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DEMOCRAT FOR ATTORNEY GENERAL

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## Plan to Advance Climate and Environmental Justice

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## Executive Summary

Marylanders are seeing the real cost of climate change. This includes storm damage on the Eastern Shore, historic flooding in Ellicott City and other parts of the state and increasing pollution in the Chesapeake Bay. Maryland has 3,100 miles of shoreline, making it one of the most vulnerable states in the nation to sea level rise. Without immediate action, Marylanders will only experience more intense effects of climate change.

This is an unacceptable burden to leave our children and grandchildren. Some of my fondest memories as a girl and happiest days as a mom have been enjoying the Chesapeake Bay and our state's natural beauty with my family. My hope is that my kids will be able to enjoy Maryland with their children the way I did with them.

As Attorney General, I will fight tooth and nail to protect Marylanders' right to clean air, clean water, and clean land. The office of Attorney General is equipped with expansive powers to investigate and prosecute criminal environmental violations. I will ensure that environmental protection and corporate accountability are pursued.

This agenda lays out my vision for protecting Maryland's environment built around enforcement, transparency, and smart growth planning. As Attorney General, I promise to:

- **Work tirelessly to ensure the protection of the environment and public health for all Maryland citizens, especially those who have been historically subject to disproportionate levels of pollution.**
- **Ensure that Maryland meets and exceeds its requirements for reducing carbon emissions and taking necessary actions to adapt to the consequences of climate change.**
- **Create an Attorney General's Report Card for the Chesapeake Bay to track progress and actions required under the Chesapeake Clean Water Blueprint.**
- **Protect our drinking water supplies throughout Maryland through advocacy and legal action against the threat of lead poisoning or other contamination due to poorly maintained and failing water systems.**
- **Protect Maryland's public lands and natural resources including fish and wildlife for the benefit of current and future Marylanders.**
- **Fight to advance Maryland's Oyster Aquaculture Efforts and the restoration of the Oyster population across the Chesapeake Bay.**
- **Defend and advocate for Program Open Space, Farm Preservation, and Smart Growth Development Policies that safeguard the health of Maryland for future generations.**

## Ensuring Environmental Justice for Historically Disadvantaged Communities

Environmental justice is the principle that no population, race, or income level, should be subject to a disproportionate share of the environmental consequences of climate change and pollution. Too often, the pollution by powerful business interests results in low-income and historically disenfranchised communities suffering.

I call on the General Assembly to support House Bill 596 introduced in the 2022 legislative session to amend the Maryland Constitution to add an Environmental Human Rights Amendment. Following the model of New York and Pennsylvania, an Environmental Human Rights Amendment would state that, every person has a “fundamental and inalienable right to a healthful, sustainable environment” and ensures the state shall “(1) serve as the trustee of the state’s natural resources, including the air, land, water, wildlife, and ecosystems of the state; and (2) conserve, protect, and enhance the state’s natural resources for the benefit of every person,” including present and future generations. The Amendment will offer state agencies the ability to block action that would cause future environmental harm and give the Attorney General greater latitude to protect the public’s interest in a healthy environment for all Marylanders.

Additionally, I support President Biden’s Justice40 Initiative to ensure that 40% of the overall benefits of federal investments in climate and clean energy are directed towards historically disadvantaged communities. I will work closely with the federal government and local agencies to achieve this goal in Maryland.

Finally, as Attorney General, I will direct my office to investigate and prosecute cases where polluters acted to harm historically discriminated against communities. I will also encourage regulators to identify and minimize potential environmental harms to our Black and Brown communities as well as low-income populations.

### **Ensure that Maryland meets or exceeds its requirements for reducing carbon emissions, preparing for, and adapting to the consequences of climate change.**

In 2015, the Maryland Commission on climate change was codified into law and charged with advising the Governor and General Assembly on various ways to “mitigate the causes of, prepare for, and adapt to the consequences of climate change.” As Attorney General, I will provide the best possible legal support to the governor’s office, legislature, regulators, utility companies and citizens to ensure that Maryland meets or exceeds its requirements for reducing carbon emissions and adapting to the impacts of climate change.

When the Trump Administration embraced climate denialism, states and cities across the country made commitments to ensure that the United States still met its carbon reduction goals and adapted to climate change. States must stay committed to these efforts to ensure maximum rewards for the future.

We need to set ambitious goals. I support efforts to make Maryland a 100 percent clean energy state. To this end, I encourage the Maryland Senate to pass S.B. 528, the Climate Solutions Now Act, to establish a net-zero statewide greenhouse gas emissions goal. I will work with legislators, business interests, and community stakeholders to design a plan for a clean electric grid that both protects our children’s environmental interests and addresses the immediate fiscal and logistical transition concerns for impacted workers and communities. Similarly, S.B. 0552 would require each county to prepare a climate crisis plan to address the effects of climate change and regularly review and update this plan. This would ensure buy-in from local communities and a transparent commitment to environmental justice across the state.

