

## CHAPTER 9 RESEARCHING A MARYLAND LAW PROBLEM

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### MARYLAND GOVERNMENT

Maryland government is comprised of three branches: the executive, legislative, and judicial. The executive is the governor of Maryland. Legislative power is vested with the General Assembly. The General Assembly has two chambers: the House of Delegates and the Senate. The judiciary consists of the Court of Appeals (the state's highest appellate court); the Court of Special Appeals (the intermediate appellate court); circuit courts (trial courts of general jurisdiction); district courts, and the Orphan's Court. For more information on the structure Maryland state and local government, see the [Maryland Manual On-line](#).

### MARYLAND CONSTITUTION

The Maryland Constitution establishes the powers and structure of state government and guarantees certain fundamental rights. Maryland has had four constitutions in its history. The current Maryland Constitution is the 1867 constitution albeit with significant amendments. An excellent resource on the Maryland Constitution is the book, *The Maryland State Constitution* by Dan Friedman [KFM1601 1867.A6 F747 2011 (Maryland Reference)].

The Maryland Constitution begins with a Declaration of Rights, currently consisting of 47 articles, that describes and protects certain fundamental human rights. The Declaration of Rights protects some rights also found in the U.S. Constitution such as freedom of speech. However, Maryland's Declaration of Rights also provides, in some instances, greater protections than those found in the U.S. Constitution. For example, Maryland's Declaration of Rights affords equal rights for the sexes.

The remainder of the Maryland Constitution consists of 27 articles that establish the institutions and powers of Maryland's government. There are also articles setting forth

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powers for county and municipal government and provide for a system of public education.

The Maryland Constitution is available in print (the Maryland Code and other books) and online. Online sources include Bloomberg Law, Lexis, and Westlaw, and freely available internet sources such as the Maryland General Assembly <http://msa.maryland.gov/msa/mdmanual/07leg/html/ga.html> and the Maryland Manual On-Line <http://msa.maryland.gov/msa/mdmanual/43const/html/const.html>. There are several strategies for finding specific provisions in the Maryland Constitution. You may use secondary sources that cite relevant constitutional provisions. You may use internet or online database searches to locate the provisions. You may also find it helpful to use an index. The print index for the Maryland Code covers the Maryland Constitution. Westlaw also has an online index to the Maryland Code that indexes the Maryland Constitution.

An effective strategy for finding cases interpreting the Maryland Constitution is to use an annotated constitution. Annotated versions of the Maryland Constitution are available in print and online in *Michie's Annotated Code of Maryland* (Lexis) and *West's Annotated Code of Maryland* (Westlaw). Bloomberg Law has an unannotated version. After using the annotations to find cases, researchers may then use other search strategies to find cases. Additionally, thoughtful researchers should not neglect relevant federal cases. Maryland courts often resolve conflicts regarding the Maryland Constitution by looking to cases interpreting similar federal constitutional provisions.

## MARYLAND LEGISLATION

### Maryland session laws

Session laws are the laws enacted by a legislature during a particular legislative session, the period during which the legislature assembles to enact laws. In Maryland, the legislature is the General Assembly. The General Assembly meets once a year from early January until early April unless additional special sessions are called. Maryland session laws are contained in a publication called the *Laws of Maryland*.

The *Laws of Maryland* (abbreviated as Md. Laws) is a chronological arrangement of the full text of all session laws passed by the General Assembly. Session laws may either be public general laws or public local laws. Public general laws are laws passed by the General Assembly that affect the entire state. Public local laws are laws passed by the General Assembly that only affect an area within prescribed territorial limits, for example Baltimore County. Laws for each year are organized by chapter number. There is an annual index by subject and code section. The *Laws of Maryland* is published by the Maryland Department of Legislative Reference.

Session laws occupy a special place in legal research. First, researchers rely on session laws if the relevant provisions have not yet been codified. Second, if there is a textual

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conflict between the codified version of a statute and the session law, then the text of session law prevails.

The *Laws of Maryland* are available from many sources and in many formats. The Thurgood Marshall Law Library has the *Laws of Maryland* in print from 1860 to date. The Library also has the *Laws of Maryland* on microfiche from 1979 to the present. Researchers will also find robust coverage on online sources. HeinOnline has the *Laws of Maryland* since 1788, subject to a two-year delay for current session laws. HeinOnline also has session laws from Maryland's colonial period, 1692 to 1788. Bloomberg Law has Maryland session laws from 1999 to date. Lexis contains the full text of Maryland session laws from 1989 through the current legislative session. The file is updated continuously as the session proceeds. Westlaw has laws passed during the current legislative session.

On the internet, the Maryland General Assembly website <http://mgaleg.maryland.gov/webmga/frm1st.aspx?tab=home> provides bills and enacted session laws from the current legislative session as well as from prior sessions back to 1996. Maryland session laws (colonial and state) are also available from the Maryland State Archives website <http://aomol.msa.maryland.gov/html/laws.html> from 1634 to date.

### Maryland Code

The Maryland Code is the topical compilation of the session laws currently in effect. For many years the version now published by LexisNexis, *Michie's Annotated Code of Maryland* (LexisNexis), was the only one. In 2002, West published a competing version, *West's Annotated Code of Maryland* (West). Both are organized in the same fashion and both include copious annotations to cases construing and interpreting the code as well as references to Maryland Attorney General opinions and selected law journal articles. Both are updated yearly by pocket parts or supplements. In addition, the West version includes some cross references to the Code of Maryland Regulations, other West publications, and the West topic and key number system.

