
By: **Delegates Zirkin and Morhaim**

Introduced and read first time: February 9, 2005

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Circuit Courts - Medical Injury - Medical Malpractice Review Panel**

3 FOR the purpose of requiring certain medical injury actions filed in court after a
4 certain date to be submitted to a medical malpractice review panel; requiring a
5 court to refer a certain action to a circuit administrative judge; requiring a
6 circuit administrative judge to appoint a certain judge to chair a panel and
7 notify certain parties of certain information; suspending statutory time limits
8 under a certain subtitle and under the Maryland Rules for a certain period in
9 certain circumstances; providing procedures for a chair to choose members of a
10 panel and for a party to strike a member from a panel; requiring that panel
11 members meet certain criteria; closing panel hearings to the public; requiring
12 that panel deliberations and certain testimony are privileged and confidential;
13 authorizing a chair to take certain action, with certain exceptions; requiring a
14 panel to make certain determinations about liability and proximate cause;
15 providing that certain rules of evidence are not applicable in a certain panel
16 hearing; giving a panel subpoena power; authorizing a panel to appoint a certain
17 impartial expert witness under certain circumstances; providing for
18 admissibility of certain records under certain circumstances; authorizing parties
19 to take certain actions in a hearing; requiring a panel to issue a written decision
20 answering certain questions; requiring a decision to be made within a certain
21 time period; requiring a panel to serve the decision on the parties and the court;
22 providing for the payment of panel members and costs of proceedings equally
23 between the parties, under certain circumstances; authorizing a party to accept
24 or reject a decision of a panel; requiring the parties to take certain actions in
25 either case; authorizing the admission of a panel decision in a court proceeding;
26 authorizing the use of a certain presumption about a unanimous panel decision
27 in a subsequent trial; authorizing either party to call a member of a panel as a
28 witness in a subsequent trial; requiring a certain party that is the losing party
29 under a panel decision and the losing party in a subsequent trial to pay certain
30 costs including the other party's attorney's fees; exempting certain individuals
31 serving on a certain panel from civil liability under certain circumstances;
32 defining a certain term; providing for the application of this Act; making the
33 provisions of this Act severable; and generally relating to establishing medical
34 malpractice review panels in medical injury cases.

35 BY repealing and reenacting, without amendments,

1 Article - Courts and Judicial Proceedings
2 Section 3-2A-01(a), (c), (f), and (g), 3-2A-04(a) and (b)(1), (2), and (4),
3 3-2A-06D(a), (b), (c), and (d)
4 Annotated Code of Maryland
5 (2002 Replacement Volume and 2004 Supplement)
6 (As enacted by Ch. 5 of the Acts of the General Assembly of the 2004 Special
7 Session)

8 BY adding to
9 Article - Courts and Judicial Proceedings
10 Section 3-2A-06E
11 Annotated Code of Maryland
12 (2002 Replacement Volume and 2004 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article - Courts and Judicial Proceedings
15 Section 5-615
16 Annotated Code of Maryland
17 (2002 Replacement Volume and 2004 Supplement)
18 (As enacted by Ch. 5 of the Acts of the General Assembly of the 2004 Special
19 Session)

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

22 **Article - Courts and Judicial Proceedings**

23 3-2A-01.

24 (a) In this subtitle the following terms have the meanings indicated unless the
25 context of their use requires otherwise.

26 (c) "Court" means a circuit court for a county.

27 (f) (1) "Health care provider" means a hospital, a related institution as
28 defined in § 19-301 of the Health - General Article, a medical day care center, a
29 hospice care program, an assisted living program, a freestanding ambulatory care
30 facility as defined in § 19-3B-01 of the Health - General Article, a physician, an
31 osteopath, an optometrist, a chiropractor, a registered or licensed practical nurse, a
32 dentist, a podiatrist, a psychologist, a licensed certified social worker-clinical, and a
33 physical therapist, licensed or authorized to provide one or more health care services
34 in Maryland.

35 (2) "Health care provider" does not include any nursing institution
36 conducted by and for those who rely upon treatment by spiritual means through
37 prayer alone in accordance with the tenets and practices of a recognized church or
38 religious denomination.

1 (g) "Medical injury" means injury arising or resulting from the rendering or
2 failure to render health care.

3 3-2A-04.

4 (a) (1) (i) A person having a claim against a health care provider for
5 damage due to a medical injury shall file the claim with the Director and, if the claim
6 is against a physician, the Director shall forward copies of the claim to the State
7 Board of Physicians.

8 (ii) The Director shall cause a copy of the claim to be served upon
9 the health care provider by the appropriate sheriff in accordance with the Maryland
10 Rules.

11 (iii) The health care provider shall file a response with the Director
12 and serve a copy on the claimant and all other health care providers named therein
13 within the time provided in the Maryland Rules for filing a responsive pleading to a
14 complaint.

