

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

House Bill 836 (Delegate Genn, et al.)
Judiciary

Maryland Comparative Negligence Act

This bill replaces the common law doctrine of contributory negligence with statutory comparative negligence except in cases where more than 50% of the negligence is attributable to the plaintiff. The bill also limits joint and several liability of codefendants.

The bill provides that its provisions are not severable.

Fiscal Summary

State Effect: Indeterminate increase in general fund expenditures. No effect on revenues.

Local Effect: Indeterminate increase in expenditures. Potential increase in revenues.

Fiscal Analysis

Bill Summary: The bill establishes contributory negligence as the method for determining damages in tort claims arising from death, personal injury, or property damage. Damages are apportioned among all parties according to the negligence of each party involved, and reduced to the extent of the plaintiff's negligence. Discharge of any party by the plaintiff does not affect apportionment of negligence, and recovery is barred if the plaintiff's negligence exceeds that of all other parties. Defendants cannot be held jointly liable unless the entire judgement is not paid within 30 days after final entry of judgement. In no case can a defendant be liable for 2.5 times the amount of the judgement apportioned to that defendant.

Background: Under the doctrine of contributory negligence, there is no recovery for damages if it can be proven that the plaintiff's own negligence contributed to the death, injury, or damage.

State Expenditures: To the extent that additional tort claims are filed against the State,

expenditures could increase. Agencies with federal or special fund revenue sources are charged for purchased insurance by the Treasurer. Self-insurance and purchased insurance for other agencies is paid with general funds. Although the Maryland Tort Claims Act limits the award of damages to the amount of insurance the State has to cover the claim, additional claims could increase the premiums charged by the Treasurer for both purchased insurance and the State's self-insurance pool.

Although this bill is expected to increase the workload of the circuit courts due to more tort case filings, any such increase cannot be reliably estimated at this time. The State pays for circuit court judges and the clerks of courts offices.

Local Expenditures: To the extent that additional tort claims are filed against the local governments, expenditures could increase as additional claims could increase the premiums for both purchased insurance and self-insurance pools.

Although this bill is expected to increase the workload of the circuit courts due to more tort case filings, any such increase cannot be reliably estimated at this time. The counties and Baltimore City pay most operating and capital expenses of the circuit courts.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Fiscal Services

Fiscal Note History: First Reader - February 23, 1996
ncs

Analysis by: Robert C. Bates
Reviewed by: John Rixey

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 841-3710
(301) 858-3710