

The seal of the University of Maryland is a large, circular emblem in the background. It features a central shield with a red and white design, flanked by two figures. The shield is topped with a crest. The entire seal is surrounded by a yellow border with the text 'UNIVERSITY OF MARYLAND' and '1827' at the bottom.

Maryland Public Health Emergency Preparedness Legal Handbook

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TABLE OF CONTENTS

<u>IMPORTANT INTRODUCTORY NOTE</u>	ix
TOPIC 1. POWERS OF THE GOVERNOR	1
A. Constitutional Powers of the Governor	1
B. Maryland Emergency Management Agency Act	1
i. Definition of Emergency.....	1
ii. Declaring and Terminating a State of Emergency Under the MEMA Act.....	2
iii. Governor’s Authority during a State of Emergency Declared Under the MEMA Act.....	2
C. Interstate Emergency Management Assistance Compact	3
D. Catastrophic Health Emergencies Act	3
E. Additional Powers of the Governor in the Event of an Authorized Public Emergency	5
i. General State of Public Emergency Powers.....	5
ii. Governor’s Authority to Exercise the Powers of a Local Governing Body.....	7
iii. Authority to Quarantine Vessels.....	8
iv. Militia Powers of the Governor.....	8
TOPIC 2. MARYLAND EMERGENCY MANAGEMENT AGENCY (MEMA) ...	10
A. Structure of MEMA	10
i. Governor.....	10
ii. Adjutant General.....	10
iii. Director.....	10
B. Function of MEMA	10
C. Local Management of a Health Emergency under MEMA	11
TOPIC 3. EMERGENCY MANAGEMENT ASSISTANCE COMPACT (EMAC) 12	
A. Establishment and Authorization	12
B. Purpose	12
C. Implementation	12
D. Responsibilities of Member-States to Plan	12
E. Limitations	13
F. Licensed Providers	13
G. Liability of Individuals from the Aid Rendering Jurisdiction	13
H. Supplemental Agreements	13
I. Compensation and Reimbursement	14
J. Evacuation	14
TOPIC 4. MARYLAND EMERGENCY MANAGEMENT ASSISTANCE COMPACT (MEMAC)	15
A. Establishment and Authorization	15
B. Purpose	15
C. Implementation	15
D. Requests for Assistance under MEMAC	15
E. Limitations	16
F. Supplemental Agreements	16
G. Compensation and Reimbursement	16
TOPIC 5. STATE PUBLIC HEALTH POWERS	17

A. Authorization and Establishment	17
B. Structure	17
i. Secretary of Health and Mental Hygiene (Secretary).....	17
ii. Health Officers.....	17
C. Powers and Duties of the Secretary of Health and Mental Hygiene	17
i. The Secretary may appoint and remove staff	17
ii. The Secretary has the general authority to run DHMH.....	17
iii. The Secretary may promulgate rules and regulations	18
iv. The Secretary may transfer functions, staff, or funds.....	18
v. The Secretary may apply for, receive, and spend federal funds	18
vi. The Secretary is empowered to subpoena.....	18
vii. The Secretary (or his agent) is authorized to enter premises to “carry out a duty” required by law	18
viii. The Secretary must establish policies and standards to guide the health of the state and takes responsibility, generally, for the health interests of the people of the state	18
ix. The Secretary must adopt regulations and guidelines designed to prevent the spread of communicable diseases. Furthermore, the Secretary must take the needed steps to insure that disease is not spread.....	19
x. The Secretary is required to investigate the causes of disease and mortality	19
xi. The Secretary has a duty to act to contain and combat the spread of communicable diseases through obtaining accurate reports and performing data analysis.....	19
xii. The Secretary is given broad authority to monitor disease and to act to “treat, prevent, or reduce the spread of the disease or outbreak.”	20
xiii. The Secretary may require health care facilities to develop contingency plans	20
xiv. The Secretary may require the reporting of information needed to combat a health emergency	20
xv. The Secretary may order treatment, vaccination, or quarantine	21
xvi. The Secretary may require isolation or quarantine as outlined in § 18-905, but must follow certain prescribed steps.....	21
xvii. The orders, regulations, and directives of the Secretary of Health and Mental Hygiene carry penalties for non-compliance	21
xviii. Reporting requirements of the Secretary of Health and Mental Hygiene	22
xix. The Secretary may reassign health officers	22
D. Powers and Duties of Health Officers	22
i. Health Officers may enter a building to inspect.....	22
ii. The Health Officer for a county is required to enforce State and County health laws and policies	22
iii. Health Officers are required to perform investigations or other duties as directed by the Secretary or the County board of health and submit reports.....	22
iv. Health Officers are required to report the incidence of a disease that may endanger the public and to take action to contain and combat the disease.....	23
v. Health Officers must notify the county board of education of real or potential threats.....	23
vi. Health Officers may disinfect or destroy a house or articles in a house.....	23

vii. Health Officers may require a patient to be moved to a suitable facility	23
viii. Health Officers are required to maintain records	24
F. State Reporting Requirements of Providers and Institutions	24
i. Physician reporting requirements	24
ii. Institution reporting requirements	24
iii. Medical laboratory reporting requirements	25
iv. A physician may take action to prevent the spread of a communicable disease without first gaining permission of the county health board	25
G. Immunization Commission	25
H. Biological Agents Registry Program	25
I. Liability for Exposing Others to Infectious Diseases	25
TOPIC 6: LOCAL PUBLIC HEALTH POWERS	27
A. General Powers of Municipalities	27
B. City of Baltimore	28
i. General Public Health Authority of City of Baltimore	28
ii. Baltimore City Department of Health	28
C. Counties	30
i. General Public Health Authority of the Counties	30
ii. County Boards of Health	31
TOPIC 7. SELECT FEDERAL PUBLIC HEALTH POWERS	34
A. General Public Health Emergency Powers	34
B. Establishment of Hospitals	34
C. Public Health Service	34
D. Credentialing of Health Professionals	35
E. National Disaster Medical System (NDMS)	35
F. Strategic National Stockpile	35
G. Medicare, Medicaid and State Children’s Health Insurance Program (SCHIP) Waivers	36
H. Restricted Movement between States	36
I. Quarantine Authority	36
i. Foreign Quarantine Regulations	37
ii. Interstate Quarantine Regulations	38
J. Posse Comitatus Act	39
K. The Insurrection Acts	39
L. Emergencies Involving Chemical or Biological Weapons of Mass Destruction	40
M. Transactions Involving Nuclear Materials	40
N. The Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, 93 Pub. L. No. 93-288, 88 Stat. 143 (codified as amended at 42 U.S.C.A. §§ 5121- 5206 and various sections of 12 U.S.C.A., 16 U.S.C.A., 20 U.S.C.A., 26 U.S.C.A., 38 U.S.C.A.)	40
O. The Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (codified predominantly at 3 U.S.C.A., 5 U.S.C.A., 6 U.S.C.A. §§ 101-557, 7 U.S.C.A., 10 U.S.C.A., 14 U.S.C.A., 18 U.S.C.A., 20 U.S.C.A., 21 U.S.C.A., 28 U.S.C.A., 37 U.S.C.A., 38 U.S.C.A., 42 U.S.C.A., 49 U.S.C.A., and 50 U.S.C.A.) .	42
P. The Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Pub. L. No. 107-188, 116 Stat. 294 (codified in various sections of 7	

U.S.C.A., 18 U.S.C.A., 21 U.S.C.A., 29 U.S.C.A., 38 U.S.C.A., 42 U.S.C.A., and 47 U.S.C.A.)	44
Q. The Defense Production Act of 1950, 64 Stat. 798 (1950) (codified as amended by the Defense Production Act Reauthorization of 2003, Pub. L. No. 108-195, 117 Stat. 2892 at 50 U.S.C.A. app. §§ 2061-2170 (West 1991 & Supp. 2005)).	44
R. The National Emergencies Act, 50 U.S.C.A. §§ 1601-1651 (West 2003 & Supp. 2005).	45
S. The Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C.A. §§ 9601-9675 (West 1995 & Supp. 2005), and the Federal Water Pollution Control Act (Clean Water Act), 33 U.S.C.A. §§ 1251-1387 (West 200 & Supp. 2005).	45
T. The Communications Act of 1934, 47 U.S.C.A. §§ 151-615b (West 2001 & Supp. 2005).	46
U. Volunteer Services	46
V. Federal Assistance to Local Law Enforcement	46
W. Liability of the Federal Government	47
X. Intelligence Reform and Terrorism Prevention Act of 2004,	47
Mutual Aid Provisions	47
i. Purpose.....	47
ii. Type of Assistance.....	48
iii. Liability of Aid-Rendering Jurisdictions.....	48
iv. Compensation	48
TOPIC 8. COMMUNICABLE DISEASE REPORTING	50
A. State Communicable Disease Reporting Requirements	50
i. Secretary of Health and Mental Hygiene.....	50
ii. Health Officers.....	51
B. Specific Reporting Requirements of Different Providers	51
i. Physician Reporting Requirements.....	51
ii. Institution Reporting Requirements.....	52
iii. Medical Laboratory Reporting Requirements.....	52
C. HIPAA Impact on Communicable Disease Reporting	52
TOPIC 9. QUARANTINE / ISOLATION	54
A. State Quarantine Authority	54
i. Catastrophic Health Emergencies Act.....	54
ii. Process Required to Impose Quarantine.....	54
iii. Governor’s Authority to Quarantine Vessels	56
B. Local Quarantine Authority	57
C. Federal Quarantine Authority	57
i. Foreign Quarantine Regulations	57
ii. Interstate Quarantine Regulations.....	59
TOPIC 10. COMPULSORY MEDICAL EXAMINATION, TESTING, VACCINATION, AND TREATMENT TO RESPOND TO A CATASTROPHIC HEALTH EMERGENCY	60
A. Compulsory Medical Examination, Testing, Vaccination, and Treatment during a Catastrophic Health Emergency	60
i. Medical Examination, Testing and Treatment.....	60

ii. Vaccination	60
B. Refusal to Comply with an Order to be Examined, Tested, Treated, or Vaccinated during a Catastrophic Health Emergency	60
TOPIC 11. SEIZURE, STOCKPILING, AND CONTROL OF SUPPLIES NEED TO RESPOND TO A CATASTROPHIC HEALTH EMERGENCY	62
TOPIC 12. COMPELLED SERVICE BY HEALTH CARE PROVIDERS TO TREAT EXPOSED INDIVIDUALS DURING A CATASTROPHIC HEALTH EMERGENCY	63
A. Compelling Health Care Providers to Treat Exposed or Infected Individuals during a Catastrophic Health Emergency	63
B. Immunity of the Health Care Provider	63
C. Failure of a Health Care Provider to Comply With the Order to Perform Examinations and Treatment	63
TOPIC 13. ENTRY ONTO PROPERTY FOR TESTING	64
A. Governor’s Authority to Enter onto Property	64
i. State of Emergency	64
ii. Catastrophic Health Emergency	64
B. The Secretary of Health and Mental Hygiene’s Authority to Enter onto Property	64
C. Health Officer’s Authority to Enter onto Property	64
TOPIC 14. DISPOSITION OF HUMAN REMAINS	66
A. Department of Health and Mental Hygiene	66
B. Vital Records	66
C. Burial of the Deceased	66
D. Cremation	67
E. Funeral Directors and Morticians Licensing	67
F. Medical Examiner’s Authority and Duty	67
G. Autopsy	68
H. Cadavers	68
TOPIC 15. PURCHASING AUTHORITY	70
A. General State Procurement Authority	70
B. Governor’s Power to Procure Supplies and Equipment	70
i. In Preparation for an Emergency	70
ii. During an Emergency	71
TOPIC 16. TAKING OF PROPERTY	72
A. Constitution of the United States	72
B. Constitution of Maryland	72
C. Eminent Domain	72
D. Governor’s Authority	72
i. State of Emergency	72
ii. Catastrophic Health Emergency	73
E. Authority of the Secretary of Health and Mental Hygiene	73
F. Health Officer Authority	73
TOPIC 17. PHARMACEUTICAL AUTHORITY AND DISTRIBUTION	75
A. Prescription Authority	75
i. Prescription Drug Defined	75

ii. Requirement of a Valid Prescription	75
iii. General Authorized Prescribers	75
iv. Limited Certified Nurse Midwife and Practitioner Prescribing Authority	75
v. Limited Physician Assistant Prescribing Authority	76
B. Dispensing Authority	76
i. Pharmacist Dispensing Authority	77
ii. Limited Veterinarian, Dentist, Physician, and Podiatrist Dispensing Authority ..	77
iii. Limited Certified Nurse Midwife Dispensing Authority	78
iv. Limited Certified Nurse Practitioner Dispensing Authority	78
v. Compounding.....	78
C. Authority to Administer Medication.....	79
TOPIC 18. LICENSING AND CERTIFICATION OF HEALTH CARE	
PROFESSIONALS	80
A. Scope of Practice during Non-Emergency	80
i. Physicians	80
ii. Physician Assistants.....	81
iii. Nurses	81
iv. Certified Nursing Assistants	83
v. Nurse Practitioners.....	83
vi. Emergency Medical Technicians.....	83
vii. Pharmacists.....	84
B. Emergency Privileges, Credentialing, and Practice	84
i. General Emergency Licensing Provisions and Maryland Disaster Privileges	84
ii. Physicians' Emergency Practice.....	85
iii. Nursing Emergency Practice	85
iv. Pharmacist Emergency Practice.....	85
v. Hospital Medical Staff Privileges and Credentials	86
vi. Federal Credentials / License Verification System.....	86
TOPIC 19. HOSPITAL LICENSING.....	87
A. Maryland Hospitals.....	87
B. Emergency Facilities and Emergency Credentialing	87
i. Hospital Medical Staff Privileges	87
ii. Credentials	88
C. Federal Credentials / License Verification System	89
D. Facility Licensure for Federal Mobile Hospitals.....	89
TOPIC 20. EMERGENCY MEDICAL SERVICES	91
A. The EMS Board and MIEMSS	91
B. Duties of the Executive Director	91
C. Licensing and Certification by the Emergency Medical Services Board.....	91
i. First Responder	91
ii. Emergency Medical Technician-Ambulance (EMT-A)	91
iii. Emergency Medical Technician-Basic (EMT-B).....	91
iv. Cardiac Rescue Technician (CRT)	92
v. Emergency Medical Technician-Paramedic (EMT-P).....	92
vi. Emergency Medical Dispatcher.....	92
D. Permitted Actions of Each Class of Responder	93

i. Cardiac Rescue Technician and Emergency Medical Technician.....	93
ii. Emergency Medical Dispatcher.....	93
iii. First Responder.....	93
E. Permitted Actions of Emergency Medical Technicians Outside of Emergency Situations	93
F. Providing Emergency Medical Services without a License	93
G. Ambulance Service	94
H. Liability of an Emergency Medical Care Provider	94
TOPIC 21. IMMUNITY / LIABILITY	96
A. Emergency Medical Services & Good Samaritan Statutes	96
B. Emergency Management Assistance Compact	97
C. Maryland Emergency Management Assistance Compact	97
D. Maryland Tort Claims Act	97
E. Liability of a Municipality During a Riot	99
F. Miscellaneous Immunity and Liability Provisions	100
i. Immunity of the Militia.....	100
ii. Liability of the State to Repair or Replace Equipment Damaged When Used During State of Emergency.....	100
iii. Immunity of Employees of MEMA and Local Emergency Management Organizations	100
iv. Immunity from Injury from Vaccine Administration	100
TOPIC 22. WORKERS' COMPENSATION	102
A. Government Employees	102
B. Emergency Management Assistance Compact	102
C. Maryland Emergency Management Assistance Compact	103
D. Injuries While Performing Duties on Federal Property	103
TOPIC 23. STATE / LOCAL LAW ENFORCEMENT AUTHORITY	104
A. Powers and Duties of Police Officers Throughout Maryland	104
B. Duties of State Police	104
C. Powers and Duties of Sheriffs	105
D. Powers and Duties of Special Police Officers	105
E. Powers and Duties of Railroad Police	106
F. Powers and Duties of Maryland Transit Administration Police	107
i. Establishment of the Maryland Transit Administration Police	107
ii. Powers and Jurisdiction of Transit Police Officers	107
iii. Entering into Agreements for Functions of the Police Force	107
iv. Transit Police Power to Issue Citations	107
G. Arrest	108
H. Criminal Offenses Relating to a Destructive Device	108
I. Militia	109
TOPIC 24. PORTS AND AIRPORTS	111
A. Authority over Ports	111
i. Federal Authority over Ports.....	111
ii. Authority to Quarantine Vessels.....	111
iii. State Management of Maryland Ports	111
iv. Maryland Port Law Enforcement	112

v. Halting Traffic Through a Maryland Port.....	112
B. Airports	113
i. Federal Authority over Airports	113
ii. Authority to Quarantine at Airports.....	113
iii. State Management of Maryland Airports	113
v. Halting Traffic Through a Maryland Airport.....	114
APPENDIX 1. UNITED STATES CONSTITUTION	
APPENDIX 2. CONSTITUTION OF MARYLAND	
APPENDIX 3. COMMUNICABLE DISEASES REQUIRING REPORT	
APPENDIX 4. CATASTROPHIC HEALTH EMERGENCIES ACT	

Important Introductory Note

This *Maryland Public Health Emergency Preparedness Handbook* is intended as an aid to Maryland state, county, and municipal lawyers. It hopefully provides a quick overview of many pertinent Maryland and federal laws as they apply to possible governmental responses to public health emergencies. The Handbook does not constitute legal advice. It is intended as a helpful guide to expedite further legal research by government counsel, who will want be sure, *inter alia*, of the entirety of the relevant law as it applies to the specific factual scenarios with which they are confronted. Moreover, counsel will want to be sure that further research accounts for changes in the law after this Handbook's publication date.

TOPIC 1. POWERS OF THE GOVERNOR

Through broad powers granted by the Constitution of Maryland and by statute, the Governor has the authority to respond to catastrophic health emergencies, including declaring states of emergency, suspending legislation, and calling upon the militia.

Topic 1 discusses these powers as defined in the following sources of law: the Constitution of the State of Maryland; the Maryland Emergency Management Agency Act; the interstate and intrastate emergency management assistance compacts; the Maryland Catastrophic Health Emergencies Act of 2002; and the Maryland Code.

A. Constitutional Powers of the Governor

Executive Authority

Article II, Section 1 of the Constitution of the State of Maryland provides that the Governor has executive authority over the State of Maryland.

Article II, Section 9 further provides that the Governor is responsible for ensuring the faithful execution of the laws of the State of Maryland.

Commander-in-Chief

Article II, Section 8 of the Constitution of the State of Maryland provides that the Governor is the Commander-in-Chief of the land and naval forces of the State. The Governor may call out the militia to repel invasions, suppress insurrections, and enforce the execution of the State's laws.

B. Maryland Emergency Management Agency Act

The Maryland Emergency Management Agency Act (the "MEMA Act") provides a portion of the Governor's emergency powers. MD. CODE ANN., PUB. SAFETY § 14-101-14-115 (LexisNexis 2003). The powers and duties of the Maryland Emergency Management Agency itself are more thoroughly discussed under Topic 2.

i. Definition of Emergency

The MEMA Act grants the Governor the authority to declare a state of emergency. § 14-101(c), 14-107 (2003). (For the purpose of this Handbook, when the Governor declares a "state of emergency," it is under the authority of § 14-107 (2003)). An emergency is defined under the MEMA Act as:

“(1) a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, landslide, mudslide, snowstorm, drought, fire, explosion, and any other disaster in any part of the State that requires State assistance to supplement

local efforts in order to save lives and protect public health and safety; or (2) an enemy attack, act of terrorism, or public health catastrophe.” MD. CODE ANN., PUB. SAFETY § 14-101(c) (LexisNexis 2003).

ii. Declaring and Terminating a State of Emergency Under the MEMA Act

The Governor has the power to declare a state of emergency via executive order or proclamation if he or she finds “that an emergency has developed or is impending due to any cause.” § 14-107(a)(1). The state of emergency continues until the Governor rescinds the declaration, the General Assembly passes a joint resolution rescinding the declaration, or 30 days pass without the Governor renewing the declaration. § 14-107(a)(2)-(4).

iii. Governor’s Authority during a State of Emergency Declared Under the MEMA Act

The MEMA Act gives the Governor the authority to suspend any statute or rule or regulation of a State agency or a political subdivision after the Governor declares a state of emergency. §14-107(d)(1)(i). After a declaration of a state of emergency, the Governor may compel the evacuation of an affected area, authorize the use of private property, provide for temporary housing, and authorize the clearance and removal of debris and wreckage. § 14-107(d)(1)(ii)-(vii).

The MEMA Act grants the Governor the authority to appropriate and manage funds to respond to an emergency. § 14-112. The expenditures required as a result of an emergency are, first, made by “using money regularly appropriated to State and local agencies.” § 14-112(a)(1). However, “if the Governor finds that [the] regularly appropriated money is inadequate to cope with an emergency, the Board of Public Works may make contingency money available in accordance with the State budget.” § 14-112(a)(2). Furthermore, the Governor may accept federal money and may utilize the Federal Disaster Relief Act of 1974. § 14-112(b).

“After a state of emergency is declared in another state and the Governor [of the State of Maryland] receives a written request for assistance from the executive authority of that state, the Governor [of the State of Maryland] may . . . authorize use in the other state of personnel, equipment, supplies, or materials of [the State of Maryland].” § 14-108(a)(1).

The Governor may also “suspend the effect of any statute or rule or regulation of an agency of the State or, after consulting with the executive officer or governing body of a political subdivision, a rule or regulation of an agency of a political subdivision, if the Governor finds that the suspension is necessary to aid the other state with its emergency management functions.” § 14-108(a)(2).

In order to provide aid to another state, the Governor must issue an executive order. § 14-108(b). This order may not exceed 30 days, unless renewed by executive order, and must indicate the nature of the emergency and any circumstances that make it necessary to suspend a rule or regulation (if any are suspended). § 14-108(b)(2)-(3). Finally, the order

must be “disseminated promptly by means calculated to publicize its contents” and must be filed promptly with MEMA, the State Archives, and “each agency of the State or a political subdivision that is authorized by the order to use resources in the other state or responsible for the enforcement of any provisions that are suspended by the executive order.” § 14-108(b)(4).

The orders, rules, and regulations made by the Governor under the MEMA Act are executed and enforced by each emergency management agency established under the Act. MD. CODE ANN., PUB. SAFETY § 14-113(a) (LexisNexis 2003).

In the event of a “threat or occurrence of an enemy attack, act of terrorism, or a public health catastrophe, each law enforcement officer of the State, or a political subdivision, and each health officer of a political subdivision shall execute and enforce the orders, rules, and regulations made by the Governor” under the authority of the Act. § 14-113(b).

“A person may not violate an order, rule, or regulation issued under the authority of” the Act. § 14-114(a). A person who violates this section is guilty of a misdemeanor and, upon conviction, is subject to imprisonment not exceeding six months or a fine not exceeding \$1,000 or both. § 14-114(b)(1). Furthermore, “[a] person who willfully violates this section is guilty of a misdemeanor and, on conviction, is subject to imprisonment not exceeding one year or a fine not exceeding \$5,000, or both.” § 14-114(b)(2).

C. Interstate Emergency Management Assistance Compact

The Emergency Management Assistance Compact (EMAC) is an interstate compact to which Maryland is a party. This compact, with limited exceptions, binds member states to come to the aid of other member states in the event of an emergency. The compact gives additional powers to the Governor to request assistance from other states, including aid in the form of medical or emergency personnel, equipment, and funding. The compact also allows the Governor to place restrictions on the activities of out of state personnel loaned to Maryland.

For a more detailed discussion of EMAC’s history and purpose, please refer to “Topic 3. Emergency Management Assistance Compact (EMAC),” beginning on page 12.

D. Catastrophic Health Emergencies Act

The Catastrophic Health Emergencies Act (hereinafter CHEA) defines a catastrophic health emergency as “a situation in which extensive loss of life or serious disability is threatened imminently because of exposure to a deadly agent.” MD. CODE ANN., PUB. SAFETY § 14-3A-01(b) (LexisNexis Supp. 2004). A “deadly agent” is defined as “anthrax, ebola, plague, smallpox, tularemia, or other bacterial, fungal, rickettsial, or viral agent, biological toxin, or other biological agent,” as well as “mustard gas, nerve gas, or other chemical agent,” and “radiation” at levels capable of causing extensive loss of life or serious disability. § 14-3A-01(c). Under the CHEA, the Governor may issue a proclamation declaring a catastrophic health emergency. MD. CODE ANN., PUB. SAFETY § 14-3A-02(a) (LexisNexis Supp. 2004). In issuing a proclamation, the Governor must

declare the nature of the emergency, areas affected or threatened, and the conditions that led to the emergency or the criteria for terminating the emergency. § 14-3A-02(b). The proclamation will last for 30 days and may be renewed for successive 30-day periods, or it may be terminated upon a finding by the Governor that the emergency conditions no longer exist. § 14-3A-02(c).

Once a proclamation of a catastrophic health emergency is made, the Governor may issue orders to the Secretary of Health and Mental Hygiene or other designated official to “control, restrict, or regulate the use, sale, dispensing, distribution, or transportation of anything needed to respond to the medical consequences of the catastrophic health emergency” by “rationing or using quotas; creating and distributing stockpiles; prohibiting shipments; setting prices; or taking other appropriate actions.” MD. CODE ANN., PUB. SAFETY § 14-3A-03(b)(2) (LexisNexis Supp. 2004). The Governor may also order the Secretary of Health and Mental Hygiene or other designated official to “seize immediately anything needed to respond to the medical consequences of the catastrophic health emergency” and to “work collaboratively, to the extent feasible, with health care providers to designate and gain access to a facility” needed to respond to the emergency. § 14-3A-03(b)(1). Additionally, the Governor may order the evacuation, closing, or decontamination of any facility. § 14-3A-03(d)(1).

“If medically necessary and reasonable to treat, prevent, or reduce the spread of the disease or outbreak believed to [be] caused by the exposure to a deadly agent,” the Governor may order the Secretary or other designated official to require individuals to submit to: “medical examination or testing;” “vaccination or medical treatment” (unless the vaccination or treatment likely will cause serious harm to the individual); and to establish places of treatment, isolation, and quarantine. § 14-3A-03(b)(3)(iv). The Governor may also order the Secretary or other designated official “to require individuals to go to and remain in places of isolation or quarantine” until the Secretary or other designated official “determines that individuals no longer pose a substantial risk of transmitting the disease or condition to the public.” § 14-3A-03(b)(3). Furthermore, “if necessary and reasonable to save lives or prevent exposure to a deadly agent, the Governor may order individuals to remain indoors or refrain from congregating.” § 14-3A-03(d)(2).

“The Governor may order any health care provider...to participate in disease surveillance, treatment, and suppression efforts or otherwise comply with the directives of the Secretary or other designated official.” § 14-3A-03(c).

The Secretary of Health and Mental Hygiene or other designated official, acting pursuant to the Governor’s issued order, must issue a directive to require any individual or group of individuals to go to or remain in places of isolation or quarantine. MD. CODE ANN., PUB. SAFETY § 14-3A-05 (LexisNexis Supp. 2004). The directive shall include “the identity of the individual or group of individuals that are subject to isolation or quarantine; the premises that are subject to isolation or quarantine; the date and time when the isolation or quarantine starts; and the availability of a hearing to contest the directive.” § 14-3A-05(b)(1). A directive shall be in writing and given to those subject to

the directive before taking effect unless “the Secretary or other designated official determines that this notice is impractical because of the number of individuals or geographic areas affected.” § 14-3A-05(b)(2)-(3). If this exception applies, “the Secretary or other designated official shall ensure that the affected individuals are fully informed of the directive using the best possible means available.” § 14-3A-05(b)(3).

A directive can be challenged in a hearing, but a request for a hearing does not stay or enjoin a directive. § 14-3A-05(c)(1)-(2). A court receiving a request for a hearing “shall hold a hearing within 3 days of receipt of the request.” § 14-3A-05(c)(3). The court may extend the time for a hearing “if the Secretary or other designated official shows that extraordinary circumstances exist that justify the extension; and after considering the rights of the affected individual or group of individuals, the protection of the public health, and the availability of any necessary witnesses and evidence. § 14-3A-05(c)(4). A request for relief shall be granted unless the court determines that “the isolation or quarantine directive is necessary and reasonable to prevent or reduce the spread of the disease or outbreak believed to have been caused by the exposure to a deadly agent.” § 14-3A-05(c)(5). In making its determination, a court “may consider, if feasible, the means of transmission, the degree of contagion, and, to the extent possible, the degree of public exposure to the disease.” § 14-3A-05(c)(5)(ii). For additional information on court hearings and court orders under this section, see § 14-3A-05(c)-(f).

The authority granted under the CHEA “is in addition to, and not in derogation of, any other authority that the Governor, the Secretary, or any other public official may exercise under other law.” MD. CODE ANN., PUB. SAFETY § 14-3A-07 (LexisNexis Supp. 2004).

For additional information on the CHEA, see “Topic 5. State Public Health Powers (B),” page 17; “Topic 10. Compulsory Medical Examination, Testing, Vaccination, and Treatment to Respond to a Catastrophic Health Emergency,” page 60; “Topic 11. Seizure, Stockpiling Needed to Respond to a Catastrophic Health Emergency,” page 62; “Topic 12. Compelled Service by Health Care Providers to Treat Exposed Individuals during a Catastrophic Health Emergency,” page 63; “Topic 16. Takings of Property,” page 72.

E. Additional Powers of the Governor in the Event of an Authorized Public Emergency

i. General State of Public Emergency Powers

The Public Safety article of the Maryland Code, Title 14, section 3, provides for the Governor’s “public emergency” powers. A “public emergency” is defined as:

“(1) a situation in which three or more individuals are at the same time and in the same place engaged in tumultuous conduct that leads to the commission of unlawful acts that disturb the public peace or cause the unlawful destruction or damage of public or private property; (2) a crisis, disaster, riot, or catastrophe; or

(3) an energy emergency.” MD. CODE ANN., PUB. SAFETY § 14-301(c) (LexisNexis 2003).

The Governor has broad authority to exercise the police power of the State to provide adequate control over persons and conditions during impending or actual public emergencies. § 14-302(a).

During a public emergency in the State, “the Governor may proclaim a state of emergency and designate the emergency area: (1) if public safety is endangered or on reasonable apprehension of immediate danger to public safety; and (2) on the Governor’s own initiative; or the application of the chief executive officer or governing body of a county or municipal corporation; or the Secretary of State Police.” MD. CODE ANN., PUB. SAFETY § 14-303(a) (LexisNexis 2003). After proclaiming a state of emergency, “the Governor may promulgate reasonable orders, rules, or regulations that the Governor considers necessary to protect life and property or calculated effectively to control and terminate the proclaimed public emergency.” § 14-303(b).

The actions the Governor may take under § 14-303 in the emergency area include controlling and regulating traffic, (including public and private transportation); individuals on public streets; the occupancy and use of buildings and vehicles; places of amusement and assembly; the sale, transportation, and use of alcoholic beverages; the possession, sale, carrying, and use of dangerous weapons and ammunition, including firearms; the storage, use, and transportation of explosives or flammable materials or liquid; establishing curfews; and limiting movement. § 14-303(b)(1)-(9). Before any emergency regulation or order goes into effect, the Governor must provide reasonable notice to the public through television, newspaper, or radio serving the affected area, or by circulating notices in conspicuous parts of the emergency area. § 14-303(c)(1)-(3).

During a proclaimed state of emergency, each State and local law enforcement agency, fire company, and rescue squad must cooperate and allow the use of its equipment, facilities, and personnel in any manner requested by the Governor or the Governor’s designated representative unless such use would “substantially interfere” with the normal duties of the agency or squad outside a designated emergency area. § 14-305(a)-(b).

The Governor may call the militia into action to have full power and responsibility over the designated emergency area. § 14-306(b)-(c)(1). Each law enforcement agency, fire company, and rescue squad, including the Department of State Police, located in the emergency area must cooperate and operate under the direction of the militia. § 14-306(c).

If an emergency results from fire, flood, riot, robbery, weather, or other cause, the Governor may order the closure of businesses. § 14-307(a)-(b). Additionally, the Governor may order the closure of banks, but such orders should be limited to principal banks and bank branches affected by the emergency. § 14-307(c).

On reasonable apprehension of an energy emergency, a situation in which the health, safety, or welfare of the public is threatened by an actual or impending acute shortage in energy resources, the Governor may proclaim a state of emergency and have the power to regulate and conserve energy usage. MD. CODE ANN., PUB. SAFETY § 14-301(b), §14-304 (LexisNexis 2003). This authority includes establishing and implementing “programs, controls, standards, priorities, and quotas for the allocation, conservation, and consumption of energy resources.” § 14-304(b)(1). The Governor may “suspend and modify the existing standards and requirements affecting or affected by the use of energy resources...” and establish and implement regional programs and agreements to coordinate with the energy resource programs and agreements of the State, federal government, and of other states and localities. § 14-304(b)(2)-(3). The Governor has any authority necessary to implement any federal mandatory energy emergency program. § 14-304(f).

Each proposed order, rule, and regulation pertaining to an energy emergency must be submitted to the Joint Committee on Administrative, Executive, and Legislative Review for approval or rejection. § 14-304(d)(2). Each order, rule, or regulation will take effect if the committee fails to respond within seven days of submission. § 14-304(d)(3). However, if due to “extraordinary circumstances,” it is not feasible for the Governor to obtain the approval of the committee, the order, rule or regulation will take effect immediately. § 14-304(d)(3)(ii). In such a case, each order, rule, or regulation must be communicated to the chairman of the Committee within two days and reviewed and approved by the full committee within five days to continue functioning. § 14-304(d)(3). Each order, rule, or regulation may provide for certain limited civil penalties if violated. § 14-304(c).

For information on criminal penalties for violation of any order, rule, or regulation promulgated under a state of emergency, see § 14-309.

ii. Governor’s Authority to Exercise the Powers of a Local Governing Body

The Governor, under MD. CODE ANN., PUB. SAFETY § 14-402 (LexisNexis 2003), may exercise the administrative and executive powers of a local governing body if “the majority of the members of the local governing body of a county are killed or are sick, incapacitated, missing, or otherwise unavailable for a temporary or indefinite period because of a military or warlike catastrophe” until a sufficient number of members to operate the county government are qualified and appointed. § 14-402(b). These powers may only be exercised during “the effective period of an official proclamation by the Governor that declares all or part of the locality to be in an actual or threatened emergency area.” § 14-402(a).

For more information on Federal Public Health Emergency Powers and Additional Powers of the Governor in a General State of Emergency, see “Topic 7. Select Federal Public Health Powers,” page 34; “Topic 13. Entry onto Property for Testing,” page 64; “Topic 15. “Purchasing Authority,” page 70; “Topic 16. Taking of Property,” page 72.

iii. Authority to Quarantine Vessels

The Governor is authorized to quarantine vessels entering Maryland waters, prohibit contact with the vessel, and take any action necessary to enforce these measures.

“If the Governor has strong grounds to believe that there is a danger of a malignant and contagious disease being introduced into the State, the Governor may (1) quarantine a vessel that is entering the waters of the State; (2) prohibit or restrict contact between the State and the place affected by the disease; and (3) take other actions that appear to the Governor to be necessary to carry out this section.” MD. CODE ANN., HEALTH-GEN. I § 18-212.1(1) (LexisNexis Supp. 2004).

For additional information on Additional Powers of the Governor in a General State of Emergency – Authority to Quarantine Vessels, see “Topic 9. Quarantine / Isolation, (A)(iii),” page 56.

iv. Militia Powers of the Governor

The Governor is the commander-in-chief of the land and naval militia of the State. MD. CODE ANN., STATE GOV'T § 3-303(a) (LexisNexis2004). The Maryland Militia is comprised of the Maryland National Guard, the Inactive Maryland National Guard, and the Maryland Defense Force. MD. CODE ANN., PUB SAFETY § 13-203(b) (LexisNexis 2003).

The Governor may order the militia into active duty “in times of or on reasonable apprehension of imminent public crisis, disaster, rioting, catastrophe, insurrection, invasion, tumult, or breach of peace; or when martial law is declared”; to enforce the laws; or to carry on any function of the militia of the State. MD. CODE ANN., PUB SAFETY § 13-702(b) (LexisNexis 2003). When the militia is used for enforcing the laws, it has all the power of a peace or law enforcement officer and may exercise these powers throughout the state while on active duty. § 13-702(b)-(c).

See 81 Md. Op. Att’y Gen. 121, 127-28 (1996). The Maryland Defense Force (MDDF) may be authorized, as a general matter, by the Governor to train in traffic management and crowd control. However, it may not use its policing authority unless the Governor has called the militia into active service.

The Maryland National Guard may be ordered into federal service “[w]hensoever Congress determines that more units and organizations are needed for the national security than are in the regular components of the ground and air forces.” 10 U.S.C.A. § 10103 (West 1998). Additionally, the President of the United States may call any state militia into Federal service whenever he considers that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State or Territory by the ordinary course of judicial proceedings. 10 U.S.C.A. § 331 – 332 (West 1998 and Supp. 2005). Once called

into Federal service, the President of the United States is the Commander in Chief of the National Guard. U.S. CONST. art. II § 2, cl. 1.

For more information on Additional Powers of the Governor in the Event of a General State of Emergency, see “Topic 23. State / Local Law Enforcement Authority, (I),” page 109.

TOPIC 2. MARYLAND EMERGENCY MANAGEMENT AGENCY (MEMA)

Under the Maryland Emergency Management Agency Act (the “MEMA Act”), the Maryland Emergency Management Agency (MEMA) was created in order to assess the readiness of the State to handle disasters, guide planning for future disasters, and coordinate a response to such disasters. MD. CODE ANN., PUB. SAFETY § 14-103 (LexisNexis 2003). MEMA answers directly to the Governor. Please see <http://www.mema.state.md.us/> for general information about MEMA.

A. Structure of MEMA

i. Governor

The Maryland Emergency Management Act provides that the Governor “has control of” MEMA. § 14-106(a)(1)(i). The Act also grants the Governor specific authority to “cooperate with the federal government, other states, and private agencies in all matters that relate to the emergency management operations of this State and the United States.” § 14-106(b). This section requires that the Governor continually plan to develop effective strategies to deal with potential emergency situations that may arise. § 14-106(c)(1).

ii. Adjutant General

The Governor appoints the Adjutant General “with the advice and consent of the Senate.” § 13-301(a)(2). The Adjutant General is responsible for all of the State’s armories as well as all of the property “purchased, occupied, or leased by or on behalf of the State military forces.” § 13-302(c). Furthermore, the Adjutant General “shall carry out the Governor’s policies concerning matters specified” in the emergency management title (Title 14) of the Public Safety article. § 13-302(f).

iii. Director

The Adjutant General appoints the director of MEMA with the approval of the Governor. § 14-104(a). The director of MEMA serves at the pleasure of the Adjutant General. § 14-104(b). The director of MEMA is the head of MEMA, carries out the emergency management program, coordinates the response to a threat or emergency as declared by the Governor, enters into mutual aid agreements with the approval of the Adjutant General, and maintains liaisons with the emergency management agencies of other states. § 14-104(d).

B. Function of MEMA

The function of MEMA is to help “ensure that the State will be adequately prepared to deal with emergencies that are beyond the capabilities of local authorities, to provide for the common defense; to protect the public peace, health, and safety; and to preserve the

lives and property of the people of the State.” MD. CODE ANN., PUB. SAFETY § 14-102 (LexisNexis 2003).

C. Local Management of a Health Emergency under MEMA

Each political subdivision “shall establish a local organization for emergency management in accordance with the State emergency management plan and program.” MD. CODE ANN., PUB. SAFETY § 14-109(a)(1) (LexisNexis 2003). The director of each local organization for emergency management “is subject to the direction of the mayor, executive, or governing body of the political subdivision, under the general power of the Governor.” § 14-109(b)(3). “Subject to the budget of the political subdivision, each local organization for emergency management includes those programs and positions recommended periodically by MEMA to meet federal and State standards.” § 14-109(c).

TOPIC 3. EMERGENCY MANAGEMENT ASSISTANCE COMPACT (EMAC)

EMAC is made and entered into by and between the participating member states which enact the compact. Currently all states except California and Hawaii are members of EMAC. *See* www.emacweb.org/emac/about_emac/member_states.cfm.

For information on the EMAC and the Governor's powers under the Compact, see also "Topic 1, Powers of the Governor (C)," page 3.

A. Establishment and Authorization

"EMAC is entered into with all other states which adopt the Compact in a form that is substantially similar to the Compact as it appears in the [MD. CODE ANN., PUB. SAFETY § 14-701 (LexisNexis 2003).]" MD. CODE ANN., PUB. SAFETY § 14-702 (LexisNexis 2003).

B. Purpose

"The purpose of [EMAC] is to provide for mutual assistance . . ." among the signatory states in order to manage "any emergency or disaster that is duly declared by the Governor of the affected state(s), whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resource shortages, community disorders, insurgency, or enemy attack." § 14-702(1).

C. Implementation

"The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state . . ." is the underlying principle of EMAC. § 14-702(2). "[T]he legally designated state official who is assigned responsibility for emergency management is responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement [EMAC]." § 14-702(2).

D. Responsibilities of Member-States to Plan

"It [is the] responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities . . ." required by EMAC. § 14-702(3)(a). These responsibilities include reviewing each state's hazards (risks of natural and technological disasters), reviewing each state's emergency management plans, developing interstate procedures to fill any current gaps in the response mechanism, "assisting in warning communities adjacent and across state lines," protecting and assuring the uninterrupted delivery of medication and other necessary supplies and services, collecting and taking inventory of all available materials for loan, and creating the legal authority to temporarily suspend statutes that may hinder the delivery of support between the compact states. § 14-702(3)(a).

E. Limitations

“Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action . . . to provide and make available the resources covered by [EMAC]; . . . provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection” for itself. MD. CODE ANN., PUB. SAFETY § 14-702(4) (LexisNexis 2003). “Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of [EMAC], the same powers, except that of arrest, unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services.” § 14-702(4).

F. Licensed Providers

“Whenever any person holds a license, certificate, or other permit issued by any state party to [EMAC] evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving member-state, such person is deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the Governor of the requesting state may prescribe by executive order or otherwise.” MD. CODE ANN., PUB. SAFETY § 14-702(5) (LexisNexis 2003).

For additional information on Emergency Management Assistance Compact – Licensed Providers, see “Topic 18. Licensing and Certification of Health Care Professionals, (B)” page 84.

G. Liability of Individuals from the Aid Rendering Jurisdiction

“Officers or employees of a party state rendering aid in another party state pursuant to [EMAC] shall be considered agents of the requesting state for tort liability and immunity purposes.” MD. CODE ANN., PUB. SAFETY § 14-702(6) (LexisNexis 2003). “No party state or its officers or employees rendering aid in another state pursuant to [EMAC] shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith.” § 14-702(6). Good faith does “not include willful misconduct, gross negligence, or recklessness.” § 14-702(6).

For additional information on the Emergency Management Assistance Compact – Liability of Individuals from the Aid Rendering Jurisdiction, see “Topic 21. Immunity/Liability (B),” page 97.

H. Supplemental Agreements

Nothing within EMAC “preclude[s] any state from entering into supplementary agreements with another state, nor does it affect any other agreements already in force

between states.” MD. CODE ANN., PUB. SAFETY § 14-702(7) (LexisNexis 2003). “Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.” § 14-702(7).

I. Compensation and Reimbursement

Each party state is liable for compensating its own employees and officers or representatives of its own employees and officers who are injured or killed while rendering aid to a party state “as if they were injured or killed in their home state.” MD. CODE ANN., PUB. SAFETY § 14-702(8) (LexisNexis2003).

At the same time, the State receiving the aid must reimburse the State rendering the aid for loss, damage, or expense of operation of any equipment during the operation. The State receiving aid is not responsible for reimbursing the aid rendering for expenses covered under § 14-702(9). This provision specifically permits the aid rendering state to voluntarily assume the expenses incurred while operating in the recipient state. In addition, two or more states are permitted to enter into cost allocation agreements that modify the default “party state” reimbursement rule. § 14-702(9).

J. Evacuation

EMAC contains a provision that requires member states to cooperate in the creation of a plan for mass evacuation of one member state’s citizens to another member state. MD. CODE ANN., PUB. SAFETY § 14-702(10) (LexisNexis 2003).

Evacuation plans are to be activated by the member states requesting to have citizens evacuated. § 14-702(10). Furthermore, an evacuation plan must include provisions specifying the manner of transporting the individuals as well as clothing, feeding, and sheltering the individuals. § 14-702(10). The plan must also indicate how “medical care will be provided” to the evacuees and how many evacuees are to be delivered to each area of the recipient state and how supplies, medication, etc., are to be delivered to these areas of the recipient state. § 14-702(10). Finally, the states must agree to the manner in which each member-state shall be reimbursed for the expenses of the evacuation. § 14-702(10).

TOPIC 4. MARYLAND EMERGENCY MANAGEMENT ASSISTANCE COMPACT (MEMAC)

The Maryland Emergency Management Assistance Compact (MEMAC) is modeled after the Emergency Management Assistance Compact (EMAC). The purpose of MEMAC is to provide for mutual assistance between the jurisdictions of Maryland entering into the Compact in order to manage an emergency. MD. CODE ANN., PUB. SAFETY § 14-803(1)(a)(1) (LexisNexis 2003).

The Compact provides that there will be “frequent” consultations between MEMA and appropriate representatives of the member-jurisdictions with “free exchange of information and plans generally relating to emergency capabilities.” § 14-803(2)(b)(6). MEMA is under the authority of the Governor of the State of Maryland.

A. Establishment and Authorization

MEMAC “is entered into with all other jurisdictions that adopt the [MEMAC] in a form substantially similar to the compact set forth in [MD. CODE ANN., PUB. SAFETY § 14-803 (LexisNexis 2003).]” MD. CODE ANN., PUB. SAFETY § 14-802 (LexisNexis 2003). All of Maryland’s counties (except for Frederick County and Harford County), Baltimore City and Ocean City have joined MEMAC.

B. Purpose

“The purpose of [MEMAC] is to provide for mutual assistance between the jurisdictions entering into” it in order to manage an emergency. § 14-803(1)(a)(1). MEMAC also provides “for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment or personnel simulating performance of any aspect of the giving and receiving of aid by member-jurisdictions during emergencies.” § 14-803(1)(a)(2).

C. Implementation

“Party jurisdictions of [MEMAC] are encouraged to consult frequently with each other and [MEMA] and to exchange information and plans relating to emergency management.” MD. CODE ANN., PUB. SAFETY § 14-803(7)(g)(1) (LexisNexis 2003). MEMAC is designed to “become effective [immediately] upon its enactment into law by local jurisdictions.” § 14-803(7)(g)(2). MEMAC can be adopted by a jurisdiction through regulation or resolution.

D. Requests for Assistance under MEMAC

“The senior elected official of each jurisdiction must designate an authorized representative. The authorized representative of a party jurisdiction may request

assistance of another party jurisdiction by contacting the authorized representative of that jurisdiction.” MD. CODE ANN., PUB. SAFETY § 14-803(2)(b)(1) (LexisNexis 2003).

E. Limitations

“Any jurisdiction which is a party to [MEMAC] and which receives a request for assistance shall take such actions as are necessary to provide the requested resources.” MD. CODE ANN., PUB. SAFETY § 14-803(3)(c)(1) (LexisNexis 2003). However, “any jurisdiction may withhold resources to the extent necessary to provide reasonable protection to its own jurisdiction.” § 14-803(3)(c)(2).

F. Supplemental Agreements

Nothing in MEMAC precludes “any jurisdiction from entering into supplementary agreements with another jurisdiction.” § 14-803(5)(e)(1)(i). Furthermore, nothing in MEMAC “[a]ffects any other agreements between jurisdictions.” § 14-803(5)(e)(1)(ii).

“Supplementary agreements may include, but are not limited to, provisions for evacuation and reception of injured and other persons; and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation, and communications personnel; equipment and supplies.” § 14-803(5)(e)(2).

G. Compensation and Reimbursement

“Each party jurisdiction shall provide for the payment of workers’ compensation and death benefits to injured members of the emergency responders of its own jurisdiction.” MD. CODE ANN., PUB. SAFETY § 14-803(6)(f)(1) (LexisNexis 2003). “The requesting jurisdiction will reimburse the responding jurisdiction for all reasonable and necessary expenses incurred by the responding jurisdiction.” § 14-803(6)(f)(2). However, the responding jurisdiction may: “[a]ssume in whole or in part such loss, damage, expense, or other cost; loan equipment or donate services to the requesting jurisdiction without charge or cost; and agree to any allocation of expenses between the responding and requesting jurisdiction.” § 14-803(6)(f)(2)(i)-(iii).

Furthermore, “[a]ny two or more jurisdictions may enter into supplemental agreements establishing a different allocation of costs among those jurisdictions.” § 14-803(6)(f)(3).

“Records of expenses incurred in sufficient detail to satisfy auditing requirements shall be submitted by the responding jurisdiction as soon as possible following the termination of the assistance provided.” § 14-803(6)(f)(4).

Finally, if an emergency escalates and the Federal Government issues FEMA funds to help handle the emergency, the jurisdiction providing the aid to a requesting jurisdiction can be reimbursed a portion of the expenditure from the Federal Government. The requesting jurisdiction must submit the claim on behalf of the providing jurisdiction and then remit the funds to the providing jurisdiction.

TOPIC 5. STATE PUBLIC HEALTH POWERS

The Department of Health and Mental Hygiene (DHMH) is the principal department of the State government charged with the protection of health.

A. Authorization and Establishment

The Department of Health and Mental Hygiene was established as a principal department of the State government. MD. CODE ANN., HEALTH-GEN. § 2-101 (LexisNexis 2005).

B. Structure

i. Secretary of Health and Mental Hygiene (Secretary)

The Secretary is “appointed by the Governor with the advice and consent of the Senate.” MD. CODE ANN., HEALTH-GEN. § 2-102(a) (LexisNexis 2005). “The Secretary serves at the pleasure of the Governor.” § 2-102(b)(1). “The Secretary is responsible for the operation of [DHMH] . . .” and establishes “. . . guidelines and procedures to promote the orderly and efficient administration of the Department.” § 2-102(b)(2).

ii. Health Officers

“There is a health officer for each county” in the State of Maryland. MD. CODE ANN., HEALTH-GEN. § 3-301(a) (LexisNexis 2005). The health officer for a county is “nominated by the county and appointed by the Secretary.” § 3-302(a). A health officer “. . . serves at the pleasure of the governing body of that county and the Secretary.” § 3-302(f).

C. Powers and Duties of the Secretary of Health and Mental Hygiene

Powers

i. The Secretary may appoint and remove staff

This Secretary can appoint three deputy secretaries with the approval of the Governor. MD. CODE ANN., HEALTH-GEN. § 2-103(a)(1) (LexisNexis 2005). “The Secretary may [also] employ a staff in accordance with the State budget.” § 2-103(b)(1).

ii. The Secretary has the general authority to run DHMH

The Secretary is responsible for the operation of DHMH and can “. . . establish guidelines and procedures to promote the orderly and efficient administration of [DHMH].” § 2-102(b)(2). “The Secretary may establish, reorganize, or abolish areas of responsibility in DHMH as necessary to fulfill the duties assigned to the Secretary.” § 2-102(b)(2).

iii. The Secretary may promulgate rules and regulations

“The Secretary may adopt rules and regulations to carry out the provisions of law that are within the jurisdiction of the Secretary.” MD. CODE ANN., HEALTH-GEN. § 2-104(b) (LexisNexis 2005).

iv. The Secretary may transfer functions, staff, or funds

“The Secretary may transfer, by rule, regulation, or written directive, any function, staff, or funds from any unit in [DHMH] to the office of the Secretary or another unit in [DHMH].” § 2-104(h).

v. The Secretary may apply for, receive, and spend federal funds

“The Secretary may apply for, receive, and spend grants-in-aid by the federal government or any of its agencies or any other federal funds made available to the Department for use in carrying out the powers and duties of the Secretary or the Department.” § 2-104(i).

vi. The Secretary is empowered to subpoena

The Secretary or his/her designee “may subpoena any person or evidence” in connection with an investigation. The Secretary may also “administer oaths, take depositions and other testimony.” A court of competent jurisdiction can be asked to compel compliance with the subpoena. § 2-104(k).

vii. The Secretary (or his agent) is authorized to enter premises to “carry out a duty” required by law

“The Secretary or an agent or employee of the Secretary may enter, at any reasonable hour, a place of business or public premises if the entry is necessary to carry out a duty...” MD. CODE ANN., HEALTH-GEN. § 2-104(l)(1) (LexisNexis 2005). If the right of entry is interfered with, the violation carries a fine not to exceed \$100. § 2-104(l)(3).

The Secretary also has the authority to enter onto private property to investigate a “contagious disease or other disease that endangers the public health.” § 18-102(d).

For additional information, see “Topic 13. Entry onto Property for Testing (B),” page 64.

viii. The Secretary must establish policies and standards to guide the health of the state and takes responsibility, generally, for the health interests of the people of the state

“The Secretary [establishes] general policy for, and adopts standards to promote and guide the development of, the physical and mental hygiene services of [Maryland] and its subdivisions.” MD. CODE ANN., HEALTH-GEN. § 2-105(a) (LexisNexis 2005).

“The Secretary is responsible for the health interests of the people of [Maryland] . . .” and supervises “the administration of the health laws of [Maryland] and its subdivisions.” § 2-105(b).

The Secretary adopts and revises, as necessary, a State health improvement plan that includes: “(1) A description of the components that should comprise the health care system; (2) The goals and policies for Maryland's health care system; (3) The identification of unmet needs and excess services for facilities and services not regulated by the certificate of need program; and (4) An assessment of the financial resources required and available for the health care system.” § 2-105(c).

The health improvement plan is located at <http://www.cha.state.md.us/olh/html/hip.html>.

ix. The Secretary must adopt regulations and guidelines designed to prevent the spread of communicable diseases. Furthermore, the Secretary must take the needed steps to insure that disease is not spread

The Secretary is required to adopt rules and regulations necessary to prevent the introduction and spread of contagious disease in Maryland. MD. CODE ANN., HEALTH-GEN. § 18-102(a) (LexisNexis 2005). The Secretary is also required to investigate and take action to prevent the spread or introduction of contagious disease “[w]hen the Secretary has reason to believe that an infectious or contagious disease or other disease that endangers public health exists within the State.” § 18-102(b). The Secretary has the authority to enter and inspect private property to investigate contagious diseases and other diseases that endanger the public health. § 18-102(d).

See 76 Md. Op. Att’y Gen. 260 (1991). The State may not require a contractor to restrict the activities of an HIV-positive health care provider who does not regularly perform invasive procedures that “could result in the passage to a patient of the provider’s blood or other bodily fluid.” *Id.* at 260-61, 274. However, if the State determines that there is a significant risk of transmission to the patient, the State may impose special requirements or limitations on HIV-positive health care providers who regularly perform invasive procedures. *Id.* at 274.

x. The Secretary is required to investigate the causes of disease and mortality

The Secretary must investigate: “(1) The causes of disease and, particularly, the causes of epidemics; (2) The causes of mortality; and (3) The influence of locality, employment, habit, and other conditions on health.” MD. CODE ANN., HEALTH-GEN. § 18-101 (LexisNexis 2005).

xi. The Secretary has a duty to act to contain and combat the spread of communicable diseases through obtaining accurate reports and performing data analysis

The Secretary must: “(1) Obtain accurate and complete reports on communicable diseases in [Maryland]; (2) Determine the prevalence of each communicable disease; and (3) Devise means to control communicable diseases.” MD. CODE ANN., HEALTH-GEN. § 18-103 (a) (LexisNexis 2005).

See Haigley v. Department of Health and Mental Hygiene, 128 Md. App. 194, 736 A.2d 1185 (1999). Restrictions upon the use of confidential records under MD. CODE ANN., HEALTH – GEN. § 4-102 do not apply to case investigations performed by the Department of Health and Mental Hygiene to investigate specific incidents which may threaten public health. *Id.* at 227-28, 736 A.2d at 1202-03.

The Secretary must publish, on a monthly basis, a communicable disease bulletin for health officers and other related health professionals. MD. CODE ANN., HEALTH-GEN. § 18-103 (b) (LexisNexis 2005).

xii. The Secretary is given broad authority to monitor disease and to act to “treat, prevent, or reduce the spread of the disease or outbreak.”

The Secretary may exercise the authority to: “(1) Continuously evaluate and modify existing disease surveillance procedures in order to detect a catastrophic health emergency; (2) Investigate actual or potential exposures to a deadly agent; and (3) Treat, prevent, or reduce the spread of the disease or outbreak believed to have been caused by the exposure to a deadly agent.” MD. CODE ANN., HEALTH-GEN. § 18-902 (LexisNexis 2005).

xiii. The Secretary may require health care facilities to develop contingency plans

The Secretary “may require health care facilities to develop . . . contingency plans” addressing stockpiling of supplies, staff training, “treatment and decontamination protocols,” coordination of care with other facilities, and anything else the Secretary deems necessary to “assist in the early detection and treatment of an individual exposed to a deadly agent.” MD. CODE ANN., HEALTH-GEN. § 18-903(a), § 18-903(a)(1)(i)-(v) (LexisNexis 2005).

xiv. The Secretary may require the reporting of information needed to combat a health emergency

The Secretary may require health care providers to report any information or data (regardless of whether the information is confidential) that the Secretary deems necessary to detect patient exposure to a “deadly agent.” MD. CODE ANN., HEALTH-GEN. § 18-904(a)-(b) (LexisNexis 2005). However, specific guidelines must be followed to protect the confidentiality of patient information. § 18-904(c)-(d).

For additional information, see “Topic 8. Communicable Disease Reporting (A)(i),” page 50.

xv. The Secretary may order treatment, vaccination, or quarantine

When investigating actual or potential exposure to a “deadly agent” under the CHEA, the Secretary may issue an order requiring individuals to be evaluated, tested or treated, and may order quarantine, if necessary, to reduce or prevent the spread of the disease or deadly agent. MD. CODE ANN., HEALTH–GEN. § 18-905(a)(1)(i)-(ii) (LexisNexis 2005). The Secretary may order the vaccination of individuals over the age of 18, and require quarantine or isolation for individuals who refuse. § 18-905(a)(1)(iii). These orders may be issued after being directed to do so by the Governor in a CHEA proclamation, or if the Governor has not acted, where the Secretary determines that the disease or outbreak can be contained by the Department. § 18-905(b)(1). The Secretary is authorized to order “any sheriff, deputy sheriff, or other law enforcement officer of the State” to execute these orders. § 18-905(a)(3).

For additional information, see “Topic 1. Powers of the Governor (D), page 3; “Topic 9. Quarantine / Isolation,” (A)(i) page 54; “Topic 10. Compulsory Medical Examination, Testing, Vaccination, and Treatment to Respond to a Catastrophic Health Emergency,” page 60.

xvi. The Secretary may require isolation or quarantine as outlined in § 18-905, but must follow certain prescribed steps

When ordering quarantine under the CHEA, the Secretary must follow prescribed procedures. MD. CODE ANN., HEALTH–GEN. § 18-906 (LexisNexis 2005). The Secretary must issue the directive for quarantine in writing, unless impractical, to the individuals affected, identifying who will be quarantined, the area to which they will be confined, the start date of confinement, the justification for the quarantine, and the nature of the disease or deadly agent involved. § 18-906(a)(2)-(3). The notice must also inform those affected of their right to a hearing. § 18-906(a)(2)(vi). Affected individuals may challenge the Secretary’s orders in a hearing in circuit court, which must take place within 3 days of the court’s receiving such a request, unless extraordinary circumstances are shown by the Secretary. § 18-906(b)(1)-(4). No quarantine order may last longer than 30 days, unless the Secretary moves to continue the quarantine for an additional 30 days, at which time the circuit court must reevaluate the situation and either permit or deny the extension. § 18-906(b)(5)(iii)–(iv). The Secretary is authorized to order “any sheriff, deputy sheriff, or other law enforcement officer of the State” to execute these orders. § 18-905(a)(3).

For additional information, see “Topic 9. Quarantine / Isolation (A)(i),” page 54.

xvii. The orders, regulations, and directives of the Secretary of Health and Mental Hygiene carry penalties for non-compliance

An individual who knowingly and willfully fails to comply with an order, regulation, or directive issued under § 18-905 is guilty of a misdemeanor and subject to a penalty of up to 1 year imprisonment and/or a fine of up to \$3,000.00. MD. CODE ANN., HEALTH–GEN.

§ 18-907(a) (LexisNexis 2005). A health care facility or practitioner who fails to comply with such orders may be fined up to \$3,000.00 per infraction. A practitioner may also be suspended, or their license may be revoked for violating §§ 18-903 and 18-904. § 18-907(k).

xviii. Reporting requirements of the Secretary of Health and Mental Hygiene

The Secretary of Health and Mental Hygiene was required to submit a report to the Governor by December 31, 2002 indicating the plans made, and the actions and legislation needed to “respond to a catastrophic health emergency.” The Secretary is then required to report to the Governor at least every three years what may be necessary to detect a catastrophic health emergency or when a plan, procedure, or protocol is used to detect a catastrophic health emergency. MD. CODE ANN., HEALTH-GEN. § 18-908(b) (LexisNexis 2005).

xix. The Secretary may reassign health officers

The Secretary of the Health and Mental Hygiene may, during a health emergency, temporarily assign a [county] health officer to another county or to Baltimore City. MD. CODE ANN., HEALTH-GEN. § 3-308 (LexisNexis 2005).

D. Powers and Duties of Health Officers

i. Health Officers may enter a building to inspect

Health officers may enter and inspect a private house by consent or with a warrant, or in an exceptional or emergency situation. MD. CODE ANN., HEALTH-GEN. § 3-307(a) (LexisNexis 2005). “In the performance of official duties, a health officer may enter any place of business or employment” for the purpose of inspecting it. § 3-307(b).

“A health officer may obtain samples of food and drugs for analysis.” MD. CODE ANN., HEALTH-GEN. § 3-306(b) (LexisNexis 2005).

For additional information, see “Topic 13. Entry onto Property for Testing (C),” page 64.

ii. The Health Officer for a county is required to enforce State and County health laws and policies

The health officer for a county is required to enforce the State health laws, and the rules, policies, and regulations set forth by the Secretary and those of the county board of health. MD. CODE ANN., HEALTH-GEN. § 3-306(c)(4) (LexisNexis 2005).

iii. Health Officers are required to perform investigations or other duties as directed by the Secretary or the County board of health and submit reports

Health officers are required to “perform any investigation or other duty or function directed by the Secretary or the county board of health and submit appropriate reports to them.” MD. CODE ANN., HEALTH–GEN. § 3-306(c)(5) (LexisNexis 2005).

iv. Health Officers are required to report the incidence of a disease that may endanger the public and to take action to contain and combat the disease

Health officers are required to report “to the appropriate county board of health” whenever he or she has “reason to believe that a disease that endangers public health exists within the county,” and “to take action to contain and combat the disease “with the approval of the board.” MD. CODE ANN., HEALTH–GEN. § 18-208(a)(1) (LexisNexis 2005).

