

HB0670/573729/1

BY: Delegate Acevero

AMENDMENTS TO HOUSE BILL 670, AS AMENDED

AMENDMENT NO. 1

On page 2 of the House Judiciary Committee Amendments (HB0670/992612/1), in line 3 of Amendment No. 1, after “officer;” insert “establishing, notwithstanding any other provision of law, that a law enforcement officer is not immune from civil or criminal liability for acts or omissions causing certain physical or mental injury that occur while the law enforcement officer is acting in an official capacity; prohibiting a person from bringing an action under this Act under certain circumstances; specifying that certain immunity does not apply to a claim brought under this Act; specifying that qualified immunity is not a defense to liability under this Act; requiring the Maryland Police Training and Standards Commission to review certain cases and make certain determinations; providing for certain damages under this Act; requiring a court to award reasonable attorney’s fees and court costs to a prevailing plaintiff in certain actions brought under this Act; providing that, notwithstanding any other provision of law, if a claim is brought against a law enforcement officer’s employer or the local jurisdiction where the law enforcement officer is employed under this Act, certain provisions of law apply; authorizing a law enforcement officer’s employer or the local jurisdiction where the law enforcement officer is employed to seek certain reimbursement from a law enforcement officer under certain circumstances;”.

On page 6 of the House Judiciary Committee Amendments, after line 5 in Amendment No. 1, insert:

“BY adding to

Article – Courts and Judicial Proceedings

Section 5–1301 through 5–1304 to be under the new subtitle “Subtitle 13. Police Qualified Immunity and Accountability Act”

Annotated Code of Maryland
(2020 Replacement Volume)”.

(Over)

AMENDMENT NO. 2

On page 23 of the House Judiciary Committee Amendments, after line 21 in Amendment No. 3, insert:

“SUBTITLE 13. POLICE QUALIFIED IMMUNITY AND ACCOUNTABILITY ACT.

5-1301.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “LOCAL JURISDICTION” MEANS A COUNTY OR MUNICIPAL CORPORATION.

(C) “MARYLAND POLICE TRAINING AND STANDARDS COMMISSION” MEANS THE UNIT WITHIN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES ESTABLISHED UNDER § 3-202 OF THE PUBLIC SAFETY ARTICLE.

(D) “MENTAL INJURY” MEANS THE OBSERVABLE, IDENTIFIABLE, AND SUBSTANTIAL IMPAIRMENT OF A PERSON’S MENTAL OR PSYCHOLOGICAL ABILITY TO FUNCTION.

(E) “OFFICER” MEANS A LAW ENFORCEMENT OFFICER AS DEFINED IN § 3-101 OF THE PUBLIC SAFETY ARTICLE.

(F) (1) “PHYSICAL INJURY” MEANS THE IMPAIRMENT OF THE PHYSICAL CONDITION.

(2) “PHYSICAL INJURY” INCLUDES:

(I) SKIN BRUISING;

(II) PRESSURE SORES;

(III) BLEEDING;

(IV) BURNS;

(V) FRACTURE OF ANY BONE;

(VI) SUBDURAL HEMATOMA;

(VII) SOFT TISSUE SWELLING;

(VIII) INJURY TO ANY INTERNAL ORGAN; AND

(IX) ANY PHYSICAL CONDITION THAT IMPERILS HEALTH OR WELFARE.

5-1302.

(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN OFFICER WHO CAUSES PHYSICAL OR MENTAL INJURY TO ANOTHER PERSON THROUGH AN ACT OR OMISSION COMMITTED WHILE THE OFFICER IS ACTING IN AN OFFICIAL CAPACITY IS:

(1) NOT IMMUNE FROM CIVIL OR CRIMINAL LIABILITY FOR THE ACT OR OMISSION; AND

(2) LIABLE TO THE INJURED PERSON FOR LEGAL, EQUITABLE, AND ANY OTHER APPROPRIATE RELIEF.

(B) A PERSON MAY NOT BRING AN ACTION UNDER THIS SECTION TO RECOVER FOR PHYSICAL OR MENTAL INJURY IF THE ACT OR OMISSION COMMITTED BY THE OFFICER:

(1) DID NOT RISE ABOVE ORDINARY NEGLIGENCE;

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(2) WAS NOT OUTSIDE THE SCOPE OF LAW ENFORCEMENT TRAINING AND STANDARDS; OR

(3) DID NOT CONSTITUTE MISCONDUCT.