15 (iv) The claim and the response may include a statement that the
16 matter in controversy falls within one or more particular recognized specialties.

17 (2) A third-party claim shall be filed within 30 days of the response of
18 the third-party claimant to the original claim unless the parties consent to a later
19 filing or a later filing is allowed by the panel chairman or the court, as the case may
20 be, for good cause shown.

21 (3) A claimant may not add a new defendant after the arbitration panel
22 has been selected, or 10 days after the preferring conference has been held, whichever
23 is later.

24 (4) Until all costs attributable to the first filing have been satisfied, a
25 claimant may not file a second claim on the same or substantially the same grounds
26 against any of the same parties.

27 (b) Unless the sole issue in the claim is lack of informed consent:

28 (1) (i) 1. Except as provided in subparagraph (ii) of this paragraph,
29 a claim or action filed after July 1, 1986, shall be dismissed, without prejudice, if the
30 claimant or plaintiff fails to file a certificate of a qualified expert with the Director
31 attesting to departure from standards of care, and that the departure from standards
32 of care is the proximate cause of the alleged injury, within 90 days from the date of
33 the complaint;

34 2. The claimant or plaintiff shall serve a copy of the
35 certificate on all other parties to the claim or action or their attorneys of record in
36 accordance with the Maryland Rules; and

1 (ii) In lieu of dismissing the claim or action, the panel chairman or
2 the court shall grant an extension of no more than 90 days for filing the certificate
3 required by this paragraph, if:

4 1. The limitations period applicable to the claim or action has
5 expired; and

6 2. The failure to file the certificate was neither willful nor
7 the result of gross negligence.

8 (2) (i) A claim or action filed after July 1, 1986, may be adjudicated in
9 favor of the claimant or plaintiff on the issue of liability, if the defendant disputes
10 liability and fails to file a certificate of a qualified expert attesting to compliance with
11 standards of care, or that the departure from standards of care is not the proximate
12 cause of the alleged injury, within 120 days from the date the claimant or plaintiff
13 served the certificate of a qualified expert set forth in paragraph (1) of this subsection
14 on the defendant.

15 (ii) If the defendant does not dispute liability, a certificate of a
16 qualified expert is not required under this subsection.

17 (iii) The defendant shall serve a copy of the certificate on all other
18 parties to the claim or action or their attorneys of record in accordance with the
19 Maryland Rules.

20 (4) A health care provider who attests in a certificate of a qualified
21 expert or who testifies in relation to a proceeding before an arbitration panel or a
22 court concerning compliance with or departure from standards of care may not devote
23 annually more than 20 percent of the expert's professional activities to activities that
24 directly involve testimony in personal injury claims.

25 3-2A-06D.

26 (a) (1) This section applies only to an initial complaint filed on or after
27 January 1, 2005, for which a certificate of a qualified expert is required to be filed in
28 accordance with § 3-2A-04 of this subtitle.

29 (2) This section does not apply if the defendant admits liability.

30 (b) (1) Within 15 days after the date that discovery is required to be
31 completed, a party shall file with the court a supplemental certificate of a qualified
32 expert, for each defendant, that attests to:

33 (i) The certifying expert's basis for alleging what is the specific
34 standard of care;

35 (ii) The certifying expert's qualifications to testify to the specific
36 standard of care;

37 (iii) The specific standard of care;

- 1 (iv) For the plaintiff:
- 2 1. The specific injury complained of;
- 3 2. How the specific standard of care was breached;
- 4 3. What specifically the defendant should have done to meet
- 5 the specific standard of care; and
- 6 4. The inference that the breach of the standard of care
- 7 proximately caused the plaintiff's injury; and

- 8 (v) For the defendant:
- 9 1. How the defendant complied with the specific standard of
- 10 care;
- 11 2. What the defendant did to meet the specific standard of
- 12 care; and
- 13 3. If applicable, that the breach of the standard of care did
- 14 not proximately cause the plaintiff's injury.

15 (2) An extension of the time allowed for filing a supplemental certificate

16 under this section shall be granted for good cause shown.

17 (3) The facts required to be included in the supplemental certificate of a

18 qualified expert shall be considered necessary to show entitlement to relief sought by

19 a plaintiff or to raise a defense by a defendant.

20 (c) Subject to the provisions of this section:

21 (1) If a plaintiff fails to file a supplemental certificate of a qualified

22 expert for a defendant, on motion of the defendant the court may dismiss, without

23 prejudice, the action as to that defendant; or

24 (2) If the defendant fails to file a supplemental certificate of a qualified

25 expert, on motion of the plaintiff the court may adjudicate in favor of the plaintiff on

26 the issue of liability as to that defendant.

27 (d) (1) The Maryland Rules apply to filing and serving a copy of a certificate

28 required under this section and in motions relating to a violation of this section.

29 (2) Nothing contained in this section prohibits or limits a party from

30 moving for summary judgment in accordance with the Maryland Rules.

31 3-2A-06E.

