

CHARLES E. SYDNOR, III, ESQ.
Legislative District 44B
Baltimore County

Judiciary Committee



The Maryland House of Delegates
6 Bladen Street, Room 306
Annapolis, Maryland 21401
410-841-3802 · 301-858-3802
800-492-7122 Ext. 3802
Fax 410-841-3540 · 301-858-3540
Charles.Sydnor@house.state.md.us

THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

2016 End of Session Letter

Dear Friend and Constituent,

The Maryland General Assembly 2016 Legislative Session has concluded and I wanted to take the opportunity to share what has transpired since our last session. I want to thank each of you for your phone calls, emails and personal visits to share with me what's important to you. It is through our communications that I know what is important to you. I truly appreciate the trust you have placed in me to represent you in Annapolis.

Since last session, I was appointed to the **Commission Regarding the Implementation and Use of Body Cameras by Law Enforcement Officers** and to the **National Conference of State Legislatures' Law, Criminal Justice and Public Safety Committee**. Additionally, I traveled to San Francisco during the fall of 2015, as a member of the Maryland Delegation for the National Conference of State Legislatures/ National Center State Courts' "Juvenile Justice Reform State Teams' Meeting" with Senator Delores G. Kelley, Chief Judge Mary Ellen Barbera, Court Administrator Pamela Harris, and Department of Juvenile Services Secretary Sam Abid. Each of these experiences informed some of the legislation that I sponsored or cross-filed. Finally, at the end of this session, I was also appointed **Parliamentarian** of the **Legislative Black Caucus of Maryland**.

This session, the **House Judiciary** held hearings for 348 bills, many of which were very intense. As a member of its **Committee's Criminal Justice Subcommittee**, I had a role in formulating two major pieces of legislation, the *Public Safety and Policing Workgroup – Recommendations* and the "*Justice Reinvestment Act*". While I will discuss them both more in depth below, I am confident that our work will produce outcomes that greatly improve our criminal justice system.

As a member of the **House Judiciary Committee's Civil Law and Procedure Subcommittee**, I worked on [House Bill 535](#) which regulated structured settlements transfers and registration. This bill came about in part to address issues raised in *The Washington Post*, which published an exposé of Maryland's factoring industry. The story described payees, many of them victims of childhood lead poisoning, who had sold their rights to structured settlement payments for pennies on the dollar. One company featured in the article petitioned to buy about \$6.9 million worth of future payments – which had a present value of \$5.3 million – for about 1.7 million. The article raised questions about how Maryland regulates the factoring market and the extent to which current law adequately protects vulnerable payees from aggressive or misleading business practices.

Additionally, in the last weeks of the Session, I was selected to serve on three conference committees and named Chair of two conference committees for two bills I co-sponsored with my fellow Judiciary committee member, [House Bill 636](#) and [House Bill 637](#). As Chair, I was responsible for leading House conferees in negotiations with Senate conferees. Fortunately, I was able to provide a resolution and build consensus that all six conferees agreed with. As negotiated, House Bill 636 modifies the Maryland Tort Claims Act and House Bill 637 modifies the Local Government Tort Claims Act by repealing measures commonly used to prevent Marylanders who have been injured by the state or local governments from their day in court. Both bills change the law so the government can no longer have a legitimate case dismissed if the government has actual or constructive notice of the alleged harm. Both bills await the Governor's signature.

With regard to legislation, I introduced 15 bills, some, with the intent for passage; others introduced regarding important topics which needed to be presented to the public. Of those bills, House Bill 1182 and House Bill 947 passed the House; but only House Bill 1182 passed the full General Assembly and now awaits the Governor's signature to be signed into law.

HB 1182 - Charitable Organizations and Representatives - Fund-Raising Counsel - Definition

Under current law, "fund-raising counsel" includes persons who, for pay, advise charitable organizations about charitable solicitations in Maryland or holds, plans, or manages charitable solicitations in Maryland, but does not directly solicit or receive charitable contributions from the public. House Bill 1182 clarifies the definition of "fund-raising counsel".

