
By: Delegate Minnick (Baltimore County Administration)

Introduced and read first time: January 31, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Law Enforcement Officers - Immunity**

3 FOR the purpose of making law enforcement officers immune from liability arising from
4 certain claims for damages under certain circumstances; defining a term; providing
5 that the immunity of law enforcement officers under this Act is not a defense to
6 certain actions; providing that this Act does not create a new cause of action or a
7 substantive legal right; providing that this Act does not affect certain immunities
8 and defenses; and generally relating to law enforcement officers and immunity from
9 liability.

10 BY adding to

11 Article - Courts and Judicial Proceedings
12 Section 5-326.1
13 Annotated Code of Maryland
14 (1995 Replacement Volume and 1995 Supplement)

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

17 **Article - Courts and Judicial Proceedings**

18 5-326.1.

19 (A) IN THIS SECTION, "CIVIL LIABILITY" MEANS ANY CLAIM FOR DAMAGES,
20 INCLUDING NEGLIGENCE, INTENTIONAL TORTS, OR ANY CLAIM UNDER THE UNITED
21 STATES CONSTITUTION, THE MARYLAND CONSTITUTION, OR THE MARYLAND
22 DECLARATION OF RIGHTS.

23 (B) A LAW ENFORCEMENT OFFICER, WHILE ACTING IN A DISCRETIONARY
24 CAPACITY AND WITHIN THE SCOPE OF THE OFFICER'S EMPLOYMENT OR
25 AUTHORITY, IS IMMUNE FROM CIVIL LIABILITY IF THE LAW ENFORCEMENT
26 OFFICER:

27 (1) ACTS IN GOOD FAITH, WITHOUT MALICE, AND IN A REASONABLE
28 MANNER; OR

29 (2) IS ENFORCING A STATUTE, ORDINANCE, OR REGULATION WHICH IS
30 LATER DETERMINED BY A COURT TO BE UNCONSTITUTIONAL.

1 (C) THE IMMUNITY OF A LAW ENFORCEMENT OFFICER UNDER SUBSECTION
2 (B) OF THIS SECTION IS NOT A DEFENSE TO ACTIONS ALLEGING VIOLATIONS OF THE
3 MARYLAND DECLARATION OF RIGHTS, THE MARYLAND CONSTITUTION, OR THE
4 UNITED STATES CONSTITUTION IN WHICH DECLARATORY, INJUNCTIVE, OR OTHER
5 EQUITABLE RELIEF IS SOUGHT.

6 (D) (1) THIS SECTION DOES NOT CREATE, AND MAY NOT BE CONSTRUED AS
7 CREATING, A NEW CAUSE OF ACTION OR SUBSTANTIVE LEGAL RIGHT AGAINST A
8 LAW ENFORCEMENT OFFICER.

9 (2) THIS SECTION DOES NOT AFFECT, AND MAY NOT BE CONSTRUED AS
10 AFFECTING, ANY IMMUNITIES FROM CIVIL LIABILITY OR DEFENSES ESTABLISHED
11 BY ANY OTHER PROVISION OF THE CODE OR AVAILABLE AT COMMON LAW TO
12 WHICH A LAW ENFORCEMENT OFFICER MAY BE ENTITLED.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 1996.