For additional information, see “Topic 8. Communicable Disease Reporting (A)(ii),” page 51.

v. Health Officers must notify the county board of education of real or potential threats

Health officers are also required to notify the county board of education if the health officer believes a disease is likely to pose a threat to school children. MD. CODE ANN., HEALTH–GEN. § 18-209 (LexisNexis 2005).

vi. Health Officers may disinfect or destroy a house or articles in a house

A health officer may disinfect a house or part of a house, and destroy any article in the house to prevent the spread of communicable disease. MD. CODE ANN., HEALTH–GEN. § 18-210(a) (LexisNexis 2005). The county where the house is located shall bear the expense of disinfecting the house and reasonably compensate a person who suffers damage due to the disinfection or destruction, if the person is not at fault. MD. CODE ANN., HEALTH–GEN. § 18-210(b).

For additional information, see “Topic 16. Takings of Property (F),” page 73.

vii. Health Officers may require a patient to be moved to a suitable facility

Once a physician certifies that an individual has an infectious disease that poses a danger to the public health, a health officer may require that the patient be moved to a place more suitable for the sick. MD. CODE ANN., HEALTH–GEN. § 18-211 (LexisNexis 2005). However, relocation can occur only when:

“(1) A physician certifies that the individual has an infectious disease that endangers public health; (2) The individual: (i) Is staying in a room occupied by more than 1 family; (ii) Is on board a vessel; or (iii) Otherwise does not have

proper housing; and (3) The administrative head of the place for the reception of the sick consents to the move.” § 18-211(a)(1)-(a)(3).

viii. Health Officers are required to maintain records

Health officers must keep records of each report submitted to them under § 18-201. MD. CODE ANN., HEALTH-GEN. § 18-212 (LexisNexis 2005). The record shall be on the Secretary’s form, and must state the date of the report, the name of the submitting physician, the disease identified in the report, the name and residence of the patient identified in the report, and the actions taken to prevent the spread of the disease. § 18-212(b).

For additional information, see “Topic 16. Takings of Property (F),” page 73; “Topic 21. Immunity / Liability,” page 96.

F. State Reporting Requirements of Providers and Institutions

i. Physician reporting requirements

A physician who has reason to believe that a patient or an individual under his care has an infectious or contagious disease must immediately report it to the county health officer. MD. CODE ANN., HEALTH-GEN. § 18-201(a) (LexisNexis 2005). The report is to be kept confidential; however, the report may be disclosed “by the Secretary of [Health and Mental Hygiene] to another governmental agency performing its lawful duties” if the agency “will maintain the confidentiality of the disclosure” and it “is necessary to protect the public health or to prevent the spread of an infectious disease.” § 18-201(c)(2).

For additional information, see “Topic 8. Communicable Disease Reporting (B)(i),” page 51.

ii. Institution reporting requirements

The administrative head of an institution that “has reason to believe that an individual on the premises of the institution has an infectious or contagious disease,” must immediately report this information to the county health officer. MD. CODE ANN., HEALTH-GEN. § 18-202(b) (LexisNexis 2005). The report is to be kept confidential, however, the report may be disclosed “by the Secretary of [Health and Mental Hygiene] to another governmental agency performing its lawful duties” if the agency “will maintain the confidentiality of the disclosure” and it “is necessary to protect the public health or to prevent the spread of an infectious disease.” § 18-202(d)(2).

For additional information, see “Topic 8. Communicable Disease Reporting (B)(ii),” page 52.

iii. Medical laboratory reporting requirements

The director of a medical laboratory must “submit a report to the health officer of the county where it is located within 48 hours” of examining a human specimen found to contain any of the diseases listed in § 18-205(c). MD. CODE ANN., HEALTH–GEN. § 18-205(b) (LexisNexis 2005). The health officer is then required to report the disease to the Secretary of Health and Mental Hygiene. § 18-205(g)(1). The Secretary or health officer may inspect the records of a medical laboratory to ensure that the laboratory is complying with this section. § 18-205(j).

For additional information, see “Topic 8. Communicable Disease Reporting (B)(iii),” page 52.

iv. A physician may take action to prevent the spread of a communicable disease without first gaining permission of the county health board

An attending physician (with the exception of any physician in Baltimore City) may act properly to prevent the spread of disease without first gaining permission from the county health board. MD. CODE ANN., HEALTH–GEN. § 18-208(a)(2) (LexisNexis 2005). However, “[a] physician may act . . . only until the health officer completes the investigation . . . or, if sooner, until the emergency ends.” § 18-208(a)(2)(ii).

G. Immunization Commission

The statewide Advisory Commission on Immunization is charged with the task of monitoring immunization needs, accomplishments, and plans for distribution of vaccines. It must file a report each year with the Governor and the General Assembly. MD. CODE ANN., HEALTH–GEN. § 18-214 (LexisNexis 2005).

H. Biological Agents Registry Program

The DHMH shall determine which biological agents need to be reported in order to protect the public. MD. CODE ANN., HEALTH–GEN. § 17-602(c) (LexisNexis 2005). The DHMH shall collect information on these biological agents possessed and maintained by any person, and shall enter the data in a registry. This information will be kept confidential, and will only be shared with MEMA and MDE for planning purposes, or with state or federal law enforcement or the CDC in connection to an investigation. § 17-602(c)(5). This information may also be shared with local jurisdictions. §§ 17-602 and 17-604.

I. Liability for Exposing Others to Infectious Diseases

It is a criminal offense for an individual to expose another individual to a contagious disease by being “in a public place without taking proper precautions against exposing” others to the disease and to “transfer to another individual any article that has been exposed to the disease without thoroughly disinfecting the article.” MD. CODE ANN.,

HEALTH-GEN. § 18-601(a) (LexisNexis 2005). If convicted, this crime carries with it a penalty of a fine of up to \$500 or a year imprisonment. § 18-601(b).

Liability is extended to third parties by making it a finable offense for a third party to “willfully and knowingly” transport an individual who has a disease that threatens the public health to the home of another individual or “carelessly expose” another individual to the disease. § 18-602(a). This violation carries a fine of up to \$100. § 18-602(b).

TOPIC 6: LOCAL PUBLIC HEALTH POWERS

A. General Powers of Municipalities

Maryland has 157 self-governed municipalities. Most commonly, they have been incorporated by an act of the General Assembly, though sometimes by referendum. (Note that there are no differentiations between municipalities and townships within the State of Maryland for the purposes of this section.)

Generally, the legislative body of every incorporated municipality of the State, with the exception of Baltimore City (because it operates under its own Article in the State Constitution (MD. CONST. art. XI)), shall have general powers to pass ordinances to preserve peace and secure persons and their property from danger and to protect the health of its citizens and expend municipal funds to affect such interests. MD. ANN. CODE art. 23A, § 2(a) (West Supp. 2004).

Local legislative bodies (except Baltimore City) may also “regulate the interment of bodies and control the location of cemeteries.” MD. CODE ANN. art. 23A, § 2(b)(6) (West Supp.2004).

Within the express powers granted to municipalities, municipalities are also granted the authority:

“To appoint a board of health, and to define and regulate its powers and duties; to establish quarantine regulations; and to authorize the removal or confinement of persons having infectious or contagious diseases; to prevent and remove nuisances; [and] to prevent the introduction of contagious diseases into the municipality. . . .” MD. CODE ANN. art. 23A, § 2(b)(15) (West Supp. 2004).

These powers and duties, however, shall not be construed to affect the powers and duties of the Secretary of Health and Mental Hygiene or any county board of health or public general or local law relating to health. MD. CODE ANN. art. 23A, § 2(b)(15) (West Supp. 2004).

Section 2(b)(23) of Article 23A of the Code provides that the local legislative bodies of each municipality may enforce all ordinances relating to the suppression of nuisances within the city limits, as well as one half mile beyond those limits, or as much distance as does not conflict with the powers of another municipality. MD. CODE ANN. art. 23A, § 2(b)(23)(West Supp.2004).

Article 23 Section 2(b) limits express powers granted to the municipalities by providing that such powers shall not be construed to preempt or supersede public general law or public local law or State Agency action pursuant thereto. MD. CODE ANN. art. 23A, § 2(b)(36)(v) (West Supp. 2004).

Municipal Corporations may be authorized by the State to monitor and limit water and sewerage system competition to provide for the health and safety of its citizens as well as for the control of disease. MD. CODE ANN. art. 23A, § 2A(b)(1) (West Supp. 2002).

B. City of Baltimore

Baltimore City is a charter city, exercising those powers delegated to it by the General Assembly through the Express Powers Act, set forth in Article 4, Section 6, Public Local Laws of Maryland codified in Article II of the Baltimore City Charter. BALTIMORE, MD., CHARTER art. II (2004).

Despite the fact that Baltimore City has been granted authority over the health and welfare of its citizens, Section 9 of Article XI of the State Constitution clearly states that the Article granting the City powers shall not be construed to make the political subdivision of Baltimore City independent of or free from the control of the General Assembly. MD. CONST. art. XI, § 9 (LexisNexis 2003).

i. General Public Health Authority of City of Baltimore

Generally, the City of Baltimore has the full power and authority to exercise all the powers granted to it. The City is authorized “[t]o provide for the preservation of the health of all persons within the City; to prevent the introduction of contagious diseases within the City,” and within three miles of the city by land and fifteen miles by navigable waters, and “to prevent; and remove nuisances.” BALTIMORE, MD., CHARTER art. II, §11 (2002).

The City of Baltimore is authorized to “pass any ordinance, not inconsistent with the provisions of the Charter or the laws of the State, which it may deem proper in the exercise of any of the powers of [the] Charter to “maintain[] the peace, good government, health and welfare of Baltimore City.” BALTIMORE, MD., CHARTER art. II, §47 (2002).

ii. Baltimore City Department of Health

Article VII, section 54, of the Baltimore City Charter establishes a Department of Health. BALTIMORE, MD., CHARTER art. VII, §54 (2002).

The Department of Health is directed by an appointed Commissioner. BALTIMORE, MD., CHARTER art. VII, § 55(a)-(b)(2004). The Commissioner of the Department of Health is charged with responsibility for enforcing all laws related to the preservation of the health of the City’s inhabitants. BALTIMORE, MD., CHARTER art. VII, §56(a) (2002). The Commissioner is also responsible for “the study and prevention of disease, epidemics and nuisances affecting the public health,” and for establishing and implementing policies for the treatment, prevention and education of the public regarding physical and mental illness. BALTIMORE, MD., CHARTER art. VII, §56 (2002).

The Commissioner of Health has the duty of inspecting and observing potential health hazards within the city, enforcing all laws relating to health or health hazards, and reporting recommendations to the Mayor for addressing such hazards. The Commissioner of Health must also investigate, report, and take action to stop the spread of communicable diseases, and remove and abate all nuisances that may contribute to disease proliferation. BALTIMORE, MD., HEALTH CODE § 2-105 (Supp. 2004).

The Commissioner is granted the authority to adopt and enforce rules and regulations necessary to carry out these duties. BALTIMORE, MD., HEALTH CODE § 2-106 (Supp. 2004).

The Commissioner is authorized to enter any premises within the City where there is reason to believe a health hazard or nuisance exists. BALTIMORE, MD., HEALTH CODE § 2-107 (Supp. 2004).

Physicians are required to report to the Commissioner “every confirmed or suspected diagnosis of any disease or condition” specified by the Commissioner by rule or regulation for purposes of disease control. BALTIMORE, MD., HEALTH CODE § 4-201 (Supp. 2004).

The Commissioner is authorized to “investigate any report or suspected case of a communicable disease or disease carrier to determine the source of infection and the need for restricting movement or isolating affected individuals.” BALTIMORE MD., HEALTH CODE §§ 4-402 (Supp. 2004). This authority “may not be applied to interfere with any individual who is a bona fide practicing Christian Scientist” and who is treated by registered Christian Science practitioners. 4-403(a)(2) (Supp. 2004).

The Commissioner may request and require any individual having, suspected of having, or being the carrier of a communicable disease, to undergo medical examination and obtain body fluid, secretion, excretion or discharge specimens for examination. BALTIMORE, MD., HEALTH CODE § 4-403(b) (Supp. 2004).

The Commissioner may “take all possible action to prevent” the spread of communicable disease and may “give public notice of the disease and of affected places. . . .” BALTIMORE, MD., HEALTH CODE § 4-404 (Supp. 2004).

“[T]he Commissioner, with the approval of the Mayor, may require the inhabitants of [an affected] building to move elsewhere while the City cleans and disinfects the building,” with all moving, temporary housing, cleaning, and disinfecting costs to be covered by the City. BALTIMORE, MD., HEALTH CODE § 4-405 (Supp. 2004).

The Commissioner is authorized to adopt regulations requiring the isolation of persons with a communicable or potentially communicable disease, or with a condition that is dangerous to the public health. BALTIMORE, MD., HEALTH CODE § 4-406 (Supp. 2004).

The Commissioner is responsible for inspecting property in the City to discover nuisances, and for ordering the removal of any nuisances so found. BALTIMORE, MD., HEALTH CODE § 5-102 (Supp. 2004).

Under section 5-304 of the City Health Code, the Commissioner of Health has the same authority as the Commissioner of Housing and Community Development to enter and inspect any dwelling in which there is reason to believe a nuisance exists. BALTIMORE, MD., HEALTH CODE § 5-304(a) (Supp. 2004).

C. Counties

i. General Public Health Authority of the Counties

Within the state of Maryland there are three forms of county government, with varying authority regarding the exercise of powers. Commissioner Counties cannot legislate in areas where the General Assembly has not given them authority, and in those areas where they do have authority, that authority is narrowly construed. Charter Counties are granted “express powers” and may have elected legislative bodies in which law-making powers shall be vested and the General Assembly may not enact laws for a single charter county in any area with these “express powers.” In Code Counties, the commissioners have home-rule powers and may enact legislation in the areas of the “express powers” granted to charter counties. *See, generally* MD. CONST. art. XI, XI-A, XI-F; MD. ANN. CODE art. 25, 25A, 25B (2001 & Supp. 2004).

Article 25, section 3, of the Annotated Code of Maryland provides that the County Commissioners (with the exceptions of those in Anne Arundel, Baltimore, Cecil, Howard, Prince George’s, Queen Anne’s and Worcester Counties) have, in addition to the powers already granted, the express powers “to prevent and remove nuisances; to prevent the introduction of contagious diseases into the county; [and] to regulate and approve the location of . . . all places which may involve or give rise to unsanitary conditions or conditions detrimental to health. However, the provisions of this subsection may not be construed to affect in any manner any of the powers and duties of either the Secretary of Health and Mental Hygiene or the Secretary of the Environment, or any public general law relating to the subject of health.” MD. ANN. CODE art. 25, § (a)(2)(i), 3(n) (2001 & Supp. 2004).

Article 25A section 5 of the Annotated Code of Maryland grants charter counties (as granted under Article XI-A of the Constitution) the express powers “[t]o enact local laws for the county, including the power to repeal or amend local laws of the county enacted by the General Assembly upon the matters covered by the express powers in this article.” MD. ANN. CODE art. 25A, § 5(A)(1) (2001 & Supp. 2004).

Charter Counties may enforce “all ordinances, resolutions, bylaws and regulations adopted under the authority of this article by fines, penalties and imprisonment, enforceable according to law as may be prescribed.” MD. ANN. CODE art. 25A, § 5(A)(2) (2001 & Supp. 2004).

Charter Counties are also authorized “[t]o prevent, abate and remove nuisances; to prevent the introduction of contagious diseases into such county” [this arguably includes the authority to quarantine]; and to regulate and approve the location of all places “which may involve or give rise to unsanitary conditions or conditions detrimental to health.” MD. ANN. CODE art. 25A, § 5(J) (LexisNexis 2001 & Supp. 2004). “Nothing in this article or section contained shall be construed to affect in any manner any of the powers and duties of either the Secretary of Health and Mental Hygiene or the Secretary of the Environment or any public general laws of the State relating to the subject of health.” art. 25A, § 5(J).

ii. County Boards of Health

Generally, the governing body of the county (this section is applicable to both code and charter counties) is the board of health, unless the governing body of the jurisdiction otherwise establishes a separate board of health. MD. CODE ANN., HEALTH-GEN. §3-201(b)(LexisNexis 2005).

Each county board of health exercises those duties imposed by law. MD. CODE ANN., HEALTH-GEN. § 3-202(a)(1) (LexisNexis 2005). This authority is limited if the municipality or locality has addressed the same subject in its charter or ordinances, the provision “is at least as restrictive as the provision that the county board is required to enforce” and “includes provisions for enforcement” then the county board is not required to exercise its authority in that municipality or locality. §3-202(a)(2).

Each county board of health is also authorized to “adopt and enforce rules and regulations on any nuisance or cause of disease” in its respective county. MD. CODE ANN., HEALTH-GEN. §3-202(d)(LexisNexis2000).

Counties may be authorized by the State legislature to monitor and limit water and sewerage system competition in order to control disease and provide for the health and safety of their citizens. MD. ANN. CODE art. 25, § 3D (LexisNexis 2001 & Supp. 2004)(providing limits on competition); MD. ANN. CODE art. 25A, § 5(J) (LexisNexis 2001 & Supp. 2004)(power to prevent nuisances); MD. ANN. CODE art. 25B, § 13B (LexisNexis 2001 & Supp. 2004) (competition displacement or limitations).

Generally, county health officers are required to report to the County Board of Health any reasonable belief that a public health risk exists and must, with board approval, investigate and act appropriately to prevent the spread of the disease. MD. CODE ANN., HEALTH-GEN. § 18-208(a)(1) (LexisNexis 2005).

“[T]he attending physician of an individual who has the [contagious] disease may act properly [except in Baltimore City] to prevent the spread of the disease and does not need the approval of the county board of health.” MD. CODE ANN., HEALTH-GEN. § 18-208(a)(2)(i) (LexisNexis 2005). However, the physician may only act “until the health officer completes the investigation . . . or, if sooner, until the emergency ends.” § 18-

208(a)(2)(ii). The county board of health is required to “pay the necessary and legitimate expenses that a health officer incurs” in the course of investigating and acting to prevent the spread of disease under this subsection. § 18-208(a)(3).

Upon notification of an infectious/contagious disease within the county, a health officer must “act immediately to prevent the spread of the disease,” contact the Secretary of Health and Mental Hygiene within 24 hours, and “cooperate with the Secretary to prevent the spread of the disease.” MD. CODE ANN., HEALTH-GEN. § 18-208(b)(3) (LexisNexis 2005).

Additionally, “[w]hen a health officer knows of any unusual disease or mortality in the county or a contiguous county, the health officer promptly shall give the Secretary [of Health and Mental Hygiene] notice of the disease or mortality,” whether or not the officer is certain the disease is infectious or contagious. MD. CODE ANN. HEALTH-GEN. § 18-208(c)(1)-(2) (LexisNexis 2005).

Generally, a health officer, in order “to prevent the spread of an infectious or contagious disease that endangers public health,” is authorized to disinfect any portion of a house exposed to the disease and disinfect or destroy any article in the house that has been exposed to the disease. The county will incur the costs and reasonably compensate the party suffering from damage resulting from the exercise of this authority. MD. CODE ANN., HEALTH-GEN. § 18-210(a)-(b) (LexisNexis 2005).

Health officers are authorized to move sick individuals to an appropriate location when a physician certifies that the individual is infected with an infectious disease that endangers the public health and the sick individual resides in a room occupied by more than one family, is on board a vessel, or does not otherwise have suitable housing. MD. CODE ANN., HEALTH-GEN. § 18-211(a)(1)-(3) (LexisNexis 2005). The city or county where the individual is found must pay for the cost of moving the individual. § 18-211(b).

"The Secretary [of Health and Mental Hygiene] or a health officer may have an individual examined, if the Secretary or the health officer knows or is notified in writing by a physician that the individual is suspected of having tuberculosis." MD. CODE ANN., HEALTH-GEN. § 18-324(a) (LexisNexis 2005). "If, after the examination, the Secretary or the health officer finds that the individual has tuberculosis and that the condition of the individual endangers, or may endanger, the public health of the community, the Secretary or the health officer may order the individual to receive appropriate medical care." § 18-324(b)(1). Under this provision, the Secretary or the health officer may order the tuberculosis infected individual to be placed in quarantine if he fails to comply with the order. § 18-324(b)(2). "The order of the Secretary or the health officer may also contain such other conditions as the Secretary or the health officer believes are necessary to protect either the health of the infected individual or the public health." § 18-324(b)(3). The Secretary or a health officer may not require the suspected tuberculosis infected "individual to have a physical examination, other than a chest X-ray and to render sputum samples." § 18-324(c). Furthermore, the Secretary or a health officer may not restrict the right of the individual to select a treatment method if the individual "in

good faith relies on spiritual means through prayer for healing,” and “complies with the laws, rules, and regulations that relate to sanitation for and quarantine of infectious, contagious, and communicable diseases.” § 18-324(c)(1)(2).

The Secretary or a local health officer may investigate a suspected nuisance, which is defined as “a condition that is dangerous to health and safety.” MD. CODE ANN., HEALTH-GEN. § 20-301 (LexisNexis 2005)(please refer to this section of the Code for examples of such a condition). Once a health officer has determined that a condition “presents an immediate hazard to public health” the office may issue an abatement order and, if it is not complied with, the health officer may abate the nuisance at the expense of the owner of the property. MD. CODE ANN., HEALTH-GEN. § 20-308(a)(e) (LexisNexis 2005).

After a state of emergency has been declared under the Maryland Emergency Management Agency Act, “each health officer of a political subdivision shall execute and enforce the orders, rules, and regulations made by the Governor under” his authority. MD. CODE ANN., PUB. SAFETY § 14-113(a)-(b) (LexisNexis 2003).

For additional information on health officers, see “Topic 5. State Public Health Powers (D),” page 22; “Topic 6. Local Public Health Powers (C),” page 30.

TOPIC 7. SELECT FEDERAL PUBLIC HEALTH POWERS

A. General Public Health Emergency Powers

The Secretary of Health and Human Services may declare a public health emergency after consultation with the necessary public health officials and after determining that either: “1) a disease or disorder presents a public health emergency; or 2) a public health emergency, including significant outbreaks of infectious diseases or bioterrorist attacks, otherwise exists.” 42 U.S.C.A. § 247d(a) (West 2003). The Secretary can declare a public health emergency for any disease that poses such a threat. After declaring a public health emergency, the Secretary may take appropriate actions to respond, including investigation, treatment, prevention, and making grants or entering into contracts. *Id.*

The Public Health Emergency Fund is established in the Treasury. If a public health emergency is declared, this Fund is made available to the Secretary to carry out activities to respond to the emergency. Congress may appropriate such funds as may be necessary. *See id.* § 247d(b)(1). Funds are to supplement, not supplant, other public funds. *See id.* § 247d(c).

The Secretary must send written notification of a determination of a public health emergency to Congress within 48 hours of making the determination. A declaration of a public health emergency lasts for 90 days or until the Secretary declares its termination. The Secretary may renew the determination of an emergency prior to the 90-day expiration, or after the expiration, if based on the same or additional facts. *See id.* § 247d(a).

The Secretary is empowered to create a plan under which all the available resources of the Public Health Service and other agencies under the Secretary’s jurisdiction may be effectively used to meet emergency health problems. *See id.* § 243(c)(1) (West 2003 & Supp. 2005). The Secretary is also required to “encourage cooperative activities between the States” with regard to planning and response. *See id.* § 243(b).

B. Establishment of Hospitals

“The Surgeon General, pursuant to regulations, shall, . . . with the approval of the President, select suitable sites for and establish institutions, hospitals, and stations in the States and possessions of the United States,” which, in the Surgeon General’s judgment, “are necessary to enable the Public Health Service to discharge its functions and duties.” 42 U.S.C.A. § 248(a) (West 2003).

In emergency cases, under the guidance of the regulations of the Surgeon General, persons not entitled to be treated at hospitals or other institutions of the Public Health Service may, pursuant to regulations, be admitted for temporary treatment or care. *See id.* § 249(b).

C. Public Health Service

Public Health Service (the “Service”) personnel may be assigned to other federal executive branch departments or State health authorities to lend assistance with work

related to the functions of the Service or of the department. 42 U.S.C.A. § 215 (West 2003).

The President may, in a time of war or after declaring a state of emergency, “utilize the Service to such extent and in such manner as shall in his judgment promote the public interest.” *See id.* § 217. The President may also designate, in a time of war or during an emergency involving the national defense, the commissioned corps of the Service to be a military service. *See id.*

D. Credentialing of Health Professionals

During a public health emergency, the Secretary of Health and Human Services may authorize professionals to provide volunteer health services. The Secretary must establish and maintain a system for advance registration of these professional volunteers to confirm their credentials, licenses, and hospital privileges, for use when they are providing health services during a public health emergency. 42 U.S.C.A. § 247d – 7b(a) (West 2003).

For additional information, see “Topic 18. Licensing and Certification of Health Care Professionals (B)(vi),” page 85; “Topic 19. Hospital Licensing (B)(i),” page 87.

E. National Disaster Medical System (NDMS)

The Secretary of Homeland Security provides for the operation of the National Disaster Medical System, which is a coordinated effort by the Department of Health and Human Services, the Federal Emergency Management Agency, the Department of Veteran Affairs and the Department of Defense, working in collaboration with the states and other appropriate public or private entities. 42 U.S.C.A. § 300hh-11(b) (West 2003) (note that the NDMS was transferred to the Department of Homeland Security in March of 2002 by P.L. 107-296 § 503(5) codified at 6 U.S.C.A. §§ 313(5) (West Supp. 2005)).

“The Secretary [of Homeland Security] may activate the National Disaster Medical System to (i) provide health services, health-related social services, other appropriate human services, and appropriate auxiliary services to respond to the needs of victims of a public health emergency. . . ; or (ii) be present at locations, and for limited periods of time, specified by the Secretary on the basis that the Secretary has determined that a location is at risk of a public health emergency during the time specified.” 42 U.S.C.A. § 300hh-11(b)(3)(a) (West 2003).

For additional information, see “Topic 19. Hospital Licensing (D),” page 89.

F. Strategic National Stockpile

“The Secretary [of Health and Human Services], in coordination with the Secretary of Homeland Security, shall maintain an appropriate stockpile of drugs, vaccines, and other medical items, taking into account other available sources, to provide for the emergency

health security of the United States, including the emergency health security of children and other vulnerable populations, in the event of a bioterrorist attack or other public health emergency.” 42 U.S.C.A. § 247d-6b (West Supp. 2003).

G. Medicare, Medicaid and State Children’s Health Insurance Program (SCHIP) Waivers

The Secretary of Health and Human Services is authorized to waive various Medicare, Medicaid, and State Children’s Health Insurance Program (SCHIP) requirements during an “emergency period,” which includes a public health emergency declared by the Secretary of Health and Human Services, pursuant to 42 U.S.C.A. § 247d (West 2003); 42 U.S.C.A. §1320b-5 (West 2003 & Supp. 2005).

H. Restricted Movement between States

A person who has a communicable disease in the communicable period may only travel from one State or possession to another, with a permit from the health officer of the State, possession, or locality of destination, if the law of the destination point requires such a permit. Public Health Service Quarantine, Inspection, Licensing, 42 C.F.R. § 70.3 (2004).

There are specific travel restrictions concerning any person who is in the communicable period of cholera, plague, smallpox, typhus or yellow fever, or who, having been exposed to any such disease, is in the incubation period. *See id.* §70.5. “No such person shall travel from one State or possession to another, or on a conveyance engaged in interstate traffic, without a written permit from the Surgeon General or his/her authorized representative.” *Id.*

I. Quarantine Authority

“The Surgeon General, with the approval of the Secretary [of Health and Human Services], is authorized to make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the [United] States or possessions, or from one State or possession into any other State or possession.” 42 U.S.C.A. § 264(a) (West 2003 & Supp. 2005). Regulations prescribed under this section may provide for the apprehension, detention or conditional release of individuals to prevent introduction, transmission, or spread of communicable diseases as specified in Executive Orders of the President upon recommendation of the Secretary, in consultation with the Surgeon General. *See id.* § 264(b).

The diseases for which a person may be subject to quarantine must be specified by the President through an Executive order. By Executive Order, those with the following diseases are subject to quarantine: “Cholera; Diphtheria; infectious Tuberculosis; Plague; Smallpox; Yellow Fever; Viral Hemorrhagic Fevers (Lassa, Marburg, Ebola, Crimean-Congo, South American, and others not yet isolated or named).” Also included is

“Severe Acute Respiratory Syndrome (SARS), which is a disease associated with fever and signs and symptoms of pneumonia or other respiratory illness [and] is transmitted from person to person predominantly by the aerosolized or droplet route, and, if spread in the population, would have severe public health consequences.” Exec. Order No. 13295, 68 Fed. Reg. 17255 (April 4, 2003). Influenza was added to the list of diseases warranting quarantine on April 1, 2005. Exec. Order No. 13375, 70 Fed. Reg. 17299 (April 1, 2005).

i. Foreign Quarantine Regulations

“Whenever the Surgeon General determines that by reason of the existence of any communicable disease in a foreign country there is a serious danger of introduction of such disease into the United States, and that this danger is so increased by the introduction of persons or property from such country, . . . the Surgeon General, in accordance with regulations approved by the President,” has “the power to prohibit . . . the introduction of persons and property from such countries or places as he shall designate in order to avert such danger, and for such period of time as he may deem necessary for such purpose.” 42 U.S.C.A. § 265 (West 2003).

“To protect the military and naval forces and war workers of the United States, in time of war, against any communicable disease specified in Executive orders, . . . the Secretary [of Health and Human Services], in consultation with the Surgeon General, is authorized to provide by regulations for the apprehension and examination of any individual reasonably believed (1) to be infected with such disease and (2) to be a probable source of infection to members of the armed forces of the United States or to individuals engaged in the production or transportation of arms, munitions, ships, food, clothing, or other supplies for the armed forces. Such regulations may provide that if upon examination any such individual is found to be so infected, he may be detained for such time and in such manner as may be reasonably necessary.” *See id.* § 266.

42 U.S.C.A. § 267 (West 2003) provides that “the Surgeon General shall control, direct, and manage all United States quarantine stations.”

42 U.S.C.A. § 268 (West 2003) provides that “[a]ny consular or medical officer of the United States, designated for such purpose by the Secretary, shall make reports to the Surgeon General . . . of the health conditions at the port or place at which the officer is stationed;” and provides that it is the “duty of customs officers and Coast Guard officers to aid in the enforcement of quarantine rules and regulations.”

42 U.S.C.A. § 269 (West 2003) requires and sets out the contents of bills of health for vessels at any foreign port or in a State or possession. Bills of health are to include the “sanitary history and condition of such vessel, and shall state that it has in all respects complied with the regulations prescribed” in that section.

“The Secretary [of Health and Human Services] is authorized to accept from State and local authorities any assistance in the enforcement of quarantine regulations.” 42

U.S.C.A. § 243(a) (West 2003 & Supp. 2005). The Secretary shall also “assist States and their political subdivisions in the prevention and suppression of communicable diseases and with respect to other public health matters, shall cooperate with and aid State and local health authorities in the enforcement of their quarantine and other health regulations, and shall advise the several States on matters relating to the preservation and improvement of the public health.” 42 U.S.C.A. § 243(a) (West 2003 & Supp. 2005).

42 C.F.R. § 71.32 (2004) authorizes the Director of the Centers for Disease Control to detain, isolate, or place a person under surveillance whenever the Director has reason to believe that any arriving person is infected with or has been exposed to cholera or suspected cholera, diphtheria, infectious tuberculosis, plague, suspected smallpox, yellow fever, or suspected viral hemorrhagic fevers.

“Any person detained in accordance with quarantine laws . . . may be treated and cared for by the Public Health Service.” 42 U.S.C.A. § 249(a) (West 2003). Such persons may also receive care and treatment from public or private medical or hospital facilities at the expense of the Service. 42 U.S.C.A. § 249(c) (West 2003).

ii. Interstate Quarantine Regulations

“Whenever the Director of the Centers for Disease Control and Prevention determines that the measures taken by health authorities of any State or possession (including political subdivisions thereof) are insufficient to prevent the spread of any communicable diseases from such State or possession to any other State or possession, he or she may take such measures to prevent such spread of disease as he or she deems reasonably necessary, including inspection, fumigation, disinfection, sanitation, pest extermination, and destruction of animals or articles believed to be sources of infection.” 42 C.F.R. § 70.2 (2004).

“A person who has a communicable disease in the communicable period” is prohibited from traveling “from one State or possession to another without a permit from the health officer of the State, possession, or locality of destination, if such permit is required under the law applicable to the place of destination.” *See id.* § 70.3.

42 C.F.R. § 70.5 (2004) provides specific travel restrictions concerning any person who is in the “communicable period of cholera, plague, smallpox, typhus or yellow fever, or who, having been exposed to any such disease, is in the incubation period.”

“No such person may travel from one State or possession to another, or on a conveyance engaged in interstate traffic,” without the written permission of the Surgeon General. *See id.* § 70.5(a)(1).

42 C.F.R. § 70.4 (2004) requires “[t]he master of any vessel or person in charge of any conveyance engaged in interstate traffic, on which a case or suspected case of a communicable disease develops, to notify the local health authority at the next port of

call as soon as practicable and to take measures to prevent the spread of the disease as the local health authority directs.”

J. Posse Comitatus Act

The Posse Comitatus Act, codified at 18 U.S.C.A. § 1385 (West 2000 & Supp. 2005), states that “[w]hoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both.” This prohibition applies to Navy and Marine Corps personnel as a matter of Department of Defense (DOD) regulations. U.S. Dep’t of Defense, Directive No. 5525.5, DOD Cooperation with Civilian Law Enforcement Officials Encl. 4, at 4-6 (Jan. 15, 1986). The primary prohibition of the Posse Comitatus Act is against direct involvement by active duty military personnel (to include Reservists on active duty and National Guard personnel in Federal service) in traditional law enforcement activities (to include interdiction of vehicle, vessel, aircraft, or other similar activity; directing traffic, search or seizure, an arrest, apprehension, stop and frisk, or similar activity). Mark David Maxwell, *The Enduring Vitality Of The Posse Comitatus Act Of 1878*, PROSECUTOR (May/June 2003).

Because the Posse Comitatus Act, by its terms, allows the use of the military to “execute the laws” if there is a statutory or a constitutional basis to do so, the federal government may apply military force if it can rely on the express language of federal statutes authorizing such force (e.g., The Insurrection Statutes), or if there is a recognized constitutional basis to do so (e.g., inherent power of the President to act as Commander-in-Chief). RAND, PREPARING THE U.S. ARMY FOR HOMELAND SECURITY 244, <http://www.rand.org/publications/MR/MR1251/MR1251.AppD.pdf>.

Although the Coast Guard is part of the armed forces, it is under the control of the Department of Homeland Security and, therefore, is not limited by the Posse Comitatus Act. 14 U.S.C.A. § 1 (West 1990 & Supp. 2005) and Mark David Maxwell, *The Enduring Vitality of the Posse Comitatus Act of 1878*, PROSECUTOR (May/June 2003). The Coast Guard has been authorized by statute to assist in drug enforcement. 10 U.S.C.A. § 379 (West 1998 & Supp. 2005). Furthermore, the National Guard is exempt from the reach of this statute so long as it is operating under state authority. RAND, PREPARING THE U.S. ARMY FOR HOMELAND SECURITY 244, <http://www.rand.org/publications/MR/MR1251/MR1251.AppD.pdf>.

K. The Insurrection Acts

Portions of the Insurrection Statutes authorize the President, without the prior consent of the State, to direct the armed forces (including federalized militia) to enforce the law to suppress insurrections and domestic violence. 10 U.S.C.A. §§ 332 – 333 (West 1998 & Supp. 2005). For example, “whenever the President considers that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State or Territory by

the ordinary course of judicial proceedings, he may call into Federal service such of the militia of the State, and use such of the armed forces, as he considers necessary to enforce those laws or to suppress the rebellion.” *See id.* § 333. Moreover, the President may act unilaterally in order to preserve federal rights. *See id.* § 332.

L. Emergencies Involving Chemical or Biological Weapons of Mass Destruction

Pursuant to 10 U.S.C.A. § 382 (West 1998 & Supp. 2005), in response to an emergency involving a chemical or biological weapons of mass destruction that is beyond the capabilities of civilian authorities to handle, the Attorney General may request assistance directly from the Department of Defense. Assistance that may be provided includes identifying, monitoring, containing, disabling, and disposing of the weapon. Direct law enforcement assistance—such as conducting an arrest, searching or seizing evidence of certain criminal violations, or direct participation in the collection of intelligence for law enforcement purposes—is not authorized unless such assistance “is necessary for the immediate protection of human life, and civilian law enforcement officials are not capable of taking the action,” and “the action is otherwise authorized.” *See id.* § 382(d)(2)(B).

M. Transactions Involving Nuclear Materials

18 U.S.C.A. § 831 (West 2000) defines prohibited transactions involving nuclear materials. Nuclear material is defined as any material containing plutonium, uranium (in a form or isotope not found in nature), enriched uranium, or uranium 233. *See id.* § 831(f). The Attorney General is authorized to request Department of Defense law enforcement assistance when enforcing the statutory prohibitions concerning nuclear material transactions. 18 U.S.C.A. § 831(e) (West 2000). The Attorney General’s authority includes the ability to arrest and conduct searches—without violating the Posse Comitatus Act—when both the Attorney General and Secretary of Defense agree that an “emergency situation” exists and the Secretary of Defense determines that the requested assistance will not impede military readiness. An emergency situation is defined as a circumstance “(A) that poses a serious threat to the United States; and (B) in which: (i) enforcement of the law would be seriously impaired if the assistance were not provided; and (ii) civilian law enforcement personnel are not capable of enforcing the law.” *See id.* § 831(e)(2). The statute also authorizes Department of Defense personnel to engage in “such other activity as is incident to the enforcement of this section, or to the protection of persons or property from conduct that violates this section.” *See id.* § 831(e)(2)(A)-(B)(ii).

N. The Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, 93 Pub. L. No. 93-288, 88 Stat. 143 (codified as amended at 42 U.S.C.A. §§ 5121-5206 and various sections of 12 U.S.C.A., 16 U.S.C.A., 20 U.S.C.A., 26 U.S.C.A., 38 U.S.C.A.)

The Robert T. Stafford Disaster Relief and Emergency Assistance Act establishes the programs and processes for the Federal Government to provide disaster and emergency

assistance to States, local governments, tribal nations, individuals, and qualified private nonprofit organizations. *See* 42 U.S.C.A. § 5121(b) (West 2003). The provisions of the Stafford Act cover all hazards, including natural disasters, and any “other catastrophe in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance. . . .” *See id.* § 5122(1)-(2).

Relevant provisions of the Stafford Act include a process for Governors to request Federal disaster and emergency assistance from the President. The President may declare a major disaster or emergency:

- If an event is beyond the combined response capabilities of the State and affected local governments; and
- If, based on the findings of a joint Federal-State local preliminary damage assessment (PDA), the damages are of sufficient severity and magnitude to warrant assistance under the Act. (Note: In a particularly fast-moving or clearly devastating disaster, Department of Homeland Security (DHS)/Emergency Preparedness and Response Directorate (EPR)/Federal Emergency Management Agency (FEMA) may defer the PDA process until after the declaration.) *See id.* §§ 5170 & 5191(a).

If an emergency involves a subject area for which the Federal Government exercises exclusive or preeminent responsibility and authority, the President may unilaterally direct the provision of emergency assistance under the Stafford Act. The Governor of the affected State will be consulted if practicable. *See id.* § 5191(b).

DHS/EPR/FEMA can pre-deploy personnel and equipment in advance of an imminent Stafford Act declaration to reduce immediate threats to life, property, and public health and safety, and to improve the timeliness of disaster response. 42 U.S.C.A. § 5170b(a) (West 2003).

During the immediate aftermath of an incident which may ultimately qualify for assistance under the Stafford Act, “the Governor of the State in which such incident occurred may request the President to direct the Secretary of Defense to utilize the resources of the DOD for the purpose of performing on public and private lands any emergency work that is made necessary by such incident and that is essential for the preservation of life and property.” *See id.* § 5170b(c)(1). “If the President determines that such work is essential for the preservation of life and property, the President shall grant such request to the extent the President determines practical. Such emergency work may only be carried out for a period not to exceed 10 days.” *See id.* § 5170b(c)(1).

The Stafford Act requires appointment of a Federal Coordinating Officer (FCO) to the President. *See id.* § 5143(a). The FCO is designated by the DHS Under Secretary for Emergency Preparedness and Response to coordinate the delivery of Federal assistance to the affected State, local, and tribal governments and disaster victims. *See id.* § 5143(b).

Federal agencies must avoid duplicating resources and benefits for disaster victims. Disaster victims are responsible for repayment of Federal assistance duplicated by private insurance, or other Federal programs, or when they have been otherwise compensated for their disaster-related losses. 42 U.S.C.A. § 5155 (West 2003).

All authorities under the Stafford Act granted to the Secretary of Homeland Security in the Homeland Security Act have been delegated to the Under Secretary of EPR through Delegation No. 9001.

O. The Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (codified predominantly at 3 U.S.C.A., 5 U.S.C.A., 6 U.S.C.A. §§ 101-557, 7 U.S.C.A., 10 U.S.C.A., 14 U.S.C.A., 18 U.S.C.A., 20 U.S.C.A., 21 U.S.C.A., 28 U.S.C.A., 37 U.S.C.A., 38 U.S.C.A., 42 U.S.C.A., 49 U.S.C.A., and 50 U.S.C.A.)

The Homeland Security Act of 2002 bestows upon the Department of Homeland Security the legal authority and responsibility to protect the American people from, *inter alia*, the continuing threat of terrorism. In the Homeland Security Act, Congress assigned DHS the following primary tasks:

- “Prevent terrorist attacks within the United States.” 6 U.S.C.A. § 111(b)(1)(A) (West Supp. 2005).
- “Reduce the vulnerability of the United States to terrorism.” *See Id.* § 111(b)(1)(B).
- “Minimize the damage and assist in the recovery from terrorist attacks that occur.” *See id.* § 111(b)(1)(C).
- Act as the focal point regarding natural and manmade crises and emergency planning. *See id.* § 111(b)(1)(D).

The Homeland Security Act gives the Secretary of Homeland Security full authority and control over the Department and the duties and activities performed by its personnel, and it vests the Secretary with the broad authority necessary to fulfill the Department’s statutory mission to protect the American homeland. *See id.* § 112(a)-(b). This statutory authority, combined with the President’s direction in HSPD-5, supports the National Response Plan’s (NRP) unified, effective approach to domestic prevention, preparedness, response, and recovery activities for man-made and natural disasters. Responsibilities in the Homeland Security Act of particular relevance to the development and execution of the NRP include the following:

i. Preparedness of the United States against acts of terrorism.

Executed through the DHS Office of State and Local Government Coordination and Preparedness (OSLGCP), this responsibility includes coordinating preparedness efforts at the Federal level, and working with State, local, tribal, parish, and private-sector emergency response providers. 6 U.S.C.A. § 361(b) (West Supp. 2005).

ii. Response to terrorist attacks, major disasters, and other emergencies.

Executed through the Directorate of Emergency Preparedness and Response, this responsibility includes:

- “Consolidating existing Federal emergency response plans into a single, coordinated national response plan.” *See id.* § 312(6).
- “Building a comprehensive national incident management system to respond to such attacks and disasters.” *See id.* § 312(5).
- Ensuring the “effectiveness of emergency response providers to terrorist attacks, major disasters, and other emergencies;” *See id.* § 312(1).
- “Providing the Federal Government’s response to terrorist attacks[,] major disasters” and emergencies, including managing such response. *See id.* § 312(3)(A).
- Coordinating “federal response resources in the event of a terrorist attack[,] major disaster,” or emergency. *See id.* § 312(3)(D).

iii. Coordination of homeland security programs with State and local government personnel, agencies, and authorities and with the private sector.

Executed through the DHS OSLGCP and the Private Sector Office, this responsibility includes:

- Coordinating to ensure adequate planning, training, and exercise activities. *See id.* § 112(c)(1).
- Coordinating and consolidating appropriate Federal Government communications and systems of communications. *See id.* § 112(c)(2).
- Distributing or coordinating the distribution of warnings and information. *See id.* § 112(c)(3).

iv. Risk analysis and risk management.

DHS/Information Analysis and Infrastructure Protection (IAIP) has primary authority for threat and event risk analysis and risk management within DHS, although other DHS organizations such as the U.S. Secret Service, the OSLGCP, and the Border and Transportation Security Directorate also engage in risk management. DHS/IAIP responsibilities include:

- Analyzing and integrating information from all available sources to identify, assess, detect, and understand terrorist threats against the United States. 6 U.S.C.A. § 121(d)(1) (West Supp. 2005).
- “Carry[ing] out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure, including . . . risk assessments to determine the risks posed by particular types of terrorist attacks within the United States.” *See id.* 121(d)(2).

- Identifying priorities for and recommending protective and support measures for such infrastructure by all concerned. *See id.* § 121(d)(3).
- “Develop[ing] a comprehensive national plan [the National Infrastructure Protection Plan (NIPP)] for securing [critical infrastructure and] key resources,” such as telecommunications and power. *See id.* § 121(d)(5).
- Conducting risk assessments and vulnerability assessments after other agencies have conducted those studies and ranked top items based on those studies. *See id.* § 121(d)(6).

v. Preventing the entry of terrorists and the instruments of terrorism into the United States.

Executed through the Border and Transportation Security Directorate, this responsibility includes:

- “Securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States.” *See id.* § 202(2).
- “Carrying out immigration enforcement functions.” *See id.* § 202(3).

P. The Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Pub. L. No. 107-188, 116 Stat. 294 (codified in various sections of 7 U.S.C.A., 18 U.S.C.A., 21 U.S.C.A., 29 U.S.C.A., 38 U.S.C.A., 42 U.S.C.A., and 47 U.S.C.A.)

The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 is designed to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies. *See* 42 U.S.C.A. § 300hh(b) (West 2003). Key provisions of the Act address the development of a national preparedness plan by the Department of Health and Human Services (DHHS) designed to “provid[e] effective assistance to State and local governments in the event of bioterrorism or other public health emergenc[ies].” *See id.* § 300hh(a) & (b). The plan is also designed to account for the operation of the National Disaster Medical System for mobilizing and addressing public health emergencies, *See id.* § 300hh-11(a)(2)(B), (b) For programs for the education and training of public health professionals in order to improve State, local, and hospital preparedness for, and response to, bioterrorism and other public health emergencies. *See id.* § 247d-7a(a). The plan is designed to streamline and clarify communicable disease quarantine provisions (*see id.* § 264 (West 2003 & Supp. 2005) & 266 (West 2003)), as well as enhance controls on dangerous biological agents and toxins and protect the safety and security of food and drug supplies. 42 U.S.C.A. § 262(a) (West 2003 & Supp. 2005); Pub. L. No. 107-188, tit. III.

Q. The Defense Production Act of 1950, 64 Stat. 798 (1950) (codified as amended by the Defense Production Act Reauthorization of 2003, Pub. L. No. 108-195, 117 Stat. 2892 at 50 U.S.C.A. app. §§ 2061-2170 (West 1991 & Supp. 2005)).

The Defense Production Act (DPA) of 1950 is the primary authority to ensure the timely availability of resources for national defense and civil emergency preparedness and

response. Among other things, the DPA authorizes the President to demand that companies accept and give priority to government contracts that the President “deems necessary or appropriate to promote the national defense.” The DPA defines “national defense” to include critical infrastructure protection and restoration, as well as activities authorized by the emergency preparedness sections of the Stafford Act. Consequently, DPA authorities are available for activities and measures undertaken in preparation for, during, or following a natural disaster or accidental or man-caused event. The Department of Commerce has delegated DPA authority under Executive Order 12919, National Defense Industrial Resource Preparedness, June 7, 1994, as amended, to the Secretary of Homeland Security to, upon application, authorize State and local governments to place priority-rated contracts in support of Federal, State, and local emergency preparedness activities.

R. The National Emergencies Act, 50 U.S.C.A. §§ 1601-1651 (West 2003 & Supp. 2005).

The National Emergencies Act (NEA) establishes procedures for Presidential declaration and termination of national emergencies. 50 U.S.C.A. §§ 1601-1651 (West 2003 & Supp.2005) The NEA requires the President to identify the specific provision of law under which he or she will act in dealing with a declared national emergency. The NEA contains a sunset provision requiring the President to renew a declaration of national emergency to prevent its automatic expiration. *See id.* § 1621,1622. The Presidential declaration of a national emergency under the NEA is a prerequisite to exercising any special or extraordinary powers authorized by statute for use in the event of national emergency. *See id.* § 1631.

S. The Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C.A. §§ 9601-9675 (West 1995 & Supp. 2005), and the Federal Water Pollution Control Act (Clean Water Act), 33 U.S.C.A. §§ 1251-1387 (West 200 & Supp. 2005).

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Federal Water Pollution Control Act (Clean Water Act) establishes broad Federal authority to respond to the release, or threat of release, of hazardous substances and pollutants or contaminants that may present an imminent and substantial danger to public health or welfare. *See* 42 U.S.C.A. § 9604(a) (West 1995 and Supp. 2005). The National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR Part 300 (2003), was developed to ensure coordinated and integrated response by departments and agencies of the Federal Government to prevent, minimize, or mitigate a threat to public health or welfare posed by discharges of oil and releases of hazardous substances, pollutants, and contaminants.

T. The Communications Act of 1934, 47 U.S.C.A. §§ 151-615b (West 2001 & Supp. 2005).

The Communications Act of 1934 provides the federal government the power to grant special temporary authority on an expedited basis to operate radio frequency devices. 47 U.S.C.A. § 606 (West 2001). Under the Act, a federal agency may obtain a temporary permit to establish a radio station for public service announcements to be broadcast by during the immediate aftermath of an emergency. *See id.* § 606. The Act also provides the authority for the President to direct the National Communications System (NCS) to engage in emergency response, restoration, and recovery of the telecommunications infrastructure.

U. Volunteer Services

There are statutory exceptions to the general statutory prohibition against accepting voluntary services under 31 U.S.C.A. § 1342 (West 2003) that can be used to accept the assistance of volunteer workers. Such services may be accepted in “emergencies involving the safety of human life or the protection of property.” Additionally, provisions of the Stafford Act, 42 U.S.C.A. §§ 5152(a) and 5170a(2) (West 2003), authorize the President to, with their consent, use the personnel of private disaster relief organizations and to coordinate their activities. Under the Congressional Charter of 1905, 36 U.S.C.A. §§ 300101-300111 (West 2001 & Supp. 2005), the American Red Cross and its chapters are a single national corporation. The Charter mandates that the American Red Cross maintain a system of domestic and international disaster relief. The American Red Cross qualifies as a nonprofit organization under section 501(c)(3) of the Internal Revenue Code. I.R.C. § 501(c)(3) (West 2002 & Supp. 2005).

For more information on The Robert T. Stafford Act, see “Topic 7. Select Federal Public Health Powers (N),” page 40.

V. Federal Assistance to Local Law Enforcement

If a law enforcement emergency exists within a State, the governor may request federal assistance for local law enforcement by applying to the Attorney General who, after consultation with the Director of the Office of Justice Assistance and appropriate members of the federal law enforcement community, will approve or deny the assistance within 10 days of receiving the application. 42 U.S.C.A. § 10501 (West 1995). The term “law enforcement emergency” is defined as “an uncommon situation which requires law enforcement, which is or threatens to become of serious or epidemic proportions, and with respect to which State and local resources are inadequate to protect the lives and property of citizens or to enforce the criminal law. . . .” *See id.* § 10502(3) (West Supp. 2005).

The criteria by which the Attorney General will determine whether federal assistance is needed include:

- “1) the nature and extent of such emergency throughout a State or in any part of a State;
- 2) the situation or extraordinary circumstances which produced such emergency;
- 3) the availability of State and local criminal justice resources to resolve the problem;
- 4) the cost associated with the increased federal presence;
- 5) the need to avoid unnecessary federal involvement and intervention in matters primarily of State and local concern;
- 6) any assistance which the State or other appropriate unit of government has received, or could receive, under any provision of title I of the Omnibus Crime Control and Safe Streets Act of 1968.” *See id.* § 10501(c).

Generally, the federal law enforcement community has no authority to enforce state law, and, therefore, must derive its authority from state statute. 2 U.S. Op. Off. Legal Counsel 47, 47-50 (1978).

In Maryland, federal law enforcement officers may exercise authority under section 2-104 of Maryland’s Code of Criminal Procedure (MD. CODE ANN., CRIM. PROC. § 2-104 (LexisNexis 2001 & Supp. 2004)) and have the same authority and immunity as State police officers. MD. CODE ANN., CTS. & JUD. PROC. § 5-611 (LexisNexis 2002). However, even after federal law enforcement assistance is granted, the federal law enforcement community possesses no authority over the applicant State’s police forces and criminal justice system. 42 U.S.C.A. § 10503(b) (West 2001 & Supp. 2004).

For additional information, see “Topic 1. Powers of the Governor (E),” page 5.

W. Liability of the Federal Government

The federal government is not liable for any claim based upon action or inaction in regard to a discretion or duty in response to a disaster under the Stafford Act. 42 U.S.C.A. § 5148 (West 2003). Outside the context of the Stafford Act, the federal government may also be immune under the exceptions to the Federal Tort Claims Act, 28 U.S.C.A. §§ 2671-2680. (West 1994 & Supp. 2005), if the employee of the Government exercises “due care, in the execution of a statute or regulation, whether or not such statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Government, whether or not the discretion involved be abused.” *See id.* § 2680(a).

X. Intelligence Reform and Terrorism Prevention Act of 2004, Mutual Aid Provisions

i. Purpose

The Intelligence Reform and Terrorism Prevention Act of 2004 (“the Act”) was enacted to streamline the intelligence community and reform the intelligence-gathering activities

of the United States. Pub. L. No. 108-458, 118 Stat. 3638 (2004). As part of achieving these goals, the Act authorizes the creation of mutual aid agreements between Maryland, Virginia and the District of Columbia for the purpose of responding to or mitigating any emergency in the National Capital Region. The National Capital Region refers to “the geographic area located within the boundaries of (A) the District of Columbia, (B) Montgomery and Prince Georges Counties in the State of Maryland, (C) Arlington, Fairfax, Loudoun, and Prince William Counties and the City of Alexandria in the Commonwealth of Virginia, and (D) all cities and other units of government within the geographic areas of such District, Counties, and City.” 10 U.S.C. §2674(f)(2) (West 1998 and Supp. 2005) (as referenced by the Act at Pub. L. No. 108-458, § 7302 (a)(7), 118 Stat. 3638 (2004)). The Act defines an emergency as any “major disaster or emergency declared by the President, or a state of emergency declared by the mayor of the District of Columbia, the Governor of the State of Maryland or the Commonwealth of Virginia, or the declaration of a local emergency by the chief operating officer of a locality. . .that triggers mutual aid under the terms of a mutual aid agreement.” Pub. L. No. 108-458, § 7302 (a)(3).

ii. Type of Assistance

Each jurisdiction may request or provide assistance with “law enforcement, fire, rescue, emergency health and medical services, transportation, communications, public works and engineering, mass care, and resource support” for responding to or preparing for an emergency, or for training. Pub. L. No. 108-458, § 7302(b)(A)-(C). The Act defines “training” as “emergency and public service event-related exercises, testing, or other activities using equipment and personnel to simulate performance of any aspect of the giving or receiving of aid by National Capital Region jurisdictions during emergencies or public service events, such actions occurring outside actual emergency or public-service event periods.” Pub. L. No. 108-458, §7302(a)(11).

iii. Liability of Aid-Rendering Jurisdictions

Generally, if a responding party renders aid or fails to render aid under a mutual aid agreement, the party, along with any of its officers or employees, is liable for any act or omission that occurs, but only to the extent permitted under the laws of the aid-rendering party’s State. Pub. L. No. 108-458, § 7302(d), 118 Stat. 3638 (2004). Any action against an aid-rendering party must be brought under the laws and procedures of the aid-rendering party’s jurisdiction. Pub. L. No. 108-458, § 7302(d)(2).

iv. Compensation

Each party to a mutual aid agreement must “provide for the payment of compensation and death benefits to injured members of the emergency forces of that party and representatives of deceased members of such forces if such members sustain injuries or are killed while rendering aid” to a party state, or while “engaged in training activities.” Pub. L. No. 108-458, § 7302(e)(1). The payment of compensation or of death benefits must be “in the same manner and on the same terms as if the injury or death were sustained within” the party’s own jurisdiction. *Id.*

No party can be liable under the law of any other state but its own for providing compensation and death benefits. Pub. L. No. 108-458, § 7302(e)(2).

TOPIC 8. COMMUNICABLE DISEASE REPORTING

A. State Communicable Disease Reporting Requirements

i. Secretary of Health and Mental Hygiene

The Secretary of Health and Mental Hygiene has a specific duty to investigate the causes of disease in Maryland. MD. CODE ANN., HEALTH-GEN. § 18-101 (2005). The Secretary also has a duty to contain and combat communicable diseases *inter alia* by obtaining “accurate and complete reports on communicable diseases,” determining the prevalence of each communicable disease,” and devising “means to control the . . . disease.” § 18-103(a). To achieve this mandate, regulations have been promulgated listing the diseases and indicating how they are to be reported. COMAR 10.06.01.03 lists the diseases that the Department of Health and Mental Hygiene requires be reported. (Please see Appendix 3 for the complete list of diseases.) COMAR 10.06.01.04(B) requires that a report be filed in writing, within 48 hours (unless it is a specified disease which requires immediate reporting by phone), to the local health officer. Then the health officer must relay the information to the Secretary within twenty-four hours of its receipt. COMAR 10.06.01.04(B)(2).

The Catastrophic Health Emergencies Act of 2002 strengthened the communicable disease reporting requirements. The Secretary of Health and Mental Hygiene possesses the authority independent of a declaration of a catastrophic health emergency to require health care facilities to develop contingency plans which address stockpiling, staff training, treatment and decontamination, coordination of care with other facilities, and anything else the Secretary deems necessary to “assist in the early detection and treatment of an individual exposed to a deadly agent.” MD. CODE ANN., HEALTH-GEN. § 18-903 (LexisNexis 2005). The Secretary is authorized to require the production of information that is necessary to combat a catastrophic health emergency from health care providers regardless of whether the information is confidential. The Secretary may require by order, directive, or regulation the reporting of:

- “(i) The presence of an individual or group of individuals with specified illnesses or symptoms;
- (ii) Diagnostic and laboratory findings relating to diseases caused by deadly agents;
- (iii) Statistical or utilization trends relating to potential disease outbreaks;
- (iv) Information needed to conduct contact tracing for exposed individuals; and
- (v) Other data deemed by the Secretary to have epidemiological significance in detecting possible catastrophic health emergencies.” § 18-904(b)(1)(i)-(v).

The Secretary may require that health care practitioners submit reports regarding the existence of a deadly agent. MD. CODE ANN., HEALTH-GEN § 18-904(b)(4) (LexisNexis 2005). The Secretary may authorize the release of information to a local, state, or federal government agency or other health care provider. MD. CODE ANN., HEALTH-GEN § 18-

904(d) (LexisNexis 2005). However, the information may only be disclosed to a health care provider or public agency that agrees to keep the information confidential and when “[t]he Secretary determines the disclosure is necessary to treat, prevent, or reduce the spread of the disease or outbreak believed to have been caused by the exposure to a deadly agent.” § 18-904(d)(3)(i)-(ii). There are procedures for the Secretary to follow limiting the release of confidential information and only to those who need the information to treat, prevent, or reduce the spread of the disease. § 18-904(d)(3)(ii). Under subsections (c) and (d), the information gained by the Secretary is to be kept anonymous whenever possible, and information requested and received by the Secretary is to be kept confidential to protect the privacy of the patient involved. § 18-904(c)-(d).

The specific reporting requirements for each type of healthcare provider are included below.

For additional information, see “Topic 5. State Public Health Powers (C)(xv),” page 21.

ii. Health Officers

Health officers have a duty to report communicable diseases that endanger public health to the county board of health and to the county board of education, if the health of school children could be endangered. MD. CODE ANN., HEALTH-GEN. §§ 18-208(a), 18-209 (LexisNexis 2005). After discovering or being made aware of the existence of a communicable disease within the county (the diseases that require reporting are listed in Appendix 3), a health officer must also report it to the Secretary of Health and Mental Hygiene within 24 hours. § 18-208(b). Furthermore, health officers are also required to report to the Secretary any unusual disease or mortality that occurs within their county, whether or not the health officer knows if the disease is infectious or contagious. § 18-208(c).

For additional information, see “Topic 5. State Public Health Powers (D)(iv),” page 23.

B. Specific Reporting Requirements of Different Providers

i. Physician Reporting Requirements

Under MD. CODE ANN., HEALTH-GEN. § 18-201(a) (LexisNexis 2005), “a physician with reason to suspect that a patient under the physician's care has an infectious or contagious disease except human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS) that endangers public health shall submit immediately a report to the health officer for the county where the physician cares for that patient.” The report that the physician provides must be on the Secretary of Health and Mental Hygiene designated form; identify the individual by name, age, race, sex, and address; identify the disease; and be signed by the doctor. § 18-201(b). The report is to be kept confidential and is “not open to public inspection.” § 18-201(c)(1)(i - ii). Furthermore, it is “subject to subpoena or discovery in any criminal or civil proceeding only pursuant to a court order sealing the court record.” MD. CODE ANN., HEALTH-GEN § 18-201(c)(1)(iii)

(LexisNexis 2005). The Secretary may disclose this information to a “governmental agency performing its lawful duties . . .” when the recipient agrees to “maintain the confidentiality and “the disclosure is necessary to protect the public health or to prevent the spread of an infectious or contagious disease.” § 18-201(c)(2).

For additional information, see “Topic 5. State Public Health Powers (F)(i),” page 24.

ii. Institution Reporting Requirements

Under MD. CODE. ANN., HEALTH-GEN. § 18-202 (LexisNexis 2005), “[w]hen the administrative head of an institution has reason to believe that an individual on the premises of the institution has an infectious or contagious disease, except HIV or AIDS, the administrative head immediately shall submit a report to the health officer for the county where the institution is located.” The report must state the name and address of the individual believed to be infected and identify the disease, the administrative head of the institution, and the location of the institution.

The report that is made by an institution is to be kept confidential and is protected to the same extent as physician’s reports. (*See* “Physicians Reporting Requirements” above).

For additional information, see “Topic 5. State Public Health Powers (F)(ii),” page 24.

iii. Medical Laboratory Reporting Requirements

The director of a medical laboratory is required to report the existence of one of 65 diseases, listed within the statute, to the county health officer within 48 hours “after an examination of a human specimen shows evidence of any disease or condition listed . . .” MD. CODE ANN., HEALTH-GEN. § 18-205(b) (LexisNexis 2005). The health officer must then report the disease occurrence to the Secretary of Health and Mental Hygiene. § 18-205(b). Both the health officer and the Secretary of Health and Mental Hygiene are authorized to discuss the report with the attending physician of the infected individual and inspect the records of the medical laboratory. § 18-205(h) .