(C) (1) STATUTORY IMMUNITY PROVIDED UNDER TITLE 5, SUBTITLE 5 OF THIS ARTICLE, TITLE 12, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE, OR COMMON LAW PUBLIC OFFICIAL IMMUNITY DOES NOT APPLY TO A CLAIM BROUGHT UNDER THIS SECTION.

(2) QUALIFIED IMMUNITY IS NOT A DEFENSE TO LIABILITY UNDER THIS SECTION.

(D) THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION SHALL:

(1) REVIEW ANY CASE BROUGHT UNDER THIS SECTION IN WHICH AN OFFICER WAS HELD LIABLE; AND

(2) DETERMINE IF THE OFFICER'S CERTIFICATION TO WORK IN THE STATE SHOULD BE REVOKED.

(E) ANY DAMAGES AWARDED UNDER THIS SECTION MAY NOT EXCEED \$25,000.

(F) IN AN ACTION BROUGHT UNDER THIS SECTION, THE COURT SHALL AWARD REASONABLE ATTORNEY'S FEES AND COURT COSTS TO A PREVAILING PLAINTIFF.

5-1303.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF AN ACTION IS BROUGHT AGAINST AN OFFICER'S EMPLOYER OR THE LOCAL JURISDICTION WHERE THE OFFICER IS EMPLOYED FOR AN ACT OR OMISSION THAT IS THE BASIS

OF A CLAIM AGAINST THE OFFICER UNDER § 5-1302 OF THIS SUBTITLE, THE DAMAGES AWARDED SHALL BE SUBJECT TO THE FOLLOWING:

(1) THE NONECONOMIC DAMAGES AWARDED SHALL COMPLY WITH THE PROVISIONS OF § 11-108 OF THIS ARTICLE;

(2) THE ECONOMIC DAMAGES AWARDED SHALL COMPLY WITH THE PROVISIONS OF § 11-109 OF THIS ARTICLE;

(3) IN AN ACTION FOR WRONGFUL DEATH, THE DAMAGES AWARDED SHALL COMPLY WITH THE PROVISIONS OF § 3-904 OF THIS ARTICLE; AND

(4) IN AN ACTION FOR SURVIVORSHIP, THE DAMAGES AWARDED SHALL INCLUDE THE AMOUNT OF FUNERAL EXPENSES ALLOWED UNDER § 8-106 OF THE ESTATES AND TRUSTS ARTICLE IN ADDITION TO OTHER DAMAGES RECOVERABLE IN THE ACTION.

5-1304.

(A) THE OFFICER'S EMPLOYER OR THE LOCAL JURISDICTION WHERE THE OFFICER IS EMPLOYED MAY SEEK REIMBURSEMENT FROM THE OFFICER FOR ANY FINAL JUDGMENT OR SETTLEMENT ENTERED AGAINST THE OFFICER'S EMPLOYER OR THE LOCAL JURISDICTION WHERE THE OFFICER IS EMPLOYED IF:

(1) THE OFFICER IS CONVICTED OF A CRIMINAL OFFENSE RELATED TO CONDUCT OF THE OFFICER THAT IS THE BASIS OF A CLAIM AGAINST THE OFFICER UNDER § 5-1302 OF THIS SUBTITLE; AND

(2) THE ACTION BROUGHT AGAINST THE OFFICER'S EMPLOYER OR THE LOCAL JURISDICTION WHERE THE OFFICER IS EMPLOYED IS RELATED TO THE OFFICER'S CONDUCT AND CONVICTION.

(B) THE OFFICER'S EMPLOYER MAY REVOKE AN OFFICER'S PENSION IF THE OFFICER IS CONVICTED OF A CRIMINAL OFFENSE RELATED TO THE CONDUCT

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**OF THE OFFICER THAT IS THE BASIS OF A CLAIM AGAINST THE OFFICER UNDER §
5-1302 OF THIS SUBTITLE.**

On page 69 of the House Judiciary Committee Amendments, in line 5 of Amendment No. 9, after “to” insert “:

(a) any cause of action arising before the effective date of this Act; or

(b)”.
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