious bodily injury. An "interactive computer service" means an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a system that provides access to the Internet and cellular phones. A violator is guilty of a misdemeanor and subject to imprisonment for up to one year and/or a \$500 maximum fine.

The bill is named in honor of Grace McComas, a 15-year-old from Howard County who, after repeated and vicious harassment online by a neighbor, committed suicide in April 2012.

Aiming Laser Pointer at an Aircraft

Under the Federal Aviation Administration (FAA) Modernization and Reform Act of 2012, aiming the beam of a laser pointer at an aircraft is a crime. In June 2011, FAA announced that it would impose civil penalties against individuals who point lasers at the cockpit of an aircraft. According to the Federal Bureau of Investigation and FAA, there were 3,591 laser-related incidents that affected aircrafts in calendar 2011.

Subject to certain exceptions, **Senate Bill 19 (passed)** makes it a crime for a person to knowingly and willfully shine, point, or focus the beam of a laser pointer on an individual operating an aircraft. A violator is guilty of a misdemeanor and subject to imprisonment for up to three years and/or a \$2,500 maximum fine.

Threat Against State or Local Officials

A person may not knowingly and willfully make a threat to take the life of, kidnap, or cause physical injury to a State or local official. **House Bill 489 (passed)** adds deputy State's Attorneys, assistant State's Attorneys, and assistant Public Defenders to the list of State and local officials against whom threats may not be made. A violator is guilty of

a misdemeanor and subject to imprisonment for up to three years and/or a \$2,500 maximum fine.

Animal Cruelty

Incidents involving the use of dogs to train fighting dogs or to test the fighting or killing skill of another dog, a practice known as “baiting,” led to concern that existing laws prohibiting dog fighting were insufficient to address the problem of dog baiting.

Senate Bill 360 (Ch. 44) prohibits a person from (1) using or allowing a dog to be used for baiting; (2) possessing, owning, selling, transporting, or training a dog with the intent to use the dog for baiting; or (3) knowingly allowing premises under the person’s ownership, charge, or control to be used for baiting. Violators are guilty of the felony of aggravated cruelty to animals and are subject to imprisonment for up to three years and/or a \$5,000 maximum fine. Under the Act, a court may also order a violator to undergo and pay for psychological counseling.

Victims’ Rights

A “victim” is a person who suffers personal injury or property damage or loss directly resulting from a crime or delinquent act. Under Maryland law, a victim of a crime or delinquent act (or a representative in the event the victim is deceased, disabled, or a minor) has a broad range of specific rights during the criminal justice process. Most of the rights available to a victim of a crime in which the offender is an adult are also available to a victim of a delinquent act by a child.

In general, a court is authorized to order a defendant or child respondent to make restitution for a variety of expenses incurred or property losses sustained by a victim, including loss of earnings. This restitution is in addition to any penalties for the commission of a crime or delinquent act. A victim is presumed to have a right of restitution if the victim or the State makes a request to the court and the court is presented with competent evidence of the claimed loss/expense.

A judgment of restitution does not preclude the property owner or victim who suffered personal physical or mental injury, out-of-pocket loss of earnings, or support from bringing a civil action to recover damages from the restitution obligor. A civil verdict made in these cases must be reduced by the amount paid under the criminal judgment of restitution. A victim who alleges that the victim’s right to restitution was not considered or was improperly denied may file a motion requesting relief within 30 days of the denial or alleged failure to consider. If the court finds that the victim’s right to restitution was not considered or was improperly denied, the court may enter a judgment of restitution.

House Bill 250 (passed) specifies that if a court finds that a victim’s right was not considered or was denied, the court may grant relief to the victim so long as the remedy does not violate a criminal defendant’s or child respondent’s constitutional right to be free from double jeopardy. The court is not permitted to provide a remedy that modifies a sentence of incarceration of a defendant or commitment of a child respondent unless the victim requests relief from a violation of the victim’s right within 30 days of the alleged violation. The bill also expands the rights of victims by establishing that a victim

of any crime (rather than only a victim of violent crime) has the right to file an application for leave to appeal to the Court of Special Appeals from an interlocutory order and has the right to a direct appeal to the Court of Special Appeals from a final order denying the victim specified victims' rights. Finally, the bill requires that, subject to specified exceptions, payment of restitution to a victim has priority over any payments to any other person or governmental unit.

Juvenile Law

Out-of-home Placements

After a child has been adjudicated delinquent, the juvenile court, at a disposition hearing, may place the child under supervision in the child's own home or in the custody or under the guardianship of a relative or other fit person, on terms the court deems appropriate, including community detention. A child may also be committed to the custody or guardianship of the Department of Juvenile Services (DJS) or other agency on terms that the court considers appropriate, including designation of the type of facility where the child is to be accommodated.