For additional information, see “Topic 5. State Public Health Powers (F)(iii),” page 25; “Appendix 3. Communicable Diseases Requiring Report.”

C. HIPAA Impact on Communicable Disease Reporting

In 1996, Congress enacted the Health Insurance Portability and Accountability Act (HIPAA) to apply to health information created or maintained by health care providers who engage in certain electronic transactions, health plans, and health care clearinghouses. 42 U.S.C.A. §§ 1320a-7c(3)(B), 1320d-2 (West 2003 & Supp. 2005). The Department of Health and Human Services has issued a Privacy Rule which provides comprehensive Federal protection for the privacy of health information. 45 C.F.R. §§160 and 164 (2004). The Privacy Rule also recognizes that fundamental public health

activities need to continue in order to ensure public health and safety. 45 C.F.R. §§ 160.203(a)(1)(iv),(c), 164.502, 164.512 (2004).

The Privacy Rule provides exceptions to the consent and authorization requirements for uses and disclosures required by law, uses and disclosures for public health activities, and for health oversight. 45 C.F.R. §§ 160.203(a)(1)(iv),(c), 164.502, 164.512 (2004). Thus, the Privacy Rule supports the Department of Health and Mental Hygiene's continued ability to receive health information related to the mandated reporting of diseases, as well as the Department's collection of data related to preventing or controlling disease, public health surveillance, investigation, and intervention. 45 C.F.R. § 164.512(b)(1)(i) (2004). In addition, the Privacy Rule allows covered entities to provide to a public health authority, such as the Department of Health and Human Services, information about an individual exposed to a communicable disease or who may otherwise be at risk of contracting or spreading a disease or condition. 45 C.F.R. § 164.512(b)(1)(iv) (2004).

In Maryland, there is a general prohibition against the release of medical records. However, exceptions are established to require reporting of communicable diseases and disclosures of medical records to the Secretary of Health and Mental Hygiene for the purpose of investigation and control of a public health emergency. *See* MD. CODE ANN., HEALTH-GEN. §§ 18-201, 18-202, 18-205, 18-903 (LexisNexis 2005); COMAR 10.06.01.03 – 10.06.01.07.

Information issued by the Department of Health and Human Services indicates that the Privacy Rule does permit covered entities to disclose protected health information, without an individual's authorization, to public officials responding to a bioterrorism threat or other public health emergency. Centers for Disease Control, *HIPAA Privacy Rule and Public Health: Guidance from CDC and the U.S. Department of Health and Human Services*, 52 MMWR 1 (April 11, 2003), available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/m2e411a1.htm>. The guidance issued by DHHS indicates that the Privacy Rule permits covered entities to disclose needed information to public officials in a variety of ways. *Id.* Covered entities may disclose protected health information, without the individual's authorization, to a public health authority acting as authorized by law in response to a bioterrorism threat or public health emergency. *Id.* The Privacy Rule also permits a covered entity to disclose protected health information to public officials who are reasonably able to prevent or lessen a serious and imminent threat to public health or safety related to bioterrorism. *Id.* In addition, disclosure of protected health information, without the individual's authorization, is permitted where the circumstances of the emergency implicate law enforcement activities; national security and intelligence activities; or judicial and administrative proceedings. *Id.*

TOPIC 9. QUARANTINE / ISOLATION

A. State Quarantine Authority

i. Catastrophic Health Emergencies Act

After the Governor has proclaimed a catastrophic health emergency under the provisions of MD. CODE ANN., PUB. SAFETY §§ 14-3A-02 and 14-3A-03, the Governor may order the Secretary of Health and Mental Hygiene to establish places of isolation and quarantine, and require individuals to go to and remain in the places of isolation and quarantine. MD. CODE ANN., PUB. SAFETY § 14-3A-03(b)(3)(iii)-(iv) (LexisNexis Supp. 2004). The circuit courts of the State may order a quarantine for up to thirty (30) days at a time, and prior to its expiration, the Secretary of Health and Mental Hygiene may “move to continue isolation or quarantine for subsequent 30-day periods.” The circuit court must use the same standard as is outlined in MD. CODE ANN., PUB. SAFETY § 14-3A-05(c)(5) (discussed below under ii. Process Required to Impose Quarantine); and determine whether the directive should be continued for another 30 days. The same requirements are also listed under MD. CODE ANN., HEALTH – GEN. I § 18-906(b)(5)(iii), (iv) (LexisNexis 2005).

The Secretary of Health and Mental Hygiene is also authorized to order isolation or quarantine without the Governor issuing an order if the Secretary determines that the disease can be contained by the Department of Health and Mental Hygiene. MD. CODE ANN., HEALTH-GEN. § 18-905(b) (LexisNexis 2005).

If the Secretary orders an individual over the age of 18 to receive medical treatment or testing, in accordance with an order issued by the Governor under MD. CODE ANN., PUB. SAFETY § 14-3A-02, and the individual refuses, the Secretary can order the isolation and quarantine of the individual. MD. CODE ANN., HEALTH-GEN. § 18-905(a)(1)(iii) (LexisNexis 2005), PUB. SAFETY § 14-3A-04 (LexisNexis 2005).

Finally, the Secretary can order law enforcement to enforce or execute the orders issued to compel isolation and quarantine. MD. CODE ANN., HEALTH-GEN. § 18-905(a)(3) (LexisNexis 2005). Furthermore, a knowing and willful failure to comply with an order to enter isolation or quarantine is a misdemeanor and carries a penalty of up to 1 year in prison and/or a fine of up to either \$3,000 (for violating the Secretary’s order) or \$5,000 (for violating the Governor’s order). MD. CODE ANN., HEALTH-GEN. § 18-907(a) (LexisNexis 2005), MD. CODE ANN., PUB. SAFETY § 14-3A-08 (LexisNexis Supp. 2004).

For additional information, see “Topic 1. Powers of the Governor (D),” page 3; “Topic 5. State Public Health Powers (C)(xvi),” page 21.

ii. Process Required to Impose Quarantine

In order to impose an isolation or quarantine, the Secretary of Health and Mental Hygiene must issue a directive that names the individual(s) to be isolated or quarantined, the place where the isolation or quarantine is to take place, the date and time the isolation or

quarantine is to begin, and the reason for the isolation or quarantine. MD. CODE ANN., HEALTH-GEN. § 18-906(a) (LexisNexis 2005), MD. CODE ANN., PUB. SAFETY § 14-3A-05 (LexisNexis Supp. 2004). The directive must be in writing and must also give notice of the ability to challenge the order of isolation and quarantine. MD. CODE ANN., PUB. SAFETY § 14-3A-05(b) (LexisNexis Supp. 2004). Finally, the notice of isolation or quarantine must be given to those affected prior to the institution of the isolation or quarantine. However, “[i]f the Secretary or other designated official determines that the notice required . . . is impractical because of the number of individuals or geographical areas affected, the Secretary or other designated official shall ensure that the affected individuals are fully informed of the directive using the best possible means available.” § 14-3A-05(b)(3)(i).

An individual or group of individuals isolated or quarantined may request a hearing in circuit court challenging the isolation or quarantine. MD. CODE ANN., HEALTH-GEN. § 18-906(b)(1) (LexisNexis 2005). Under this section, a request for a hearing may not lead to an injunction or stay of the quarantine or isolation; the hearing must occur within three days of filing. § 18-906(b)(2) and (b)(3). If however, the Secretary of Health and Mental Hygiene shows that there are “extraordinary circumstances,” the timeframe for the hearing may be extended. § 18-906(b)(4)(i). Prior to granting the isolation or quarantine, the court must consider the health and rights of the quarantined individual as well as the protection of the community. § 18-906(b)(4)(ii). The court will grant the petition for release from quarantine unless it is shown that the quarantine is “necessary and reasonable to prevent or reduce the spread of the disease or outbreak believed to have been caused by the exposure to a deadly agent.” § 18-906(b)(5). The process for challenging and the standard for granting an order for isolation or quarantine are also explained under MD. CODE ANN., PUB. SAFETY § 14-3A-05(c) (LexisNexis Supp. 2004).

Challengers to isolation and quarantine are entitled to appointed counsel. MD. CODE ANN., HEALTH-GEN. § 18-906(c) (LexisNexis 2005) and MD. CODE ANN., PUB. SAFETY § 14-3A-05(f)(2) (LexisNexis Supp. 2004).

The Maryland Court of Appeals was charged with enacting emergency rules of procedure for the challenging of an order to quarantine. MD. CODE ANN., HEALTH-GEN. § 18-906(d) (LexisNexis 2005) and MD. CODE ANN., PUB. SAFETY § 14-3A-05(f)(3) (LexisNexis Supp. 2004). Pursuant to this provision, rules were adopted by the Court of Appeals on April 5, 2005 and took effect on July 1, 2005. Under these rules, “[a]n individual or group of individuals required to go to or remain in a place of isolation or quarantine . . . may contest the isolation or quarantine by filing a petition for relief with the Clerk of the Court of Appeals.” Md. Rule 15-1103(a) (Supp. 2005). After the petition is filed, the Chief Judge of the Court of Appeals will assign the case “to a judge of any circuit court to hear the action” and set “the date, time, and location” of the hearing. Md. Rule 15-1103(b) (Supp. 2005). Notice will then be provided by the Clerk to the Secretary and counsel for the Department of Health and Mental Hygiene “no later than the day after the petition was filed.” Md. Rule 15-1103(c) (Supp. 2005). If the Secretary does not answer the petition the allegations are assumed to be denied. Md. Rule 15-

1103(d) (Supp. 2005). The rules further establish that the court will appoint the petitioner counsel and that the court making the appointment is required to pay the reasonable fees and costs of the counsel appointed. Md. Rule 15-1104(a) (Supp. 2005). The rules allow for petitions to be consolidated and require that the hearing occur within three days, unless the time has been extended by the court by a request from either the Secretary or petitioner, or because the time is needed to consolidate the proceedings. Md. Rule 15-1104(b)–(c) (Supp. 2005). The rules also permit the acceptance of pleadings and other filings by fax and e-mail, and allow the parties to attend the proceedings through telephone conference, closed circuit television, or other means determined by the court to be the “fair and effective adjudication of the proceedings.” Md. Rule 15-1104(d) (Supp. 2005). Furthermore, the court is permitted to decline to apply the common-law rules of evidence and may decline to require strict adherence with the rules of evidence except with regard to issues concerning the competency of witnesses and privileges. Md. Rule 5-101(c)(8) (2005) and Md. Rule 15-1104(d)(3) (Supp. 2005).

Md. Rule 15-1105(a) (Supp. 2005) outlines what the court must consider in rendering a decision and the standard for the decision and order. The considerations include, the manner the disease is transmitted, the “degree of contagion that is associated with exposure,” the “degree of public exposure,” “the risk and severity” of the results from exposure, whether the petitioner has actually been exposed, the risks of enjoining the Secretary from ordering the isolation or quarantine, and “any other material facts.” Md. Rule 15-1105(a)(1)–(7) (Supp. 2005). “The court shall order the release of the petitioner unless the court finds by a preponderance of the evidence that the Secretary’s directive to isolate or quarantine is necessary and reasonable under the circumstances to prevent or reduce the spread of the disease or outbreak believe to have been caused by exposure to a deadly agent.” Md. Rule 15-1105(b) (Supp. 2005). The court is then required to prepare a statement of reasons and then a written order is to be produced and served by the Secretary. Md. Rule 15-1105(c)–(d) (Supp. 2005). The order may direct isolation or quarantine for a time period up to thirty (30) days, must identify the individuals subject to the confinement, and express the findings of fact and conclusions of law by reference to the decision. Md. Rule 15-1105(d)(2) (Supp. 2005). The rules allow for a party to appeal the decision of the circuit court. Md. Rule 15-1107 (Supp. 2005). Finally, the court is permitted to stay an order to release, pending appeal by the Secretary. Md. Rule 15-1105(e) (Supp. 2005). Lastly, the rules state that if the Secretary moves for an extension of the isolation or quarantine for another thirty (30) days, then the court must grant another hearing unless the individuals to be quarantined consent. Md. Rule 15-1106 (Supp. 2005).

iii. Governor’s Authority to Quarantine Vessels

If the Governor has “strong grounds to believe” that a dangerous disease is being introduced into the State, then the Governor may quarantine a vessel entering the waters of the State. MD. CODE ANN., HEALTH-GEN. § 18-212.1 (LexisNexis 2005).

For additional information, see “Topic 1. Powers of the Governor (E)(ii),” page 7.

B. Local Quarantine Authority

See “Topic 6. Local Public Health Powers,” pages 27 through 33.

C. Federal Quarantine Authority

“The Surgeon General, with the approval of the Secretary [of Health and Human Services], is authorized to make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the [United] States or possessions, or from one State or possession into any other State or possession.” 42 U.S.C.A. § 264(a) (West 2003 and Supp. 2005). Regulations prescribed under this section may provide for the apprehension, detention or conditional release of individuals to prevent introduction, transmission, or spread of communicable diseases as specified in Executive Orders of the President upon recommendation of the Secretary, in consultation with the Surgeon General. *See id.* § 264(b).

The diseases for which a person may be subject to quarantine must be specified by the President through an Executive order. By way of executive order, those with the following are subject to quarantine: “Cholera; Diphtheria; infectious Tuberculosis; Plague; Smallpox; Yellow Fever; . . . Viral Hemorrhagic Fevers (Lassa, Marburg, Ebola, Crimean-Congo, South American, and others not yet isolated or named).” Exec. Order No. 13295, 68 Fed. Reg. 17255 (April 4, 2003). Also subject to quarantine is anyone having Severe Acute Respiratory Syndrome (SARS), which is a disease associated with fever and signs and symptoms of pneumonia or other respiratory illness . . . [and] is transmitted from person to person predominantly by the aerosolized or droplet route. *Id.* Influenza was added to the list of diseases warranting quarantine on April 1, 2005. Exec. Order No. 13375, 70 Fed. Reg. 17299 (April 1, 2005).

i. Foreign Quarantine Regulations

“Whenever the Surgeon General determines that by reason of the existence of any communicable disease in a foreign country there is a serious danger of introduction of such disease into the United States, and that this danger is so increased by the introduction of persons or property from such country, . . . the Surgeon General, in accordance with regulations approved by the President,” has “the power to prohibit . . . the introduction of persons and property from such countries or places as he shall designate in order to avert such danger, and for such period of time as he may deem necessary for such purpose.” 42 U.S.C.A. § 265 (West 2003).

“To protect the military and naval forces and war workers of the United States, in the time of war, against any communicable disease specified in Executive orders, . . . the Secretary [of Health and Human Services], in consultation with the Surgeon General, is authorized to provide by regulations for the apprehension and examination of any individual reasonably believed (1) to be infected with such disease and (2) to be a probable source of infection to members of the armed forces of the United States or to

individuals engaged in the production or transportation of arms, munitions, ships, food, clothing, or other supplies for the armed forces. Such regulations may provide that if upon examination any such individual is found to be so infected, he may be detained for such time and in such manner as may be reasonably necessary.” *See id.* § 266.

42 U.S.C.A. § 267 (West 2003) provides that “the Surgeon General shall control, direct, and manage all United States quarantine stations.”

42 U.S.C.A. § 268 (West 2003) provides that “[a]ny consular or medical officer of the United States, designated for such purpose by the Secretary, shall make reports to the Surgeon General . . . of the health conditions at the port or place at which the officer is stationed;” and provides that it is the “duty of customs officers and Coast Guard officers to aid in the enforcement of quarantine rules and regulations.”

42 U.S.C.A. § 269 (West 2003) establishes the contents of bills of health for vessels at any foreign port or in a State or possession. Bills of health are to include the “sanitary history and condition of such vessel, and shall state that it has in all respects complied with the regulations prescribed” in that section.

“The Secretary [of Health and Human Services] is authorized to accept from State and local authorities any assistance in the enforcement of quarantine regulations.” 42 U.S.C.A. § 243(a) (West 2003 and Supp. 2005). The Secretary shall also “assist States and their political subdivisions in the prevention and suppression of communicable diseases and with respect to other public health matters, shall cooperate with and aid State and local health authorities in the enforcement of their quarantine and other health regulations, and shall advise the several States on matters relating to the preservation and improvement of the public health.” *See id.* § 243(a).

42 C.F.R. § 71.32 (2004) authorizes the Director of the Centers for Disease Control to detain, isolate, or place a person under surveillance whenever the Director has reason to believe that any arriving person is infected with, or has been exposed to, cholera or suspected cholera, diphtheria, infectious tuberculosis, plague, suspected smallpox, yellow fever, or suspected viral hemorrhagic fevers.

“Any person detained in accordance with quarantine laws . . . may be treated and cared for by the Public Health Service.” 42 U.S.C.A. § 249(a) (West 2003). Such persons may also receive care and treatment from public or private medical or hospital facilities at the expense of the Service. *See id.* § 249(c).

For additional information, see “Topic 7. Select Federal Public Health Powers (I)(i),” page 37.

ii. Interstate Quarantine Regulations

“Whenever the Director of the Centers for Disease Control and Prevention determines that the measures taken by health authorities of any State or possession (including political subdivisions thereof) are insufficient to prevent the spread of any communicable diseases from such State or possession to any other State or possession, he or she may take such measures to prevent such spread of disease as he or she deems reasonably necessary, including inspection, fumigation, disinfection, sanitation, pest extermination, and destruction of animals or articles believed to be sources of infection.” 42 C.F.R. § 70.2 (2004).

“A person who has a communicable disease in the communicable period” is prohibited from traveling “from one State or possession to another without a permit from the health officer of the State, possession, or locality of destination, if such permit is required under the law applicable to the place of destination.” *See id.* § 70.3.

42 C.F.R. §70.5 (2004) provides specific travel restrictions concerning any person who is in the “communicable period of cholera, plague, smallpox, typhus or yellow fever, or who, having been exposed to any such disease, is in the incubation period.” “No such person may travel from one State or possession to another, or on a conveyance engaged in interstate traffic,” without the written permission of the Surgeon General. *See id.* § 70.5(a)(1).

42 C.F.R. § 70.4 (2004) requires “[t]he master of any vessel or person in charge of any conveyance engaged in interstate traffic, on which a case or suspected case of a communicable disease develops, to notify the local health authority at the next port of call as soon as practicable and to take measures to prevent the spread of the disease as the local health authority directs.”

For additional information, see “Topic 7. Select Federal Public Health Powers (I)(ii),” page 38.

**TOPIC 10. COMPULSORY MEDICAL EXAMINATION, TESTING,
VACCINATION, AND TREATMENT TO RESPOND
TO A CATASTROPHIC HEALTH EMERGENCY**

A. Compulsory Medical Examination, Testing, Vaccination, and Treatment during a Catastrophic Health Emergency

i. Medical Examination, Testing and Treatment

Once a catastrophic health emergency has been proclaimed by the Governor, in accordance with MD. CODE ANN., PUB. SAFETY § 14-3A-02, he or she may order the Secretary of Health and Mental Hygiene to “require individuals to submit to medical examination or testing” if “medically necessary and reasonable to treat, prevent, or reduce the spread of the disease or outbreak believed to have been caused by the exposure to a deadly agent.” MD. CODE ANN., PUB. SAFETY § 14-3A-03(b)(3) (LexisNexis Supp. 2004).

Even without an express order from the Governor, once a catastrophic health emergency has been declared by the Governor, in accordance with MD. CODE ANN., PUB. SAFETY § 14-3A-02, the Secretary of Health and Mental Hygiene may order compulsory medical examination and treatment. MD. CODE ANN., HEALTH-GEN. § 18-905(a)(1)(i) (LexisNexis 2005).

For additional information, see “Topic 1. Powers of the Governor,” (D) page 3; “Topic 5. State Public Health Powers (C)(xvi),” page 21.

ii. Vaccination

Once a catastrophic health emergency has been proclaimed by the Governor, in accordance with MD. CODE ANN., PUB. SAFETY § 14-3A-02, he or she may order the Secretary of Health and Mental Hygiene to vaccinate individuals unless the vaccination “likely will cause serious harm to the individual.” MD. CODE ANN., PUB. SAFETY § 14-3A-03(b)(3)(ii) (LexisNexis Supp. 2004).

For additional information, see “Topic 1. Powers of the Governor (D),” page 3.

B. Refusal to Comply with an Order to be Examined, Tested, Treated, or Vaccinated during a Catastrophic Health Emergency

If an individual refuses to comply with an order to be examined, tested, treated, or vaccinated, issued under the Governor’s powers pursuant to a declaration of a catastrophic health emergency under MD. CODE ANN., PUB. SAFETY §§ 14-3A-02 and 14-3A-03(b)(3), the Secretary may require that the individual submit to isolation or quarantine. MD. CODE ANN., HEALTH-GEN. § 18-905(a)(1)(iii) (LexisNexis 2005) and MD. CODE ANN., PUB. SAFETY § 14-3A-04 (Lexis Nexis Supp. 2004).

An individual who knowingly and willfully fails to comply with an order issued under § 18-905 is guilty of a misdemeanor and is subject to a penalty not to exceed one year imprisonment and or a fine of up to \$3,000.00. MD. CODE ANN., HEALTH-GEN. § 18-907(a) (LexisNexis 2005).

A violation of the Governor's order requiring the Secretary of Health and Mental Hygiene or other designated official to require medical examination, testing, treatment, or vaccination constitutes a misdemeanor and is punishable by a prison term of up to one year and or a fine of \$5,000. MD. CODE ANN., PUB. SAFETY § 14-3A-08(b) (LexisNexis Supp. 2004).

For additional information, see "Topic 5. State Public Health Powers (C)(xviii)," page 22.

**TOPIC 11. SEIZURE, STOCKPILING, AND CONTROL OF SUPPLIES NEED
TO RESPOND TO A CATASTROPHIC HEALTH EMERGENCY**

After a catastrophic health emergency has been proclaimed by the Governor in accordance with MD. CODE ANN., PUB. SAFETY § 14-3A-02, the Governor may order the Secretary of Health and Mental Hygiene to “seize immediately anything needed to respond to the medical consequences of the catastrophic health emergency” and to “control, restrict, or regulated the use, sale, dispensing, distribution, or transportation of anything needed.” MD. CODE ANN., PUB. SAFETY § 14-3A-03(b)(1)(i) and (2)(i)-(v) (LexisNexis Supp. 2004).

**TOPIC 12. COMPELLED SERVICE BY HEALTH CARE PROVIDERS TO
TREAT EXPOSED INDIVIDUALS DURING A CATASTROPHIC HEALTH
EMERGENCY**

A. Compelling Health Care Providers to Treat Exposed or Infected Individuals during a Catastrophic Health Emergency

Once a catastrophic health emergency has been proclaimed by the Governor under MD. CODE ANN., PUB. SAFETY § 14-3A-02, the Governor may order health care providers to render medical surveillance and treatment and “to comply with the directives of the Secretary [of Health and Mental Hygiene]” to respond to the health threat. MD. CODE ANN., PUB. SAFETY § 14-3A-03(c) (LexisNexis Supp. 2004).

For additional information, see “Topic 1. Powers of the Governor (D),” page 3.

B. Immunity of the Health Care Provider

During a declared catastrophic health emergency, “[a] health care provider is immune from civil or criminal liability if the health care provider acts in good faith and under a catastrophic health emergency proclamation.” MD. CODE ANN., PUB. SAFETY § 14-3A-06 (LexisNexis Supp. 2004).

For additional information, see “Topic 21. Immunity / Liability (F),” page 100.

C. Failure of a Health Care Provider to Comply With the Order to Perform Examinations and Treatment

A health care provider, who fails to comply after being ordered by the Governor to assist in the surveillance, examination, and treatment of victims during a proclaimed catastrophic health emergency, may face civil penalties. MD. CODE ANN., PUB. SAFETY § 14-3A-08 (LexisNexis Supp. 2004).

In particular, if a health care facility fails to comply with an order issued by the Secretary, the facility faces a civil penalty of up to \$3,000.00 per infraction. MD. CODE ANN., HEALTH-GEN. § 18-907(b) (LexisNexis 2005). Furthermore, the Secretary may request the appropriate licensing board to place the practitioner’s license or certificate on probation, suspend or revoke the license or certificate of the practitioner, or impose “a civil penalty not to exceed \$ 3,000 for each offense” for failure to comply with an order issued under. §§ 18-903 or 18-904. § 18-907(c).

TOPIC 13. ENTRY ONTO PROPERTY FOR TESTING

A. Governor's Authority to Enter onto Property

i. State of Emergency

After declaring a state of public emergency, the Governor has the power to “promulgate reasonable orders, rules, or regulations” which he or she “considers necessary to protect life and property or [that are] calculated effectively to control and terminate the public emergency.” MD. CODE ANN., PUB. SAFETY § 14-303(b) (LexisNexis 2003). This broad grant of power permits the Governor to order entry onto property to test for a communicable disease.

For additional information, see “Topic 1. Powers of the Governor (E)(i),” page 5.

ii. Catastrophic Health Emergency

The Governor may, after proclaiming a catastrophic health emergency in accordance with MD. CODE ANN., PUB. SAFETY § 14-3A-02, order the closure and evacuation of a facility. MD. CODE ANN., PUB. SAFETY § 14-3A-03(d) (LexisNexis Supp. 2004).

For additional information, see “Topic 1. Powers of the Governor (D)” page 3.

B. The Secretary of Health and Mental Hygiene's Authority to Enter onto Property

Generally, the Secretary of Health and Mental Hygiene (or an agent or employee of the Secretary) is authorized to enter on and inspect private premises to investigate contagious disease or diseases that endanger the public health, and to enter business premises to carry out his or her duty. MD. CODE ANN., HEALTH-GEN. § 18-102(3), 2-104(1) (LexisNexis 2005).

More specifically, the Secretary of Health and Mental Hygiene is authorized to issue an order, directive, or regulation to “[o]btain access to premises in order to secure environmental samples and otherwise investigate actual or potential exposures to deadly agents.” MD. CODE ANN., HEALTH-GEN. § 18-904(b)(5) (LexisNexis 2005).

For additional information, see “Topic 5. State Public Health Powers (C)(viii),” page 18.

C. Health Officer's Authority to Enter onto Property

Health officers may enter any building to inspect, in the performance of their official duties. MD. CODE ANN., HEALTH-GEN. § 3-307 (LexisNexis 2005). In the case of private houses, the health officer must first obtain either consent, a warrant, or determine that there is no time to obtain a warrant and that “an exceptional or emergency situation exists.” § 3-307(a). In the case of a place of business, a health officer may enter the

premises to fulfill his official duties. § 3-307(b). A health officer also has the authority to acquire samples of foods and drugs for testing. § 3-306(b).

For additional information, see “Topic 5. State Public Health Powers (D)(i),” page 22.

TOPIC 14. DISPOSITION OF HUMAN REMAINS

A. Department of Health and Mental Hygiene

The Annotated Code of Maryland, § 18-102, provides broad authority to the Secretary of Health and Mental Hygiene to “adopt rules and regulations necessary to prevent” the introduction and the spread of infectious, contagious, or other disease that may threaten the public health in Maryland. MD. CODE ANN., HEALTH-GEN. § 18-102(a) (LexisNexis 2005).

For additional information, see “Topic 5. State Public Health Powers (C)(x),” page 19.

B. Vital Records

Under MD. CODE ANN., HEALTH-GEN. § 4-203 (LexisNexis 2005) the Secretary of Health and Mental Hygiene is charged with the responsibility for administering “efficiently and uniformly” the requirements of vital records throughout the state. To accomplish this goal, “[t]he Secretary shall appoint a State registrar of vital records, who shall be in the skilled service of the State Personnel Management System.” § 4-202(a).

MD. CODE ANN., HEALTH-GEN. § 4-215 (LexisNexis 2005) sets out the requirements for burial-transit permits, the duties of the person in charge of the cemetery regarding burial-transit permits, and establishes the requirement of a permit for disinterment and reinterment.

Regulations adopted for the transportation of human remains state that human remains may not be transported within or out of Maryland without a valid burial-transit permit, and the permit must remain with the human remains until it reaches its final destination. COMAR 10.03.01.05(A). The regulations go further to require that when human remains are to be shipped via common carrier, the remains must be transported in a casket that is designed to “prevent seepage or escape of odors.” COMAR 10.03.01.05(B).

Regulations have also been adopted for the disinterment and reinterment of human remains and are set out at COMAR 10.03.01.06.

C. Burial of the Deceased

In order to proceed with burial, the mortician must obtain a burial-transit permit within 72 hours of taking possession of the body and prior to final burial or removal from the State. MD. CODE ANN., HEALTH-GEN. § 4-215(b) (LexisNexis 2005). Without this authorization, the manager of a cemetery “may not permit final disposition.” § 4-215(c)(1). When the manager of the cemetery is presented with the burial-transit permit, the manager must write upon it the date of final disposition, sign the permit, and return it to the Secretary of Health and Mental Hygiene within 10 days. § 4-215(c)(2).

Prior to burial or interment, a mortician is required to affix an identification tag made of plastic or metal including the name, social security number, date of birth, and date of death of the decedent to the decedent's long bones. MD. CODE ANN., HEALTH OCC. § 7-411(a) and (c) (2000).

D. Cremation

Prior to cremation, the body must be identified by an eligible person, defined to include the next of kin or a person "authorized to arrange for final disposition of the body, [or a] medical examiner." MD. CODE ANN., HEALTH-GEN. § 5-502 (LexisNexis 2005). The order for succession of who is an authorized individual is listed at § 5-509(c). The State may also authorize the cremation of an individual where the State is responsible for the final disposition of the human remains. §§ 5-509(e) and 5-502. Finally, a body cannot be cremated "until at least 12 hours after death." § 5-503.

The licensed mortician who performs the cremation must keep a file including the "signature of the next of kin, person identifying the body, or person responsible for disposition, time of death, and the date and time of cremation." MD. CODE ANN., HEALTH OCC. § 7-406 (2000). Cremation must be carried out by a licensed mortician. MD. CODE ANN., HEALTH OCC. §§ 7-101(q), 7-302(a), and 7-501 (LexisNexis 2000).

After the cremation is complete the mortician is required to place an identification tag including the name, social security number, date of birth, and date of death in the cremains container. MD. CODE ANN., HEALTH OCC. § 7-411(b) (LexisNexis 2000).

E. Funeral Directors and Morticians Licensing

Maryland requires that anyone practicing mortuary science be licensed by the State Board of Morticians. MD. CODE ANN., HEALTH OCC. § 7-301(a) (LexisNexis 2000 and Supp. 2004). More specifically, § 7-302(a) requires a mortician to be licensed. § 7-302. MD. CODE ANN., HEALTH OCC. § 7-303 charges the Board of Morticians with setting the necessary qualifications for obtaining a license to practice mortuary science in Maryland and provides the basic requirements. An applicant for a license to practice mortuary science must have passed a written examination on Maryland mortuary science law. § 7-303(b)(5). The regulations regarding the examination of candidates are listed at COMAR10.29.02.00 – 06.

F. Medical Examiner's Authority and Duty

A medical examiner is required to "investigate the death of a human being if the death occurs: (i) by violence; (ii) by suicide; (iii) by casualty; (iv) suddenly, if the deceased was in apparent good health or unattended by a physician; or (v) in any suspicious or unusual manner." MD. CODE ANN., HEALTH-GEN. § 5-309(a) (LexisNexis 2005). When a medical examiner's case occurs, the sheriff or police are required to notify the medical examiner and the State's Attorney "for the county where the body is found" immediately, and provide the "facts concerning the time, place, manner, and circumstances of the death."

MD. CODE ANN., HEALTH-GEN. § 5-309(b) (LexisNexis 2005). Immediately after being notified, the medical examiner or an investigator of the medical examiner “shall go to and take charge of the body.” § 5-309(c). “The medical examiner or the investigator shall investigate fully the essential facts concerning the medical cause of death and, before leaving the premises, reduce these facts and the names and addresses of witnesses to writing, which shall be filed in the medical examiner's office.” § 5-309(c).

“[A] medical examiner may administer oaths, take affidavits, and make examinations as to any matter within the medical examiner’s jurisdiction.” MD. CODE ANN., HEALTH-GEN § 5-312 (LexisNexis 2005).

G. Autopsy

An autopsy will be performed if the medical examiner determines that it is necessary to determine the cause of death pursuant to MD. CODE ANN., HEALTH-GEN. § 5-310(b)(1) (2005). The requirements and authorization for the medical examiner to perform an autopsy are located at MD. CODE ANN., HEALTH-GEN. § 5-310 (LexisNexis 2005). If authorized by the medical examiner, an autopsy may be performed by the Chief Medical Examiner, Deputy Medical Examiner, an Assistant Medical Examiner, or a pathologist authorized by the same. § 5-310(b)(1). The examiner performing the autopsy must “prepare detailed written findings during the progress of the autopsy.” § 5-310(d)(1). “These findings and the conclusions drawn from them shall be filed in the office of the medical examiner for the county where the death occurred.” § 5-310(d)(1). The original report of the autopsy must be filed in the office of the Chief Medical Examiner. § 5-310(d)(1). An autopsy may proceed over the religious objections of a family if the medical examiner authorizes the autopsy. § 5-310(b)(2) and *see Snyder v. Holy Cross Hospital*, 30 Md. App. 317, 352 A.2d 334 (1976).

H. Cadavers

The State Anatomy Board is responsible for regulating the use of bodies for medical study in the State. MD. CODE ANN., HEALTH-GEN. § 5-407 (2005). The board is comprised of “1 member [of the] Anatomy Department of the University of Maryland School of Dentistry, and 2 members of the anatomy department of each medical school in this State,” and are chosen by the “administrative officer of each school.” § 5-403(a). The board is empowered to adopt regulations that carry out the goals of the board. MD. CODE ANN., HEALTH-GEN. § 5-404.1 (LexisNexis 2005). (Note that the only regulations passed under the anatomy board are those that set the fee schedule. COMAR 10.49.01.0 – 03.). Furthermore, “[t]he power of the Secretary [of Health and Mental Hygiene] over, plans, proposals, and projects of units in the Department [of Health and Mental Hygiene] does not include the power to disapprove or modify any decision or determination that the Board makes under authority specifically delegated by law to the Board.” MD. CODE ANN., HEALTH-GEN. § 5-405(a) (LexisNexis 2005).

In the case of unclaimed bodies, the public officer who is in control of the unclaimed body must notify the chairman of the Anatomy Board. MD. CODE ANN., HEALTH-GEN.

§ 5-406(a) (LexisNexis 2005). In general, the board may not take control of a body until after 72 hours have elapsed from the time of death and a reasonable search has been performed to locate someone to take control of the body. § 5-406(a)(1) and (c)(1). However, if the public official in control of the body cannot refrigerate the body for 72 hours, then the body can be removed to the morgue and refrigerated there for 72 hours. § 5-406(b). After the 72 hours have elapsed, the board has exclusive control over the body and may order that the body be embalmed, and “any relative or friend of the deceased may claim the body” upon payment of the cost of moving and embalming the body. § 5-406(c).

In the case of donated bodies, the person in control of the body is required to notify the chairman of the Anatomy Board. § 5-406.1(a). After the notification, the board “may remove the body to a designated morgue in Baltimore City.” § 5-406.1(b).

The Anatomy Board will distribute bodies and parts that are under its “exclusive control” among the University of Maryland School of Dentistry and all of the medical schools in Maryland. MD. CODE ANN., HEALTH-GEN. § 5-407 (LexisNexis 2005).

TOPIC 15. PURCHASING AUTHORITY

A. General State Procurement Authority

Generally, Maryland uses a competitive procurement process to purchase goods and services. MD. CODE ANN., STATE FIN. & PROC., Div. II, particularly § 13-102 (LexisNexis Supp. 2004) and MD. REGS. CODE tit. 21 (2003).

However, the State may make use of “emergency procurement” procedures at any point in time, not solely during a declared state of emergency or catastrophic health emergency. *See* MD. CODE ANN., STATE FIN. & PROC. § 13-108(a)(1) (LexisNexis Supp. 2004) and COMAR 21.05.06.02. “[W]ith the approval of the head of a unit, its procurement officer may make an emergency procurement by any method that the procurement officer considers most appropriate to avoid or mitigate serious damage to public health, safety, or welfare.” § 13-108(a)(1). The regulations define an emergency for these purposes as “a sudden and unexpected occurrence or condition which agency management reasonably could not foresee that requires an action to avoid or to mitigate serious damage to public health, safety, or welfare.” COMAR 21.01.02.01(B)(36). The procurement officer must “obtain as much competition as possible under the circumstances,” limit the procurement to only the essential items needed to “avoid or mitigate serious damage to public health, safety, or welfare,” and must submit a written report to the Board justifying the use of the emergency procedure. § 13-108(a)(2). COMAR 21.05.06.00 - 03 provides the regulations associated with an emergency procurement. The regulations indicate that the emergency procurement protocol may only be used when the agency’s need cannot be satisfied through normal procurement methods. COMAR 21.05.06.02(B)(1). The regulations also specify that the emergency process must be approved by the agency head or designee. COMAR 21.05.06.02(B)(2). The record and review of the emergency procurement are provided at COMAR 21.05.06.02(D), and indicate that notice of the awarded contract must be published in Maryland Contract Weekly within 30 days, and a detailed record of the transaction, including justification for the use of the emergency procedure, must be produced and given to the Board of Public Works.

B. Governor’s Power to Procure Supplies and Equipment

i. In Preparation for an Emergency

In addition to the general procurement regulations of the State, the Governor is empowered to “authorize the procurement of supplies and equipment and the institution of training programs and public information programs and [to take] other steps to prepare for an emergency.” MD. CODE ANN., PUB. SAFETY § 14-106(b)(3) (LexisNexis 2003). Furthermore, the Governor is authorized to set aside variable amounts of fuel to be used during an energy emergency.

ii. During an Emergency

Generally, expenditures during a declared state of emergency are first to be made using money regularly appropriated to the State and local agencies. MD. CODE ANN., PUB. SAFETY § 14-112 (LexisNexis 2003). However, if the Governor believes that the amount that is available through regular appropriations is inadequate, the State may also allocate emergency funds and receive federal aid. § 14-112. Furthermore, the Maryland Emergency Management Act gives the Governor the authority to suspend any statute or rule of a State agency or a political subdivision after the Governor declares a state of emergency, presumably under procurement laws. § 14-107(d)(1)(i).

After the Governor has proclaimed a catastrophic health emergency under the authority of MD. CODE ANN., PUB. SAFETY § 14-3A-03 (LexisNexis Supp. 2004), the Governor may order the seizure of “anything needed to respond to the medical consequences of the catastrophic health emergency.” § 14-3A-03(b)(1)(i). The Governor may order the Secretary of Health and Mental Hygiene to “control, restrict, or regulate the use, sale, dispensing, distribution, or transportation of anything needed to respond to the medical consequences of the catastrophic health emergency by: (i) rationing or using quotas; (ii) creating and distributing stockpiles; (iii) prohibiting shipments; (iv) setting prices; or (v) taking other appropriate actions.” § 14-3A-03(b)(2).

For additional information, see “Topic 1. Powers of the Governor (D),” page 3.

TOPIC 16. TAKING OF PROPERTY

A. Constitution of the United States

The Fifth Amendment to the United States Constitution (U.S. CONST. amend. V), made applicable to the states through the Fourteenth Amendment (U.S. CONST. amend. XIV), provides that private property shall not be taken for public use without just compensation.

B. Constitution of Maryland

The Maryland Constitution, Article III, section 40 states that “The General Assembly shall enact no Law authorizing private property, to be taken for public use, without just compensation, as agreed upon between the parties, or awarded by a Jury, being first paid or tendered to the party entitled to such compensation.” MD. CONST. art. III, § 40.

C. Eminent Domain

The Maryland Code and the Maryland Rules contain the general provisions for the exercise of state eminent domain. *See* MD. CODE ANN., REAL PROP. §§ 12-101 – 12-112 (LexisNexis 2003 & Supp. 2004) and Md. Rule 12-201 – 12-213 (2005).

Generally, nothing “prevents this State or any of its instrumentalities or political subdivisions, acting under statute or ordinance passed pursuant to Article III of the Maryland Constitution, from taking private property for public use immediately on making the required payment and giving any required security.” MD. CODE ANN., REAL PROP. § 12-101 (LexisNexis 2003).

D. Governor’s Authority

i. State of Emergency

The Governor has the authority to declare a state of emergency by executive order “[i]f the Governor finds that an emergency has developed or is impending due to any cause.” MD. CODE ANN., PUB. SAFETY §14-107(a)(1) (LexisNexis 2003). The state of emergency continues until the Governor “finds that the threat or danger has passed or the emergency has been dealt with to the extent that emergency conditions no longer exist; and terminates the state of emergency by executive order or proclamation.” §14-107(a)(2)(i),(ii). Unless the Governor renews the state of emergency within 30 days, it expires. § 14-107(a)(3). The director of the Maryland Emergency Management Agency (MEMA) must coordinate the activities of the agencies of the State once the Governor has declared a state of emergency in order to alleviate any potential damage. § 14-107(c)(1). The Governor has the authority to suspend any statute or rule of a State agency or a political subdivision; authorize the use of private property; provide for temporary housing; and authorize the clearance and removal of debris and wreckage, among other things. § 14-107(d)(i),(v)-(vii).

Furthermore, under MD. CODE ANN., PUB. SAFETY § 14-307 (LexisNexis 2003), the Governor has the authority to close businesses in the event of the declaration of a state of emergency in a political subdivision. § 14-307(b). The Governor may also close banking institutions if the declared emergency exists as to a banking institution. § 14-307(c).

In addition to the powers discussed above, the State has a duty to “repair or replace any equipment, facilities, or property that is damaged while being used in accordance with the proclamation of a state of emergency.” § 14-308.

For additional information, see “Topic 1. Powers of the Governor (E)(i).” page 5.

ii. Catastrophic Health Emergency

MD. CODE ANN., PUB. SAFETY § 14-3A-02 (LexisNexis Supp. 2004) gives the Governor the authority to issue a proclamation for the existence of a catastrophic health emergency. After proclaiming a catastrophic health emergency, the Governor may issue orders to respond to the emergency. § 14-3A-03. These include orders to the Secretary of Health and Mental Hygiene or other designated official; health care providers; and the public. § 14-3A-03 (b)-(d). For example, the Governor may order the Secretary or other designated official to take any property necessary to respond to the emergency; regulate materials needed to deal with the emergency; and close and disinfect contaminated facilities. *See* MD. CODE ANN., PUB. SAFETY § 14-3A-03(b)-(d) (LexisNexis Supp. 2004) (providing a full list of the Governor’s orders during a catastrophic health emergency).

For additional information, see “Topic 1. Powers of the Governor (D),” page 3.

E. Authority of the Secretary of Health and Mental Hygiene

The Secretary is required to promulgate rules and regulations necessary to prevent the introduction and spread of infectious or contagious disease in Maryland. MD. CODE ANN., HEALTH-GEN. § 18-102(a) (LexisNexis 2005). Under this mandate, the Secretary has promulgated regulations that permit him or her to “[t]ake any action or measure necessary to prevent the spread of communicable disease or to control a reportable disease and condition.” COMAR 10.06.01.06(A)(1). More specifically, the Secretary “shall order cessation of operation of a business or facility determined or suspected to be a threat to public health until the public health threat is determined. . . .” to have ceased. COMAR 10.06.01.06(C).

For additional information, see “Topic 5. State Public Health Powers (C)(x),” page 19.

F. Health Officer Authority

A health officer is authorized to have “[a]ny part of a house disinfected if the house has been exposed to the [contagious] disease.” MD. CODE ANN., HEALTH-GEN. § 18-210(a)(1) (LexisNexis 2004). A health officer may also have any article in the house

disinfected or destroyed to prevent the spread of a contagious disease. § 18-210(a)(2). The county where the house exists is required to pay for the disinfection and “[r]easonably compensate a person who suffers damage . . . if the person is not at fault.” § 18-210(b).

For additional information, see “Topic 5. State Public Health Powers (D)(vi),” page 23.

TOPIC 17. PHARMACEUTICAL AUTHORITY AND DISTRIBUTION

A. Prescription Authority

i. Prescription Drug Defined

The term “prescription drug” is defined as

“a drug that: (i) is intended to be used by an individual; and (ii) because of its toxicity, other potentiality for harmful effect, method of use, or collateral measures necessary for its use: 1.) bears a cautionary label warning a person that under federal law the drug may not be dispensed without a prescription; or 2.) is designated by the Department [of Health and Mental Hygiene] as not safe for use except under the supervision of a person licensed by the State to administer a prescription drug.” MD. CODE ANN., CRIM. LAW § 5-101(v)(1) (LexisNexis 2002). *See also* MD. CODE ANN., HEALTH-GEN. § 21-220(a) (LexisNexis 2005) (defining the drugs that a pharmacist may dispense).

ii. Requirement of a Valid Prescription

A valid prescription may be either written or oral. MD. CODE ANN., HEALTH-GEN. § 21-220(b)(1) (LexisNexis 2005). If a pharmacist receives an oral prescription, the pharmacist must write and file the prescription. § 21-220(b)(1). Furthermore, a prescription must be legible. § 21-220(b)(4). An authorized prescriber must “indicate on the prescription the date of its issuance.” MD. CODE ANN., HEALTH OCC. § 12-503(a) (LexisNexis 2000). A pharmacist is prohibited, without further instruction from the prescribing individual, from dispensing a prescription that is more than 120 days old. § 12-503(b).

iii. General Authorized Prescribers

Maryland defines “authorized prescriber” as “any licensed dentist, licensed physician, licensed podiatrist, licensed veterinarian, certified nurse midwife [or] certified nurse practitioner...or other individual authorized by law to prescribe prescription or nonprescription drugs or devices.” MD. CODE ANN., HEALTH OCC. § 12-101(b) (LexisNexis 2004); *see also* COMAR 10.13.12.01(B)(1) (defining authorized prescriber).

iv. Limited Certified Nurse Midwife and Practitioner Prescribing Authority

Generally, certified nurse midwives are only permitted to prescribe medications, including controlled substances on the Food and Drug Administration’s Schedules II, III, IV, and V, which are “commonly used in the practice of nurse midwifery as determined by the [State Board of Nursing] in consultation with the State Board of Pharmacy and the State Board of Physicians.” MD. CODE ANN., HEALTH OCC. § 8-601(2)(ii)-(iii) (LexisNexis Supp. 2004). The non-controlled substances permitted for use by nurse midwives are listed in a “formulary developed by the [State Board of Nursing] in

consultation with the [Maryland Board of Physicians] and Pharmacy Board.” COMAR 10.27.05.11(A)(1) (1995).

Generally, a certified nurse practitioner is permitted to prescribe prescription medications in accordance with a written agreement with a supervising physician. COMAR 10.27.07.02(A)(4) & (B)(2).

v. Limited Physician Assistant Prescribing Authority

Physician assistants also possess limited prescribing authority. MD. CODE ANN., HEALTH OCC. § 15-301(c)(7) (LexisNexis Supp. 2004). A physician assistant is permitted to prescribe “under an approved delegation agreement and in accordance with § 15-302.2.” § 15-301(c)(7). The general requirements of a delegation agreement are contained in title 15, section 302 of the Maryland Code, Health Occupations. However, the restrictions on prescribing are provided in title 15, section 302.2 of the Maryland Code, Health Occupations. Generally, a physician may delegate prescriptive authority to a physician assistant only if the delegation agreement between the physician and the physician assistant includes a “notice of intent to delegate prescribing of controlled dangerous substances, prescription drugs, or medical devices.” § 15-302.2(a)(1). The agreement must also indicate that the “prescribing activities of the physician assistant will comply with applicable federal and State regulations.” § 15-302.2(a)(2). The agreement must also attest that all of the prescriptions written by the physician assistant will be noted in the medical records of patients and then reviewed and cosigned by the supervising physician. § 15-302.2(a)(3)(i)-(ii). The delegation agreement must also attest that the prescriptions will include not only the physician assistant’s name but also the name of the supervising physician, business address, and business telephone number. § 15-302.2(a)(4). The delegation agreement must possess evidence that the physician assistant has, within the past two years, passed the national certification exam by the National Commission on the Certification of Physician Assistants or has completed “8 category 1 hours of pharmacology education within the previous 2 years.” § 15-302.2(a)(5)(i)-(ii). Finally, the agreement must evidence that the physician assistant possesses a bachelor’s degree (or equivalent) or “2 years of work experience as a physician assistant,” or that the State Board of Physicians has approved the delegation agreement “including approval for writing medication orders.” § 15-302.2(a)(6)(i)-(iii). There are more stringent requirements to delegate the authority to prescribe controlled dangerous substances to a physician assistant. § 15-302.2(b). A physician assistant may not be delegated the authority to prescribe Schedule I drugs. § 15-302(b)(1). In order to be delegated the authority to prescribe other controlled dangerous substances, the physician assistant must have “a valid...State controlled dangerous substance registration. . .and. . .Federal Drug Enforcement Agency (DEA) registration.” § 15-302.2(b)(2)(i) & (ii).

B. Dispensing Authority

The terms “dispense’ or ‘dispensing’ mean

“the procedure which results in the receipt of a prescription or nonprescription drug or device by a patient or the patient’s agent and which entails the: (1) Interpretation of an authorized prescriber’s prescription for a drug or device; (2) Selection and labeling of the drug or device prescribed pursuant to that prescription; and (3) Measuring and packaging of the prescribed drug or device in accordance with State and federal laws.” MD. CODE ANN., HEALTH OCC. § 12-101(f) (LexisNexis Supp. 2004).

i. Pharmacist Dispensing Authority

A pharmacist must be licensed to practice pharmacy in Maryland unless the individual is engaging in a professional experience program under the supervision of a licensed pharmacist. MD. CODE ANN., HEALTH OCC. § 12-301(a)-(b) (LexisNexis 2000). A pharmacist is limited to dispensing medications from a pharmacy holding a pharmacy permit except when the pharmacist receives prior approval of the Board. § 12-307(b)-(c). Approval may be gained by following the procedure outlined in the Code of Maryland Regulations. *See* COMAR 10.34.31.02 (setting out approval procedures for pharmacists). However, during a declared catastrophic health emergency a pharmacist who is assigned to a location by the State does not have to seek approval. COMAR 10.34.31.05. Furthermore, if a pharmacy which has been issued a permit has been destroyed or “otherwise rendered inoperable,” the pharmacist may dispense from a temporary location if the pharmacist is approved by the State Board of Pharmacy prior to dispensing and the pharmacist “[e]nsures that the temporary pharmacy site complies with State and federal laws.” COMAR 10.34.31.08(A)(1)-(2).

ii. Limited Veterinarian, Dentist, Physician, and Podiatrist Dispensing Authority

A licensed veterinarian, licensed dentist, licensed physician, or licensed podiatrist may dispense drug samples without a license to dispense medication so long as the sample is labeled correctly, the patient is not charged for the sample, and the prescriber makes note of the dispensed sample in the patient’s chart. MD. CODE ANN., HEALTH OCC. § 12-102(d) (LexisNexis 2000). Furthermore, licensed physicians, dentists, or podiatrists are permitted to administer prescription drugs in the course of treating a patient. § 12-102(e). Under this section, these individuals may also provide starter dosages. § 12-102(f). A starter dosage must comply with labeling requirements, be provided to the patient without charge, and be noted in the patient’s chart. § 12-102(f)(1)(i)–(iii). A starter dosage must only be sufficient for 72 hours of therapy or be provided prior to obtaining a larger supply. § 12-102(f)(2)(i)-(ii). Licensed dentists, physicians, or podiatrists may also dispense prescription medications in the course of treatment at certain medical facilities, clinics, and health centers. *See* § 12-102(g) (providing a detailed list of acceptable locations for dispensing a prescription drug).

However, these requirements do not prohibit a licensed dentist, physician, or podiatrist from certain instances of preparation and dispensing prescription drugs. *See* § 12-102 (c) (offering a complete list of the exceptions of the requirement). *See also* COMAR

10.13.01.03 (2000) (regarding an application for dispensing medications); COMAR 10.13.01.04 (2000) (listing regulations governing the dispensing of medications).

iii. Limited Certified Nurse Midwife Dispensing Authority

Certified nurse midwives may only dispense substances in the course of treating a patient at: “1) A medical facility or clinic...operated on a nonprofit basis; 2) A health center...operat[ing] on a campus of an institution of higher education; or 3) A public health facility, a medical facility under contract with a State or local health department, or a facility funded with public funds.” MD. CODE ANN., HEALTH OCC. § 8-601(2)(iv)(1)-(3) (LexisNexis Supp. 2004).

iv. Limited Certified Nurse Practitioner Dispensing Authority

Certified nurse practitioners may prepare and dispense a “starter dosage of any drug the nurse practitioner is authorized to prescribe to a patient” if the starter dosage is labeled properly, no charge is made, and the nurse practitioner records the dosage in the patient’s medical record. MD. CODE ANN., HEALTH OCC. § 8-508(b) (LexisNexis Supp. 2004); *see also* COMAR 10.27.07.02(B)(2),(D) (providing further requirements for nurse practitioners). Furthermore, a certified nurse practitioner may only prepare and dispense drugs in the course of providing treatment at

“[a] medical facility or clinic that specializes in the treatment of medical cases reimbursable through workers’ compensation insurance [or] that is operated on a nonprofit basis; [a] health center that operates on a campus of an institution of higher education; [a] public health facility, a medical facility under contract with a State or local health department, or a facility funded with public funds; or “[a] nonprofit hospital or a nonprofit hospital outpatient facility as authorized under the policies established by the hospital.” MD. CODE ANN., HEALTH OCC. § 8-508(c) (LexisNexis Supp. 2004).

Lastly, a certified nurse practitioner must comply with all the labeling requirements listed in title 12, section 505 of the Maryland Code, Health Occupations. The nurse practitioner must also record the dispensing on the patient’s chart; allow the Division of Drug Control to enter and inspect the office; and except for starter dosages, provide the patient with a written prescription, maintain prescription files, and a separate file for Schedule II prescriptions for a period of at least 5 years. § 8-508(d).

v. Compounding

The term “compounding” means “the preparation, mixing, assembling, packaging, or labeling of a drug or device.” MD. CODE ANN., HEALTH OCC. § 12-101(d)(1) (LexisNexis Supp. 2004). Compounding may be undertaken because of the prescription drug order or “based on the practitioner/patient/pharmacist relationship in the course of professional practice.” § 12-101(d)(1)(i). Compounding may also be done for the purpose of

“research, teaching, or chemical analysis [but] not for the sale or dispensing of the drug or device.” § 12-101(d)(1)(ii).

C. Authority to Administer Medication

Physicians in Maryland may prescribe medications in the course of treatment. *See* MD. CODE ANN., HEALTH OCC. § 14-101(l) (LexisNexis Supp. 2004) (defining the phrase “practice medicine”). Licensed dentists and podiatrists are also permitted to administer prescription drugs in the course of treating a patient. *See* MD. CODE ANN., HEALTH OCC. § 12-102(e)-(f) (LexisNexis 2000) (detailing the requirements for when a dentist, physician, or podiatrist may administer or prescribe a prescription drug or device). These powers may be limited by the State Boards of these professions. *See* MD. CODE ANN., HEALTH OCC. § 14-205 (LexisNexis Supp. 2004)(physicians); § 4-205 (dentists); 16-205 (podiatrists).

A physician assistant may administer and prescribe certain controlled dangerous substances, prescription drugs, or medical devices in accordance with a valid delegation agreement with a supervising physician. MD. CODE ANN., HEALTH OCC. § 15-302.2 (LexisNexis Supp. 2004) (listing all required components for the delegation agreement).

A registered nurse is authorized to administer medications in the course of treatment of a patient. MD. CODE ANN., HEALTH OCC. § 8-101(f) (LexisNexis 2000) (defining the phrase “practice registered nursing”). Furthermore, a licensed practical nurse may also administer medications to a patient, but only when the medication was prescribed by an individual who is authorized to prescribe medication. § 8-311(c).

TOPIC 18. LICENSING AND CERTIFICATION OF HEALTH CARE PROFESSIONALS

A. Scope of Practice during Non-Emergency

i. Physicians

Generally, an individual may not practice medicine in Maryland without a license. MD. CODE ANN., HEALTH OCC. §§ 14-301 and 14-601 (LexisNexis 2000). To practice medicine means “to engage, with or without compensation, in medical: (i) Diagnosis; (ii) Healing; (iii) Treatment; or (iv) Surgery.” § 14-101(l)(1) (Supp. 2004). The practice of medicine is more specifically defined at section 14-101(l)(2), stating that this phrase:

“includes doing, undertaking, professing to do, and attempting any of the following: (i) Diagnosing, healing, treating, preventing, prescribing for, or removing any physical, mental, or emotional ailment or supposed ailment of an individual: 1. By physical, mental, emotional, or other process that is exercised or invoked by the practitioner, the patient, or both; or 2. By appliance, test, drug, operation, or treatment; (ii) Ending of a human pregnancy; and (iii) Performing acupuncture.” MD. CODE ANN., HEALTH OCC. § 14-101(l)(2) (LexisNexis Supp. 2004).

However, a physician who is licensed in another jurisdiction may practice in Maryland under limited circumstances. Under title 14, section 302(2) of the Maryland Code, Health Occupations, physicians may practice without a license if they are licensed in another jurisdiction and are engaged in consultation with a physician licensed in Maryland. Additionally, any physician employed in the service of the federal government while performing the duties incident to that employment may practice without a Maryland license. MD. CODE ANN., HEALTH OCC. § 14-302(3) (LexisNexis 2000). Finally, a physician who resides in and is authorized to practice medicine by any adjoining state and whose practice extends into Maryland is not in violation of the requirement to possess a Maryland license provided the physician does not have an office in Maryland and the other State allows Maryland licensed physicians the same privilege. § 14-302(4).

A physician may delegate certain duties to non-physicians. MD. CODE ANN., HEALTH OCC. § 14-306 (LexisNexis Supp. 2004). However, the individuals to whom the duties are delegated may need to be certified or licensed by the state. Title 10, Subtitle 32, Chapter 10 of the Code of Maryland Regulations provides the regulations for certification of radiation oncology/therapy technologists, medical radiation technologists, and nuclear medicine technologists. Chapter 12 of the same subtitle provides the regulations regarding the delegation of acts by a physician to an assistant and chapter 3 lists the requirements regarding delegation of duties to a physician assistant.

ii. Physician Assistants

A physician assistant is an “individual who is certified under [title 15] to perform delegated medical acts under the supervision of a physician.” MD. CODE ANN., HEALTH OCC. § 15-101(m) (LexisNexis Supp. 2004). This section also defines the scope of practice of a physician assistant as “the performance of medical acts that are: (1) Delegated by a supervising physician to a physician assistant; (2) [w]ithin the supervising physician's scope of practice; and (3) [a]ppropriate to the physician assistant's education, training, and experience.” § 15-101(n). In addition, this section defines a physician assistant's "Prescriptive authority" as "the authority delegated by a supervising physician to a physician assistant to prescribe and administer controlled dangerous substances, prescription drugs, medical devices, and the oral, written, or electronic ordering of medications.” § 15-101(o). While the State Board of Physicians may adopt regulations that permit physician assistants to prescribe prescription medication, they may not authorize the dispensing of prescriptions by a physician assistant. *See* 80 Op. Md. Att’y Gen.173 (1995). The State Board of Medical Examiners sets the duties which a physician may delegate to a physician assistant. *See* 71 Op. Md. Att’y Gen. 136 (1986). These controlling regulations on physician assistants are located at title 10, subtitle 32, chapter 3 of the Code of Maryland Regulations.

A physician is authorized to delegate duties to a physician assistant subject to a delegation agreement which must be authorized by the Board of Physicians prior to the physician assistant practicing. MD. CODE ANN., HEALTH OCC. § 15-302(a) (LexisNexis Supp. 2004). Section 302(b) indicates precisely what must be included in a delegation agreement for a physician assistant. § 15-302(b). This includes the following: description of the qualifications of both the physician assistant and the physician; the setting in which the assistant will be working; an explanation of the supervision that the physician will provide; a description of the delegated medical acts within the supervisor’s scope of practice and which may require specialized education or training; an attestation that all medical acts delegated to the assistant will be within the scope of practice of the supervisor and appropriate to the assistant’s education, training, and level of competence; an attestation by the supervisor of his or her acceptance of responsibility for any care given by the assistant; an attestation by the supervisor that he or she will respond in a timely manner when contacted by the assistant; and “[a]ny other information deemed necessary by the Board of Physicians on the Physicians Assistant Advisory Committee.” § 15-302(b) (detailing the requirements in a delegation agreement). However, a physician may not specify in a delegation agreement an alternate supervising physician for a physician assistant in a non-hospital setting. *See* 86 Md. Op. Att’y Gen. No. 01-018 (July 2, 2001).

iii. Nurses

There are three main types of nurses in Maryland: certified nurse practitioner, registered nurse, and licensed practical nurse. MD. CODE ANN., HEALTH OCC. § 8-302 (LexisNexis

2000) (setting out requirements to qualify for a nursing license or certification); § 8-101(d) (defining “Licensed practical nurse”), § 8-101(g) (defining “Registered nurse”).

Generally, nurses must be licensed in the state of Maryland to practice nursing in Maryland. § 8-301(a)-(b). Title 8, section 701 of the Maryland Code, Health Occupations prohibits a person from attempting to practice or offering to practice registered, licensed, or certified nursing; practice as a certified nursing assistant; medication technician; or medicine aide unless licensed by the Board to practice registered nursing. Furthermore, this section prohibits a person from requiring a nurse to practice above their skill level. § 8-701 (discussing the unlicensed practice of nursing and related practices).

During non-emergency situations, Maryland permits nurses who are not licensed by Maryland to practice nursing under certain circumstances. MD. CODE ANN., HEALTH OCC. §8-7A-01 (LexisNexis 2000) , for complete coverage of the Nurse Multistate Licensure Compact in Maryland.

A nurse with a multi-state nursing license may practice nursing in Maryland, so long as the nurse meets all home state licensing requirements. § 8-7A-01. It states in part that “[a] license to practice registered nursing issued by a home state to a resident of that state will be recognized by each party state as authorization for a multistate licensing privilege to practice as a registered nurse in a party state.” § 8-7A-01. Furthermore, the compact states that:

“a license to practice licensed practical or vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorization for a multistate licensing privilege to practice as a licensed practical or vocational nurse in a party state. In order to obtain or retain a license, an applicant shall meet the home state's qualifications for licensure and license renewal, as well as other applicable state laws.” § 8-7A-01.

There are regulations regarding the practice of nurses under the multistate nursing licensure compact. *See* COMAR 10.27.22 (setting out all of the regulations for the compact). For a list of states participating in the multi-state nurse licensure compact, please refer to the NATIONAL COUNCIL OF STATE BOARDS OF NURSING, NURSE LICENSURE COMPACT, COMPACT MAP, <http://www.ncsbn.org/nlc/rnlpvcompact.asp> (last visited Sept. 7, 2005).