I will also ask the General Assembly to grant the Attorney General broad authority over climate change enforcement powers. The Attorney General’s office environmental enforcement is often limited under current law because it shares authority with the Department of the Environment. As a result, when there is a conservative Governor, this means Marylanders receive inadequate legal protection from pollution. The Attorney General needs broad discretion to file ambitious high impact claims. With this authority, which is already being considered by the House of Delegates in H.B. 0363, I would bring claims like the one filed by the Delaware Attorney General against 31 fossil fuel companies to hold them accountable for decades of deception about their role in fueling climate change.

Additionally, as the transportation sector is Maryland's number one source of greenhouse gas emissions, I will support expanded public transportation opportunities across the state to reduce the state's emissions footprint. On this point, I support S.B. 0687, which would require the Maryland Department of the Environment (MDE) to establish requirements for the sale of new zero-emission medium and heavy-duty vehicles in the state. This would include restoring Baltimore's Red Line construction and supporting expanded bus routes with the cleanest possible technology.

## **Create an Attorney General's Report Card to Monitor Progress on Climate Action and the Chesapeake Clean Water Blueprint**

Since 2010, the six Bay States and Washington D.C. have been committed to the Chesapeake Clean Water Blueprint, in which each state developed a plan to achieve a Clean Chesapeake Bay by 2025. However, these states are not meeting their climate goals. A recent scientific assessment concluded that Bay cleanup efforts are so behind schedule that it will take 180 years to meet water quality standards. As Attorney General of Maryland, I will not let this continue. The Attorney General's office filed a series of lawsuits against the EPA during the Trump Administration, and I will continue these litigation efforts with the other Bay State Attorneys General to ensure that every relevant agency of the federal government is providing the necessary resources to ensure the health of the Chesapeake. I will also bring new lawsuits to force elected officials to honor the commitments their state made in regards to cleaning up the Bay. Further, to prevent against potential backsliding, I will encourage the General Assembly to adopt antidegradation measures to ensure that even if the antidegradation provisions under the federal Clean Water Act are eliminated, Marylanders remain protected.

Additionally, I will create the Attorney General's Report Cards for Climate Action and the Chesapeake Bay to allow all Marylanders to track what state government is doing to meet climate commitments. These scoreboards will track climate actions and Chesapeake Bay restoration efforts. As a result, efforts on cleaning the Bay will be transparent, so all Marylanders can know whether their leaders are acting to preserve one of our state's most precious natural treasures.

### **Protect Marylanders Against Contamination of Air, Water and Land from Toxic Chemicals and Agribusiness**

Environmental violations have been rampant under the Hogan Administration. 84 percent of the 182 Maryland poultry operations inspected by the state between 2017 and 2020 had one or more violations of their state water pollution control permits. Run-off and pollutant levels in the Bay remain unsustainably high and permanent damage will result if pollution continues at this rate.

Whether the pollution comes from smokestacks, wastewater pipes, underground storage, or improper handling of waste, I will take action to stop pollution and, when necessary, aggressively prosecute environmental polluters. I will continue Attorney General Brian Frosh's prosecutions of corporations like Monsanto that have polluted the environment with carcinogenic chemicals like polychlorinated biphenyls and lobby the General Assembly to permanently ban these forever chemicals. And we will call for the safer use of pesticides to protect the natural pollinators, like bees, that we rely on for food and to protect our health from dangerous components.

Additionally, one of the main polluters in Maryland is the massive poultry industry. Chicken grower runoff continues to lead to high rates of ammonia, phosphorus, and nitrogen in the Bay. Over the last eight years, enforcement staff has been depleted and regulatory standards have been diminished. As Attorney General, I will hold the chicken industry and agribusiness interests accountable for their run-off and lobby the General Assembly to adopt stringent regulations.

We must hold polluters accountable to finance recovery and clean-up efforts required to correct the damage they caused. We need real accountability for polluters, including levying heavy fines and considering criminal prosecutions for those who refuse to cease unlawful polluting. I also support stronger penalties levied against poultry operations that violate their water pollution control permits or ignore nutrient management requirements. Farms should be required to file more regular and comprehensive reports to demonstrate strict compliance with environmental regulations.

I will also lobby Congress to pass comprehensive legislation that addresses toxic chemical pollution. I will also continue Attorney General Frosh's work with other Attorneys General to encourage Congress to establish a cap-and-trade program that phases out the production of hydrofluorocarbons as required under the American Innovation and Manufacturing Act.