The court may also order the child or the child's parents, guardian, or custodian to participate in rehabilitative services that are in the best interest of the child and the family. **House Bill 916 (passed)** prohibits a child from being committed to DJS for out-of-home placement if the most serious offense for which the child has been adjudicated is (1) possession of marijuana; (2) possession or purchase of a noncontrolled substance; (3) disturbing the peace or disorderly conduct; (4) malicious destruction of property; (5) an offense involving inhalants; (6) an offense involving prostitution; (7) theft involving amounts less than \$1,000; or (8) trespass. A child whose most serious offense is one specified above may be committed to DJS for out-of-home placement if (1) the child previously has been adjudicated delinquent for three or more offenses arising from separate and independent circumstances; (2) the child waives the prohibition and the court accepts the waiver as knowing, intelligent, and voluntary; or (3) the court makes a written finding, including the specific facts supporting the finding, that the placement is necessary for the welfare of the child or in the interest of public safety. The Act may not be construed to prohibit the court from committing the child to another appropriate agency.

Disclosure to Out-of-state Agencies

Confidentiality of Juvenile Records

In general, a court record concerning a child is confidential and its contents may not be divulged, by subpoena or otherwise, except by court order upon a showing of good cause or in certain circumstances relating to notification of a local superintendent or nonpublic school principal on the arrest of a child for specified offenses. This prohibition does not restrict access to and the use of court records or fingerprints in court proceedings involving the child by personnel of the court, the State's Attorney, counsel for the child, a court-appointed special advocate for the child, or authorized personnel of DJS. Subject to certain exceptions, the restriction also does not prohibit access to and confidential use of the court record or fingerprints of a child by DJS or in an investigation and prosecution by a law enforcement agency.

DJS is currently authorized to provide access to and the confidential use of a treatment plan of a child by an agency in the District of Columbia or a state agency in Virginia if the agency (1) performs the same functions in its jurisdiction as DJS does in Maryland; (2) has a reciprocity agreement with Maryland; and (3) has custody of the child. A shared record may only provide information that is relevant to the supervision, care, and treatment of the child. **House Bill 264 (passed)** expands access to juvenile records by authorizing access to juvenile court records by any agency described above or by any State agency in Delaware, Pennsylvania, or West Virginia that meets the established criteria. The bill also repeals the requirement that the agency have custody of the child in order to obtain access to the information.

Access by Baltimore City Health Department

Chapter 10 of 2006 established the authority of the Baltimore City Health Department (BCHD) to access various records of children who were victims of violence or who were under the health department's care. Chapters 602 and 603 of 2008 extended the original termination date of Chapter 10 to September 30, 2011, and authorized BCHD to also access records as they pertained to a child who committed a crime that caused a death or near fatality. **Senate Bill 473/House Bill 588 (both passed)** allows BCHD's Office of Youth Violence Prevention (OYVP) access to child in need of assistance records and juvenile delinquency court and police records if (1) OYVP is providing treatment or care to a child and the disclosure is related to that purpose; (2) the record concerns a child convicted of a crime or adjudicated delinquent for an act that caused a death or near fatality; or (3) the record concerns a victim of a "crime of violence," who is a child residing in Baltimore City, for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City.

Reports or records concerning child abuse or neglect must also be disclosed, on a written request, to OYVP if the above circumstances apply. On written request, DJS must disclose to OYVP any confidential research records concerning a child if any of the above circumstances apply. OYVP must keep confidential any information provided, is liable for unauthorized release of information, and must submit a report detailing the purposes for which a record under the Act is used.

The Baltimore City Mayor's Office on Criminal Justice (BCMOCJ) may also access juvenile police records if it is providing programs and services to a child who is the subject of the record for related purposes. BCMOCJ may also have access to and confidential use of a court record if it is providing programs and services in conjunction with the Baltimore Police Department to a child who is the subject of the record, for a purpose relevant to the provision of the programs and services and development of a comprehensive treatment plan.

The Department of State Police (DSP) must provide to OYVP and BCMOCJ, on written request, information concerning (1) a victim of a "crime of violence" who is a child residing in Baltimore City and (2) a child convicted of a crime or adjudicated delinquent for an act that caused a death or near fatality. OYVP and BCMOCJ must keep any information provided confidential and use the information solely to develop appropriate

programs and policies, as specified. OYVP and BCMOCJ are liable for the unauthorized release of information provided by DSP.

