

# HOUSE BILL 201

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By: **Delegates Crosby and Stewart**

Introduced and read first time: January 16, 2020

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Immunities – Associations, Organizations, and Charities – Liability of Agents**  
3 **and Volunteers**

4 FOR the purpose of providing that certain provisions of law specifying that a certain agent  
5 or volunteer of a certain association or organization is not personally liable for  
6 damages under certain circumstances do not apply to certain suits brought against  
7 a certain agent or volunteer alleging certain sexual offenses or certain conduct of a  
8 sexual nature; providing for the application of this Act; and generally relating to the  
9 civil liability of agents and volunteers of associations, organizations, and charities.

10 BY repealing and reenacting, with amendments,  
11 Article – Courts and Judicial Proceedings  
12 Section 5–406 and 5–407  
13 Annotated Code of Maryland  
14 (2013 Replacement Volume and 2019 Supplement)

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

17 **Article – Courts and Judicial Proceedings**

18 5–406.

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) (i) “Agent of an association or organization” means a director,  
21 officer, trustee, employee, or volunteer of an association or organization who provides  
22 services or performs duties on behalf of the association or organization.

23 (ii) “Agent of an association or organization” does not include an  
24 independent contractor who provides services or performs duties on behalf of the

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 association or organization on a contractual basis.

2 (3) “Association or organization” means:

3 (i) An athletic club;

4 (ii) A charitable organization;

5 (iii) A civic league or organization;

6 (iv) A community association;

7 (v) A cooperative housing corporation as that term is defined under  
8 § 5–6B–01 of the Corporations and Associations Article;

9 (vi) A council of unit owners of a condominium as that term is defined  
10 in § 11–101 of the Real Property Article; or

11 (vii) A homeowners’ association.

12 (4) “Athletic club” means a club organized and operated exclusively for  
13 recreational purposes that is exempt from taxation under § 501(c)(7) of the Internal  
14 Revenue Code.

15 (5) “Charitable organization” means an organization, institution,  
16 association, society, or corporation that is exempt from taxation under § 501(c)(3) of the  
17 Internal Revenue Code.

18 (6) “Civic league or organization” means an organization, operated  
19 exclusively for the promotion of social welfare, that is exempt from taxation under §  
20 501(c)(4) of the Internal Revenue Code.

21 (7) “Community association” means a nonprofit association, corporation, or  
22 other organization that registers with the Secretary of State under § 7–108 of the State  
23 Government Article and:

24 (i) 1. Is composed of at least 25% of the adult residents of a local  
25 community that:

26 A. Consists of at least 40 households; and

27 B. Is defined by specific geographic boundaries in the bylaws  
28 or charter of the organization;

29 2. At least annually, requires the payment of dues;

30 3. Promotes social welfare and general civic improvement;

1 and

2 4. In the case of a corporation, is in good standing;

3 (ii) 1. Is composed of at least 100 adult residents, but less than  
4 25% of the adult residents of a local community that:

5 A. Consists of at least 40 households; and

6 B. Is defined by specific geographic boundaries in the bylaws  
7 or charter of the organization;

8 2. Was organized on or before January 1, 2000, and has been  
9 in continuous operation since that date; and

10 3. Meets the requirements of item (i)2, 3, and 4 of this  
11 paragraph; or

12 (iii) 1. Is composed of more than one of the organizations  
13 described in item (i) or item (ii) of this paragraph; and

14 2. Each of those organizations meets the requirements of  
15 item (i) or item (ii) of this paragraph.

16 (8) "Compensation" does not include actual and necessary expenses that  
17 are incurred by a volunteer in connection with the services provided or duties performed by  
18 the volunteer on behalf of an association or organization, and that are reimbursed to the  
19 volunteer or otherwise paid.

20 (9) "Homeowners' association" means a nonprofit association, corporation,  
21 or other organization comprised of property owners in a subdivision or group of subdivisions  
22 whose purpose is to represent the mutual interests of the property owners regarding the  
23 construction, protection, and maintenance of the commonly owned or used property and  
24 improvements.