Since the early 1970s the edition originally published in 1957, which is organized by numbered articles, has been gradually replaced by an edition organized by named articles or subjects. Until recently, these two editions coexisted. The numbered articles were contained in black volumes and the named articles were contained in maroon volumes. Both the LexisNexis and the West versions have one subject index for the two formats with the form of reference, numbered or named article, indicating in which that topic is located.

However, in 2016, this process of converting the numbered articles into named articles was completed with the revision and enactment of the Alcoholic Beverages Article. The new Alcoholic Beverages Article consolidates relevant provisions from numbered and other named articles dealing with the regulation of alcoholic beverages. Now that the process is completed, the Maryland Code will only consist of named articles. The

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numbered articles will soon be removed the Maryland Code and future researchers will only use the numbered articles if historical statutory research is required.

Annotated versions of the Maryland Code are available online from Lexis and Westlaw. Bloomberg Law has an unannotated version. There are also free unannotated versions available online from several sources. For a list of selected sources, see <http://www.lawlib.state.md.us/researchtools/sourcesmdlw.html>.

### MARYLAND COURTS

#### Court of Appeals

The Court of Appeals is the highest court in Maryland and hears cases primarily on review. It has appellate jurisdiction over death penalty cases and questions of law under the Uniform Certification of Questions of Law Act. The Court has original jurisdiction over questions concerning gubernatorial succession, review of legislative districting, disciplining of judges, and attorney discipline. The Court sits in Annapolis with five of the seven judges constituting a quorum. Its term begins on the second Monday of September and runs until the beginning of the new term. Petitions for certiorari may be filed by any interested party, including the State. Appeals may be filed either before or after the Court of Special Appeals has handed down a decision, but not later than the time prescribed by the court rules. However, certiorari will not be granted if the Court of Special Appeals has denied or granted leave to:

- 1) prosecute an appeal in a post-conviction proceeding.
- 2) appeal from a refusal to issue a writ of habeas corpus concerning bail.
- 3) appeal in an inmate grievance commission proceeding.
- 4) appeal from a final judgment entered following a plea of guilty in a circuit court.

Decisions of the Court of Appeals are reported in the *Maryland Reports*, the *Atlantic Reporter*, and the *Maryland Reporter*.

#### Court of Special Appeals

The Court of Special Appeals is Maryland's intermediate appellate court. The court was created in 1966. The court has no original jurisdiction. Except for death penalty cases, which are directly appealable to the Court of Appeals, it has exclusive initial appellate jurisdiction over judgments, decrees, and orders from the Circuit or Orphans' Courts. The Court of Special Appeals sits in Annapolis. Cases are heard before a panel of not fewer than three judges. All decisions are by majority vote. There are 15 members of the court. One member is elected from each of the eight judicial circuits, and the remaining judges are elected from the State at large. An appeal is taken by filing an order for appeal with the clerk of the trial court. However, in a post-conviction case, an appeal may be filed with either the clerk of the Court of Special Appeals or with the lower court clerk.

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Decisions of this court are reported in the *Maryland Appellate Reports*, the *Atlantic Reporter*, and the *Maryland Reporter*.

### **Circuit courts**

The circuit courts are the highest common law and equity courts of record exercising original jurisdiction. These courts have appellate jurisdiction over decisions of the district courts. With the exception of Montgomery County, they also have exclusive jurisdiction over juvenile matters. Each county has a circuit court and these courts are grouped geographically into circuits. Baltimore City is the Eighth Judicial Circuit. Appeals are made de novo except in civil cases exceeding \$5,000, and in cases in which the parties agree that the appeal is on the record made in District Court. Judgments of the Orphans' Court may be appealed to the Circuit Court instead of the Court of Special Appeals, except in Harford or Montgomery Counties. Appeals from the District Court are taken to the Circuit Court of the county in which the judgment was entered. Opinions of these courts are usually not published, but summaries of some important cases appear in Maryland's legal and business newspaper, the *Daily Record*.

### **District courts**

The district courts are courts of limited jurisdiction in both criminal and civil areas. They were created in 1970 and began operating in July 1971. There are 12 geographical districts consisting of one or more political subdivisions with at least one judge. The court has exclusive jurisdiction over landlord and tenant cases, replevin actions, motor vehicle violations, civil cases under \$5,000, and certain misdemeanors and felonies. The District Court has concurrent jurisdiction with the Circuit Court for civil cases in claims between \$5,000 and \$30,000; and in criminal cases involving misdemeanors and certain felonies, in which the penalty may be confinement for 3 years or more or a fine of \$2,500 or more. District Courts have no jurisdiction if the defendant is entitled to and demands a jury trial. Opinions of the District courts are not reported.

### **Orphans' courts**

The Orphans' Courts have jurisdiction over probate matters. There is an Orphans' Court in each county, except for Harford and Montgomery, and Baltimore City. Opinions of these courts are not reported.

### **Reporters**

#### A. *Maryland Reports* (Md.) (1658 to date)

Contains the full text of opinions handed down by the Maryland Court of Appeals and its predecessor, the General Court of Maryland. Opinions are arranged chronologically. In addition to the opinions, each volume has a table of cases reported, names of the judges of the court, an index of petitions for writ of certiorari, a list of words and phrases construed, a table of statutes cited, and an index digest. The Library maintains a current subscription to the *Maryland Reports* in print.

