

Women Legislators of the Maryland General Assembly, Inc.

2010 Session

Legislative Wrap Up

The top legislative priorities of the Women’s Caucus for the 2010 Session were:

**Women’s Health
Domestic Violence
DDA Waiting List
Human Trafficking**

The Women’s Caucus supported 14 bills, eight of which passed or 57%.

Crimes, Corrections, and Public Safety:

Human Trafficking

Senate Bill 261/ HB 283 (both passed) extend the application of the human trafficking statute by subjecting individuals who knowingly aid, abet, or conspire in the violation of human trafficking laws or knowingly benefit financially from ventures or activities in violation of State human trafficking laws to the same penalties imposed on a person who violated the applicable statute.

The bills change from a misdemeanor to a felony the current prohibition on knowingly taking or detaining another with the intent to use force, threat, coercion, or fraud to compel the other to marry the person or a third person or perform certain sexual acts. The bills expand the current prohibition on human trafficking to include prohibitions on forced participation in a “sexually explicit performance” and interference with the possession of a passport, immigration document, or government identification document of another while violating or attempting to violate State human trafficking laws. “Sexually explicit performance” is defined as a public or private, live, photographed, recorded, or videotaped act or show in which the performer is wholly or partially nude, and which is intended to sexually arouse or appeal to the prurient interest of patrons or viewers.

(Caucus position: Strong Support)

Courts and Civil Proceedings

Child Support Guidelines

In any proceeding to establish or modify child support, a court is required to use the child support guidelines. The basic child support obligation is established in accordance with a schedule provided in statute. There is a rebuttable presumption that the amount of child support that would result from the application of the guidelines is the correct amount of support to be awarded. The presumption may be rebutted by evidence that the application of the guidelines would be unjust or inappropriate in a particular case. The current schedule uses the combined monthly adjusted actual income of both parents and the number of children for whom support is required to determine the basic child support obligation. The maximum combined monthly income subject to the schedule is \$10,000.

Maryland's child support guidelines were originally enacted in 1989 in response to federal child support mandates. The current child support schedule is based on economic estimates of child-rearing expenditures as a proportion of household consumption developed in 1988 using national data on household expenditures from the 1972-1973 Consumer Expenditure Survey conducted by the U.S. Bureau of Labor Statistics.

At least every four years, the child Support Enforcement Administration (CSEA) of the Department of Human Resources is required to review the guidelines to ensure that their application results in appropriate child support award amounts and to report its findings and recommendations to the General Assembly. During the 2008 interim, CSEA conducted its most recent review of the guidelines and, based on that review, proposed legislation this interim to update the current child support guidelines.

Senate Bill 252/House Bill 500 (both passed) revise the schedule of basic child support obligations used to calculate child support amounts under the child support guidelines to reflect changes in child-rearing costs and income levels. The revised schedule is based on the results of a federal study on child-rearing costs that was conducted in 1990 using data from 1980-1986, updated to 2009 price levels. The schedule is also adjusted to account for Maryland's above average housing costs.

Because it has become more common for combined monthly incomes to exceed \$10,000 and therefore fall outside of the guidelines, the bills also expand the current guidelines to include combined monthly incomes of up to \$15,000.

The bills also repeal a provision of current law establishing that the adoption or revision of the child support guidelines may be grounds for requesting a modification of a child support award based on a material change in circumstances if the use of the guidelines would result in a change in the award of 25% or more. Instead, the bills specifically provide that the adoption or revision of the guidelines is not a material change of circumstances for the purpose of a modification of a child support award.

(Caucus position: support)

Child Abuse and Neglect

Reporting of Risk of Sexual Abuse

Statutory requirements regarding the reporting of child abuse apply only if the reporter suspects that abuse has actually occurred. State law does not establish reporting requirements if a reporter believes that a child may be at substantial risk of abuse. *Senate Bill 559/House Bill 811 (both passed)* authorize an individual to notify the local department of social services or the appropriate law enforcement agency if the individual has reason to believe that a parent, guardian, or caregiver of a child allows the child to reside with or be in the presence of an individual, other than the child's parent or guardian, who (1) is registered on the sexual offender registry based on the commission of an offense against a child; and (2) based on additional information, poses a substantial risk of sexual abuse to the child.

