
By: **Delegate McKee**

Introduced and read first time: February 13, 1998

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

14 BY adding to
15 Article - Courts and Judicial Proceedings
16 Section 5-806
17 Annotated Code of Maryland
18 (1995 Replacement Volume and 1997 Supplement)

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

21 **Article - Courts and Judicial Proceedings**

22 5-806.

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

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

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

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

3 (3) "CRIME OF VIOLENCE" HAS THE MEANING STATED IN ARTICLE 27, §
4 643B OF THE CODE AND INCLUDES:

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

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

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

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

15 (B) A PERSON WHO ENGAGES IN CRIMINAL CONDUCT INVOLVING A CRIME OF
16 VIOLENCE:

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

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

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

25 (1) A COURT JUDGMENT OF GUILT IN PROSECUTION FOR A CRIME OF
26 VIOLENCE;

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

28 (3) A COURT RECORD OF AN ADJUDICATION OF DELINQUENCY FOR A
29 CRIME OF VIOLENCE.

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

34 (E) EXCEPT TO THE EXTENT THAT THE PRESERVATION OF EVIDENCE WOULD
35 BE AFFECTED, A CIVIL ACTION DESCRIBED IN SUBSECTION (B)(2) OF THIS SECTION
36 SHALL BE STAYED BY THE COURT ON MOTION OF THE DEFENDANT DURING THE

1 PENDENCY OF ANY CRIMINAL ACTION AGAINST THE PLAINTIFF BASED ON THE
2 ALLEGED CRIME OF VIOLENCE.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
4 effect October 1, 1998.