Task Force on Juvenile Court Jurisdiction

In general, the juvenile court has jurisdiction over a child alleged to be delinquent, in need of supervision, or who has received a citation for alcoholic beverage violations. The juvenile court may waive jurisdiction over a child alleged to be delinquent who is age 15 or older, or who is younger than age 15 and is charged with committing an act which, if committed by an adult, would be punishable by death or life imprisonment. The court may waive its jurisdiction only after it has conducted a waiver hearing held prior to the adjudicatory hearing and after notice has been given to all parties. The court may not waive its jurisdiction over a case unless it determines, from a preponderance of the evidence presented at the hearing, that the child is an unfit subject for juvenile rehabilitative measures.

The juvenile court does not have jurisdiction over children at least age 16 who are alleged to have committed specified violent crimes, children age 14 and older charged with a capital crime, and children who have previously been convicted as an adult of a felony and are subsequently alleged to have committed an act that would be a felony if committed by an adult. However, a circuit court may transfer a case involving such a child to the juvenile court if such a transfer is believed to be in the interests of the child or society (“reverse waiver”).

House Bill 786 (passed) establishes the Task Force on Juvenile Court Jurisdiction. The task force is required to (1) study current laws relating to the jurisdiction of the juvenile court and (2) review current research on best practices for handling offenses committed by youth in the court system. In addition, the Task Force must make recommendations regarding (1) whether or not to eliminate the existing exclusionary offenses that automatically result in adult charges for youth and restore juvenile court discretion; (2) the benefits of retaining youth under the jurisdiction of the juvenile court; (3) methods to reduce the number of youth in adult detention centers and prisons; and (4) the long-term fiscal impact of treating youth in the adult criminal system. The Governor’s Office of Crime Control and Prevention is required to provide staff for the task force. The task force must report its findings and recommendations to the Governor and the General Assembly on or before December 1, 2013. The task force terminates on May 31, 2014.

Graduated Responses Report

In 2008, the Violence Prevention Initiative (VPI) began in Baltimore City and expanded statewide. VPI is an intensive supervision program intended to reduce the number of juvenile homicides and nonfatal shootings. It focuses on youth under supervision who are believed to be at high risk of either violent offending or violent victimization. VPI includes intensive surveillance with frequent contacts with youth at nontraditional hours on evenings and weekends and electronic monitoring, as well as enhanced service delivery such as drug treatment and employment training. VPI incorporates a continuum of graduated responses to ensure that immediate and appropriate actions are consistently applied when juveniles are noncompliant.

Senate Bill 536/House Bill 604 (both passed) require DJS to report to the Senate Judicial Proceedings and House Judiciary committees, by December 1, 2014, on the implementation of a system of “graduated responses” for children under the jurisdiction of DJS. “Graduated responses” means an accountability-based series of sanctions, including incentives, treatment, and services, applicable to children within the juvenile justice system, administered to hold children accountable for their actions, and to protect communities from the effects of juvenile delinquency by providing appropriate sanctions for every act for which a child is adjudicated delinquent, by encouraging law-abiding behavior, and by preventing subsequent involvement in the juvenile justice system.

Prince George’s County Juvenile Court and School Safety Workgroup

House Bill 1338 (passed) creates the Prince George’s County Juvenile Court and School Safety Workgroup, which is to be staffed by DJS. The workgroup is required to (1) review and analyze school arrest and referral data collected by DJS and the Prince George’s County School System and based on that data, identify the most common offenses for which students are arrested and referred to juvenile court; (2) recommend interagency policies to reduce the number of school-based arrests and referrals for certain misdemeanor offenses to DJS and the juvenile court by diverting more youth to school- and community-based programs, with the goal to decrease the overrepresentation of African American youth in the juvenile justice system; (3) recommend strategies to more fully use current resources and expand school- and community-based support services for youth who exhibit behavior problems in school; (4) recommend a criteria-based, decision making process for referring students to school- or community-based programs and services instead of to the juvenile justice system for misdemeanor-type delinquent acts involving offenses identified by the workgroup; (5) recommend criteria for diversion programs developed for juveniles who have been charged with less serious delinquent acts and who the juvenile court believes would benefit from community alternatives instead of probation or commitment to DJS; (6) hold at least two public meetings before October 1, 2013, during which the workgroup seeks testimony from the public and juvenile advocacy groups; and (7) develop a collaborative action plan to reduce the number of school-based arrests and referrals to the juvenile court.

The workgroup must report its findings, action plan, and recommendations by December 15, 2013.