In addition to the multistate licensure compact, an unlicensed nurse may practice as part of an “approved education program” or may practice if that individual is employed by the federal government “to practice registered nursing or licensed practical nursing while practicing within the scope of that employment, if the individual is authorized by any state to practice registered...or licensed practical nursing.” § 8-301(c)(1)-(2). Also, an individual may practice registered or licensed practical nursing under rules and regulations adopted by the Board of Nursing if the individual:

“(i) [o]therwise has qualified to practice registered. . .or licensed practical nursing in any other state or country and is in this State temporarily; or (ii) [h]as an application for a license pending before the Board [b]ut has not taken the examination [or] [h]as taken an examination. . .but the results of the examination are not yet known.” § 8-301(c)(3).

In a disaster situation in Maryland, an individual assigned by the American Red Cross to assist in the state may practice registered or licensed practical nursing if the individual has a license to practice these types of nursing in another state. § 8-301(c)(4).

iv. Certified Nursing Assistants

A certified nursing assistant is an individual “who routinely performs nursing tasks delegated by a registered nurse or licensed practical nurse for compensation.” MD. CODE ANN., HEALTH OCC. § 8-6A-01(h)(1) (LexisNexis Supp. 2004). A certified nursing assistant does not include certification to be a medication technician. § 8-6A-01(h)(2). All nursing assistants must be certified by the State Board of Nursing. § 8-6A-02(a). The State Board of Nursing has issued regulations regarding the certification of nursing assistants. See COMAR 10.39.01 for these regulations.

v. Nurse Practitioners

As authorized under title 8, section 205 of the Maryland Code, Health Occupations, the State Board of Nursing is authorized to promulgate rules, regulations, and standards regarding the practice of nurse practitioners. *See* MD. CODE ANN., HEALTH OCC. § 8-205 (LexisNexis Supp. 2004), for a list of all the powers and duties of the State Board of Nursing. A nurse practitioner is a registered nurse who has been certified to perform additional duties authorized under regulations adopted by the State Board of Nursing. COMAR 10.27.07.01(B)(4). A nurse practitioner must practice under the supervision of a licensed physician in accordance with a written agreement which may include the following functions: “(1) [c]omprehensive physical assessment of patients; (2) [e]stablishing medical diagnosis for common short-term or chronic stable health problems; (3) [o]rdering, performing, and interpreting laboratory tests; (4) [p]rescribing drugs; (5) [p]erforming therapeutic or corrective measures; (6) [r]eferring patients to...licensed physicians or other...providers; [and] (7) [p]roviding emergency care.” COMAR 10.27.07.02(A). *See also* COMAR 10.27.07.02 (detailing the scope and standards of practice for a nurse practitioner).

Furthermore, a nurse practitioner may have limited prescription drug preparation and dispensing privileges. *See* COMAR 10.27.07.08 (prescribing and dispensing regulations for nurse practitioners).

vi. Emergency Medical Technicians

For detailed information, see “Topic 20. Emergency Medical Services (C),” page 91.

vii. Pharmacists

A pharmacist must be licensed to practice pharmacy in Maryland. MD. CODE ANN., HEALTH OCC. § 12-301 (LexisNexis 2000). The practice of pharmacy means

“to engage in any of the following activities: (i) Providing pharmaceutical care; (ii) Compounding, dispensing, or distributing prescription drugs or devices; (iii) Compounding or dispensing nonprescription drugs or devices; (iv) Monitoring prescriptions for prescription and nonprescription drugs or devices; (v) Providing information, explanation, or recommendations to patients and health care practitioners about the safe and effective use of prescription or nonprescription drugs or devices; (vi) Identifying and appraising problems concerning the use or monitoring of therapy with drugs or devices; (vii) Acting within the parameters of a therapy management contract, as provided under Subtitle 6A of [Title 12]; or (viii) Administering an influenza vaccination in accordance with § 12-508 of this title.” MD. CODE ANN., HEALTH OCC. § 12-101(p) (LexisNexis Supp. 2004).

As discussed above, a licensed pharmacist may “practice pharmacy” in Maryland. This individual is limited to dispensing and distributing medications only from a location holding a pharmacy permit unless the pharmacist has obtained the prior approval of the State Board of Pharmacy. § 12-307.

Generally, in non-emergency situations, the practice of pharmacy without a license is prohibited in Maryland. However, an individual may practice without a license as part of a “professional experience program under the direct supervision of a licensed pharmacist.” § 12-301(b).

B. Emergency Privileges, Credentialing, and Practice

i. General Emergency Licensing Provisions and Maryland Disaster Privileges

Title 18, Section 903(c) of the Maryland Code, Health-General mandates that the Secretary of Health and Mental Hygiene should “develop a process to license, certify, or credential health care practitioners who may be needed to respond to a catastrophic health emergency.” *See* MD. CODE ANN., HEALTH-GEN. § 18-903 (LexisNexis 2005) (discussing the development and implementation of contingency plans). In accordance with this mandate, the Secretary of Health and Mental Hygiene has developed requirements for credentialing of physicians by a hospital. *See* COMAR 10.07.01.24 for these requirements. The Secretary has also developed a process by which hospitals shall provide emergency privileges to physicians during a disaster. *See* COMAR 10.07.01.24(G) for these specific requirements.

Furthermore, under the Emergency Management Assistance Compact (EMAC), an individual requested by a state in crisis, who is licensed in his or her home state, is considered to be licensed in the requesting state. MD. CODE ANN., PUB. SAFETY § 14-702 (LexisNexis 2003) (codification of the Emergency Management Assistance Compact).

For additional information, see “Topic 3. Emergency Management Assistance Compact (F),” page 13; “Topic 19. Hospital Licensing (B)(i)-(ii),” page 87.

ii. Physicians’ Emergency Practice

In a declared state of emergency or proclaimed catastrophic health emergency, a physician who is not licensed in Maryland may be permitted to practice in Maryland under the Emergency Management Assistance Compact. MD. CODE ANN., PUB. SAFETY § 14-702 (LexisNexis 2003).

It should also be noted here that the Governor may compel any health care provider to provide medical examination and treatment to other individuals during a declared catastrophic health emergency. *See* MD. CODE ANN., PUB. SAFETY § 14-3A-03(c) (LexisNexis Supp. 2004) (listing the Governor’s health emergency powers to health care providers).

Finally, a physician who is not licensed in Maryland may still practice under some exceptions. *See* MD. CODE ANN., HEALTH OCC. § 14-302 (LexisNexis 2000) for a list of these exceptions.

For additional information, see “Topic 3. Emergency Management Assistance Compact (F),” page 13.

iii. Nursing Emergency Practice

In a declared state of emergency or proclaimed catastrophic health emergency, a nurse who is not licensed in Maryland may be permitted to practice in Maryland under the Emergency Management Assistance Compact. MD. CODE ANN., PUB. SAFETY § 14-702 (LexisNexis 2003).

In the absence of an emergency or proclaimed catastrophic health emergency, under certain circumstances a nurse who is not licensed in Maryland may practice nursing in Maryland. *See* MD. CODE ANN., HEALTH OCC. § 8-301(c) (LexisNexis 2000) for these exceptions. Furthermore, a nurse who possesses a multistate nursing license in accordance with the Multistate Nursing Licensure Compact is also permitted to practice nursing in Maryland. § 8-301(d) (exempting registered nurses under this compact); § 8-7A-01 (codification of this compact).

For additional information, see “Topic 3. Emergency Management Assistance Compact (F),” page 13.

iv. Pharmacist Emergency Practice

In a declared state of emergency or proclaimed catastrophic health emergency, a pharmacist who is not licensed in Maryland may be permitted to practice in Maryland

under the Emergency Management Assistance Compact. MD. CODE ANN., PUB. SAFETY § 14-702 (LexisNexis 2003).

For additional information, see “Topic 3. Emergency Management Assistance Compact (F),” page 13.

v. Hospital Medical Staff Privileges and Credentials

For more information, see “Topic 19. Hospital Licensing (B)(i)-(ii),” pages 87-88.

vi. Federal Credentials / License Verification System

At the federal level, it should be noted that the Secretary of Health and Human Services is required to establish a system either directly, or through grant, contract, or cooperative agreement, for advance registration of health professionals for verifying credentials, licenses, accreditations, and hospital privileges, when such professionals volunteer during a public health emergency. 42 U.S.C.A. § 247d-7b (West 2003).

For additional information, see “Topic 7. Select Federal Public Health Powers (D),” page 35; “Topic 19. Hospital Licensing (C),” page 89.

TOPIC 19. HOSPITAL LICENSING

A. Maryland Hospitals

Maryland defines a hospital as an institution that: “[h]as a group of at least 5 physicians who are organized as a medical staff for the institution; [m]aintains facilities to provide, under the supervision of the medical staff, diagnostic and treatment services for 2 or more unrelated individuals; and [a]dmits or retains the individuals for overnight care.” MD. CODE ANN., HEALTH-GEN. § 19-301(f)-(g) (LexisNexis 2005).

Maryland requires that a person must be licensed by the Secretary before that individual may operate a hospital or a related institution in the State. § 19-318(a). For the purposes of that requirement, the definition of “person” includes the State or a county or a municipal corporation. § 19-301(m).

There are several requirements and steps needed in order to obtain a license to operate a hospital in Maryland. See MD. CODE ANN., HEALTH-GEN. § 19-319 (LexisNexis 2005) for a list of these requirements. *See also* §19-320 (listing the application procedures).

After the Governor declares a catastrophic health emergency, the Governor may order the Secretary or other designated official to “establish places of treatment, isolation, and quarantine.” MD. CODE ANN., PUB. SAFETY § 14-3A-03(b)(3)(iii) (LexisNexis Supp. 2004).

B. Emergency Facilities and Emergency Credentialing

i. Hospital Medical Staff Privileges

Disaster privileges for physicians are discussed in COMAR 10.07.01.24(G). During an emergency or disaster in which the hospital’s disaster or emergency management plan has been activated (when the Governor has declared that a state of emergency exists or when the Secretary of Health and Mental Hygiene has issued an order pursuant to MD. CODE ANN, HEALTH-GEN. § 18-905 (LexisNexis 2005)), the chief executive officer, medical staff president, or designee may grant temporary disaster privileges to licensed physicians who have not been appointed to the hospital’s medical staff. COMAR 10.07.01.24(G)(1).

A hospital must, therefore, develop a medical staff plan for the granting of disaster privileges that identifies “[t]he individual responsible for granting disaster privileges; [t]he responsibilities of that individual; [a] system to manage, assign, and supervise the physicians who have been granted disaster privileges; and [t]he process by which credentials and privileges are verified as soon as the situation allows . . .” COMAR 10.07.01.24(G)(2).

Physicians who are granted disaster privileges by a hospital must either “[b]e registered and trained by [DHMH] as part of the Department’s Maryland Physician Volunteer Corps

and possess the Department issued photo identification; or [c]omply with the hospital's medical staff plan for granting privileges in a disaster." COMAR 10.07.01.24(G)(3)(a) & (b). The hospital's medical staff plan for granting privileges in a disaster must meet minimum requirements. See COMAR 10.07.01.24(G)(3)(b)(i-iv)(Supp. 116) for these requirements.

Disaster privileges are "discontinued when the hospital's chief executive officer, medical staff president, or designee determines that the emergency condition no longer exists and that the hospital has adequate resources to meet the patient's needs." COMAR 10.07.01.24(G)(4).

The hospital must "maintain records that include: (a) [t]he number of hours worked by each physician; (b) [t]he type of service provided by each physician; (c) [t]he location where these services were provided; and (d) [a]ny additional information required by [DHMH] for federal or state reimbursement." COMAR 10.07.01.24(G)(5).

For additional information, see "Topic 7. Select Federal Public Health Powers," (D) page 35; "Topic 18. Licensed Professionals," (B)(i) page 84.

ii. Credentials

The Secretary of Health and Mental Hygiene designates a form "for credentialing physicians who seek to be employed by or have staff privileges at a hospital." MD. CODE ANN., HEALTH-GEN. § 19-319(e)(1) (LexisNexis 2005).

"As a condition of licensure, each hospital shall . . . [e]stablish a credentialing process for the physicians who are employed by or who have staff privileges at the hospitals." § 19-319(e)(2)(i). Furthermore, the hospital must use the standard form designated by the Secretary as the initial application of a physician seeking to be credentialed. MD. CODE ANN., HEALTH-GEN. § 19-319(e)(2)(ii) (LexisNexis 2005).

Beyond using the designated form issued by the Secretary, a hospital may also require supplemental or additional information as part of the hospital's credentialing process. § 19-319(e)(3).

The Secretary of DHMH is required to establish minimum standards for credentialing by regulation and in consultation with "hospitals, physicians, interested community and advocacy groups, and representatives of the Maryland Defense Bar and Plaintiff's Bar." § 19-319(e)(4). These standards must include: "[a] formal written appointment process documenting the physician's education, clinical expertise, licensure history, insurance history, medical history, claims history, and professional experience." § 19-319(e)(4)(i). Furthermore, there must be "[a] requirement that an initial appointment to staff not be complete until the physician has successfully completed a probationary period." § 19-319(e)(4)(ii). Additionally, these minimum standards must include a

“formal, written reappointment process to be conducted at least every 2 years [and the process] shall document the physician’s pattern of performance by analyzing claims filed against the physician, data dealing with utilization, quality, and risk, a review of clinical skills, adherence to hospital bylaws, policies and procedures, compliance with continuing education requirements, and mental and physical status.” MD. CODE ANN., HEALTH-GEN. § 19-319(e)(4)(iii) (LexisNexis 2005).

If DHMH requests it, then a hospital must provide documentation that, prior to hiring a physician or granting staff privileges to one, the hospital has “complied with the requirements” of the licensing process and that, prior to renewing employment or privileges, the hospital has complied with the requirements of the licensing process. § 19-319(e)(5).

The Secretary may impose the following penalties if a hospital fails to establish this credentialing process: “[d]elicensure of the hospital...or...\$500 per day for each day the violation continues.” § 19-319(e)(6).

Physician credentialing is further discussed at COMAR 10.07.01.24(A-F).

However, it is important to note that the credentialing process is subject to change in the event of a catastrophic health emergency. In such a case, the Secretary must “develop a process to license, certify, or credential health care practitioners who may be needed to respond to a catastrophic health emergency.” MD. CODE ANN., HEALTH-GEN. § 18-903(c) (LexisNexis 2005).

More information regarding these emergency measures can be found at COMAR 10.07.01.24.

For additional information, see “Topic 7. Select Federal Public Health Powers (D),” page 35; “Topic 18. Licensed Professionals (B)(v),” page 86.

C. Federal Credentials / License Verification System

At the federal level, it should be noted that the Secretary of Health and Human Services is required to establish a system either directly, or through grant, contract, or cooperative agreement, for advance registration of health professionals for verifying credentials, licenses, accreditations, and hospital privileges, when such professionals volunteer during a public health emergency. 42 U.S.C.A. §247d-7b (West 2003).

For additional information, see “Topic 7. Select Federal Public Health Powers (D),” page 35; “Topic 18. Licensed Professionals (B)(vi),” page 86.

D. Facility Licensure for Federal Mobile Hospitals

The National Disaster Medical System (NDMS) is a federally coordinated system that augments the nation’s emergency medical response capability. *See* 42 U.S.C.A. § 300hh-

11 (West 2003) (coordination of preparedness for and response to bioterrorism and other public health emergencies). The NDMS may be activated to

“provide health services, health-related social services, other appropriate human [and] auxiliary services to respond to...victims of a public health emergency [or] to be present at locations...for limited periods of time, specified by the Secretary [of DHHS] on the basis that the Secretary has determined that a location is at risk of a public health emergency during the time specified.” 42 U.S.C.A. § 300hh-11(b)(3)(A).

A Disaster Medical Assistance Team (DMAT) is a group of medical and support personnel that provide emergency medical care during a disaster or other unusual event. DMATs deploy to disaster areas with adequate supplies and equipment to support themselves for 72 hours while providing medical care at a fixed or temporary medical site. They may provide primary health care and/or augment overloaded health care staff. DMATs are designed to be a rapid-response element to supplement local medical care until other federal or contract resources can be mobilized, or the situation is resolved. FEMA, NATIONAL DISASTER MEDICAL SYSTEM, DISASTER MEDICAL ASSISTANCE TEAM PHS-1, THE NATION’S FIRST DMAT, <http://teams.fema.gov/dmat/about/ndms.html#dmat> (last visited Sept. 7, 2005).

For additional information, see “Topic 7. Select Federal Public Health Powers (E),” page 35.

TOPIC 20. EMERGENCY MEDICAL SERVICES

A. The EMS Board and MIEMSS

The emergency medical system of Maryland is directed by the State Emergency Medical Services Board (EMS Board). The Maryland Institute for Emergency Medical Services Systems (MIEMSS) is the State administrative agency that oversees and coordinates the statewide emergency medical system in Maryland, including planning, operations, evaluation, and research. Formerly under the University of Maryland at Baltimore, the Institute became an independent agency in 1993 (Chapter 592, Acts of 1993). MD. CODE ANN., EDUC. § 13-503 (LexisNexis 2004). MIEMSS is governed by the EMS Board, which also appoints the Executive Director of MIEMSS, with the approval of the Governor. § 13-506.

B. Duties of the Executive Director

The Executive Director of MIEMSS is responsible for the development and coordination of the State's system of emergency medical services. § 13-510 (2004).

C. Licensing and Certification by the Emergency Medical Services Board

The EMS Board has created numerous licenses for emergency medical providers, depending upon the level of training in emergency care. MD. CODE ANN., EDUC. § 13-516(a) (LexisNexis 2004).

i. First Responder

A First Responder is “an individual who has completed a first responder course approved by the EMS Board,” and has “been examined by the EMS Board and certified as a first responder by the EMS Board.” MD. CODE ANN., EDUC. § 13-516(a)(10)(i),(ii) (LexisNexis 2004).

ii. Emergency Medical Technician-Ambulance (EMT-A)

An Emergency Medical Technician-Ambulance (EMT-A) is an individual who has “[c]ompleted an emergency medical technician-ambulance course approved by the EMS Board,” “[d]emonstrated competence in medical protocols as determined by the EMS Board,” and has “[b]een examined by the EMS Board and certified as an EMT-A by the EMS Board.” MD. CODE ANN., EDUC. § 13-516(a)(7)(i)-(iii) (LexisNexis 2004).

iii. Emergency Medical Technician-Basic (EMT-B)

An Emergency Medical Technician-Basic (EMT-B) is an individual who has “[c]ompleted an Emergency Medical Technician-Basic course approved by the EMS Board,” “[d]emonstrated competence in medical protocols as determined by the EMS

Board,” and has been “examined by the EMS Board and certified as an EMT-B by the EMS Board.” MD. CODE ANN., EDUC. § 13-516(a)(8) (LexisNexis 2004). The applicant must have successfully completed an internship approved by MIEMSS before taking the written and practical tests. COMAR 30.02.02.03(D)(2). Please refer to COMAR 30.02.02.03(D)(1-5) for specific requirements.

iv. Cardiac Rescue Technician (CRT)

A Cardiac Rescue Technician (CRT) is an individual who has “[c]ompleted a cardiac rescue technician course approved by the EMS Board,” “[d]emonstrated competence in medical protocols within this State as determined by the EMS Board,” and “[h]as been examined and licensed by the EMS Board.” MD. CODE ANN., EDUC. § 13-516(a)(2) (LexisNexis 2004). The applicant must have successfully completed either 12 full months of experience providing care as an EMT-B, or at least 150 documented ambulance responses providing patient care. The applicant must also be registered as an EMT-I/99 with the National Registry of Emergency Medical Technicians or be licensed “before July 1, 2008, as a CRT, based on successful completion of a CRT update program”. COMAR 30.02.02.03(E)(3)(a)(b).

v. Emergency Medical Technician-Paramedic (EMT-P)

An Emergency Medical Technician-Paramedic (EMT-P) is an individual who has “completed an emergency medical technician-paramedic course approved by the EMS Board,” has been “tested and registered by the National Registry of Emergency Medical Technicians, Inc. as an emergency medical technician-paramedic,” has “demonstrated competence in medical protocols within this State as determined by the EMS Board,” and “has been licensed as an EMT-P by the EMS Board.” MD. CODE ANN., EDUC. § 13-516(a)(9) (LexisNexis 2004). The applicant must have successfully completed 12 full months of experience providing care as an EMT-B, or at least 150 documented ambulance responses providing patient care, or, if the applicant is a licensed health professional, completed a specified course for health professionals, or, if the applicant is a CRT, the EMT-P bridge course COMAR 30.02.02.03(F)(2)(a)-(d). The applicant must also be registered as an EMT-P with the National Registry of Emergency Medical Technicians. COMAR 30.02.02.03(F). Please refer to COMAR 30.02.02.03(F) for further requirements.

vi. Emergency Medical Dispatcher

An Emergency Medical Dispatcher is an individual who has “[c]ompleted an emergency medical dispatcher course approved by the EMS Board or its equivalent,” “[d]emonstrated competence in EMS protocols as determined by the EMS Board,” and has “[b]een examined by the EMS Board or has been recognized by an approved medical dispatcher program” MD. CODE ANN., EDUC. § 13-516(a)(4) (LexisNexis 2004). The applicant must have successfully completed “the basic telecommunicator course or an equivalent course approved by the Emergency Number Systems Board,” or have “2,000 hours of public safety call-taking or call-allocating experience.” COMAR

30.02.02.03(G)(1)(a),(b). The applicant must also have successfully completed a health care provider level cardiopulmonary resuscitation (CPR) course or, if the applicant has a disability preventing them from completing the practical portion of the CPR course, the applicant must have successfully completed a written CPR exam. COMAR 30.02.02.03(G)(5)(a),(b). Please refer to COMAR 30.02.02.03(G) for further requirements.

D. Permitted Actions of Each Class of Responder

i. Cardiac Rescue Technician and Emergency Medical Technician

Cardiac Rescue Technicians (CRT) and Emergency Medical Technicians (EMT) of any level are permitted to perform specific actions as established by the EMS Board, to administer medications as outlined by the EMS Board, and to provide transportation to the patient. MD. CODE ANN., EDUC. § 13-516(f)(1) (LexisNexis 2004).

ii. Emergency Medical Dispatcher

Emergency Medical Dispatchers may perform medical interrogation to ascertain the severity of an emergency. The dispatcher may also give instructions to the caller as to care, including instructions in CPR, prior to the arrival of the emergency medical personnel. § 13-516(f)(2)(i)(1)-(2).

iii. First Responder

A first responder is only permitted to perform those tasks outlined by the EMS Board and, in transit, may not be the primary emergency caregiver. MD. CODE ANN., EDUC. § 13-516(f)(3) (LexisNexis 2004).

E. Permitted Actions of Emergency Medical Technicians Outside of Emergency Situations

An EMT-P may administer influenza and hepatitis B vaccinations, as well as tuberculosis skin tests, if they have written authorization of the EMS Board, are under the supervision of an EMS operational program medical director, and are approved by MIEMSS. MD. CODE ANN., EDUC. § 13-516(g) (LexisNexis 2004).

F. Providing Emergency Medical Services without a License

Maryland generally prohibits unlicensed individuals from providing emergency medical services. § 13-516(b)(1). However, an unlicensed individual in Maryland may provide emergency medical services if that individual meets all of the following conditions: 1) has completed an emergency medical services course or its equivalent as determined by the EMS Board; 2) is authorized to provide emergency medical services by any state adjoining this State; 3) is called upon to provide emergency medical services by a public safety agency providing emergency medical services; 4) is providing emergency medical services within the scope of a license or certificate issued to the individual by an adjoining state; and 5) is not affiliated with an emergency medical service in this State or

does not provide emergency medical services in this State on a regular basis. MD. CODE ANN., EDUC. § 13-516(b)(2) (LexisNexis 2004).

This exception does not impinge upon the Governor's authority to request assistance under EMAC.

For more information, see "Topic 3. Emergency Management Assistance Compact (F)," page 13.

G. Ambulance Service

The broad definition of an "ambulance" includes any conveyance designed and constructed or modified and equipped for the transportation (including aeromedical transportation) of wounded, ill, or incapacitated individuals. § 13-515(a)(2)(i). An ambulance service must be licensed by MIEMSS to operate in Maryland. § 13-515(b). In order to obtain a license, the ambulance service must meet the criteria set by the EMS Board regarding equipment, supplies and personnel, and must carry a minimum of \$1 million in insurance coverage. § 13-515(c),(d). For more information on ambulance services and requirements, see § 13-515(c)-(k).

H. Liability of an Emergency Medical Care Provider

An Emergency Medical Care Provider is not civilly liable so long as he or she "does not act intentionally or with gross negligence;" "the assistance or medical care is provided without fee or other compensation;" and "the assistance is provided at the scene of an emergency, in transit, or through communications with personnel providing emergency assistance." MD. CODE ANN., CTS. & JUD. PROC. § 5-603(a) (1)-(3) (LexisNexis Supp. 2004).

The immunity granted to Emergency Medical Care Providers also applies to: 1) health care providers licensed by the State of Maryland; 2) members of any fire department, ambulance and rescue squad or law enforcement agency; and 3) members of a corporate fire department responding to a call outside the corporate premises. § 5-603(b)(1),(2) (LexisNexis Supp. 2004). The members of each group above must be certified by the American Red Cross and have the card indicating such; have completed an equivalent as determined by the Secretary of Health and Mental Hygiene; or be certified by the State as an emergency medical services provider. § 5-603(b)(2). This immunity also extends to volunteer fire departments, ambulance and rescue squads whose members have immunity and a corporation when its fire department personnel have immunity. §5-603(b)(3)-(4).

If an individual not otherwise immune from liability arrives at the scene of an emergency and provides assistance or medical aid to a victim, they will not be civilly liable for any act or omission if: 1) the assistance or aid is provided in a reasonably prudent manner; 2) the assistance or aid is provided without fee or compensation; 3) the individual relinquishes care of the victim when a licensed or certified medical care provider

becomes available. MD. CODE ANN., CTS. & JUD. PROC. § 5-603(c) (LexisNexis Supp. 2004).

Fire and rescue companies and their personnel are further shielded from civil liability as long as the damage or harm caused is not the result of any willful or grossly negligent act. This protection does not extend to the negligent operation of a motor vehicle, however, liability in these situations is limited by statute. § 5-604(a)-(b).

MD. CODE ANN., CTS. & JUD. PROC. § 5-603 and § 5-604 are also known as the “Good Samaritan Act” and the “Fire and Rescue Company Act” respectively.

For additional information, see “Topic 3. Emergency Management Assistance Compact (G),” page 13; “Topic 21. Immunity / Liability (E),” page 99.

TOPIC 21. IMMUNITY / LIABILITY

A. Emergency Medical Services & Good Samaritan Statutes

Generally, an emergency care provider is not civilly liable “for any act or omission in giving any assistance or medical care,” as long as he or she does not act intentionally or with gross negligence. MD. CODE ANN., CTS. & JUD. PROC. § 5-603(a) (LexisNexis Supp. 2004). For more information *see generally* MD. CODE ANN., CTS & JUD. PROC. § 5-603 (LexisNexis Supp. 2004). *See also* Town of Port Deposit v. Petetit, 113 Md. App. 401, 688 A.2d 54 (1997) (stating that liability immunity is conditional upon the absence of gross negligence which is a triable issue of fact); Artis v. Cyphers, 336 Md. 561, 649 A.2d 838 (1994) (requiring that the defendant must satisfy the conditions stated in the statutes to qualify for immunity); McCoy v. Hatmaker, 135 Md. App. 693, 763 A.2d 1233 (2000) (defining “grossly negligent” as amounting to outrageous conduct.); Mayor & City Council of Baltimore v. Chase, 360 Md. 121, 756 A.2d 987 (2000) (stating that both municipal and volunteer rescue companies are entitled to immunity under the grossly negligent standard); *See also* 64 Md. Op. Att’y Gen. 175 (1979); Md. Op. Att’y Gen. No. 87-055 (November 17, 1987); and 80 Md. Op. Att’y Gen. 341 (1995) (assessing a fee directly upon the victim for services of the paramedics will eliminate immunity, although payment of emergency services personnel does not eliminate immunity under the Good Samaritan law); Tatum v. Gigliotti, 321 Md. 623, 583 A.2d 1062 (1991) (defining compensation as a fee charged directly to the victim and not the salary of an emergency services worker).

The liability shield is also extended to many first responders who have completed the “American Red Cross training course in advanced first aid” or its equivalent as determined by the Secretary of Health and Mental Hygiene, as well as persons who are licensed or certified as an emergency medical services provider by the State, including members of any volunteer fire department, ambulance and rescue squad, law enforcement agency or “corporate fire department responding to a call outside the corporate premises.” MD. CODE ANN., CTS. & JUD. PROC. § 5-603(b)(1)-(2) (LexisNexis 2002 and Supp. 2004).

Volunteers can also receive immunity under the Maryland Tort Claims Act and the Local Government Tort Claims Act if they meet certain statutory qualifications. For more information, see below, Sections D (Maryland Tort Claims Act) and Section E (Local Tort Claims Act), pages 97-98.

For additional individuals and entities that are excluded from civil liability, *see generally* MD. CODE ANN., CTS. & JUD. PROC. § 5-603(b)(LexisNexis Supp. 2004). Immunity also extends to individuals who are not otherwise covered when the aid is provided in a reasonably prudent manner, the assistance or aid is provided without fee or other compensation, and the individual relinquishes care of the victim when someone who is licensed or certified by this State to provide medical care or services becomes available to take responsibility. MD. CODE ANN., CTS. & JUD. PROC. § 5-603(c)(1)-(3) (LexisNexis Supp. 2004) (often referred to as the Good Samaritan Statute).

Fire and rescue companies are immune from civil liability “for any act or omission in the course of performing” their duties as long as the damage is not the result of “any willful or grossly negligent act.” MD. CODE ANN., CTS. & JUD. PROC. § 5-604 (LexisNexis 2002). However, MD. CODE ANN., CTS. & JUD. PROC. § 5-604(a) (LexisNexis 2002) does not protect fire and rescue companies from civil liability with regards to the negligent operation of a motor vehicle. § 5-604(b)(2), and *see generally*, Tatum v. Gigliotti, 321 Md. 623, 583 A.2d 1062 (1991).

B. Emergency Management Assistance Compact

Article VI (Liability) of the Emergency Management Assistance Compact provides that:

“Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.” MD. CODE ANN., PUB. SAFETY § 14-702(6) (LexisNexis 2003).

C. Maryland Emergency Management Assistance Compact

The Maryland Emergency Management Assistance Compact (MD. CODE ANN., PUB. SAFETY § 14-803 (LexisNexis2003)), is the statewide compact to which local jurisdictions are invited to join. For more information on MEMAC, please refer to “Topic 4. Maryland Emergency Management Assistance Compact (MEMAC),” page 15.

MEMAC assigns liability and grants limited immunity to participating jurisdictions. It provides that “officers or emergency responders of a party jurisdiction rendering aid in another jurisdiction pursuant to this Compact shall be considered agents of the requesting jurisdiction for tort liability and immunity purposes.” § 14-803(4)(d)(1). It further states that “[n]o party jurisdiction or its officers or emergency responders rendering aid in another jurisdiction pursuant to this Compact shall be liable on account of any act or omission in good faith on the part of responding personnel while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith.” § 14-803(4)(d)(2). Finally, MD. CODE ANN., PUB. SAFETY § 14-803(4)(d)(3) (LexisNexis 2003), states that good faith does not include “willful misconduct, gross negligence, or recklessness.”

D. Maryland Tort Claims Act

MD CODE ANN., STATE GOV'T § 12-104 (LexisNexis 2004) provides that the State has waived tort immunity under the Maryland Tort Claims Act (MTCA); however, the State's liability cannot exceed \$200,000 to a single claimant from a single incident or

occurrence, even if the damages exceed the limits of that waiver and the action must be brought in State court. MD.CODE ANN., STATE GOV'T § 12-101 to 110 (LexisNexis 2004).

Under the Maryland Tort Claims Act, “State personnel . . . are immune from suit in courts of the State and from liability in tort for a tortious act or omission that is within the scope of the public duties of the State personnel and is made without malice or gross negligence and for which immunity has been waived under Title 12, Subtitle 1 under the State Government Article.” See MD. CODE ANN., STATE GOV'T § 12-105 (LexisNexis 2004) and MD.CODE ANN., CTS. & JUD. PROC. § 5-522(b) (LexisNexis Supp. 2004).

“State personnel” are broadly defined in MD CODE ANN., STATE GOV'T § 12-101 (LexisNexis 2004) to include, *inter alia*, any person paid by the Central Payroll Bureau in the Office of the Comptroller of the Treasury. The definition of “state personnel” also includes “an individual who, without compensation, exercises a part of the sovereignty of the State.” § 12-101(a)(4). For a full list of those who meet the definition of “State personnel” under the MTCA, see §12-101.

Individuals who volunteer for the State may also be covered under the Maryland Tort Claims Act and considered “state personnel” for immunity purposes. Under COMAR 25.02.01.02(B)(8), a volunteer is a person who: (1) is performing services to or for a unit of State government, the employees of which are considered State personnel, (2) is engaged in the actual performance of State services at the time of incident giving rise to a claim; and (3) in the performance of the services is participating in a formal volunteer program, or before the beginning of those services, is formally recognized by the unit of State government as a volunteer.

Volunteers cannot be paid in whole or part by the State to be considered “state personnel” for the purposes of the Maryland Tort Claims Act. COMAR 25.02.01.02(B)(4).

E. The Local Government Tort Claims Act

The Local Government Tort Claims Act provides certain protections and immunities for “employees” committing tortious acts while performing duties within the scope of their employment by a local government. MD. CODE ANN., CTS. & JUD. PROC. §§ 5-301 *et seq.* (LexisNexis 2002 and Supp. 2004).

MD. CODE ANN., CTS. & JUD. PROC. § 5-302 (LexisNexis 2002) provides that “a person may not execute against an employee on a judgment rendered for tortious acts or omissions committed by the employee within the scope of employment with a local government.” § 5-302(b)(1). However, “an employee shall be fully liable for all damages awarded in an action in which it is found that the employee acted with actual malice.” § 5-302(b)(2)(i). “In such circumstances the judgment may be executed against the employee and the local government may seek indemnification for any sums it is required to pay. . . .” § 5-302(b)(2)(ii).

MD.CODE, CTS. & JUD. PROC. § 5-303 (LexisNexis 2002 and Supp. 2004) provides that “the liability of a local government may not exceed \$200,000 per an individual claim, and \$500,000 per total claims that arise from the same occurrence for damages resulting from tortious acts or omissions, or liability arising” from judgments against its employee for damages resulting from tortious acts or omissions committed by the employee within the scope of employment with the local government. § 5-303(a)(1). Under this provision a local government is also not liable for punitive damages. § 5-303(c)(1). However, a local government may indemnify a law enforcement officer and employee for punitive damages unless they stem from police conduct that amounts to a felony. § 5-303(c)(2)(ii).

A volunteer will also meet the definition of an “employee” for purposes of the immunity and protections provided under the Local Tort Claims Act if the volunteer provided services or performed duties at the request of the local government at the time of any tortious act or omission. § 5-301(c)(2) (iii).

F. Catastrophic Health Emergencies Act

Under a proclaimed catastrophic health emergency, a health care provider is “immune from civil or criminal liability if the health care provider acts in good faith.” MD. CODE ANN., PUB. SAFETY § 14-3A-06 (LexisNexis Supp. 2004). Additionally, health care providers are immune from civil or criminal liability for good faith actions taken in accordance with a Catastrophic Health Emergency Disease Surveillance and Response Program unless the health care provider acts with willful misconduct. MD. CODE ANN., HEALTH-GEN. I § 18-907(d) (LexisNexis Supp. 2005).

G. Liability of a Municipality During a Riot

Under MD. CODE ANN., PUB. SAFETY § 14-1001(b) (LexisNexis 2003), a municipality has limited liability during a riot. Generally “if a structure or personal property is stolen, damaged, or destroyed in a riot, the injured party may recover actual damages sustained in a civil action against the county or municipal corporation of the State in which the riot occurred.” See Baltimore v. Silver, 263 Md. 439, 283 A.2d 788 (1971)(holding that the city could have acted in ways to prevent or suppress riots, because the Act of 1860, granted the state board control over the police force); see also Baltimore v. Blibaum, 280 Md. 652, 374 A.2d 1152 (1977) (finding that an insurer may be subrogated to the rights of the insured when the municipality is found to have been liable for riot.). However, a municipality's liability is limited to predictable and preventable riots. MD. CODE ANN., PUB. SAFETY § 14-1002(a) (LexisNexis 2003). This section of the Code states that a county or municipal corporation is not liable “for theft, damage, or destruction that occurs in a riot unless the authorities of the county or municipal corporation: (1) had good reason to believe that the riot was about to take place or, having taken place, had notice of the riot in time to prevent the theft, damage, or destruction; and (2) had the ability, either by use of the county's or municipal corporation's police or with the aid of the residents of the county or municipal corporation, to prevent the theft, damage, or destruction.” § 14-1002(a)(1) and (2) (2003). Furthermore, “[a] person may not recover damages from a county or municipal corporation . . . if it is satisfactorily proved that the

authorities of the county or municipal corporation, and the residents of the county or municipal corporation when called on by the authorities, used reasonable diligence and all the powers entrusted to them to prevent or suppress the riot.” § 14-1002(b).

H. Miscellaneous Immunity and Liability Provisions

i. Immunity of the Militia

“[M]ember[s] of the organized militia ordered into State active duty by proper authority [are] not liable civilly or criminally for . . . acts done while discharging [their] dut[ies].” MD. CODE ANN., PUB. SAFETY § 13-708(a) (LexisNexis 2003). If militia personnel act responsibly, reasonably, and in good faith while performing their duties, then they are shielded from liability by § 13-708. *See* 59 Md. Op. Att’y Gen. 517 (1974). In addition, under MD.CONST. art. 2, § 8 and the Maryland Tort Claims Act, State courts are barred from hearing any tort case based on negligence against the National Guard. *See Estate of Burris v. State*, 360 Md. 721, 759 A.2d 802 (2000).

ii. Liability of the State to Repair or Replace Equipment Damaged When Used During State of Emergency

The State is required to “repair or replace any equipment, facilities, or property that is damaged while being used in accordance with the proclamation of a state of emergency.” MD. CODE ANN., PUB. SAFETY § 14-308 (LexisNexis 2003).

iii. Immunity of Employees of MEMA and Local Emergency Management Organizations

MD. CODE ANN., PUB. SAFETY §14-201 to14-218 (LexisNexis 2003) is entitled “Civil Relief During Emergency Periods.” Sections 14-202 through 14-218 to relieve members of and individuals who work for MEMA and local emergency management organizations of civil liabilities while responding to an emergency. § 14-202(a). These sections are intended to “provide for, strengthen, and expedite national defense” and in order “[t]o achieve these purposes, this subtitle temporarily suspends: (1) enforcement of civil liabilities against persons in emergency management service to enable them to devote their entire energy to the emergency management needs of the State and the United States; (2) enforcement of civil liabilities against persons suffering injury or damage to enable them to devote their entire energy to the cure or improvement of the injuries or damage suffered; and (3) legal proceedings and transactions that may prejudice the civil rights of persons in emergency management service or persons suffering injury or damage during the emergency period to which this subtitle is applicable.” § 14-202(a)-(b)(3).

iv. Immunity from Injury from Vaccine Administration

“A person lawfully administering a drug or vaccine” is immune from liability from injury that the vaccine may cause. MD. CODE ANN., HEALTH-GEN. § 18-401(a) (LexisNexis

2005). Additionally, medical personnel participating in an “immunization project” that is determined by the Secretary of Health and Mental Hygiene to “conform to good medical and public health practice and gives written approval for the project to be administered in the State” are immune from liability stemming from the project. § 18-401(b).

TOPIC 22. WORKERS' COMPENSATION

The Workers' Compensation Act is codified at MD. CODE ANN., LAB. & EMPL. §§ 9-101 *et seq.* (LexisNexis 1999 and Supp. 2004).

A. Government Employees

“[E]ach governmental unit or quasi-public corporation that has at least 1 covered employee” is an "employer" that must provide Workers' Compensation under the Labor and Employment provision of the Maryland Code. MD. CODE ANN., LAB. & EMPL. § 9-201(2) (LexisNexis 1999). Consequently, State, county, or municipality-employed fire, police, and rescue personnel are able to receive worker's compensation as employees defined under MD. CODE ANN., LAB. & EMPL. § 9-202 (LexisNexis 1999 and Supp. 2004).

See 77 Md. Op. Att’y Gen. No. 92-044 (December 16, 1992) (This opinion discusses numerous issues concerning potential liability when State or local government employees respond to a hazardous materials ("HAZMAT") incident.); *See also generally* Mayor & City Council v. Johnson, 156 Md. App. 569, 847 A.2d 1190 (2004) (widow of deceased firefighter is only permitted one recovery, either pension or worker’s compensation); Mayor of Baltimore v. Polomski, 106 Md. App. 689, 666 A.2d 895 (1995) (an injured state employee may elect only one recovery, either pension or worker’s compensation); Potter v. Bethesda Fire Dept., Inc., 309 Md. 347, 524 A.2d 61 (1987). (discussing the setoff provisions of workers compensation). Generally, the benefits paid by the employer satisfy the liability of the employer, and only if this benefit is less than that provided by worker’s compensation, will the employee be able to collect it, and then only in the amount necessary to bring the benefit up to the amount the employee would have received directly from worker’s compensation. MD. CODE ANN., LAB. & EMPL. § 9-610(a)(1-2) (LexisNexis 1999 and Supp. 2004).

B. Emergency Management Assistance Compact

Emergency forces personnel injured while rendering assistance under EMAC are entitled to the worker’s compensation of their own state. Under Article VIII of the Emergency Management Assistance Compact (MD. CODE ANN., PUB. SAFETY § 14-702), “[e]ach party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.” MD. CODE ANN., PUB. SAFETY § 14-702(8) (LexisNexis 2003).

C. Maryland Emergency Management Assistance Compact

Under the Maryland Emergency Management Assistance Compact each party jurisdiction is responsible for providing workers' compensation to its own emergency responders. MD. CODE ANN., PUB. SAFETY § 14-803(6)(f)(1) (2003). Furthermore, each party state is responsible for providing death benefits to its own first responders. § 14-803(6)(f)(1).

D. Injuries While Performing Duties on Federal Property

In agreements entered into between a Maryland fire, rescue, or emergency medical services entity and the federal government to provide fire fighting or rescue activities on property under the jurisdiction of the United States, "the Maryland Workers' Compensation Act [is] the primary remedy for reimbursement of expenses for medical bills, loss of earnings, and disability that arises under or as a result" of an injury sustained while acting pursuant to an agreement. MD. CODE ANN., PUB. SAFETY § 7-104(d) (LexisNexis 2003).

TOPIC 23. STATE / LOCAL LAW ENFORCEMENT AUTHORITY

A. Powers and Duties of Police Officers Throughout Maryland

Pursuant to MD. CODE ANN., CRIM. PROC. § 2-102 (LexisNexis 2001 & Supp. 2004), a police officer may “make arrests, conduct investigations, and otherwise enforce the laws of the State throughout the State without limitations as to jurisdiction.” § 2-102(b)(1).

For purposes of this title, a “police officer” is defined broadly as:

“(1) a member of the Department of State Police; (2) a member of the Police Department of Baltimore City; (3) a member of the Baltimore City School Police Force; (4) a member of the police department, bureau, or force of a county; (5) a member of the police department, bureau, or force of a municipal corporation; (6) a member of the Maryland Transit Administration Police Force; (7) a member of the University of Maryland Police Force or Morgan State University Police Force; (8) a special police officer who is appointed to enforce the law and maintain good order on or protect property of the State or any of its units; (9) a member of the Department of General Services security force; (10) the sheriff of a county whose usual duties include the making of arrests; (11) a regularly employed deputy sheriff of a county who is compensated by the county and whose usual duties include the making of arrests; (12) a member of the Natural Resources Police Force of the Department of Natural Resources; (13) an authorized employee of the Field Enforcement Bureau of the Comptroller’s Office; (14) a member of the Maryland-National Capital Park and Planning Commission Park Office; (15) a member of the Housing Authority of Baltimore City Police Force; (16) a member of the Crofton Police Department; (17) a member of the WMATA Metro Transit Police, subject to the jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan Area Transit Authority Compact, which is codified at § 10-204 of the Transportation Article; (18) a member of the Internal Investigative Unit of the Department; (19) a member of the State Forest and Park Service Police Force of the Department of Natural Resources; (20) a member of the Department of Labor, Licensing, and Regulation Police Force; or (21) a member of the Washington Suburban Sanitary Commission Police Force; or (22) a member of the Ocean Pines Police Department.” MD. CODE ANN., CRIM. PROC. § 2-101(c) (LexisNexis 2001 & Supp. 2004).

A police officer may only exercise the powers indicated outside of his or her jurisdiction “when: (i) 1. the police officer is participating in a joint investigation with officials from another State, federal, or local law enforcement unit, at least one of which has local jurisdiction; 2. the police officer is rendering assistance to another police officer; 3. the police officer is acting at the request of a police officer or State Police officer; or 4. an emergency exists; and (ii) the police officer is acting in accordance with regulations adopted by the police officer's employing unit to carry out this section.” § 2-102(b)(3).

An emergency is defined as “a sudden or unexpected happening or an unforeseen combination of circumstances that calls for immediate action to protect the health, safety, welfare, or property of a person from actual or threatened harm or from an unlawful act.” § 2-101(b).

B. Duties of State Police

The State Police Department also specifically “has the general duty to safeguard the lives and safety of all persons in the State, to protect property, and to assist in securing to all persons the equal protection of the laws.” MD. CODE ANN., PUB. SAFETY § 2-301(a)(1)(LexisNexis 2003). “[T]his duty includes the responsibility to: (i) preserve the public peace; (ii) detect and prevent the commission of crime; (iii) enforce the laws and ordinances of the State, counties, and municipal corporations; (iv) apprehend and arrest criminals and those who violate or are lawfully accused of violating the laws and ordinances of the State, counties, and municipal corporations; (v) preserve order at public places; (vi) maintain the safe and orderly flow of traffic on public streets and highways; (vii) cooperate with and assist law enforcement agencies in carrying out their respective duties; and (viii) discharge the duties and responsibilities of the Department with the dignity and in a manner that will inspire public confidence and respect.” § 2-301(a)(2).

C. Powers and Duties of Sheriffs

The Constitution of Maryland creates the position of the Sheriff. MD. CONST. art. IV, § 44. It provides that a Sheriff shall be elected in each county and in Baltimore City. A Sheriff exercises duties fixed by the legislature. A Sheriff’s duties are not uniform throughout the State, although the Sheriff is a state official. 20 MD. L. ENCYCLOPEDIA, *Sheriffs* § 11 (West 2001). Primarily through public local law, the General Assembly has treated the Sheriff somewhat differently from county to county. *Id.* In some counties, the sheriff does little more than serve civil process; in others, the Sheriff and his deputies also act as the county police force. *Id.* The common-law powers of Sheriffs include conserving public peace, preserving public order, preventing and detecting crime, enforcing criminal law by, among other things, arresting persons who commit crimes in their presence and providing security for courts. *Id.* Ordinarily those powers are concurrent with the powers ordinarily exercised by police officers. *Id.*

For additional information on Sheriffs, see MD. CODE ANN., CTS. & JUD. PROC. §§ 2-301 to -311 (LexisNexis 2002 & Supp. 2004).

D. Powers and Duties of Special Police Officers

The Governor may appoint anyone whom he or she “considers qualified for [the] commission” to serve as a special police officer. MD. CODE ANN., PUB. SAFETY §§ 3-302 (LexisNexis 2003). An employer may also submit an application to the Governor and to the Secretary of State Police to have his or her employee appointed a special police officer., § 3-304. All commissions of special police officers are issued by the Governor.

§ 3-306. Municipal corporations, counties, or other governmental bodies of the State may apply for the appointment of a special officer to protect public property, and protect the property and students of an institution of the public school system. § 3-303(a). Finally, applicants for positions as special officers must be at least 18 years of age and may be required to undergo education and training as required by the Secretary. § 3-303(b) - (c).

Special police officers are granted the power to arrest, issue traffic citations, and direct traffic “on the property described in the application for the commission.” MD. CODE ANN., PUB. SAFETY § 3-307(a) (LexisNexis 2003). Additionally, special police officers are granted the powers provided to other police officers in the county or jurisdiction where their commission is located, in order to carry out their specified duties on the property they have been assigned. § 3-307(b).

See Lyles v. State, 10 Md. App. 265, 269-70, 269 A.2d 178, 180-81 (1970) (at trial, the state must demonstrate that the special officer was commissioned at the time of the arrest for the special officer to have had the authority to arrest); 83 Md. Op. Att’y Gen. 121, 121 (1998) (“A special police officer, acting solely in that capacity, may not exercise the authority granted to a ‘peace officer’ under the emergency [mental] evaluation law.”). *See also* 80 Md. Op. Att’y Gen. 216 (1995).

E. Powers and Duties of Railroad Police

“Each railroad company located wholly or partly in the State may apply for the appointment of railroad police officers: (1) to protect property, patrons, passengers, tenants, employees, equipment, and services; and (2) to preserve peace and order on railroad premises, easements, appurtenant property, trains, cars, and other vehicles.” MD. CODE ANN., PUB. SAFETY § 3-402 (LexisNexis 2003).

In order to have a railroad police officer appointed, the chief railroad police officer of the company submits the application of the individual to the Secretary of State Police and pays the application fee. § 3-404. After the application is reviewed by the Secretary, the Secretary will then submit the application to the Governor with a recommendation to either accept or deny the applicant. § 3-405(a). Finally, those individuals approved by the Governor will be issued appointments. § 3-405(b). The Governor is not bound by the recommendation of the Secretary. § 3-405(a)(2).

The railroad police officer possesses the same powers as those “granted to a peace or police officer.” § 3-406(a). However, the railroad officer may only exercise these powers when he or she “(1) is on real or personal property owned, leased, operated, or controlled by the railroad company that employs the railroad police officer; (2) is in fresh pursuit of a suspect; (3) is requested or authorized to act by the executive officer or chief police officer of a county; or (4) is ordered to act by the Governor.” § 3-406(b)(1)-(4).

“If sufficient facilities are available, the person in charge of a jail or place of detention shall receive and confine an individual arrested by a railroad police officer.” MD. CODE ANN., PUB. SAFETY § 3-413(a) (LexisNexis 2003).

F. Powers and Duties of Maryland Transit Administration Police

i. Establishment of the Maryland Transit Administration Police

The Maryland Transit Administration “shall establish and maintain a police force to provide protection for its patrons, personnel, and all railroad facilities and transit facilities owned, leased, or operated upon, by, or under the control of the Administration. The police force is charged with the responsibility of enforcing the applicable laws, ordinances and regulations of the State and political subdivisions and rules and regulations of the Administration.” MD. CODE ANN., TRANSP. § 7-207(a) (LexisNexis 2001).

ii. Powers and Jurisdiction of Transit Police Officers

“(1) A Maryland Transit Administration police officer has all the powers granted to a peace officer and a police officer of this State. These powers may be exercised only on property owned, leased, or operated upon, by, or under the control of the Administration and not on any other property unless: (i)[e]ngaged in fresh pursuit of a suspected offender; (ii) [s]pecially requested or permitted to do so in a political subdivision by its chief executive officer or its chief police officer; or (iii) [o]rdered to do so by the Governor. (2) Members of the police force have concurrent jurisdiction in the performance of their duties with the law enforcement agencies of the State and of the political subdivisions in which any transit facility or railroad facility of the Administration is located or in which the Administration operates any transit service or railroad service. Nothing contained in this section relieves the State or a political subdivision or agency thereof from a duty to provide police, fire and other public safety service and protection or affects the jurisdiction of other police, fire, and public safety agencies.” MD. CODE ANN., TRANSP. § 7-207(b) (LexisNexis 2001).

iii. Entering into Agreements for Functions of the Police Force

“The Administration may enter into agreements with railroad companies, political subdivisions, and public safety agencies, including those of the federal government, for the delineation of the functions and responsibilities of the Administration's police force.” MD. CODE ANN., TRANSP. I § 7-207(e) (LexisNexis 2001).

iv. Transit Police Power to Issue Citations

“The Maryland Transit Administration police force may issue citations for violations of the rules and regulations adopted by the Administration under this title.” MD. CODE ANN., TRANSP. I § 7-207(f) (LexisNexis 2001).

G. Arrest

“A police officer [as broadly defined in §2-101(c)] may arrest a person throughout the State” when a warrant has been issued for that person. MD. CODE ANN., CRIM. PROC. § 2-103(b)(1) (LexisNexis 2001).

A police officer may make an arrest without a warrant when a person who commits or attempts to commit a felony or misdemeanor is in the presence or within the view of the police officer. MD. CODE ANN., CRIM. PROC. § 2-202(a) (LexisNexis Supp. 2004). In addition, “[a] police officer who has probable cause to believe that a felony or misdemeanor is being committed in the presence or within the view of the police officer may arrest without a warrant any person whom the police officer reasonably believes to have committed the crime.” § 2-202(b). Finally, “[a] police officer without a warrant may arrest a person if the police officer has probable cause to believe that a felony has been committed or attempted and the person has committed or attempted to commit the felony whether or not in the presence or within the view of the police officer.” § 2-202(c).

During a public emergency, and “when public safety is imperiled, or on reasonable apprehension of immediate danger of public safety being imperiled,” “the authority to make an arrest without a warrant granted to police officers is granted to a person who: (1) is serving under a proclamation of a state of emergency issued by the Governor; or (2) is serving as a member of the militia ordered into active service by the Governor; or (3) is a member of the armed forces of the United States under orders to aid civil authorities of the State in enforcing law and order.” MD. CODE ANN., CRIM. PROC. § 2-206(a) - (b) (LexisNexis Supp. 2004).

H. Criminal Offenses Relating to a Destructive Device

“A person may not knowingly: (1) manufacture, transport, possess, control, store, sell, distribute, or (2) use a destructive device; or (2) possess explosive material, incendiary material, or toxic material with intent to create a destructive device.” MD. CODE ANN., CRIM. LAW I § 4-503(a) (2002). “A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 25 years or a fine not exceeding \$250,000 or both.” MD. CODE ANN., CRIM. LAW § 4-503(b)(1) (LexisNexis 2002).

A “destructive device” is defined as “explosive material, incendiary material, or toxic material” that is: “(i) combined with a delivery or detonating apparatus so as to be capable of inflicting injury to persons or damage to property; or (ii) deliberately modified, containerized, or otherwise equipped with a special delivery, activation, or detonation component that gives the material destructive characteristics of a military ordnance.” Additionally, “[d]estructive device” includes a bomb, grenade, mine, shell,

missile, flamethrower, poison gas, Molotov cocktail, pipe bomb, and petroleum-soaked ammonium nitrate.” MD. CODE ANN., CRIM. LAW § 4-501(b) (LexisNexis Supp. 2004).

“A person may not destroy, impair, damage, or interfere or tamper with real or personal property with intent to hinder, delay, or interfere with a defense-related activity.” MD. CODE ANN., CRIM. LAW § 9-702(a) (LexisNexis 2002). “A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$10,000 or both.” § 9-702(b).

I. Militia

“The Governor may order the militia into State active duty: (1) in times of or on reasonable apprehension of imminent public crisis, disaster, rioting, catastrophe, insurrection, invasion, tumult, or breach of peace; (2) when martial law is declared; (3) to enforce the laws; or (4) to carry on any function of the militia of the State.” MD. CODE ANN., PUB. SAFETY § 13-702(b) (LexisNexis 2003). Additionally, “[t]o enforce the laws, a member of the militia in State active duty has all the authority of a peace or law enforcement officer.” This authority of the member “extends throughout the State during the State active duty.” § 13-702(c). For more information on the law enforcement duties of the militia, see Topic 1 Powers of the Governor, (E)(iv)(Militia Powers of the Governor), page 8.

In general, the Maryland Defense Force may not be required to serve outside the State. MD. CODE ANN., PUB. SAFETY § 13-506(a) (LexisNexis 2003). But, “[o]n request of the governor of another state, the Governor of this State may order the Maryland Defense Force to serve outside the State to assist the military or law enforcement forces of the other state that are actually defending that state.” § 13-506(b)(1). “The Governor of [Maryland] may recall the Maryland Defense Force from the other state.” § 13-506(b)(2).

Furthermore, “[i]f fresh pursuit is authorized by law of another state,” then “any organization, unit, or detachment of the Maryland Defense Force, on the order of the commanding officer of the organization, unit, or detachment, may continue in fresh pursuit of insurrectionists, saboteurs, or enemies outside of this State into the other state until: (1) the insurrectionists, saboteurs, or enemies are apprehended; or (2) the military or law enforcement forces of the other state or forces of the United States have had a reasonable opportunity to pursue or apprehend the insurrectionists, saboteurs, or enemies.” § 13-506(c).

“An organization, unit, or detachment of the Maryland Defense Force shall surrender without unnecessary delay an individual apprehended in another state to the military or law enforcement force of: the state of apprehension; or the United States. The surrender of an individual apprehended . . . to the military or law enforcement forces of another state is not a waiver by [the State of Maryland] of the right to extradite or prosecute the individual for a crime committed in [Maryland].” § 13-506(d).

“A military force or an organization, unit, or detachment of a military force of another state that is in fresh pursuit of insurrectionists, saboteurs, or enemies may: (1) continue

pursuit into [Maryland] until the military or law enforcement force of [the State of Maryland] or the forces of the United States have had a reasonable opportunity to pursue or apprehend the insurrectionists, saboteurs, or enemies; and (2) arrest an insurrectionist, saboteur, or enemy apprehended in [the State of Maryland] while in fresh pursuit.” MD. CODE ANN., PUB. SAFETY § 13-507(a) (LexisNexis 2003).

“A military force of another state that arrests an individual in [the State of Maryland] shall surrender without unnecessary delay the individual to the military or law enforcement force of [the State of Maryland] or the United States to be dealt with according to law. This section does not make unlawful an arrest in this State that would otherwise be lawful.” § 13-507(b)-(c)(1).

“The chief executive officer or governing body of a county or municipal corporation may request the Governor to provide the militia to help bring under control conditions existing within the county or municipal corporation that, in the requestor's judgment, the local law enforcement agencies cannot control without additional personnel.” MD. CODE ANN., PUB. SAFETY § 14-306(d) (LexisNexis 2003).

TOPIC 24. PORTS AND AIRPORTS

A. Authority over Ports

i. Federal Authority over Ports

Generally, the Secretary of Homeland Security has broad powers “to prevent and respond to an act of terrorism against -- (1) an individual, vessel, or public or commercial structure, that is – (A) subject to the jurisdiction of the United States; and (B) located within or adjacent to the marine environment; or (2) a vessel of the United States or an individual on board that vessel” by “carry[ing] out measures, including inspections, port and harbor patrols, the establishment of security and safety zones, and the development of contingency plans and procedures, to prevent or respond to acts of terrorism.” 33 U.S.C.A. § 1226(a) and (b)(1) (West 2001 & Supp. 2005).

The Secretary of Transportation may authorize the exclusion of all vessels from a security zone whenever the President declares a national emergency or the Attorney General determines that a mass migration of aliens may be coming to the United States requiring an immediate federal response. Additionally, this section gives the President authority to “institute such measures and issue such rules and regulations” to seize vessels, place guards upon vessels, and remove the crew of vessels located in United States waters. 50 U.S.C.A. § 191 (West 2003 & Supp. 2005).

ii. Authority to Quarantine Vessels

If the Governor of Maryland has “strong grounds” to believe that there is a danger of a malignant and contagious disease being introduced into the State, the Governor may quarantine a vessel that is entering the waters of the State. MD. CODE ANN., HEALTH-GEN. § 18-212.1(1) (LexisNexis 2005) (detailing the Governor’s authority to quarantine vessels).

Statutory authority otherwise provided the Secretary of Health and Mental Hygiene or health officers, defined as “the health officer[s] in each of the 23 counties and the Commissioner of Health in Baltimore City, or the duly designated representative of the health officer,” COMAR 10.06.01.02(8), with the power to invoke any action or measure necessary to prevent the spread of communicable disease, including quarantine, almost certainly applies to ports. *See* MD. CODE ANN., HEALTH-GEN. §§ 18-102(a), 18-102(b)(2), 18-208(b)(1) (LexisNexis 2005); COMAR 10.06.01.06(A),(C).

For additional information, see “Topic 1. Powers of the Governor (E)(ii),” page 7 and “Topic 9. Quarantine / Isolation (A)(iii),” page 56.

iii. State Management of Maryland Ports

The Maryland Port Commission (“Commission”) is established to manage all the ports in Maryland through the Maryland Port Administration. MD. CODE ANN., TRANSP. § 6-201(a),(b) (LexisNexis 2001).

The Chairman of the Commission has the duty of leading the Commission. MD. CODE ANN., TRANSP. §§ 6-201.1-201.2 (LexisNexis 2001 & Supp. 2004). The Commission supervises the Maryland Port Administration. *See* § 6-202 (creating a Maryland Port Administration); § 6-204(a) (granting powers to the Administration subject to the supervision of the Commission).

MD. CODE ANN., TRANSP. § 6-203 (LexisNexis 2001) establishes an executive director for the Administration whose duties include carrying out the regulations adopted by the Port Commission and the powers and duties that have been granted the Administration. *See* MD. CODE ANN., TRANSP. § 6-203 (LexisNexis 2001) for a complete list of the Executive Director's duties.

Except as otherwise provided, "the Administration has jurisdiction and may exercise its powers and duties in or near any of the navigable waters of this State." MD. CODE ANN., TRANSP. § 6-103(a) (LexisNexis 2001). However, the Administration has no jurisdiction in Queen Anne's County and consent is needed from the county government and its legislative delegation if the Administration is to have jurisdiction in Calvert, Charles, and St. Mary's counties. § 6-103(c). In order to obtain consent, the county government must have sufficient public hearings and public notice. § 6-103(c).

The Administration "may do anything. . . necessary or convenient to carry out the powers granted" to the Administration. § 6-204(o). *See* MD. CODE ANN., TRANSP. §§ 6-204 for all powers of the Administration.

iv. Maryland Port Law Enforcement

A Maryland Transportation Authority police officer has all the powers granted to peace and police officers and may exercise such powers on property owned, leased, or operated by or under the control of the Maryland Transportation Authority, Maryland Aviation Administration, and Maryland Port Authority. MD. CODE ANN., TRANSP. § 4-208(b),(e) (2001 LexisNexis & Supp. 2004).

v. Halting Traffic Through a Maryland Port

Finally, because the Governor may generally halt business after declaring a state of emergency, he almost certainly has the power to close the port or control traffic through the port. MD. CODE ANN., PUBLIC SAFETY §§ 14-303(b) (LexisNexis 2003) (defining the Governor's authority during an emergency to "control traffic. . .in the emergency area"); 14-307(b) (allowing for the general cessation of business during emergency).

For additional information on State of Emergency, see "Topic 1. Powers of the Governor (E)(i)," page 5.