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### B. *Maryland Appellate Reports* (Md. App.) (1967 to date)

Contains the full text of Maryland Court of Special Appeals opinions. The format is the same as that of *Maryland Reports*. The Library maintains a current subscription to the *Maryland Appellate Reports* in print.

### C. *Atlantic Reporter* (A., A.2d, A.3d) (1885 to date) (West Group)

The unofficial reporter for Maryland cases. West gathers published appellate decisions from all states in seven regional reporters. The *Atlantic Reporter* covers Connecticut, Delaware, the District of Columbia, Maine, New Hampshire, New Jersey, Pennsylvania, Rhode Island, and Vermont, in addition to Maryland. Since it is a West reporter, cases include both headnotes and the topics and key numbers under which they are grouped in the West digests. The Library cancelled its subscription to the *Atlantic Reporter* in print in 2012 (through A.3d, volume 48, and advance sheets, A.3d, volume 51).

### D. *Maryland Reporter* (A., A.2d, A.3d) (1938 to date) (West Group)

For the benefit of practitioners who are primarily interested in Maryland decisions, West has reprinted the pages of the *Atlantic Reporter* containing Maryland decisions. The pagination is the same as the *Atlantic Reporter*. The Library cancelled its subscription to the *Maryland Reporter* in print in 2012 (through A.3d, volume 47-48).

## Electronic sources

Opinions of the Court of Appeals are available on Bloomberg Law (1851 to date), Lexis (1658 to date), and Westlaw (1714 to date). Opinions of the Court of Special Appeals are available on all three systems beginning 1967 when this court was created. Opinions of the Court of Appeals and Court of Special Appeals from 1995 to the present are available on the [Maryland Judiciary website](#). Opinions are loaded on the day of filing.

Unreported opinions from Maryland appellate courts are available on the Maryland Judiciary website. <https://www.courts.state.md.us/appellate/unreportedopinions> Bloomberg Law, Lexis, and Westlaw, in rare instances, may also have unreported decisions and orders from Maryland circuit and district courts. However, in general, decisions and orders from Maryland trial courts can only be obtained by going to the courthouse, or in some cases the Maryland State Archives, for manual collection.

## Other sources

Decisions from Maryland courts are sometimes reprinted in legal newspapers. An important newspaper for finding information about Maryland cases is the *Daily Record*. The *Daily Record* is a daily newspaper published in Baltimore focused on Maryland business and legal information. The *Daily Record* contains legal announcements, court calendars, articles, opinions of the attorney general, and synopses of important court

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decisions. The *Daily Record* is available online from Lexis (1995 to date) and Westlaw (2010 to date). The Library maintains a current subscription to the *Daily Record* (print and online). The Library also has the *Daily Record* on microfiche (1881 to date).

### Records and briefs

Briefs from Maryland's Court of Appeals and Court of Special Appeals are available on Lexis (2000 to date) and Westlaw (1999 to date). The Library also receives the records and briefs of reported cases from both the Court of Appeals and the Court of Special Appeals. The earlier ones, from 1948 for the Court of Appeals and from 1967 for the Court of Special Appeals, are in paper format. The later ones, beginning with the October 1979 term, are on microfiche.

Selected briefs, pleadings, and motions filed in Maryland's district and circuit courts are also available online from Lexis (2000 to date) and Westlaw (1997 to date).

### Finding aids

#### A. *West's Maryland Digest 2d* (West Group)

This multi-volume set is the subject index to both Maryland case law and federal cases arising in Maryland. Cases from 1658 to the present are included and organized by subject using West's topic and key number system. The editors of West write a short paragraph summarizing each point of law they find in all reported appellate decisions. These paragraphs are then placed at the appropriate spots in the pre-existing topical outline that forms the nucleus of the digest. The second edition of this digest has completely replaced the first. The Library has a current subscription to the *Maryland Digest 2d*.

#### B. *Atlantic Reporter Digest* and *West's Atlantic Digest 2d* (West Group)

This multi-volume set is the subject index for the *Atlantic Reporter*, the West regional reporter that includes published cases from Maryland. The two editions are designed to be used together with the first providing coverage from the earliest published cases through, depending on the volume, the early 1930s through the late 1940s, and the second providing coverage from that point to the present. The Library cancelled its print subscription to the *Atlantic Digest 2d* in 2006.

#### C. *West's Maryland Law Encyclopedia* (West Group)

Legal encyclopedias can be useful as indexes and introductory guides to the law. They are written in narrative form, arranged by subject and contain references to cases in the footnotes. Some states, including Maryland, have encyclopedias that discuss the law of the state. *West's Maryland Law Encyclopedia* contains summary discussions of all areas of Maryland law with citations to cases, statutes, attorney general opinions and law

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review articles. It is available on Westlaw and in print. The print edition is updated by pocket parts.

### Updating

#### A. *Shepard's Maryland Citations* (Lexis Publishing)

The Maryland edition of Shepard's gives information about later history and other cases that have cited a particular decision or section. It also includes citing references from attorney general opinions and law review articles that have been published by law schools within that state as well as citing references from federal cases. It does not provide citing references from cases of other states. The Library cancelled its print subscription to *Shepard's Maryland Citations* in 2015.

#### B. Online Citators

Online citators include BCite (Bloomberg Law), Shepard's (Lexis), and KeyCite (Westlaw). The citators give the prior and subsequent procedural history of Maryland (and other state) cases and include cites to decisions that have cited particular cases, with analysis of the significance of those citations.