Extension of Child in Need of Supervision Pilot Program

Under Chapter 601 of 2005, the Secretary of Juvenile Services was required to establish a DJS Child In Need of Supervision (CINS) Pilot Program in Baltimore City and Baltimore County. Under the pilot program, local management boards must select community-based providers that offer assessment, intervention, and referral services to children in Baltimore City and Baltimore County who are alleged to be in need of supervision. The designated assessment service providers must be contracted and funded by the local management board in Baltimore City and Baltimore County. The Governor was required to include \$250,000 annually in the fiscal 2007 through 2010 State budgets. Chapter 420 of 2009 extended the termination date of the pilot program

to June 30, 2013, and continued the requirement for the Governor to include \$250,000 annually in the fiscal 2011 through 2013 State budgets. **House Bill 1320 (passed)** extends to June 30, 2016, the termination date of the CINS Pilot Program in Baltimore City and Baltimore County.

Public Safety

Firearm Safety Act of 2013

In 2012, a series of mass killings shocked the nation. Among those horrific events were two of the deadliest shootings in United States history: the July 20 incident in an Aurora, Colorado movie theater, in which 12 people died and 70 people were injured; and the December 14 massacre of 20 children and 6 adults in a Newtown, Connecticut elementary school. In response, several states, including Maryland, New York, Connecticut, and Colorado passed sweeping gun control legislation.

Senate Bill 281 (passed) is Maryland's most far-reaching package of gun control measures in several years. The numerous provisions of the bill are distilled from more than three dozen gun control proposals that were introduced in the General Assembly.

Assault Weapons

The bill creates a definition of "assault weapon," encompassing assault pistols, assault long guns, and copycat weapons. "Assault pistol" is already defined under the Public Safety Article. An "assault long gun" is defined as any of 45 specific assault weapons regulated under the Public Safety Article. Finally, the bill defines "copycat weapon" as a weapon that is a semiautomatic pistol, semiautomatic centerfire rifle, or semiautomatic shotgun and that has specified features.

The bill applies prohibitions now directed only to assault pistols to all assault weapons. Thus, with specified exceptions, the bill prohibits the transporting, possessing, selling, offering to sell, transferring, purchasing, or receiving any assault weapon. The bill allows a person who lawfully possessed, has a purchase order for, or completed an application to purchase an assault long gun or a copycat weapon before October 1, 2013, to continue to possess and transport the assault long gun or copycat weapon or, if carrying a court order requiring surrender of the weapon, transport the unloaded weapon directly to a law enforcement unit, having notified the unit of the transport. A number of specified persons and circumstances are exempted from the prohibitions related to the possession of assault weapons and detachable magazines.

Senate Bill 281 clarifies that certain assault weapon possession prohibitions do not apply to those received by inheritance, if the inheriting person is not otherwise disqualified from possessing a regulated firearm. The bill also includes within the definition of "convicted of a disqualifying crime" a case in which a person received probation before judgment for a crime of violence or a domestically related crime. "Convicted of a disqualifying crime" does not include a case in which a person received a probation before judgment for an assault in the second degree or that was expunged.

10-Round Limit on Magazines

The bill reduces the allowable detachable magazine capacity for the manufacture, sale, purchase, receipt, or transfer in the State from 20 to 10 rounds of ammunition for a firearm. The bill similarly reduces referenced limits on magazine capacities under penalty provisions applicable to use of an assault weapon in the commission of a felony or crime of violence.

Ammunition

The bill prohibits a person, during and in relation to the commission of a crime of violence, from possessing or using “restricted firearm ammunition.” “Restricted firearm ammunition” is defined as a cartridge, shell, or any other device that (1) contains explosive or incendiary material designed and intended for use in a firearm and (2) has a core constructed, excluding traces of other substances, entirely from one or a combination of tungsten alloys, steel, iron, brass, beryllium copper, depleted uranium, or an equivalent material of similar density or hardness. A violator is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding five years or a fine not exceeding \$5,000 or both. The bill also prohibits the possession or use of restricted firearm ammunition (sometimes called “cop killer bullets”) during or in relation to the commission of a crime of violence.

Handgun Qualification License

Under **Senate Bill 281**, a new licensing scheme for handguns under the licensing authority of the Department of State Police (DSP) is established. A “handgun qualification license” authorizes a person to purchase, rent, or receive a handgun. A licensed firearms manufacturer, a specified active or retired law enforcement officer, a member or retired member of the U.S. Armed Forces, or the National Guard, and a person purchasing, renting, or receiving an antique, curio, or relic firearm (as defined under federal law) are exempt from the requirements of the licensing provisions. The Secretary of State Police is also required to apply for a State and national criminal history records check on behalf of each handgun applicant. As part of the application for a criminal history records check, the Secretary must submit one complete set of fingerprints of the applicant. An individual whose fingerprints have been submitted for a license, but whose application has been denied, may request that the record of the fingerprints be expunged. The individual may not be charged a fee for the expungement. The bill requires written approval or denial by DSP within 30 days.