B. Airports

i. Federal Authority over Airports

The federal government has broad powers over the access to airspace and regulates the flight plans and other essentials of aircraft. The Administrator of the Federal Aviation Administration (FAA) prescribes regulations for “navigating, protecting, and identifying aircraft; protecting individuals and property on the ground; using the navigable airspace efficiently; and preventing collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects.” 49 U.S.C.A. § 40103(b)(2) (West 1997 & Supp. 2005). The FAA administrator may also issue emergency regulations and orders which will take effect when an emergency exists related to safety in air commerce and the emergency requires immediate action. *Id.* § 46105(c).

ii. Authority to Quarantine at Airports

Statutory authority otherwise provided the Secretary of Health and Mental Hygiene or health officers, defined as “the health officer[s] in each of the 23 counties and the Commissioner of Health in Baltimore City, or the duly designated representative of the health officer,” COMAR 10.06.01.02(8), with the power to invoke any action or measure necessary to prevent the spread of communicable disease, including quarantine, almost certainly applies to airports. *See* MD. CODE ANN., HEALTH-GEN. §§ 18-102(a), 18-102(b)(2), 18-208(b)(1) (LexisNexis 2005); COMAR 10.06.01.06(A)(C).

The Maryland Aviation Administration has provided that at Baltimore Washington International Airport (BWI), “[f]ederal and State laws and regulations prevail in all cases of human and animal quarantine action.” COMAR 11.03.01.07(K).

For additional information, see “Topic 5. State Public Health Powers,” page 17.

iii. State Management of Maryland Airports

The Maryland Aviation Administration has general supervision over aeronautics in Maryland and must cooperate with the Federal government in aeronautical activities. MD. CODE ANN., TRANSP. § 5-204(b),(c)(LexisNexis 2001). Additionally, the Administration represents the State before the Federal government in aeronautics matters, and must cooperate in these matters. § 5-204(c)(3),(d)(2).

“Generally, the Administration may perform any act, issue and amend any order, adopt and amend any general or special rule, regulation, or procedure, and establish any minimum standard consistent with this title and necessary: (i) to perform its duties and carry out the provisions of this title; (ii) to protect the general public safety, the safety of persons who operate, use, or travel in aircraft, the safety of persons who receive instructions in flying or ground subjects that relate to aeronautics, or the safety of persons or property on land or water; or (iii) to develop and promote aeronautics in this State.”

MD. CODE ANN., TRANSP. § 5-208(a)(1) (LexisNexis 2001). However, in § 5-208(b)(1) the Administration is barred from having any control over Federal airports and any “rule, regulation, order, or standard of the Administration must not be inconsistent with or contrary to federal law.” § 5-208(b)(2).

iv. Maryland Airport Law Enforcement

A Maryland Transportation Authority police officer has all the powers granted to peace and police officers and may exercise such powers on property owned, leased, or operated by or under the control of the Maryland Transportation Authority, Maryland Aviation Administration, and Maryland Port Authority. MD. CODE ANN., TRANSP. § 4-208(b),(e) (LexisNexis 2001 and Supp. 2004).

v. Halting Traffic Through a Maryland Airport

Generally, the Executive Director of the Maryland Aviation Administration (who is also the Airport Director of BWI) “may deny the use of the Airport to any pilot in violation of these regulations and shall have the authority to close the Airport or any portion of it to air operations or to any specific aircraft or class of aircraft if, in [the Director's] opinion, the use of the Airport by the aircraft might endanger persons or property or jeopardize the operational efficiency of the Airport.” COMAR 11.03.01.02(D) (Supp. 23) (defining Aircraft rules); COMAR 11.03.01.01(5) & (24) (defining “Airport Director” and “Executive Director”). Additionally, the Executive Director or Airport Director may issue a Refusal of Clearance by way of a Notice to Airmen. This document can close an entire airport or any part of it “[w]hen...conditions are such that continued operations would be unsafe or unwise.” COMAR 11.03.01.02(J) (Supp. 23).

Finally, because the Governor may halt business after declaring a state of emergency, he most certainly has the power to close the airport or control the traffic through the airport. MD. CODE ANN., PUBLIC SAFETY §§ 14-303(b) (LexisNexis 2003) (defining the Governor’s authority during an emergency to “control traffic. . .in the emergency area”); 14-307(b) (allowing for the general cessation of business during an emergency).

For additional information on State of Emergency, see “Topic 1. Powers of the Governor (E),” page 5.

APPENDIX 1-UNITED STATES CONSTITUTION

THE UNITED STATES CONSTITUTION

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article. I.

Section 1.

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section. 2.

Clause 1: The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

Clause 2: No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Clause 3: Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. (*See Note 2*) The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

Clause 4: When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

Clause 5: The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section. 3.

Clause 1: The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, (*See Note 3*) for six Years; and each Senator shall have one Vote.

Clause 2: Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies. (*See Note 4*)

Clause 3: No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

Clause 4: The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

Clause 5: The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

Clause 6: The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Clause 7: Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Section. 4.

Clause 1: The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

Clause 2: The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, (*See Note 5*) unless they shall by Law appoint a different Day.

Section. 5.

Clause 1: Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Clause 2: Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Clause 3: Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Clause 4: Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section. 6.

Clause 1: The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. (*See Note 6*) They shall in all Cases, except Treason, Felony and Breach of the Peace, beprivileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

Clause 2: No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section. 7.

Clause 1: All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Clause 2: Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it.

If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Clause 3: Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section. 8.

Clause 1: The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

Clause 2: To borrow Money on the credit of the United States;

Clause 3: To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

Clause 4: To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

Clause 5: To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

Clause 6: To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

Clause 7: To establish Post Offices and post Roads;

Clause 8: To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

Clause 9: To constitute Tribunals inferior to the supreme Court;

Clause 10: To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

Clause 11: To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

Clause 12: To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

Clause 13: To provide and maintain a Navy;

Clause 14: To make Rules for the Government and Regulation of the land and naval Forces;

Clause 15: To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

Clause 16: To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

Clause 17: To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;--And

Clause 18: To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Section. 9.

Clause 1: The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

Clause 2: The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

Clause 3: No Bill of Attainder or ex post facto Law shall be passed.

Clause 4: No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken. (*See Note 7*)

Clause 5: No Tax or Duty shall be laid on Articles exported from any State.

Clause 6: No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

Clause 7: No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

Clause 8: No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

Section. 10.

Clause 1: No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

Clause 2: No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

Clause 3: No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Article. II.

Section. 1.

Clause 1: The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

Clause 2: Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

Clause 3: The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall

make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President. (*See Note 8*)

Clause 4: The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

Clause 5: No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

Clause 6: In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, (*See Note 9*) the Same shall devolve on the VicePresident, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

Clause 7: The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Clause 8: Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:--"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Section. 2.

Clause 1: The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive

Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

Clause 2: He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

Clause 3: The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Section. 3.

He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Section. 4.

The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Article. III.

Section. 1.

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Section. 2.

Clause 1: The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;--to all Cases affecting Ambassadors, other public Ministers and Consuls;--to all Cases of admiralty and maritime Jurisdiction;--to Controversies to which the United States shall be a Party;--to Controversies between two or more States;--between a State and Citizens of another State; (*See Note 10*)--between Citizens of different States, --between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

Clause 2: In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

Clause 3: The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section. 3.

Clause 1: Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

Clause 2: The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

Article. IV.

Section. 1.

Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section. 2.

Clause 1: The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

Clause 2: A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

Clause 3: No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due. (*See Note 11*)

Section. 3.

Clause 1: New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

Clause 2: The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Section. 4.

The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

Article. V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose [Amendments](#) to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Article. VI.

Clause 1: All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

Clause 2: This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Clause 3: The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Article. VII.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth In witness whereof We have hereunto subscribed our Names,

GO WASHINGTON--Presidt. and deputy from Virginia

[Signed also by the deputies of twelve States.]

APPENDIX 2-MARYLAND STATE CONSTITUTION

CONSTITUTION OF MARYLAND

ADOPTED BY THE CONVENTION

Which Assembled at the City of Annapolis on the Eighth Day of May, Eighteen Hundred and Sixty-seven, and Adjourned on the Seventeenth Day of August, Eighteen Hundred and Sixty-seven, and was Ratified by the People on the Eighteenth Day of September, Eighteen Hundred and Sixty-seven, with Amendments through Nineteen Hundred and Ninety-four.

DECLARATION OF RIGHTS.

We, the People of the State of Maryland, grateful to Almighty God for our civil and religious liberty, and taking into our serious consideration the best means of establishing a good Constitution in this State for the sure foundation and more permanent security thereof, declare:

Article 1. That all Government of right originates from the People, is founded in compact only, and instituted solely for the good of the whole; and they have, at all times, the inalienable right to alter, reform or abolish their Form of Government in such manner as they may deem expedient.

Art. 2. The Constitution of the United States, and the Laws made, or which shall be made, in pursuance thereof, and all Treaties made, or which shall be made, under the authority of the United States, are, and shall be the Supreme Law of the State; and the Judges of this State, and all the People of this State, are, and shall be bound thereby; anything in the Constitution or Law of this State to the contrary notwithstanding.

Art. 3. The powers not delegated to the United States by the Constitution thereof, nor prohibited by it to the States, are reserved to the States respectively, or to the people thereof.

Art. 4. That the People of this State have the sole and exclusive right of regulating the internal government and police thereof, as a free, sovereign and independent State.

Art. 5.²(a) That the Inhabitants of Maryland are entitled to the Common Law of England, and the trial by Jury, according to the course of that Law, and to the benefit of such of the English statutes as existed on the Fourth day of July, seventeen hundred and seventy-six; and which, by experience, have been found applicable to their local and other circumstances, and have been introduced, used and practiced by the Courts of Law or Equity; and also of all Acts of Assembly in force on the first day of June, eighteen hundred and sixty-seven; except such as may have since expired, or may be inconsistent with the provisions of this Constitution; subject, nevertheless, to the revision of, and amendment or repeal by, the Legislature of this State. And the Inhabitants of Maryland are also entitled to all property derived to them from, or under the Charter granted by His Majesty Charles the First to Cacilius Calvert, Baron of Baltimore.

(b) The parties to any civil proceeding in which the right to a jury trial is preserved are entitled to a trial by jury of at least 6 jurors.

(c) That notwithstanding the Common Law of England, nothing in this Constitution prohibits trial by jury of less than 12 jurors in any civil proceeding in which the right to a jury trial is preserved.

Art. 6. That all persons invested with the Legislative or Executive powers of Government are the Trustees of the Public, and, as such, accountable for their conduct: Wherefore, whenever the ends of Government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the People may, and of right ought, to reform the old, or establish a new Government; the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish and destructive of the good and happiness of mankind.

Art. 7.³ That the right of the People to participate in the Legislature is the best security of liberty and the foundation of all free Government; for this purpose, elections ought to be free and frequent; and every citizen having the qualifications prescribed by the Constitution, ought to have the right of suffrage.

Art. 8. That the Legislative, Executive and Judicial powers of Government ought to be forever separate and distinct from each other; and no person exercising the functions of one of said Departments shall assume or discharge the duties of any other.

Art. 9. That no power of suspending Laws or the execution of Laws, unless by, or derived from the Legislature, ought to be exercised, or allowed.

Art. 10. That freedom of speech and debate, or proceedings in the Legislature, ought not to be impeached in any Court of Judicature.

Art. 11. That Annapolis be the place of meeting of the Legislature; and the Legislature ought not to be convened, or held at any other place but from evident necessity.

Art. 12. That for redress of grievances, and for amending, strengthening and preserving the Laws, the Legislature ought to be frequently convened.

Art. 13. That every man hath a right to petition the Legislature for the redress of grievances in a peaceable and orderly manner.

Including amendments proposed by the General Assembly and ratified by the voters through Nov. 8, 1994.

¹ Amended by Chapters 203, 204, Acts of 1992, ratified Nov. 3, 1992. Amended by Chapter 357,

² Acts of 1971, ratified Nov. 7, 1972.

³

Art. 14. That no aid, charge, tax, burthen or fees ought to be rated or levied, under any pretense, without the consent of the Legislature.

Art. 15.⁴ That the levying of taxes by the poll is grievous and oppressive, and ought to be prohibited; that paupers ought not to be assessed for the support of the government; that the General Assembly shall, by uniform rules, provide for the separate assessment, classification and sub-classification of land, improvements on land and personal property, as it may deem proper; and all taxes thereafter provided to be levied by the State for the support of the general State Government, and by the Counties and by the City of Baltimore for their respective purposes, shall be uniform within each class or sub-class of land, improvements on land and personal property which the respective taxing powers may have directed to be subjected to the tax levy; yet fines, duties or taxes may properly and justly be imposed, or laid with a political view for the good government and benefit of the community.

Art. 16. That sanguinary Laws ought to be avoided as far as it is consistent with the safety of the State; and no Law to inflict cruel and unusual pains and penalties ought to be made in any case, or at any time, hereafter.

Art. 17. That retrospective Laws, punishing acts committed before the existence of such Laws, and by them only declared criminal are oppressive, unjust and incompatible with liberty; wherefore, no *ex post facto* Law ought to be made; nor any retrospective oath or restriction be imposed, or required.

Art. 18. That no Law to attain particular persons of treason or felony, ought to be made in any case, or at any time, hereafter.

Art. 19. That every man, for any injury done to him in his person or property, ought to have remedy by the course of the Law of the Land, and ought to have justice and right, freely without sale, fully without any denial, and speedily without delay, according to the Law of the Land.

Art. 20. That the trial of facts, where they arise, is one of the greatest securities of the lives, liberties and estate of the People.

Art. 21. That in all criminal prosecutions, every man hath a right to be informed of the accusation against him; to have a copy of the Indictment, or charge, in due time (if required) to prepare for his defence; to be allowed counsel; to be confronted with the witnesses against him; to have process for his witnesses; to examine the witnesses for and against him on oath; and to a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty.

Art. 22. That no man ought to be compelled to give evidence against himself in a criminal case.

Art. 23.⁵ In the trial of all criminal cases, the Jury shall be the Judges of Law, as well as of fact, except that the Court may pass upon the sufficiency of the evidence to sustain a conviction.

The right of trial by Jury of all issues of fact in civil proceedings in the several Courts of Law in this State, where the amount in controversy exceeds the sum of five thousand dollars, shall be inviolably preserved.

Art. 24.⁶ That no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land.

Art. 25. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted, by the Courts of Law.

Art. 26. That all warrants, without oath or affirmation, to search suspected places, or to seize any person or property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend suspected persons, without naming or describing the place, or the person in special, are illegal, and ought not to be granted.

Art. 27. That no conviction shall work corruption of blood or forfeiture of estate.

Art. 28. That a well regulated Militia is the proper and natural defence of a free Government.

Art. 29. That Standing Armies are dangerous to liberty, and ought not to be raised, or kept up, without the consent of the Legislature.

Art. 30. That in all cases, and at all times, the military ought to be under strict subordination to, and control of, the civil power.

Art. 31. That no soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, except in the manner prescribed by Law.

Art. 32. That no person except regular soldiers, marines, and mariners in the service of this State, or militia, when in actual service, ought, in any case, to be subject to, or punishable by Martial Law.

Art. 33.⁷ That the independency and uprightness of Judges are essential to the impartial administration of Justice, and a great security to the rights and liberties of the People: Wherefore, the Judges shall not be removed, except in the manner, and for the causes provided in this Constitution. No Judge shall hold any other office, civil, or military or political trust, or employment of any kind, whatsoever, under the Constitution or Laws of this State, or of the United States, or any of them; except that a judge may be a member of a reserve component of the armed forces of the United States or a member of the militia of the United States or this State; or receive fees, or perquisites of any kind, for the discharge of his official duties.

Art. 34.⁸ That a long continuance in the Executive Departments of power or trust is dangerous to liberty; a rotation, therefore, in those departments is one of the best securities of permanent freedom.

Art. 35.⁹ That no person shall hold, at the same time, more than one office of profit, created by the Constitution

⁴ Amended by Chapter 390, Acts of 1914, ratified Nov. 2, 1915; Chapter 64, Acts of 1960, ratified Nov. 8, 1960.

⁵ Amended by Chapter 407, Acts of 1949, ratified Nov. 7, 1950; Chapter 789, Acts of 1969, ratified Nov. 3, 1970. Transferred from Article XV, secs. 5 and 6, by Chapter 681, Acts of 1977, ratified Nov. 7, 1978. Amended by Chapters 205, 206, Acts of 1992, ratified Nov. 3, 1992.

⁶ Amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

⁷ Amended by Chapter 61, Acts of 1990, ratified Nov. 6, 1990.

⁸ Amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

or Laws of this State; nor shall any person in public trust receive any present from any foreign Prince or State, or from the United States, or any of them, without the approbation of this State. The position of Notary Public shall not be considered an office of profit within the meaning of this Article. Membership in the militia of this State shall not be considered an office of profit within the meaning of this article; nor shall any remuneration received as a consequence of membership in a reserve component of the armed forces of the United States or of membership in the militia of the United States or of this State be considered a present within the meaning of this article.

Art. 36.¹⁰ That as it is the duty of every man to worship God in such manner as he thinks most acceptable to Him, all persons are equally entitled to protection in their religious liberty; wherefore, no person ought *by* any law to be molested in his person or estate, on account of his religious persuasion, or profession, or for his religious practice, unless, under the color of religion, he shall disturb the good order, peace or safety of the State, or shall infringe the laws of morality, or injure others in their natural, civil or religious rights; nor ought any person to be compelled to frequent, or maintain, or contribute, unless on contract, to maintain, any place of worship, or any ministry; nor shall any person, otherwise competent, be deemed incompetent as a witness, or juror, on account of his religious belief; provided, he believes in the existence of God, and that under His dispensation such person will be held morally accountable for his acts, and be rewarded or punished therefor either in this world or in the world to come.

Nothing shall prohibit or require the making reference to belief in, reliance upon, or invoking the aid of God or a Supreme Being in any governmental or public document, proceeding, activity, ceremony, school, institution, or place.

Nothing in this article shall constitute an establishment of religion.

Art. 37. That no religious test ought ever to be required as a qualification for any office of profit or trust in this State, other than a declaration of belief in the existence of God; nor shall the Legislature prescribe any other oath of office than the oath prescribed by this Constitution.

Art. 38.¹¹ Vacant.

Art. 39. That the manner of administering an oath or affirmation to any person, ought to be such as those of the

religious persuasion, profession, or denomination, of which he is a member, generally esteem the most effectual confirmation by the attestation of the Divine Being.

Art. 40. That the liberty of the press ought to be inviolably preserved; that every citizen of the State ought to be allowed to speak, write and publish his sentiments on all subjects, being responsible for the abuse of that privilege.

Art. 41. That monopolies are odious, contrary to the spirit of a free government and the principles of commerce, and ought not to be suffered.

Art. 42. That no title of nobility or hereditary honors ought to be granted in this State.

Art. 43.¹² That the Legislature ought to encourage the diffusion of knowledge and virtue, the extension of a judicious system of general education, the promotion of literature, the arts, sciences, agriculture, commerce and manufactures, and the general melioration of the condition of the People. The Legislature may provide that land actively devoted to farm or agricultural use shall be assessed on the basis of such use and shall not be assessed as if sub-divided.

Art. 44. That the provisions of the Constitution of the United States, and of this State, apply, as well in time of war, as in time of peace; and any departure therefrom, or violation thereof, under the plea of necessity, or any other plea, is subversive of good Government, and tends to anarchy and despotism.

Art. 45. This enumeration of Rights shall not be construed to impair or deny others retained by the People.

Art. 46.¹³ Equality of rights under the law shall not be abridged or denied because of sex.

Art. 47.¹⁴ (a) A victim of crime shall be treated by agents of the State with dignity, respect, and sensitivity during all phases of the criminal justice process.

(b) In a case originating by indictment or information filed in a circuit court, a victim of crime shall have the right to be informed of the rights established in this Article and, upon request and if practicable, to be notified of, to attend, and to be heard at a criminal justice proceeding, as these rights are implemented and the terms "crime", "criminal justice proceeding", and "victim" are specified by law.

(c) Nothing in this Article permits any civil cause of action for monetary damages for violation of any of its provisions or authorizes a victim of crime to take any action to stay a criminal justice proceeding.

CONSTITUTION

ARTICLE I. ELECTIVE FRANCHISE.

SECTION 1.¹⁵ All elections shall be by ballot. Every citizen of the United States, of the age of 18 years or

upwards, who is a resident of the State as of the time for the closing of registration next preceding the election, shall be entitled to vote in the ward or election district in which he resides at all elections to be held in this State. A person once entitled to vote in any election district, shall

⁹ Amended by Chapter 129, Acts of 1964, ratified Nov. 8, 1964; Chapter 61, Acts of 1991, ratified Nov. 6, 1990.

¹⁰ Amended by Chapter 558, Acts of 1970, ratified Nov. 3, 1970.

¹¹ Amended by Chapter 623, Acts of 1947, ratified Nov. 2, 1948. Repealed by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

¹² Amended by Chapter 65, Acts of 1960, ratified Nov. 8, 1960.

¹³ Added by Chapter 366, Acts of 1972, ratified Nov. 7, 1972. Amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

¹⁴ Added by Chapter 102, Acts of 1994, ratified Nov. 8, 1994.

¹⁵ Amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956; Chapter 784, Acts of 1969, ratified Nov. 3, 1970; Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

be entitled to vote there until he shall have acquired a residence in another election district or ward in this State.

SEC. 1A.¹⁶ Vacant.

SEC. 2.¹⁷ The General Assembly shall provide by law for a uniform registration of the names of all voters in this State, who possess the qualifications prescribed in this Article, which Registration shall be conclusive evidence to the Judges of Election of the right of every person, thus registered, to vote at any election thereafter held in this State; but no person shall vote, at any election, Federal or State, hereafter to be held in this State, or at any municipal election in the City of Baltimore, unless his name appears in the list of registered voters; the names of all persons shall be added to the list of qualified voters by the officers of Registration, who have the qualifications prescribed in the first section of this Article, and who are not disqualified under the provisions of the second and third sections thereof.

SEC. 3.¹⁸ The General Assembly of Maryland shall have power to provide by suitable enactment for voting by qualified voters of the State of Maryland who are absent at the time of any election in which they are entitled to vote and for voting by other qualified voters who are unable to vote personally and for the manner in which and the time and place at which such absent voters may vote, and for the canvass and return of their votes.

SEC. 4.¹⁹ The General Assembly by law may regulate or prohibit the right to vote of a person convicted of infamous or other serious crime or under care or guardianship for mental disability.

SEC. 5.²⁰ It shall be the duty of the General Assembly to pass Laws to punish, with fine and imprisonment, any person, who shall remove into any election district, or precinct of any ward of the City of Baltimore, not for the purpose of acquiring a bona fide residence therein, but for the purpose of voting at an approaching election, or, who shall vote in any election district, or ward, in which he does not reside (except in the case provided for in this Article), or shall, at the same election, vote in more than one election district, or precinct, or shall vote, or offer to vote, in any name not his own, or in place of any other person of the same name, or shall vote in any county in which he does not reside.

SEC. 6.²¹ If any person shall give, or offer to give, directly or indirectly, any bribe, present or reward, or any promise, or any security, for the payment or delivery of money, or any other thing, to induce any voter to refrain from casting his vote, or to prevent him in any way from voting, or to procure a vote for any candidate or person

proposed, or voted for as the elector of President, and Vice President of the United States, or Representative in Congress or for any office of profit or trust, created by the Constitution or Laws of this State, or by the Ordinances, or Authority of the Mayor and City Council of Baltimore, the person giving, or offering to give and the person receiving the same, and any person who gives or causes to be given, an illegal vote, knowing it to be such, at any election to be hereafter held in this State, shall, on conviction in a Court of Law, in addition to the penalties now or hereafter to be imposed by law, be forever disqualified to hold any office of profit or trust, or to vote at any election thereafter. But the General Assembly may in its discretion remove the above penalty and all other penalties upon the vote seller so as to place the penalties for the purchase of votes on the vote buyer alone.

SEC. 7.²² The General Assembly shall pass Laws necessary for the preservation of the purity of Elections.

SEC. 8.²³ The General Assembly, shall make provisions for all cases of contested elections of any of the officers, not herein provided for.

SEC. 9.²⁴ Every person elected, or appointed, to any office of profit or trust, under this Constitution, or under the Laws, made pursuant thereto, shall, before he enters upon the duties of such office, take and subscribe the following oath, or affirmation: I, -----, do swear, (or affirm, as the case may be), that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of-----, according to the Constitution and Laws of this State, (and, if a Governor, Senator, Member of the House of Delegates, or Judge,) that I will not directly or indirectly, receive the profits or any part of the profits of any other office during the term of my acting as

SEC. 10.²⁵ Any officer elected or appointed in pursuance of the provisions of this Constitution, may qualify, either according to the existing provisions of law, in relation to officers under the present Constitution, or before the Governor of the State, or before any Clerk of any Court of Record in any part of the State; but in case an officer shall qualify out of the County in which he resides, an official copy of his oath shall be filed and recorded in the Clerk's office of the Circuit Court of the County in which he may reside, or in the Clerk's office of the Superior Court of the City of Baltimore, if he shall reside therein. All words or phrases, used in creating public

¹⁶ Added by Chapter 20, Acts of 1918, ratified Nov. 5, 1918. Amended by Chapter 480, Acts of 1953, ratified Nov. 2, 1954; Chapter 100, Acts of 1956, ratified Nov. 6, 1956; Chapter 881, Acts of 1974, ratified Nov. 5, 1974. Renumbered as Art. I, sec. 3, by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

¹⁷ Originally Article I, sec. 5, thus renumbered by Chapter 681, Acts of 1977, ratified Nov. 7, 1978. As sec. 5 it was amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956.

¹⁸ Originally Article I, sec. 1A, thus renumbered by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

¹⁹ Originally Article I, sec. 2, thus renumbered by Chapter 681, Acts of 1977, ratified Nov. 7, 1978. As sec. 2 it was amended by Chapter 368, Acts of 1972, ratified Nov. 7, 1972.

²⁰ Originally Article I, sec. 4, thus renumbered by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²¹ Originally Article I, sec. 3, thus renumbered by Chapter 681, Acts of 1977, ratified Nov. 7, 1978. As sec. 3 it was amended by Chapter 602, Acts of 1912, ratified Nov. 4, 1913.

²² Transferred from Article III, sec. 42, by Chapter 681, Acts of 1977, ratified Nov. 7, 1978. Previous sec. 7 renumbered as Art. I, sec. 11, by same act and ratification.

²³ Transferred from Article III, sec. 47, by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²⁴ Originally Article I, sec. 6, renumbered by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²⁵ Transferred from Article XV, sec. 10, by Chapter 681, Acts of 1977, ratified Nov. 7, 1978. As Art. XV, sec. 10, it was amended by Chapter 275, Acts of 1922, ratified Nov. 7, 1922.

offices and positions under the Constitution and laws of this State, which denote the masculine gender shall be construed to include the feminine gender, unless the contrary intention is specifically expressed.

SEC. 11.²⁶ Every person, hereafter elected, or appointed, to office, in this State, who shall refuse, or neglect, to take the oath, or affirmation of office, provided for in the ninth section of this Article, shall be considered as having refused to accept the said office; and a new election, or appointment, shall be made, as in case of refusal to accept, or resignation of an office; and any person violating said oath, shall, on conviction thereof, in a Court of Law, in addition to the penalties now, or hereafter, to be imposed by Law, be thereafter incapable of holding any office of profit or trust in this State.

SEC. 12.²⁷ Except as otherwise specifically provided herein, a person is ineligible to enter upon the duties of, or to continue to serve in, an elective office created by or pursuant to the provisions of this Constitution if the person was not a registered voter in this State on the date of the person's election or appointment to that term or if, at any time thereafter and prior to completion of the term, the person ceases to be a registered voter.

ARTICLE II.

EXECUTIVE DEPARTMENT.

SECTION 1.²⁸ The executive power of the State shall be vested in a Governor, whose term of office shall commence on the third Wednesday of January next ensuing his election, and continue for four years, and until his successor shall have qualified; and a person who has served two consecutive popular elective terms of office as Governor shall be ineligible to succeed himself as Governor for the term immediately following the second of said two consecutive popular elective terms.

SEC. 1A.²⁹ There shall be a Lieutenant Governor, who shall have only the duties delegated to him by the Governor and shall have such compensation as the General Assembly shall provide by law, except that beginning in the year 1978 the salary of the Lieutenant Governor shall be as provided under Section 21A of this Article. No person who is ineligible under this Constitution to be elected Governor shall be eligible to hold the office of Lieutenant Governor.

SEC. 1B.³⁰ Each candidate who shall seek a nomination for Governor, under any method provided by law for such nomination, including primary elections, shall at the time of filing for said office designate a candidate for Lieutenant Governor, and the names of the said candidate for Governor and Lieutenant Governor shall be listed on the primary election ballot, or otherwise considered for nomination jointly with each other. No candidate for Governor may designate a candidate for Lieutenant Governor to contest for the said offices jointly with him without the consent of the said candidate for Lieutenant Governor, and no candidate for Lieutenant Governor may designate a candidate for Governor, to contest jointly for

said offices with him without the consent of the said candidate for Governor, said consent to be in writing on a form provided for such purpose and filed at the time the said candidates shall file their certificates of candidacy, or other documents by which they seek nomination. In any election, including a primary election, candidates for Governor and Lieutenant Governor shall be listed jointly on the ballot, and a vote cast for the candidate for Governor shall also be cast for Lieutenant Governor jointly listed on the ballot with him, and the election of Governor, or the nomination of a candidate for Governor, also shall constitute the election for the same term, or the nomination, of the Lieutenant Governor who was listed on the ballot or was being considered jointly with him.

SEC. 2.³¹ An election for Governor and Lieutenant Governor, under this Constitution, shall be held on the Tuesday next after the first Monday of November, in the year nineteen hundred and seventy-four, and on the same day and month in every fourth year thereafter, at the places of voting for Delegates to the General Assembly; and every person qualified to vote for Delegates, shall be qualified and entitled to vote for Governor and Lieutenant Governor; the election to be held in the same manner as the election of Delegates, and the returns thereof, under seal, to be addressed to the Speaker of the House of Delegates, and enclosed and transmitted to the Secretary of State, and delivered to said Speaker, at the commencement of the session of the General Assembly, next ensuing said election.

SEC. 3.³² The Speaker of the House of Delegates shall then open the said Returns, in the presence of both Houses; and the persons having the highest number of votes for these offices, and being Constitutionally eligible, shall be the Governor and Lieutenant Governor, and shall qualify, in the manner herein prescribed, on the third Wednesday of January next ensuing his election, or as soon thereafter as may be practicable.

SEC. 4.³³ If two or more sets of persons shall have the highest and an equal number of votes for Governor and Lieutenant Governor, one set of them shall be chosen Governor and Lieutenant Governor, by the Senate and House of Delegates; and all questions in relation to the eligibility of Governor and Lieutenant Governor, and to the Returns of said election, and to the number and legality of votes therein given, shall be determined by the House of Delegates; and if the person having the highest number of votes for Governor or for Lieutenant Governor or both of them, be ineligible, a person or persons shall be chosen by the Senate and House of Delegates in place of the ineligible person or persons. Every election of Governor or of Lieutenant Governor, or both, by the General Assembly shall be determined by a joint majority of the Senate and House of Delegates; and the vote shall be taken viva voce. But if two or more sets of persons shall have the highest and an equal number of votes, then, a second vote shall be taken, which shall be confined to the sets of persons having an equal number; and if the vote should again be equal, then the election of Governor and Lieutenant Governor shall be

²⁶ Originally Article I, sec. 7, thus renumbered and amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²⁷ Added by Chapter 788, Acts of 1984, ratified Nov. 6, 1984.

²⁸ Amended by Chapter 109, Acts of 1947, ratified Nov. 2, 1948; Chapter 161, Acts of 1964, ratified Nov. 3, 1964; Chapter 576, Acts of 1970, ratified Nov. 3, 1970.

²⁹ Amended by Chapter 532, Acts of 1970, ratified Nov. 3, 1970; Chapter 543, Acts of 1976, ratified Nov. 2, 1976.

³⁰ Added by Chapter 532, Acts of 1970, ratified Nov. 3, 1970.

³¹ Amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956; Chapter 532, Acts of 1970, ratified Nov. 3, 1970.

³² Amended by Chapter 161, Acts of 1964, ratified Nov. 3, 1964; Chapters 532 and 576, Acts of 1970, ratified Nov. 3, 1970.

³³ Amended by Chapter 532, Acts of 1970, ratified Nov. 3, 1970.

determined by lot between those sets, who shall have the highest and an equal number on the first vote.

SEC. 5.³⁴ A person to be eligible for the office of Governor or Lieutenant Governor must have attained the age of thirty years, and must have been a resident and registered voter of the State for five years next immediately preceding his election.

SEC. 6.³⁵ (a) If the Governor-elect is disqualified, resigns, or dies, the Lieutenant Governor-elect shall become Governor for the full term. If the Governor-elect fails to assume office for any other reason, the newly elected Lieutenant Governor shall become Lieutenant Governor and shall serve as acting Governor until the Governor-elect assumes office or until the office becomes vacant.

(b) The Lieutenant Governor shall serve as acting Governor when notified in writing by the Governor that the Governor will be temporarily unable to perform the duties of his office. The Lieutenant Governor also shall serve as acting Governor when the Governor is disabled but is unable to communicate to the Lieutenant Governor the fact of his inability to perform the duties of his office. In either event the Lieutenant Governor shall serve as acting Governor until notified in writing by the Governor that he is able to resume the duties of his office or until the office becomes vacant.

(c) The General Assembly, by the affirmative vote of three-fifths of all its members in joint session, may adopt a resolution declaring that the Governor or Lieutenant Governor is unable by reason of physical or mental disability to perform the duties of his office. When action is undertaken pursuant to this subsection of the Constitution, the officer who concludes that the other officer is unable, by reason of disability to perform the duties of his office shall have the power to call the General Assembly into Joint Session. The resolution, if adopted, shall be delivered to the Court of Appeals, which then shall have exclusive jurisdiction to determine whether that officer is unable by reason of the disability to perform the duties of his office. If the Court of Appeals determines that such officer is unable to discharge the duties of his office by reason of a permanent disability, the office shall be vacant. If the Court of Appeals determines that such officer is unable to discharge the duties of his office by reason of a temporary disability, it shall declare the office to be vacant during the time of the disability and the Court shall have continuing jurisdiction to determine when the disability has terminated. If the General Assembly and the Court of Appeals, acting in the same manner as described above, determine that the Governor-elect or Lieutenant Governor-elect is unable by reason of physical or mental disability to perform the duties of the office to which he has been elected, he shall be disqualified to assume office.

(d) When a vacancy occurs in the office of Governor, the Lieutenant Governor shall succeed to that office for the remainder of the term. When a vacancy occurs in the office of Lieutenant Governor, the Governor shall nominate a person who shall succeed to that office upon confirmation by the affirmative vote of a majority of all members of the General Assembly in joint session.

(e) If vacancies in the offices of Governor and Lieutenant Governor exist at the same time, the General Assembly shall convene forthwith, and the office of Governor shall be filled for the remainder of the term by the affirmative vote of a majority of all members of the General Assembly in joint session. The person so chosen as Governor by the General Assembly shall then nominate a person to succeed to the office of Lieutenant Governor, upon confirmation by the affirmative vote of a majority of all members of the General Assembly in the same joint session. The President of the Senate shall serve as acting Governor until the newly elected Governor has qualified. If a vacancy exists in the office of Lieutenant Governor, at a time when the Lieutenant Governor is authorized to serve as acting Governor, the President of the Senate shall serve as acting Governor. If there is a vacancy in the office of the President of the Senate at a time when he is authorized to serve as acting Governor, the Senate shall forthwith convene and fill the vacancy.

(f) When the Lieutenant Governor or a person elected by the General Assembly succeeds to the office of Governor, he shall have the title, powers, duties, and emoluments of that office; but when the Lieutenant Governor or the president of the Senate serves as acting Governor, he shall have only the powers and duties of that office. When the President of the Senate serves as acting Governor, he shall continue to be President of the Senate, but his duties as president shall be performed by such other person as the Senate shall select.

(g) The Court of Appeals shall have original and exclusive jurisdiction to adjudicate disputes or questions arising from the failure of the Governor-elect to take office, or the service of the Lieutenant Governor or President of the Senate as acting Governor, or the creation of a vacancy in the office of Governor or Lieutenant Governor by reason of disability, or the succession to the office of Governor or Lieutenant Governor, or the exercise of the powers and duties of a successor to the office of Governor.

SEC. 7.³⁶ The Legislature may provide by law, not inconsistent with Section 26 of Article III of this Constitution, for the impeachment of the Governor and Lieutenant Governor.

SEC. 7A.³⁷ Vacant.

SEC. 8. The Governor shall be the Commander-in-Chief of the land and naval forces of the State; and may call out the Militia to repel invasions, suppress insurrections, and enforce the execution of the Laws; but shall not take the command in person, without the consent of the Legislature.

SEC. 9. He shall take care that the Laws are faithfully executed.

SEC. 10. He shall nominate, and, by and with the advice and consent of the Senate, appoint all civil and military officers of the State, whose appointment, or election, is not otherwise herein provided for, unless a different mode of appointment be prescribed by the Law creating the office.

SEC. 11.³⁸ In case of any vacancy, during the recess of the Senate, in any office which the Governor has power to fill, he shall appoint some suitable person to said office,

³⁴ Amended by Chapter 532, Acts of 1970, ratified Nov. 3, 1970.

³⁵ Amended by Chapter 743, Acts of 1959, ratified Nov. 8, 1960; Chapter 532, Acts of 1970, ratified Nov. 3, 1970.

³⁶ Amended by Chapter 743, Acts of 1959, ratified Nov. 8, 1960; Chapter 532, Acts of 1970, ratified Nov. 3, 1970.

³⁷ Added by Chapter 532, Acts of 1970, ratified Nov. 3, 1970. Repealed by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

³⁸ Amended by Chapter 626, Acts of 1955, ratified Nov. 6, 1956.

whose commission shall continue in force until the end of the next session of the Legislature, or until some other person is appointed to the same office, whichever shall first occur; and the nomination of the person thus appointed, during the recess, or, of some other person in his place, shall be made to the Senate on the first day of the next regular meeting of the Senate.

SEC. 12. No person, after being rejected by the Senate, shall be again nominated for the same office at the same session, unless at the request of the Senate; or, be appointed to the same office during the recess of the Legislature.

SEC. 13.³⁹ All civil officers nominated by the Governor and subject to confirmation by the Senate, shall be nominated to the Senate within forty days from the commencement of each regular session of the Legislature; and their term of office, except in cases otherwise provided for in this Constitution, shall commence on the first Monday of May next ensuing their appointment, and continue for two years, (unless removed from office), and until their successors, respectively, qualify according to Law.

SEC. 14. If a vacancy shall occur, during the session of the Senate, in any office which the Governor and the Senate have the power to fill, the Governor shall nominate to the Senate before its final adjournment, a proper person to fill said vacancy, unless such vacancy occurs within ten days before said final adjournment.

SEC. 15. The Governor may suspend or arrest any military officer of the State for disobedience of orders, or other military offense; and may remove him in pursuance of the sentence of a Court-Martial; and may remove for incompetency, or misconduct, all civil officers who received appointment from the Executive for a term of years.

SEC. 16. The Governor shall convene the Legislature, or the Senate alone, on extraordinary occasions; and whenever from the presence of an enemy, or from any other cause, the Seat of Government shall become an unsafe place for the meeting of the Legislature, he may direct their sessions to be held at some other convenient place.

SEC. 17.⁴⁰ (a) To guard against hasty or partial legislation and encroachment of the Legislative Department upon the co-ordinate Executive and Judicial Departments, every Bill passed by the House of Delegates and the Senate, before it becomes a law, shall be presented to the Governor of the State. If the Governor approves he shall sign it, but if not he shall return it with his objections to the House in which it originated, which House shall enter the objections at large on its Journal and proceed to reconsider the Bill. Each House may adopt by rule a veto calendar procedure that permits bills that are to be reconsidered to be read and voted upon as a single group. The members of each House shall be afforded reasonable notice of the bills to be placed on each veto calendar. Upon the objection of a member, any bill shall be removed from the veto calendar. If, after such reconsideration, three-fifths of the members elected to that House pass the Bill, it shall be sent with the objections to the other House, by which it shall likewise be reconsidered, and if it passes by three-fifths of the members elected to that House it shall become a law. The votes of both Houses shall be deter-

mined by yeas and nays, and the names of the persons voting for and against the Bill shall be entered on the Journal of each House respectively.

(b) If any Bill presented to the Governor while the General Assembly is in session is not returned by him with his objections within six days (Sundays excepted), the bill shall be a law in like manner as if he signed it, unless the General Assembly, by adjournment, prevents its return, in which case it shall not be a law.

(c) Any Bill presented to the Governor within six days (Sundays excepted), prior to adjournment of any session of the General Assembly, or after such adjournment, shall become law without the Governor's signature unless it is vetoed by the Governor within 30 days after its presentment.

(d) Any Bill vetoed by the Governor shall be returned to the House in which it originated immediately after the House has organized at the next regular or special session of the General Assembly. The Bill may then be reconsidered according to the procedure specified in this section. Any Bill enacted over the veto of the Governor, or any Bill which shall become law as the result of the failure of the Governor to act within the time specified, shall take effect 30 days after the Governor's veto is over-ridden, or on the date specified in the Bill, whichever is later. If the Bill is an emergency measure, it shall take effect when enacted. No such vetoed Bill shall be returned to the Legislature when a new General Assembly of Maryland has been elected and sworn since the passage of the vetoed Bill.

(e) The Governor shall have power to disapprove of any item or items of any Bills making appropriations of money embracing distinct items, and the part or parts of the Bill approved shall be the law, and the item or items of appropriations disapproved shall be void unless repassed according to the rules or limitations prescribed for the passage of other Bills over the Executive veto.

SEC. 18. It shall be the duty of the Governor, semi-annually (and oftener, if he deem it expedient) to examine under oath the Treasurer and Comptroller of the State on all matters pertaining to their respective offices; and inspect and review their Bank and other Account Books.

SEC. 19. He shall, from time to time, inform the Legislature of the conditions of the State and recommend to their consideration such measures as he may judge necessary and expedient.

SEC. 20. He shall have power to grant reprieves and pardons, except in cases of impeachment, and in cases, in which he is prohibited by other Articles of this Constitution; and to remit fines and forfeitures for offences against the State; but shall not remit the principal or interest of any debt due the State, except in cases of fines and forfeitures; and before granting a *nolle prosequi*, or pardon, he shall give notice, in one or more newspapers, of the application made for it, and of the day on, or after which, his decision will be given; and in every case, in which he exercises this power, he shall report to either Branch of the Legislature, whenever required, the petitions, recommendations and reasons, which influenced his decision.

SEC. 21.⁴¹ The Governor shall reside at the seat of government, and, from and after the fourth Wednesday in

Amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956; Chapter 161, Acts of 1964, ratified Nov. 3, 1964; Chapter 576, Acts of 1970, ratified Nov. 3, 1970.

³⁹ Amended by Chapter 194, Acts of 1890, ratified Nov. 3, 1891; Chapter 714, Acts of 1949, ratified Nov. 7, 1950; Chapter 664, Acts of 1959, ratified Nov. 8, 1960; Chapter 883, Acts of 1974, ratified Nov. 5, 1974; Chapter 793, Acts of 1988, ratified Nov. 8, 1988.

January 1967, shall receive for his services an annual salary of Twenty-five Thousand Dollars, except that beginning in the year 1978 the salary of the Governor shall be as provided in Section 21A of this Article.

SEC. 21A.⁴² (a) The salaries of the Governor and Lieutenant Governor shall be as provided in this section.

(b) The Governor's Salary Commission is created. It consists of seven members: The State Treasurer; three appointed by the President of the Senate; and three appointed by the Speaker of the House of Delegates. Members of the General Assembly and officers and employees of the State or a political subdivision of the State are not eligible for appointment to the Commission. The members of the Commission shall elect a member to be chairman, and the concurrence of at least five members is required for any formal Commission action. The terms of members shall be for 4 years, except that the persons first appointed to the Commission shall serve from June 1, 1977 until May 31, 1980. The members of the Commission are eligible for reappointment. Members shall serve without compensation but shall be reimbursed for expenses incurred in carrying out responsibilities under this section.

(c) Within ten days after the commencement of the regular session of the General Assembly in 1978, and within ten days after the commencement of the regular session of the General Assembly each fourth year thereafter, the Commission shall make a written recommendation to the Governor, Lieutenant Governor, and other members of the General Assembly as to the salary of the Governor and Lieutenant Governor.

(d) The recommendation shall be introduced as a joint resolution in each house of the General Assembly not later than the fifteenth day of the session. The General Assembly may amend the joint resolution to decrease the recommended salaries, but may not amend the joint resolution to increase the recommended salaries. If the General Assembly fails to adopt a joint resolution in accordance with this section within 50 days after its introduction, the salaries recommended by the Commission shall apply. If the General Assembly amends the joint resolution in accordance with this section, the salaries specified in the joint resolution, as amended, shall apply. If the Commission recommends no salary change, a joint resolution shall not be introduced.

(e) The Commission may not recommend salaries lower than that received by the incumbent Governor at the time the recommendation is made; and the General Assembly may not amend the joint resolution to provide for salaries lower than that received by the incumbent Governor and Lieutenant Governor.

(f) A change in salary resulting from either Commission recommendation or amended joint resolution under this section shall take effect at the beginning of the next ensuing term of the Governor and Lieutenant Governor.

(g) Commission inaction or failure of the Commission to meet the requirements of this section with respect to proposing a change in salary for the Governor and Lieutenant Governor shall result in no change in salary.

SEC. 22.⁴³ A Secretary of State shall be appointed by the Governor, by and with the advice and consent of the Senate, who shall continue in office, unless sooner removed by the Governor, till the end of the official term of the Governor from whom he received his appointment, and receive such annual salary as the General Assembly may from time to time by law prescribe.

SEC. 23. The Secretary of State shall carefully keep and preserve a Record of all official acts and proceedings, which may at all times be inspected by a committee of either Branch of the Legislature; and he shall perform such other duties as may be prescribed by Law, or as may properly belong to his office, together with all clerical duty belonging to the Executive Department.

SEC. 24.⁴⁴ The Governor may make changes in the organization of the Executive Branch of the State Government, including the establishment or abolition of departments, offices, agencies, and instrumentalities, and the reallocation or reassignment of functions, powers, and duties among the departments, offices, agencies, and instrumentalities of the Executive Branch. Where these changes are inconsistent with existing law, or create new governmental programs they shall be set forth in executive orders in statutory form which shall be submitted to the General Assembly within the first ten days of a regular session. An executive order that has been submitted shall become effective and have the force of law on the date designated in the Order unless specifically disapproved, within fifty days after submission, by a resolution of disapproval concurred in by a majority vote of all members of either House of the General Assembly. No executive order reorganizing the Executive Branch shall abolish any office established by this Constitution or shall change the powers and duties delegated to particular officers or departments by this Constitution.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

SECTION 1. The Legislature shall consist of two distinct branches; a Senate, and a House of Delegates; and shall be styled the General Assembly of Maryland.

SEC. 2.⁴⁵ The membership of the Senate shall consist of forty-seven (47) Senators. The membership of the House of Delegates shall consist of one hundred forty-one (141) Delegates.

SEC. 3.⁴⁶ The State shall be divided by law into legislative districts for the election of members of the Senate and the House of Delegates. Each legislative district shall contain one (1) Senator and three (3) Delegates. Nothing herein shall prohibit the subdivision of any one or more of the legislative districts for the purpose of electing members of

⁴¹ Amended by Chapter 315, Acts of 1953, ratified Nov. 2, 1954; Chapter 641, Acts of 1965, ratified Nov. 8, 1966; Chapter 543, Acts of 1976, ratified Nov. 2, 1976.

⁴² Added by Chapter 543, Acts of 1976, ratified Nov. 2, 1976.

⁴³ Amended by Chapter 42, Acts of 1954, ratified Nov. 2, 1954.

⁴⁴ Added by Chapter 790, Acts of 1969, ratified Nov. 3, 1970.

⁴⁵ Amended by Chapter 469, Acts of 1900, ratified Nov. 5, 1901; Chapter 7, Acts of 1922, ratified Nov. 7, 1922; Chapter 99, Acts of 1956, ratified Nov. 6, 1956; Chapter 785, Acts of 1969, ratified Nov. 3, 1970; Chapter 363, Acts of 1972, ratified Nov. 7, 1972.

⁴⁶ Amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956; Chapter 785, Acts of 1969, ratified Nov. 3, 1970; Chapter 363, Acts of 1972, ratified Nov. 7, 1972.

the House of Delegates into three (3) single-member delegate districts or one (1) single-member delegate district and one (1) multi-member delegate district.

SEC. 4.⁴⁷ Each legislative district shall consist of adjoining territory, be compact in form, and of substantially equal population. Due regard shall be given to natural boundaries and the boundaries of political subdivisions.

SEC. 5.⁴⁸ Following each decennial census of the United States and after public hearings, the Governor shall prepare a plan setting forth the boundaries of the legislative districts for electing of the members of the Senate and the House of Delegates.

The Governor shall present the plan to the President of the Senate and Speaker of the House of Delegates who shall introduce the Governor's plan as a joint resolution to the General Assembly, not later than the first day of its regular session in the second year following every census, and the Governor may call a special session for the presentation of his plan prior to the regular session. The plan shall conform to Sections 2, 3 and 4 of this Article. Following each decennial census the General Assembly may by joint resolution adopt a plan setting forth the boundaries of the legislative districts for the election of members of the Senate and the House of Delegates, which plan shall conform to Sections 2, 3 and 4 of this Article. If a plan has been adopted by the General Assembly by the 45th day after the opening of the regular session of the General Assembly in the second year following every census, the plan adopted by the General Assembly shall become law. If no plan has been adopted by the General Assembly for these purposes by the 45th day after the opening of the regular session of the General Assembly in the second year following every census, the Governor's plan presented to the General Assembly shall become law.

Upon petition of any registered voter, the Court of Appeals shall have original jurisdiction to review the legislative districting of the State and may grant appropriate relief, if it finds that the districting of the State is not consistent with requirements of either the Constitution of the United States of America, or the Constitution of Maryland.

SEC. 6.⁴⁹ A member of the General Assembly shall be elected by the registered voters of the legislative or delegate district from which he seeks election, to serve for a term of four years beginning on the second Wednesday of January following his election.

SEC. 7.⁵⁰ The election for Senators and Delegates shall take place on the Tuesday next, after the first Monday

in the month of November, nineteen hundred and fifty-eight, and in every fourth year thereafter.

SEC. 8.⁵¹ Vacant.

SEC. 9.⁵² A person is eligible to serve as a Senator or Delegate, who on the date of his election, (1) is a citizen of the State of Maryland, (2) has resided therein for at least one year next preceding that date, and (3) if the district which he has been chosen to represent has been established for at least six months prior to the date of his election, has resided in that district for six months next preceding that date.

If the district which the person has been chosen to represent has been established less than six months prior to the date of his election, then in addition to (1) and (2) above, he shall have resided in the district for as long as it has been established.

A person is eligible to serve as a Senator, if he has attained the age of twenty-five years, or as a Delegate, if he has attained the age of twenty-one years, on the date of his election.

SEC. 10.⁵³ No member of Congress, or person holding any civil, or military office under the United States, shall be eligible as a Senator, or Delegate; and if any person shall after his election as Senator, or Delegate, be elected to Congress, or be appointed to any office, civil, or military, under the Government of the United States, his acceptance thereof, shall vacate his seat; except that a Senator or Delegate may be a member of a reserve component of the armed forces of the United States or a member of the militia of the United States or this State.

SEC. 11.⁵⁴ No person holding any civil office of profit, or trust, under this State shall be eligible as Senator or Delegate.

SEC. 12. No Collector, Receiver, or Holder of public money shall be eligible as Senator or Delegate, or to any office of profit, or trust, under this State, until he shall have accounted for, and paid into the Treasury all sums on the books thereof, charged to, and due by him.

SEC. 13.⁵⁵ (a) (1) In case of death, disqualification, resignation, refusal to act, expulsion, or removal from the county or city for which he shall have been elected, of any person who shall have been chosen as a Delegate or Senator, or in case of a tie between two or more such qualified persons, the Governor shall appoint a person to fill such vacancy from a person whose name shall be submitted to him in writing, within thirty days after the occurrence of the vacancy, by the Central Committee of the political party, if any, with which the Delegate or Senator, so vacating, had been affiliated, at the time of the last election or appointment of the vacating Senator or Delegate, in the County or District

⁴⁷ Amended by Chapter 432, Acts of 1900, ratified Nov. 5, 1901; Chapter 20, Acts of 1922, ratified Nov. 7, 1922; Chapter 99, Acts of 1956, ratified Nov. 6, 1956; Chapter 785, Acts of 1969, ratified Nov. 3, 1970; Chapter 363, Acts of 1972, ratified Nov. 7, 1972.

⁴⁸ Amended by Chapter 226, Acts of 1949, ratified Nov. 7, 1950; Chapter 99, Acts of 1956, ratified Nov. 6, 1956; Chapter 785, Acts of 1969, ratified Nov. 3, 1970; Chapter 363, Acts of 1972, ratified Nov. 7, 1972; Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

⁴⁹ Amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956; Chapter 785, Acts of 1969, ratified Nov. 3, 1970; Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

⁵⁰ Amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956.

⁵¹ Repealed by Chapter 99, Acts of 1956, ratified Nov. 6, 1956.

⁵² Amended by Chapter 880, Acts of 1974, ratified Nov. 5, 1974; Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

⁵³ Amended by Chapter 61, Acts of 1990, ratified Nov. 6, 1990.

⁵⁴ Amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

⁵⁵ Amended by Chapter 584, Acts of 1935, ratified Nov. 3, 1936; Chapter 162, Acts of 1966, ratified Nov. 8, 1966; Chapter 681, Acts of 1977, ratified Nov. 7, 1978; Chapter 649, Acts of 1986, ratified Nov. 4, 1986.

from which he or she was appointed or elected, provided that the appointee shall be of the same political party, if any, as was that of the Delegate or Senator, whose office is to be filled, at the time of the last election or appointment of the vacating Delegate or Senator, and it shall be the duty of the Governor to make said appointment within fifteen days after the submission thereof to him.

(2) If a name is not submitted by the Central Committee within thirty days after the occurrence of the vacancy, the Governor within another period of fifteen days shall appoint a person, who shall be affiliated with the same political party, if any as was that of the Delegate or Senator, whose office is to be filled, at the time of the last election or appointment of the vacating Delegate or Senator, and who is otherwise properly qualified to hold the office of Delegate or Senator in the District or County.

(3) In the event there is no Central Committee in the County or District from which said vacancy is to be filled, the Governor shall within fifteen days after the occurrence of such vacancy appoint a person, from the same political party, if any, as that of the vacating Delegate or Senator, at the time of the last election or appointment of the vacating Senator or Delegate, who is otherwise properly qualified to hold the office of Delegate or Senator in such District or County.

(4) In every case when any person is so appointed by the Governor, his appointment shall be deemed to be for the unexpired term of the person whose office has become vacant.

(b) In addition, and in submitting a name to the Governor to fill a vacancy in a legislative or delegate district, as the case may be, in any of the twenty-three counties of Maryland, the Central Committee or committees shall follow these provisions:

(1) If the vacancy occurs in a district having the same boundaries as a county, the Central Committee of the county shall submit the name of a resident of the district.

(2) If the vacancy occurs in a district which has boundaries comprising a portion of one county, the Central Committee of that county shall submit the name of a resident of the district.

(3) If the vacancy occurs in a district which has boundaries comprising a portion or all of two or more counties, the Central Committee of each county involved shall have one vote for submitting the name of a resident of the district; and if there is a tie vote between or among the Central Committees, the list of names there proposed shall be submitted to the Governor, and he shall make the appointment from the list.

SEC. 14.⁵⁶ The General Assembly shall meet on the second Wednesday of January, nineteen hundred and seventy-one, and on the same day in every year thereafter, and at no other time, unless convened by Proclamation of the Governor. A Proclamation convening the General Assembly in extraordinary session must be issued by the Governor if a majority of the members elected to the Senate and a majority of the members elected to the House of Delegates join in a petition to the Governor requesting that he convene the General Assembly in extraordinary session, and the Governor shall convene the General Assembly on the date specified in the petition. This section does not affect the Governor's power to

convene the General Assembly in extraordinary session pursuant to Section 16 of Article II of this Constitution.

SEC. 15.⁵⁷ (1) The General Assembly may continue its session so long as in its judgment the public interest may require, for a period not longer than ninety days in each year. The ninety days shall be consecutive unless otherwise provided by law. The General Assembly may extend its session beyond ninety days, but not exceeding an additional thirty days, by resolution concurred in by a three-fifths vote of the membership in each House. When the General Assembly is convened by Proclamation of the Governor, the session shall not continue longer than thirty days, but no additional compensation other than mileage and other allowances provided by law shall be paid members of the General Assembly for special session.

(2) Any compensation and allowances paid to members of the General Assembly shall be as established by a commission known as the General Assembly Compensation Commission. The Commission shall consist of nine members, five of whom shall be appointed by the Governor, two of whom shall be appointed by the President of the Senate, and two of whom shall be appointed by the Speaker of the House of Delegates. Members of the General Assembly and officers and employees of the Government of the State of Maryland or of any county, city, or other governmental unit of the State shall not be eligible for appointment to the Commission. Members of the Commission shall be appointed for terms of four years commencing on June 1 of each gubernatorial election year. Members of the Commission are eligible for re-appointment. Any member of the Commission may be removed by the Governor prior to the expiration of his term for official misconduct, incompetence, or neglect of duty. The members shall serve without compensation but shall be reimbursed for expenses incurred in carrying out their responsibilities under this section. Decisions of the Commission must be concurred in by at least five members.

(3) Within 15 days after the beginning of the regular session of the General Assembly in 1974 and within 15 days after the beginning of the regular session in each fourth year thereafter, the Commission by formal resolution shall submit its determinations for compensation and allowances to the General Assembly. The General Assembly may reduce or reject, but shall not increase any item in the resolution. The resolution, with any reductions that shall have been concurred in by joint resolution of the General Assembly, shall take effect and have the force of law as of the beginning of the term of office of the next General Assembly. Rates of compensation and pensions shall be uniform for all members of the General Assembly, except that the officers of the Senate and the House of Delegates may receive higher compensation as determined by the General Assembly Compensation Commission. The provisions of the Compensation Commission resolution shall continue in force until superseded by any succeeding resolution.

(4) In no event shall the compensation and allowances be less than they were prior to the establishment of the Compensation Commission.

SEC. 16. No book, or other printed matter not appertaining to the business of the session, shall be purchased, or subscribed for, for the use of the members of

⁵⁶ Amended by Chapter 497, Acts of 1947, ratified Nov. 2, 1948; Chapter 161, Acts of 1964, ratified Nov. 3, 1964; Chapter 576, Acts of 1970, ratified Nov. 3, 1970.

⁵⁷ Amended by Chapter 695, Acts of 1941, ratified Nov. 3, 1942; Chapter 497, Acts of 1947, ratified Nov. 2, 1948; Chapter 161, Acts of 1964, ratified Nov. 3, 1964; Chapter 576, Acts of 1970, ratified Nov. 3, 1970; Chapter 541, Acts of 1976, ratified Nov. 2, 1976; Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

the General Assembly, or be distributed among them, at the public expense.

SEC. 17. No Senator or Delegate, after qualifying as such, notwithstanding he may thereafter resign, shall during the whole period of time, for which he was elected, be eligible to any office, which shall have been created, or the salary, or profits of which shall have been increased, during such term.

SEC. 18. No Senator or Delegate shall be liable in any civil action, or criminal prosecution, whatever, for words spoken in debate.

SEC. 19.⁵⁸ Each House shall be judge of the qualifications and elections of its members, as prescribed by the Constitution and Laws of the State, and shall appoint its own officers, determine the rules of its own proceedings, punish a member for disorderly or disrespectful behaviour and with the consent of two-thirds of its whole number of members elected, expel a member; but no member shall be expelled a second time for the same offence.

SEC. 20. A majority of the whole number of members elected to each House shall constitute a quorum for the transaction of business; but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner, and under such penalties, as each House may prescribe.

SEC. 21. The doors of each House, and of the Committee of the Whole, shall be open, except when the business is such as ought to be kept secret.

SEC. 22. Each House shall keep a Journal of its proceedings, and cause the same to be published. The yeas and nays of members on any question, shall at the call of any five of them in the House of Delegates, or one in the Senate, be entered on the Journal.

SEC. 23. Each House may punish by imprisonment, during the session of the General Assembly, any person, not a member, for disrespectful, or disorderly behavior in its presence, or for obstructing any of its proceedings, or any of its officers in the execution of their duties; provided, such imprisonment shall not, at any one time, exceed ten days.

SEC. 24. The House of Delegates may inquire, on the oath of witnesses, into all complaints, grievances and offences, as the grand inquest of the State, and may commit any person, for any crime, to the public jail, there to remain, until discharged by due course of Law. They may examine and pass all accounts of the State, relating either to the collection or expenditure of the revenue, and appoint auditors to state and adjust the same. They may call for all public, or official papers and records, and send for persons, whom they may judge necessary in the course of their inquiries, concerning affairs relating to the public interest, and may direct all office bonds which shall be made payable to the State, to be sued for any breach thereof; and with a view to the more certain prevention, or correction of the abuses in the expenditures of the money of the State, the General Assembly shall create, at every session thereof, a Joint Standing Committee of the Senate and House of Delegates, who shall have power to send for persons, and examine them on oath, and call for Public, or Official Papers and Records, and whose duty it shall be to examine and

report upon all contracts made for printing stationery, and purchases for the Public offices, and the Library, and all expenditures therein, and upon all matters of alleged abuse in expenditures, to which their attention may be called by Resolution of either House of the General Assembly.

SEC. 25. Neither House shall, without the consent of the other, adjourn for more than three days, at any one time, nor adjourn to any other place, than that in which the House shall be sitting, without the concurrent vote of two-thirds of the members present.

SEC. 26. The House of Delegates shall have the sole power of impeachment in all cases; but a majority of all the members elected must concur in the impeachment. All impeachments shall be tried by the Senate, and when sitting for that purpose, the Senators shall be on oath, or affirmation, to do justice according to the law and evidence; but no person shall be convicted without the concurrence of two-thirds of all the Senators elected.

SEC. 27.⁵⁹ (a) Any bill may originate in either House of the General Assembly and be altered, amended or rejected by the other. No bill shall originate in either House during the last thirty-five calendar days of a regular session, unless two-thirds of the members elected thereto shall so determine by yeas and nays, and in addition the two Houses by joint and similar rule may further regulate the right to introduce bills during this period. A Bill may not become a law until it is read on three different days of the session in each House, unless two-thirds of the members elected to the House where such bill is pending determine by yeas and nays, and no bill shall be read a third time until it shall have been actually engrossed or printed for a third reading.

(b) Each House may adopt by rule a "consent calendar" procedure permitting bills to be read and voted upon as a single group on first, second and third readings, provided that the members of each House are afforded reasonable notice of the bills to be placed upon each "consent calendar." Upon the objection of any member, any bill in question shall be removed from the "consent calendar."

SEC. 28.⁶⁰ No bill, nor single group of bills placed on the "consent calendar," shall become a Law unless it be passed in each House by a majority of the whole number of members elected, and on its final passage, the yeas and nays be recorded, and on final passage of the bills placed on the "consent calendar" the yeas and nays on the entire group of bills be recorded. A resolution requiring the action of both Houses shall be passed in the same manner.