HB 947- Public Information Act - Inspection of Records from Body-Worn Digital Recording Devices

After the 2015 legislative session, the Governor signed my first piece of legislation, House Bill 533 (Body-Worn Digital Recording Devices), into law as Chapter 129. Chapter 129 allows law enforcement officers to record oral communication with body cameras. It also created the Commission Regarding the Implementation and Use of Body Cameras by Law Enforcement Officers (the "Commission") upon which I served. After completing its hearings, the Commission had one recommendation for the legislature: that the General Assembly consider amending the Maryland Public Information Act to incorporate provisions specifically governing the release of audio/video recordings captured by body-worn cameras, including recordings depicting victims of violent crimes and domestic abuse. In keeping with that recommendation, I introduced House Bill 947, which would have required a custodian of records to deny inspection to the general public of that part of a recording that:

- (1) involves domestic violence;
- (2) involves a sexual crimes under Title 3, Subtitle 3 of the Criminal Law Article (more than 24 sexual acts are covered);
- (3) involves abuse or other offensive conduct under Title 3, Subtitle 6 of the Criminal Law Article (covering eight acts, i.e., child abuse, neglect of a minor, abuse and neglect of a vulnerable adult, hazing), except for a sale of a minor where the victim is an adult; or
- (4) does not result in (a) the arrest, temporary detention, death, or injury of an individual or (b) a complaint of officer misconduct made against any law enforcement officer involved in the incident.

While this bill passed the House, unfortunately it failed to receive a vote in the Senate Judicial Proceeding Committee. I will reintroduce this bill next session.

....

In addition to the aforementioned bills, I also introduced a variety of bills which met different fates. Some were amended into other legislation, some will be studied over the summer and be re-introduced in some form next session. Those bills include:

HB 904 - Criminal Procedure - Cell Site Simulator Technology

House Bill 904 was introduced to require law enforcement agencies to obtain a search warrant when they used a cell site simulator, known under the brand name "Stingray" or "Hailstorm." House Bill 904 would have treated law enforcement's use of cell-site simulators as a search under the 4th amendment and attempted to ensure that law enforcement, except in certain defined situations, sought a warrant, as is required of federal agents, prior to using cell site simulators. To our knowledge there are five jurisdictions which use cell-site simulators: Anne

Arundel, Baltimore City, Baltimore County, Montgomery and Prince George's County; additionally, during testimony, the Maryland State Police admitted publicly, for the first time, to using the device as well.

Cell-site simulators function by mimicking transmissions of a cell phone tower. In response to the signals emitted by the simulator, cellular phones in the proximity of the cell site simulator identify the simulator as the most attractive cell tower in the area and transmit signals to the simulator that identify the cell phone in the same way that the device would with a networked cell phone tower. A cell-site simulator receives and uses an industry standard unique identifying number assigned by a device manufacturer or cellular network provider. When used to locate a known cellular phone, a cell-site simulator initially receives the unique identifying number from multiple cell phones in the vicinity of the simulator. Once the cell-site simulator identifies the cell phone for which it is looking, it will obtain the signaling information relating to that cell phone. When used to identify an unknown cell phone, the cell-site simulator obtains signaling information from non-target cell phones in the target's vicinity for the limited purpose of distinguishing the target cell phone.

House Bill 904 was patterned after the United States' Department of Justice's policy regulating the federal government's use of these tracking devices. House Bill 904 would have codified federal policy and acknowledged that the use of cell-site simulators as searches under the 4th amendment and ensured our law enforcement agencies that use the cell-site simulator obtain probable cause warrants.

While House Bill 904 was still being considered by my committee, on March 30th, in a case called [State v. Andrews](#), the Maryland Court of Special Appeals concluded, in a case of first impression regarding the use of cell-site simulators, that "people have a reasonable expectation that their cell phones will not be used as real-time tracking devices by law enforcement, and—recognizing that the Fourth Amendment protects people and not simply areas—that people have an objectively reasonable expectation of privacy in real-time cell phone location information [and] ... hold that the use of a cell-site simulator requires a valid search warrant, or an order satisfying the constitutional requisites of a warrant, unless an established exception to the warrant requirement applies."

