

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1436  
Judiciary

(Delegate Lisanti)

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Civil Actions - Duty to Render Assistance

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This bill (1) requires a person to render aid to a law enforcement officer, firefighter, emergency medical services provider, or similar individual under specified circumstances and (2) establishes civil immunity from civil damages for individuals who render aid in accordance with the bill's provisions. A person who violates the bill's provisions is subject to a civil penalty of \$250.

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Fiscal Summary

**State Effect:** Potential minimal increase in general fund revenues from civil penalties imposed in the District Court. Expenditures are not affected.

**Local Effect:** The bill does not materially affect local finances or operations.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** An individual who knows or has reason to know that a law enforcement officer, firefighter, emergency medical services provider, or similar individual is exposed to or has suffered serious physical injury must provide reasonable assistance to the exposed or injured officer, firefighter, or similar individual to the extent that the renderer of aid can do so without danger or peril to self or others.

Reasonable assistance includes (1) expediently obtaining or attempting to obtain aid from law enforcement or other emergency response personnel and (2) providing direct assistance such as administering cardiopulmonary resuscitation, assisting in wound care, or removing

the individual to a safer location. A person who violates this requirement is subject to a civil penalty of \$250.

An individual who renders assistance is not liable for any civil damages as a result of the individual's acts or omissions in providing assistance. This immunity from suit does not apply to an individual (1) whose act or omission was the original cause of the serious physical injury; (2) who acts in a reckless manner or is grossly negligent in providing assistance; or (3) who provides assistance during the course of regular employment and receives compensation or expects to receive compensation for rendering the assistance.

**Current Law/Background:** In general, a person does not have an affirmative duty to rescue or aid a stranger in peril under American tort law. Exceptions to this rule include situations in which there is a particular relationship between the plaintiff and defendant (*e.g.*, business person/customer), when the defendant caused the plaintiff's peril, or the defendant commenced voluntarily rendering aid to the plaintiff.

In Maryland, as in many states, police officers have no affirmative duty to render aid to a member of the public who is in distress or in need of medical attention, although generally under common law, an officer can create a duty to act by being the cause of an injury or emergency. The general absence of an affirmative duty to render aid on the part of police officers, absent a special relationship, was reaffirmed by the Court of Appeals in *Ashburn v. Anne Arundel County*, 306 Md. 617 (1986). However, several states have case law establishing a requirement for law enforcement officers to render aid in all cases where they are able to do so. A failure to render aid on the part of a law enforcement officer may give rise to a civil action and could lead to administrative discipline or dismissal.

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.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Institute for Emergency Medical Services Systems; Baltimore City; Montgomery County; City of College Park; Department of State Police; Judiciary (Administrative Office of the Courts); “Understanding the Absence of a Duty to Reasonably Rescue in American Tort Law,” 82 *Tulane Law Review*, 1447 (2008); Department of Legislative Services

**Fiscal Note History:** First Reader - March 6, 2017  
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Analysis by: Amy A. Devadas

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510