## MARYLAND ADMINISTRATIVE MATERIALS

The *Code of Maryland Regulations*, more commonly known as COMAR, was created in 1974 to meet the need for a formal, topical compilation of the rules and regulations issued by Maryland agencies. At the beginning of each volume of COMAR there is a detailed preface describing both the purpose and the use of COMAR. Generally, each department of state government has been assigned its own title in COMAR. An individual title may occupy more than one physical volume.

At the end of every chapter of regulations in COMAR there is a reference headed "Administrative History" that gives the original effective date of the chapter as well as the dates of any amendments. At the beginning of the chapter of regulations is the statutory authority for that chapter.

The *Maryland Register* is issued every other Friday and serves several purposes. Executive orders of the governor and opinions of the attorney general are published here, generally before they appear anywhere else. New and changed court rules are also published here. Perhaps most importantly, proposed and final changes and additions to administrative regulations are published in the *Maryland Register*. The purpose is much the same as that of the *Federal Register*, to provide notice to interested parties and to give the public an opportunity to comment on the changes and additions before they become final.

### Finding Maryland regulations by topic



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*Michie's Index to the Code of Maryland Regulations* is a one-volume subject index to COMAR. It is republished annually.

Even if you do not find a regulation on the subject you are researching in the subject index, one may have been added since the last update of the title of COMAR into which the new regulation will be inserted. Updated indexing is provided by the separately published quarterly "Cumulative Index" to the *Maryland Register*. Printed on yellow paper, this index allows you to check subject headings department by department for late additions. Keep in mind, however, that because it is only published quarterly, and even then with about a six-week delay, you will still need to check the tables of contents of all the subsequent issues of the *Maryland Register* to bring your research completely up to date.

### Updating Maryland regulations

COMAR is updated once each year. Replacement pages note "Effective as of ..." at the bottom.

To update COMAR, consult the "Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed" available online at <http://www.dsd.state.md.us/PDF/CumulativeTable.pdf>. It lists updates for each title of COMAR back to the point at which that title of COMAR was last supplemented. The "Table of Pending Proposals," which is published in each issue of the *Maryland Register*, is cumulative until the proposed regulation is no longer pending, having either moved to the table of adopted regulations or been withdrawn. It also is available online at <http://www.dsd.state.md.us/PDF/ProposalTable.pdf>.

References from the "Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed" are to the page in the *Maryland Register* where the proposed regulation was made final. In almost all situations the text of the new regulation will not be printed here, but there will be a cite to the page in the earlier issue of the *Maryland Register* where the text of the proposed regulation did appear. On the other hand, the "Table of Pending Proposals" cites directly to the point where the full-text of the proposed regulation was first set forth. The Thurgood Marshall Law Library has print copies of all the sources described above: COMAR, the *Maryland Register*, the *COMAR Deskbook*, and the quarterly Cumulative Index.

### Finding cases that interpret or affect the validity of a regulation

You can KeyCite (Westlaw) COMAR sections on Westlaw to find cases that cite a particular section. However, Westlaw does not provide status flags for COMAR sections so you must read the cases to determine the court's treatment of a regulation. It is not possible to BCite (Bloomberg Law) or Shepardize (Lexis) either COMAR or the *Maryland Register*. However, it is possible to construct online searches that use the COMAR citation as a search term. However, since COMAR is cited in a variety of ways, care and flexibility must be used in formulating this type of search.

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### Electronic sources

Bloomberg Law provides the full text of COMAR. Lexis provides full text coverage of COMAR and the Maryland Register. Additional administrative materials are available, including State Regulation Tracking, Public Service Commission Reports, and Securities Orders, Releases, and Letters. Westlaw provides the full text of COMAR. Although the text of the *Maryland Register* is not available, biweekly updates to the Westlaw version of COMAR are scheduled.

The Lexis and Westlaw versions of COMAR include a disclaimer stating that the electronic version is not considered official text and that "... only the printed version of this text is official, valid, and enforceable under Maryland law."

On the internet COMAR and the most recent issues of the *Maryland Register* may be searched at <http://www.dsd.state.md.us/>. Maryland agency information is increasingly available on the internet. Some agencies provide organizational or procedural information, as well as hearings calendars and the text of recent rulings. Thus it is worth checking when working with a state agency to see what is available through this source. One site with extensive links to state agencies, boards and commissions is the Maryland State Agency Directory [http://www.maryland.gov/pages/agency\\_directory.aspx?view=agencies](http://www.maryland.gov/pages/agency_directory.aspx?view=agencies).

### Historical versions

Westlaw and Lexis have some historical coverage of state administrative regulations, including COMAR. These historical versions are useful if you want to view how an administrative code section read at an earlier point in time.

To trace back the history of a COMAR section, you can use the historical versions of COMAR, or review the "Administrative History," which provides references to the Maryland Register publications of the original or amended versions of the COMAR section. On the free Division of State Documents version of COMAR, these references appear not in each COMAR section, but at the end of the subtitle.

When tracing a regulation back through the *Maryland Register*, you may find that the final regulation as published includes only changes from the original proposed version; thus the researcher must often review the proposed versions, published at an earlier date in the Maryland Register, for a complete version of the final regulation.

### Citation form for COMAR and the Maryland Register

COMAR citations take an unusual form. Each of the components has been assigned a specific name by the compilers. For example, in the citation COMAR 09.12.01.02B(4)(b)(ii) the components are:

09 - title

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- 12 - subtitle
- 01 - chapter
- 02 - regulation
- B - section
- (4) - subsection
- (b) - paragraph
- (ii) - subparagraph

Following *The Bluebook*, the current form of the COMAR reference above would be cited:

Md. Code Regs. 09.12.01.02B(4)(b)(ii) (2018).

