

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 201
Judiciary

(Delegates Crosby and Stewart)

Immunities - Associations, Organizations, and Charities - Liability of Agents and
Volunteers

This bill establishes that the following types of suits are not eligible for the limitations on civil liability under the Maryland Associations, Organizations, and Agents Act and the Maryland Volunteer Service Act: (1) suits that allege a sexual offense under Title 3 of the Criminal Law Article; or (2) suits that allege intimidation, bullying, or coercion of a sexual nature, unwelcome sexual advances or requests for sexual favors, or other verbal or physical conduct of a sexual nature that tends to create a hostile or offensive environment.

The bill applies prospectively to causes of action arising on or after the bill's October 1, 2020 effective date.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances.

Local Effect: The bill is not expected to materially affect local finances.

Small Business Effect: Potential meaningful.

Analysis

Current Law: The Maryland Associations, Organizations, and Agents Act and the Maryland Volunteer Service Act provide limited protection from liability to agents (including a director, officer, trustee, or employee) or volunteers of an association or organization. The provisions of these Acts do not apply to suits brought by the Attorney General upon referral by the Secretary of State in which willful violations of

statutory provisions regarding charitable organizations, representatives, and solicitations, as specified, are alleged and proven.

Maryland Associations, Organizations, and Agents Act

Generally, under the Maryland Associations, Organizations, and Agents Act, an agent of an association or organization is not personally liable for damages in any suit if:

- the association or organization maintains insurance covering liability incurred by it or its agents, or both, as a result of the acts or omissions of its agents in providing services or performing duties on behalf of the association or organization;
- the terms of the insurance policy provide coverage for the act or omission that is the subject matter of the suit, and there is no meritorious basis denying coverage by the insurer; and
- the insurance meets specified coverage requirements.

The plaintiff in a lawsuit to which the Act applies may recover damages from the association or organization up to the applicable limit of the association or organization's insurance coverage, including any applicable deductible or coinsurance. However, the agent of an association or organization is liable for damages if it is found that the agent acted with malice or gross negligence, to the extent that the judgment for damages exceeds the liability limits specified above.

Under the Maryland Associations, Organizations, and Agents Act, an "association or organization" means (1) an athletic club; (2) a charitable organization; (3) a civic league or organization; (4) a community association; (5) a cooperative housing corporation; (6) a condominium's council of unit owners; or (7) a homeowners' association.

Maryland Volunteer Service Act

The Maryland Volunteer Service Act protects volunteers of associations and organizations from liability under specified circumstances. The Act generally establishes that a volunteer is not liable in damages beyond the limits of the volunteer's personal insurance coverage in any suit that arises from the volunteer's own acts or omissions or the acts or omissions of an officer, director, employee, trustee, or another volunteer of the association or organization. However, with respect to the acts or omissions of another individual, the Act's protections do not apply if (1) the volunteer knew or should have known of the individual's acts or omissions and the volunteer authorizes, approves, or otherwise actively participates in the acts or omissions or (2) the volunteer, with full knowledge, ratifies the act or omission after it occurs. The Act's protections also do not apply to the volunteer's

own acts or omissions that constitute gross negligence, reckless, willful or wanton misconduct, or intentionally tortious conduct.

Under the Maryland Volunteer Service Act, an “association or organization” means (1) a business league; (2) a charitable organization; (3) a civic league; (4) a club; (5) a labor, agricultural, or horticultural organization; or (6) a local association of employees.

Small Business Impact: The bill has a potential meaningful impact on small businesses that (1) are currently eligible for the limitations on civil liability under the Maryland Associations, Organizations, and Agents Act and (2) face lawsuits exempted from application of the Act under the bill.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Legislative Services

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mr/jkb

Analysis by: Amy A. Devadas

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