While my bill did not received a favorable report from the Judiciary Committee, the Judiciary Committee did commit to study this subject over the summer. We will convene a variety of stakeholders, including, but not limited to other legislators, the Association of States Attorneys, the Office of Public Defender, and the ACLU of Maryland. This legislation is but a piece of a larger constitutional framework regarding how government will be allowed to use technology.

[HB 475 - Courts - Grand Juries - Prohibited Action](#)

HB 475 was based on a law passed in California and introduced to bring transparency to the grand jury process. It would have prohibited a grand jury from inquiring into an offense involving a shooting or the alleged use of excessive force by a law enforcement officer that leads to the death of a person arrested, detained, or otherwise in law enforcement custody. Ultimately, I withdrew this bill and will work with the State's Attorney's Association this summer and introduce another bill next year to bring transparency to the grand jury process.

[HB 556-Criminal Law-Threatening Juror, Witness, or Officer of Court for Performance of Duty - Penalties](#)

House Bill 556 would have prohibited a person from threatening, intimidating, impeding, or injuring a juror, a witness, or an officer of the court of the State or the United States for the performance of the juror's, witness's, or officer's official duties. House Bill 556 also would have prohibited a person from soliciting another person to engage in these activities as well. The House Judiciary Committee passed [House Bill 98](#) which addresses the substantially the same issues and House Bill 556 was given an unfavorable report. I was added as a co-sponsor to House Bill 98 which passed and awaits the Governor's signature.

HB 304 Juvenile Court – Jurisdiction

After attending “Juvenile Justice Reform State Teams’ Meeting”, I decided to cross file House Bill 304 with Senator Delores Kelley. House Bill 304 would have expanded the jurisdiction of the juvenile court to establish original jurisdiction over children (1) older than age 14 who are alleged to have done an act which, if committed by an adult, would be a crime punishable by life imprisonment; (2) older than age 16 who are alleged to have committed specified crimes; and (3) who have previously been convicted as an adult of a felony and are subsequently alleged to have committed an act that would be a felony if committed by an adult. This bill was given an unfavorable report by the Judiciary Committee.

HB 500 - Task Force to Study the Capital Needs of Disadvantaged, Minority, and Small Businesses in MD

House Bill 500 would have established the Task Force to Study the Capital Needs of Disadvantaged, Minority, and Small Businesses in Maryland. The task force would have studied specified issues and report its findings and recommendations to the Governor and General Assembly by December 31, 2016. There were multiple bills which attempted to create task forces to address this subject matter, so the tasks set forth in House Bill 500 were amended into [House Bill 264](#). House Bill 264, of which I am a co-sponsor, sets up a task force to examine, among other issues, minority and women small businesses access to capital, and capital needs. House Bill 264 passed and awaits the Governor’s signature.

HB 499 - Procurement - Accelerated Payments to Subcontractors

While in the community, I listened to subcontractors who expressed that they were not being timely paid by state prime contractors despite satisfactorily completing work. They wanted to be paid for undisputed amounts owed to them by the prime contractors. House Bill 499 would have authorized a State agency to pay a subcontractor the “undisputed amount” on a State contract for construction or goods and services if a contractor had not timely paid the subcontractor. If a State agency pays a subcontractor under my proposed bill, the agency may withhold or otherwise recover from the contractor the amount of the payment.

After hosting conversations with the Departments of Transportation, and the Department of Budget and Management, I withdrew the bill. I had additional conversations with the Department of General Services Secretary C. Gail Bassette and Department of Information Technology to determine whether there was another avenue to address the problem. I will examine this problem further this interim and work with state agencies to address the problems the legislation was meant to address.

....

As I noted at the beginning of this letter, as a member of the House Judiciary Committee’s Criminal Justice Subcommittee, I had a role in formulating the Public Safety and Policing Workgroup legislation. Additionally, as a member of the Justice Reinvestment Act Workgroup, which was comprised of both Judiciary and Health and Government Operations committee members, I had a role in shaping the Justice Reinvestment legislation which passed out of the House and my colleague Delegate Erek Barron called the “Smart on Crime” law. Descriptions of these bills are below.