The format for the citation appears in the Maryland section of Table T1 of *The Bluebook*. For determining the year to use in the parenthetical, the most analogous rule is *Bluebook* Rule 12.3.2. While it deals with statutory codes, it also provides guidance for citing to administrative codes. The operative portion of the rule states that “[i]f a code is published in looseleaf form, give the year that appears on the page on which the provision is printed or the year that appears on the first page of the subdivision in which the provision appears - in that order of preference ...”

The rule and examples set forth in the *Maryland Register* for citing to itself are quite different from what is prescribed in *The Bluebook*. The abbreviation for the citation appears in the Maryland section of Table T1 of *The Bluebook*. For additional guidance you must analogize, and the closest rules are 14.1 and 14.2, which deal with federal administrative sources, including the *Federal Register*. The general examples of the format to follow for the *Federal Register* are in Rules 14.1 and 14.2.

Following the *Maryland Register*, a recent notice of proposed action would be cited:

40:14 Md. R. 1176-1177 (July 13, 2013) (to be codified at COMAR 10.58.07).

Following *The Bluebook*, the same notice of proposed action would be cited:

40 Md. Reg. 1176 (2013) (to be codified at Md. Code Regs. 10.58.07).

### **State agency opinions, rulings, etc.**

Some Maryland and other state agency decisions, and rulings can be found online on Bloomberg Law, Lexis, and Westlaw, or agency website(s). Some states have a centralized panel of administrative law judges, like Maryland’s Office of Administrative Hearings <http://www.oah.state.md.us/> (OAH) which provides varied access to ALJ rulings from various agencies.

### **State executive orders**

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Executive orders are rules or orders issued by the Maryland governor that have the force of law. Executive orders are commonly used to issue management instructions to state agencies. All executive orders from Maryland governors are published in the *Maryland Register*. Executive orders of a permanent nature are found in COMAR, Title 1. Executive orders from the current governor's administration are usually available on the governor's website <http://governor.maryland.gov/category/executive-orders/>.

### State Attorney General Opinions

Maryland's Attorney General frequently issues opinions to the governor or state agencies discussing the legality of a proposed law or action. Attorney General Opinions do not have the force of law, but courts do give them consideration. Maryland Attorney General Opinions are available on Bloomberg Law, Lexis, and Westlaw. They are also available on the Maryland Attorney General website <http://www.marylandattorneygeneral.gov/Pages/Opinions/index.aspx>. Maryland Attorney General Opinions are also published in the *Annual Report and Official Opinions of the Attorney General of Maryland* [KFM1640 .A551 (see catalog for holdings)].

## MARYLAND LOCAL LAW

Local laws are laws that pertain to municipal governments rather than the entire state. Local government in Maryland consists of the 23 counties and Baltimore City. The county structure can be traced back to earliest Maryland history with Carroll and St. Mary's counties having been founded in 1637 and the majority of the other counties organized before the Revolution. Baltimore City, its charter dating back to 1797, was originally a municipal corporation in Baltimore County. Under the Constitution of 1851, Baltimore City became a separate entity and the Constitution of 1867 established the current framework of its government.

### Forms of county government

The primary forms of county government in Maryland are: commission and home rule. However, there are two forms of home rule: charter and code. These three forms of county government are discussed below. Also discussed are the forms of government for Baltimore City and other forms of local government such as municipal corporations and multi-county commissions and councils.

#### A. Commission counties

Prior to 1948, all county governments followed the commission form. Now only a few counties are organized under this type of government: Calvert, Carroll, Garrett, St. Mary's, Somerset, and Washington.

The Maryland Constitution, art. VII, § 1 gives the Maryland General Assembly full power to legislate for these counties. The Maryland Code's Local Government sets out the general power and limitations of the Commission form of government. Legislative

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and executive powers are granted directly by the General Assembly to the elected Board of Commissioners. The Board decides by a majority vote and acts as a corporate entity.

### B. Home rule - charter

Under this form of local government, the state transfers legislative power in local matters to the county. However, if a law is to apply to all counties or to more than one home rule county, the General Assembly acts.

The Maryland Constitution, art. XI-A grants counties the authority to adopt a charter home rule form of government. The Maryland Code, Local Government Article, describes the powers and limitations of the charter county government.

Montgomery County was the first to take advantage of the charter form of home rule when it adopted a charter form of government in 1947. Charter counties now include Anne Arundel, Baltimore, Cecil, Dorchester, Frederick, Harford, Howard, Montgomery, Prince George's, Talbot, and Wicomico.

Maryland law grants home rule charter counties some independence and permits them to pass legislation that affects only the county in question. At the same time, the General Assembly retains legislative power in areas such as control of public education. In addition, no local law can conflict with a public general law or the Constitution of Maryland.

Charter counties have two variations on governmental structure: Council/Executive and Council/Manager. Under the Council/Executive form, administrative responsibilities lie with an elected official, the county executive. The executive prepares the budget and makes administrative appointments subject to Council confirmation. Legislative and policy-making powers rest with the elected county council. It enacts legislation and establishes programs and policies to be carried out by the County Executive.

Under the Council/Manager form, both legislative and executive powers are vested in the elected County Council. The County Manager is appointed by them to shoulder as much or as little of the executive workload as the Council allows.