SEC. 29. The style of all Laws of this State shall be, "Be it enacted by the General Assembly of Maryland:" and all Laws shall be passed by original bill; and every Law enacted by the General Assembly shall embrace but one subject, and that shall be described in its title; and no Law, nor section of Law, shall be revived, or amended by reference to its title, or section only; nor shall any Law be construed by reason of its title, to grant powers, or confer rights which are not expressly contained in the body of the Act; and it shall be the duty of the General Assembly, in amending any article, or section of the Code of Laws of this State, to enact the same, as the said article, or section would read when amended. And whenever the General

⁵⁸ Amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

⁵⁹ Amended by Chapter 497, Acts of 1912, ratified Nov. 4, 1913; Chapter 616, Acts of 1955, ratified Nov. 6, 1956; Chapter 161, Acts of 1964, ratified Nov. 3, 1964; Chapter 576, Acts of 1970, ratified Nov. 3, 1970; Chapter 369, Acts of 1972, ratified Nov. 7, 1972; Chapter 793, Acts of 1988, ratified Nov. 8, 1988.

⁶⁰ Amended by Chapter 369, Acts of 1972, ratified Nov. 7, 1972.

Assembly shall enact any Public General Law, not amendatory of any section, or article in the said Code, it shall be the duty of the General Assembly to enact the same, in articles and sections, in the same manner, as the Code is arranged, and to provide for the publication of all additions and alterations, which may be made to the said Code.

SEC. 30.⁶¹ Every bill, when passed by the General Assembly, and sealed with the Great Seal, shall be presented by the presiding officer of the House in which it originated to the Governor for his approval. All bills passed during a regular or special session shall be presented to the Governor for his approval no later than 20 days after adjournment. Within 30 days after presentment, if the Governor approves the bill, he shall sign the same in the presence of the presiding officers and Chief Clerks of the Senate and House of Delegates. Every Law shall be recorded in the office of the Court of Appeals, and in due time, be printed, published and certified under the Great Seal, to the several Courts, in the same manner as has been heretofore usual in this State.

SEC. 31.⁶² A Law passed by the General Assembly shall take effect the first day of June next after the session at which it may be passed, unless it be otherwise expressly declared therein or provided for in this Constitution.

SEC. 32. No money shall be drawn from the Treasury of the State, by any order or resolution, nor except in accordance with an appropriation by Law; and every such Law shall distinctly specify the sum appropriated, and the object, to which it shall be applied; provided, that nothing herein contained, shall prevent the General Assembly from placing a contingent fund at the disposal of the Executive, who shall report to the General Assembly, at each Session, the amount expended, and the purposes to which it was applied. An accurate statement of the receipts and expenditures of the public money, shall be attached to, and published with the Laws, after each regular Session of the General Assembly.

SEC. 33. The General Assembly shall not pass local, or special Laws, in any of the following enumerated cases, viz.: For extending the time for the collection of taxes; granting divorces; changing the name of any person; providing for the sale of real estate, belonging to minors, or other persons laboring under legal disabilities, by executors, administrators, guardians or trustees; giving effect to informal, or invalid deeds or wills; refunding money paid into the State Treasury, or releasing persons from their debts, or obligations to the State, unless recommended by the Governor, or officers of the Treasury Department. And the General Assembly shall pass no special Law, for any case, for which provision has been made, by an existing General Law. The General Assembly, at its first Session after the adoption of this Constitution, shall pass General Laws, providing for the cases enumerated in this section, which are not already adequately provided for, and for all other cases, where a General Law can be made applicable.

SEC. 34.⁶³ No debt shall be hereafter contracted by the General Assembly unless such debt shall be authorized by a law providing for the collection of an annual tax or

taxes sufficient to pay the interest on such debt as it falls due, and also to discharge the principal thereof within fifteen years from the time of contracting the same; and the taxes laid for this purpose shall not be repealed or applied to any other object until the said debt and interest thereon shall be fully discharged. The annual tax or taxes required to be collected shall not be collected in the event that sufficient funds to pay the principal and interest on the debt are appropriated for this purpose in the annual State budget. The credit of the State shall not in any manner be given, or loaned to, or in aid of any individual association or corporation; nor shall the General Assembly have the power to involve the State in the construction of works of internal improvement which shall involve the faith or credit of the State, except in aid of the construction of works of internal improvement in the counties of St. Mary's, Charles and Calvert, which have had no direct advantage from such works as have been heretofore aided by the State; and provided that such aid, advances or appropriations shall not exceed in the aggregate the sum of five hundred thousand dollars. And they shall not use or appropriate the proceeds of the internal improvement companies, or of the State tax, now levied, or which may hereafter be levied, to pay off the public debt or to any other purpose until the interest and debt are fully paid or the sinking fund shall be equal to the amount of the outstanding debt; but the General Assembly may authorize the Board of Public Works to direct the State Treasurer to borrow in the name of the State, in anticipation of the collection of taxes or other revenues, including proceeds from the sale of bonds, such sum or sums as may be necessary to meet temporary deficiencies in the treasury, to preserve the best interest of the State in the conduct of the various State institutions, departments, bureaus, and agencies during each fiscal year. Subject to the approval of the Board of Public Works and as provided by law, the State Treasurer is authorized to make and sell short-term notes—in the name of the State, in anticipation of the collection of taxes or other revenues, including proceeds from the sale of bonds to meet temporary deficiencies in the Treasury, but such notes must only be made to provide for appropriations already made by the General Assembly. Any revenues anticipated for the purpose of short-term notes, made and sold under the authority of this section, must be so certain as to be readily estimable as to the time of receipt of the revenues and as to the amount of the revenues. The General Assembly may contract debts to any amount that may be necessary for the defense of the State, and provided further that nothing in this section shall be construed to prohibit the raising of funds for the purpose of aiding or compensating in such manner or way as the General Assembly of the State shall deem proper, those citizens of the State who have served, with honor, their Country and State in time of War; provided, however, that such action of the General Assembly shall be effective only when submitted to and approved by a vote of the people of the State at the General Election next following the enactment of such legislation.

SEC. 35.⁶⁴ Extra compensation may not be granted or allowed by the General Assembly to any public Officer, Agent, Servant or Contractor, after the service has been

⁶¹ Amended by Chapter 883, Acts of 1974, ratified Nov. 5, 1974.

⁶² Amended by Chapter 883, Acts of 1974, ratified Nov. 5, 1974.

⁶³ Amended by Chapter 327, Acts of 1924, ratified Nov. 4, 1924; Chapter 234, Acts of 1959, ratified Nov. 8, 1960; Chapter 372, Acts of 1972, ratified Nov. 7, 1972; Chapter 551, Acts of 1976, ratified Nov. 2, 1976; Chapter 600, Acts of 1982, ratified Nov. 2, 1982.

⁶⁴ Amended by Chapter 416, Acts of 1957, ratified Nov. 4, 1958; Chapter 547, Acts of 1976, ratified Nov. 2, 1976; Chapter 976, Acts of 1978, ratified Nov. 7, 1978.

rendered, or the contract entered into; nor may the salary or compensation of any public officer be increased or diminished during his term of office except those whose full term of office is fixed by law in excess of 4 years. However, after January 1, 1956, for services rendered after that date, the salary or compensation of any appointed public officer of the Mayor and City Council of Baltimore may be increased or diminished at any time during his term of office; except that as to officers in the Classified City Service, when the salary of any appointed public officer of the Mayor and City Council of Baltimore however, increased or decreased, it may not again be increased or decreased, as the case may be, during the term of such public officer.

SEC. 35A.⁶⁵ Nothing in this Constitution shall exempt the salary or compensation of any judge or other public officer from the imposition by the General Assembly of a non-discriminatory tax upon income.

SEC. 36.⁶⁶ No Lottery grant shall ever hereafter be authorized by the General Assembly, unless it is a lottery to be operated by and for the benefit of the State.

SEC. 37.⁶⁷ Vacant.

SEC. 38.⁶⁸ No person shall be imprisoned for debt, but a valid decree of a court of competent jurisdiction or agreement approved by decree of said court for the support of a spouse or dependent children, or for the support of an illegitimate child or children, or for alimony (either common law or as defined by statute), shall not constitute a debt within the meaning of this section.

SEC. 39.⁶⁹ The books, papers and accounts of all banks shall be open to inspection under such regulations as may be prescribed by law.

SEC. 40. The General Assembly shall enact no Law authorizing private property to be taken for public use without just compensation, as agreed upon between the parties, or awarded by a jury, being first paid or tendered to the party entitled to such compensation.

SEC. 40A.⁷⁰ The General Assembly shall enact no law authorizing private property to be taken for public use without just compensation, to be agreed upon between the parties, or awarded by a jury, being first paid or tendered to the party entitled to such compensation, but where such property is situated in Baltimore City and is desired by this State or by the Mayor and City Council of Baltimore, the General Assembly may provide that such property may be taken immediately upon payment therefor to the owner or owners thereof by the State or by the Mayor and City Council of Baltimore, or into court, such amount as the State or the Mayor and City Council of Baltimore, as the case may be, shall estimate to be the fair value of said property, provided such legislation also requires the payment of any further sum that may subsequently be added by a jury; and further provided that the authority and procedure for the immediate taking of property as it applies to the Mayor and

City Council of Baltimore on June 1, 1961, shall remain in force and effect to and including June 1, 1963, and where such property is situated in Baltimore County and is desired by Baltimore County, Maryland, the County Council of Baltimore County, Maryland, may provide for the appointment of an appraiser or appraisers by a Court of Record to value such property and that upon payment of the amount of such evaluation, to the party entitled to compensation, or into Court, and securing the payment of any further sum that may be awarded by a jury, such property may be taken; and where such property is situated in Montgomery County and in the judgment of and upon a finding by the County Council of said County that there is immediate need therefor for right of way for County roads or streets, the County Council may provide that such property may be taken immediately upon payment therefor to the owner or owners thereof, or into court, such amount as a licensed real estate broker appointed by the County Council shall estimate to be the fair market value of such property, provided that the Council shall secure the payment of any further sum that may subsequently be awarded by a jury. In the various municipal corporations within Cecil County, where in the judgment of and upon a finding by the governing body of said municipal corporation that there is immediate need therefor for right of way for municipal roads, streets and extension of municipal water and sewage facilities, the governing body may provide that such property may be taken immediately upon payment therefor to the owner or owners thereof, or into court, such amount as a licensed real estate broker appointed by the particular governing body shall estimate to be a fair market value of such property, provided that the municipal corporation shall secure the payment of any further sum that subsequently may be awarded by a jury. This Section 40A shall not apply in Montgomery County or any of the various municipal corporations within Cecil County, if the property actually to be taken includes a building or buildings.

SEC. 40B.⁷¹ The General Assembly shall enact no law authorizing private property to be taken for public use without just compensation, to be agreed upon between the parties or awarded by a jury, being first paid or tendered to the party entitled to such compensation, except that where such property in the judgment of the State Roads Commission is needed by the State for high-way purposes, the General Assembly may provide that such property may be taken immediately upon payment therefor to the owner or owners thereof by said State Roads Commission, or into Court, such amount as said State Roads Commission shall estimate to be of the fair value of said property, provided such legislation also requires the payment of any further sum that may subsequently be awarded by a jury.

SEC. 40C.⁷² The General Assembly shall enact no law authorizing private property to be taken for public use without just compensation, to be agreed upon between

⁶⁵ Added by Chapter 771, Acts of 1939, ratified Nov. 5, 1940.

⁶⁶ Amended by Chapter 364, Acts of 1972, ratified Nov. 7, 1972.

⁶⁷ Repealed by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

⁶⁸ Amended by Chapter 14, Acts of 1950, ratified Nov. 7, 1950; Chapter 121, Acts of 1962, ratified Nov. 6, 1962; Chapter 321, Acts of 1982, ratified Nov. 2, 1982.

⁶⁹ Amended by Chapter 151, Acts of Sp. Sess. of 1936, ratified Nov. 3, 1936.

⁷⁰ Amended by Chapter 402, Acts of 1912, ratified Nov. 4, 1913; Chapters 224 and 604, Acts of 1959, ratified Nov. 8, 1960; Chapter 329, Acts of 1961, ratified Nov. 6, 1962; Chapter 100, Acts of 1962, ratified Nov. 6, 1962; Chapter 304, Acts of 1966, ratified Nov. 8, 1966.

⁷¹ Added by Chapter 607, Acts of 1941, ratified Nov. 3, 1942.

⁷² Added by Chapter 781, Acts of 1965, ratified Nov. 8, 1966.

the parties or awarded by a jury, being first paid or tendered to the party entitled to such compensation, except that where such property, located in Prince George's County in this State, is in the judgment of the Washington Suburban Sanitary Commission needed for water supply, sewerage and drainage systems to be extended or constructed by the said Commission, the General Assembly may provide that such property, except any building or buildings may be taken immediately upon payment therefor by the condemning authority to the owner or owners thereof or into the Court to the use of the person or persons entitled thereto, such amount as the condemning authority shall estimate to be the fair value of said property, provided such legislation requires that the condemning authority's estimate be not less than the appraised value of the property being taken as evaluated by at least one qualified appraiser, whose qualifications have been accepted by a Court of Record of this State, and also requires the payment of any further sum that may subsequently be awarded by a jury, and provided such legislation limits the condemning authority's utilization of the acquisition procedures specified in this section to occasions where it has acquired or is acquiring by purchase or other procedures one-half or more of the several takings of land or interests in land necessary for any given water supply, sewerage or drainage extension or construction project.

SEC. 40D.⁷³ Vacant.

SEC. 41.⁷⁴ Vacant.

SEC. 42.⁷⁵ Vacant.

SEC. 43. The property of the wife shall be protected from the debts of her husband.

SEC. 44.⁷⁶ Laws shall be passed by the General Assembly, to protect from execution a reasonable amount of the property of the debtor.

SEC. 45.⁷⁷ The General Assembly shall provide a simple and uniform system of charges in the offices of Clerks of Courts and Registers of Wills, in the Counties of this State and the City of Baltimore, and for the collection thereof; provided, the amount of compensation to any of the said officers in the various Counties and in the City of Baltimore shall be such as may be prescribed by law.

SEC. 46. The General Assembly shall have power to receive from the United States, any grant, or donation of land, money, or securities for any purpose designated by the United States, and shall administer, or distribute the same according to the conditions of the said grant.

SEC. 47.⁷⁸ Vacant.

SEC. 48.⁷⁹ Corporations may be formed under general laws, but shall not be created by Special Act, except for municipal purposes and except in cases where no general laws exist, providing for the creation of corporations of the same general character, as the corporation proposed to be created; and any act of incorporation passed in violation of this section shall be void. All charters

granted, or adopted in pursuance of this section, and all charters heretofore granted and created, subject to repeal or modification, may be altered, from time to time, or be repealed; Provided, nothing herein contained shall be construed to extend to Banks, or the incorporation thereof. The General Assembly shall not alter or amend the charter, of any corporation existing at the time of the adoption of this Article, or pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall surrender all claim to exemption from taxation or from the repeal or modification of its charter, and that such corporation shall thereafter hold its charter subject to the provisions of this Constitution; and any corporation chartered by this State which shall accept, use, enjoy, or in any wise avail itself of any rights, privileges, or advantages that may hereafter be granted or conferred by any general or special Act, shall be conclusively presumed to have thereby surrendered any exemption from taxation to which it may be entitled under its charter, and shall be thereafter subject to taxation as if no such exemption has been granted by its charter.

SEC. 49. The General Assembly shall have power to regulate by Law, not inconsistent with this Constitution, all matters which relate to the Judges of election, time, place and manner of holding elections in this State, and of making returns thereof.

SEC. 50. It shall be the duty of the General Assembly, at its first session, held after the adoption of this Constitution, to provide by Law for the punishment, by fine, or imprisonment in the Penitentiary, or both, in the discretion of the Court, of any person, who shall bribe, or attempt to bribe, any Executive, or Judicial officer of the State of Maryland, or any member, or officer, of the General Assembly of the State of Maryland, or of any Municipal corporation in the State of Maryland, or any Executive officer of such corporation, in order to influence him in the performance of any of his official duties; and, also, to provide by Law for the punishment, by fine, or imprisonment in the Penitentiary, or both, in the discretion of the Court, of any of said officers, or members, who shall demand, or receive any bribe, fee, reward, or testimonial, for the performance of his official duties, or for neglecting, or failing to perform the same; and, also, to provide by Law for compelling any person, so bribing, or attempting to bribe, or so demanding, or receiving a bribe, fee, reward, or testimonial, to testify against any person, or persons, who may have committed any of said offenses; provided, that any person, so compelled to testify, shall be exempted from trial and punishment for the offense, of which he may have been guilty; and any person, convicted of such offence, shall, as part of the punishment thereof, be forever disfranchised and disqualified from holding any office of trust, or profit, in this State.

SEC. 51.⁸⁰ The personal property of residents of this State, shall be subject to taxation in the County or City where the resident *bona fide* resides for the greater part of the year for which the tax may or shall be levied, and not elsewhere, except goods and chattels permanently located, which shall be taxed in the City or County where they are

73 Repealed by Chapter 683, Acts of 1977, ratified Nov. 7, 1978.

74 Repealed by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

75 Transferred to Article I, sec. 7, by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

76 Amended by Chapter 549, Acts of 1976, ratified Nov. 2, 1976.

77 Amended by Chapter 509, Acts of 1941, ratified Nov. 3, 1942.

78 Transferred to Article I, sec. 8, by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

79 Amended by Chapter 195, Acts of 1890, ratified Nov. 3, 1891.

80 Amended by Chapter 426, Acts of 1890, ratified Nov. 3, 1891.

so located, but the General Assembly may by law provide for the taxation of mortgages upon property in this State and the debts secured thereby, in the County or City where such property is situated.

SEC. 52.⁸¹ (1) The General Assembly shall not appropriate any money out of the Treasury except in accordance with the provisions of this section.

(2) Every appropriation bill shall be either a Budget Bill, or a Supplementary Appropriation Bill, as hereinafter provided.

(3)⁸² On the third Wednesday in January in each year, (except in the case of a newly elected Governor, and then not later than ten days after the convening of the General Assembly), unless such time shall be extended by the General Assembly, the Governor shall submit to the General Assembly a Budget for the next ensuing fiscal year. Each Budget shall contain a complete plan of proposed expenditures and estimated revenues for said fiscal year and shall show the estimated surplus or deficit of revenues at the end of the preceding fiscal year. Accompanying each Budget shall be a statement showing: (a) the revenues and expenditures for the preceding fiscal year; (b) the current assets, liabilities, reserves and surplus or deficit of the State; (c) the debts and funds of the State; (d) an estimate of the State's financial condition as of the beginning and end of the preceding fiscal year; (e) any explanation the Governor may desire to make as to the important features of the Budget and any suggestions as to methods for reduction or increase of the State's revenue.

(4)⁸³ Each Budget shall embrace an estimate of all appropriations in such form and detail as the Governor shall determine or as may be prescribed by law, as follows: (a) for the General Assembly as certified to the Governor in the manner hereinafter provided; (b) for the Executive Department; (c) for the Judiciary Department, as provided by law, as certified to the Governor; (d) to pay and discharge the principal and interest of the debt of the State in conformity with Section 34 of Article 3 of the Constitution, and all laws enacted in pursuance thereof; (e) for the salaries payable by the State and under the Constitution and laws of the State; (f) for the establishment and maintenance throughout the State of a thorough and efficient system of public schools in conformity with Article 8 of the Constitution and with the laws of the State; and (g) for such other purposes as are set forth in the Constitution or laws of the State.

(5)⁸⁴ The Governor shall deliver to the presiding officer of each House the Budget and a bill for all the proposed appropriations of the Budget classified and in such form and detail as he shall determine or as may be prescribed by law; and the presiding officer of each House shall promptly cause said bill to be introduced therein, and such bill shall be known as the "Budget Bill." The Governor may, with the consent of the General Assembly, before final action thereon by the General Assembly, amend or supplement said Budget to correct an oversight, provide funds contingent on passage of pending legislation or, in case of an emergency, by delivering such an amendment or supplement to the presiding officers of both Houses; and such amendment or supplement shall thereby become

a part of said Budget Bill as an addition to the items of said bill or as a modification of or a substitute for any item of said bill such amendment or supplement may affect.

(5a)⁸⁵ The Budget and the Budget Bill as submitted by the Governor to the General Assembly shall have a figure for the total of all proposed appropriations and a figure for the total of all estimated revenues available to pay the appropriations, and the figure for total proposed appropriations shall not exceed the figure for total estimated revenues. Neither the Governor in submitting an amendment or supplement to the Budget Bill nor the General Assembly in amending the Budget Bill shall thereby cause the figure for total proposed appropriations to exceed the figure for total estimated revenues, including any revisions, and in the Budget Bill as enacted the figure for total estimated revenues always shall be equal to or exceed the figure for total appropriations.

(6)⁸⁶ The General Assembly shall not amend the Budget Bill so as to affect either the obligations of the State under Section 34 of Article 3 of the Constitution, or the provisions made by the laws of the State for the establishment and maintenance of a system of public schools or the payment of any salaries required to be paid by the State of Maryland by the Constitution thereof; and the General Assembly may amend the bill by increasing or diminishing the items therein relating to the General Assembly, and by increasing or diminishing the items therein relating to the judiciary, but except as hereinbefore specified, may not alter the said bill except to strike out or reduce items therein, provided, however, that the salary or compensation of any public officer shall not be decreased during his term of office; and such bill, when and as passed by both Houses, shall be a law immediately without further action by the Governor.

(7) The Governor and such representatives of the executive departments, boards, officers and commissions of the State expending or applying for State's moneys, as have been designated by the Governor for this purpose, shall have the right, and when requested by either House of the General Assembly, it shall be their duty to appear and be heard with respect to any Budget Bill during the consideration thereof, and to answer inquiries relative thereto.

(8)⁸⁷ Supplementary Appropriation Bill. Either House may consider other appropriations but both Houses shall not finally act upon such appropriations until after the Budget Bill has been finally acted upon by both Houses, and no such other appropriation shall be valid except in accordance with the provisions following: (a) Every such appropriation shall be embodied in a separate bill limited to some single work, object or purpose therein stated and called herein a Supplementary Appropriation Bill; (b) Each Supplementary Appropriation Bill shall provide the revenue necessary to pay the appropriation thereby made by a tax, direct or indirect, to be levied and collected as shall be directed in said bill; (c) No Supplementary Appropriation Bill shall become a law unless it be passed in each House by a vote of a majority of the whole number of the members elected, and the yeas and nays recorded

⁸¹ Amended by Chapter 159, Acts of 1916, ratified Nov. 7, 1916; Chapter 497, Acts of 1947, ratified Nov. 2, 1948.

⁸² Amended by Chapter 725, Acts of 1955, ratified Nov. 6, 1956; Chapter 161, Acts of 1964, ratified Nov. 3, 1964.

⁸³ Amended by Chapter 20, Acts of 1952, ratified Nov. 4, 1952; Chapter 62, Acts of 1990, ratified Nov. 6, 1990.

⁸⁴ Amended by Chapter 20, Acts of 1952, ratified Nov. 4, 1952.

⁸⁵ Added by Chapter 745, Acts of 1973, ratified Nov. 5, 1974.

⁸⁶ Amended by Chapter 373, Acts of 1972, ratified Nov. 7, 1972.

⁸⁷ Amended by Chapter 416, Acts of 1966, ratified Nov. 8, 1966.

on its final passage; (d) Each Supplementary Appropriation Bill shall be presented to the Governor of the State as provided in Section 17 of Article 2 of the Constitution and thereafter all the provisions of said section shall apply.

(9) Nothing in this section shall be construed as preventing the General Assembly from passing at any time, in accordance with the provisions of Section 28 of Article 3 of the Constitution and subject to the Governor's power of approval as provided in Section 17 of Article 2 of the Constitution, an appropriation bill to provide for the payment of any obligation of the State within the protection of Section 10 of Article 1 of the Constitution of the United States.

(10)⁸⁸ If the Budget Bill shall not have been finally acted upon by the Legislature seven days before the expiration of the regular session, the Governor shall issue a proclamation extending the session for some further period as may, in his judgment, be necessary for the passage of such bill; but no other matter than such bill shall be considered during such extended session except a provision for the cost thereof.

(11)⁸⁹ For the purpose of making up the Budget, the Governor shall require from the proper State officials (including all executive departments, all executive and administrative offices, bureaus, boards, commissions and agencies that expend or supervise the expenditure of, and all institutions applying for State moneys and appropriations) such itemized estimates and other information, in such form and at such times as directed by the Governor. An estimate for a program required to be funded by a law which will be in effect during the fiscal year covered by the Budget and which was enacted before July 1 of the fiscal year prior to that date shall provide a level of funding not less than that prescribed in the law. The estimates for the Legislative Department, certified by the presiding officer of each House, of the Judiciary, as provided by law, certified by the Chief Judge of the Court of Appeals, and for the public schools, as provided by law, shall be transmitted to the Governor, in such form and at such times as directed by the Governor, and shall be included in the Budget without revision.

(12)⁹⁰ The Governor may provide for public hearings on all estimates and may require the attendance at such hearings of representatives of all agencies, and for all institutions applying for State moneys. After such public hearings he may, in his discretion, revise all estimates except those for the legislative and judiciary departments, and for the public schools, as provided by law, and except that he may not reduce an estimate for a program below a level of funding prescribed by a law which will be in effect during the fiscal year covered by the Budget, and which was enacted before July 1 of the fiscal year prior thereto.

(13) The General Assembly may, from time to time, enact such laws not inconsistent with this section, as may be necessary and proper to carry out its provisions.

(14) In the event of any inconsistency between any of the provisions of this Section and any of the other provisions of the Constitution, the provisions of this Section

shall prevail. But nothing herein shall in any manner affect the provisions of Section 34 of Article 3 of the Constitution or of any laws heretofore or hereafter passed in pursuance thereof, or be construed as preventing the Governor from calling extraordinary sessions of the General Assembly, as provided by Section 16 of Article 2, or as preventing the General Assembly at such extraordinary sessions from considering any emergency appropriation or appropriations.

(15) If any item of any appropriation bill passed under the provisions of this Section shall be held invalid upon any ground, such invalidity shall not affect the legality of the bill or of any other item of such bill or bills.

SEC. 53.⁹¹ Vacant.

SEC. 54.⁹² No County of this State shall contract any debt, or obligation, in the construction of any Railroad, Canal, or other Work of Internal Improvement, nor give, or loan its credit to, or in aid of any association, or corporation, unless authorized by an Act of the General Assembly.

SEC. 55. The General Assembly shall pass no Law suspending the privilege of the Writ of *Habeas Corpus*.

SEC. 56. The General Assembly shall have power to pass all such Laws as may be necessary and proper for carrying into execution the powers vested, by this Constitution, in any Department, or office of the Government, and the duties imposed upon them thereby.

SEC. 57. The Legal Rate of Interest shall be Six per cent per annum, unless otherwise provided by the General Assembly.

SEC. 58.⁹³ The Legislature shall provide by Law for State and municipal taxation upon the revenues accruing from business done in the State by all foreign corporations.

SEC. 59.⁹⁴ The Legislature shall pass no law creating the office of "State Pension Commissioner", or establishing any general pension system within this State.

SEC. 60.⁹⁵ The General Assembly of Maryland shall have the power to provide by suitable general enactment (a) for the suspension of sentence by the Court in criminal cases; (b) for any form of the indeterminate sentence in criminal cases, and (c) for the release upon parole in whatever manner the General Assembly may prescribe, of convicts imprisoned under sentence for crimes.

SEC. 61.⁹⁶ (a) The General Assembly may authorize and empower any county or any municipal corporation, by public local law:

(1) To carry out urban renewal projects which shall be limited to slum clearance in slum or blighted areas and redevelopment or the rehabilitation of slum or blighted areas, and to include the acquisition, within the boundary lines of such county or municipal corporation, of land and property of every kind and any right, interest, franchise, easement or privilege therein, by purchase, lease, gift, condemnation or any other legal means. The term "slum area" shall mean any area where dwellings predominate

Amended by Chapter 576, Acts of 1970, ratified Nov. 3, 1970.

88 Amended by Chapter 971, Acts of 1978, ratified Nov. 7, 1978; Chapter 62, Acts of 1990, ratified Nov. 6, 1990.

89 Amended by Chapter 971, Acts of 1978, ratified Nov. 7, 1978.

90 Repealed by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

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92 Amended by Chapter 71, Acts of 1960, ratified Nov. 8, 1960.

93 Amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956.

94 Amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

95 Added by Chapter 453, Acts of 1914, ratified Nov. 2, 1915.

96 Amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

which, by reason of depreciation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitary facilities, or any combination of these factors, are detrimental to the public safety, health or morals. The term "blighted area" shall mean an area in which a majority of buildings have declined in productivity by reason of obsolescence, depreciation or other causes to an extent they no longer justify fundamental repairs and adequate maintenance.

(2) To sell, lease, convey, transfer or otherwise dispose of any of said land or property, regardless of whether or not it has been developed, redeveloped, altered or improved and irrespective of the manner or means in or by which it may have been acquired, to any private, public or quasi public corporation, partnership, association, person or other legal entity.

No land or property taken *by* any county or any municipal corporation for any of the aforementioned purposes or in connection with the exercise of any of the powers which may be granted to such county or municipal corporation pursuant to this section by exercising the power of eminent domain shall be taken without just compensation, as agreed upon between the parties, or awarded by a jury, being first paid or tendered to the party entitled to such compensation.

All land or property needed, or taken by the exercise of the power of eminent domain, *by* any county or any municipal corporation for any of the aforementioned purposes or in connection with the exercise of any of the powers which may be granted pursuant to this Section is hereby declared to be needed or taken for public uses and purposes. Any or all of the activities authorized pursuant to this section shall constitute governmental functions undertaken for public uses and purposes and the power of taxation may be exercised, public funds expended and public credit extended in furtherance thereof.

(b) The General Assembly may grant to any county or any municipal corporation, by public local law, any and all additional power and authority necessary or proper to carry into full force and effect any and all of the specific powers authorized by this section and to fully accomplish any and all of the purposes and objects contemplated by the provisions of this section, provided such additional power or authority is not inconsistent with the terms and provisions of this section or with any other provision or provisions of the Constitution of Maryland.

(c) The General Assembly of Maryland, by public local law, may establish or authorize the establishment of a public body or agency to undertake in a county or municipal corporation (other than Baltimore City) the activities authorized by this section, and may provide that any or all of the powers, except the power of taxation, herein authorized to be granted to such county or municipal corporation shall be vested in such public body or agency or in any existing public body or agency.

(d) The General Assembly may place such other and further restrictions or limitations on the exercise of any of

the powers provided for in this section, as it may deem proper and expedient.

(e) The provisions of this section are independent of, and shall in no way affect, the powers granted under Article XIB of the Constitution of Maryland, title "City of Baltimore—Land Development and Redevelopment." Also, the power provided in this section for the General Assembly to enact public local laws authorizing any municipal corporation or any county to carry out urban renewal projects prevails over the restrictions contained in Article XI-A "Local Legislation" and in Article XI-E "Municipal Corporations" of this Constitution.

ARTICLE IV.

JUDICIARY DEPARTMENT.

Part I—General Provisions.

SECTION 1.⁹⁷ The Judicial power of this State is vested in a Court of Appeals, such intermediate courts of appeal as the General Assembly may create by law, Circuit Courts, Orphans' Courts, and a District Court. These Courts shall be Courts of Record, and each shall have a seal to be used in the authentication of all process issuing from it.

SEC. 1A.⁹⁸ The several Courts existing in this State at the time of the adoption of this Constitution shall, until superseded under its provisions, continue with like powers and jurisdiction, and in the exercise thereof, both at Law and in Equity, in all respects, as if this Constitution had not been adopted; and when said Courts shall be so superseded, all causes, then depending in said Courts shall pass into the jurisdiction of the several Courts, by which they may, respectively, be superseded.

SEC. 2.⁹⁹ The Judges of all of the said Courts shall be citizens of the State of Maryland, and qualified voters under this Constitution, and shall have resided therein not less than five years, and not less than six months next preceding their election, or appointment, as the case may be, in the city, county, district, judicial circuit, intermediate appellate judicial circuit or appellate judicial circuit for which they may be, respectively, elected, or appointed. They shall be not less than thirty years of age at the time of their election, or appointment, and shall be selected from those who have been admitted to practice Law in this State, and who are most distinguished for integrity, wisdom and sound legal knowledge.

SEC. 3.¹⁰⁰ Except for Judges of the District Court, the Judges of the several Courts other than the Court of Appeals or any intermediate courts of appeal shall, subject to the provisions of Section 5 of this Article of the Constitution, be elected in Baltimore City and in each county, by the qualified voters of the city and of each county, respectively, all of the said Judges to be elected at the general election to be held on the Tuesday after the first Monday in November, as now provided for in the Constitution. Each of the said Judges shall hold his office for the term of fifteen years from the time of his election, and until his successor is elected and

⁹⁷ Amended by Chapter 10, Acts of 1966, ratified Nov. 8, 1966; Chapter 789, Acts of 1969, ratified Nov. 3, 1970; Chapter 681, Acts of 1977, ratified Nov. 7, 1978; Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

⁹⁸ Transferred from Article XV, sec. 2, and amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

⁹⁹ Amended by Chapter 10, Acts of 1966, ratified Nov. 8, 1966; Chapter 789, Acts of 1969, ratified Nov. 3, 1970; Chapter 542, Acts of 1976, ratified Nov. 2, 1976.

¹⁰⁰ Amended by Chapter 479, Acts of 1931, ratified Nov. 8, 1932; Chapter 607, Acts of 1953, ratified Nov. 2, 1954; Chapter 10, Acts of 1966, ratified Nov. 8, 1966; Chapter 542, Acts of 1976, ratified Nov. 2, 1976; Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

qualified, or until he shall have attained the age of seventy years, whichever may first happen, and be re-eligible thereto until he shall have attained the age of seventy years, and not after. In case of the inability of any of said Judges to discharge his duties with efficiency, by reason of continued sickness, or of physical or mental infirmity, it shall be in the power of the General Assembly, two-thirds of the members of each House concurring, with the approval of the Governor to retire said Judge from office.

SEC. 3A.¹⁰¹ (a) Any former judge, except a former judge of the Orphans' Court, may be assigned by the Chief Judge of the Court of Appeals, upon approval of a majority of the court, to sit temporarily in any court of this State, except an Orphans' Court, as provided by law.

(b) The provisions of this section apply, notwithstanding provisions appearing elsewhere in this Article pertaining to retirement of judges upon attaining age 70.

SEC. 4. Any Judge shall be removed from office by the Governor, on conviction in a Court of Law, of incompetency, of wilful neglect of duty, misbehavior in office, or any other crime, or on impeachment, according to this Constitution, or the Laws of the State; or on the address of the General Assembly, two-thirds of each House concurring in such address, and the accused having been notified of the charges against him, and having had opportunity of making his defence.

SEC. 4A.¹⁰² There is created a Commission on Judicial Disabilities composed of seven persons appointed by the Governor of Maryland. The members of the Commission shall be citizens and residents of this State. Four members of the Commission shall be appointed from among the judges of the appellate courts, the Circuit Courts, and the District Court; two members shall be appointed from among those persons who are admitted to practice of law in the State, who have been so engaged for at least fifteen years, and who are not judges of any court; and one member shall represent the public, who shall not be a judge, active or retired, and who is not admitted to the practice of law in this State. The term of office of each member shall be for four years commencing on January 1 following the expiration of his predecessor's term. Whenever any member of the Commission appointed from among judges in the State ceases to be a judge, when any member appointed from among those admitted to practice law becomes a judge, when any member representing the public becomes a judge or is admitted to the practice of law in this State, or when any member ceases to be a resident of the State, in such case the membership of this member shall forthwith terminate. Any vacancies on the Commission shall be filled for the unexpired term by the Governor in the same manner as for making of appointments to the Commission and subject to the same qualifications which were applicable to the person causing the vacancy. No member of the Commission shall receive any compensation for his services as such but shall be allowed any expenses necessarily incurred in the performance of his duties as such member.

SEC. 4B.¹⁰³ (a) The Commission on Judicial Disabilities has the power to investigate complaints against any

judge of the Court of Appeals, any intermediate courts of appeal, the Circuit Courts, the District Court of Maryland, or the Orphans' Court; and to conduct hearings concerning such complaints, administer oaths and affirmations, issue process to compel the attendance of witnesses and the production of evidence, and require persons to testify and produce evidence by granting them immunity from prosecution or from penalty or forfeiture. The Commission has the power to issue a reprimand and the power to recommend to the Court of Appeals the removal, censure or other appropriate disciplining of a judge or, in an appropriate case, retirement. All proceedings, testimony, and evidence before the Commission shall be confidential and privileged, except as provided by rule of the Court of Appeals; the record and any proceeding filed with the Court of Appeals shall lose its confidential character, except as ordered by the Court of Appeals. No judge shall participate as a member of the Commission in any proceedings involving his own conduct, and the Governor shall appoint another judge as a substitute member of the Commission for those proceedings. The Court of Appeals shall prescribe by rule the means to implement and enforce the powers of the Commission and the practice and procedure before the Commission.

(b) Upon any recommendation of the Commission, the Court of Appeals, after a hearing and upon a finding of misconduct while in office, or of persistent failure to perform the duties of his office, or of conduct prejudicial to the proper administration of justice, may remove the judge from office or may censure or otherwise discipline him, or the Court of Appeals, after hearing and upon a finding of disability which is or is likely to become permanent and which seriously interferes with the performance of his duties, may retire the judge from office. A judge removed under this section, and his surviving spouse, shall have the rights and privileges accruing from his judicial service only to the extent prescribed by the order of removal. A judge retired under this section shall have the rights and privileges prescribed by law for other retired judges. No judge of the Court of Appeals shall sit in judgment in any hearing involving his own conduct.

(c) This section is alternative to, and cumulative with, the methods of retirement and removal provided in Sections 3 and 4 of this Article, and in Section 26 of Article III of this Constitution.

SEC. 5.¹⁰⁴ Upon every occurrence or recurrence of a vacancy through death, resignation, removal, disqualification by reason of age or otherwise, or expiration of the term of fifteen years of any judge of a circuit court, or creation of the office of any such judge, or in any other way, the Governor shall appoint a person duly qualified to fill said office, who shall hold the same until the election and qualification of his successor. His successor shall be elected at the first biennial general election for Representatives in Congress after the expiration of the term of fifteen years (if the vacancy occurred in that way) or the first such general election after one year after the occurrence of the vacancy in any other way than through expiration of such term. Except in case of reappointment

101 Added by Chapter 546, Acts of 1976, ratified Nov. 2, 1976.

102 Amended by Chapter 773, Acts of 1965, ratified Nov. 8, 1966; Chapter 789, Acts of 1969, ratified Nov. 3, 1970; Chapter 681, Acts of 1977, ratified Nov. 7, 1978; Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

103 Amended by Chapter 773, Acts of 1965, ratified Nov. 8, 1966; Chapter 789, Acts of 1969, ratified Nov. 3, 1970; Chapter 886, Acts of 1974, ratified Nov. 5, 1974; Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

104 Amended by Chapter 417, Acts of 1880, ratified Nov. 8, 1881; Chapter 772, Acts of 1943, ratified Nov. 7, 1944; Chapter 703, Acts of 1945, ratified Nov. 5, 1946; Chapter 551, Acts of 1975, ratified Nov. 2, 1976; Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

of a judge upon expiration of his term of fifteen years, no person shall be appointed who will become disqualified by reason of age and thereby unable to continue to hold office until the prescribed time when his successor would have been elected.

SEC. 5A.¹⁰⁵ (a) A vacancy in the office of a judge of an appellate court, whether occasioned by the death, resignation, removal, retirement, disqualification by reason of age, or rejection by the voters of an incumbent, the creation of the office of a judge, or otherwise, shall be filled as provided in this section.

(b) Upon the occurrence of a vacancy the Governor shall appoint, by and with the advice and consent of the Senate, a person duly qualified to fill said office who shall hold the same until the election for continuance in office as provided in subsections (c) and (d).

(c) The continuance in office of a judge of the Court of Appeals is subject to approval or rejection by the registered voters of the appellate judicial circuit from which he was appointed at the next general election following the expiration of one year from the date of the occurrence of the vacancy which he was appointed to fill, and at the general election next occurring every ten years thereafter.

(d) The continuance in office of a judge of the Court of Special Appeals is subject to approval or rejection by the registered voters of the geographical area prescribed by law at the next general election following the expiration of one year from the date of the occurrence of the vacancy which he was appointed to fill, and at the general election next occurring every ten years thereafter.

(e) The approval or rejection by the registered voters of a judge as provided for in subsections (c) and (d) shall be a vote for the judge's retention in office for a term of ten years or his removal. The judge's name shall be on the appropriate ballot, without opposition, and the voters shall vote yes or no for his retention in office. If the voters reject the retention in office of a judge, or if the vote is tied, the office becomes vacant ten days after certification of the election returns.

(f) An appellate court judge shall retire when he attains his seventieth birthday.

(g) A member of the General Assembly who is other-wise qualified for appointment to judicial office is not disqualified by reason of his membership in a General Assembly which proposed or enacted any constitutional amendment or statute affecting the method of selection. Continuance in office, or retirement or removal of a judge, the creation or abolition of a court, an increase or decrease in the number of judges of any court, or an increase or decrease in the salary, pension or other allowances of any judge.

SEC. 6.¹⁰⁶ All Judges shall, by virtue of their offices, be Conservators of the Peace throughout the State; and no fees, or perquisites, commission, or reward of any kind shall be allowed to any Judge in this State, besides his annual salary, for the discharge of any Judicial duty.

SEC. 7. No Judge shall sit in any case wherein he may be interested, or where either of the parties may be

connected with him, by affinity or consanguinity, within such degrees as now are, or may hereafter be prescribed by Law, or where he shall have been of counsel in the case.

SEC. 8.¹⁰⁷ (a) The parties to any cause may submit the same to the Court for determination without the aid of a jury.

(b) In all cases of presentments or indictments for offenses that are punishable by death, on suggestion in writing under oath of either of the parties to the proceedings that the party cannot have a fair and impartial trial in the court in which the proceedings may be pending, the court shall order and direct the record of proceedings in the presentment or indictment to be transmitted to some other court having jurisdiction in such case for trial.

(c) In all other cases of presentment or indictment, and in all suits or actions at law or issues from the Orphans' Court pending in any of the courts of law in this State which have jurisdiction over the cause or case, in addition to the suggestion in writing of either of the parties to the cause or case that the party cannot have a fair and impartial trial in the court in which the cause or case may be pending, it shall be necessary for the party making the suggestion to make it satisfactorily appear to the court that the suggestion is true, or that there is reasonable ground for the same; and thereupon the court shall order and direct the record of the proceedings in the cause or case to be transmitted to some other court, having jurisdiction in the cause or case, for trial. The right of removal also shall exist on suggestion in a cause or case in which all the judges of the court may be disqualified under the provisions of this Constitution to sit. The court to which the record of proceedings in such suit or action, issue, presentment or indictment is transmitted, shall hear and determine that cause or case in the same manner as if it had been originally instituted in that court. The General Assembly shall modify the existing law as may be necessary to regulate and give force to this provision.

SEC. 9.¹⁰⁸ The Judge, or Judges of any Court, may appoint such officers for their respective Courts as may be found necessary. The General Assembly may provide, by Law, for compensation for all such officers; and the said Judge or Judges shall, from time to time, investigate the expenses, costs and charges of their respective courts, with a view to a change or reduction thereof, and report the result of such investigation to the General Assembly for its action.

SEC. 10.¹⁰⁹ (a) (1) The Clerks of the Courts shall have charge and custody of records and other papers and shall perform all the duties which appertain to their offices, as are regulated by Law. (2) The office and business of the Clerks, in all their departments, shall be subject to and governed in accordance with rules adopted by the Court of Appeals pursuant to Section 18 of this article.

(b) The offices of the Clerks shall be funded through the State budget. All fees, commissions, or other revenues established by Law for these offices shall be State revenues, unless provided otherwise by the General Assembly.

SEC. 11.¹¹⁰ The election for Judges, herein before provided, and all elections for Clerks, Registers of Wills,

105 Added by Chapter 551, Acts of 1975, ratified Nov. 2, 1976.

106 Amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

107 Amended by Chapter 364, Acts of 1874, ratified Nov. 2, 1875; Chapter 524, Acts of 1980, ratified Nov. 4, 1980.

108 Amended by Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

109 Amended by Chapter 722, Acts of 1986, ratified Nov. 4, 1986; Chapter 62, Acts of 1990, ratified Nov. 6, 1990.

110 Amended by Chapter 551, Acts of 1975, ratified Nov. 2, 1976.

and other officers, provided in this Constitution, except State's Attorneys, shall be certified, and the returns made, by the Clerks of the Circuit Courts of the Counties, and the Clerk of the Superior Court of Baltimore City, respectively, to the Governor, who shall issue commissions to the different persons for the offices to which they shall have been, respectively, elected; and in all such elections for offices other than judges of an appellate court, the person having the greatest number of votes, shall be declared to be elected.

SEC. 12.¹¹¹ In case of any contested election for Judges, Clerks of the Courts of Law, and Registers of Wills, the Governor shall send the returns to the House of Delegates, which shall judge of the election and qualification of the candidates at such election; and if the judgment shall be against the one who has been returned elected, or the one who has been commissioned by the Governor, the House of Delegates shall order a new election within thirty days.

SEC. 13. All Public Commissions and Grants shall run thus: "The State of Maryland, etc.," and shall be signed by the Governor, with the Seal of the State annexed; all writs and process shall run in the same style, and be tested, sealed and signed, as heretofore, or as may hereafter be, provided by Law; and all indictments shall conclude, "against the peace, government and dignity of the State."

SEC. 13A.¹¹² Vacant.

Part II—Courts of Appeal.

SEC. 14.¹¹³ The Court of Appeals shall be composed of seven judges, one from the First Appellate Judicial Circuit consisting of Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester counties; one from the Second Appellate Judicial Circuit consisting of Baltimore and Harford counties; one from the Third Appellate Judicial Circuit, consisting of Allegany, Carroll, Frederick, Garrett, Howard and Washington counties; one from the Fourth Appellate Judicial Circuit, consisting of Prince George's County; one from the Fifth Appellate Judicial Circuit, consisting of Anne Arundel, Calvert, Charles, and St. Mary's counties; one from the Sixth Appellate Judicial Circuit, consisting of Baltimore City; and one from the Seventh Appellate Judicial Circuit, consisting of Montgomery County. The Judges of the Court of Appeals shall be residents of their respective Appellate Judicial Circuits. The term of each Judge of the Court of Appeals shall begin on the date of his qualification. One of the Judges of the Court of Appeals shall be designated by the Governor as the Chief Judge. The jurisdiction of the Court of Appeals shall be co-extensive with the limits of the State and such as now is or may hereafter be prescribed by law. It shall hold its sessions in the City of Annapolis at such time or times as it shall from time to time by rule prescribe. Its session or

sessions shall continue not less than ten months in each year, if the business before it shall so require, and it shall be competent for the judges temporarily to transfer their sittings elsewhere upon sufficient cause. The salary of each Judge of the Court of Appeals shall be that now or hereafter prescribed by the General Assembly and shall not be diminished during his continuance in office. Five of the judges shall constitute a quorum, and five judges shall sit in each case unless the Court shall direct that an additional judge or judges sit for any case. The concurrence of a majority of those sitting shall be sufficient for the decision of any cause, and an equal division of those sitting in a case has the effect of affirming the decision appealed from if there is no application for reargument as hereinafter provided. In any case where there is an equal division or a three to two division of the Court a reargument before the full Court of seven judges shall be granted to the losing party upon application as a matter of right.

SEC. 14A.¹¹⁴ The General Assembly may by law create such intermediate courts of appeal as may be necessary. The General Assembly may prescribe the intermediate appellate jurisdiction of these courts of appeal, and all other powers necessary for the operation of such courts.

SEC. 14B.¹¹⁵ No member of the General Assembly at which the addition of Section 14A was proposed, if otherwise qualified, shall be ineligible for appointment or election as a judge of any intermediate court of appeal, established by law by the General Assembly pursuant to said Section 14A, by reason of his membership in such General Assembly.

SEC. 15.¹¹⁶ Any Judge of the Court of Appeals or of an intermediate court of appeal who heard the cause below either as a trial Judge or as a Judge of any intermediate court of appeal as the case may be, shall not participate in the decision. In every case an opinion, in writing, shall be filed within three months after the argument or submission of the cause; and the judgment of the Court of Appeals shall be final and conclusive.

SEC. 16.¹¹⁷ Provision shall be made by Law for publishing Reports of all causes, argued and determined in the Court of Appeals and in the intermediate courts of appeal, which the Judges thereof, respectively, shall designate as proper for publication.

SEC. 17.¹¹⁸ There shall be a Clerk of the Court of Appeals, who shall be appointed by and shall hold his office at the pleasure of said Court of Appeals.

SEC. 18.¹¹⁹ (a) The Court of Appeals from time to time shall adopt rules and regulations concerning the practice and procedure in and the administration of the appellate courts and in the other courts of this State, which shall have the force of law until rescinded, changed or modified by the Court of Appeals or otherwise by law. The power of courts other than the Court of Appeals to make

¹¹¹ Amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

¹¹² Added by Chapter 796, Acts of 1943, ratified Nov. 7, 1944. Repealed by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

¹¹³ Amended by Chapter 772, Acts of 1943, ratified Nov. 7, 1944; Chapter 99, Acts of 1956, ratified Nov. 6, 1956; Chapter 11, Acts of 1960, ratified Nov. 8, 1960; Chapter 551, Acts of 1976, ratified Nov. 2, 1976; Chapter 681, Acts of 1977, ratified Nov. 7, 1978; Chapter 103, Acts of 1994, ratified Nov. 8, 1994.

¹¹⁴ Added by Chapter 10, Acts of 1966, ratified Nov. 8, 1966.

¹¹⁵ Added by Chapter 10, Acts of 1966, ratified Nov. 8, 1966.

¹¹⁶ Amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956; Chapter 10, Acts of 1966, ratified Nov. 8, 1966.

¹¹⁷ Amended by Chapter 10, Acts of 1966, ratified Nov. 8, 1966.

¹¹⁸ Amended by Chapter 40, Acts of 1939, ratified Nov. 5, 1940; Chapter 99, Acts of 1956, ratified Nov. 6, 1956.

¹¹⁹ Amended by Chapter 772, Acts of 1943, ratified Nov. 7, 1944; Chapter 10, Acts of 1966, ratified Nov. 8, 1966; Chapter 789, Acts of 1969, ratified Nov. 3, 1970; Chapter 681, Acts of 1977, ratified Nov. 7, 1978; Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

rules of practice and procedure, or administrative rules, shall be subject to the rules and regulations adopted by the Court of Appeals or otherwise by law.

(b)¹²⁰ The Chief Judge of the Court of Appeals shall be the administrative head of the Judicial system of the State. He shall from time to time require, from each of the judges of the Circuit Courts, of the District Court and of any intermediate courts of appeal, reports as to the judicial work and business of each of the judges and their respective courts. He may, in case of a vacancy, or of the illness, disqualification or other absence of a judge or for the purpose of relieving an accumulation of business in any court assign any judge except a judge of the Orphans' Court to sit temporarily in any court except an Orphans' Court. Any judge assigned by the Chief Judge of the Court of Appeals pursuant to this section has all the power and authority pertaining to a judge of the court to which he is so assigned; and his power and authority shall continue with respect to all cases (including any motion, or other matters incidental thereto) which may come before him by virtue of such assignment until his action thereon shall be completed. In the absence of the Chief Judge of the Court of Appeals, the provisions of this section shall be applicable to the senior judge present in the Court of Appeals. The powers of the Chief Judge set forth in this section shall be subject to any rule or regulation adopted by the Court of Appeals.

SEC. 18A.¹²¹ Vacant.

Part IIA—Interim Provisions.

SEC. 18B.¹²² (a) For the purpose of implementing the amendments to this article, dealing with the selection and tenure of appellate court judges, the following provisions shall govern.

(b) Each judge of an appellate court who is in office for an elected term on the effective date of these amendments, unless he dies, resigns, retires, or is otherwise lawfully re-moved, shall continue in office until the general election next after the end of his elected term, or until his seventieth birthday, whichever first occurs. His continuance in office is then subject to the provisions of section 5A (c) and (d) of this article, applicable to judges of that court, but in no event shall any judge continue in office after his seventieth birthday.

(c) Each judge of a court specified in subsection (b) who is in office on the effective date of these amendments, but who has not been elected to that office by the voters, shall, within fifteen days after the effective date of these amendments, be reappointed to that office. His continuance in office is then subject to the provisions of section 5A (c) and (d) of this article, applicable to judges of that court, but in no event shall any judge continue in office after his seventieth birthday.

Part III—Circuit Courts.

SEC. 19.¹²³ The State shall be divided into eight Judicial Circuits, in manner following, viz. : The Counties of Worcester, Wicomico, Somerset, and Dorchester, shall constitute the First Circuit; the Counties of Caroline, Talbot, Queen Anne's, Kent and Cecil, the Second; the Counties of Baltimore and Harford, the Third; the Counties of Allegany, Garrett, and Washington, the Fourth; the Counties of Carroll, Howard and Anne Arundel, the Fifth; the Counties of Montgomery and Frederick, the Sixth; the Counties of Prince George's, Charles, Calvert, and St. Mary's, the Seventh; and Baltimore City, the Eighth.

SEC. 20.¹²⁴ (a) There shall be a Circuit Court for each county and for Baltimore City. The Circuit Courts shall have and exercise, in the respective counties, and Baltimore City, all the power, authority and jurisdiction, original and appellate, which the Circuit Courts of the counties exercised on the effective date of these amendments, and the greater or lesser jurisdiction hereafter prescribed by law.

(b) The judges of the Circuit Courts for Montgomery and Harford counties shall each, alternately and in rotation and on schedules to be established by those judges, sit as an Orphans' Court for their County, and shall have and exercise all the power, authority and jurisdiction which the present Orphans' Courts now have and exercise, or which may hereafter be provided by law.

SEC. 21.¹²⁵ (a) Subject to the provisions of subsection (b) the General Assembly shall determine by law the number of judges of the circuit court in each county and circuit. These judges shall be selected in accordance with Sections 3 and 5 of this Article.

(b) There shall be at least four circuit court judges resident in each circuit, and at least one circuit court judge shall be resident in each county. There shall be at least two such judges resident in Anne Arundel County, at least three resident in Baltimore County, at least four resident in Prince George's County, and at least five resident in Montgomery County.

(c) The senior judge in length of service in each circuit shall be the chief judge of the circuit. The other judges shall be associate judges.

(d) Except as otherwise provided by law, one judge shall constitute a quorum for the transaction of any business.

(e) The terms of the circuit courts shall be determined by law.

(f) A person is not ineligible for appointment or election as a judge because he was a member of the General Assembly at a time when the number or salary of judges were increased or decreased.

SEC. 21A.¹²⁶ If the amendments to sections 3 and 21 of Article IV proposed by House Bill 972, Senate Bill 390

120 Amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978; Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

121 Renumbered as sec. 18 by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

122 Added by Chapter 551, Acts of 1975, ratified Nov. 2, 1976.

123 Amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956.

124 Amended by Chapter 744, Acts of 1963, ratified Nov. 3, 1964; Chapter 374, Acts of 1972, ratified Nov. 7, 1972; Chapter 681, Acts of 1977, ratified Nov. 7, 1978; Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

125 Amended by Chapter 515, Acts of 1912, ratified Nov. 4, 1913; Chapter 426, Acts of 1935, ratified Nov. 3, 1936; Chapter 494, Acts of 1937, ratified Nov. 8, 1938; Chapter 200, Acts of 1939, ratified Nov. 5, 1940; Chapter 494, Acts of 1941, ratified Nov. 3, 1942; Chapter 772, Acts of 1943, ratified Nov. 7, 1944; Chapter 607, Acts of 1953, ratified Nov. 2, 1954; Chapters 65 and 68, Acts of 1954, ratified Nov. 2, 1954; Chapters 642 and 761, Acts of 1959, ratified Nov. 8, 1960; Chapter 372, Acts of 1966, ratified Nov. 8, 1966; Chapter 542, Acts of 1976, ratified Nov. 2, 1976.

(1976) and the amendments to those sections proposed by House Bill 1048 (1976) are ratified by the voters at the election in Nov. 1976, the amendments to those sections proposed in House Bill 972, Senate Bill 390 (1976) shall take effect.

SEC. 22.¹²⁷ Where any Term is held, or trial conducted by less than the whole number of said Circuit Judges, upon the decision or determination of any point, or question, by the Court, it shall be competent to the party, against whom the ruling or decision is made, upon motion, to have the point, or question reserved for the consideration of the three Judges of the Circuit, who shall constitute a court in *banc* for such purpose; and the motion for such reservation shall be entered of record, during the sitting, at which such decision may be made; and the several Circuit Courts shall regulate, by rules, the mode and manner of presenting such points, or questions to the court in *banc*, and the decision of the said Court in *banc* shall be the effective decision in the premises, and conclusive, as against the party, at whose motion said points, or questions were reserved; but such decision in *banc* shall not preclude the right of Appeal, or writ of error to the adverse party, in those cases, civil or criminal, in which appeal, or writ of error to the Court of Appeals may be allowed by Law. The right of having questions reserved shall not, however, apply to trials of Appeals from judgments of the District Court, nor to criminal cases below the grade of felony, except when the punishment is confinement in the Penitentiary; and this Section shall be subject to such provisions as may hereafter be made by Law.

SEC. 23.¹²⁸ The Judges of the respective Circuit Courts of this State shall render their decisions, in all cases argued before them, or submitted for their judgment, within two months after the same shall have been so argued or submitted.

SEC. 24.¹²⁹ The salary of each Chief Judge and of each Associate Judge of the Circuit Court shall not be diminished during his continuance in office.

SEC. 25.¹³⁰ There shall be a Clerk of the Circuit Court for each County and Baltimore City, who shall be elected by a plurality of the qualified voters of said County or City, and shall hold this office for four years from the time of his election, and until his successor is elected and

qualified, and be re-eligible, subject to be removed for wilful neglect of duty or other misdemeanor in office, on conviction in a Court of Law. In case of a vacancy in the office of Clerk of a Circuit Court, the Judges of that Court may fill the vacancy until the general election for Delegates to the General Assembly, to be held next thereafter, when a successor shall be elected for the term of four years.

SEC. 26.¹³¹ Deputy clerks and other employees of the office of the Clerk shall be appointed and removed according to procedures set by law.

Part IV—Courts of Baltimore City.

SEC. 27.¹³² VaCa n t.

SEC. 28.¹³³ VaCa n t.

SEC. 29.¹³⁴ VaCa n t.

SEC. 30.¹³⁵ VaCa n t.

SEC.^{31.136} VaCa n t.

SEC. 31A.¹³⁷ VaCa n t.

SEC.^{32.138} VaCa n t.

SEC. 33.¹³⁹ VaCa n t.

SEC. 34.¹⁴⁰ VaCa n t.

SEC. 35.¹⁴¹ VaCa n t.

SEC. 36.¹⁴² VaCa n t.

SEC. 37.¹⁴³ VaCa n t.

SEC. 38.¹⁴⁴ VaCa n t.

SEC. 39.¹⁴⁵ VaCa n t.

Part V—Orphans' Court.

SEC. 40.¹⁴⁶ The qualified voters of the City of Baltimore, and of the several Counties, except Montgomery County and Harford County, shall elect three Judges of the Orphans' Courts of City and Counties, respectively, who shall be citizens of the State and residents for the twelve months preceding, in the City or County for which they may be elected. They shall have all the powers now vested

126 Added by Chapter 542, Acts of 1976, ratified Nov. 2, 1976.

127 Amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

128 Amended by Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

129 Amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956.

130 Amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956; Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

131 Amended by Chapter 376, Acts of 1972, ratified Nov. 7, 1972; Chapter 889, Acts of 1974, ratified Nov. 5, 1974; Chapter 523, Acts of 1980, ratified Nov. 4, 1980; Chapter 62, Acts of 1990, ratified Nov. 6, 1990.

132 Repealed by Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

133 Amended by Chapter 889, Acts of 1974, ratified Nov. 5, 1974. Repealed by Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

134 Amended by Chapter 889, Acts of 1974, ratified Nov. 5, 1974. Repealed by Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

135 Amended by Chapter 889, Acts of 1974, ratified Nov. 5, 1974. Repealed by Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

136 Amended by Chapter 889, Acts of 1974, ratified Nov. 5, 1974. Repealed by Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

137

Added by Chapter 116, Acts of 1924, ratified Nov. 2, 1926. Repealed by Chapter 617, Acts of 1968, ratified Nov. 5, 1968.

138 Amended by Chapter 889, Acts of 1974, ratified Nov. 5, 1974. Repealed by Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

139 Amended by Chapter 889, Acts of 1974, ratified Nov. 5, 1974. Repealed by Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

140 Amended by Chapter 889, Acts of 1974, ratified Nov. 5, 1974. Repealed by Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

141 Amended by Chapter 889, Acts of 1974, ratified Nov. 5, 1974. Repealed by Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

142 Repealed by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

143 Amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956; Chapter 889, Acts of 1974, ratified Nov. 5, 1974. Repealed by Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

144 Amended by Chapter 889, Acts of 1974, Nov. 5, 1974. Repealed by Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

145 Added by Chapter 313, Acts of 1892, ratified Nov. 7, 1893. Amended by Chapter 889, Acts of 1974, ratified Nov. 5, 1974. Repealed by Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

146 Amended by Chapters 99 and 124, Acts of 1956, ratified Nov. 6, 1956; Chapter 744, Acts of 1963, ratified Nov. 3, 1964; Chapter 374, Acts of 1972, ratified Nov. 7, 1972; Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

in the Orphans' Courts of the State, subject to such changes as the Legislature may prescribe. Each of the Judges shall be paid such compensation as may be regulated by Law, to be paid by the City or Counties, respectively. In case of a vacancy in the office of Judge of the Orphans' Court, the Governor shall appoint, subject to confirmation or rejection by the Senate, some suitable person to fill the vacancy for the residue of the term.

SEC. 41.¹⁴⁷ There shall be a Register of Wills in each county of the State, and the City of Baltimore, to be elected by the legal and qualified voters of said counties and city, respectively, who shall hold his office for four years from the time of his election and until his successor is elected and qualified; he shall be re-eligible, and subject at all times to removal for willful neglect of duty, or misdemeanor in office in the same manner that the Clerks of the Courts are removable. In the event of any vacancy in the office of the Register of Wills, said vacancy shall be filled by the Judges of the Orphans' Court, in which such vacancy occurs, until the next general election for Delegates to the General Assembly when a Register shall be elected to serve for four years thereafter.

Part VI—District Court.

SEC. 41A.¹⁴⁸ The District Court shall have the original jurisdiction prescribed by law. Jurisdiction of the District Court shall be uniform throughout the State; except that in Montgomery County and other counties and the City of Baltimore, the Court may have such jurisdiction over juvenile causes as is provided by law.