SB 1005 - Justice Reinvestment Act

Senate Bill 1005 implements the recommendations of the Justice Reinvestment Coordinating Council by altering criminal penalties and provisions relating to sentencing, corrections, parole, and the supervision of offenders. The bill updates our criminal justice penalties, decreases recidivism, and saves the state millions of dollars annually in decreasing incarceration rates for non-violent offenders and reinvesting those savings in much need drug treatment. One important aspect of the bill eliminates mandatory minimums for certain drug offenses the Council found “both increased sentences and low parole rates have played a role in Black offenders serving longer in

Maryland's prisons that White Offenders." Mandatory minimums in drug cases contribute to these racial disparities, resulting in Black offenders serving 31% longer in prison than White offenders. While Blacks represent 3 out of 10 Maryland residents, Blacks are more than 8 out of 10 people sentenced to prison for a mandatory drug offense, and nearly 9 out of 10 people serving prison sentences for ten years or longer.

Senate Bill 1005 also reduces penalties for drug possession offenses and diverts offenders with substance abuse disorders into treatment, requiring prompt placement (i.e., 21 days); raises the felony theft threshold (to \$1500); provides steeper penalties for certain offenders; shifts the burden of proof for mandatory minimum eligibility from the defendant to the state; eliminating the disparity between crack and powder cocaine; focuses harsh mandatory minimum penalties on high level drug dealers and kingpins; and restores judicial discretion to sentencing of lower level drug dealers. It will also provide law enforcement with a tool needed to fight high level leaders and organizers of crime by incorporating the Governor's RICO bill. This legislation marks a major shift in criminal justice policy and awaits the Governor's signature.

HB 1016 - Public Safety and Policing Workgroup – Recommendations

House Bill 1016 makes changes relating to public safety and policing consistent with the recommendations of the Public Safety and Policing Workgroup. Among other things, the bill replaces the Police Training Commission within the Department of Public Safety and Correctional Services with an independent Maryland Police Training and Standards Commission; makes changes to the Law Enforcement Officers' Bill of Rights ("LEOBR"); details the procedures that must be followed for specified whistleblower protections; establishes various requirements for law enforcement agencies, particularly related to training in the use of force; and establishes a Community Law Enforcement Program Fund within the Governor's Office of Crime Control and Prevention to fund local Community Law Enforcement programs, with a requirement that policies are to be published on their website.

Regarding LEOBR, House Bill 1016 makes a number of changes to the complaint process under LEOBR. It allows a complaint to come from a complainant or from an individual with firsthand knowledge obtained if the individual has an unaltered video recordings of the incident; it extends the complaint filing deadline from 90 days to 366 days; decreases the time period a law enforcement officer has to retain an attorney from 10 days to 5 days; that the hearing board consist of 4 members, with one being a non-voting citizen who has received training from MPTSC in matters relating to police procedures.

The bill establishes annual reporting by law enforcement agencies to the commission on serious officer-involved incidents, standards for mandatory psychological evaluation of a law enforcement officer who has been involved in a traumatic incident or who has returned from combat deployment, as well as the periodic psychological evaluation of all officers. House Bill 1016 also includes a provision derived from Delegate Jill Carter's previously introduced whistleblower bill of rights. The provision is included to encourage law enforcement to police themselves if they witness colleagues misbehaving, we extended whistleblower protections to those law enforcement who blow the whistle. This bill awaits the Governor's signature.

SB945 - Drunk Driving Reduction Act of 2016 (Noah's Law)

Senate Bill 945 requires mandatory participation in the Ignition Interlock System Program for someone convicted of driving under the influence of alcohol or while impaired by alcohol or drugs; whose license is suspended by Motor Vehicle Administration for an administrative per se (by itself) offense, such as being convicted of reckless or negligent driving and who was originally charged with an alcohol motor vehicle offense; or convicted of homicide by motor vehicle while under the influence of alcohol, impaired by alcohol, or drugs or a combination of drugs and alcohol. Anyone who does not participate in or complete the Ignition Interlock System Program

will have their license indefinitely suspended. This legislation marks another shift in policy and awaits the Governor's signature.

