

Women Legislators of the Maryland General Assembly, Inc.

2017 Legislative Wrap Up

The Women's Caucus supported 18 bills, 9 passed or 50%.

The Caucus has worked for many years to bring awareness to the issue of violence against women and children. The 2017 Session brought significant improvement to Maryland's sexual assault laws.

Crimes, Corrections, and Public Safety:

Violent Crimes

SB 217/HB 429 (both passed) establish that evidence of physical resistance by a victim is not required to prove that a sexual crime was committed. However, the fact that such evidence is not required may not be construed to affect the admissibility of evidence of actual physical resistance by the victim.

Victims of Crime

Sexual Assault

SB 734 (passed) (1) expands the services that sexual assault crisis programs in the State must provide and (2) requires the Governor to include in the annual budget bill an appropriation of at least \$3 million for the federally recognized State sexual assault coalition (Maryland Coalition Against Sexual Assault) and sexual assault crisis programs, as specified. Under specified circumstances, the Governor is authorized to reduce the mandated appropriation by up to 40%. The bill also establishes the Maryland Sexual Assault Evidence Kit Policy and Funding Committee. In fiscal 2018 and in each fiscal year thereafter, the Governor must include funds in the State budget to implement the bill's provisions relating to the committee, including funds to operate and maintain an office and employ a full-time assistant Attorney General to staff the committee and assist with the implementation of regulations that must be adopted.

SB 349/HB 255 (passed) require a health care provider that performs a sexual assault evidence collection kit exam on a victim of sexual assault to provide the victim with written information describing the laws and policies governing the testing, preservation, and disposal of a sexual assault evidence collection kit.

A sexual assault evidence collection kit must be transferred to a law enforcement agency (1) by a hospital or child advocacy center within 30 days after a specified exam is performed or (2) by a government agency in possession of a kit, unless the agency is otherwise required to retain the kit by law or court rule. A law enforcement agency is prohibited from destroying or disposing of a sexual assault evidence collection kit or other crime scene evidence relating to a sexual assault that has been identified by the State's Attorney as relevant to prosecution within

20 years after the evidence is collected, unless the case for which the evidence was collected resulted in a conviction and the sentence has been completed or all suspects identified by testing a kit are deceased.

A law enforcement agency with custody of a sexual assault evidence collection kit, on written request by the victim, must (1) notify the victim at least 60 days before the date of intended destruction or disposal of the evidence or (2) retain the evidence, as specified.

Victim Protection

“Victim stay-away alert” technology is a system of electronic monitoring that is capable of notifying a victim if the defendant is at or near a location from which the defendant has been ordered by the court to stay away. HB 1163 (passed) requires a victim impact statement to include any request for electronic monitoring or electronic monitoring with victim stay-away alert technology. The State Board of Victim Services must include in its pamphlets information regarding how to request that an offender be placed on electronic monitoring or electronic monitoring with victim stay-away technology. On a finding of probable cause and before the issuance of an arrest warrant or a summons, a judicial officer must provide an individual filing an application for a statement of charges under Maryland Rule 4-211 with an opportunity to request reasonable protections for the safety of an alleged victim or the victim’s family.

Courts and Civil Proceedings

Divorce

Restoration of Former Name

In granting a decree of absolute divorce, the court must change the name of a party to either the name given to the party at birth or any other former name the party wishes to use if (1) the party took a new name on marriage and no longer wishes to use it; (2) the party asks for the change of name; and (3) the purpose is not illegal, fraudulent, or immoral. SB 83/HB 793 (both passed) allow a party who wishes to restore the use of a former name after an absolute divorce to file a motion within 18 months after a final decree of absolute divorce is entered. The court must change the name of the party as long as the conditions specified above are met.

Personal Representatives and Guardians – Incapacity

A court must appoint a guardian with respect to the estate of a person if the court determines that the person is unable to manage his property and affairs effectively because of physical or mental disability, disease, habitual drunkenness, addiction to drugs, imprisonment, compulsory hospitalization, confinement, detention by a foreign power, or disappearance and the person has or may be entitled to property or benefits which require proper management. HB 81 (passed) alters the definition of “incapacity” as defined under the Maryland Trust Act and modifies the conditions under which a court must appoint a guardian of the property of a minor or a disabled person. Specifically, the bill repeals the condition of “confinement” as one of the circumstances in which a court must appoint a guardian of the property of a minor or disabled

person and also repeals “confinement” as an element of the definition of incapacity under the Act. Although there are several possible meanings for the term “confinement,” in this context, the term most likely refers to pregnancy and childbirth. Accordingly, under the bill, a court is not required to appoint a guardian of the property for a person who has been “confined.”

Health and Human Services

Prescribing and Dispensing

SB 363/HB 613 (both passed) expand the scope of practice for a licensed pharmacist, who meets specified requirements, to include prescribing and dispensing contraceptive medications and self-administered contraceptive devices approved by FDA. By September 1, 2018, the State Board of Pharmacy, in consultation with specified stakeholders, must adopt final regulations establishing standard procedures a pharmacist must use to select the appropriate contraceptive to prescribe or to refer a patient to a health care practitioner for treatment and the conditions under which a pharmacist may prescribe and dispense contraceptives. The regulations must prohibit a pharmacist from prescribing contraceptives before January 1, 2019.

Children

SB 293/HB 395 (both passed) require the Maryland State Department of Education (MSDE) to report to specified committees of the General Assembly on or before October 1, 2017, on methodologies to set reimbursement rates for the Child Care Subsidy (CCS) Program. SB 294/HB 418 (both passed) require MSDE to biannually conduct a market rate survey or an alternative method allowable under federal law in order to formulate appropriate reimbursement rates for the CCS Program.

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

The 90 Day Report
A Review of the 2017 Legislative Session
Department of Legislative Services
Maryland General Assembly

The following legislation was supported by the Caucus but did not pass:

SB 574/HB 428	Child Conceived Without Consent – Termination of Parental Rights (Rape Survivor Family Protection Act)
HB 359	Child Neglect – Reporting – Commission of Crime of Violence in Presence of Minor
HB 213	Public Safety – Maryland Police Training and Standards Commission – Sexual Assault Investigation Training
HB 1076	Procedure – Sexual Assault Evidence Collection Kits

SB 971/HB 919 Procurement – Nondiscrimination Clauses and State Policy Prohibiting Discrimination

SB 900/HB 803 Family Law – Domestic Violence – Definition of Abuse

HB 1141 Criminal Procedure – Statewide Sexual Assault Evidence Collection Kit Tracking System – Requirements

HB 1560 Education – Family Life and Human Sexuality Curriculum – Consent

SB 780/HB 260 Sexual Assault Cases – Local Audits

(4-18-2017)