SEC. 41B.¹⁴⁹ The District Court shall consist of the number of judges prescribed by law. The State shall be divided by law into districts. Each district shall consist of one county or two or more entire and adjoining counties. The number of judges shall be allocated among the districts by law, and there shall be at least one District Court judge resident in each district. In any district containing more than one county, there shall be at least one District Court judge resident in each county in the district. Functional divisions of the District Court may be established in any district.

SEC. 41C.¹⁵⁰ Each District Court judge shall devote full time to his judicial duties, shall have the qualifications prescribed by Section 2 of this Article, and shall be a resident of the district in which he holds office. The number of judges for any district may be increased or decreased by the General Assembly from time to time, subject to the requirements of Section 41B of this Article, and any vacancy so created shall be filled as provided in Section 41D of this Article.

SEC. 41D.¹⁵¹ The Governor, by and with the advice and consent of the Senate, shall appoint each judge of the District Court whenever for any reason a vacancy shall exist in the office. All hearings, deliberations, and debate on the confirmation of appointees of the Governor shall be public, and no hearings, deliberations or debate

thereon shall be conducted by the Senate or any committee or subcommittee thereof in secret or executive session. Confirmation by the Senate shall be made upon a majority vote of all members of the Senate. A judge appointed by the Governor may take office upon qualification and before confirmation by the Senate, but shall cease to hold office at the close of the regular annual session of the General Assembly next following his appointment or during which he shall have been appointed by the Governor, if the Senate shall not have confirmed his appointment before then. Each judge appointed by the Governor and confirmed by the Senate shall hold the office for a term of ten years or until he shall have attained the age of seventy years whichever may first occur. If the ten year term of a judge shall expire before that judge shall have attained the age of seventy years, that judge shall be reappointed by the Governor, with the Senate's consent, for another ten year term or until he shall have attained the age of seventy years, whichever may first occur. To the extent inconsistent herewith, the provisions of Section 3 and 5 of this Article shall not apply to judges of the District Court.

SEC. 41E. The Chief Judge of the Court of Appeals shall designate one judge of the District Court as Chief Judge of that Court, to serve as Chief Judge at his pleasure. The Chief Judge of the District Court may assign administrative duties to other judges of the District Court and shall perform such other duties in the administration of the District Court as may be prescribed by rule or by law.

SEC. 41F. The Chief Judge of the District Court shall appoint, to serve at his pleasure, a Chief Clerk of that Court. He shall also appoint, to serve at his pleasure, and upon the recommendation of the administrative judge of the district, a chief administrative clerk for each district. The chief clerk shall perform such duties in the administration of the District Court as may be assigned him by the chief judge or as may be prescribed by rule or by law. Each chief administrative clerk shall perform such duties in the administration of the District Court as may be assigned him by the administrative judge of his district or as may be prescribed by rule of law. There shall be in each County a clerk of the District Court whose appointment, term, and compensation shall be prescribed by law. The Chief Judge of the District Court, upon recommendation of the respective administrative judges, shall appoint such deputy clerks, constables, and other officers of the District Court as may be necessary. It shall be the duty of the General Assembly to prescribe by law a fixed compensation for all such officers.

SEC. 41G. There shall be district court commissioners in the number and with the qualifications and compensation prescribed by law. Commissioners in a district shall be appointed by and serve at the pleasure of the Administrative Judge of the district, subject to the approval of the Chief Judge of the District Court. Commissioners may exercise power only with respect to warrants of arrest, or bail or collateral or other terms of pre-trial release pending hearing, or incarceration pending hearing, and then only as prescribed by law or by rule.

147 Amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956.

148 Referring to the People's Courts, this section originally was added by Chapter 163, Acts of 1939, ratified Nov. 5, 1940, and amended by Chapter 575, Acts of 1959, ratified Nov. 8, 1960. It was repealed and a new section concerning the District Court was enacted by Chapter 789, Acts of 1969, ratified Nov. 3, 1970, and amended by Chapter 544, Acts of 1976, ratified Nov. 2, 1976.

149 Added by Chapter 163, Acts of 1939, ratified Nov. 5, 1940. Repealed and a new section enacted by Chapter 789, Acts of 1969, ratified Nov. 3, 1970.

150 Added by Chapter 373, Acts of 1959, ratified Nov. 8, 1960. Repealed and a new section enacted by Chapter 789, Acts of 1969, ratified Nov. 3, 1970.

151 Sections 41D through 41I added by Chapter 789, Acts of 1969, ratified Nov. 3, 1970.

SEC. 41H. The salary of a judge of the District Court shall not be reduced during his continuance in office.

SEC. 41-I.¹⁵² For the purpose of implementing the amendments to Articles IV, XV and XVII of this Constitution, establishing the District Court, the following provisions shall govern.

(a) The provisions of Section 41D of this Article shall govern initial vacancies in the office of judge of the District Court. Each full-time judge of the People's Court of Baltimore City, the Municipal Court of Baltimore City, and of the People's Courts of Anne Arundel, Montgomery, Prince George's, Wicomico Counties and Baltimore County who is in office on the effective date of these amendments shall continue in office as a judge of the District Court in his district and county of residence (or in Baltimore City) for the remainder of the term for which he was elected or appointed, and if his term expires prior to January 1, 1971, such judge shall be re-appointed by the Governor, if the Senate consents, in accordance with the provisions of Section 41D of this Article, subject to the Provisions of the Constitution respecting age, removal and retirement; provided that the term of any such judge of a People's Court who would be ineligible for appointment as a judge of the District Court under this Article shall expire on the effective date of these amendments. Thereafter, retention of any judge who is retained in office pursuant to the preceding provisions of this subsection shall be pursuant to Section 41D of this Article. No People's Court judge, judge of the Housing Court of Baltimore County, or Justice of the Peace shall be appointed or elected or exercise any power or jurisdiction.

(b) Each full-time clerk of a justice of the peace designated as trial magistrate of a People's Court, of the Municipal Court of Baltimore City, and the chief constable of the People's Court of Baltimore City who is in office on the day before the first Monday in July, 1970, shall become a deputy clerk of the District Court on the first Monday in July 1970. The taking effect of the foregoing amendments shall not of itself affect the tenure, term, status, retirement, or compensation of any person then holding public office, position, or employment in this State, except as provided in the amendments.

(c) All statutory references to justices of the peace designated as trial magistrates, to People's Courts, to the Municipal Court of Baltimore City or to the Housing Court of Baltimore County, shall be deemed to refer to the District Court in the appropriate district, county or Baltimore City, to the extent not inconsistent with this Constitution.

(d) No member of the General Assembly at which these amendments were proposed, or at which the number of or salary of any such judges may have been increased or decreased by the General Assembly from time to time, if otherwise qualified, is ineligible for appointment or election as a judge of the District Court by reason of his membership in the General Assembly.

SEC. 42.¹⁵³ Vacant.

SEC. 43.¹⁵⁴ Vacant.

Part VII—Sheriffs.

SEC. 44.¹⁵⁵ There shall be elected in each county and in Baltimore City one person, resident in said county or City, above the age of twenty-five years and for at least five years preceding his election a citizen of the State, to the office of Sheriff. He shall hold office for four years, until his successor is duly elected and qualified, give such bond, exercise such powers and perform such duties as now are or may hereafter be fixed by law.

In case of vacancy by death, resignation, refusal to serve, or neglect to qualify or give bond, or by disqualification or removal from the County or City, the Governor shall appoint a person to be Sheriff for the remainder of the official term.

The Sheriff in each county and in Baltimore City shall receive such salary or compensation and such expenses necessary to the conduct of his office as may be fixed by law. All fees collected by the Sheriff shall be accounted for and paid to the Treasury of the several counties and of Baltimore City, respectively.

SEC. 45.¹⁵⁶ Notaries Public may be appointed for each county and the city of Baltimore, in the manner, for the purpose, and with the powers now fixed, or which may hereafter be prescribed by Law.

ARTICLE V.

*ATTORNEY-GENERAL AND
STATE'S ATTORNEYS.*

Attorney-General.

SEC. 1.¹⁵⁷ There shall be an Attorney-General elected by the qualified voters of the State, on general ticket, on the Tuesday next after the first Monday in the month of November, nineteen hundred and fifty-eight, and on the same day, in every fourth year thereafter, who shall hold his office for four years from the time of his election and qualification, and until his successor is elected and qualified, and shall be re-eligible thereto, and shall be subject to removal for incompetency, willful neglect of duty or misdemeanor in office, on conviction in a Court of Law.

SEC. 2. All elections for Attorney-General shall be certified to, and returns made thereof by the Clerks of the Circuit Courts for the several counties, and the Clerk of the Superior Court of Baltimore City, to the Governor of the State, whose duty it shall be to decide on the election and qualification of the person returned; and in case of a tie between two or more persons, to designate which of said persons shall qualify as Attorney-General, and to administer the oath of office to the person elected.

SEC. 3.¹⁵⁸ (a) The Attorney General shall:

(1) Prosecute and defend on the part of the State all cases pending in the Appellate Courts of the State, in the Supreme Court of the United States or the inferior Federal Courts, by or against the State, or in which the State may

¹⁵² Amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

¹⁵³ Repealed by Chapter 789, Acts of 1969, ratified Nov. 3, 1970.

¹⁵⁴ Repealed by Chapter 789, Acts of 1969, ratified Nov. 3, 1970.

¹⁵⁵ Amended by Chapter 845, Acts of 1914, ratified Nov. 3, 1914; Chapter 786, Acts of 1945, ratified Nov. 5, 1946; Chapter 55, Acts of 1953, ratified Nov. 2, 1954; Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

¹⁵⁶ Amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

¹⁵⁷ Amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956.

¹⁵⁸ Amended by Chapter 663, Acts of 1912, ratified Nov. 4, 1913; Chapter 10, Acts of 1966, ratified Nov. 8, 1966; Chapter 545, Acts of 1976, ratified Nov. 2, 1976.

be interested, except those criminal appeals otherwise prescribed by the General Assembly.

(2) Investigate, commence, and prosecute or defend any civil or criminal suit or action or category of such suits or actions in any of the Federal Courts or in any Court of this State, or before administrative agencies and quasi legislative bodies, on the part of the State or in which the State may be interested, which the General Assembly by law or joint resolution, or the Governor, shall have directed or shall direct to be investigated, commenced and prosecuted or defended.

(3) When required by the General Assembly by law or joint resolution, or by the Governor, aid any State's Attorney or other authorized prosecuting officer in investigating, commencing, and prosecuting any criminal suit or action or category of such suits or actions brought by the State in any Court of this State.

(4) Give his opinion in writing whenever required by the General Assembly or either branch thereof, the Governor, the Comptroller, the Treasurer or any State's Attorney on any legal matter or subject.

(b) The Attorney General shall have and perform any other duties and possess any other powers, and appoint the number of deputies or assistants, as the General Assembly from time to time may prescribe by law.

(c) The Attorney General shall receive for his services the annual salary as the General Assembly from time to time may prescribe by law, but he may not receive any fees, perquisites or rewards whatever, in addition to his salary, for the performance of any official duty.

(d) The Governor may not employ any additional counsel, in any case whatever, unless authorized by the General Assembly.

SEC. 4. No person shall be eligible to the office of Attorney General, who is not a citizen of this State, and a qualified voter therein, and has not resided and practiced Law in this State for at least ten years.

SEC. 5.¹⁵⁹ In case of vacancy in the office of Attorney General, occasioned by death, resignation, removal from the State, or from office, or other disqualification, the Governor shall appoint a person to fill the vacancy for the residue of the term.

SEC. 6.¹⁶⁰ It shall be the duty of the Clerk of the Court of Appeals and the Clerks of any intermediate courts of appeal, respectively, whenever a case shall be brought into said Courts, in which the State is a party or has interest, immediately to notify the Attorney General thereof.

The State's Attorneys.

SEC. 7.¹⁶¹ There shall be an Attorney for the State in each county and the City of Baltimore, to be styled "The State's Attorney", who shall be elected by the voters thereof, respectively, and shall hold his office for four years from the first Monday in January next ensuing his election, and until his successor shall be elected and qualified; and shall be re-eligible thereto, and be subject to removal therefrom, for incompetency, willful neglect of duty, or

misdemeanor in office, on conviction in a Court of Law, or by a vote of two-thirds of the Senate, on the recommendation of the Attorney-General.

SEC. 8. All elections for the State's Attorney shall be certified to, and Returns made thereof, by the Clerks of the said Counties and City, to the Judges thereof, having criminal jurisdiction, respectively, whose duty it shall be to decide upon the elections and qualifications of the Persons returned; and, in case of a tie between two or more persons, to designate which of said persons shall qualify as State's Attorney, and to administer the oaths of office to the Person elected.

SEC. 9.¹⁶² The State's Attorney shall perform such duties and receive such salary as shall be prescribed by the General Assembly. If any State's Attorney shall receive any other fee or reward than such as is or may be allowed by law, he shall, on conviction thereof, be removed from office; provided, that the State's Attorney for Baltimore City shall have the power to appoint a Deputy and such other assistants as the Supreme Bench of Baltimore City may authorize or approve and until otherwise provided by the General Assembly, the said State's Attorney, Deputy and Assistants shall receive the following annual salaries: State's Attorney, seven thousand five hundred dollars; Deputy State's Attorney, five thousand dollars; Assistant State's Attorneys, four thousand dollars each; said salaries, or such salaries as the General Assembly may subsequently provide and such expenses for conducting the office of the State's Attorney as the Supreme Bench of Baltimore City may authorize or approve shall be paid by the Mayor and City Council of Baltimore to the extent that the total of them exceeds the fees of his office, or as the General Assembly shall otherwise provide, and the Mayor and City Council of Baltimore shall not be liable for appearance fees to the State's Attorney.

SEC. 10. No person shall be eligible to the office of State's Attorney, who has not been admitted to practice Law in this State, and who has not resided, for at least two years, in the county, or city, in which he may be elected.

SEC. 11.¹⁶³ In case of a vacancy in the office of State's Attorney, or of his removal from the county or city in which he shall have been elected, or on his conviction as herein specified, the Judge or Judges resident in the county or, if there be no resident Judge, the Judge or Judges having jurisdiction in the Circuit Court of the county in which the vacancy occurs, or by the Supreme Bench of Baltimore City for a vacancy occurring in Baltimore City, shall appoint a person to fill the vacancy for the residue of the term.

SEC. 12.¹⁶⁴ The State's Attorney in each County, and the City of Baltimore, shall have authority to collect, and give receipt, in the name of the State, for such sums of money as may be collected by him, and forthwith make return of and pay over the same to the proper accounting officer. And the State's Attorney of each county, and the City of Baltimore, before he shall enter on the discharge of his duties, and from time to time thereafter, shall give such corporate surety bond as may hereafter be prescribed by Act of the General Assembly.

159 Amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

160 Amended by Chapter 10, Acts of 1966, ratified Nov. 8, 1966; Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

161 Amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956; Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

162 Amended by Chapter 185, Acts of 1900, ratified Nov. 5, 1901; Chapter 624, Acts of 1912, ratified Nov. 4, 1913; Chapter 177, Acts of 1924, ratified Nov. 4, 1924; Chapter 490, Acts of 1943, ratified Nov. 7, 1944; Chapter 545, Acts of 1976, ratified Nov. 2, 1976.

163 Amended by Chapter 522, Acts of 1957, ratified Nov. 4, 1958; Chapter 14, Acts of 1959, ratified Nov. 8, 1960; Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

164 Amended by Chapter 529, Acts of 1945, ratified Nov. 5, 1946.

ARTICLE VI.
TREASURY DEPARTMENT.

SECTION 1.¹⁶⁵ There shall be a Treasury Department, consisting of a Comptroller chosen by the qualified electors of the State, who shall receive such salary as may be fixed by law; and a Treasurer, to be appointed on joint ballot by the two Houses of the Legislature at each regular session in which begins the term of the Governor, who shall receive such salary as may be fixed by law. The terms of office of the Comptroller and Treasurer shall be for four years, and until their successors shall qualify; and neither of the officers shall be allowed, or receive any fees, commissions or perquisites of any kind in addition to his salary for the performance of any duty or services whatsoever. In case of a vacancy in the office of the Comptroller by death or otherwise, the Governor, by and with the advice and consent of the Senate, shall fill such vacancy by appointment, to continue until another election and until the qualification of the successor. In case of a vacancy in the office of the Treasurer by death or otherwise, the Deputy Treasurer shall act as Treasurer until the next regular or extraordinary session of the Legislature following the creation of the vacancy, whereupon the Legislature shall choose a successor to serve for the duration of the unexpired term of office. The Comptroller and the Treasurer shall keep their offices at the seat of government, and shall take such oaths and enter into such bonds for the faithful discharge of their duties as are now or may hereafter be prescribed by law.

SEC. 2.¹⁶⁶ The Comptroller shall have the general superintendence of the fiscal affairs of the State; he shall digest and prepare plans for the improvement and management of the revenue, and for the support of the public credit; prepare and report estimates of the revenue and expenditures of the State; superintend and enforce the prompt collection of all taxes and revenues; adjust and settle, on terms prescribed by law, with delinquent collectors and receivers of taxes and State revenue; preserve all public accounts; and decide on the forms of keeping and stating accounts. He, or such of his deputies as may be authorized to do so by the Legislature, shall grant, under regulations prescribed by Law, all warrants for money to be paid out of the Treasury, in pursuance of appropriations by law, and countersign all checks drawn by the Treasurer upon any bank or banks in which the moneys of the State, may, from time to time, be deposited. He shall prescribe the formalities of the transfer of stock, or other evidence of the State debt, and countersign the same, without which such evidence shall not be valid; he shall make to the General Assembly full reports of all his proceedings, and of the state of the Treasury Department within ten days after the commencement of each session; and perform such other duties as shall be prescribed by law.

SEC. 3.¹⁶⁷ The Treasurer shall receive the moneys of the State, and, until otherwise prescribed by law, deposit them, as soon as received, to the credit of the State, in such bank or banks as he may, from time to time, with the approval of the Governor, select (the said bank or banks giving security, satisfactory to the Governor, for the safe-keeping and forthcoming, when required of said deposits),

and he or such of his deputies as may be authorized to do so by the Legislature shall disburse the same for the purposes of the State according to law, upon warrants drawn by the Comptroller, or his duly authorized deputy, and on checks countersigned by the Comptroller, or his duly authorized deputy. The Legislature may prescribe, by law, for the Treasurer to disburse the moneys of the State, by a system other than by the use of checks. The Treasurer or such of his deputies as may be authorized to do so by the Legislature shall take receipts for all moneys paid from the Treasury Department; and receipt for moneys received by him shall be endorsed upon warrants signed, by the Comptroller, or such deputy as may be authorized to do so by law, without which warrants, so signed, no acknowledgment of money received into the Treasury shall be valid; and upon warrants issued by the Comptroller, or his duly authorized deputy, the Treasurer shall make arrangements for the payment of the interest of the public debt, and for the purchase thereof, on account of the sinking fund. Every bond, certificate, or other evidence of the debt of the State shall be signed by the Treasurer, Chief Deputy Treasurer, or a Deputy Treasurer, and countersigned by the Comptroller, Chief Deputy Comptroller, or a Deputy Comptroller; and no new certificate or other evidence intended to replace another shall be issued until the old one shall be delivered to the Treasurer, and authority executed in due form for the transfer of the same filed in his office, and the transfer accordingly made on the books thereof, and the certificate or other evidence cancelled; but the Legislature may make provisions for the loss of certificates, or other evidences of the debt; and may prescribe, by law, the manner in which the Treasurer shall receive and keep the moneys of the State.

SEC. 4. The Treasurer shall ender his Accounts, quarterly, to the Comptroller; and shall publish, monthly, in such newspapers as the Governor may direct, an abstract thereof, showing the amount of cash on hand, and the place, or places of deposit thereof; and on the third day of each regular session of the Legislature, he shall submit to the Senate and House of Delegates fair and accurate copies of all Accounts by him, from time to time, rendered and settled with the Comptroller. He shall, at all times, submit to the Comptroller the inspection of the money in his hands, and perform all other duties that shall be prescribed by Law.

SEC. 5. The Comptroller shall qualify, and enter on the duties of his office, on the third Monday of January next succeeding the time of his election, or as soon thereafter as practicable. And the Treasurer shall qualify within one month after his appointment by the Legislature.

SEC. 6.¹⁶⁸ Whenever during the recess of the Legislature charges shall be preferred to the Governor against the Comptroller or Treasurer, for incompetency, malfeasance in office, willful neglect of duty, or misappropriation of the funds of the State, it shall be the duty of the Governor forthwith to notify the party so charged, and fix a day for a hearing of said charges; and if, in the case of the Comptroller, from the evidence taken, under oath, on said hearing before the Governor, the said allegations shall be sustained, it shall be the duty of the Governor to remove the Comptroller and appoint another in his place, who shall hold the office for

165 Amended by Chapter 141, Acts of 1922, ratified Nov. 7, 1922; Chapter 428, Acts of 1966, ratified Nov. 8, 1966; Chapter 640, Acts of 1976, ratified Nov. 2, 1976; Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

166 Amended by Chapter 632, Acts of 1973, ratified Nov. 5, 1974.

167 Amended by Chapter 133, Acts of 1929, ratified Nov. 4, 1930; Chapter 56, Acts of 1950, ratified Nov. 7, 1950; Chapter 7, Acts of 1965, ratified Nov. 8, 1966; Chapter 632, Acts of 1973, ratified Nov. 5, 1974.

168 Amended by Chapter 640, Acts of 1975, ratified Nov. 2, 1976.

the unexpired term of the Comptroller so removed. However, if, in the case of the Treasurer, from the evidence taken under oath in the hearing before the Governor, the allegations are sustained, it is the duty of the Governor to remove the Treasurer, and the Deputy Treasurer shall act as Treasurer until the next regular or extraordinary session of the Legislature following the appointment, whereupon a successor shall be chosen by the Legislature who shall serve for the unexpired term of the Treasurer so removed.

ARTICLE VII.

SUNDRY OFFICERS.

SECTION 1.¹⁶⁹ The County Commissioners of each county not governed by Article XI-A of this Constitution may be elected by the voters of commissioner districts established therein, or by the voters of the entire county, or by a combination of these methods of election, as provided by the General Assembly by law.

SEC. 2.¹⁷⁰ The number, compensation, and powers and duties of the County Commissioners of each county not governed by Article XI-A of this Constitution shall be such as now are or may be hereafter prescribed by law.

SEC. 3.¹⁷¹ Vacant.

SEC. 4.¹⁷² Vacant.

SEC. 5.¹⁷³ Vacant.

SEC. 6.¹⁷⁴ Vacant.

ARTICLE VIII.

EDUCATION.

SECTION 1. The General Assembly, at its First Session after the adoption of this Constitution, shall by Law establish throughout the State a thorough and efficient System of Free Public Schools; and shall provide by taxation, or otherwise, for their maintenance.

SEC. 2. The System of Public Schools, as now constituted, shall remain in force until the end of the said First Session of the General Assembly, and shall then expire; except so far as adopted, or continued by the General Assembly.

SEC. 3. The School Fund of the State shall be kept inviolate, and appropriated only to the purposes of Education.

ARTICLE IX.

MILITIA AND MILITARY AFFAIRS.

SECTION 1. The General Assembly shall make, from time to time, such provisions for organizing, equipping and disciplining the Militia, as the exigency may require,

and pass such Laws to promote Volunteer Militia organizations as may afford them effectual encouragement.

SEC. 2. There shall be an Adjutant-General, appointed by the Governor, by and with the advice and consent of the Senate. He shall hold his office until the appointment and qualification of his successor, or until removed in pursuance of the sentence of a Court Martial. He shall perform such duties, and receive such compensation, or emoluments, as are now, or may be prescribed by Law. He shall discharge the duties of his office at the seat of Government, unless absent, under orders, on duty; and no other officer of the General Staff of the Militia shall receive salary or pay, except when on service, and mustered in with troops.

SEC. 3.¹⁷⁵ Vacant.

ARTICLE X.¹⁷⁶

Vacant.

ARTICLE XI.¹⁷⁷*CITY OF BALTIMORE.*

SECTION 1. The Inhabitants of the City of Baltimore, qualified by Law to vote in said city for members of the House of Delegates, shall on the Tuesday after the first Monday of November, eighteen hundred and eighty-nine, and on the same day and month in every second year thereafter, elect a person to be Mayor of the City of Baltimore, who shall have such qualifications, receive such compensation, discharge such duties, and have such powers as are now, or may hereafter be prescribed by Law; and the term of whose office shall commence on the third Wednesday in the November of the year of his election, and shall continue for two years, and until his successor shall have qualified.

SEC. 2. The City Council of Baltimore shall consist of two branches, one of which shall be called the First Branch, and the other the Second Branch, and each shall consist of such number of members, having such qualification, receiving such compensation, performing such duties, possessing such powers, holding such terms of office, and elected in such manner, as are now, or may hereafter be prescribed by Law.

SEC. 3. An election for members of the First Branch of the City Council of Baltimore shall be held in the City of Baltimore on the Tuesday after the first Monday of November, eighteen hundred and eighty-nine, and on the same day in every year thereafter; and for members of the Second Branch on the Tuesday after the first Monday of November, eighteen hundred and eighty-nine, and on the same day in every second year thereafter; and the qualification for electors of the members of the City Council shall be the same as those prescribed for the electors of Mayor.

169 Amended by Chapter 255, Acts of 1890, ratified Nov. 3, 1891; Chapter 99, Acts of 1956, ratified Nov. 6, 1956; Chapter 681, Acts of 1977, ratified Nov. 7, 1978; Chapter 707, Acts of 1986, ratified Nov. 4, 1986.

170 Amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956. Repealed by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

Added by Chapter 707, Acts of 1986, ratified Nov. 4, 1986.

171 Amended by Chapter 97, Acts of 1958, ratified Nov. 4, 1958. Repealed by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

172 Amended by Chapter 489, Acts of 1966, ratified Nov. 8, 1966. Repealed by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

173 Repealed by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

174 Repealed by Chapter 99, Acts of 1956, ratified Nov. 6, 1956.

175 Repealed by Chapter 99, Acts of 1956, ratified Nov. 6, 1956.

176 Repealed by Chapter 99, Acts of 1956, ratified Nov. 6, 1956.

177 Amended by Chapter 397, Acts of 1888. See Section 9, Article XI, and Charter of Baltimore City (1964 Edition), for changes in this Article made under authority of Article 11A of the Constitution.

SEC. 4 The regular sessions of the City Council of Baltimore (which shall be annual), shall commence on the third Monday of January of each year, and shall not continue more than ninety days, exclusive of Sundays; but the Mayor may convene the City Council in extra session whenever, and as often as it may appear to him that the public good may require, but no called or extra session shall last longer than twenty days, exclusive of Sundays.

SEC. 5. No person elected and qualified as Mayor, or as a member of the City Council, shall during the term for which he was elected, hold any other office of profit or trust, created, or to be created, by the Mayor and City Council of Baltimore, or by any Law relating to the Corporation of Baltimore, or hold any employment, or position, the compensation of which shall be paid, directly or indirectly, out of the City Treasury; nor shall any such person be interested, directly or indirectly, in any contract, to which the City is a party; nor shall it be lawful for any person, holding any office, under the City, to be interested, while holding such office, in any contract, to which the City is a party.

SEC. 6. The Mayor shall, on conviction in a Court of Law, of wilful neglect of duty, or misbehavior in office, be removed from office by the Governor of the State, and a successor shall thereafter be elected, as in a case of vacancy.

SEC. 7.¹⁷⁸ From and after the adoption of this Constitution, no debt except as hereinafter provided in this section, shall be created by the Mayor and City Council of Baltimore; nor shall the credit of the Mayor and City Council of Baltimore be given, or loaned to, or in aid of any individual, association, or corporation; nor shall the Mayor and City Council of Baltimore have the power to involve the City of Baltimore in the construction of works of internal improvement, nor in granting any aid thereto, which shall involve the faith and credit of the City, nor make any appropriation therefor, unless the debt or credit is authorized by an ordinance of the Mayor and City Council of Baltimore, submitted to the legal voters of the City of Baltimore, at such time and place as may be fixed by the ordinance, and approved by a majority of the votes cast at that time and place. An ordinance for the authorization of debt or credit as aforesaid may not be submitted to the legal voters of Baltimore City unless the proposed creation of debt or extension of credit is either (1) presented to and approved by a majority of the members of the General Assembly representing Baltimore City no later than the 30th day of the regular session of the General Assembly immediately preceding its submission to the voters, or (2) authorized by an Act of the General Assembly. The ordinance shall provide for the discharge of any such debt or credit within the period of 40 years from the time of contracting the same. The Mayor and City Council may, temporarily, borrow any amount of money to meet any deficiency in the City treasury, and may borrow any amount at any time to provide for any emergency arising from the necessity of maintaining the police, or preserving the health, safety and sanitary condition of the City, and may make due and proper arrangements and agreements for the renewal and extension, in whole or in part, of any and all debts and obligations created according to law before the adoption of this Constitution.

The General Assembly may, from time to time, fix a limit upon the aggregate amount of bonds and other evidences of indebtedness of the City outstanding at any

one time to the same extent as it fixes such a limit upon the indebtedness of the chartered counties.

SEC. 8. All Laws and Ordinances, now in force, applicable to the City of Baltimore, not inconsistent with this Article, shall be, and they are hereby continued until changed in due course of Law.

SEC. 9. The General Assembly may make such changes in this Article, except in Section seventh thereof, as it may deem best; and this Article shall not be so construed, or taken as to make the political corporation of Baltimore independent of, or free from the control, which the General Assembly of Maryland has over all such Corporations in this State.

ARTICLE XI-A.¹⁷⁹

LOCAL LEGISLATION.

SECTION 1.¹⁸⁰ On demand of the Mayor of Baltimore and City Council of the City of Baltimore, or on petition bearing the signatures of not less than 20% of the registered voters of said City or any County (Provided, however, that in any case 10,000 signatures shall be sufficient to complete a petition), the Board of Election Supervisors of said City or County shall provide at the next general or congressional election, occurring after such demand or the filing of such petition, for the election of a charter board of eleven registered voters of said City or five registered voters in any such Counties. Nominations for members for said charter board may be made not less than forty days prior to said election by the Mayor of Baltimore and City Council of the City of Baltimore or the County Commissioners of such County, or not less than twenty days prior to said election by petition bearing the signatures written in their own handwriting (and not by their mark) of not less than 5% of the registered voters of the said City of Baltimore or said County; provided, that in any case two thousand signatures of registered voters shall be sufficient to complete any such nominating petition, and if not more than eleven registered voters of the City of Baltimore or not more than five registered voters in any such County are so nominated their names shall not be printed on the ballot, but said eleven registered voters in the City of Baltimore or five in such County shall constitute said charter board from and after the date of said election. At said election the ballot shall contain the names of said nominees in alphabetical order without any indication of the source of their nomination, and shall also be so arranged as to permit the voter to vote for or against the creation of said charter board, but the vote cast against said creation shall not be held to bar the voter from expressing his choice among the nominees for said board, and if the majority of the votes cast for and against the creation of said charter board shall be against said creation the election of the members of said charter board shall be void; but if such majority shall be in favor of the creation of said charter board, then and in that event the eleven nominees of the City of Baltimore or five nominees in the County receiving the largest number of votes shall constitute the charter board, and said charter board, or a majority thereof, shall prepare within twelve months from the date of said election a charter or form of government for said city or such county and present the same to the Mayor of Baltimore or President of the Board of County Commissioners of such county, who shall publish the same in at least two newspapers of general circulation published in the City of Baltimore or

178 Amended by Chapter 456, Acts of 1933, ratified Nov. 6, 1934; Chapter 739, Acts of 1982, ratified Nov. 2, 1982.

179 Added by Chapter 416, Acts of 1914, ratified Nov. 2, 1915.

180 Amended by Chapter 192, Acts of 1963, ratified Nov. 3, 1964.

County within thirty days after it shall be reported to him. Such charter shall be submitted to the voters of said City or County at the next general or Congressional election after the report of said charter to said Mayor of Baltimore or President of the Board of County Commissioners; and if a majority of the votes cast for and against the adoption of said charter shall be in favor of such adoption, the said charter from and after the thirtieth day from the date of such election shall become the law of said City or County, subject only to the Constitution and Public General Laws of this State, and any public local laws inconsistent with the provisions of said charter and any former charter of the City of Baltimore or County shall be thereby repealed.

SEC. 1A.¹⁸¹ The procedure provided in this section for adoption of a charter may be used in any county in lieu of the procedures provided in Section 1 of this Article, and a charter adopted pursuant to this section has the effect of a charter adopted in accordance with the provisions of Section 1. The board of county commissioners of any county at any time may appoint a charter board. Said charter board shall be registered voters and shall consist of an uneven number of members, not fewer than five or more than nine. The board of county commissioners shall appoint a charter board within thirty days after receiving a petition signed by five percent of the registered voters of the county or by ten thousand voters of the county, whichever is the lesser number. If additional charter board members are nominated by petitions signed by three percent of the registered voters of the county or by two thousand registered voters, whichever is the lesser number, delivered to the board of county commissioners within sixty days after the charter board is appointed, the board of county commissioners shall call a special election not less than thirty or more than ninety days after receiving petitions, unless a regular election falls within the designated period. The appointees of the board of county commissioners and those nominated by petitions shall be placed on the ballot in alphabetical order without party designation. The voters may cast votes for, and elect a number of nominees equal to the number of charter board members originally selected by the board of county commissioners, and those so elected are the charter board. The charter board, within 18 months from the date of its appointment, or if there was an election for some of its members, within 18 months from the date of the election, shall present a proposed charter for the county to the board of county commissioners, which shall publish it at least twice in one or more newspapers of general circulation in the county within thirty days after it is presented. The charter shall be submitted to the voters of the county at a special or regular election held not earlier than thirty days or later than ninety days after publication of the charter. If a majority of the votes cast for and against the adoption of the charter are in favor of its adoption, the charter shall become effective as the charter of the county on the thirtieth day after the election or such later date as shall be specified in the charter.

SEC. 2.¹⁸² The General Assembly shall by public general law provide a grant of express powers for such County or Counties as may thereafter form a charter under the provisions of this Article. Such express powers granted to the Counties and the powers heretofore granted to the City of Baltimore, as set forth in Article 4, Section 6, Public Local Laws of Maryland, shall not be enlarged or

extended *by* any charter formed under the provisions of this Article, but such powers may be extended, modified, amended or repealed by the General Assembly.

SEC. 3.¹⁸³ Every charter so formed shall provide for an elective legislative body in which shall be vested the lawmaking power of said City or County. Such legislative body in the City of Baltimore shall be known as the City Council of the City of Baltimore, and in any county shall be known as the County Council of the County. The chief executive officer, if any such charter shall provide for the election of such executive officer, or the presiding officer of said legislative body, if such charter shall not provide for the election of a chief executive officer, shall be known in the City of Baltimore as Mayor of Baltimore, and in any County as the President or Chairman of the County Council of the County, and all references in the Constitution and laws of this State to the Mayor of Baltimore and City Council of the City of Baltimore or to the County Commissioners of the Counties, shall be construed to refer to the Mayor of Baltimore and City Council of the City of Baltimore and to the President or Chairman and County Council herein provided for whenever such construction would be reasonable. From and after the adoption of a charter by the City of Baltimore, or any County of this State, as hereinbefore provided, the Mayor of Baltimore and City Council of the City of Baltimore or the County Council of said County, subject to the Constitution and Public General Laws of this State, shall have full power to enact local laws of said City or County including the power to repeal or amend local laws of said City or County enacted by the General Assembly, upon all matters covered by the express powers granted as above provided; provided that nothing herein contained shall be construed to authorize or empower the County Council of any County in this State to enact laws or regulations for any incorporated town, village, or municipality in said County, on any matter covered by the powers granted to said town, village, or municipality by the Act incorporating it, or any subsequent Act or Acts amendatory thereto. Provided, however, that the charters for the various Counties shall specify the number of days, not to exceed forty-five, which may but need not be consecutive, that the County Council of the Counties may sit in each year for the purpose of enacting legislation for such Counties, and all legislation shall be enacted at the times so designated for that purpose in the charter, and the title or a summary of all laws and ordinances proposed shall be published once a week for two successive weeks prior to enactment followed by publication once after enactment in at least one newspaper of general circulation in the county, so that the taxpayers and citizens may have notice thereof. The validity of emergency legislation shall not be affected if enacted prior to the completion of advertising thereof. These provisions concerning publication shall not apply to Baltimore City. All such local laws enacted by the Mayor of Baltimore and City Council of the City of Baltimore or the Council of the Counties as hereinbefore provided, shall be subject to the same rules of interpretation as those now applicable to the Public Local Laws of this State, except that in case of any conflict between said local law and any Public General Law now or hereafter enacted the Public General Law shall control.

SEC. 3A.¹⁸⁴ (a) The charter for the government of any county governed by the provisions of this Article may

181 Added by Chapter 786, Acts of 1969, ratified Nov. 3, 1970. Amended by Chapter 207, Acts of 1992, ratified Nov. 3, 1992.

182 Amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

183 Amended by Chapter 557, Acts of 1955, ratified Nov. 6, 1956; Chapter 371, Acts of 1972, ratified Nov. 7, 1972.

provide for the election of members of the county council by the voters of councilmanic districts therein established, or by the voters of the entire county, or by a combination of these methods of election.

(b) Repealed.¹⁸⁵

(c) Repealed.¹⁸⁶

(d) Notwithstanding any other provision of this Constitution, the Charter for the government of Harford County under the provisions of this Article, either as adopted, or by amendment, shall provide for the election of members of the County Council by the voters of the entire county.

SEC. 4. From and after the adoption of a charter under the provisions of this Article by the City of Baltimore or any County of this State, no public local law shall be enacted by the General Assembly for said City or County on any subject covered by the express powers granted as above provided. Any law so drawn as to apply to two or more of the geographical sub-divisions of this State shall not be deemed a Local Law, within the meaning of this Act. The term "geographical sub-division" herein used shall be taken to mean the City of Baltimore or any of the Counties of this State.

SEC. 5.¹⁸⁷ Amendments to any charter adopted by the City of Baltimore or *by* any County of this State under the provisions of this Article may be proposed by a resolution of the Mayor of Baltimore and the City Council of the City of Baltimore, or the Council of the County, or by a petition signed by not less than 20% of the registered voters of the City or County, provided, however, that in any case 10,000 signatures shall be sufficient to complete a petition. A petition shall be filed with the Mayor of Baltimore or the President of the County Council. An amendment so proposed shall be submitted to the voters of the City or County at the next general or congressional election occurring after the passage of the resolution or the filing of the petition. If at the election the majority of the votes cast for and against the amendment shall be in favor thereof, the amendment shall be adopted and become a part of the charter of the City or County from and after the thirtieth day after said election. The amendments shall be published by the Mayor of Baltimore or President of the County Council once a week for five successive weeks prior to the election in at least one newspaper published in said City or County.

SEC. 6. The power heretofore conferred upon the General Assembly to prescribe the number, compensation, powers and duties of the County Commissioners in each county, and the power to make changes in Sections 1 to 6 inclusive, Article XI of this Constitution, when expressly granted as hereinbefore provided, are hereby transferred to the voters of each County and the voters of City of Baltimore, respectively, provided that said powers so transferred shall be exercised only by the adoption or amendment of a charter as hereinbefore provided; and provided further that this Article shall not be construed to authorize

Repealed by Chapter 707, Acts of 1986, ratified Nov. 4, 1986.

Repealed by Chapter 707, Acts of 1986, ratified Nov. 4, 1986.

Amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

Amended by Chapter 849, Acts of 1982, ratified Nov. 2, 1982.

184 Amended by Chapter 358, Acts of 1971, ratified Nov. 7, 1972; Chapter 785, Acts of 1975, ratified Nov. 2, 1976; Chapter 682, Acts of 1977, ratified Nov. 7, 1978; Chapter 136, Acts of 1980, ratified Nov. 4, 1980; Chapter 729, Acts of 1982, ratified Nov. 2, 1982; Chapters 694, 707, Acts of 1986, ratified Nov. 4, 1986.

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189 Added by Chapter 649, Acts of 1943, ratified Nov. 7, 1944.

190 Amended by Chapter 659, Acts of 1945, ratified Nov. 5, 1946; Chapter 162, Acts of 1947, ratified Nov. 2, 1948.

the exercise of any powers in excess of those conferred by the Legislature upon said Counties or City as this Article sets forth.

SEC. 7.¹⁸⁸ The word "Petition" as used in this Article means one or more sheets written or printed, or partly written and partly printed. There shall be attached to each paper of signatures filed with a petition an affidavit of the person procuring those signatures that the signatures were affixed in his presence and that, based upon the person's best knowledge and belief, every signature on the paper is genuine and bona fide and that the signers are registered voters at the address set opposite or below their names. The General Assembly shall prescribe by law the form of the petition, the manner for verifying its authenticity, and other administrative procedures which facilitate the petition process and which are not in conflict with this Article. The false signing of any name, or the signing of any fictitious name to said petition shall be forgery, and the making of any false affidavit in connection with said petition shall be perjury.

ARTICLE XI-B.¹⁸⁹

CITY OF BALTIMORE—LAND DEVELOPMENT AND REDEVELOPMENT.

SECTION ^{1,190} The General Assembly of Maryland, by public local law, may authorize and empower the Mayor and City Council of Baltimore:

(a) To acquire, within the boundary lines of Baltimore City, land and property of every kind, and any right, interest, franchise, easement or privilege therein, by purchase, lease, gift, condemnation or any other legal means, for development or redevelopment, including, but not limited to, the comprehensive renovation or rehabilitation thereof; and

(b) To sell, lease, convey, transfer or otherwise dispose of any of said land or property, regardless of whether or not it has been developed, redeveloped, altered or improved and irrespective of the manner or means in or by which it may have been acquired, to any private, public or quasi public corporation, partnership, association, person or other legal entity.

No land or property taken by the Mayor and City Council of Baltimore for any of the aforementioned purposes or in connection with the exercise of any of the powers which may be granted to the Mayor and City Council of Baltimore pursuant to this Article by exercising the power of eminent domain, shall be taken without just compensation, as agreed upon between the parties, or awarded by a jury, being first paid or tendered to the party entitled to such compensation.

All land or property needed, or taken by the exercise of the power of eminent domain, by the Mayor and City Council of Baltimore for any of the aforementioned purposes or in connection with the exercise of any of the powers which may be granted to the Mayor and City

Council of Baltimore pursuant to this Article is hereby declared to be needed or taken for a public use.

SEC. 2.¹⁹¹ The General Assembly of Maryland may grant to the Mayor and City Council of Baltimore any and all additional power and authority necessary or proper to carry into full force and effect any and all of the specific powers which the General Assembly is authorized to grant to the Mayor and City Council of Baltimore pursuant to this Article and to fully accomplish any and all of the purposes and objects contemplated by the provisions of this Article, provided such additional power or authority is not inconsistent with the terms and provisions of this Article or with any other provision or provisions of the Constitution of Maryland. The General Assembly may place such other and further restrictions or limitations on the exercise of any of the powers which it may grant to the Mayor and City Council of Baltimore under the provisions of this Article as it may deem proper and expedient.

SEC. 3.¹⁹² Vacant.

ARTICLE XI-C.¹⁹³
OFF-STREET PARKING.

SECTION 1. The General Assembly of Maryland, by public local law, may authorize the Mayor and City Council of Baltimore:

(a) Within the City of Baltimore to acquire land and property of every kind, and any right, interest, franchise, easement or privilege therein, by purchase, lease, gift, condemnation or any other legal means, for storing, parking and servicing self-propelled vehicles, provided, that no petroleum products shall be sold or offered for sale at any entrance to or exit from, any land so acquired or at any entrance to, or exit from, any structure erected thereon, when any entrance to, or exit from, any such land or structure faces on a street or highway which is more than 25 feet wide from curb to curb; and

(b) To sell, lease, convey, transfer or otherwise dispose of any of said land or property, regardless of whether or not it has been developed, redeveloped, altered, or improved and irrespective of the manner or means in or by which it may have been acquired, to any private, public or quasi public corporation, partnership, association, person or other legal entity.

No land or property taken by the Mayor and City Council of Baltimore for any of the aforementioned purposes or in connection with the exercise of any of the powers which may be granted to the Mayor and City Council of Baltimore pursuant to this Article by exercising the power of eminent domain, shall be taken without just compensation, as agreed upon between the parties, or awarded by a jury, being first paid or tendered to the party entitled to such compensation.

All land or property needed, or taken by the exercise of the power of eminent domain, by the Mayor and City Council of Baltimore for any of the aforementioned purposes or in connection with the exercise of any of the powers which may be granted to the Mayor and City

Council of Baltimore pursuant to this Article is hereby declared to be needed or taken for a public use.

SEC. 2. The General Assembly of Maryland may grant to the Mayor and City Council of Baltimore any and all additional power and authority necessary or proper to carry into full force and effect any and all of the specific powers which the General Assembly is authorized to grant to the Mayor and City Council of Baltimore pursuant to this Article and to fully accomplish any and all of the purposes and objects contemplated by the provisions of this Article, provided such additional power or authority is not inconsistent with the terms and provisions of this Article or with any other provision or provisions of the Constitution of Maryland. The General Assembly may place such other and further restrictions or limitations on the exercise of any of the powers which it may grant to the Mayor and City Council of Baltimore under the provisions of this Article as it may deem proper and expedient.

SEC. 3.¹⁹⁴ In addition to the powers granted and exercised under Sections 1 and 2, the Mayor and City Council of Baltimore may, by ordinance, borrow money to finance the establishment, construction, erection, alteration, expansion, enlarging, improving, equipping, repairing, maintaining, operating, controlling, and regulating of off-street parking facilities owned or to be owned by the Mayor and City Council of Baltimore, and evidence such borrowing by the issuance of revenue bonds, notes or other obligations to be secured by a pledge of the revenues derived from such facilities, and may further pledge revenues collected from parking taxes, parking fees or charges, parking fines or any other revenue derived from the parking of motor vehicles in the City of Baltimore to or for the payment of such revenue bonds, notes or other obligations; and for such purposes the Commissioners of Finance are empowered to maintain a fund consisting of the revenue pledged herein. The bonds, notes or other obligations issued hereunder and the pledge of revenues, taxes, fees, charges or fines provided for herein shall not constitute a general obligation of nor a pledge of the faith and credit or taxing power of the Mayor and City Council of Baltimore and shall not constitute a debt of the Mayor and City Council of Baltimore within the meaning of Section 7 of Article XI of the Constitution of Maryland. The ordinance may prescribe the form and terms of the bonds, notes or other obligations, the time and manner of public or private sale thereof, and the method and terms of payment therefor, and may authorize the Commissioners of Finance by resolution to determine any matters hereinabove recited and to do any and all things necessary or appropriate in connection with the issuance and sale thereof.

ARTICLE XI-D.¹⁹⁵

PORT DEVELOPMENT.

SECTION 1.¹⁹⁶ The General Assembly of Maryland, by public local law, may authorize the Mayor and City Council of Baltimore:

(a) To acquire land and property of every kind, and any right, interest, franchise, easement or privilege therein, in adjoining or in the vicinity of the Patapsco River or its

¹⁹¹ Amended by Chapter 162, Acts of 1947, ratified Nov. 2, 1948.

¹⁹² Repealed by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

¹⁹³ Added by Chapter 505, Acts of 1947, ratified Nov. 2, 1948.

¹⁹⁴ Added by Chapter 552, Acts of 1976, ratified Nov. 2, 1976.

¹⁹⁵ Added by Chapter 199, Acts of 1951, ratified Nov. 4, 1952.

¹⁹⁶ Amended by Chapter 754, Acts of 1953, ratified Nov. 2, 1954; Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

tributaries, by purchase, lease, gift, condemnation or any other legal means, for or in connection with extending, developing or improving the harbor or port of Baltimore and its facilities and the highways and approaches thereto; and providing, further, that the Mayor and City Council of Baltimore shall not acquire any such land or property, or any such right, interest, franchise, easement or privilege therein, for any of said purposes, in any of the counties of this State without the prior consent and approval by resolution duly passed after a public hearing, by the governing body of the county in which such land or property, or such right, interest, franchise, easement or privilege therein, is situate; and provided, further, that Anne Arundel County shall retain jurisdiction and power to tax any land so acquired by the Mayor and City Council of Baltimore under the provisions of this Act.

(b) To sell, lease, convey, transfer or otherwise dispose of any of said land or property, regardless of whether or not it is undeveloped or has been developed, redeveloped, altered, or improved and irrespective of the manner or means in or by which it may have been acquired, to any private, public or quasi public corporation, partnership, association, person or other legal entity.

No land or property taken by the Mayor and City Council of Baltimore for any of the aforementioned purposes or in connection with the exercise of any of the powers which may be granted to the Mayor and City Council of Baltimore pursuant to this Article by exercising the power of eminent domain, shall be taken without just compensation, as agreed upon between the parties, or awarded by a jury, being first paid or tendered to the party entitled to such compensation.

All land or property needed, or taken by the exercise of the power of eminent domain, by the Mayor and City Council of Baltimore for any of the aforementioned purposes or in connection with the exercise of any of the powers which may be granted to the Mayor and City Council of Baltimore pursuant to this Article is hereby declared to be needed or taken for a public use.

SEC. 2.¹⁹⁷ The General Assembly of Maryland may grant to the Mayor and City Council of Baltimore any and all additional power and authority necessary or proper to carry into full force and effect any and all of the specified powers which the General Assembly is authorized to grant to the Mayor and City Council of Baltimore pursuant to this Article and to fully accomplish any and all of the purposes and objects contemplated by the provisions of this Article, provided such additional power or authority is not inconsistent with the terms and provisions of this Article or with any other provision or provisions of the Constitution of Maryland. The General Assembly may place such other and further restrictions or limitations on the exercise of any of the powers which it may grant to the Mayor and City Council of Baltimore under the provisions of this Article as it may deem proper and expedient.

SEC. 3.¹⁹⁸ Provided, however, that no public local law enacted under the provisions and authority of this Article shall be enacted or construed to authorize the Mayor and City Council of Baltimore to exercise or apply any of the powers or authority in this Article enumerated within the territorial limits of Howard County.

ARTICLE XI-E.¹⁹⁹

MUNICIPAL CORPORATIONS.

SECTION 1. Except as provided elsewhere in this Article, the General Assembly shall not pass any law relating to the incorporation, organization, government, or affairs of those municipal corporations which are not authorized by Article 11-A of the Constitution to have a charter form of government which will be special or local in its terms or in its effect, but the General Assembly shall act in relation to the incorporation, organization, government, or affairs of any such municipal corporation only by general laws which shall in their terms and in their effect apply alike to all municipal corporations in one or more of the classes provided for in Section 2 of this Article. It shall be the duty of the General Assembly to provide by law the method by which new municipal corporations shall be formed.

SEC. 2. The General Assembly, by law, shall classify all such municipal corporations by grouping them into not more than four classes based on populations as determined by the most recent census made under the authority of the United States or the State of Maryland. No more than one such grouping of municipal corporations into four (or fewer) classes shall be in effect at any time, and the enactment of any such grouping of municipal corporations into four (or fewer) classes shall repeal any such grouping of municipal corporations into four (or fewer) classes then in effect. Municipal corporations shall be classified only as provided in this section and not otherwise.

SEC. 3. Any such municipal corporation, now existing or hereafter created, shall have the power and authority, (a) to amend or repeal an existing charter or local laws relating to the incorporation, organization, government, or affairs of said municipal corporation heretofore enacted by the General Assembly of Maryland, and (b) to adopt a new charter, and to amend or repeal any charter adopted under the provisions of this Article.

SEC. 4. The adoption of a new charter, the amendment of any charter or local laws, or the repeal of any part of a charter or local laws shall be proposed either by a resolution of the legislative body of any such municipal corporation or by a petition containing the signatures of at least five per cent of the registered voters of a municipal corporation and filed with the legislative body of said municipal corporation. The General Assembly shall amplify the provisions of this section by general law in any manner not inconsistent with this Article.

SEC. 5. Notwithstanding any other provision in this Article, the General Assembly may enact, amend, or repeal local laws placing a maximum limit on the rate at which property taxes may be imposed *by* any such municipal corporation and regulating the maximum amount of debt which may be incurred *by* any municipal corporation. However, no such local law shall become effective in regard to a municipal corporation until and unless it shall have been approved at a regular or special municipal election by a majority of the voters of that municipal corporation voting on the question. No such municipal corporation shall levy any type of tax, license fee, franchise tax or fee which was not in effect in such municipal corporation on January 1, 1954, unless it shall receive the express authorization of the General Assembly for such purpose, by a general law which in its terms and its effect applies alike to all municipal corporations in one or more of the classes provided for in Section 2 of this

¹⁹⁷ Amended by Chapter 754, Acts of 1953, ratified Nov. 2, 1954.

¹⁹⁸ Added by Chapter 754, Acts of 1953, ratified Nov. 2, 1954.

¹⁹⁹ Added by Chapter 53, Acts of 1954, ratified Nov. 2, 1954.

Article. All charter provisions enacted under the authority of Section 3 of this Article shall be subject to any local laws enacted by the General Assembly and approved by the municipal voters under the provisions of this section.

SEC. 6. All charter provisions, or amendments thereto, adopted under the provisions of this Article, shall be subject to all applicable laws enacted by the General Assembly; except that any local laws, or amendments thereto, relating to the incorporation, organization, government, or affairs of any municipal corporation and enacted before this Article becomes effective, shall be subject to any charter provisions, or amendments thereto, adopted under the provisions of this Article. Any local law, or amendments thereto, relating to the incorporation, organization, government, or affairs of any municipal corporation and in effect at the time this Article becomes effective, shall be subject to any applicable State law enacted after this Article becomes effective. All laws enacted by the General Assembly and in effect at the time this Article becomes effective, shall remain in effect until amended or repealed in accordance with the provisions of this Constitution. Nothing in this Article shall be construed to authorize any municipal corporation by any amendment or addition to its charter, to permit any act which is prohibited by the laws of this State concerning the observance of the Sabbath Day or the manufacture, licensing or sale of alcoholic beverages.

ARTICLE XI-F.²⁰⁰

HOME RULE FOR CODE COUNTIES.

SECTION 1. For the purposes of this Article, (1) "code county" means a county which is not a charter county under Article 11A of this Constitution and has adopted the optional powers of home rule provided under this Article; and (2) "public local law" means a law applicable to the incorporation, organization, or government of a code county and contained in the county's code of public local laws; but this latter term specifically does not include (i) the charters of municipal corporations under Article 11E of this Constitution, (ii) the laws or charters of counties under Article 11A of this Constitution, (iii) laws, whether or not Statewide in application, in the code of public general laws, (iv) laws which apply to more than one county, and (v) ordinances and resolutions of the county government enacted under public local laws.

SEC. 2. The governing body of any county, by a vote of at least two-thirds of the members elected thereto, may propose by resolution that the county become a code county and be governed by the provisions of this Article. Upon the adoption of such a resolution, it shall be certified to the Board of Supervisors of Elections in the county, which Board (pursuant to the election laws of the State) shall submit to the voters of the county at the next ensuing general election the question whether the resolution shall be approved or rejected. If in the referendum a majority of those persons voting on this question vote for the resolution, the resolution is approved, and the county shall become a code county under the provisions of this Article, on the thirtieth day after the election. If in the referendum a majority of those persons voting on this question vote against the resolution, the resolution is rejected, and of no further effect.

Provided that if at the next ensuing general election there shall be submitted to the voters of the county a proposed charter under Article 11A of this Constitution,

the proposed charter only shall be submitted to the voters at that next ensuing general election. If the proposed charter is adopted by the voters, this particular resolution to become a code county shall not be submitted to the voters and shall have no further effect. If the proposed charter is rejected by the voters, the code question under this Article shall be submitted to the voters at the general election two years later, and no charter question under Article 11A shall be submitted to the voters at that general election.

SEC. 3. Except as otherwise provided in this Article, a code county may enact, amend, or repeal a public local law of that county, following the procedure in this Article.

SEC. 4. Except as otherwise provided in this Article, the General Assembly shall not enact, amend, or repeal a public local law which is special or local in its terms or effect within a code county. The General Assembly may enact, amend, or repeal public local laws applicable to code counties only by general enactments which in term and effect apply alike to all code counties in one or more of the classes provided for in Section 5 of this Article.

SEC. 5. The General Assembly, by law, shall classify all code counties by grouping them into not more than four classes based either upon population as determined in the most recent Federal or State census or upon such other criteria as determined by the General Assembly to be appropriate. Not more than one such grouping of code counties into four (or fewer) classes may be in effect at any one time, and the enactment of any grouping of code counties into four (or fewer) classes repeals any other such grouping then in effect. Code counties may be classified only as provided in this section.

SEC. 6. A code county may enact, amend, or repeal a public local law of that county by a resolution of the board of county commissioners. The General Assembly may amplify the provisions of this section by general law in any manner not inconsistent with this Article.

SEC. 7. Any action of a code county in the enactment, amendment, or repeal of a public local law is subject to a referendum of the voters in the county, as in this section provided. The enactment, amendment, or repeal shall be effective unless a petition of the registered voters of the county requires that it be submitted to a referendum of the voters in the county. The General Assembly shall amplify the provisions of this section by general law in any manner not inconsistent with this Article, except that in any event the number of signatures required on such a petition shall not be fewer than five percentum (5%) of the voters in a county registered for county and State elections.

SEC. 8. Notwithstanding any other provisions of this Article, the General Assembly has exclusive power to enact, amend, or repeal any local law for a code county which (1) authorizes or places a maximum limit upon the rate of property taxes which may be imposed by the code county; or (2) authorizes or regulates the maximum amount of indebtedness which may be incurred by the code county. Public local laws enacted by the General Assembly under this section prevail over any public local laws enacted by the code county under other sections in this Article.

SEC. 9. A code county shall not levy any type of tax, license fee, franchise tax, or fee which was not in effect or authorized in the code county at the time it came under

²⁰⁰ Added by Chapter 493, Acts of 1965, ratified Nov. 8, 1966.

the provisions of this Article, until an express authorization of the General Assembly has been enacted for this purpose by a general law which in its terms and effect applies alike to all code counties in one or more of the classes provided for in Section 5 of this Article.

SEC. 10. All laws enacted by the General Assembly and in effect when this Article was added to the Constitution shall remain in effect until amended or repealed under this Constitution. Every public local law enacted, amended, or repealed by a county under the provisions of this Article prevails over the previous public local law, except to the extent it is subject to an applicable law enacted by the General Assembly.

ARTICLE XI-G.²⁰¹

CITY OF BALTIMORE—RESIDENTIAL REHABILITATION AND COMMERCIAL FINANCING LOANS.²⁰²

1.²⁰³ The General Assembly of Maryland, by public local law, may authorize the Mayor and City Council of Baltimore:

(a) To make or contract to make financial loans to any person or other legal entity to be used for redevelopment or improvement of buildings or structures located within the boundaries of Baltimore City, which buildings or structures are to be used or occupied for residential purposes.

(b) To guarantee or insure financial loans made by third parties to any person or other legal entity to be used for or in connection with the rehabilitation, renovation or improvement of buildings or structures located within the boundaries of Baltimore City, which buildings or structures are to be used or occupied for residential purposes.

(c) To make or contract to make financial loans to any person or other legal entity to be used for or in connection with the purchase or acquisition of leasehold or fee simple interests in buildings or structures, and for construction, reconstruction, erection, development, rehabilitation, renovation, redevelopment or improvement of buildings or structures, located within the boundaries of Baltimore City, which buildings or structures are to be used or occupied for commercial purposes.

(d) To guarantee or insure financial loans made by third parties to any person or other legal entity to be used for or in connection with the purchase or acquisition of leasehold or fee simple interests in buildings or structures, and for construction, reconstruction, erection, development, rehabilitation, renovation, redevelopment or improvement of buildings or structures, located within the boundaries of Baltimore City, which buildings or structures are to be used or occupied for commercial purposes.

(e) Any and all financial loans made by the Mayor and City Council of Baltimore; any and all guarantees or insurance commitments made by the Mayor and City Council of Baltimore in connection with any of said loans; and any and all money used or expended by the Mayor and City Council of Baltimore in connection with said loans, guarantees, or insurance commitments, pursuant to the power and authority hereinabove vested in the municipality, and any and all acts performed by the Mayor and City Council

of Baltimore in connection with any powers which may be granted to the Mayor and City Council of Baltimore pursuant to this Article, are all hereby declared to be needed, contracted for, expended or exercised for a public use.

(f) In the event of any conflict between the provisions of this Article and those of Article XI, Section 7, of the Constitution of Maryland, or any other provisions of said Constitution, then the provisions of this Article shall control.

2. The General Assembly of Maryland may grant to the Mayor and City Council of Baltimore any and all additional power and authority necessary or proper to carry into full force and effect any and all of the specific powers which the General Assembly is authorized to grant to the Mayor and City Council of Baltimore pursuant to this Article, and to fully accomplish any and all of the purposes and objects contemplated by the provisions of this Article, provided such additional power or authority is not inconsistent with the terms and provisions of this Article or with any other provision or provisions of the Constitution of Maryland, except as provided in this Article. The General Assembly may place such other and further restrictions or limitations on the exercise of any of the powers which it may grant to the Mayor and City Council of Baltimore under the provisions of this Article as it may deem proper and expedient.

ARTICLE XI-H.²⁰⁴

CITY OF BALTIMORE—RESIDENTIAL FINANCING LOANS.

1. The General Assembly of Maryland, by public local law, may authorize the Mayor and City Council of Baltimore:

(a) To make or contract to make financial loans to any person or other legal entity to be used for or in connection with the purchase, acquisition, construction, erection or development of buildings or structures, including any land necessary therefor, within the boundaries of Baltimore City, which buildings or structures are to be used or occupied for residential purposes.

(b) To guarantee or insure financial loans made by third parties to any person or other legal entity which are to be used for or in connection with the purchase, acquisition, construction, erection or development of buildings or structures, including any land necessary therefor, within the boundaries of Baltimore City, which buildings or structures are to be used or occupied for residential purposes.

(c) Any and all financial loans made by the Mayor and City Council of Baltimore; any and all guarantees or insurance commitments made by the Mayor and City Council of Baltimore in connection with any of the loans; and any and all money used or expended by the Mayor and City Council of Baltimore in connection with the loans, guarantees, or insurance commitments, pursuant to the power and authority hereinabove vested in the municipality, and any and all acts performed by the Mayor and City Council of Baltimore in connection with any powers which may be granted to the Mayor and City Council of Baltimore pursuant to this Article, are all declared to be

201 Added by Chapter 375, Acts of 1972, ratified Nov. 7, 1972.

202 Article heading amended by Chapter 610, Acts of 1980, ratified Nov. 4, 1980.

203 Amended by Chapter 133, Acts of 1974, ratified Nov. 5, 1974; Chapter 610, Acts of 1980, ratified Nov. 4, 1980.

204 Added by Chapter 888, Acts of 1974, ratified Nov. 5, 1974.

needed, contracted for, expended or exercised for a public use.

(d) In the event of any conflict between the provisions of this Article and those of Article XI, Section 7, of the Constitution of Maryland, or any other provisions of the Constitution, then the provisions of this Article shall control.