SB 190 Operating Budget

Maryland is one of nine states with a triple-A bond rating and continues to be an excellent steward of taxpayer money! This operating budget is noteworthy, in part, for two major accomplishments: we have balanced this year's budget and fully eliminated the \$2 billion structural deficit left by the Great Recession; and this budget leaves a cash balance of \$415 million plus \$1 billion in the Rainy Day Fund, for a total of nearly \$1.5 billion in cash. In fact, this is the third year in a row that Maryland will pass a budget with no new tax increases – spanning two different governors.

Thanks to Democratic legislation last session requiring Governor Hogan to include all GCEI funding, this budget fully funds K-12 education at \$6.3 billion dollars. The budget also includes an additional \$19 million for five school systems with declining enrollment, as well as \$19 million for nine counties that need additional support for teacher pension funding.

Over the past decade the General Assembly has reined in the skyrocketing costs of college tuition. Maryland has gone from the 7th most expensive to the 24th least expensive tuition in the country. With students and their families in mind, this budget caps college tuition increases at 2%. Additionally, the budget increases healthcare funding by 4.4% across the State, including increases for providers of developmental disability programs.

SB 191 - Capital Budget

This year's capital budget stayed within the Governor's requested limit of \$995 million! Highlights include:

School Construction - The Governor included \$280 million for school construction in his budget. The House added an additional \$4.7 million for Qualified Zone Academy Bonds, including public charter schools; \$6.1 million for aging schools; and \$40 million for school construction for schools with growing enrollment. In total, the capital budget provides Maryland with \$330.8 million for school construction, which will leverage \$400 million in local investments in our schools.

Higher Education - The Governor included \$420 million for higher education in his budget, including \$75.4 million for Historically Black Colleges and Universities. The House added: an additional \$5 million for Shady Grove (\$36.5 million total); \$4.7 million for Morgan State Student Services; and, preauthorized funds for the Coppin State School of Business. The budget also includes \$60 million for community colleges this year, and \$80 million more in future years.

Other budget accomplishments - \$442 million for environmental initiatives, \$68 million for health and human services, including \$27.5 million for the new Prince George's Hospital; \$120 million for housing (all sources); an additional \$2.5 million for Rental Housing Works (\$12.5 million total); and \$15 million for House and Senate legislative initiatives.

The *Capital Budget*, and the Interagency Committee on School Construction's *Fiscal Year 2017 Maryland Public School Construction Capital Improvement Program* (identified by *) identify several projects, located in District 44B or which serve District 44B constituents, which will receive State funds in Fiscal Year 2017. The projects are noted in the chart which follows.

Project Name	Project Description	Funding
Catonsville District Court (on Johnnycake Road)	Design & construction of new courthouse multiservice center & garage	\$28,501,000.00
Edmondson Heights Elementary *	Renovation: air conditioning	\$2,265,000.00
Milford Mill Academy	Turf athletic field	\$450,000.00
Morning Star Family Life Center	Construction, renovation of new center	\$250,000.00
Westowne Elementary School *	Final installment on new school construction	\$644,000.00
Woodlawn High School *	Limited renovation	\$1,020,000.00

....

I have explained to many of you that because of my assignment on the Judiciary Committee, I don't have many opportunities to hear legislation introduced in the other Standing Committees; but every now and again a primary sponsor will present a bill to me for my support and I will gladly sign on as a co-sponsor. The following bills serve as examples of important legislation I co-sponsored as well as legislation I voted for on the House Floor.

Senior and the Disabled Communities

[SB 98 Senior Citizen Activities Center Operating Fund - Distributions - Alteration](#)

I was happy to vote for Senate Bill 98 which increases, from \$500,000 to \$750,000, the required annual appropriation to the Senior Citizen Activities Center Operating Fund, requires additional expenditures under specified circumstances, and alters how the funds are distributed to counties within the State.

[HB 431 Maryland Achieving a Better Life Experience \(ABLE\) Program – Establishment](#)

This bill requires the College Savings Plans of Maryland Board, in consultation with the Maryland Department of Disabilities to establish, administer, manage, and promote the Maryland Achieving a Better Life Experience (“ABLE”) Program. An income tax subtraction modification is created for contributions to an ABLE account that is similar to the subtraction modifications for contributions to existing 529 plans.

