

THE AEL ADVOCATE

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EMPLOYMENT AND WORK PLACE ISSUES

SENATE BILL 600 LABOR AND EMPLOYMENT – ABUSIVE WORK ENVIRONMENTS – EMPLOYEE REMEDIES

This Bill, if passed, would be included in the Labor and Employment Article of the Maryland Code and would be applicable to employees and employers of a government unit. It would define “abusive conduct” as “acts of an employer or employee targeted at an individual employee that a reasonable individual would experience as creating a hostile work environment based on the severity, nature, and frequency of the employer or employee’s conduct.” Abusive conduct would include, “repeated verbal abuse, including the use of derogatory and disparaging remarks, insults, and epithets, verbal or physical conduct of a threatening, intimidating, humiliating, or cruel nature or the sabotage or undermining of another employee’s work performance.”

Employees who have been harmed psychologically, physically or financially by deliberate abusive conduct and a hostile work environment would be able to file a civil action in Circuit Court against the employer or another employee. Employers could be held vicariously liable for the acts of their employees, but not if the employer exercised reasonable care to prevent and promptly correct the abusive conduct. A court would be able to grant the following relief if the law passes:

- 1) enjoin the employer or employee from engaging in the abusive conduct,
- 2) reinstatement and back pay (if applicable),
- 3) removal of the employee who violated the abusive work place law from the work environment of the employee who filed the action,
- 4) reimbursement of medical expenses,
- 5) compensation for emotional distress,
- 6) punitive damages,
- 7) attorney’s fees.

HOUSE BILL 525
SENATE BILL 608

PUBLIC SCHOOL PERSONNEL – GROUNDS FOR SUSPENSION OR DISMISSAL INEFFECTIVENESS

These Bills would be added to the Education Article, Section 6-202 and would authorize county boards of education, on the recommendation of the superintendent of schools, to suspend or dismiss teachers, principals, supervisors, assistant superintendents and professional assistants for “ineffectiveness.” This ground for suspension or dismissal would be added to the current grounds, i.e., immorality, misconduct in office, including knowingly failing to report suspected child abuse, insubordination, incompetency and/or willful neglect of duty.

“Ineffectiveness” would be determined by multiple measures of student growth, observations, and clear standards to be developed by the State Board of Education. Each county board would thereafter establish performance evaluation criteria that are to be agreed upon by the school system and the exclusive employee representatives.

It should be noted that although mutual agreement on standards by the school system and its unions seems to be mandated in one paragraph of the proposed law, the next paragraph states that it cannot be construed to require mutual agreement.

HOUSE BILL 895 PUBLIC SCHOOLS – SUBSTITUTE TEACHERS - QUALIFICATION, TRAINING, AND STUDY

House Bill 895 would require each county to establish qualifications for substitute teachers employed by the county board, which must include a complete set of the applicant’s finger prints and evidence of the applicant’s graduation from an education institution. Each substitute teacher would have to complete an orientation and training program that includes:

- 1) classroom management techniques;
- 2) strategies for addressing students learning needs;
- 3) school safety and security procedures;
- 4) teacher professionalism;
- 5) an overview of relevant education law.

In addition, the county board would be required to train school administrators, including principals, in the best practices for recruiting and retaining effective substitutes and the use of permanent substitute teachers. The county superintendent would be tasked with developing in-service training for permanent teachers on the best practices for preparing the classroom for a substitute.

HOUSE BILL 55 RELIGIOUS FREEDOM AND CIVIL MARRIAGE HOUSE BILL 175 PROTECTION ACT SENATE BILL 116

These “same sex marriage” Bills seek to amend the definition of Marriage in Section 2-201 of The Family Law Article of the Maryland Code from “only a marriage between a man and a woman” to “only a marriage between TWO INDIVIDUALS WHO ARE NOT OTHERWISE PROHIBITED FROM MARRYING is valid in this State.” Officials of religious institutions authorized to solemnize marriages would not be required to perform any marriage in violation of the right to free exercise of religion as guaranteed by the First Amendment to the United States Constitution and Maryland Declaration of Rights. [Proposed change in upper case letters.]

NOTE: The Maryland Senate has passed its “same sex marriage” Bill and it seems certain that the House will pass its identical one. Governor O’Malley has stated that, if passed by both Houses, he will sign the Bills into law.

NOTE: If same sex marriage is, in fact, allowed in Maryland under State Law, the School Board of Anne Arundel County will no longer be able to continue denying same sex spouses health insurance benefits.

