

**Department of Legislative Services**  
Maryland General Assembly  
2002 Session

**FISCAL NOTE**  
**Revised**

House Bill 490

(Delegate Kelly)

Judiciary

Judicial Proceedings

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**Firearms Safety Training Course - Maryland Tort Claims Act - Applicability**

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This bill adds to the definition of State personnel, for purposes of the Maryland Tort Claims Act, an individual providing a statutorily required firearms safety-training course that is certified by the Police Training Commission, the Department of Natural Resources, or the Department of State Police to provide the training course.

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**Fiscal Summary**

**State Effect:** Potential increase in expenditures from the State Insurance Trust Fund and associated operational costs. The exact amount cannot be reliably quantified because essential data regarding the number of individuals certified to provide the course, the number of persons taking the course, and claims statistics are not available.

**Local Effect:** None.

**Small Business Effect:** Potential minimal.

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**Analysis**

**Current Law:** Under the Maryland Tort Claims Act (MTCA), State personnel are immune from liability for acts or omissions performed in the course of their official duties, so long as the acts or omissions are made without malice or gross negligence. The State essentially waives its own common law immunity for its employees' actions. The MTCA limits the liability of the State to \$200,000 to a single claimant for injuries arising from a single incident. The MTCA's definition of State personnel includes:

- State employees or officials paid through the Central Payroll Bureau in the Office of the Comptroller of the Treasury;
- employees or officials of various State agencies;
- individuals who, without compensation, exercise a part of the sovereignty of the State;
- students of a State educational institution providing clinical services who also meet specified liability insurance requirements;
- a sheriff or deputy sheriff of a county or Baltimore City;
- an employee assigned to a local department of social services;
- a State's Attorney and employees of a State's Attorney's office;
- members of various county boards;
- judges and employees of the circuit courts and orphans' courts;
- nonprofit organizations, without other insurance, that have been approved as third-party payees for providing temporary cash assistance, transitional assistance, or child-specific benefits to Family Investment Program recipients; and
- students, faculty, or staff of a higher education institution who are providing a service under the Family Investment Program.

Statutory law requires any applicant for a regulated firearms purchase, rental, or transfer made on or after January 1, 2002 to take a certified firearms safety training course. The course must be offered by the Police Training Commission and be conducted by an individual or organization certified by: (1) the Police Training Commission; (2) the Department of Natural Resources; (3) the Department of State Police; or (4) any reputable organization whose course has been determined by the commission to meet regulations adopted by the commission.

**Background:** The fiscal 2003 proposed budget anticipates the transfer of \$11 million from the State Insurance Trust Fund to the general fund in fiscal 2002 contingent upon enactment of legislation. This transfer will reduce the projected 2002 ending cash fund balance from \$20.0 million to \$9.0 million. The most recent actuarial study of the fund recommended a fund balance of \$21 million. This transfer, if carried out, will result in State agencies being assessed greater amounts in future budgets for insurance coverage in order to build the fund's balance back up to the level recommended by the actuary.

**State Expenditures:** The costs for paying claims covered by the Maryland Tort Claims Act come from the State Insurance Trust Fund (SITF), which is a non-budgeted fund within the State Treasurer's Office. The SITF receives its funding from annual insurance premiums paid by the individual State agencies and other entities it covers. Any increased premiums would be allocated evenly among the current individual State

agencies, as would any increase in administrative costs required to process claims arising out of this proposed legislation. The State Treasurer's Office indicates that there are currently about 100 organizations certified to provide a firearms safety training course. However, the number of individuals certified is unknown. The number of individuals who take the firearms safety-training course is also unknown. Thus, the exact impact on the SITF cannot be reliably quantified.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Treasurer's Office, Department of Legislative Services

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