
By: **Delegate K. Kelly**

Introduced and read first time: February 1, 1999

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Local Government Tort Claims - Indemnification of Law Enforcement**
3 **Officers**

4 FOR the purpose of restricting a local government from indemnifying certain law
5 enforcement officers from a certain judgment if the act or omission giving rise to
6 the judgment would constitute a felony; and generally relating to the
7 indemnification of law enforcement officers by a local government.

8 BY repealing and reenacting, with amendments,
9 Article - Courts and Judicial Proceedings
10 Section 5-303
11 Annotated Code of Maryland
12 (1998 Replacement Volume)

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

15 **Article - Courts and Judicial Proceedings**

16 5-303.

17 (a) The liability of a local government may not exceed \$200,000 per an
18 individual claim, and \$500,000 per total claims that arise from the same occurrence
19 for damages resulting from tortious acts or omissions, including liability arising
20 under subsection (b) of this section and indemnification under subsection (c) of this
21 section.

22 (b) (1) Except as provided in subsection (c) of this section, a local
23 government shall be liable for any judgment against its employee for damages
24 resulting from tortious acts or omissions committed by the employee within the scope
25 of employment with the local government.

26 (2) A local government may not assert governmental or sovereign
27 immunity to avoid the duty to defend or indemnify an employee established in this
28 subsection.

1 (c) (1) A local government may not be liable for punitive damages.

2 (2) (i) Subject to subsection (a) of this section and except as provided
3 in subparagraph (ii) of this paragraph, a local government may indemnify an
4 employee for a judgment for punitive damages entered against the employee.

5 (ii) A local government may not indemnify a law enforcement
6 officer for a judgment for punitive damages if the law enforcement officer has been
7 found guilty under Article 27, § 731 of the Code as a result of the act or omission
8 giving rise to the judgment, IF THE ACT OR OMISSION WOULD CONSTITUTE A
9 FELONY.

10 (3) A local government may not enter into an agreement that requires
11 indemnification for an act or omission of an employee that may result in liability for
12 punitive damages.

13 (d) Notwithstanding the provisions of subsection (b) of this section, this
14 subtitle does not waive any common law or statutory defense or immunity in
15 existence as of June 30, 1987, and possessed by an employee of a local government.

16 (e) A local government may assert on its own behalf any common law or
17 statutory defense or immunity in existence as of June 30, 1987, and possessed by its
18 employee for whose tortious act or omission the claim against the local government is
19 premised and a local government may only be held liable to the extent that a
20 judgment could have been rendered against such an employee under this subtitle.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 1999.