

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 314

(Senator Benson)

Judicial Proceedings

Juvenile Law - Willful Misconduct of a Minor - Civil Liability of a Parent, Legal Guardian, or Custodian (Parental Accountability Act)

This bill (1) establishes joint and several civil liability of a parent, guardian, or custodian of a minor who commits an act of willful misconduct that results in the death or injury of an individual or damage to the property of another; (2) requires the Administrative Office of the Courts (AOC) to periodically adjust and publish certain maximum liability amounts; and (3) limits the liability of an insurance provider.

Fiscal Summary

State Effect: The Judiciary can implement the bill with existing budgeted resources. Otherwise, the bill is not expected to materially affect State operations or finances.

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

Small Business Effect: Minimal.

Analysis

Bill Summary: The parent, legal guardian, or custodian with custody and control of a minor is jointly and severally liable for civil damages with the minor for an act of willful misconduct of the minor that results in the injury or death of another or damage to the property of another. The liability of the parent, legal guardian, or custodian may not exceed \$25,000 for each act of willful misconduct, excluding attorney's fees and costs. This liability is in addition to any other liability under law.

For an individual injured by the willful misconduct of the minor, damages awarded are limited to actual damages for medical, dental, and hospital costs. For the defacement of property with paint or similar substance, damages awarded to a prevailing party may not exceed \$25,000, inclusive of attorney's fees and costs.

The limits on damages that may be awarded must be adjusted to the nearest hundred dollars every two years by AOC to reflect any increases in the cost of living in the State, indicated by the annual increase of the Consumer Price Index for All Urban Consumers for the Washington Metropolitan Area. On or before July 1 of each odd-numbered year, AOC must compute and publish the adjusted liability limits. The maximum liability that may be imposed against a parent, guardian, or custodian of a minor is the maximum liability authorized at the time the minor committed the act.

A parent, guardian, or custodian is not liable if they provide sufficient evidence to the court demonstrating that the child was not in their custody or control at the time of the delinquent act. Sufficient evidence includes evidence the parent had a protective order against the child at the time of the delinquent act or evidence that the child owes restitution to the parent.

The bill may not be construed to impose liability on an insurer for a loss caused by the willful act of an insured child. An insurer may not be held liable for the conduct imputed to a parent, guardian, or custodian of a child for more than \$10,000.

Current Law: A court may enter a judgment of restitution that orders a defendant, child respondent, or liable parent to make restitution in addition to any other penalty for the commission of a crime or a delinquent act if:

- as a direct result of the crime or delinquent act, property of the victim was stolen, damaged, destroyed, converted, or unlawfully obtained, or its value substantially decreased;
- as a direct result of the crime or delinquent act, the victim suffered (1) actual medical, dental, hospital, counseling, funeral, or burial expenses or losses; (2) direct out-of-pocket-loss; (3) loss of earnings; or (4) expenses incurred with rehabilitation;
- the victim incurred medical expenses that were paid by the Maryland Department of Health (MDH) or any other governmental unit;
- a governmental unit incurred expenses in removing, towing, transporting, preserving, storing, selling, or destroying an abandoned vehicle as specified;
- the Criminal Injuries Compensation Board paid benefits to a victim; or
- MDH or another governmental unit paid expended incurred for HIV or Hepatitis C testing, as specified.

A judgment of restitution does not preclude the property owner or the victim who suffered personal physical or mental injury, out-of-pocket loss of earnings, or support from bringing a civil action to recover damages from the restitution obligor. A civil verdict must be reduced by the amount paid under the criminal judgment of restitution. In making a disposition on a finding that a child at least 13 years old has committed an act of graffiti under § 6-301(d) of the Criminal Law Article (malicious destruction of property), the court must order the child to perform community service or pay restitution or both.

If a child is the defendant or child respondent, the court may order the child, the child's parent, or both to pay restitution. A judgment of restitution for \$10,000 is the absolute limit for each child's acts arising out of a single incident. A court may not enter a judgment of restitution against a parent unless the parent has been afforded a reasonable opportunity to be heard and to present evidence. A restitution hearing may be held as part of the sentencing or disposition hearing.

A court need not issue a judgment of restitution if the court finds (1) that the restitution obligor does not have the ability to pay the judgment of restitution or (2) that there are extenuating circumstances that make a judgment of restitution inappropriate. A court that refuses to order restitution that is requested must state on the record the reasons for the refusal.

A judgment of restitution is a money judgment in favor of the person, governmental unit, or third-party payor to whom the restitution obligor has been ordered to pay restitution. The judgment of restitution may be enforced by the person, governmental unit, or third-party payor to whom the restitution obligor has been ordered to pay restitution in the same manner as a money judgment in a civil action. Generally, a person or entity to whom a restitution obligor has been ordered to pay restitution has all the rights and obligations of a money judgment creditor under the Maryland Rules, including the obligation on receiving all amounts due under the judgment to file a statement that the judgment has been satisfied.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

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

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