### C. Home rule - code

This third type of county government is a combination of the charter and commission forms. A 1966 amendment to the state Constitution and an additional article to the Code made adoption of code home rule possible. Under this form, there is no charter, but the counties have the power to amend, repeal, or pass local laws. Allegany, Caroline, Charles, Kent, Queen Anne's, and Worcester counties follow the code home rule form of government.

The Maryland Constitution, art. XI-F grants counties the authority to adopt a code form of government. The Maryland Code, Local Government Article, describes the powers

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and limitations of the charter county government, and also provides procedures for returning to the prior form of government.

Code counties are a combination of charter and commission forms of local government. Code counties do not have a charter, but they can act on local legislation. Unlike charter counties, however, the code counties still have the General Assembly passing some public local laws for their jurisdiction. The commissioners have both executive and legislative powers under local law.

There is no specific government structure listed for code counties with the exception of the naming of the governing body “commissioners.” The county codes may provide for a “pure commission,” “commission elected executive,” “commission manager,” or a “commission administrator.”

### **Baltimore City**

Baltimore City is an independent political and geographic subdivision that differs from the counties and municipal corporations in its constitutional and legal framework. It is an incorporated city with both a city charter and a home rule charter, giving Baltimore a broad political power base. Baltimore was first incorporated in 1796 as a municipality within the boundaries of Baltimore County. In 1851 it broke away from the county and has acted as an independent unit since. Under the Constitution of 1867, the governmental structure of the city was established with only the General Assembly authorized to make changes.

The Maryland Constitution, art. XI-A, granted Baltimore City the authority to amend or enact its charter. This power was first used in 1918. Charters were revised in 1945 and 1964. The Baltimore City Charter contains the express powers of the City government and provides detailed information on the structure of the government. Some powers include: the power to issue general obligation debt, the General Assembly cannot enact local laws for Baltimore City if the city’s Charter has granted it jurisdiction, and special zoning powers to attract commercial enterprises.

Baltimore City has a strong form of government with both the Mayor and Council elected. The mayor appoints many boards and departments and is responsible for their overall supervision. The Council is the legislative arm of the city and it is responsible for the passage of city ordinances.

### **Other forms of local government**

#### **A. Municipal corporations**

Under art. XI-E of the Maryland Constitution, all municipal corporations are entitled to home rule authority. The General Assembly can pass legislation affecting these political subdivisions, but the laws must affect all municipal corporations alike. The Maryland Code, Local Government, Titles 4 & 5 set out the powers given to municipal corporations.

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### B. Maryland-National Capital Park and Planning Commission

This commission has jurisdiction over parks and planning in Montgomery and Prince George's Counties. It is also responsible for the general development plan of the Maryland Regional District. The Commission consists of 10 members, five from Montgomery County and five from Prince George's County. Statutory authority for the Commission is in the Maryland Code, Land Use, titles 14 – 27. For more information, visit the Commission's website <http://www.mncppc.org/>.

### C. Washington Suburban Sanitary Commission

This Commission is responsible for the maintenance of the water supply and sewage disposal systems in Montgomery and Prince George's Counties. The Commission is mandated to operate sewage disposal plants, waste water plants and to set customer rates. The Commission consists of six members, three from Montgomery County and three from Prince George's County. Statutory authority for the Commission is in the Maryland Code, Public Utilities, titles 16 – 29. For more information, visit the Commission's website <https://www.wsscwater.com/home.html>.

### D. Tri-County Councils

Maryland has several tri-county councils that are responsible for cooperative economic development and planning for selected counties. The councils have the powers of independent agencies and may enter into contracts and borrow or accept funds to further their missions. The current tri-county councils are: The Midshore Regional Council (<http://www.midshore.org>) for Caroline, Dorchester, and Talbot counties. The Tri-County Council for Southern Maryland (<http://tccsmd.org>) for Calvert, Charles, and St. Mary's counties. The Tri-County Council for the Lower Eastern Shore of Maryland (<http://lowershore.org>) for Somerset, Wicomico, and Worcester counties. The Tri-County Council for Western Maryland (<http://www.tccwmd.org>) for Allegany, Garrett, and Washington counties. The Upper Shore Regional Council (<http://www.uppershoreregionalcouncil.org>) for Cecil, Kent, and Queen Anne's counties. For more information, visit the websites for each council.

## Sources of law and finding aids

### A. Ordinances

Local laws enacted by counties and municipalities are known as ordinances. Ordinances are enacted by the local legislature, usually local council. The ordinances passed by a local council are codified in a code of ordinances.

Most Maryland counties and municipalities provide free online access to codes of ordinances from their local government websites. Most counties and municipalities will also include on these websites the text of the county or municipal charter, if one exists.

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The Maryland State Law Library provides links to both [county codes](#) and [municipal codes](#). Websites for county or city councils often provide access to bills and uncodified ordinances. Links to county and council websites are available at the Maryland Manual On-Line <http://msa.maryland.gov/msa/mdmanual/html/mmtoc.html>.

Online databases also provide access to some Maryland local codes. Lexis provides access to about 20 Maryland municipal and county codes. Additionally, the database eCode360 is available from the Law Library's website, and provides access to almost 50 Maryland municipal and county codes.

The Library also has a small print collection of county and municipal laws. The collection includes codes for Anne Arundel, Annapolis, Baltimore County, Baltimore City, Howard County, Montgomery County, and Prince George's County. The local codes are in the Library's Maryland Reference collection (KFM1799- ). However, the print codes may not be current so you should use online versions when possible.

