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D3
HB 781/96 - JUD

1997 Regular Session
7r2695
CF 7r0755

By: Delegate McKee

Introduced and read first time: February 5, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Courts - Victims of Crime - Immunity From Civil Liability**

3 FOR the purpose of establishing that a person who engages in criminal conduct involving
4 a crime of violence assumes certain risks and may not maintain a civil action for
5 damages resulting from the acts or omissions of a victim of the criminal conduct;
6 establishing certain evidence as conclusive proof in a certain civil action that a
7 person engaged in criminal conduct involving a crime of violence; requiring a court,
8 in a certain civil action, to award certain expenses to the defendant if the action is
9 terminated based on a certain finding; requiring, with a certain exception, that a
10 certain civil action be stayed by the court on a certain motion during the pendency
11 of a certain criminal action; defining certain terms; and generally relating to the
12 immunity from civil liability of victims of crime.

13 BY adding to

14 Article - Courts and Judicial Proceedings
15 Section 5-399.8
16 Annotated Code of Maryland
17 (1995 Replacement Volume and 1996 Supplement)

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

20 **Article - Courts and Judicial Proceedings**

21 5-399.8.

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

24 (2) "CONVICTED" INCLUDES, NOTWITHSTANDING ANY OTHER
25 PROVISION OF LAW TO THE CONTRARY:

26 (I) HAVING BEEN GRANTED PROBATION BEFORE JUDGMENT
27 AFTER A FINDING OF GUILT; AND

28 (II) AN ADJUDICATION OF DELINQUENCY UNDER TITLE 3,
29 SUBTITLE 8 OF THIS ARTICLE.

2

1 (3) "CRIME OF VIOLENCE" HAS THE MEANING STATED IN ARTICLE 27, §
2 643B OF THE CODE AND INCLUDES:

3 (I) AN ACT THAT WOULD BE A CRIME OF VIOLENCE IF
4 COMMITTED BY AN ADULT; AND

5 (II) AN OFFENSE COMMITTED IN ANOTHER STATE THAT, IF
6 COMMITTED IN THIS STATE, WOULD CONSTITUTE A CRIME OF VIOLENCE UNDER
7 ARTICLE 27, § 643B OF THE CODE.

8 (4) (I) "VICTIM" INCLUDES A PERSON WHO WAS AT THE SCENE OF A
9 CRIMINAL ACT AND GAVE ASSISTANCE TO A PERSON WHO WAS EXPOSED TO OR
10 SUFFERED PHYSICAL HARM AS A RESULT OF THE CRIMINAL ACT.

11 (II) "VICTIM" DOES NOT INCLUDE A PERSON WHO USES MORE
12 FORCE THAN NECESSARY TO RESIST OR DEFEND AGAINST CRIMINAL CONDUCT.

13 (B) A PERSON WHO ENGAGES IN CRIMINAL CONDUCT INVOLVING A CRIME
14 OF VIOLENCE:

15 (1) ASSUMES THE RISK OF LOSS, INJURY, OR DEATH RESULTING FROM
16 ACTS OR OMISSIONS OF A VICTIM OF THE CRIMINAL CONDUCT; AND

17 (2) MAY NOT MAINTAIN A CIVIL ACTION FOR DAMAGES RESULTING
18 FROM ACTS OR OMISSIONS OF A VICTIM OF THE CRIMINAL CONDUCT.

19 (C) IN A CIVIL ACTION DESCRIBED IN SUBSECTION (B)(2) OF THIS SECTION, A
20 CERTIFIED COPY OF ANY OF THE FOLLOWING DOCUMENTS IS CONCLUSIVE PROOF
21 THAT A PERSON ENGAGED IN CRIMINAL CONDUCT INVOLVING A CRIME OF
22 VIOLENCE:

23 (1) A COURT JUDGMENT OF GUILT IN PROSECUTION FOR A CRIME OF
24 VIOLENCE;

25 (2) A COURT RECORD OF CONVICTION FOR A CRIME OF VIOLENCE; OR

26 (3) A COURT RECORD OF AN ADJUDICATION OF DELINQUENCY FOR A
27 CRIME OF VIOLENCE.

28 (D) IF A CIVIL ACTION DESCRIBED IN SUBSECTION (B)(2) OF THIS SECTION IS
29 TERMINATED BASED ON A FINDING THAT THE PLAINTIFF ENGAGED IN CRIMINAL
30 CONDUCT INVOLVING A CRIME OF VIOLENCE, THE COURT SHALL AWARD TO THE
31 DEFENDANT REASONABLE EXPENSES, INCLUDING ATTORNEY FEES.

32 (E) EXCEPT TO THE EXTENT THAT THE PRESERVATION OF EVIDENCE
33 WOULD BE AFFECTED, A CIVIL ACTION DESCRIBED IN SUBSECTION (B)(2) OF THIS
34 SECTION SHALL BE STAYED BY THE COURT ON MOTION OF THE DEFENDANT
35 DURING THE PENDENCY OF ANY CRIMINAL ACTION AGAINST THE PLAINTIFF BASED
36 ON THE ALLEGED CRIME OF VIOLENCE.

37 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
38 October 1, 1997.