

BY: Senator Baker

AMENDMENTS TO SENATE BILL NO. 499

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 30, strike “volunteers” and substitute “individuals engaged in certain community service work activity”.

On page 2, strike in their entirety lines 12 through 17; and strike line 20 in its entirety and substitute “Section 5-399.6”.

AMENDMENT NO. 2

On pages 11 through 14, strike in their entirety the lines beginning with line 36 on page 11 through line 21 on page 14, inclusive, and substitute:

“5-399.6.

(a) (1) In this section the following words have the meanings indicated.

(2) “Agent” means an officer, director, trustee, employee, or volunteer of a provider, but does not mean an offender OR PARTICIPANT.

(3) “Offender” means a person assigned or ordered to perform community service:

(i) By a court according to the provisions of Article 27, § 726A of the Code or § 3-820 of this article; or

(ii) By an intake officer under § 3-810 of this article.

(4) “PARTICIPANT” MEANS AN INDIVIDUAL WHO IS ENGAGED IN A COMMUNITY SERVICE WORK ACTIVITY UNDER THE FAMILY INVESTMENT

(Over)

PROGRAM ESTABLISHED UNDER ARTICLE 88A OF THE CODE.

[(4)] (5) "Private provider" means an organization that:

(i) Is exempt from taxation under § 501(c) of the Internal Revenue Code; and

(ii) 1. Is approved by a community service program administrator for participation in a community service program as described in Article 27, § 726A of the Code; [or]

2. Provides work projects for juveniles assigned or ordered to perform community service under § 3-810 or § 3-820 of this article; OR

3. IS APPROVED BY THE DEPARTMENT OF HUMAN RESOURCES AS A COMMUNITY SERVICE WORK ACTIVITY PROVIDER UNDER ARTICLE 88A OF THE CODE.

[(5)] (6) "Public provider" means a unit of State or local government that is subject to Title 12, Subtitle 1 of the State Government Article (Maryland Tort Claims Act) or Title 5, Subtitle 4 of this article (Local Government Tort Claims Act) and that:

(I) [refers] REFERS an offender to or provides a work project to which an offender is ordered or assigned to work; OR

(II) REFERS A PARTICIPANT TO OR PROVIDES A WORK PROJECT TO WHICH A PARTICIPANT IS ASSIGNED TO WORK.

(b) (1) A private provider shall be liable up to the limits of the liability insurance coverage required under paragraph (3) of this subsection or any applicable insurance coverage, whichever is greater, for the negligent acts or omissions of:

(i) The private provider or its agents in providing projects or services to, or performing duties for or on behalf of, a community service program; and

(ii) An offender OR PARTICIPANT in the course of participating in a work project the private provider has provided for a community service program.

(2) A private provider shall not be liable for the conduct of an offender OR PARTICIPANT unless the offender's OR PARTICIPANT'S conduct was:

(i) In the course of the offender's OR PARTICIPANT'S participation in a project which the private provider has provided for a community service program; and

(ii) Within the scope of the duties which the offender OR PARTICIPANT was assigned or ordered to perform.

(3) A private provider shall maintain liability insurance in at least the amounts specified in § 5-312(b)(3) of this subtitle.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PARTICIPANT IS NOT PERSONALLY LIABLE FOR DAMAGES IN ANY CIVIL ACTION BROUGHT AGAINST THE PARTICIPANT BY VIRTUE OF THE PARTICIPANT'S ACT OR OMISSION IN COMMUNITY SERVICE WORK IF THE PRIVATE PROVIDER MAINTAINS THE LIABILITY INSURANCE REQUIRED UNDER SUBSECTION (B)(3) OF THIS SECTION.

(2) A PARTICIPANT IS LIABLE FOR DAMAGES IN A CIVIL ACTION BROUGHT AGAINST THE PARTICIPANT IN WHICH IT IS FOUND THAT THE DAMAGES WERE THE RESULT OF THE PARTICIPANT'S WILLFUL, WANTON, OR GROSSLY NEGLIGENT ACT OR OMISSION.

[(c)] (D) A public provider and its agents shall be liable for the negligent acts or omissions of the public provider and its agents in providing projects or services to, or performing duties for or on behalf of, a community service program to the extent permitted by the provisions of the Maryland Tort Claims Act or the Local Government Tort Claims Act.

[(d)] (E) This section does not affect and may not be construed as affecting:

(1) The liability of an offender;

(2) Any immunities from civil liability or any defense established by any other provision of the Code or at common law;

(Over)

(3) Any limitation on damages established by law to which a provider or its agents otherwise may be entitled; or

(4) The liability of a provider or its agents for an act or omission of the provider or its agents that constitutes gross negligence, reckless or wanton misconduct, or intentionally tortious conduct.

[(e)] (F) This section does not create, and may not be construed as creating, a new cause of action or substantive legal right against a provider or its agents.”.