HOUSE BILL 202 EDUCATION – DISCRIMINATION PROHIBITED - PROTECTED CLASSES

The purpose of this Bill is to conform provisions of the law relating to discrimination in the employment of teachers in public schools to provisions of state law governing discrimination in employment generally. Protected classes would be race, religion, color, ANCESTRY OR national origin, sex, AGE, MARITAL STATUS, SEXUAL ORIENTATION OR DISABILITY UNRELATED IN NATURE AND EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE EMPLOYMENT, except as to sex, if the employment of a certain sex is reasonably necessary to the nature of the employment. The law would apply to appointment, assignment, compensation, promotion, transfer, dismissal and any other matter relating to employment of teachers in public schools. [Proposed additions to the statute are in uppercase letters.]

STUDENT HEALTH AND SAFETY

HOUSE BILL 1 YOUTH ATHLETICS CONCUSSIONS HOUSE BILL 858

These Bills would require all county boards of education and all public school athletic associations to jointly establish guidelines for the evaluation and management of concussions and head injuries and thereafter develop forms to educate coaches, young athletes, parents and guardians concerning the same. The guidelines would apply to all athletic activity in association with:

- 1) educational institutions and
- 2) recreational athletic organizations such as youth sports programs offered by non-profit groups.

Specifically, the guidelines to be established are to require the following:

- 1) A concussion and head injury information sheet be signed by youth athletes and their parents/guardians BEFORE the athletes may participate in sports programs;
- 2) Removal of youth athletes from practices and/or games if concussions or head injuries are suspected;
- 3) Removed athletes be prohibited from returning to play until the athletes have been fully evaluated by a licensed health care provider or volunteer health care provider trained in the evaluation and management of concussions and have written clearance to return to the activity (a volunteer health care provider is not to be liable for civil damages unless gross negligence or wanton or willful misconduct is present).

HOUSE BILL 685 EDUCATION – BULLYING SAFETY RISKS
SENATE BILL 549 AND HEALTH PROBLEMS – PARENTAL
INFORMATION

These Bills would require the State Department of Education, in collaboration with the Department of Health and Mental Hygiene to provide information to county boards describing safety risks and health problems that can affect student victims and alleged perpetrators of bullying, harassment or intimidation. The information, which must be prepared and transmitted by March 31, 2012, is to include guidance to a parent or guardian of both a victim and alleged perpetrator as to when it is advisable to contact a pediatric primary care provider.

HOUSE BILL 386 EDUCATION – TWEEN/TEEN
SENATE BILL 667 DATING VIOLENCE

This Bill would require the State Board of Education to adopt a program in public schools to educate students about dating violence. This program, which must begin in schools prior to grade six, is to also provide services to victims of dating violence.

HOUSE BILL 812 PUBLIC SCHOOLS – DATING VIOLENCE -
SENATE BILL 617 POLICY AND DISCIPLINARY STANDARDS

These Bills, companions of the foregoing bills on Tween/Teen Dating Violence add dating violence (threats or actual use of physical, sexual, verbal or emotional abuse to control the dating partner) to other conduct requiring reporting (Education Article, Sections 7-424 and 7-424.1). In addition, the State Department of Education would be required to develop a model policy, including prohibitions on dating violence and a standardized victim report form which each county board must distribute to public schools.

**HOUSE BILL 674 EDUCATION – HUMAN TRAFFICKING –
AWARENESS, TRAINING AND DISTRIBUTION
OF MATERIALS**

This Bill would require the State Department of Education, in collaboration with the Department of Health and Mental Hygiene, to provide training for directors of student services in local school systems on human trafficking, including strategies for the prevention of trafficking of children. Resource information on the aforesaid would have to be transmitted to local school supervisors of health, counseling and psychology.

**HOUSE BILL 73 VEHICLE LAWS – SCHOOL BUSES –
SENATE BILL 519 PROHIBITION ON PERMITTING
SITTING ON FLOOR OR STANDING**

House Bill 73 and Senate Bill 519 prohibit a person who is responsible for pupils on a school bus from:

- 1) permitting pupils to stand while the bus is in motion and
- 2) permitting pupils to sit on the floor of the bus at any time (whether moving or not)
 - “Responsible persons” are teachers on the bus or, if a teacher is not present, the bus driver.
 - Violation, if convicted, is a misdemeanor and fine, not to exceed \$100.00.
 - The aforesaid requirements are not applicable for the first 10 school days of a school year and in emergencies.