After confirming that the allegations in the report regarding the individual's history are true and that there is specific information that the child is at substantial risk of sexual abuse, the local department must make a thorough investigation to protect the health, safety, and welfare of any child or children who may be at substantial risk of sexual abuse.

The investigation must be conducted in conjunction with an appropriate law enforcement agency. As part of the investigation, the local department must (1) determine whether the child is safe; (2) determine whether sexual abuse of the child has occurred; (3) offer appropriate services to the family; and (4) immediately decide whether to file a Child in Need of Assistance (CINA) petition. To the extent possible, an investigation must be completed as soon as practicable, but not later than 30 days after receipt of a report.

(Caucus position: support)

Extension of Final Protective Order

In a domestic violence proceeding, if a judge finds by clear and convincing evidence that abuse has occurred, or if the respondent consents to the entry of a protective order, the judge may grant a final protective order to protect any person eligible for relief from abuse. All relief granted in a final protective order is effective for the period stated in the order, generally up to a maximum of 12 months. A final protective order may be issued for up to two years if it is issued against a respondent for an act of abuse committed within one year after the date that a prior final protective order issued against the same respondent on behalf of the same person eligible for relief expired, if the prior final protective order was issued for a period of at least six months.

Senate Bill 867/House Bill 534 (both passed) authorize a judge to extend the term of a final protective order for up to two years if, during the term of the protective

order, the judge finds by clear and convincing evidence that the respondent named in the protective order has committed a subsequent act of abuse against a person eligible for relief named in the protective order. Prior to extending a final protective order, the judge must give notice to the respondent and all affected persons eligible for relief and hold a hearing. In determining the period of extension, the judge must consider the following factors: (1) the nature and severity of the subsequent act of abuse; (2) the history and severity of abuse in the relationship between the respondent and any person eligible for relief named in the protective order; (3) any pending criminal charges against the respondent and the type of charges; and (4) the nature and extent of the injury or risk of injury caused by the respondent.

(Caucus position: support)

Guardianships

Maryland Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act

The circuit courts in Maryland have exclusive jurisdiction over guardianship and protective proceedings for disabled persons. A guardian is appointed for a disabled person if the court determines (1) the person is unable to manage the person's property and affairs effectively, for any number of specified reasons, and has or may be entitled to property or benefits that require proper management; or (2) based on clear and convincing evidence, the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person because of any mental disability, disease, habitual drunkenness, or drug addiction, and no less restrictive form of intervention is available that is consistent with the person's welfare or safety.

Senate Bill 231/House Bill 1275 (both passed) establish the Maryland Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act. The bills are a modified version of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act drafted, approved, and recommended in 2007 for enactment in all states by the National Conference of Commissioners on Uniform State Laws.

The bills address jurisdiction of Maryland courts over adult guardianship and protective proceedings, in relation to courts in other states, and related issues. The bills contain various provisions concerning:

- circumstances under which a Maryland court has jurisdiction to appoint a guardian or issue a protective order appointing a conservator or guardian of property to administer/manage the property of an adult, in relation to courts in other states; the duration of jurisdiction once the court has appointed a guardian or issued a protective order; the ability of a Maryland court to decline jurisdiction if it determines a court of another state is a more appropriate forum; and factors to be considered in determining whether the court is an appropriate forum;

- options available to a court if it determines it acquired jurisdiction because of unjustifiable conduct, including the assessment of specified fees, costs, and expenses against the party that engaged in unjustifiable conduct;
- rules applicable when a petition for the appointment of a guardian or issuance of a protective order is filed both in Maryland and in another state;
- communication and cooperation between a Maryland court and a court in another state regarding a guardianship or protective proceeding;
- testimony of witnesses in another state;
- notice requirements applicable to the filing of petitions for appointment of a guardian or issuance of a protective order;
- transfer of a guardianship or conservatorship to another state; and
- registration of a guardianship or protective order issued in another state, in a court in Maryland.

The bills apply to guardianship and protective proceedings beginning on or after October 1, 2010.