Labor and Employment

[HB 1003 - Labor and Employment - Equal Pay for Equal Work](#)

House Bill 1003 ensures that employees are not discriminated against for salary purposes or because of gender or gender identity. It prohibits an employer from requiring an employee to sign a nondisclosure agreement with respect to their wages and from punishing an employee for exercising their statutory rights or aiding/encouraging another employee to do so. The bill also authorizes an affected employee, the Attorney General or the Commissioner of Labor and Industry, to bring an action for damages and injunctive relief.

Environment

[HB 0211 – Neonicotinoid Pesticides \(Pollinator Protection Act of 2016\)](#)

This bill establishes specified restrictions, effective January 1, 2018, on the sale and use of neonicotinoid pesticides. This bill was cross-filed by Senator Shirley Nathan-Pulliam.

[HB 90 On-Site Sewage Disposal Systems - Operation and Maintenance Costs - Low-Income Homeowners](#)

This bill expands the authorized uses of the Bay Restoration Fund Septics Account to include providing financial assistance to low-income homeowners, as defined by the Maryland Department of the Environment (“MDE”), for up to 50% of the cost of a three-year operation and maintenance contract for an on-site sewage disposal system that utilizes nitrogen removal technology. Either MDE or a local government must determine an applicant's

eligibility and the level of assistance to be provided based on the average cost of such a contract provided by vendors in the applicant's area.

HB 462 - Program Open Space - Transfer Tax Repayment - Use of Funds

House Bill 462 requires the State to reimburse certain transfers from the transfer tax special fund to the general fund, beginning in fiscal 2019, if a condition is met. The provisions repay \$90 million transferred to the general fund in fiscal 2006. I received a card from The Partners for Open Space thanking me for my efforts. Governor Hogan's Administration requested this bill. I was happy to vote for this measure on the House floor.

...

Finally, I would like to point out two bills that we voted for in the House, but ultimately failed to be passed by the Senate. I bring them to your attention because I suspect they will be introduced next session and I believe both will benefit the citizens of Maryland.

SB 840 - Income Tax - Rates, Personal Exemptions, and Earned Income Tax Credit.

Senate Bill 840 would have adjusted the calculation of income taxes to support Maryland-based, headquartered employers instead of out-of-state corporations and expanded and increased the Earned Income Tax Credit for 220,000 working Marylanders. Additionally, the bill would have created a \$15,000 income tax deduction for police, firefighters, Rescue and EMS retirees beginning at age 55 and cut income taxes for every Marylander and small business on their first \$100,000 of income as an individual or \$150,000 for joint filers.

Senate Bill 840 represented a \$200 million tax cut for Maryland's middle-class, working families, retirees and small businesses. The bill costs \$40 million less than the Senate's tax cut proposal that did not include significant tax cuts for Maryland's middle class and would have had very little impact (\$3 million) on local government revenues. Unfortunately, a compromise could not be reached and this bill died in Conference Committee

HB 580 - Labor and Employment – Maryland Healthy Families Act.

It is better known as Maryland's Sick Leave Bill. This bill requires an employer with more than 14 employees to have a sick and safe leave policy under which an employee (who regularly works 8 or more hours per week) earns at least 1 hour of *paid* sick and safe leave, at the same rate as the employee normally earns, for every 30 hours an employee works. An employer with 14 or fewer employees, based on the average monthly number of employees during the preceding year, must have a sick and safe leave policy that provides an employee (who regularly works 8 or more hours per week) with at least 1 hour of *unpaid* sick and safe leave for every 30 hours an employee works. An employer is not required to allow an employee to earn or carry over more than 56 hours of earned sick and safe leave in a year, use more than 80 hours of earned leave in a year, accrue more than 80 hours at any time, or use earned sick and safe leave during the first 90 calendar days worked or first 480 hours worked, whichever is shorter. It passed in the House by an 84-54 vote. It did not get a vote in the Senate.

Thank you for the honor and privilege of serving as your Delegate. I could not do any of this without your ongoing support. If I can be of further service, please feel free to contact me or my Legislative Aide Gene Clark.

Best Wishes,



Delegate Charles E. Sydnor III