

**Department of Legislative Services**  
Maryland General Assembly  
2016 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 52

(Senator Simonaire)

Judicial Proceedings

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**Immunity From Civil Liability - Forcible Entry Into Motor Vehicle**

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This bill establishes that, with specified exceptions, a person who forcibly enters a motor vehicle for the purpose of removing a child younger than age eight from the motor vehicle is not civilly liable for damages resulting from the forcible entry if the person's actions meet specified criteria.

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**Fiscal Summary**

**State Effect:** None. The bill is not expected to materially affect the caseload of the District Court.

**Local Effect:** None. The bill is not expected to materially affect circuit court caseloads.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** A person who forcibly enters a motor vehicle for the purpose of removing a child younger than age eight from the motor vehicle is not civilly liable for damages resulting from the forcible entry if the person (1) determines that there is no other reasonable method for the child to exit the motor vehicle; (2) based on the circumstances known to the person at the time, has a good faith belief that the child is in imminent danger of suffering harm if not immediately removed from the motor vehicle; (3) if practicable, contacts the 9-1-1 dispatcher before forcibly entering the motor vehicle; (4) uses no more force than necessary to enter the motor vehicle and remove the child; and (5) remains with the child in a safe location near the motor vehicle that was entered until the arrival of a law enforcement officer.

A person is not granted immunity from civil liability if the person (1) acted in a manner that constitutes willful or wanton misconduct or gross negligence or (2) renders aid to a child that is not expressly authorized under the bill.

**Current Law:** Under the Good Samaritan Act (Courts and Judicial Proceedings Article, § 5-603), various rescue and medical personnel are immune from civil liability for any act or omission in giving any assistance or medical care, if (1) the act or omission is not grossly negligent; (2) the assistance or medical care is provided without fee or other compensation; and (3) the assistance or medical care is provided at the scene of an emergency, in transit to a medical facility, or through communications with personnel providing emergency assistance.

The rescue and medical personnel covered by the Act's protections are:

- individuals licensed by this State to provide medical care;
- members of any State, county, municipal, or volunteer fire department, ambulance and rescue squad, or law enforcement agency; the National Ski Patrol System; or a corporate fire department responding to a call outside of its corporate premises, if the member has completed specified training, is certified or licensed by this State as an emergency medical services provider, or is administering medications or treatment approved for use in response to an apparent drug overdose and the member meets specified licensing and certification requirements;
- a volunteer fire department or ambulance and rescue squad whose members have immunity; and
- a corporation when its fire department personnel are immune under the Act.

An individual who is not covered by the categories listed above is not civilly liable for any act or omission in providing assistance or medical aid to a victim at the scene of an emergency, if (1) the assistance or aid is provided in a reasonably prudent manner without fee or other compensation and (2) the individual relinquishes care of the victim when someone who is licensed or certified by the State to provide medical care or services becomes available to take responsibility.

The Fire and Rescue Company Act (Courts and Judicial Proceedings Article, § 5-604), provides civil immunity to a fire or rescue company and its personnel for any act or omission in the course of performing their duties.

Maryland courts have addressed what constitutes gross negligence on several occasions with respect to various circumstances. In *McCoy v. Hatmaker*, 135 Md. App. 693 (2000), a case involving services provided by emergency medical technicians in the course of their assigned duties, the Maryland Court of Special Appeals noted that “[g]ross negligence has

been equated with ‘willful and wanton misconduct,’ a ‘wanton or reckless disregard for human life or for the rights of others.’” *McCoy* at 706 quoting *Tatum v. Gigliotti*, 80 Md. App. 559, 568 (1989). The court went on to explain that a person is grossly negligent or acts wantonly and willfully “only when he inflicts injury intentionally or is so utterly indifferent to the rights of others that he acts as if such rights did not exist.” *McCoy* at 706 quoting *Tatum*, 80 Md. App. 569, 568.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Human Resources, Department of Legislative Services

**Fiscal Note History:** First Reader - January 14, 2016  
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