

# HOUSE BILL 147

L2, D3

4r0711  
CF SB 299

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By: **Montgomery County Delegation**

Introduced and read first time: January 13, 2014

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 18, 2014

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Montgomery County – Maryland Tort Claims Act – Human Services Torts**

3 **MC 13-14**

4 FOR the purpose of clarifying that, under certain circumstances, Montgomery County  
5 acts as a unit of the State and, for the purposes of certain tort claims, the State  
6 shall be named as the proper defendant and damages shall be limited in a  
7 certain manner; ~~altering certain procedures;~~ altering a certain definition;  
8 ~~providing for the application of this Act;~~ and generally relating to the Maryland  
9 Tort Claims Act and claims arising out of human services administered by  
10 Montgomery County.

11 BY repealing and reenacting, with amendments,  
12 Article – State Government  
13 Section 12-103.2 ~~and 12-106~~  
14 Annotated Code of Maryland  
15 (2009 Replacement Volume and 2013 Supplement)

16 ~~BY repealing and reenacting, with amendments,~~  
17 ~~Article – Courts and Judicial Proceedings~~  
18 ~~Section 5-304~~  
19 ~~Annotated Code of Maryland~~  
20 ~~(2013 Replacement Volume and 2013 Supplement)~~

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – State Government**

4 12-103.2.

5 (a) In this section, “tort claim” means a tort claim, ~~INCLUDING STATE AND~~  
6 ~~CONSTITUTIONAL TORTS,~~ filed in [State court ~~against the Montgomery County~~  
7 ~~government~~ relating to] ~~COURT ARISING OUT OF~~ the administration of a State  
8 program under Title 3, Subtitle 4 of the Human Services Article **BY THE**  
9 **MONTGOMERY COUNTY GOVERNMENT.**

10 (b) **(1)** A tort claim shall be considered, defended, settled, and paid in the  
11 same manner as any other claim covered by the Montgomery County Self-Insurance  
12 Fund.

13 **(2) UNDER THIS SECTION, WHENEVER MONTGOMERY COUNTY**  
14 **ADMINISTERS A STATE PROGRAM UNDER TITLE 3, SUBTITLE 4 OF THE HUMAN**  
15 **SERVICES ARTICLE, MONTGOMERY COUNTY ACTS AS A UNIT OF THE STATE,**  
16 **AND ANY TORT CLAIM SHALL NAME THE STATE OF MARYLAND AS THE PROPER**  
17 **DEFENDANT.**

18 (c) Liability for a tort claim may not exceed the insurance coverage granted  
19 to units of State government under Title 9 of the State Finance and Procurement  
20 Article.

21 (d) **(1)** The State Treasurer is not liable under § 9-107(c) of the State  
22 Finance and Procurement Article for a tort claim.

23 **(2)** For tort claims, the duties, responsibilities, and liabilities of the  
24 Treasurer under this subtitle shall be assumed by the Montgomery County  
25 Self-Insurance Fund **WITH DAMAGES LIMITED IN ACCORDANCE WITH**  
26 **SUBSECTION (C) OF THIS SECTION.**

27 ~~**(E) THE NOTICE REQUIREMENTS UNDER § 12-106 OF THIS SUBTITLE**~~  
28 ~~**SHALL APPLY TO ALL TORT CLAIMS MADE UNDER THIS SECTION.**~~

29 ~~12-106.~~

30 ~~(a) This section does not apply to a claim that is asserted by cross claim,~~  
31 ~~counterclaim, or third-party claim.~~

32 ~~(b) A claimant may not institute an action under this subtitle unless:~~

1           ~~(1) the claimant submits a written claim to the Treasurer or a~~  
2 ~~designee of the Treasurer AND, IN THE CASE OF A TORT CLAIM UNDER § 12-103.2~~  
3 ~~OF THIS SUBTITLE, THE COUNTY EXECUTIVE OF MONTGOMERY COUNTY within~~  
4 ~~1 year after the injury to person or property that is the basis of the claim;~~

5           ~~(2) the Treasurer or designee AND, IN THE CASE OF A TORT CLAIM~~  
6 ~~UNDER § 12-103.2 OF THIS SUBTITLE, THE COUNTY EXECUTIVE OF~~  
7 ~~MONTGOMERY COUNTY denies the claim finally; and~~

8           ~~(3) the action is filed within 3 years after the cause of action arises.~~

9           ~~**Article Courts and Judicial Proceedings**~~

10       ~~5-304.~~

11           ~~(a) This section does not apply to an action against a nonprofit corporation~~  
12 ~~described in § 5-301(d)(23), (24), (25), (26), or (28) of this subtitle or its employees.~~

13           ~~(b) (1) Except as provided in subsections (a) and (d) of this section AND AS~~  
14 ~~OTHERWISE PROVIDED IN §§ 12-103.2 AND 12-106 OF THE STATE~~  
15 ~~GOVERNMENT ARTICLE, an action for unliquidated damages may not be brought~~  
16 ~~against a local government or its employees unless the notice of the claim required by~~  
17 ~~this section is given within 180 days after the injury.~~

18           ~~(2) The notice shall be in writing and shall state the time, place, and~~  
19 ~~cause of the injury.~~

20           ~~(c) (1) The notice required under this section shall be given in person or~~  
21 ~~by certified mail, return receipt requested, bearing a postmark from the United States~~  
22 ~~Postal Service, by the claimant or the representative of the claimant.~~

23           ~~(2) Except as otherwise provided, if the defendant local government is~~  
24 ~~a county, the notice required under this section shall be given to the county~~  
25 ~~commissioners or county council of the defendant local government.~~

26           ~~(3) If the defendant local government is:~~

27           ~~(i) Baltimore City, the notice shall be given to the City~~  
28 ~~Solicitor;~~

29           ~~(ii) Howard County or Montgomery County, the notice shall be~~  
30 ~~given to the County Executive; and~~

31           ~~(iii) Anne Arundel County, Baltimore County, Harford County,~~  
32 ~~or Prince George's County, the notice shall be given to the county solicitor or county~~  
33 ~~attorney.~~

1           ~~(4) For any other local government, the notice shall be given to the~~  
2 ~~corporate authorities of the defendant local government.~~

3           ~~(d) Notwithstanding the other provisions of this section, unless the~~  
4 ~~defendant can affirmatively show that its defense has been prejudiced by lack of~~  
5 ~~required notice, upon motion and for good cause shown the court may entertain the~~  
6 ~~suit even though the required notice was not given.~~

7           ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be~~  
8 ~~construed to apply only prospectively and may not be applied or interpreted to have~~  
9 ~~any effect on or application to any cause of action arising before the effective date of~~  
10 ~~this Act.~~

11           SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take  
12 effect October 1, 2014.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.