

# SENATE BILL 299

L2, D3

4r1760  
CF HB 147

---

By: **Montgomery County Senators**

Introduced and read first time: January 17, 2014

Assigned to: Judicial Proceedings

---

## A BILL ENTITLED

1 AN ACT concerning

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

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

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

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

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

21 **Article – State Government**

22 12–103.2.

23 (a) In this section, “tort claim” means a tort claim, **INCLUDING STATE AND**  
24 **CONSTITUTIONAL TORTS**, filed in [State court against the Montgomery County

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 government relating to] **COURT ARISING OUT OF** the administration of a State  
2 program under Title 3, Subtitle 4 of the Human Services Article **BY THE**  
3 **MONTGOMERY COUNTY GOVERNMENT.**

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

7 (2) **UNDER THIS SECTION, WHENEVER MONTGOMERY COUNTY**  
8 **ADMINISTERS A STATE PROGRAM UNDER TITLE 3, SUBTITLE 4 OF THE HUMAN**  
9 **SERVICES ARTICLE, MONTGOMERY COUNTY ACTS AS A UNIT OF THE STATE,**  
10 **AND ANY TORT CLAIM SHALL NAME THE STATE OF MARYLAND AS THE PROPER**  
11 **DEFENDANT.**

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

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

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

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

23 12-106.

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

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

27 (1) the claimant submits a written claim to the Treasurer or a  
28 designee of the Treasurer **AND, IN THE CASE OF A TORT CLAIM UNDER § 12-103.2**  
29 **OF THIS SUBTITLE, THE COUNTY EXECUTIVE OF MONTGOMERY COUNTY** within  
30 1 year after the injury to person or property that is the basis of the claim;

31 (2) the Treasurer or designee **AND, IN THE CASE OF A TORT CLAIM**  
32 **UNDER § 12-103.2 OF THIS SUBTITLE, THE COUNTY EXECUTIVE OF**  
33 **MONTGOMERY COUNTY** denies the claim finally; and

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

2 **Article – Courts and Judicial Proceedings**

3 5–304.

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

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

11 (2) The notice shall be in writing and shall state the time, place, and  
12 cause of the injury.

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

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

19 (3) If the defendant local government is:

20 (i) Baltimore City, the notice shall be given to the City  
21 Solicitor;

22 (ii) Howard County or Montgomery County, the notice shall be  
23 given to the County Executive; and

24 (iii) Anne Arundel County, Baltimore County, Harford County,  
25 or Prince George’s County, the notice shall be given to the county solicitor or county  
26 attorney.

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

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

**SENATE BILL 299**

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

5           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2014.