### B. Public local laws

Maryland counties and Baltimore City are also governed by public local laws. Public local laws are statutes passed by the General Assembly that impact a single jurisdiction. The bills are introduced by the county delegation and passed by the General Assembly. The laws are then incorporated into the city or county's local code of ordinances or the city county's code of public laws. In the past, public local laws were published as part of the Maryland Code. However, public local laws have not been incorporated in the Maryland Code since 1930.

To find information on public local laws not yet incorporated into a local code of ordinances, researchers must use the publication, *Compilation of Changes in the Public Local Laws of Maryland*. This annual publication prepared by the Maryland Department of Legislative Services is available online from the Maryland General Assembly website under the "Publications" tab <http://mgaleg.maryland.gov/webmga/frmPublications.aspx?pid=pubspage&tab=subject8>.

### C. Charters

Charters are the foundational governing documents for counties and municipalities. Each county approves a Charter when it votes to have a home rule charter form of government. The charter contains the rights and duties of the county and spells out the governmental structure. As noted above, most websites for local codes of ordinances will also include the text of the county or municipal charter, if one exists. The Maryland Department of Legislative Services also publishes *Municipal Charters of Maryland*, a multi-volume loose-leaf containing the text of charters for Maryland cities and towns (county charters are not included) [KFM 1631.5 .A73 M8 2008].

### D. Other sources



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Some other information sources and finding aids include:

- *Maryland County Publications Checklist* (2005)  
<http://www2.law.umaryland.edu/marshall/llam/county/index.htm>  
This is a bibliography of published sources for Baltimore City and Maryland counties arranged by jurisdiction. However, the bibliography is limited in its usefulness given that has not been updated in over a decade. Included are general codes, zoning regulations, building codes, model codes and standards, other specialized codes as adopted by the jurisdiction, and superseded compilations. Also noted are publication dates, costs, contacts, telephone numbers, and holding libraries.
- *Maryland Local Government Handbook* (2014)  
<http://mgaleg.maryland.gov/Pubs/LegisLegal/2014-legislativehandbookseries-vol-6.pdf>  
This handbook provides a brief introduction on the structure and powers of local governments in Maryland. A demographic and historical profile for each county is also provided.
- *Maryland Manual: A Guide to Maryland Government*  
<http://mdmanual.net>  
Published in print through 2006, now available only online and updated daily. The Maryland Manual provides information on every Maryland county and municipality.

### BALTIMORE CITY MATERIALS

Some sources of law and finding aids for Baltimore City include:

- A. General laws
  - 1. [Baltimore City Charter](#). The *Baltimore City Charter* sets forth the basic powers and structure of government for Baltimore City. It is published by the Baltimore City Department of Legislative Reference.
  - 2. [Baltimore City Code](#). The Baltimore City Code is the code of local ordinances passed by the Baltimore City Council. The Baltimore City Code is also published by the Baltimore City Department of Legislative Reference. The Baltimore City Code is no longer published in print and researchers should use the online version. There is also a helpful [index](#) for the Baltimore City Charter and Code.
    - [Code of Public Local Laws](#). The Code of Public Laws is a part of the Baltimore City Code and contains the laws passed by the Maryland General Assembly that apply only to Baltimore City. Edited and published by the Department of Legislative Reference.

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- Incorporated Codes. Baltimore City has incorporated several model building, fire, electrical, and plumbing codes into the Baltimore City Code. These model codes are created by private organizations and the text of these model codes are not available in the Baltimore City Code. Researchers can access these codes from vendor websites for a fee or find them in print in Library (use the Library's catalog to find these model codes).
- Zoning Code. <http://ca.baltimorecity.gov/codes/Art%2032%20-%20Zoning.pdf>. Land use and zoning decisions are some of the most important powers possessed by local governments. The most current zoning code is available online. Some older Baltimore City Zoning Codes are available in the Library in print (e.g. Zoning Code of Baltimore City, 2000 ed.; KFM1799.B5 A3 2000).
- 3. [Ordinances](#). Ordinances passed by the Baltimore City Council are available from the Council's website. Researchers can search by legislative text, bill number, ordinance number, sponsor, status, Baltimore City Code section, and more. Ordinances that have been codified are also found in the Baltimore City Code. Older ordinances (1886 – 1999) can be found in the publication *Ordinances and Resolutions of the Mayor and City Council of Baltimore* [KFM1799.B5 B3]. Rules of City Council, which describe the Council's legislative process, are also available [online](#).

### B. Courts

The courts of Baltimore City are part of the Maryland court system. The District Court (First District) is the lowest level court. Housing, traffic matters and some civil and criminal matters are handled at this level. The Circuit Court (Eighth) handles major civil and criminal cases and cases in which parties are entitled to jury trials. The Court of Special Appeals is the intermediate appellate court and the Court of Appeals is the highest court in the Maryland System. The Orphan's Court of Baltimore City deals with wills and estates and has jurisdiction over the appointment of guardians for minors.

Useful sources for court information or court forms include:

- [Circuit Court for Baltimore City](#). The website for the Baltimore City Circuit Court. The website provides information about the court, clerk's office information, case scheduling, information jurors, and information on forms and fees.
- *Maryland Lawyers Manual*. The Baltimore City section is a source for names, addresses and telephone numbers of court personnel. Updated annually. [KF192.M36M3 (Maryland Reference)].

## MARYLAND PRACTICE MATERIALS

The Library has an extensive collection of Maryland practice materials. Below is a bibliography listing some of these resources.