The application fee for a handgun qualification license is to cover administrative costs and may be up to \$50. The term of the license is 10 years. License renewal fees are set at up to \$20. Among other requirements, an applicant must show proof of completion of an approved firearms safety training course. An applicant, however, is exempt from this requirement if the applicant has previously completed a certified firearms training course, has completed a hunting safety course prescribed by the Department of Natural Resources, is a certified firearms instructor, is an honorably discharged member of the U.S. Armed Forces or the National Guard, is a certain employee of an armored car company, or lawfully owns a regulated firearm. Renewal applicants are not required to complete the firearms safety training course or submit to a State and national criminal history records check.

Restrictions on the Mentally III

A person may not possess a regulated firearm, rifle, or shotgun if the person:

- suffers from a mental disorder as defined in § 10-101(f)(2) of the Health–General Article and has a history of violent behavior against the person or another;
- has been found incompetent to stand trial or not criminally responsible in a criminal case;
- has been voluntarily admitted for more than 30 consecutive days to a facility (*i.e.*, a public or private clinic, hospital or other institution that treats individuals who have mental disorders);
- has been involuntarily committed to a facility; or
- is under the protection of a court-appointed guardian of the property or guardian of the person, except for cases in which the appointment of a guardian is solely a result of a physical disability.

If a hearing officer determines that an individual cannot safely possess a firearm, the hearing officer must order the individual to surrender any firearms in the individual's possession and refrain from possessing a firearm unless the individual is granted relief from firearms disqualification.

Relief from Firearms Disqualification

A person seeking relief from firearms disqualification may apply to the Department of Health and Mental Hygiene (DHMH). An application for relief must include a statement why the applicant is prohibited from possessing a regulated firearm, rifle, or shotgun; a statement why the applicant should be relieved from that prohibition; authorization for DHMH to access health and criminal records; three statements related to the applicant's reputation and character; and, if the applicant is prohibited for certain mental health reasons, a certificate issued within 30 days of the submission of the application on a form signed by an individual licensed in the State as a physician who is board certified in psychiatry or as a psychologist stating:

- the length of time that the applicant has not had symptoms that cause the applicant to be a danger to self or others;
- the length of time that the applicant has been compliant with the treatment plan for the applicant's mental illness; and
- an opinion as to whether the applicant, because of mental illness, would be a danger to the applicant or to another person if allowed to possess a firearm.

Within 60 days after the receipt of a completed application, DHMH must provide the applicant with a certificate affirming the applicant's mental competence or a written statement that the applicant is not mentally competent to possess a firearm. An aggrieved applicant may request a hearing in accordance with the Administrative Procedure Act, and judicial review may be sought.

A physician who acts in good faith and with reasonable grounds in providing the statements and opinions required by the restoration process may not be held civilly or criminally liable for those actions.

Persons Moving into the State

A person who moves into the State with the intent of residency must register all regulated firearms with DSP within 90 days after establishing residency.

Lost or Stolen Firearms – Reporting Requirements

A dealer or any other person who sells or transfers a firearm must notify the purchaser or recipient of the firearm at the time of purchase or transfer that the purchaser or recipient is required to report a lost or stolen firearm to the local law enforcement agency. If a firearm is lost or stolen, the owner of the firearm must report the loss or theft to the local law enforcement agency within 72 hours after the owner first discovers the loss or theft. On receipt of a report of a lost or stolen firearm, a local law enforcement agency must report to the Secretary and enter into the National Crime Information Center (NCIC) database, to the extent known, the caliber, make, model, manufacturer, and serial number of the firearm and any other distinguishing number or identification mark on the firearm. A knowing and willful first-time violation is a civil offense punishable by a fine not exceeding \$500. A second or subsequent violation is a misdemeanor punishable by imprisonment not exceeding 90 days and/or a fine not exceeding \$500.

Firearm Dealers

Senate Bill 281 requires the disapproval of an application for a State-regulated firearms dealer's license if it is determined that the applicant intends that a person not qualified for a license or whose license has been revoked or suspended will participate in the management or operation of the business or holds an interest in the business. The bill requires that a licensed dealer keep records of all receipts, sales, and other dispositions of firearms affected in connection with the dealer's business, as specified. DSP must adopt regulations governing the form in which the records are to be kept, the time period for keeping the records, and the contents of the records, which must include specified information. DSP must inspect the inventory and records of a licensed dealer at least once every two years, and may inspect the inventory and records at any time during the normal business hours of the licensed dealer's business. Unless a recordkeeping or reporting error is inconsequential, a violator is subject to certain civil penalties.

A suspended license may be restored after a licensee provides evidence that the violation has been corrected.