## Protecting Maryland Drinking Water Supplies

A report from the EPA in December 2021 revealed a serious shortcoming in the MDE's Water Supply Program's staffing and regulatory enforcement efforts. Deficiencies in the Water Supply Program means that Marylanders are being denied protection from public health tragedies such as lead poisoning. Despite this critical role, the report found that the Water Supply Program had only a third of the staff and half of the funding it needed to carry out its mission. This is a major health threat to Marylanders, and it puts our state in real danger of a public health crisis that future generations would bear.

In the latest General Assembly session, Attorney General Frosh introduced legislation S.B. 221 that would allow the Department of the Environment to impose additional administrative and civil penalties on entities that violate safe drinking water regulations, wastewater pollution permits, tidal wetlands restrictions, and dam safety regulations. I strongly support this bill. I also encourage the State Senate to pass S.B. 492, which would establish administrative penalties for water pollution discharge permit holders that are found to be in significant noncompliance with State or federal water quality standards.

As Attorney General, I promise to advocate in the General Assembly for full funding of MDE's Compliance Program and Water Supply Program and work with the newly empowered MDE to bring legal action against whoever causes water contamination due to malfeasance, neglect, or other perpetuation of poorly maintained and failing water or wastewater treatment systems.

## Protect Maryland's Public Lands and Natural Resources for the Benefit of Marylanders

Maryland needs a clear agenda for its farmlands, wetlands, and woodlands. An analysis by the Chesapeake Bay Foundation suggests that our failure to comply with the Chesapeake Clean Water Blueprint deprives the state of \$22 billion in annual economic value per year. This loss of value, to say nothing of the cost to our health and the natural beauty of our state, will only compound over time.

To protect Maryland, we need return to the principles of Smart Growth. Smart growth is an urban planning and transportation strategy that prioritizes growth in compact walkable urban centers to avoid sprawl and sustainable development. I support clearer protections of public lands and natural resources to secure their benefit and enjoyment for all present and future Marylanders, as the General Assembly recently passed in H.B. 0727. Following the Biden Administration's commitment to conserve 30 percent of U.S. lands, waters, and ocean by 2030, I encourage the General Assembly to pass legislation requiring the protection of 30 percent of Maryland lands by 2030 and 40 percent by 2040. I also support expanding legal support for private land trusts that would create green spaces in areas currently without them. Finally, I will encourage the General Assembly to appropriate full funding to the state park services.

Fight to advance Maryland's Oyster Aquaculture and the Restoration of the Oyster Population across the Chesapeake Bay.

Since 2010, Maryland has made it a state priority to rebuild oyster populations. As an economic effort, Maryland's aquaculture program has been a success, with the oyster aquaculture industry growing by nearly 25 percent in the following decade and generating nearly \$10 million a year in economic revenue. As a conservation effort, however, the results are not showing. The population of wild oysters has continued to decline -- it is now only  $\frac{1}{3}$  of what it was in 1999 and continuing to drop.

I believe we need to redouble our efforts to preserve the oyster population on the Chesapeake Bay. First, we need to make sure that aquaculture efforts survive the pandemic by offering tax credits and operating incentives to help them compensate for the business they have lost due to COVID-19. Second, I will advocate in the General Assembly to eliminate the current \$1,500 annual cap on the Oyster Shell Recycling Tax Credit.

Finally, Maryland needs a more comprehensive state policy on ensuring healthy ecosystems. The oyster population will only rebound if we foster the right conditions. Maryland should lead multi-state efforts with the Atlantic Marine Fisheries Commission to enforce catch limits on oysters and tiny feeder fish. And the General Assembly should pass legislation to reduce the spread of invasive species that pose long term threats and uncertainties to the vulnerable oyster population.

## **Support Program Open Space, Farm Preservation, and Smart Growth Development Policies**

Environmental protection, environmental justice, and environmental restoration are ambitious goals. As a state, we will only reach these goals if we act with intention and a set plan in mind. Smarter development patterns, scientifically informed zoning, and targeted interventions to prevent pollution in certain areas of the state are all pillars of a clearer, more sustainable, and ultimately more fruitful, environmental policy. To that end, I support increasing the resiliency of our infrastructure and making flood insurance more available in areas where climate change will cause harm.

Protecting Maryland's environment will be one of my top priorities as Attorney General, and I pledge to work with the Governor's office and General Assembly to create, fund, and implement open space, farm preservation, and smart growth development policies across the state. Instead of restorative or punitive efforts, we can make decisions for our state that prevent any further environmental damage from being inflicted on Maryland's future generations.