

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE
Revised

House Bill 1117
Judiciary

(Delegate Gladden, *et al.*)

Judicial Proceedings

Sheriffs' Office Liability - Apportionment of State and County Responsibility

This bill includes an employee of a sheriff's office within the definition of State personnel for purposes of the Maryland Tort Claims Act (MTCA). The bill also expands the scope of coverage of the MTCA for activities performed by a sheriff, deputy sheriff, or an employee of a sheriff's office of a county or Baltimore City to include personnel and administrative actions, activities arising under Maryland State Police multijurisdictional agreements, and any other activities other than law enforcement and detention center functions.

The bill waives the requirement that a sheriff, deputy sheriff, or an employee of a sheriff's office submit an application to the Board of Public Works for payment of judgments covered under the MTCA. Under the bill, State funds, not local funds, would be used for all Board of Public Works-approved payments on behalf of sheriffs, deputy sheriffs, and employees of a sheriff's office except for those based on law enforcement and detention center activities.

Fiscal Summary

State Effect: State Insurance Trust Fund expenditures and agency premiums could increase to the extent that more settlements and judgments against sheriffs, deputy sheriffs, and employees of a sheriff's office are paid by the State. Additional review of payments for settlements and judgments against sheriffs, deputy sheriffs, and employees of a sheriff's office could be handled by the Board of Public Works with existing resources.

Local Effect: County expenditures could decrease to the extent that counties pay fewer settlements and judgments against sheriffs, deputy sheriffs, and employees of a sheriff's office.

Small Business Effect: None.

Analysis

Current Law: Sheriffs and deputy sheriffs are State employees under the MTCA. However, the Board of Public Works may not pay a settlement or judgment against a sheriff or a deputy sheriff for any claim except those claims directly relating to: (1) courthouse security; (2) service of process; or (3) the transportation of inmates to or from court proceedings. The Board of Public Works may approve payment of a settlement, a judgment, or counsel fees, with or without a hearing, and direct payment from any money appropriated for that purpose in the State budget, money appropriated to the State Insurance Trust Fund for that purpose, or the General Emergency Fund.

Background: Sheriffs and deputy sheriffs are considered State employees for liability purposes as noted in *Rucker v. Harford County*, 316 Md. 275 (1989). However, Chapter 413 of 1989 removed county-funded State offices, including sheriffs and deputy sheriffs, from coverage under the MTCA, making counties responsible for settlements and judgments against sheriffs and deputy sheriffs. Chapter 508 of 1990 restored sheriffs and deputy sheriffs as State personnel under MTCA. Ambiguity in the MTCA regarding sheriffs and deputy sheriffs and their State and county job duties was recently revealed in three court cases. Two cases involved personnel actions for discrimination in county sheriffs' offices and a third dealt with sheriff and deputy sheriff participation in multijurisdictional police activities.

All county sheriffs' offices perform law enforcement functions except in Baltimore City and Anne Arundel, Baltimore, Howard, Montgomery, and Prince George's counties.

County sheriffs' offices operate a detention center in Allegany, Calvert, Carroll, Cecil, Charles, Frederick, Garrett, Harford, St. Mary's, and Washington counties.

The State Insurance Trust Fund is a non-budgeted fund within the State Treasurer's Office that is funded by premiums paid by State agencies. Under the MTCA, the liability of the State may not exceed \$200,000 to a single claimant for injuries arising from a single incident. State tort losses for fiscal 2002 are estimated at \$2.8 million. Specific information regarding claims paid by the State on behalf of sheriffs, deputy sheriffs, and employees of a sheriff's office is not readily available.

State Fiscal Effect: State Insurance Trust Fund expenditures and agency premiums could increase to the extent that the State pays more settlements and judgments arising from claims against sheriffs, deputy sheriffs, and employees of a sheriff's office in the performance of their State responsibilities. The amount of any such increase cannot be estimated at this time.

Local Fiscal Effect: County expenditures could decrease because counties would only be responsible for paying tort claims that arise from law enforcement and detention center activities performed by sheriffs, deputy sheriffs, and employees of a sheriff's office. The amount of any such decrease cannot be estimated at this time.

Additional Information

Prior Introductions: None.

Cross File: SB 489 (Senator Jimeno, *et al.*) – Judicial Proceedings.

Information Source(s): Office of the Comptroller (Board of Public Works); Baltimore City; Garrett, Montgomery, and Prince George's counties; Maryland Association of Counties; Department of Legislative Services

Fiscal Note History: First Reader – February 28, 2001
ncs/cer Revised – House Third Reader – March 28, 2001

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