### A. General

- *Maryland Law Encyclopedia*  
[Online: [Westlaw](#) -- Print: KFM1265.W3 (Maryland Reference)]
- *Practice Manual for the Maryland Lawyer* (4th ed., 2012- )  
[Online: [Lexis](#), [Westlaw](#) -- Print: KFM1268.P73 2012 (Maryland Reference)]

### B. Administrative law

- *Maryland Administrative Law* (2007)  
[Online: [Westlaw](#) -- Print: KFM1640 .R63 2007 (General Stacks)]
- *Principles and Practice of Maryland Administrative Law* (2011)  
[Print: KFM1640 .R63 2011 (General Stacks)]

### C. Appellate procedure

- *Appellate Practice for the Maryland Lawyer: State and Federal* (4th ed. 2014)  
[Online: [Lexis](#), [Westlaw](#) -- Print: KFM1755.A9 2014 (Maryland Reference)]

### D. Civil procedure

- *Civil Practice & Procedure in the District Court of Maryland* (2010)  
[Online: [Westlaw](#) -- Print: KFM1714.C58 2010]
- *Maryland Civil Pattern Jury Instructions* (4th ed., 2000- )  
[Online: [Lexis](#), [Westlaw](#) -- Print: KFM1742.M37 2002 (Maryland Reference)]
- *Maryland Civil Procedure Forms with Practice Commentary* (3d ed., 2000- )  
[Online: [Lexis](#) -- Print: KFM1730.A65D542 2000 (Maryland Reference)]
- *Maryland Litigation Forms and Analysis* (1998- )  
[Online: [Westlaw](#) -- Print: KFM1730.A65M372 1998 (Maryland Reference)]
- *Maryland Civil Procedure Forms* (Maryland Practice Series, current ed.)  
[Online: [Westlaw](#) -- Print: KFM1715.A73M32, v. 3-4 (Maryland Reference)]
- *Modern Maryland Civil Procedure* (2d ed., 2004- )  
[Online: [Lexis](#) -- Print: KFM1730.L96 2004 (Maryland Reference)]
- *Pleading Causes of Action in Maryland* (5th ed., 2013)  
[Online: [Lexis](#) -- Print: KFM1396.S21 2013 (Maryland Reference)]

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- E. Corporation law
- *Maryland Corporation Law* (1990- ) /  
[Online: [IntelliConnect](#) -- Print: KFM1410.H36 1990 (Maryland Reference)]
  - *Maryland Corporate Practice and Forms* (2000- )  
[Print: KFM1410.S38 2000 (Maryland Reference)]
- F. Court rules
- *Maryland Rules Commentary* (4th ed., 2014- )  
[Online: [Lexis](#) -- Print: KFM1729.N67 2003 (Maryland Reference)]
- G. Criminal law & procedure
- *Maryland Criminal Jury Instructions and Commentary* (3d ed., 2009- )  
[Online: [Lexis](#) -- Print: KFM1783.A92 2009 (Maryland Reference)]
  - *Maryland Criminal Pattern Jury Instructions* (2d ed, 2012- )  
[Online: [Lexis](#), [Westlaw](#) -- Print: KFM1783.A65M37 2012 (Maryland Reference)]
- H. Elder law
- *Elder Law in Maryland* (4th ed., 2012- )  
[Online: [Lexis](#) -- Print: KFM1291.A3F821 2012 (Maryland Reference)]
- I. Estate administration
- *Gibber on Estate Administration* (5th ed., 2008- )  
[Online: [Lexis](#) -- Print: KFM1347.G5 2008 (Maryland Reference)]
  - *Maryland Estate Planning, Will Drafting and Estate Administration Forms with Practice Commentary* (2d ed., 1995- )  
[Print: KFM1340.A65B37 1995 (Maryland Reference)]
- J. Evidence
- *Maryland Evidence: State and Federal* (Maryland Practice Series, 3d ed., 2013- )  
[Online: [Westlaw](#) -- Print: KFM1740.M37 2013, v. 5-6A]
  - *Maryland Evidence Handbook* (4th ed. 2010)  
[Online: [Lexis](#) -- Print: KFM1740.M87 2010 (Maryland Reference)]
- K. Family law
- *Fader's Maryland Family Law* (5th ed., 2011- )  
[Online: [Lexis](#) -- Print: KFM1294.C35 2011 (Maryland Reference)]
  - *Maryland Domestic Relations Forms with Practice Commentary*  
[Online: [Lexis](#) -- Print: KFM1294.5.A65T8 (Maryland Reference)]
  - *Maryland Family and Juvenile Law: Practice Manual and Forms* (2003- ) /  
[Print: KFM1294 .R44 2003 (Maryland Reference)]

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- L. Landlord and tenant law
- *Guide to Local, State and Federal Laws Government Tenant-Landlord Relations* (various editions) [Print: see catalog for holdings]
  - *Maryland Landlord-Tenant Law: Practice and Procedure* (4th ed., 2009- )  
[Online: [Lexis](#) – Print: KFM1317 .B73 2009 (Maryland Reference)]
- M. Real estate
- *Maryland Real Estate Forms-Practice* (1983- )  
[Online: [Lexis](#) -- Print: KFM1326.R418 1983 (Maryland Reference)]
- N. Taxes
- *Maryland Tax Reporter* (1953- )  
[Online: [IntelliConnect](#) -- Print: KFM1670.A6C5 (no longer updated)]
- O. Torts
- *Maryland Tort Law Handbook* (3d ed. 2000- )  
[Online: [Lexis](#) – Print: KFM1395.G55 2000 (Maryland Reference)]