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By: **Delegate K. Kelly**  
Introduced and read first time: February 1, 1999  
Assigned to: Judiciary

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 2, 1999

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

4 FOR the purpose of ~~restricting~~ allowing a local government ~~from indemnifying to~~  
5 indemnify certain law enforcement officers ~~from~~ for a certain judgment ~~if~~ unless  
6 the act or omission giving rise to the judgment would constitute a felony under  
7 the laws of this State; providing for the application of this Act; and generally  
8 relating to the indemnification of law enforcement officers by a local  
9 government.

10 BY repealing and reenacting, with amendments,  
11 Article - Courts and Judicial Proceedings  
12 Section 5-303  
13 Annotated Code of Maryland  
14 (1998 Replacement Volume)

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

17 **Article - Courts and Judicial Proceedings**

18 5-303.

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

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

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

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

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

12 (ii) A local government may not indemnify a law enforcement  
13 officer for a judgment for punitive damages if the law enforcement officer has been  
14 found guilty under Article 27, § 731 of the Code as a result of the act or omission  
15 giving rise to the judgment, **IF THE ACT OR OMISSION WOULD CONSTITUTE A FELONY**  
16 **UNDER THE LAWS OF THIS STATE.**

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

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

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

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
29 construed only prospectively and may not be applied or interpreted to have any effect  
30 on or application to any judgment for punitive damages entered before the effective  
31 date of this Act.

32 ~~SECTION 2. 3.~~ AND BE IT FURTHER ENACTED, That this Act shall take  
33 effect October 1, 1999.

