



THE MARYLAND GENERAL ASSEMBLY  
ANNAPOLIS, MARYLAND 21401-1991

## JOINT COMMITTEE ON FEDERAL RELATIONS

December 18, 2020

The Honorable Bill Ferguson, Co-chair  
The Honorable Adrienne A. Jones, Co-chair  
Members of the Legislative Policy Committee

Ladies and Gentlemen:

During the 2020 interim, the Joint Committee on Federal Relations held one briefing, on October 14, and undertook its annual review of a portion of the interstate compacts of which Maryland is a member. The October 14 briefing focused on two issues (1) out-of-state, domestic deployment of the Maryland National Guard for law enforcement purposes and (2) the Interstate Compact for the Placement of Children (as a replacement for the existing Interstate Compact on the Placement of Children). These activities are summarized below.

### **October 14 Briefing**

#### **Out-of-state, Domestic Deployment of the Maryland National Guard for Law Enforcement Purposes**

In August, we requested information from the Military Department on out-of-state, domestic deployments of the Maryland National Guard for law enforcement purposes, focusing on the deployment to Washington, DC, in early June 2020. The department responded to our request in writing soon after, and during the October 14 briefing, Brigadier General Adam R. Flasch (Director, Joint Forces Headquarters Staff) briefed the committee on the department's responses.

Brig. Gen. Flasch described the three main legal frameworks that govern the deployment of the Maryland National Guard. The first, under the interstate Emergency Management Assistance Compact, is used in instances when other states have requested aid due to a natural disaster or other emergency. In this case, the State of Maryland is reimbursed by the requesting state for the cost of the deployment to that state.

The second legal framework, under U.S. Code Title 32, subsection 502(f), is used in instances when the federal government has requested support for a domestic, federally organized mission, such as a National Security Special Event, or another domestic deployment. In this instance, the federal government pays for the costs of the deployment.

December 18, 2020

Page 2

The third framework, under U.S. Code Title 10, is used in instances when a state's National Guard is federalized by the President of the United States, often to support overseas missions. Under this third framework, the President of the United States becomes the commander in chief of the National Guard members being deployed, in contrast with the first two scenarios, where a state's governor remains in command of its National Guard and must consent to any changes in the mission that may occur.

Brig. Gen. Flasch explained that the deployment of Maryland National Guard members to Washington, DC, that took place from June 2 through 6 operated under the second legal framework described above, in accordance with U.S. Code Title 32, subsection 502(f). Because Washington, DC, is not a state, its National Guard falls under federal command. Therefore, the mission was classified as a federal request for assistance and was fully federal funded. The total cost for the deployment of the Maryland National Guard for this mission was \$546,360, funded by the federal government.

One hundred and sixteen members of the Maryland National Guard took part in this deployment, and were stationed at the Lincoln Memorial, World War II Memorial, and the Washington Monument. Brig. Gen. Flasch explained that their mission was to protect these monuments from potential defacement and that the mission was successful. There were no unlawful acts and no injuries reported during the mission, and mostly positive interactions with members of the public were reported. Brig. Gen. Flasch stated that the mission was conducted in a professional manner and that all procedures and protocols were followed at all times during this mission.

### **Interstate Compact for the Placement of Children (as a Replacement for the Existing Interstate Compact on the Placement of Children)**

Maryland is currently a member of the Interstate Compact on the Placement of Children. A new version of the compact, the Interstate Compact *for* the Placement of Children was completed in the mid-2000s but has only been adopted by 13 states so far and it does not take effect until it has been adopted by 35 states. The Maryland Department of Human Services (DHS) raised the need to enact the new compact in their interstate compact review questionnaire response in 2019 for the Interstate Compact on the Placement of Children. The American Public Human Services Association (APHSA), which facilitated the drafting of the new compact, and DHS were invited to the October 14 briefing, to brief the committee on what would change under the new compact and the extent of the need for the new compact.

APHSA and DHS indicated that there are fundamental problems with the legal framework of the existing compact, which was drafted in the 1950's under a child welfare system with a different structure. It was indicated that there is increasing dissatisfaction with the compact process and unreasonable delays (in placements) under it. The new compact provides an updated framework for the interstate placement process that, among other things, is expected to improve (1) the timeliness of placements; (2) procedures for ensuring the suitability of prospective families;

(3) access to support services; and (4) the legal framework both for rulemaking under the compact and for ensuring compliance with the compact by participating jurisdictions.

DHS indicated a preference for pursuing legislation that would enact the new compact during the 2022 legislative session rather than the 2021 legislative session but also indicated a willingness to collaborate with any legislators that introduce legislation to enact the new compact in 2021.

### **Annual Interstate Compact Review**

The committee conducts an annual review of Maryland's membership in various interstate compacts, covering all compacts over a four-year cycle. The review focuses on whether Maryland's continued membership in the compacts serves the interests of the State and whether any legislative changes to the compacts are needed. This interim, committee staff sent questionnaires to the State agencies involved with each of the compacts and prepared summaries based on the agencies' responses, for the following compacts up for review this year: (1) Atlantic States Marine Fisheries Compact; (2) Middle Atlantic Interstate Forest Fire Protection Compact; (3) Jennings Randolph Lake Project Compact; (4) Interstate Compact for Adult Offender Supervision; (5) Interstate Compact for Juveniles; (6) Emergency Management Assistance Compact; (7) Potomac River Bridges Towing Compact; (8) Washington Metropolitan Area Transit Authority Compact; and (9) Washington Metropolitan Area Transit Regulation Compact.

The State agencies involved with each of these compacts indicated that Maryland's membership in the compacts continues to serve the interests of the State. The agencies indicated that no immediate legislative modifications are needed. However, we want to note two items related to two of the compacts:

- The Interstate Compact for Juveniles requires each member state to have a state council that serves at least in an advisory role regarding the state's participation in the compact, if not also in an oversight, advocacy, and/or policy development role. The compact requires a state council to include among its membership at least one representative from each of the legislative, judicial, and executive branches. The Department of Juvenile Services' questionnaire indicated that the legislative and judicial seats were vacant on Maryland's State council, but the department indicated that they were working to fill the vacant seats. The legislative vacancy has since been filled, with President Ferguson appointing myself (Senator Carter) to serve on the council.
- The Maryland Department of Transportation did not indicate a need for changes to the Washington Metropolitan Area Transit Authority Compact; however, there is legislation being considered in the District of Columbia to amend the compact to prohibit the use of enforcement quotas for the Metro Transit Police Department and to create a multijurisdictional Civilian Complaint Board to review complaints against Metro Transit

December 18, 2020

Page 4

Police (B23-0886 – Washington Metropolitan Area Transit Authority Police Accountability Amendment Act of 2020).

Finally, on a matter that has been ongoing since the 2018 interim, the committee put on hold during the 2020 interim its efforts to pursue a resolution to inconsistencies between Maryland's and Virginia's annotated codes with regard to whether changes to the Potomac River Compact, which were enacted in 2007 and 2013 by Maryland and Virginia, are in effect or not. We expect to resume those efforts during the 2021 interim.

Sincerely,



Senator Jill P. Carter  
Senate Chair



Delegate Alfred C. Carr, Jr.  
House Chair

JPC:ACC/SDK:SMQ/mlm

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