**SENATE BILL 369 EDUCATION – SCHOOL BUSES –
FIRE SAFETY STANDARDS**

This proposed law would require the State Department of Education to adopt fire safety regulations for school buses relating to:

- 1) Upholstery requirements concerning burning and fumes.
- 2) Engine components meeting fire safety standards.

All school buses in the State would have to meet the aforesaid safety standards in order to transport students.

HOUSE BILL 168 STUDENT HEALTH AND FITNESS ACT

This proposed law requires a planned and sequential program of physical education for kindergarten through grade 12. Elementary schools would have a daily program of physical activity to total at least 150 minutes per week, to include at least 90 minutes of physical education. In addition, activity must be consistent with individual students' IEPs, if relevant.

HOUSE BILL 1062 PUBLIC SCHOOLS – MEAL MENUS – NUTRITION INFORMATION

House Bill 1062 would require each public school, beginning in the 2011-2012 school year, to list the number of calories contained in a menu item next to the menu item on a meal menu published by the school.

HOUSE BILL 79 TASK FORCE TO STUDY THE SENATE BILL 772 CREATION OF A MARYLAND CENTER FOR SCHOOL SAFETY

These Bills require a task force to be formed to make findings and recommendations regarding the establishment of a Maryland Center for School Safety. The recommendations are to include and require:

- 1) establishment of a clearing house for information and materials concerning school safety;
- 2) development of a school safety training program to include:
 - a) development of a positive school environment with protective safety measures;
 - b) school safety courses for school police officers and school resource officers;
 - c) discussion of school safety with parents and community;
 - d) assistance in updating emergency preparedness plans;
 - e) interagency efforts to address discipline and safety issues and agreements between local school systems, the Department of Social Services, mental health agencies and juvenile courts to provide cooperative services for students at risk of failure in school, at risk of participation in crime or have been expelled from school;
 - f) subject to the federal Family Educational Rights and Privacy Act, collaboration with the State Department of Education to establish a state wide data system by which local school systems report by gender, race and grade level:
 1. all incidents of violence and assault against school employees and students;
 2. all incidents of possession of guns or other deadly weapons on school property or at school functions;
 3. all incidents of possession or use of alcohol, prescription drugs or controlled dangerous substances on school property or at school functions;

4. all incidents of discipline in which a student has been charged criminally for conduct occurring on school property, transportation or school functions,
5. number of suspensions and expulsions.

**SENATE BILL 62 JUVENILE RECORDS – DISCLOSURE
BETWEEN DEPARTMENTS OF
EDUCATION AND JUVENILE SERVICES**

Senate Bill 62 authorizes the State Department of Education and Juvenile Services to share information and court records. This Bill is to clarify procedures set forth in current law.

SCHOOL BOARD BUDGET / MONIES

**SENATE BILL 316 PROPERTY TAX – CHARTER COUNTIES –
EDUCATION FUNDING**

Senate Bill 316 would apply to all charter counties, including Anne Arundel County. Notwithstanding any provision of a county charter that places a limit on that county’s tax rate, this Bill would allow a county council to set a property tax rate higher than that authorized for the sole purpose of funding an approved budget of the county board of education.

**HOUSE BILL 59 ANNE ARUNDEL COUNTY – TRANSFER
BILL 185 SENATE OF EDUCATION FUNDS BETWEEN
MAJOR CATEGORIES - PUBLIC HEARING**

These legislative bills require the Anne Arundel County Board of Education to make a written request to the County Council with copies to the County Executive for transfer of funds between major categories. Within 7 days of receipt, the County Executive is to submit, in writing, a recommendation to the County Council for approval or disapproval of the request. Thereafter, the County Council shall hold a public hearing on the request. If the County Council fails to take action on the request in 30 days, inaction constitutes disapproval.

This Bill would change current law in that presently, in Anne Arundel County (and the other Maryland Counties) a county council’s failure to act within 30 days constitutes approval of the board’s request.

If passed, these changes will only apply to Anne Arundel County.

HOUSE BILL 60

**ANNE ARUNDEL COUNTY –
ANNUAL EDUCATION BUDGET –
REQUIRED INFORMATION**

House Bill 60 would require the Anne Arundel County Board of Education (no other counties) to provide more detailed budget information on non-instructional personnel, supplies and equipment in its budget requests.