25 (10) "Suit" means any civil action, except any health care malpractice action,  
26 brought against an agent of an association or organization or against the association or  
27 organization by virtue of the agent's act or omission in providing services or performing  
28 duties on behalf of the association or organization.

29 (11) "Volunteer" means an officer, director, trustee, or other person who  
30 provides services or performs duties on behalf of an association or organization without  
31 receiving compensation.

32 (b) Except as provided in subsection (d) of this section, an agent of an association  
33 or organization is not personally liable for damages in any suit if:

1 (1) The association or organization maintains insurance covering liability  
2 incurred by the association or organization or its agents, or both, as a result of the acts or  
3 omissions of its agents in providing services or performing duties on behalf of the  
4 association or organization;

5 (2) The terms of the insurance policy under which the insurance is  
6 maintained provide coverage for the act or omission which is the subject matter of the suit  
7 and no meritorious basis exists for the denial of the coverage by the insurance carrier; and

8 (3) The insurance has:

9 (i) A limit of coverage of not less than:

10 1. \$200,000 per individual claim, and \$500,000 per total  
11 claims that arise from the same occurrence; or

12 2. \$750,000 per policy year, and \$500,000 per total claims  
13 that arise from the same occurrence; and

14 (ii) 1. If the insurance has a deductible, a deductible amount not  
15 greater than \$10,000 per occurrence; or

16 2. If there is coinsurance, a rate of coinsurance not greater  
17 than 20 percent.

18 (c) In suits to which the provisions of subsection (b) of this section apply, the  
19 plaintiff may recover damages from the association or organization only to the extent of the  
20 applicable limit of insurance coverage including any amount for which the association or  
21 organization is responsible as a result of any deductible or coinsurance provisions of such  
22 insurance coverage.

23 (d) An agent of an association or organization shall be liable for damages in any  
24 suit in which it is found that the agent acted with malice or gross negligence, to the extent  
25 that the judgment for damages exceeds the limits on liability under subsection (c) of this  
26 section.

27 (e) The provisions of this section do not apply to suits [brought]:

28 (1) **BROUGHT** by the Attorney General upon referral by the Secretary of  
29 State in which willful violations of Title 6 of the Business Regulation Article are alleged  
30 and proven; **OR**

31 (2) **THAT ALLEGE:**

32 (I) **A SEXUAL OFFENSE UNDER TITLE 3 OF THE CRIMINAL LAW**  
33 **ARTICLE; OR**

1                   **(II) INTIMIDATION, BULLYING, OR COERCION OF A SEXUAL**  
2 **NATURE, UNWELCOME SEXUAL ADVANCES OR REQUESTS FOR SEXUAL FAVORS, OR**  
3 **OTHER VERBAL OR PHYSICAL CONDUCT OF A SEXUAL NATURE THAT TENDS TO**  
4 **CREATE A HOSTILE OR OFFENSIVE ENVIRONMENT.**

5           (f)   (1)   This section does not create, and may not be construed as creating, a  
6 new cause of action or substantive legal right against an association or organization or an  
7 agent of an association or organization.

8           (2)   This section does not affect, and may not be construed as affecting, any  
9 immunities from civil liability or defenses established by any other provision of the Code or  
10 available at common law, to which an association or organization or an agent of an  
11 association or organization may be entitled.

12          (g)   This section may be cited as the Maryland Associations, Organizations, and  
13 Agents Act.

14 5–407.

15          (a)   (1)   In this section the following words have the meanings indicated.

16               (2)   “Association or organization” means:

17                   (i)   A business league;

18                   (ii)  A charitable organization;

19                   (iii) A civic league;

20                   (iv)  A club;

21                   (v)   A labor, agricultural, or horticultural organization; or

22                   (vi)  A local association of employees.

23               (3)   “Business league” means a league, chamber of commerce, real estate  
24 board, or board of trade that is exempt from taxation under § 501(c)(6) of the Internal  
25 Revenue Code.

26               (4)   “Charitable organization” means an organization, institution,  
27 association, society, or corporation that is exempt from taxation under § 501(c)(3) of the  
28 Internal Revenue Code.