Records Inspections

A custodian must deny inspection of all records of a person authorized to (1) sell, purchase, rent, or transfer a regulated firearm; or (2) carry, wear, or transport a handgun. However, a custodian may allow inspection of firearm or handgun records by the individual named in the record or the individual's attorney. These provisions may not be construed to prohibit DSP or the Department of Public Safety and Correctional Services (DPSCS) from accessing firearm or handgun records in the performance of that department's official duty.

Carrying a Firearm on School Property

The bill exempts from the prohibition against carrying a firearm, knife, or other deadly

weapon on public school property an off-duty law enforcement officer who is a parent, guardian, or visitor of a student attending the school, provided that the officer is displaying the officer's badge or credential, and the weapon is concealed.

Hunting Near Schools

A person, while hunting for any wild bird or mammal, may not shoot or discharge any firearm within 300 yards of any school during school hours or at a time when a school-approved activity is taking place.

Estimated Costs and Revenues

General fund revenues increase by \$3.9 million in fiscal 2014 from handgun qualification licensing fees and voluntary registrations of other firearms. General fund expenditures increase by \$3.4 million in fiscal 2014 for licensing and registration, programming, and other activities within several agencies. The fiscal 2014 operating budget contains \$4.2 million in general funds, contingent upon enactment of the bill, for DSP to implement the bill. The fiscal 2014 operating budget also provides \$450,000 in general funds to support the Gun Center, also contingent upon the enactment of the bill.

School Safety

House Bill 453 (passed) establishes the Maryland Center for School Safety as an independent unit of State government to be based at Bowie State University (BSU). The Governor must provide \$500,000 in the annual State budget for the center. The center may establish three satellite offices at institutions of higher education as specified.

The bill identifies 20 functions and duties of the center that provide a comprehensive, coordinated approach to school safety, including developing a website containing a searchable database of school safety resources, assisting local school systems in conducting a thorough assessment of their school safety data, assisting local school systems with school building layouts and use of human resources for monitoring school safety measures, and assisting local school systems to improve and monitor traffic control measures around schools to reduce the potential for accidents.

In addition, **Senate Bill 143/House Bill 983 (both passed)** require local boards of education to evaluate emergency management plans in each public school by February 1, 2014.

Other Firearms Initiatives

It is also noted that a total of 81 bills were introduced during the 2013 session addressing firearms and related issues. Among these other bills were additional initiatives of a "gun control" nature, and others easing restrictions on acquiring handgun permits, permitting school personnel to carry firearms or other weapons, or stiffening sentencing for firearm offenses. While some of these other bills were blended into **Senate Bill 281**, most failed.

Department of Public Safety and Correctional Services

Correctional Training Commission

Senate Bill 441 (Ch. 55) adds two members to the Correctional Training Commission:

one representative of the Department of Juvenile Services designated by the Secretary of Juvenile Services and one correctional officer of the State recommended by the exclusive representative for the officers and appointed by the Governor

Human Services

Mandatory Reporting

Health care practitioners, police officers, educators, and human service workers who are acting in a professional capacity, and who have reason to believe that a child has been subjected to abuse or neglect, must notify the local department of social services or the appropriate law enforcement agency. An “educator or human service worker” includes any teacher, counselor, social worker, caseworker, and parole or probation officer. If the worker is acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, then the individual must also notify the head of the institution or the designee of the head.

House Bill 631 (passed) prohibits an individual from intentionally preventing or interfering with the making of a mandatory report of suspected child abuse or neglect by a professional specified above. An individual is also prohibited from intentionally preventing or interfering with the making of a mandatory report of suspected abuse or neglect of a child who lives outside of this State that is alleged to have occurred outside the State. A person who violates these provisions is guilty of a misdemeanor and subject to maximum penalties of five years imprisonment and/or a \$10,000 fine.

Housing and Supportive Services for Unaccompanied Homeless Youth

Senate Bill 764/House Bill 823 (both passed) establish the Task Force to Study Housing and Supportive Services for Unaccompanied Homeless Youth between the ages of 14 and 25. The task force, chaired by a representative from the Governor’s Office for Children, will compile information on the needs of unaccompanied homeless youth and identify the gaps in public- and private-sector programs and resources available to meet those needs. The task force must report its findings and recommendations to the Governor and the General Assembly by November 1, 2013.

Education

Truant Students

A child age 5 to 15 must attend public school regularly unless the child is otherwise receiving regular, thorough instruction in an alternative setting (*i.e.*, a private or home school).

Regulations specify that a record of the daily attendance of each student must be kept in accordance with the Maryland Student Records System Manual (2011). Unlawful absence is any absence that does not meet 1 of 10 conditions in regulation. Each local school system is required to develop a student attendance policy that includes penalties for not meeting attendance standards and actions that will be taken when a student is unlawfully absent. The attendance monitoring procedure must include early intervention and chronic absenteeism strategies and procedures. Students who are chronically

absent must be referred to pupil services or other central office professionals for case management.

