

Chapter 611

(House Bill 895)

AN ACT concerning

Maryland Tort Claims Act – Sheriffs and Deputy Sheriffs – County Responsibility

FOR the purpose of clarifying that a county is responsible for a certain tort claim against a sheriff or deputy sheriff under the Maryland Tort Claims Act; clarifying that, for certain tort claims against a sheriff or deputy sheriff, the State is the proper defendant; specifying that it is the intent of the General Assembly that the Office of the Attorney General and the State Treasurer work with the Maryland Association of Counties, the counties, and the counties' respective insurers when disputes arise regarding the allocation of responsibility for tort claims under this Act; and generally relating to the Maryland Tort Claims Act.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 9–108
Annotated Code of Maryland
(2021 Replacement Volume and 2023 Supplement)
(As enacted by Chapter 721 of the Acts of the General Assembly of 2023)

BY repealing and reenacting, without amendments,
Article – State Government
Section 12–101(a)(6) and 12–104(a)
Annotated Code of Maryland
(2021 Replacement Volume and 2023 Supplement)

BY adding to
Article – State Government
Section 12–103.3
Annotated Code of Maryland
(2021 Replacement Volume and 2023 Supplement)

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

Article – State Finance and Procurement

9–108.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “DETENTION CENTER FUNCTION” INCLUDES:

(I) OPERATING AND ADMINISTERING A DETENTION CENTER;

AND

(II) SUPERVISING PERSONNEL WHO PERFORM A FUNCTION DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.

(3) “LAW ENFORCEMENT FUNCTION” INCLUDES:

(I) CONDUCTING PATROL;

(II) MAKING STOPS AND ARRESTS;

(III) INVESTIGATING CRIMINAL OFFENSES; AND

(IV) SUPERVISING PERSONNEL WHO PERFORM A FUNCTION DESCRIBED IN ITEMS (I) THROUGH (III) OF THIS PARAGRAPH.

[(a)] (B) This section applies to any sheriff or deputy sheriff engaged in any activity other than those activities relating to:

(1) courthouse security;

(2) service of process;

(3) the transportation of incarcerated individuals to and from court proceedings;

(4) personnel and other administrative activities;

(5) activities, including activities relating to performing law enforcement functions, arising under a multijurisdictional agreement under the supervision and direction of the Maryland State Police or other State agency; or

(6) any other activities, except activities relating to performing law enforcement functions or detention center functions.

[(b)] (C) A county or Baltimore City may obtain insurance to provide the coverage and defense necessary under the Maryland Tort Claims Act [for personnel covered by this section].

[(c)] (D) (1) If a county or Baltimore City does not obtain adequate insurance coverage to satisfy the coverage and defense necessary under the Maryland Tort Claims Act, an assessment for coverage and for payment of any litigation expenses, other than for compensation for the time spent by any State employee working for the Attorney General, shall be set off from:

(i) any tax which has been appropriated in the State budget to the county or Baltimore City; or

(ii) the subdivision's share of any income tax collected by the State Comptroller.

(2) Any amount due under this subsection shall be collected in the manner provided by § 7-222 of this article.

Article – State Government

12-101.

(a) In this subtitle, unless the context clearly requires otherwise, "State personnel" means:

(6) a sheriff or deputy sheriff of a county or Baltimore City;

12-103.3.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "DETENTION CENTER FUNCTION" INCLUDES:

(I) OPERATING AND ADMINISTERING A DETENTION CENTER; AND

(II) SUPERVISING PERSONNEL WHO PERFORM A FUNCTION DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.

(3) "LAW ENFORCEMENT FUNCTION" INCLUDES:

(I) CONDUCTING PATROL;

(II) MAKING STOPS AND ARRESTS;

(III) INVESTIGATING CRIMINAL OFFENSES; AND

(IV) SUPERVISING PERSONNEL WHO PERFORM A FUNCTION DESCRIBED IN ITEMS (I) THROUGH (III) OF THIS PARAGRAPH.

(4) “TORT CLAIM” MEANS A TORT CLAIM FILED IN STATE COURT AGAINST A SHERIFF, A DEPUTY SHERIFF, OR THE STATE CLAIMING TORTIOUS CONDUCT BY A SHERIFF OR A DEPUTY SHERIFF ARISING OUT OF ACTIVITIES RELATED TO THE PERFORMANCE OF A LAW ENFORCEMENT FUNCTION OR A DETENTION CENTER FUNCTION.

(B) (1) A TORT CLAIM SHALL BE CONSIDERED DEFENDED, SETTLED, AND PAID IN THE SAME MANNER AS ANY OTHER CLAIM FILED AGAINST A COUNTY.

(2) (I) THE STATE IS THE PROPER DEFENDANT IN A TORT CLAIM.

(II) THE COUNTY MAY NOT BE NAMED AS A DEFENDANT IN A TORT CLAIM.

(C) LIABILITY FOR A TORT CLAIM MAY NOT EXCEED THE STATE’S WAIVER OF IMMUNITY UNDER § 12–104 OF THIS SUBTITLE.

(D) (1) THE STATE TREASURER IS NOT LIABLE UNDER § 9–107 OF THE STATE FINANCE AND PROCUREMENT ARTICLE FOR A TORT CLAIM.

(2) THE DUTIES, RESPONSIBILITIES, AND LIABILITIES OF THE STATE UNDER THIS SUBTITLE FOR A TORT CLAIM SHALL BE ASSUMED BY THE APPLICABLE COUNTY.

12–104.

(a) (1) Subject to the exclusions and limitations in this subtitle and notwithstanding any other provision of law, the immunity of the State and of its units is waived as to a tort action, in a court of the State, to the extent provided under paragraph (2) of this subsection.

(2) (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, the liability of the State and its units may not exceed \$400,000 to a single claimant for injuries arising from a single incident or occurrence.

(ii) If liability of the State or its units arises from intentional tortious acts or omissions or a violation of a constitutional right committed by a law enforcement officer, the following limits on liability shall apply:

1. subject to item 2 of this subparagraph, the combined award for both economic and noneconomic damages may not exceed a total of \$890,000 for

all claims arising out of the same incident or occurrence, regardless of the number of claimants or beneficiaries who share in the award; and

2. in a wrongful death action in which there are two or more claimants or beneficiaries, an award for noneconomic damages may not exceed 150% of the limitation established under item 1 of this item, regardless of the number of claimants or beneficiaries who share in the award.

(iii) If liability of the State or its units arises under a claim of sexual abuse, as defined in § 5-117 of the Courts Article, the liability may not exceed \$890,000 to a single claimant for injuries arising from an incident or occurrence.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that:

(1) counties bear responsibility for all matters related to the performance by sheriffs and deputy sheriffs of a county or Baltimore City for “law enforcement functions” and “detention center functions” as defined under Section 1 of this Act;

(2) the list of activities included within the definitions of “law enforcement functions” and “detention center functions” under Section 1 of this Act are illustrative and not exhaustive; and

(3) the Office of the Attorney General and the State Treasurer work cooperatively with the Maryland Association of Counties, the counties, and the counties’ respective insurers when disputes arise regarding the allocation of responsibility for tort claims under Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.

Approved by the Governor, May 9, 2024.