

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

Senate Bill 779 (Senator Mitchell)

Judicial Proceedings

Maryland Comparative Negligence Act

This bill provides that in a negligence lawsuit, the fact that the plaintiff may have been contributorily negligent may not bar recovery by the plaintiff if the negligence of the plaintiff was less than the negligence of the defendant or the combined negligence of all defendants. Any damages awarded to the plaintiff must be diminished in proportion to the amount of negligence attributed to the plaintiff.

The bill may not be applied to any cause of action arising before the bill's October 1, 2000 effective date.

Fiscal Summary

State Effect: Potentially significant increase in tort claim payments and agency premiums. Potential increase in expenditures and revenues for the District Court.

Local Effect: Potentially significant increase in tort claim payments and liability insurance premiums. Potential increase in expenditures and revenues for the circuit courts.

Small Business Effect: Meaningful.

Analysis

Current Law: Contributory negligence on the part of a plaintiff bars recovery by the plaintiff.

State Fiscal Effect: Because the bill would allow suits by plaintiffs who are partially at fault for their damages, it is expected that the number of tort case filings and recoveries by

plaintiffs would increase. Consequently, State tort claim payments and expenditures for liability insurance premiums would increase. The State is self-insured for claims made pursuant to the Maryland Tort Claims Act. The Treasurer charges premiums to the various agencies for their shares of the coverage. These premiums are paid with either general funds, federal funds, or special funds depending on the agency. For fiscal 2001, State tort losses are estimated at \$2.8 million, and agency premiums are estimated at \$2.0 million. The Maryland Tort Claims Act generally limits recovery to \$200,000 to a single claimant for injuries arising from a single occurrence.

An increase in the number of case filings would increase the workload of the circuit courts and the District Court. Consequently, court-related expenditures would increase. The State pays all expenses of the District Court, as well as the compensation for the judges and clerks' office employees of the circuit courts. District Court fee revenue, which goes to the State general fund, would also increase to the extent that case filings increase. The filing fee for a civil case in District Court is currently either \$10 or \$20, depending on the size of the case. Various other fees are also payable during the course of litigation, depending on the nature of the filings in a particular case.

The precise impact of the bill on State finances cannot be reliably estimated.

Local Fiscal Effect: Tort claim payments by local governments and expenditures by local governments for liability insurance premiums would increase. The Local Government Tort Claims Act limits recovery to \$200,000 per individual claim, and \$500,000 total for multiple claims arising out of the same occurrence. Local governments generally carry liability insurance that covers claims up to these limits.

Expenditures associated with the circuit courts would increase to the extent that case filings increase. The counties and Baltimore City pay most operating and capital expenses of the circuit courts. Circuit court filing fee revenue, which is retained by the local governments, would also increase. The basic filing fee for a civil case in circuit court is \$90. Various other fees are also payable during the course of litigation, depending on the nature of the filings in a particular case.

The precise impact of the bill on local government finances cannot be reliably estimated.

Small Business Effect: Small businesses could be adversely affected by this bill because it increases the liability exposure of defendants. Liability insurance premiums for small businesses would increase, and small business defendants could be required to pay more damages awards out of corporate funds in the absence of applicable insurance coverage. Conversely, as a plaintiff, a small business could benefit from the bill in that recovery would

not be barred in cases in which the business is up to 50% at fault. The adverse effect of the bill would probably outweigh the positive effect for small businesses, however, because plaintiffs in tort actions are usually individuals.

Small law firms would benefit from the bill in that it would increase the number of viable lawsuits from which attorney's fees could be obtained.

Additional Information

Prior Introductions: Similar bills were introduced in 1999 and 1998. HB 551 of 1999 received an unfavorable report from the House Judiciary Committee, and SB 618 of 1998 received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

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nlr/jr

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