Poor attendance is a key warning sign that a student may drop out of high school. One study of Chicago public schools found that missing 20% of the school days in grade 9 is a better predictor of whether a student is going to drop out than grade 8 test scores. In order to address this issue, **House Bill 207 (passed)** requires each local board of education to develop a system of active intervention for students who are truant. Any student attending kindergarten through grade 12 who is truant, which is defined as being unlawfully absent more than 8 school days in any quarter, 15 days in any semester, or 20 days in a school year, must immediately be referred for intervention. Further, the bill makes clear that a local board of education may intervene in the case of a student who is frequently absent from school for both lawful and unlawful purposes even if the student is not a truant student as defined in the bill.

Prince George's County – School System Governance

The structure of the Prince George's County Board of Education has been changed several times over the past two decades. In 2002, Chapter 289 eliminated the then-elected county board and established a new board that consisted of nine voting members, jointly appointed by the County Executive of Prince George's County and the Governor from a list of nominees submitted by the State Board of Education, and one student member with limited voting privileges. The new board members took office June 1, 2002, and their terms expired December 3, 2006. Chapter 289 also eliminated the existing Prince George's County Superintendent of Schools position and replaced it with a chief executive officer (CEO) who was responsible for the overall administration of the county public school system. The CEO's contract, which could not exceed four years, provided that continued employment was contingent on demonstrable improvement in student performance and successful management of the school system. The provisions establishing the CEO and the CEO's responsibilities expired on June 30, 2006.

Pursuant to Chapter 289, on December 4, 2006, a county board consisting of nine newly elected members and one student member replaced the appointed board. Four members were elected from anywhere in the county, and the remaining five members were each elected from a different school board district. Then, in 2008, Chapters 348 and 349 established the current elected board structure, which was implemented following the 2010 general election. This elected board consists of nine elected members, each residing in one of nine school board districts, as well as one student member with limited voting rights. Each candidate must be a registered voter and a resident of the school board district the candidate intends to represent.

Board members are elected by the registered voters of each school board district and serve four-year terms. A board member may not hold another office of profit in county government during the member's term. A seat on the board remains vacant if the vacancy occurs within 180 days of the end of the member's term; otherwise a special election is held to fill the vacancy. The county board has the authority to determine the geographical attendance area for each public school and to consolidate schools if practicable.

House Bill 1107 (Ch. 147) revises the governance of the Prince George's County public school system by restructuring the county board; enhancing the authority of the Prince George's County Superintendent of Schools – redesignated to be the CEO; and giving the County Executive of Prince George's County additional authority to select the CEO while reducing the authority of the county board. With the changes, Prince George's County becomes one of three counties that have a hybrid school board consisting of appointed and elected members (the other counties are Caroline and Harford). The Act takes effect June 1, 2013.

The legislation alters the membership of the county board by adding four appointed members to the existing elected board. The county executive appoints three of the members, one of whom must possess education experience; one must possess business, finance, or higher education experience; and one must have management experience. The Prince George's County Council appoints one member who must be a parent of a student in the county school system.

Each appointed member must be a resident of Prince George's County. The initial terms of the new positions are staggered and subsequent terms are for four years. The county executive must appoint the chair and vice chair from among the members of the county board, with the vice chair selected from the elected members, for two-year terms. If a seat held by an elected member becomes vacant, the county executive must appoint a qualified individual for the remainder of the term, with the appointment subject to rejection by a two-thirds vote of the county council.

The county executive must select the CEO from a list of three nominees recommended by a search committee composed of State and local representatives. The county board must appoint the CEO after agreement on contract terms negotiated by the chair of the county board. The CEO serves a four-year term beginning on July 1, but may be appointed after July 1 to fill the current vacancy.

The purpose of the county board is codified as intending to raise the level of academic achievement of the students and to raise the level of engagement of the parents, students, and community as a whole. The CEO is responsible for the day-to-day management and operation of the school system, including the budget, the development and implementation of curriculum, the hiring and setting of salaries of the executive officers and staff in the office of the CEO, and the execution of a memorandum of understanding with institutions of higher education in the county for the provision of policy analysis and advice. **House Bill 1107** specifies that the county board may not contradict any action other than a personnel action by the CEO unless two-thirds of the members vote to countermand the action. Personnel matters and appeals of personnel matters require a simple majority of board members to overturn a decision of the CEO, as they do under current law. Under the legislation, the CEO may consolidate schools in the county if considered practicable, but the county board's responsibility for the geographical attendance areas of the schools is maintained. The CEO and the county board must hire a consultant to conduct a school

utilization study and make recommendations, by December 1, 2014, regarding the geographical attendance areas and possible consolidation of schools.