NOTE: HOUSE BILL 59 and SENATE BILL 185 (TRANSFER OF EDUCATION FUNDS BETWEEN MAJOR CATEGORIES) and HOUSE BILL 60 (ANNUAL EDUCATION BUDGET - REQUIRED INFORMATION have drawn the battle lines between the BOE and the County, with all of the bills killed in the Senate by members of Anne Arundel County’s Senate delegation. As reported by the Capital (February 16th), County and State officials are working to resurrect parts of the aforesaid Senate bills.

**HOUSE BILL 1161
SENATE BILL 452**

**ANNE ARUNDEL COUNTY BOARD OF
EDUCATION – MEMBERS - EXPENSE
REIMBURSEMENT PROCEDURES AND
GUIDELINES**

These proposed laws would require the Board of Education of Anne Arundel County to develop procedures and guidelines for the reimbursement of Board Member travel and other expenses, including initial eligibility for reimbursement and subsequent necessary documentation. The Board would also have to submit a report of the foregoing to the Anne Arundel County Delegation.

**HOUSE BILL 644
SENATE BILL 492**

**COUNTY SCHOOL BOARD BUDGETS –
TRANSPARENCY**

House Bill 644 and Senate Bill 492 would require each county board of education to develop and operate a dedicated searchable website accessible to the public that displays and allows searches of budget data of the boards.

SCHOOL BOARD MEMBERSHIP

**HOUSE BILL 78
SENATE BILL 259**

**SCHOOL BOARD NOMINATING
COMMISSION - MEMBERSHIP**

These Bills seek to increase the membership of the School Board Nominating Commission of Anne Arundel County from 11 members to 12 members by adding a member who is a resident of Anne Arundel County appointed by the Maryland Association of Non Public Special Education Facilities.

HOUSE BILL 220 ANNE ARUNDEL COUNTY BOARD
SENATE BILL 78 OF EDUCATION - MEMBER
REAPPOINTMENT AND TERMS

If these Bills become law, members of the Anne Arundel County Board of Education would be eligible for reappointment, but individual members could not serve for more than two consecutive terms.

HOUSE BILL 399 ANNE ARUNDEL COUNTY BOARD OF
SENATE BILL 114 EDUCATION - APPOINTED MEMBERS
SUBJECT TO CONTESTED ELECTIONS

Senate Bill 114 contains the following significant changes to the current law, one of which would open the door for a partially elected school board in Anne Arundel County.

- 1) Currently, after being appointed by the Governor, Board Members continue to serve for their first term if elected by the County at large during the next general election. Senate Bill 114 differentiates between a Board Member appointed from the County at large and Board Members appointed from legislative districts within Anne Arundel County. A Board Member appointed from the County at large would continue to serve if elected by the County at large, while those Board Members appointed from legislative districts would only face the electoral process in their own respective legislative districts.
- 2) Under current law, elections of Board Members are uncontested, with voters given the choice of “yes” or “no” for continuance in office. **Under these Bills; members of the public can challenge a Board member by running against him or her during the general election of that Board member’s SECOND term in office: The ballot would contain challengers’ names rather than a mere “yes” or “no” for the appointed member. As stated previously, this would open the door for a partially elected school board in Anne Arundel County.**

HOUSE BILL 991 ANNE ARUNDEL COUNTY BOARD OF
EDUCATION – MEMBERS – INCREASE AND
SELECTION

House Bill 991, as the previously discussed House Bill 399 and Senate Bill 114, would also open the door to a partially elected school board in Anne Arundel County, but by a different process. House Bill 991 would increase and change the composition of the Anne Arundel County’s Board of Education by adding two elected members. Under the proposed law, there would be eight appointed members, two elected members

and one student member. The elected members would be voted on by the County at large beginning in the general election of 2014 and every four years thereafter. Elected members would serve terms of four years and could run for reelection, but could not serve for more than two consecutive terms.

**HOUSE BILL 958
SENATE BILL 277**

**ANNE ARUNDEL COUNTY BOARD OF
EDUCATION – POLITICAL AFFILIATION**

House Bill 958 and Senate Bill 277 would mandate that no more than five of the members of the Board of Education be of the same political party (excluding, in this count, the student member).

NOTE: The aforesaid Bills (Senate Bills 114 and 277 and House Bills 399, 958 and 991), would all diminish a Governor’s control over the appointment process to the Board of Education, that is, by opening the window to elected members and by “putting a cap” on the number of members of the same political party (usually the Governor’s).