2. The General Assembly of Maryland may grant to the Mayor and City Council of Baltimore any and all additional power and authority necessary or proper to carry into full force and effect any and all of the specific powers which the General Assembly of Maryland is authorized to grant to the Mayor and City Council of Baltimore pursuant to this Article, and to fully accomplish any and all of the purposes and objects contemplated by the provisions of this Article, provided such additional power or authority is not inconsistent with the terms and provisions of this Article or with any other provision or provisions of the Constitution of Maryland, except as provided in this Article. The General Assembly may place such other and further restrictions or limitations on the exercise of any of the powers which it may grant to the Mayor and City Council of Baltimore under the provisions of this Article as it may deem proper and expedient.

ARTICLE XI-I.²⁰⁵

CITY OF BALTIMORE—INDUSTRIAL FINANCING LOANS.

1. The General Assembly of Maryland, by Public Local Law, may authorize the Mayor and City Council of Baltimore:

(a) To make or contract to make financial loans to any person or other legal entity to be used for or in connection with the purchase, acquisition, construction, reconstruction, erection, development, redevelopment, rehabilitation, renovation, modernization or improvement of buildings or structures, including any land necessary there-for, within the boundaries of Baltimore City, which buildings or structures are to be used or occupied for industrial purposes.

(b) To guarantee or insure financial loans made by third parties to any person or other legal entity which are to be used for or in connection with the purchase, acquisition, construction, reconstruction, erection, development, redevelopment, rehabilitation, renovation, modernization, or improvement of buildings or structures, including any land necessary therefor, within the boundaries of Baltimore City, which buildings or structures are to be used or occupied for industrial purposes.

(c) Any and all financial loans made by the Mayor and City Council of Baltimore; any and all guarantees or insurance commitments made by the Mayor and City Council of Baltimore in connection with any of the loans; and any and all money used or expended by the Mayor and City Council of Baltimore in connection with the loans, guarantees, or insurance commitments, pursuant to the power and authority hereinabove vested in the municipality, and any and all acts performed by the Mayor and City Council of Baltimore in connection with any powers which may be granted to the Mayor and City Council of Baltimore pursuant to this Article, are all declared to be

needed, contracted for, expended or exercised for a public use.

(d) In the event of any conflict between the provisions of this Article and those of Article XI, Section 7, of the Constitution of Maryland, or any other provisions of the Constitution, then the provisions of this Article shall control.

2. The General Assembly of Maryland may grant to the Mayor and City Council of Baltimore any and all additional power and authority necessary or proper to carry into full force and effect any and all of the specific powers which the General Assembly of Maryland is authorized to grant to the Mayor and City Council of Baltimore pursuant to this Article, and to fully accomplish any and all of the purposes and objects contemplated by the provisions of this Article, provided such additional power or authority is not inconsistent with the terms and provisions of this Article or with any other provision or provisions of the Constitution of Maryland, except as provided in this Article. The General Assembly may place such other and further restrictions or limitations on the exercise of any of the powers which it may grant to the Mayor and City Council of Baltimore under the provisions of this Article as it may deem proper and expedient.

ARTICLE XII.

PUBLIC WORKS.

SECTION 1. The Governor, the Comptroller of the Treasury and the Treasurer, shall constitute the Board of Public Works in this State. They shall keep a journal of their proceedings, and shall hold regular sessions in the City of Annapolis, on the first Wednesday in January, April, July and October, in each year, and oftener, if necessary; at which sessions they shall hear and determine such matters as affect the Public Works of the State, and as the General Assembly may confer upon them the power to decide.

SEC. 2.²⁰⁶ They shall exercise a diligent and faithful supervision of all Public Works in which the State may be interested as Stockholder or Creditor, and shall appoint the Directors in every Railroad and Canal Company, in which the State has the legal power to appoint Directors, which said Directors shall represent the State in all meetings of the Stockholders of the respective Companies for which they are appointed or elected. They shall require the Directors of all said Public Works to guard the public interest, and prevent the establishment of tolls which shall discriminate against the interest of the citizens or products of this State, and from time to time, and as often as there shall be any change in the rates of toll on any of the said Works, to furnish the said Board of Public Works a schedule of such modified rates of toll, and so adjust them as to promote the agricultural interests of the State; they shall report to the General Assembly at each regular session, and recommend such legislation as they may deem necessary and requisite to promote or protect the interests of the State in the said Public Works; they shall perform such other duties as may be hereafter prescribed by Law, and a majority of them shall be competent to act. The Governor, Comptroller and Treasurer shall receive no additional salary for services rendered by them as members of the Board of Public Works.

²⁰⁵ Added by Chapter 553, Acts of 1976, ratified Nov. 2, 1976.

²⁰⁶ Amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956.

SEC. 3.²⁰⁷ The Board of Public Works is hereby authorized, subject to such regulations and conditions as the General Assembly may from time to time prescribe, to sell the State's interest in all works of Internal Improvement, whether as a stockholder or a creditor, and also the State's interest in any banking corporation, receiving in payment the bonds and registered debt now owing by the State, equal in amount to the price obtained for the State's said interest.

ARTICLE XIII.

NEW COUNTIES.

SECTION 1.²⁰⁸ The General Assembly may provide, by Law, for organizing new Counties, locating and removing county seats, and changing county lines; but no new county shall be organized without the consent of the majority of the legal voters residing within the limits proposed to be formed into said new county; and whenever a new county shall be proposed to be formed out of portions of two or more counties, the consent of a majority of the legal voters of such part of each of said counties, respectively, shall be required; nor shall the lines of any county nor of Baltimore City be changed without the consent of a majority of the legal voters residing within the district, which under said proposed change, would form a part of a county or of Baltimore City different from that to which it belonged prior to said change; and no new county shall contain less than four hundred square miles, nor less than ten thousand inhabitants; nor shall any change be made in the limits of any county, whereby the population of said county would be reduced to less than ten thousand inhabitants, or its territory reduced to less than four hundred square miles. No county lines heretofore validly established shall be changed except in accordance with this section.

SEC. 2.²⁰⁹ The General Assembly shall pass all such Laws as may be necessary more fully to carry into effect the provisions of this Article.

ARTICLE XIV.

AMENDMENTS TO THE CONSTITUTION.

SEC. 1.²¹⁰ The General Assembly may propose amendments to this Constitution; provided that each amendment shall be embraced in a separate bill, embodying the Article or Section, as the same will stand when amended and passed by three-fifths of all the members elected to each of the two Houses, by yeas and nays, to be entered on the Journals with the proposed amendment. The requirement in this section that an amendment proposed by the General Assembly shall be embraced in a separate bill shall not be construed or applied to prevent the General Assembly from (1) proposing in one bill a series of amendments to the Constitution of Maryland for the general purpose of removing or correcting constitutional provisions which are obsolete, inaccurate, invalid, unconstitutional, or duplicative; or (2) embodying in a single Constitutional amendment one or more Articles of the Constitution so long as

that Constitutional amendment embraces only a single subject. The bill or bills proposing amendment or amendments shall be publicized, either by publishing, by order of the Governor, in at least two newspapers, in each County, where so many may be published, and where not more than one may be published, then in that newspaper, and in three newspapers published in the City of Baltimore, once a week for four weeks, or as otherwise ordered by the Governor in a manner provided by law, immediately preceding the next ensuing general election, at which the proposed amendment or amendments shall be submitted, in a form to be prescribed by the General Assembly, to the qualified voters of the State for adoption or rejection. The votes cast for and against said proposed amendment or amendments, severally, shall be returned to the Governor, in the manner prescribed in other cases, and if it shall appear to the Governor that a majority of the votes cast at said election on said amendment or amendments, severally, were cast in favor thereof, the Governor shall, by his proclamation, declare the said amendment or amendments having received said majority of votes, to have been adopted by the people of Maryland as part of the Constitution thereof, and thenceforth said amendment or amendments shall be part of the said Constitution. If the General Assembly determines that a proposed Constitutional amendment affects only one county or the City of Baltimore, the proposed amendment shall be part of the Constitution if it receives a majority of the votes cast in the State and in the affected county or City of Baltimore, as the case may be. When two or more amendments shall be submitted to the voters of this State at the same election, they shall be so submitted as that each amendment shall be voted on separately.

SEC. 1A.²¹¹ A proposed Constitutional amendment which, by provisions that are of limited duration, provides for a period of transition, or a unique schedule under which the terms of the amendment are to become effective, shall set forth those provisions in the amendment as a section or sections of a separate article, to be known as "provisions of limited duration", and state the date upon which or the circumstances under which those provisions shall expire. If the Constitutional amendment is adopted, those provisions of limited duration shall have the same force and effect as any other part of the Constitution, except that they shall remain a part of the Constitution only so long as their terms require. Each new section of the article known as "provisions of limited duration" shall refer to the title and section of the other article of the Constitution of which it, temporarily, is a part.

SEC. 2.²¹² It shall be the duty of the General Assembly to provide by Law for taking, at the general election to be held in the year nineteen hundred and seventy, and every twenty years thereafter, the sense of the People in regard to calling a Convention for altering this Constitution; and if a majority of voters at such election or elections shall vote for a Convention, the General Assembly, at its next session, shall provide by Law for the assembling of such convention, and for the election of

²⁰⁷ Amended by Chapter 362, Acts of 1890, ratified Nov. 3, 1891.

²⁰⁸ Amended by Chapter 618, Acts of 1947, ratified Nov. 2, 1948; Chapter 550, Acts of 1976, ratified Nov. 2, 1976; Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²⁰⁹ Originally Article XIII, sec. 6, this section was renumbered with the repeal of sections 2 through 5 by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²¹⁰ Amended by Chapter 476, Acts of 1943, ratified Nov. 7, 1944; Chapter 367, Acts of 1972, ratified Nov. 7, 1972; Chapter 679, Acts of 1977, and Chapter 975, Acts of 1978, ratified Nov. 7, 1978.

²¹¹ Added by Chapter 680, Acts of 1977, ratified Nov. 7, 1978.

²¹² Amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956.

Delegates thereto. Each County, and Legislative District of the City of Baltimore, shall have in such Convention a number of Delegates equal to its representation in both Houses at the time at which the Convention is called. But any Constitution, or change, or amendment of the existing Constitution, which may be adopted by such Convention, shall be submitted to the voters of this State, and shall have no effect unless the same shall have been adopted by a majority of the voters voting thereon.

ARTICLE XV.

MISCELLANEOUS.

SECTION 1.²¹³ Every person holding any office created by, or existing under the Constitution, or Laws of the State, or holding any appointment under any Court of this State, whose pay, or compensation is derived from fees, or moneys coming into his hands for the discharge of his official duties, or, in any way, growing out of, or connected with his office, shall keep a book in which shall be entered every sum, or sums of money, received by him, or on his account, as a payment or compensation for his performance of official duties, a copy of which entries in said book, verified by the oath of the officer, by whom it is directed to be kept, shall be returned yearly to the Comptroller of the State for his inspection, and that of the General Assembly of the State, to which the Comptroller shall, at each regular session thereof, make a report showing what officers have complied with this Section; and each of the said officers, when the amount received by him for the year shall exceed the sum which he is by Law entitled to retain, as his salary or compensation for the discharge of his duties, and for the expenses of his office, shall yearly pay over to the Treasurer of the State the amount of such excess, subject to such disposition thereof as the General Assembly may direct; if any of such officers shall fail to comply with the requisitions of this section for the period of thirty days after the expiration of each and every year of his office, such officer shall be deemed to have vacated his office, and the Governor shall declare the same vacant, and the vacancy therein shall be filled as in the case of vacancy for any other cause, and such officer shall be subject to suit by the State for the amount that ought to be paid into the Treasury.

SEC. 2.²¹⁴ Any elected official of the State, or of a county or of a municipal corporation who during his term of office is convicted of or enters a plea of nolo contendere to any crime which is a felony, or which is a misdemeanor related to his public duties and responsibilities and involves moral turpitude for which the penalty may be incarceration in any penal institution, shall be suspended by operation of law without pay or benefits from the elective office. During and for the period of suspension of the elected

official, the appropriate governing body and/ or official authorized by law to fill any vacancy in the elective office shall appoint a person to temporarily fill the elective office, provided that if the elective office is one for which automatic succession is provided by law, then in such event the person entitled to succeed to the office shall temporarily fill the elective office. If the conviction becomes final, after judicial review or otherwise, such elected official shall be removed from the elective office by operation of Law and the office shall be deemed vacant. If the conviction of the elected official is reversed or overturned, the elected official shall be reinstated by operation of Law to the elective office for the remainder, if any, of the elective term of office during which he was so suspended or removed, and all pay and benefits shall be restored.

SEC. 3.²¹⁵ No person who is a member of an organization that advocates the overthrow of the Government of the United States or of the State of Maryland through force or violence shall be eligible to hold any office, be it elective or appointive, or any other position of profit or trust in the Government of or in the administration of the business of this State or of any county, municipality or other political subdivision of this State.

SEC. 4.²¹⁶ Vacant.

SEC. 5.²¹⁷ Except as the Constitution provides otherwise for any office, the General Assembly may provide by law for a person to act in place of any elected or appointed officer of the State who is unavailable to perform the duties of his office because he has become unable or is or will be absent.

SEC. 6.²¹⁸ Vacant.

SEC. 7.²¹⁹ All general elections in this State shall be held on the Tuesday next after the first Monday in the month of Nov., in the year in which they shall occur.

SEC. 8.²²⁰ Vacant.

SEC. 9.²²¹ Vacant.

SEC. 10.²²² Vacant.

SEC. 11.²²³ Vacant.

ARTICLE XVI.²²⁴

THE REFERENDUM.

SECTION 1. (a) The people reserve to themselves power known as The Referendum, by petition to have submitted to the registered voters of the State, to approve or reject at the polls, any Act, or part of any Act of the General Assembly, if approved by the Governor, or, if passed by the General Assembly over the veto of the Governor;

²¹³ Amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956; Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²¹⁴ Originally Article XV, sec. 3, renumbered by Chapter 681, Acts of 1977, ratified Nov. 7, 1978. As sec. 3 it was amended by Chapter 879, Acts of 1974, ratified Nov. 5, 1974.

²¹⁵ Originally Article XV, sec. 11, renumbered by Chapter 681, Acts of 1977, ratified Nov. 7, 1978. As sec. 11 it was added by Chapter 721, Acts of 1947, ratified Nov. 2, 1948.

²¹⁶ Transferred to Article XVII, sec. 8, by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²¹⁷ Added by Chapter 974, Acts of 1978, ratified Nov. 7, 1978. The previous sec. 5 was transferred to Article 23 of the Declaration of Rights by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²¹⁸ Transferred to Article 23 of the Declaration of Rights by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²¹⁹ Amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956.

²²⁰ Repealed by Chapter 99, Acts of 1956, ratified Nov. 6, 1956.

²²¹ Transferred to Article XVII, sec. 4, by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²²² Transferred to Article I, sec. 10, by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²²³ Transferred to Article XV, sec. 3, by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²²⁴ Added by Chapter 673, Acts of 1914, ratified Nov. 2, 1915.

(b) The provisions of this Article shall be self-executing; provided that additional legislation in furtherance thereof and not in conflict therewith may be enacted.

SEC. 2.²²⁵ No law enacted by the General Assembly shall take effect until the first day of June next after the session at which it may be passed, unless it contains a Section declaring such law an emergency law and necessary for the immediate preservation of the public health or safety and is passed upon a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly. The effective date of a law other than an emergency law may be extended as provided in Section 3 (b) hereof. If before said first day of June there shall have been filed with the Secretary of the State a petition to refer to a vote of the people any law or part of a law capable of referendum, as in this Article provided, the same shall be referred by the Secretary of State to such vote, and shall not become a law or take effect until thirty days after its approval by a majority of the electors voting thereon at the next ensuing election held throughout the State for Members of the House of Representatives of the United States. An emergency law shall remain in force notwithstanding such petition, but shall stand repealed thirty days after having been rejected by a majority of the qualified electors voting thereon. No measure creating or abolishing any office, or changing the salary, term or duty of any officer, or granting any franchise or special privilege, or creating any vested right or interest, shall be enacted as an emergency law. No law making any appropriation for maintaining the State Government, or for maintaining or aiding any public institution, not exceeding the next previous appropriation for the same purpose, shall be subject to rejection or repeal under this Section. The increase in any such appropriation for maintaining or aiding any public institution shall only take effect as in the case of other laws, and such increase or any part thereof specified in the petition, may be referred to a vote of the people upon petition.

SEC. 3.²²⁶ (a) The referendum petition against an Act or part of an Act passed by the General Assembly, shall be sufficient if signed by three percent of the qualified voters of the State of Maryland, calculated upon the whole number of votes cast for Governor at the last preceding Gubernatorial election, of whom not more than half are residents of Baltimore City, or of any one County. However, any Public Local Law for any one County or the City of Baltimore, shall be referred by the Secretary of State only to the people of the County or City of Baltimore, upon a referendum petition of ten percent of the qualified voters of the County or City of Baltimore, as the case may be, calculated upon the whole number of votes cast respectively for Governor at the last preceding Gubernatorial election.

(b) If more than one-third, but less than the full number of signatures required to complete any referendum petition against any law passed by the General Assembly, be filed with the Secretary of State before the first day of June, the time for the law to take effect and for filing the remainder of signatures to complete the petition shall be extended to the thirtieth day of the same month, with like effect.

If an Act is passed less than 45 days prior to June 1, it may not become effective sooner than 31 days after its

passage. To bring this Act to referendum, the first one-third of the required number of signatures to a petition shall be submitted within 30 days after its passage. If the first one-third of the required number of signatures is submitted to the Secretary of State within 30 days after its passage, the time for the Act to take effect and for filing the remainder of the signatures to complete the petition shall be extended for an additional 30 days.

(c) In this Article, "pass" or "passed" means any final action upon any Act or part of an Act by both Houses of the General Assembly; and "enact" or "enacted" means approval of an Act or part of an Act by the Governor.

(d) Signatures on a petition for referendum on an Act or part of an Act may be signed at any time after the Act or part of an Act is passed.

SEC. 4.²²⁷ A petition may consist of several papers, but each paper shall contain the full text, or an accurate summary approved by the Attorney General, of the Act or part of Act petitioned. There shall be attached to each paper of signatures filed with a petition an affidavit of the person procuring those signatures that the signatures were affixed in his presence and that, based upon the person's best knowledge and belief, every signature on the paper is genuine and bona fide and that the signers are registered voters at the address set opposite or below their names. The General Assembly shall prescribe by law the form of the petition, the manner for verifying its authenticity, and other administrative procedures which facilitate the petition process and which are not in conflict with this Article.

SEC. 5. (a) The General Assembly shall provide for furnishing the voters of the State the text of all measures to be voted upon by the people; provided, that until otherwise provided by law the same shall be published in the manner prescribed by Article XIV of the Constitution for the publication of proposed Constitutional Amendments.

(b) All laws referred under the provisions of this Article shall be submitted separately on the ballots to the voters of the people, but if containing more than two hundred words, the full text shall not be printed on the official ballots, but the Secretary of State shall prepare and submit a ballot title of each such measure in such form as to present the purpose of said measure concisely and intelligently. The ballot title may be distinct from the legislative title, but in any case the legislative title shall be sufficient. Upon each of the ballots, following the ballot title or text, as the case may be, of each such measure, there shall be printed the words "For the referred law" and "Against the referred law," as the case may be. The votes cast for and against any such referred law shall be returned to the Governor in the manner prescribed with respect to proposed amendments to the Constitution under Article XIV of this Constitution, and the Governor shall proclaim the result of the election, and, if it shall appear that the majority of the votes cast on any such measure were cast in favor thereof, the Governor shall by his proclamation declare the same having received a majority of the votes to have been adopted by the people of Maryland as a part of the laws of the State, to take effect thirty days after such election, and in like manner and with like effect the Governor shall proclaim the result of the local election as to any Public Local Law which shall have been submitted to the voters of any County or of the City of Baltimore.

²²⁵ Amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²²⁶ Amended by Chapter 548, Acts of 1976, ratified Nov. 2, 1976. Sec. 3(a) previously amended by Chapter 6, Acts of 1962, ratified Nov. 6, 1962.

²²⁷ Amended by Chapter 548, Acts of 1976, ratified Nov. 2, 1976; Chapter 849, Acts of 1982, ratified Nov. 2, 1982.

SEC. 6.²²⁸ No law, licensing, regulating, prohibiting, or submitting to local option, the manufacture or sale of malt or spirituous liquors, shall be referred or repealed under the provisions of this Article.

ARTICLE XVII.²²⁹

QUADRENNIAL ELECTIONS.

SEC. 1.²³⁰ The purpose of this Article is to reduce the number of elections by providing that all State and county elections shall be held only in every fourth year, and at the time provided by law for holding congressional elections, and to bring the terms of appointive officers into harmony with the changes effected in the time of the beginning of the terms of elective officers. The administrative and judicial officers of the State shall construe the provisions of this Article so as to effectuate that purpose. For the purpose of this Article only the word "officers" shall be construed to include those holding positions and other places of employment in the State and county governments whose terms are fixed by law, but it shall not include any appointments made by the Board of Public Works, nor appointments by the Governor for terms of three years.

SEC. 2.²³¹ Vacant.

SEC. 3.²³² All State and county officers elected by qualified voters (except judges of the Circuit Courts, judges of the Supreme Bench of Baltimore City, judges of the Court of Appeals and judges of any intermediate courts of appeal) shall hold office for terms of four years, and until their successors shall qualify.

SEC. 4.²³³ The term of office of all Judges and other officers, for whose election provision is made by this Constitution, shall, except in cases otherwise expressly provided herein, commence from the time of their Election. All such officers shall qualify as soon after their election as practicable, and shall enter upon the duties of their respective offices immediately upon their qualification.

SEC. 5.²³⁴ All officers to be appointed by the Governor shall hold office for the terms fixed by law. All officers appointed by County Commissioners shall hold office for terms of four years, unless otherwise duly changed by law.

SEC. 6.²³⁵ The terms of the members of the Board of Supervisors of Elections of Baltimore City and of the several counties shall commence on the first Monday of June next ensuing their appointment.

SEC. 7.²³⁶ Sections 1, 2, 3, and 5 of this Article do not apply or refer to members of any elective local board of education.

SEC. 8.²³⁷ If at any election directed by this Constitution, any two or more candidates shall have the highest and an equal number of votes, a new election shall be ordered by the Governor, except in cases specially provided for by this Constitution.

SEC. 9.²³⁸ In the event of any inconsistency between the provisions of this Article and any of the other provisions of the Constitution, the provisions of this Article shall prevail, and all other provisions shall be repealed or abrogated to the extent of such inconsistency.

SEC. 10.²³⁹ Vacant.

SEC. 11.²⁴⁰ Vacant.

SEC. 12.²⁴¹ Vacant.

SEC. 13.²⁴² Vacant.

ARTICLE XVIII.²⁴³

PROVISIONS OF LIMITED DURATION.

SEC. 1. Any provision of limited duration adopted pursuant to Article XIV is set forth below. As each expires, it shall stand repealed, and no further action shall be required to remove it from the Constitution.

SEC. 2.²⁴⁴ (a) For the purpose of implementing the amendments, proposed by Chapter 523 of the Acts of 1980 (H.B. 1729) (OLR3623) or (S.B. 784) (OLR0746), concerning the creation of a consolidated Circuit Court of Baltimore City, this section temporarily is a part of Article IV—Judiciary Department, secs. 5, 25, and 26 of the Constitution. This section shall expire (in accordance with Article XIV, sec. 1A of the Constitution), when, under the provisions of subsection (b) of this section, all of the judges of the Supreme Bench of Baltimore City who are serving on December 31, 1982 have completed their then existing terms, or have otherwise vacated their offices without completing those terms.

(b) Each judge of the Supreme Bench of Baltimore City, who is in office on December 31, 1982, shall continue in office as a judge of the Circuit Court for Baltimore City, for the remainder of the term to which he was appointed or elected, subject to the provisions of Article IV, sections 3, 4, 4A, 4B, and 5 of the Constitution.

²²⁸ Amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²²⁹ Added by Chapter 227, Acts of 1922, ratified Nov. 7, 1922.

²³⁰ Originally Article XVII, sec. 11, transferred and amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²³¹ Left vacant by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²³² Originally Article XVII, sec. 1(a), transferred and amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978. As sec. 1(a) it was amended by Chapter 10, Acts of 1966, ratified Nov. 8, 1966; Chapter 370, Acts of 1972, ratified Nov. 7, 1972.

²³³ Originally Article XV, sec. 9, transferred and amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²³⁴ Originally Article XVII, sec. 4, transferred by Chapter 681, Acts of 1977, ratified Nov. 7, 1978. As sec. 4 it was amended by Chapter 99, Acts of 1956, ratified Nov. 6, 1956.

²³⁵ Originally Article XVII, sec. 8, transferred by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²³⁶ Originally Article XVII, sec. 1(b), transferred and amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978. As sec. 1(b) it was amended by Chapter 10, Acts of 1966, ratified Nov. 8, 1966; Chapter 370, Acts of 1972, ratified Nov. 7, 1972.

²³⁷ Transferred from Article XV, sec. 4, by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²³⁸ Transferred from Article XVII, sec. 13, by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²³⁹ Repealed by Chapter 99, Acts of 1956, ratified Nov. 6, 1956.

²⁴⁰ Amended and transferred to Article XVII, sec. 1, by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²⁴¹ Repealed by Chapter 99, Acts of 1956, ratified Nov. 6, 1956.

²⁴² Transferred to Article XVII, sec. 9, by Chapter 681, Acts of 1977, ratified Nov. 7, 1978.

²⁴³ Added by Chapter 680, Acts of 1977, ratified Nov. 7, 1978.

²⁴⁴ Added by Chapter 523, Acts of 1980, ratified Nov. 4, 1980.

(c) Each clerk and each deputy clerk of a court of the Supreme Bench of Baltimore City who is in office on December 31, 1982 shall become a deputy clerk of the Circuit Court for Baltimore City with no diminution of salary and as such shall occupy a position in the personnel merit system for the office of the clerk of the Circuit Court for Baltimore City. These persons shall serve subject to the provisions of Article IV, section 26 of the Constitution. Each person who otherwise has been employed in the office of a clerk of a court of the Supreme Bench of Baltimore City in a position authorized prior to June 30, 1982, shall become an employee of the office of the clerk of the Circuit Court for Baltimore City and occupy a position in the personnel merit system for that office, with no diminution in salary, subject to the provisions of Article IV, section 26 of the Constitution.

(d) At the primary and general elections occurring in 1982 in Baltimore City, there shall be nominated and elected one clerk who shall be designated as clerk of the Circuit Court for Baltimore City as created under the amendments proposed in section 2 of said Chapter 523, Acts of 1980. A clerk of one of the courts of the Supreme Bench of Baltimore City is eligible to run in this election.

(e) The amendments to Article IV and this Article XVIII of the Constitution (proposed by the above referenced Chapter 523 of the Acts of 1980) if approved by the voters at the general election in Nov., 1980, shall take effect on January 1, 1983.

SEC. ³²⁴⁵ Of the methods of election of county commissioners authorized by Section 1 of Article VII, and of members of county councils authorized by Section 3A(a) of Article XI-A, of this Act, that method in effect in each county immediately preceding the effective date of this Act shall remain in effect unless changed on or after that date pursuant to this Constitution.

SEC. ⁴²⁴⁶ (a) For the purpose of implementing the amendment proposed by House Bill 635 of 1994 concerning the boundaries of the appellate judicial circuits from which members of the Court of Appeals are appointed, this section temporarily is part of Article IV—Judiciary Department, Section 14 of the Constitution. This section shall expire, in accordance with Article XVI, Section 1A of the Constitution, when under the provisions of subsections (b), (c), (d), and (e) of this section, all of the judges of the Court of Appeals on January 12, 1994, or their successors appointed before the effective date of House Bill 635 of 1994 have vacated their offices.

(b) Except as provided in subsection (d) of this section, the provisions of House Bill 635 of 1994 may not be construed to limit or otherwise affect the terms or appointments of the judges of the Court of Appeals who are in office on the effective date of House Bill 635 of 1994.

(c) The judges of the Court of Appeals in office on January 12, 1994, or their successors, shall be deemed to be serving appointments as follows:

(1) Judge Robert F. Karwacki of Queen Anne's County and currently representing the First Appellate Judicial Circuit, shall continue on the Court as an appointee from the new First Appellate Judicial Circuit;

(2) Judge Robert C. Murphy of Baltimore County and currently representing the Second Appellate Judicial Circuit, shall continue on the Court as an appointee from the Second Appellate Judicial Circuit;

(3) Judge John C. Eldridge of Anne Arundel County and currently representing the Fifth Appellate Judicial Circuit, shall continue on the Court as an appointee from the new Fifth Appellate Judicial Circuit;

(4) Judge Howard S. Chasanow of Prince George's County and currently representing the Fourth Appellate Judicial Circuit, shall continue on the Court as an appointee from the new Fourth Appellate Judicial Circuit;

(5) Judge Irma S. Raker of Montgomery County and currently representing the Third Appellate Judicial Circuit, shall continue on the Court as an appointee from the new Seventh Appellate Judicial Circuit;

(6) Judge Robert M. Bell of Baltimore City and currently representing the Sixth Appellate Judicial Circuit, shall continue on the Court as an appointee from the Sixth Appellate Judicial Circuit; and

(7) Judge Lawrence F. Rodowsky of Baltimore City and currently representing the Sixth Judicial Circuit, shall continue on the Court as an appointee from the new Third Appellate Judicial Circuit.

(d) An appointment to fill a vacancy on the Court of Appeals, following the adoption of the amendment proposed by House Bill 635 of 1994 by the voters of this State in accordance with the provisions of Article XIV of the Constitution of the State, shall be made in accordance with the provisions of Article IV, Section 14 of the Constitution of the State.

(e) Each judge of the Court of Appeals in office on January 12, 1994, or the judge's successor, shall be eligible to continue to serve on the Court:

(1) In accordance with the provisions of subsection (c) of this Section; and

(2) Upon election from the new circuits established under Article IV, Section 14 of the Constitution of the State following the adoption of the amendment proposed by House Bill 635 of 1994 by the voters of this State in accordance with the provisions of Article XIV of the Constitution of the State, except that Judge Lawrence F. Rodowsky of Baltimore City, if otherwise eligible to continue to serve on the Court but for his lack of residence in the new Third Appellate Judicial Circuit, shall be eligible to continue to serve on the Court upon election statewide.

245 Added by Chapter 707, Acts of 1986, ratified Nov. 4, 1986.

246 Added by Chapter 103, Acts of 1994, ratified Nov. 8, 1994.

APPENDIX 3. COMMUNICABLE DISEASES REQUIRING REPORT

Health Care Providers:

MD. REGS. CODE tit. 10, § 06.01.03(B)

The list of diseases and conditions for health care providers is: (Those marked with an asterisk must be reported immediately by phone.)

- (1) Amebiasis;
- (2) Animal bites*;
- (3) Anthrax*;
- (3-1) Arboviral infections, including, but not limited to:
 - (a) Eastern equine encephalitis;
 - (b) LaCrosse virus;
 - (c) St. Louis encephalitis;
 - (d) Yellow fever;
 - (e) Western equine encephalitis; and
 - (f) West Nile virus.
- (4) Botulism*;
- (5) Brucellosis*;
- (6) Campylobacter infection;
- (7) Chancroid;
- (8) Chlamydia infection;
- (9) Cholera*;
- (10) Coccidioidomycosis;
- (11) Cryptosporidiosis;
- (12) Cyclosporiasis;
- (13) Dengue fever*;
- (14) Diphtheria*;
- (15) Ehrlichiosis;
- (16) Encephalitis;
- (17) Epsilon toxin of *Clostridium perfringens**;
- (18) *Escherichia coli* O157:H7 infection;
- (19) Giardiasis;
- (20) Glanders*;
- (21) Gonococcal infection;
- (22) *Haemophilus influenzae*, invasive disease*;
- (23) Hantavirus infection*;
- (23-1) Harmful algal bloom related illness;
- (24) Hepatitis, Viral (A, B, C, Delta, non-ABC, E, F, G, undetermined);
- (25) Isosporiasis;
- (26) Kawasaki syndrome;
- (27) Legionellosis*;
- (28) Leprosy;
- (29) Leptospirosis;
- (30) Listeriosis;
- (31) Lyme disease;

- (32) Malaria;
- (33) Measles (rubeola)*;
- (34) Meningitis, infectious;
- (35) Meningococcal invasive disease*;
- (36) Microsporidiosis;
- (37) Mumps (infectious parotitis);
- (38) Mycobacteriosis, other than tuberculosis and leprosy;
- (39) Pertussis*;
- (40) Pertussis vaccine adverse reactions;
- (40-1) Pesticide related illness;
- (41) Plague*;
- (41-1) Pneumonia in a health care worker resulting in hospitalization;
- (42) Poliomyelitis*;
- (43) Psittacosis;
- (44) Q Fever*;
- (45) Rabies*;
- (46) Ricin toxin*;
- (47) Rocky Mountain spotted fever;
- (48) Rubella (German measles) and congenital rubella syndrome*;
- (49) Salmonellosis (non-typhoid fever types);
- (50) Septicemia in newborns;
- (50-1) Severe acute respiratory syndrome (SARS)*;
- (51) Shiga-like toxin producing enteric bacterial infections;
- (52) Shigellosis;
- (53) Smallpox and other orthopoxvirus infections*;
- (54) Staphylococcal enterotoxin B*;
- (55) Streptococcal invasive disease, Group A;
- (56) Streptococcal invasive disease, Group B;
- (57) Streptococcus pneumoniae, invasive disease;
- (58) Syphilis;
- (59) Tetanus;
- (60) Trichinosis;
- (61) Tuberculosis* and suspected tuberculosis* as indicated by:
 - (a) A laboratory confirmed acid-fast bacillus on smear;
 - (b) An abnormal chest radiograph suggestive of active tuberculosis;
 - (c) A laboratory confirmed biopsy report consistent with active tuberculosis; or
 - (d) Initiation of two or more anti-tuberculosis medications;
- (62) Tularemia*;
- (63) Typhoid fever (case or carrier, or both, of Salmonella typhi)*;
- (64) Varicella (chickenpox), fatal cases only;
- (65) Vibriosis, non-cholera types, (except as provided in §D of this regulation);
- (66) Viral hemorrhagic fevers (all types)*;
- (67) Yellow fever*; and
- (68) Yersiniosis.

Medical Laboratories:

MD. CODE ANN., HEALTH-GEN. I § 18-205 (Supp. 2004).

(c) List of reportable diseases or conditions. -- The diseases or conditions reportable by a medical laboratory director under this section are:

- (1) Amoebiasis.
- (2) Anthrax.
- (3) Arbovirus infection (all types).
- (4) Bacteremia in newborns.
- (5) Botulism.
- (6) Brucellosis.
- (7) Campylobacter infection.
- (8) CD 4+ count, if less than 200/MM3.
- (9) Chlamydia infection.
- (10) Cholera.
- (11) Coccidioidomycosis.
- (12) Cryptosporidiosis.
- (13) Cyclosporiasis.
- (14) Dengue fever.
- (15) Diphtheria.
- (16) Ehrlichiosis.
- (17) Encephalitis, infectious.
- (18) E. Coli 0157infection.
- (19) Giardiasis.
- (20) Gonorrhea.
- (21) Haemophilus influenzae, invasive disease.
- (22) Hansen disease (leprosy).
- (23) Hantavirus infection.
- (24) Hepatitis, viral, types A, B, C, and other types.
- (25) Human immunodeficiency virus infection.
- (26) Isosporiasis.
- (27) Legionellosis.
- (28) Leptospirosis.
- (29) Listeriosis.
- (30) Lyme disease.
- (31) Malaria.
- (32) Measles.
- (33) Meningococcal invasive disease.
- (34) Meningitis, infectious.
- (35) Microsporidiosis.
- (36) Mumps.
- (37) Pertussis.
- (38) Pesticide related illness.
- (39) Plague.
- (40) Poliomyelitis.

- (41) Psittacosis.
- (42) Q fever.
- (43) Rabies.
- (44) Ricin toxin.
- (45) Rocky Mountain spotted fever.
- (46) Rubella and congenital rubella syndrome.
- (47) Salmonellosis (nontyphoid fever types).
- (48) Severe acute respiratory syndrome.
- (49) Shiga-like toxin production.
- (50) Shigellosis.
- (51) Smallpox and other orthopox viruses.
- (52) Staphylococcal enterotoxin.
- (53) Streptococcal invasive disease, group A.
- (54) Streptococcal invasive disease, group B.
- (55) Streptococcus pneumoniae, invasive disease.
- (56) Syphilis.
- (57) Trichinosis.
- (58) Tuberculosis.
- (59) Tularemia.
- (60) Typhoid fever.
- (61) Varicella (chickenpox), fatal cases only.
- (62) Vibriosis, noncholera.
- (63) Viral hemorrhagic fevers (all types).
- (64) Yellow fever.
- (65) Yersiniosis.

APPENDIX 4. CATASTROPHIC HEALTH EMERGENCIES ACT

As codified as amended at MD. CODE ANN., PUB. SAFETY §§ 14-3A-01 – 14-3A-08 (Supp. 2004) and MD. CODE ANN., HEALTH-GEN. I §§ 18-901 – 18-908 (Supp. 2004).

MD. CODE ANN., PUB. SAFETY § 14-3A-01. Definitions

- (a) In general. -- In this subtitle the following words have the meanings indicated.
- (b) Catastrophic health emergency. -- "Catastrophic health emergency" means a situation in which extensive loss of life or serious disability is threatened imminently because of exposure to a deadly agent.
- (c) Deadly agent. -- "Deadly agent" means:
 - (1) anthrax, ebola, plague, smallpox, tularemia, or other bacterial, fungal, rickettsial, or viral agent, biological toxin, or other biological agent capable of causing extensive loss of life or serious disability;
 - (2) mustard gas, nerve gas, or other chemical agent capable of causing extensive loss of life or serious disability; or
 - (3) radiation at levels capable of causing extensive loss of life or serious disability.
- (d) Exposure to a deadly agent. -- "Exposure to a deadly agent" means a threat to human health caused by the release, distribution, or transmission of a deadly agent in:
 - (1) this State; or
 - (2) another jurisdiction because of movement into the State of the deadly agent or of individuals exposed to the deadly agent.
- (e) Health care provider. -- "Health care provider" means:
 - (1) a health care facility as defined in § 19-114(e)(1) of the Health - General Article;
 - (2) a health care practitioner as defined in § 19-114(f) of the Health - General Article; and
 - (3) an individual licensed or certified as an emergency medical services provider under § 13-516 of the Education Article.
- (f) Secretary. -- "Secretary" means the Secretary of Health and Mental Hygiene.

MD. CODE ANN., PUB. SAFETY § 14-3A-02. Governor's proclamation

- (a) In general. -- If the Governor determines that a catastrophic health emergency exists, the Governor may issue a proclamation under this subtitle.
- (b) Contents of proclamation. -- The proclamation shall indicate:
 - (1) the nature of the catastrophic health emergency;
 - (2) the areas threatened or affected; and
 - (3) the conditions that:
 - (i) led to the catastrophic health emergency; or
 - (ii) made possible the termination of the emergency.
- (c) Duration of proclamation. --
 - (1) The Governor shall rescind a proclamation issued under this section whenever the Governor determines that the catastrophic health emergency no longer exists.
 - (2) Unless renewed, the proclamation expires 30 days after issuance.

(3) The Governor may renew the proclamation for successive periods, each not to exceed 30 days, if the Governor determines that a catastrophic health emergency continues to exist.

MD. CODE ANN., PUB. SAFETY § 14-3A-03. Governor's orders

(a) In general. -- After the Governor issues a proclamation under this subtitle, the Governor may issue the orders authorized in this section.

(b) To the Secretary or designee. --

(1) The Governor may order the Secretary or other designated official to:

- (i) seize immediately anything needed to respond to the medical consequences of the catastrophic health emergency; and
- (ii) work collaboratively, to the extent feasible, with health care providers to designate and gain access to a facility needed to respond to the catastrophic health emergency.

(2) The Governor may order the Secretary or other designated official to control, restrict, or regulate the use, sale, dispensing, distribution, or transportation of anything needed to respond to the medical consequences of the catastrophic health emergency by:

- (i) rationing or using quotas;
- (ii) creating and distributing stockpiles;
- (iii) prohibiting shipments;
- (iv) setting prices; or
- (v) taking other appropriate actions.

(3) If medically necessary and reasonable to treat, prevent, or reduce the spread of the disease or outbreak believed to have been caused by the exposure to a deadly agent, the Governor may order the Secretary or other designated official to:

- (i) require individuals to submit to medical examination or testing;
- (ii) require individuals to submit to vaccination or medical treatment unless the vaccination or treatment likely will cause serious harm to the individual;
- (iii) establish places of treatment, isolation, and quarantine; or
- (iv) require individuals to go to and remain in places of isolation or quarantine until the Secretary or other designated official determines that the individuals no longer pose a substantial risk of transmitting the disease or condition to the public.

(c) To health care provider. -- The Governor may order any health care provider, who does not voluntarily participate, to participate in disease surveillance, treatment, and suppression efforts or otherwise comply with the directives of the Secretary or other designated official.

(d) To the public. --

(1) The Governor may order the evacuation, closing, or decontamination of any facility.

(2) If necessary and reasonable to save lives or prevent exposure to a deadly agent, the Governor may order individuals to remain indoors or refrain from congregating.

MD. CODE ANN., PUB. SAFETY § 14-3A-04. Isolation or quarantine after refusal to be tested or treated

The Secretary may require an individual to go to and remain in a place of isolation or quarantine until the Secretary determines that the individual no longer poses a substantial risk of transmitting a disease or condition to the public if the individual:

- (1) is a competent adult; and
- (2) refuses an order under § 14-3A-03(b)(3) of this subtitle for:
 - (i) vaccination;
 - (ii) medical examination;
 - (iii) treatment; or
 - (iv) testing.

MD. CODE ANN., PUB. SAFETY § 14-3A-05. Directive for isolation or quarantine

(a) In general. -- If the Secretary or other designated official requires an individual or a group of individuals to go to and remain in places of isolation or quarantine under § 14-3A-03(b)(3) of this subtitle, the Secretary shall issue a directive to the individual or group of individuals.

(b) Contents and notice. --

- (1) The directive shall specify:
 - (i) the identity of the individual or group of individuals that are subject to isolation or quarantine;
 - (ii) the premises that are subject to isolation or quarantine;
 - (iii) the date and time when the isolation or quarantine starts;
 - (iv) the suspected deadly agent causing the outbreak or disease, if known;
 - (v) the justification for the isolation or quarantine; and
 - (vi) the availability of a hearing to contest the directive.
- (2) Except as provided in paragraph (3) of this subsection, the directive shall be:
 - (i) in writing; and
 - (ii) given to those subject to the directive before the directive takes effect.
- (3)
 - (i) If the Secretary or other designated official determines that the notice required in paragraph (2) of this subsection is impractical because of the number of individuals or geographical areas affected, the Secretary or other designated official shall ensure that the affected individuals are fully informed of the directive using the best possible means available.
 - (ii) If the directive applies to a group of individuals and it is impractical to provide individual written copies under paragraph (2) of this subsection, the written directive may be posted in a conspicuous place in the isolation or quarantine premises.

(c) Hearing. --

- (1) An individual or group of individuals isolated or quarantined under § 14-3A-03(b)(3) of this subtitle may request a hearing in a circuit court to contest the isolation or quarantine.

- (2) A request for a hearing does not stay or enjoin an isolation or quarantine directive.
- (3) A court that receives a request under this subsection shall hold a hearing within 3 days after receipt of the request.
- (4) In any proceedings brought for relief under this subsection, the court may extend the time for a hearing:
- (i) if the Secretary or other designated official shows that extraordinary circumstances exist that justify the extension; and
 - (ii) after considering the rights of the affected individual or group of individuals, the protection of the public health, the severity of the catastrophic health emergency, and the availability of any necessary witnesses and evidence.
- (5) (i) The court shall grant the request for relief unless the court determines that the isolation or quarantine directive is necessary and reasonable to prevent or reduce the spread of the disease or outbreak believed to have been caused by the exposure to a deadly agent.
- (ii) The court in making its determination may consider, if feasible, the means of transmission, the degree of contagion, and, to the extent possible, the degree of public exposure to the disease.
- (6) Subject to paragraph (7) of this subsection, if the court issues an order that authorizes the isolation or quarantine, the order shall:
- (i) identify the isolated or quarantined individual or group of individuals by name or shared characteristics;
 - (ii) specify factual findings warranting isolation or quarantine; and
 - (iii) be in writing and given to the individual or group of individuals.
- (7) If the court determines that the delivery required by paragraph (6)(iii) of this subsection is impractical because of the number of individuals or geographical area affected, the court shall ensure that the affected individuals are fully informed of the order using the best possible means available.
- (d) Duration of court order. –
- (1) An order under subsection (c) of this section may authorize isolation or quarantine for not more than 30 days.
 - (2) Before the order expires, the Secretary or designated official may request the court to continue the isolation or quarantine for additional 30-day periods.
 - (3) The court shall base its decision on the standards provided under subsection (c)(5) of this section.
- (e) Inability to appear. -- If an individual cannot appear personally before the court, proceedings may be conducted:
- (1) by the individual's authorized representative; and
 - (2) in a way that allows full participation by other individuals.
- (f) Procedures. –
- (1) Subject to any emergency rules that the Court of Appeals adopts under paragraph (3) of this subsection, the court may order the consolidation of individual claims into group claims in proceedings brought under this section if:

- (i) the large number of individuals involved or affected makes individual participation impractical;
 - (ii) questions of law or fact that are common to the individual claims or rights must be determined;
 - (iii) the group claims or rights to be determined are typical of the affected individual's claims or rights; or
 - (iv) the entire group will be adequately represented in the consolidation.
- (2) The Court of Appeals shall appoint counsel to represent individuals or a group of individuals who are not otherwise represented by counsel.
- (3) The Court of Appeals shall adopt emergency rules of procedure to facilitate the efficient adjudication of proceedings brought under this section.

MD. CODE ANN., PUB. SAFETY § 14-3A-06. Immunity

A health care provider is immune from civil or criminal liability if the health care provider acts in good faith and under a catastrophic health emergency proclamation.

MD. CODE ANN., PUB. SAFETY § 14-3A-07. Construction

The authority granted under this subtitle is in addition to, and not in derogation of, any other authority that the Governor, the Secretary, or any other public official may exercise under other law.

MD. CODE ANN., PUB. SAFETY § 14-3A-08. Failure to comply

- (a) Prohibited. -- A person may not knowingly and willfully fail to comply with an order, requirement, or directive issued under this subtitle.
- (b) Penalty. -- A person who violates subsection (a) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$ 5,000 or both.

MD. CODE ANN., HEALTH-GEN. I § 18-901. Definitions

- (a) In general. -- In this subtitle the following words have the meanings indicated.
- (b) Catastrophic health emergency. -- "Catastrophic health emergency" has the meaning stated in § 14-3A-01 of the Public Safety Article.
- (c) Deadly agent. -- "Deadly agent" has the meaning stated in § 14-3A-01 of the Public Safety Article.
- (d) Exposure to a deadly agent. -- "Exposure to a deadly agent" has the meaning stated in § 14-3A-01 of the Public Safety Article.
- (e) Health care facility. -- "Health care facility" has the meaning stated in § 19-114(e) (1) of this article.
- (f) Health care practitioner. --

- (1) "Health care practitioner" has the meaning stated in § 19-114 (f) of this article.
- (2) "Health care practitioner" includes an individual licensed or certified as an emergency medical services provider under § 13-516 of the Education Article.
- (g) Health care provider. -- "Health care provider" means:
 - (1) A health care facility; or
 - (2) A health care practitioner.

MD. CODE ANN., HEALTH-GEN. I § 18-902. Authority of Secretary of Health and Mental Hygiene; investigation and prevention of actual or potential exposure

Notwithstanding any other provision of law, the Secretary may exercise the authority granted in this subtitle to:

- (1) Continuously evaluate and modify existing disease surveillance procedures in order to detect a catastrophic health emergency;
- (2) Investigate actual or potential exposures to a deadly agent; and
- (3) Treat, prevent, or reduce the spread of the disease or outbreak believed to have been caused by the exposure to a deadly agent

MD. CODE ANN., HEALTH-GEN. I § 18-903. Development and implementation of contingency plans

- (a) Power of Secretary to require adoption of accredited contingency plans. –
 - (1) In accordance with procedures to be adopted by the Department, the Secretary, in consultation with health care facilities, may require health care facilities to develop and implement contingency plans addressing:
 - (i) Staff training needs;
 - (ii) Stockpiling of equipment, medication, and supplies necessary to address a catastrophic health emergency;
 - (iii) Treatment and decontamination protocols;
 - (iv) The coordination of services with other public and private entities; and
 - (v) Any other area that the Secretary determines is necessary to assist in the early detection and treatment of an individual exposed to a deadly agent.
 - (2) To the extent feasible, the procedures to be adopted by the Department under paragraph (1) of this subsection shall be consistent with accreditation requirements of the Joint Commission on the Accreditation of Health Care Organizations.
- (b) Protocols and plans. -- After consulting with the appropriate licensing board, the Secretary:
 - (1) Shall publish protocols to assist health care practitioners in developing plans to respond to a catastrophic health emergency; and
 - (2) May, if necessary, require health care practitioners to implement the plans developed under item (1) of this subsection.

(c) Process for licensing, certifying or credentialing providers. -- The Secretary shall develop a process to license, certify, or credential health care practitioners who may be needed to respond to a catastrophic health emergency.

MD. CODE ANN., HEALTH-GEN. I § 18-904. Reporting requirements

(a) Information defined. -- In this section, "information" means medical, epidemiological, or other data concerning a specific individual or a group of individuals, regardless of whether the information is otherwise deemed confidential under Title 4 of this article or as otherwise provided under law.

(b) Methods of reporting or disclosing information. -- In order to maintain an effective disease surveillance system for detecting whether individuals have been exposed to a deadly agent, the Secretary may by order, directive, or regulation

(1) Require a health care provider or other person to report information to the Secretary or other public official on the following:

(i) The presence of an individual or group of individuals with specified illnesses or symptoms;

(ii) Diagnostic and laboratory findings relating to diseases caused by deadly agents;

(iii) Statistical or utilization trends relating to potential disease outbreaks;

(iv) Information needed to conduct contact tracing for exposed individuals; and

(v) Other data deemed by the Secretary to have epidemiological significance in detecting possible catastrophic health emergencies;

(2) Obtain access to information in the possession of a health care provider;

(3) Require or authorize a health care provider to disclose information to an agency of the federal, State, or local government or another health care provider;

(4) Require a health care provider or other person to submit reports to the Department containing information detailing the presence and use of deadly agents;

(5) Obtain access to premises in order to secure environmental samples and otherwise investigate actual or potential exposures to deadly agents; and

(6) Require a veterinarian or other person to report data relating to specified illnesses or symptoms in animal populations.

(c) Limitation on use. -- The Secretary, in acquiring information under subsection (b) of this section, shall:

(1) Request and use nonidentifying information whenever possible; and

(2) Limit the use of confidential information to the extent necessary to detect and investigate actual or potential exposures to a deadly agent.

(d) Confidentiality. --

(1) Any information that the Secretary receives under subsection (b) of this section is confidential and may be used or disclosed only in accordance with this section.

(2) If the information requested in subsection (b) of this section is otherwise confidential under Title 4 of this article or as otherwise provided under law, the Secretary or person that receives the information may not redisclose the

information except as provided in paragraph (3) of this subsection.

(3) A person may redisclose the information to another health care provider or public official provided that:

- (i) The health care provider or public agency to whom the information is disclosed will maintain the confidentiality of the disclosure; and
- (ii) The Secretary determines the disclosure is necessary to treat, prevent, or reduce the spread of the disease or outbreak believed to have been caused by the exposure to a deadly agent.

MD. CODE ANN., HEALTH-GEN. I § 18-905. Enforcement

(a) Orders. -- In investigating actual or potential exposures to a deadly agent, the Secretary:

- (1) (i) May issue an order requiring individuals whom the Secretary has reason to believe have been exposed to a deadly agent to seek appropriate and necessary evaluation and treatment;
- (ii) When the Secretary determines that it is medically necessary and reasonable to prevent or reduce the spread of the disease or outbreak believed to have been caused by the exposure to a deadly agent, may order an individual or group of individuals to go to and remain in places of isolation or quarantine until the Secretary determines that the individual no longer poses a substantial risk of transmitting the disease or condition to the public; and
- (iii) If a competent individual over the age of 18 refuses vaccination, medical examination, treatment, or testing under this paragraph, may require the individual to go to and remain in places of isolation or quarantine until the Secretary determines that the individual no longer poses a substantial risk of transmitting the disease or condition to the public;
- (2) May coordinate and direct the efforts of any health officer or health commissioner of any subdivision in seeking to detect or respond to threats posed by a deadly agent; and
- (3) May order any sheriff, deputy sheriff, or other law enforcement officer of the State or any subdivision to assist in the execution or enforcement of any order issued under this subtitle.

(b) When issued. -- The Secretary may issue an order under subsection (a) of this section:

- (1) If, prior to the issuance of a proclamation under § 14-3A-02 of the Public Safety Article, the Secretary determines that the disease or outbreak can be medically contained by the Department and appropriate health care providers; and
- (2) As necessary to implement an order issued by the Governor under § 14-3A-02 of the Public Safety Article.

MD. CODE ANN., HEALTH-GEN. I § 18-906. Quarantine; appeal

(a) Directives. –

(1) If the Secretary requires an individual or a group of individuals to go to and remain in places of isolation or quarantine under § 18-905 of this subtitle, the Secretary shall issue a directive to the individual or group of individuals.

(2) The directive shall specify:

- (i) The identity of the individual or group of individuals subject to isolation or quarantine;
- (ii) The premises subject to isolation or quarantine;
- (iii) The date and time at which isolation or quarantine commences;
- (iv) The suspected deadly agent causing the outbreak or disease, if known;
- (v) The basis upon which isolation or quarantine is justified; and
- (vi) The availability of a hearing to contest the directive.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, the directive shall be in writing and given to the individual or group of individuals prior to the individual or group of individuals being required to go to and remain in places of isolation and quarantine.

(ii) 1. If the Secretary determines that the notice required under subparagraph (i) of this paragraph is impractical because of the number of individuals or geographical areas affected, the Secretary shall ensure that the affected individuals are fully informed of the directive using the best possible means available.

2. If the directive applies to a group of individuals and it is impractical to provide written individual copies under subparagraph (i) of this paragraph, the written directive may be posted in a conspicuous place in the isolation or quarantine premises.

(b) Hearings. –

(1) An individual or group of individuals isolated or quarantined under subsection (a) of this section may request a hearing in circuit court contesting the isolation or quarantine.

(2) A request for a hearing may not stay or enjoin an isolation or quarantine directive.

(3) Upon receipt of a request under this subsection, the court shall conduct a hearing within 3 days from receipt of the request.

(4) (i) In any proceedings brought for relief under this subsection, the court may extend the time for a hearing upon a showing by the Secretary or other designated official that extraordinary circumstances exist that justify the extension.

(ii) In granting or denying an extension, the court shall consider the rights of the affected individual, the protection of the public health, the severity of the catastrophic health emergency, and the availability, if necessary, of witnesses and evidence.

(5) (i) 1. The court shall grant the request for relief unless the court determines that the isolation or quarantine directive is necessary and reasonable to prevent or reduce the spread of the disease or outbreak believed to have been caused by the exposure to a deadly agent.

2. If feasible, in making a determination under this subparagraph, the court may consider the means of transmission, the degree of contagion, and, to the extent possible, the degree of public exposure to the disease.

- (ii) 1. An order authorizing the isolation or quarantine issued under this paragraph shall:
 - A. Identify the isolated or quarantined individual or group of individuals by name or shared characteristics;
 - B. Specify factual findings warranting isolation or quarantine; and
 - C. Except as provided in sub-subparagraph 2 of this subparagraph, be in writing and given to the individual or group of individuals.
- 2. If the court determines that the notice required in sub-subparagraph 1C of this subparagraph is impractical because of the number of individuals or geographical areas affected, the court shall ensure that the affected individuals are fully informed of the order using the best possible means available.
- (iii) An order authorizing isolation or quarantine is effective for a period not to exceed 30 days.
- (iv) 1. Prior to the expiration of an order, the Secretary or designated official may move to continue isolation or quarantine for subsequent 30-day periods.
- 2. The court shall base its decision on the standards provided under this paragraph.

(6) In the event that an individual cannot personally appear before the court, proceedings may be conducted:

- (i) By an individual's authorized representative; and
- (ii) Through any means that allows other individuals to fully participate.

(7) In any proceedings brought under this subsection, the court may order the consolidation of individual claims into group claims where:

- (i) The number of individuals involved or affected is so large as to render individual participation impractical;
- (ii) There are questions of law or fact common to the individual claims or rights to be determined;
- (iii) The group claims or rights to be determined are typical of the affected individual's claims or rights; or
- (iv) The entire group will be adequately represented in the consolidation.

(c) Appointment of counsel. -- The court shall appoint counsel to represent individuals or a group of individuals who are not otherwise represented by counsel.

(d) Emergency rules. -- The court of appeals shall develop emergency rules of procedure to facilitate the efficient adjudication of any proceedings brought under this section.

(e) Discharge from employment unlawful. -- It shall be unlawful for any public or private employer to discharge an employee who is under an order of isolation or quarantine or because of such an order.

MD. CODE ANN., HEALTH-GEN. I § 18-907. Failure to comply

(a) Noncompliance by individuals. --

- (1) A person may not knowingly and willfully fail to comply with any order, regulation, or directive issued in accordance with § 18-905 of this subtitle.
- (2) A person who violates paragraph (1) of this subsection is guilty of a

misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$ 3,000 or both.

(b) Noncompliance by health care facilities. -- If a health care facility fails to comply with an order, regulation, or directive issued under § 18-903 or § 18-904 of this subtitle, the Secretary may impose a civil penalty not to exceed \$ 3,000 for each offense.

(c) Noncompliance by health care practitioners. -- If a health care practitioner fails to comply with an order, regulation, or directive issued under § 18-903 or § 18-904 of this subtitle, the Secretary may request the appropriate licensing board to take disciplinary action against the health care practitioner, including:

(1) Placing the licensee or certificate holder on probation;

(2) Suspending or revoking the license or certificate holder; or

(3) Imposing a civil penalty not to exceed \$ 3,000 for each offense.

(d) Immunity from liability. -- A health care provider acting in good faith and in accordance with a catastrophic health emergency disease surveillance and response program is immune from civil or criminal liability related to those actions, unless the health care provider acts with willful misconduct.

MD. CODE ANN., HEALTH-GEN. I § 18-908. Report by Secretary

(a) Reports. -- On or before December 31, 2002, the Secretary shall submit a report to the Governor and to the General Assembly in accordance with § 2-1246 of the State Government Article regarding any plans, procedures, or protocols developed under this subtitle or any recommendations for additional legislation that may be necessary to respond to a catastrophic health emergency.

(b) Updates to reports. -- The Secretary shall update the report required under subsection (a) of this section every 3 years or when any plan, procedure, or protocol developed under this subtitle or any other provision of this subtitle is used in order to detect a catastrophic health emergency.

**CHECK LIST FOR “EMERGENCY PROCUREMENT” POWER
UNDER MD. CODE ANN., STATE FIN. & PROC. § 13-108**

Is it a procurement? Yes, if the procurement officer wants to do any of the following:

- ✓ Lease real or personal property as lessee; or
- ✓ Buy or otherwise obtain supplies, services, construction, construction related services, architectural services, engineering services, or services provided under an energy performance contract.

A procurement officer may make an “emergency procurement” under §13-108 without a declaration of a state of emergency or a catastrophic health emergency if the following occurs:

- ✓ A sudden and unexpected occurrence or condition which agency management could not reasonably foresee that requires an action to avoid or to mitigate serious damage to public health, safety, or welfare; and
- ✓ The agencies needs cannot be satisfied through normal procurement methods; and
- ✓ Approval of the head of the unit

Has the procurement officer followed the process for making an “emergency procurement”?

- ✓ Obtain as much competition as possible under the circumstances; and
- ✓ Limit the emergency procurement to the procurement of only those items, both in type and quantity, necessary to avoid or to mitigate serious damage to public health, safety, or welfare; and
- ✓ After awarding the procurement contract, must submit report to the Board of Public Works justifying the use of the emergency procurement.

Is the “emergency procurement” subject to any of the following exceptions?:

- ✓ §11-205 (“Fraud in Procurement”);
- ✓ §10-204 (“Board approval for designated contracts”);
- ✓ §13-219 (“Required Clauses – Nondiscrimination clause”);
- ✓ §13-221 (“Disclosures to Secretary of State”);
- ✓ Title 16 (“Debarment of Contractors”); or
- ✓ Title 17 (“Special Provisions – State and Local Subdivisions”)

* The Maryland Port Commission and the Maryland Aviation Administration also have “expedited procurement” authority. See Md. Code Ann., State Finance and Procurement §13-108(b).

IMMUNITY PROTECTIONS FOR “VOLUNTEERS” UNDER THE MARYLAND TORT CLAIMS ACT

A volunteer is eligible for immunity under the Maryland Tort Claims Act if the volunteer satisfies the definition of “state personnel” under that statute.

A volunteer is considered “state personnel”¹ for purposes of the Maryland Tort Claims Act when the individual:

- (i) Provides a service to or for the State,
- (ii) Is not paid in whole or in part by the State, and
- (iii) Otherwise meets the definition of a volunteer, which is an individual who
 - (a) Performs services to or for a unit of State government, the employees of which are considered State personnel,
 - (b) Engages in the actual performance of State services at the time of the incident giving rise to a claim; and
 - (c) In the performance of the services:
 - (i) Participates in a formal volunteer program, or
 - (ii) Before the beginning of those services, is formally recognized by the unit of State government as a volunteer.²

Protection offered volunteers under the Maryland Tort Claims Act³

Volunteers meeting the definition of “State personnel” are immune from suit in courts of the State and from liability in tort for actions or omissions within the scope of the public duties of the State personnel as long as they were made without malice or gross negligence.

Additional immunity protection for volunteers under the Emergency Medical Services Statute⁴

An individual who is a member of any State, county, municipal, or volunteer fire department, ambulance and rescue squad or law enforcement agency or a corporate fire department, if the person providing aid has completed an American Red Cross course in advanced first aid and has a current card showing that status or an equivalent course, is not civilly liable for any act or omission in giving any assistance or medical care if:

- (1) The act or omission was not one of gross negligence
- (2) The assistance or medical care is provided without fee or other compensation; and
- (3) The assistance or medical care is provided:
 - (i) At the scene of an emergency;
 - (ii) In transit to a medical facility; or
 - (iii) Through communications with personnel providing emergency assistance.

¹ COMAR 25.02.01.02(B)(8).

² COMAR 25.02.01.02(B)(4)(d)-(e).

³ MD CODE ANN., STATE GOV'T § 12-101 to -110 (2004).

⁴ MD CODE ANN., CTS & JUD. PROC. § 5-603 (2004).