Finally, the Act requires the county executive, the CEO, and the county board to submit an interim report on the implementation of the Act to relevant committees of the General Assembly by December 31, 2013, and, by December 31, 2017, a final report on the academic progress and improvement in the management of the school system and recommendations as to whether the provisions of the Act should continue.

Commercial Law – Consumer Protection

Security Freezes – Children in Foster Care Settings

In recent years, the General Assembly has passed several bills enabling consumers to fight identity theft, including the placing of a security freeze on personal credit records. In 2012, protection of security freezes was extended to parents or guardians of children and those under guardianship, whose credit records were considered especially vulnerable to identity theft.

Senate Bill 897/House Bill 1297 (both passed) establish a mandatory process for placing security freezes on the records of children in foster care. The bills require a consumer reporting agency to place, on request of the Department of Human Resources (DHR), a security freeze for a child who is in the custody of a local department of social services and has been placed in a foster care setting. At least once a year, DHR must electronically transmit to each consumer reporting agency a list of children who are in the custody of a local department and have been placed in a foster care setting for the first time. DHR also must request a security freeze for each child on the list. The placement of a security freeze prohibits an agency from releasing the child's consumer report, any information derived from the consumer report, or any record created for the child.

If a consumer reporting agency does not have a file pertaining to a child when the agency receives a request for a security freeze from DHR, the agency must create a record for the child. If the agency has a file pertaining to the child, the local department of social services or the Montgomery County Department of Health and Human Services must act as the child's representative to resolve any issues with the file. The security freeze for a child must remain in effect until either the child or DHR requests the removal of the security freeze. A consumer reporting agency must place or remove a security freeze within 30 days after receiving a valid request. The exclusive remedy of a violation of a provision of the bills is a complaint filed with the Commissioner of Financial Regulation.

Senate Bill 897/House Bill 1297 also require the Department of Juvenile Services (DJS) to evaluate whether it is practicable, appropriate, and necessary for DJS to be authorized to make a request for a security freeze for the consumer record of each child in the custody of DJS. The bills require DJS to report its findings to the Senate Finance Committee and House Economic Matters Committee on or before December 1, 2013.

New Substantive Crimes

It is necessary for the agency to continually update computer database information to reflect additions, modifications, or deletions of substantive crimes in Maryland. Below is a chart of new crimes and modifications to existing crimes that should be updated in DJS case management and operations computer systems.

Bill # / Title	Synopsis	Code Section	Effective Date
HB 1 SB 109 Criminal Law - Cannabimimetic Agents – Prohibition	Listing cannabimimetic agents on Schedule I for purposes of designating controlled dangerous substances that may not be legally used, possessed, or distributed; and defining cannabimimetic agents.	Crim. Law §5-402	10/1/2013
HB 311 Crimes - Requirement to Report Death or Disappearance of Minor – Penalties	Requiring, under specified circumstances, a parent or other person who has permanent care or custody or responsibility for the supervision of a minor under the age of 13 to notify within 24 hours the appropriate law enforcement agency that the minor is a missing child; requiring, under specified circumstances, a parent or specified other person to notify, within 5 hours, the appropriate law enforcement agency or medical authority that the minor has died; etc.	Crim. Law §3-608, 609	10/1/2013
HB 396 Criminal Law - Misuse of Interactive Computer Service (Grace's Law)	Prohibiting a person from using an interactive computer service to maliciously engage in a specified course of conduct that inflicts serious emotional distress on a minor or places a minor in reasonable fear of death or serious bodily injury under specified circumstances; and defining terms.	Crim. Law §3-805	10/1/2013
HB 489 Criminal Law - Threat Against State or Local Official – Expansion	Making it a misdemeanor to knowingly and willfully make specified threats against a deputy State's Attorney, an assistant State's Attorney, or an Assistant Public Defender; and imposing penalties.	Crim. Law §3-708	10/1/2013
HB 542 SB 360 Criminal Law - Aggravated Animal Cruelty – Baiting	Prohibiting a person from using or allowing a dog to be used for baiting; prohibiting a person from possessing, owning, selling, transporting, or training a dog with the intent to use the dog for baiting; and prohibiting a person from knowingly allowing specified premises to be used for baiting.	Crim. Law §10-607	10/1/2013
SB 19 Crimes - Aiming Laser Pointer at Aircraft	Making it a misdemeanor to knowingly and willfully shine, point, or focus the beam of a laser pointer on an individual operating an aircraft; exempting specified individuals under specified circumstances from provisions of the Act; and specifying a penalty.	Crim. Law §3-807	10/1/2013