(Caucus position: support)

Business Oversight

International Marriage Brokers

The total number of foreign fiancées entering the United States each year more than doubled between 1998 and 2002, and studies suggest that approximately 500 companies deliver “international marriage broker” services in the United States. After several publicized accounts of domestic abuse of women who met their husbands through international marriage brokers, lawmakers in Washington passed laws to regulate international marriage brokers operating in that state. Hawaii, Missouri, and Texas have enacted similar legislation. These statutes, as well as the federal International Marriage Broker Regulation Act of 2005, generally work to provide foreign nationals with information about their potential spouses and the resources available to them in the United States.

Senate Bill 129/House Bill 65 (both passed) require an international marriage broker to provide basic human rights information to an individual who is not a citizen or resident of the United States and who uses the services of or is recruited by an international marriage broker for dating, matrimonial, or social referral services. A client has to provide the broker with marital history information and notify the broker about any previously sponsored international spouse. The broker has to conduct a State and national criminal history records check of the client, including a search of the sex offender registry. The broker must then provide the criminal and marital history information of the client to the recruit before providing personal contact information about the recruit to the client. Additionally, before any personal contact information about the recruit is disclosed to the client, the marriage broker must obtain written consent from the recruit, in the recruit’s native language. The bill does

not apply to traditional marriage brokers that operate on a nonprofit basis and comply with applicable laws or to entities that charge comparable rates and services regardless of gender or citizenship and do not principally provide international dating services.

(Caucus position: strong support)

Lodging Establishments – Human Trafficking

The U.S. State Department has estimated that approximately 600,000 to 800,000 people are trafficked annually across international borders worldwide. Approximately half of these victims are minors. But according to the Maryland Sentencing Guidelines Database, just four people were convicted of human trafficking from fiscal 2001 through 2009. In an attempt to respond to that problem, *Senate Bill 542/House Bill 1322 (both passed)* authorize law enforcement to issue a civil citation to require the posting of signs in lodging establishments where arrests leading to convictions for prostitution, solicitation of a minor, or human trafficking have occurred. In determining whether to issue a citation, law enforcement has to consider any assistance it receives from a lodging establishment in an investigation leading to a conviction for a predicate violation.

The required sign must be developed by the Department of Labor, Licensing, and Regulation (DLLR) and posted on the department's web site. The sign must include specified information about human trafficking and the contact number for a national resource center hotline. Additionally, the sign has to be at least 3x5 inches in size and in multiple languages, at least English, Spanish, and any other language required for a jurisdiction under the federal Voting rights Act. Violators are subject to a civil penalty of up to \$1,000. Each guest room that does not have a sign is not a separate violation.

(Caucus position: support)

Health and Human Services

Nurse Practitioners

In order to provide more independence from physician supervision, *Senate Bill 484/House Bill 319 (Chs. 77 and 78)* alter the scope of practice for nurse practitioners. The bills require a nurse practitioner to have an approved attestation of a collaboration agreement with a licensed physician and to both refer to, and consult with, physicians and health care providers as needed. Further, the bills define a nurse practitioner's scope of practice, authorize temporary practice letters under specified circumstances, and provide title protection for nurse practitioners. The bills repeal the requirement that the board and the State Board of Physicians jointly adopt regulations concerning the prescriptive authority of nurse practitioners and requires

the board, in consultation with the State Board of Physicians, to develop a plan to implement the Maryland Nurse Practitioner Act.

(Caucus position: strong support)

**Please note that the descriptions of the legislation are taken from:*

*The 90 Day Report
A Review of the Legislative Session
Department of Legislative Services
Maryland General Assembly*

Legislation supported by the Women's Caucus that did not pass:

Strong support:

SB 823/HB 700 Family Law – Protective Orders – Burden of Proof

Support:

HB 30 Health Insurance – Coverage of InVitro Fertilization Services

SB 186/HB 1133 Criminal Law – Electronic Harassment of a Minor

SB 463/HB 514 Criminal Procedure – Seizure and Forfeiture – Property Used in Human Trafficking

SB 585/HB 281 Commission on Surrogate Parenting

SB 717/HB 832 The Lorraine Sheehan Health and Community Services Act of 2010

(April 22, 2010)