29               (5)   “Civic league” means an organization, institution, association, society,  
30 or corporation that is exempt from taxation under § 501(c)(4) of the Internal Revenue Code.

1 (6) "Club" means an organization, institution, association, society, or  
2 corporation that is exempt from taxation under § 501(c)(7) of the Internal Revenue Code.

3 (7) "Compensation" does not include actual and necessary expenses that  
4 are incurred by a volunteer in connection with the services provided or duties performed by  
5 the volunteer on behalf of an association or organization, and that are reimbursed to the  
6 volunteer or otherwise paid.

7 (8) "Labor, agricultural, or horticultural organization" means an  
8 organization, institution, association, society, or corporation that is exempt from taxation  
9 under § 501(c)(5) of the Internal Revenue Code.

10 (9) "Local association of employees" means an association of employees, the  
11 membership of which is limited to the employees of a designated person or persons in a  
12 particular municipality, that is exempt from taxation under § 501(c)(4) of the Internal  
13 Revenue Code.

14 (10) "Suit" means a civil action, including a health care malpractice action  
15 filed with the Health Care Alternative Dispute Resolution Office, brought against a  
16 volunteer of an association or organization or against the association or organization by  
17 virtue of the volunteer's act or omission in providing services or performing duties on behalf  
18 of the association or organization.

19 (11) (i) "Volunteer" means an officer, director, trustee, or other person  
20 who provides services or performs duties for an association or organization without  
21 receiving compensation.

22 (ii) In a health care malpractice action, "volunteer" does not include  
23 a provider of health care services or an employee who performs duties on behalf of a  
24 charitable organization.

25 (b) A volunteer is not liable in damages beyond the limits of any personal  
26 insurance the volunteer may have in any suit that arises from an act or omission of an  
27 officer, director, employee, trustee, or another volunteer of the association or organization  
28 for which the volunteer performs services, unless:

29 (1) The volunteer knew or should have known of an act or omission of a  
30 particular officer, director, employee, trustee, or another volunteer, and the volunteer  
31 authorizes, approves, or otherwise actively participates in that act or omission; or

32 (2) After an act or omission of a particular officer, director, employee,  
33 trustee, or another volunteer, the volunteer, with full knowledge of that act or omission,  
34 ratifies it.

35 (c) A volunteer is not liable in damages beyond the limits of any personal  
36 insurance the volunteer may have in any suit that arises from the volunteer's act or  
37 omission in connection with any services provided or duties performed by the volunteer on

1 behalf of the association or organization, unless an act or omission of the volunteer  
2 constitutes gross negligence, reckless, willful, or wanton misconduct, or intentionally  
3 tortious conduct.

4 (d) (1) This section does not create, and may not be construed as creating, a  
5 new cause of action or substantive legal right against a volunteer.

6 (2) This section does not affect, and may not be construed as affecting, any  
7 immunities from civil liability or defenses established by any other provision of the Code or  
8 available at common law, to which a volunteer may be entitled.

9 (e) The provisions of this section do not apply to suits [brought]:

10 (1) **BROUGHT** by the Attorney General upon referral by the Secretary of  
11 State in which willful violations of Title 6, Subtitles 3, 4, 5, and 6 of the Business Regulation  
12 Article are alleged and proven; **OR**

13 (2) **THAT ALLEGE:**

14 (I) **A SEXUAL OFFENSE UNDER TITLE 3 OF THE CRIMINAL LAW**  
15 **ARTICLE; OR**

16 (II) **INTIMIDATION, BULLYING, OR COERCION OF A SEXUAL**  
17 **NATURE, UNWELCOME SEXUAL ADVANCES OR REQUESTS FOR SEXUAL FAVORS, OR**  
18 **OTHER VERBAL OR PHYSICAL CONDUCT OF A SEXUAL NATURE THAT TENDS TO**  
19 **CREATE A HOSTILE OR OFFENSIVE ENVIRONMENT.**

20 (f) This section may be cited as the Maryland Volunteer Service Act.

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

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2020.