**ENROLLMENT, CURRICULUM, SCHOOL HOLIDAYS,
ABSENTEEISM**

**HOUSE BILL 127, 224 STATE BOARD OF EDUCATION -
SENATE BILL 262 FINANCIAL LITERACY – GRADUATION
REQUIREMENT**

These Bills would require:

- 1) the State Board of Education to develop curriculum content for a course in financial literacy;
- 2) each County Board of Education to implement the financial literacy curriculum in every high school; and
- 3) completion of the financial literacy course in order to graduate.

**HOUSE BILL 191 PUBLIC SCHOOLS – STUDENT ATTENDANCE -
SENATE BILL 474 PREVENTING CHRONIC ABSENTEEISM**

These Bills define “chronic absenteeism” as 20 days or more absent in a school year (both excused and unexcused) and define “high attendance” as 4 days or less absent (both excused or unexcused). Each school (K through 12) would be required to maintain daily attendance records using unique student identifier numbers and to calculate and maintain a record of the number of students chronically absent and those with high attendance by:

- 1) grade level,
- 2) race and ethnicity,
- 3) limited English Proficiency Status,
- 4) special education status and

- 5) any other federal or state defined subgroup.

Each school would submit a report of the foregoing for each grading period to the county board of education and the county board would be required to submit a report for the entire county to the State Board at least one time per year. In addition to the foregoing, each county would develop and implement an attendance incentive plan for chronic absentees.

HOUSE BILL 186 EDUCATION - PUBLIC SCHOOL HOLIDAYS - AMERICAN INDIAN HERITAGE DAY

House Bill 186 would designate “American Indian Heritage Day” a public school holiday with schools closed.

SENATE BILL 129 TASK FORCE TO STUDY DEVELOPMENT OF WETLAND TEACHING PROJECTS AT SECONDARY SCHOOLS

This Bill, self-explanatory by its title, creates a task force to develop wetland teaching projects in secondary schools.

SENATE BILL 41 EDUCATION – AGE FOR COMPULSORY PUBLIC SCHOOL ATTENDANCE AND EXEMPTIONS

Senate Bill 41 raises the age for compulsory public school attendance from “5 to under 16” to “5 to under 17.” The Bill exempts “children under 17” who:

- 1) have a Maryland high school diploma, equivalent out-of-state diploma or GED;
- 2) have disabilities and have completed the requirements for Maryland High School Certificate of Completion;
- 3) are receiving home school under COMAR or private school with studies usually taught in public schools;
- 4) are severely ill, requiring home or hospital instruction;
- 5) are married;
- 6) are in the military;
- 7) are committed by court order to an institution without an education program;
- 8) provide financial support to the child’s family as documented by the Department of Social Services;

- 9) have been expelled;
- 10) are pregnant or are parents enrolled in an alternative program;
- 11) attend an alternate educational program;
- 12) are subject to written parental consent and written agreement with a county board of education, attend public school on a part time basis and attend a private career school or participate in GED courses on a part time basis;
- 13) are waived from these provisions by the State Superintendent.

**HOUSE BILL 500 PUBLIC SCHOOLS – EXTRACURRICULAR
ACTIVITIES – STUDENTS IN HOME
INSTRUCTION PROGRAMS**

House Bill 500 would require public schools to allow home-schooled students to participate in extracurricular activities, i.e., activities outside of school hours, including athletics, music, drama programs, student organizations or other school sponsored programs. If space is limited in a program, however, public school students would have priority over home-schooled students.

**HOUSE BILL 977 PUBLIC SCHOOLS – ENROLLMENT AND
TRANSFER – PARENTAL DECISION**

If House Bill 977 becomes law, beginning in the 2012-2013 school year, the county boards would have to publish the number of available classroom seats at each public school in the county. These seats would be open to all “out of area” students in the county on a space-available basis. If more students apply than can be accommodated in a school’s “available space,” a lottery system would choose students to attend and once admitted, a student would be allowed to complete all grades at that school. Parents of “out of area” students would be responsible for the transportation of the students to and from school.

**HOUSE BILL 364 STUDENT PARTICIPATION IN HIGH SCHOOL
SPORTS – ACADEMIC REQUIREMENTS**

House Bill 364 would require the State Board of Education to adopt regulations to establish academic performance standards that students in public high schools must meet in order to participate in athletic competitions sanctioned by county boards. These regulations would include provisions specifying curriculum content, minimum grade point average and grade progress which, if not met by a student, would prevent that student’s participation in the athletic competition.