32 (A) IN THIS SECTION, "PANEL" MEANS A MEDICAL MALPRACTICE REVIEW

33 PANEL SELECTED TO REVIEW A HEALTH CARE MALPRACTICE ACTION.

1 (B) (1) THIS SECTION APPLIES TO AN INITIAL COMPLAINT FILED ON OR
2 AFTER JUNE 1, 2005, FOR WHICH:

3 (I) A CERTIFICATE OF A QUALIFIED EXPERT IS REQUIRED TO BE
4 FILED IN ACCORDANCE WITH § 3-2A-04 OF THIS SUBTITLE; AND

5 (II) A SUPPLEMENTAL CERTIFICATE OF A QUALIFIED EXPERT IS
6 REQUIRED TO BE FILED IN ACCORDANCE WITH § 3-2A-06D OF THIS SUBTITLE.

7 (2) THIS SECTION DOES NOT APPLY IF THE DEFENDANT ADMITS
8 LIABILITY.

9 (C) SUBJECT TO SUBSECTION (B) OF THIS SECTION AND NOTWITHSTANDING
10 ANY OTHER PROVISION OF LAW OR THE MARYLAND RULES, WITHIN 15 DAYS AFTER
11 ALL PARTIES HAVE FILED WITH THE COURT THE SUPPLEMENTAL CERTIFICATE OF A
12 QUALIFIED EXPERT IN ACCORDANCE WITH § 3-2A-06D OF THIS SUBTITLE, AN ACTION
13 FILED UNDER THIS SUBTITLE SHALL BE SUBMITTED TO A MEDICAL MALPRACTICE
14 REVIEW PANEL FOR ITS REVIEW AND DECISION IN ACCORDANCE WITH THIS
15 SECTION.

16 (D) (1) THE CIRCUIT COURT OR THE UNITED STATES DISTRICT COURT IN
17 WHICH THE INITIAL COMPLAINT IS FILED SHALL REFER THE ACTION TO THE
18 CIRCUIT ADMINISTRATIVE JUDGE OF THE CIRCUIT.

19 (2) THE CIRCUIT ADMINISTRATIVE JUDGE SHALL APPOINT A CIRCUIT
20 COURT JUDGE OR A RETIRED CIRCUIT COURT JUDGE OF THE CIRCUIT TO CHAIR THE
21 PANEL.

22 (3) THE CIRCUIT ADMINISTRATIVE JUDGE SHALL SEND NOTICE, BY
23 CERTIFIED MAIL, TO THE PLAINTIFF AND THE DEFENDANTS NAMED IN THE ACTION
24 OF:

25 (I) THE PROCEDURES OF THE MEDICAL MALPRACTICE REVIEW
26 PANEL; AND

27 (II) THE NAME OF THE CIRCUIT JUDGE OR RETIRED CIRCUIT
28 JUDGE APPOINTED TO CHAIR THE PANEL.

29 (E) (1) ALL TIME LIMITS UNDER THIS SUBTITLE OR THE MARYLAND RULES
30 APPLICABLE TO AN ACTION SHALL BE SUSPENDED FROM THE DATE ON WHICH THE
31 COMPLAINT IS REFERRED TO THE CIRCUIT ADMINISTRATIVE JUDGE UNDER
32 SUBSECTION (D) OF THIS SECTION UNTIL 30 DAYS FOLLOWING THE DAY THE PARTIES
33 AND THE COURT RECEIVE THE DECISION OF THE PANEL.

34 (F) (1) (I) WITHIN 20 DAYS AFTER THE REFERRAL OF THE COMPLAINT
35 UNDER SUBSECTION (D) OF THIS SECTION, THE CHAIR SHALL:

36 1. CHOOSE 5 INDIVIDUALS FROM THE HEALTH CARE
37 PROVIDER LIST PURSUANT TO § 3-2A-03(C) OF THIS TITLE, TOGETHER WITH A BRIEF
38 BIOGRAPHICAL STATEMENT FOR EACH INDIVIDUAL; AND

1 (5) SERVICE BY A HEALTH CARE PROVIDER ON A PANEL UNDER THIS
2 SECTION MAY NOT BE CONSIDERED A PROFESSIONAL ACTIVITY THAT DIRECTLY
3 INVOLVES TESTIMONY IN PERSONAL INJURY CLAIMS UNDER § 3-2A-04(B)(4) OF THIS
4 SUBTITLE.

5 (G) (1) WITHIN 15 DAYS OF THE APPOINTMENT OF THE PANEL, A CHAIR
6 SHALL NOTIFY THE PARTIES OF THE MEMBERSHIP OF THE PANEL AND CONVENE
7 THE PANEL IN AN INITIAL CONFERENCE.

8 (2) AT THE INITIAL CONFERENCE, THE CHAIR SHALL ESTABLISH A
9 SCHEDULE FOR THE FILING OF ALL RELEVANT RECORDS AND REASONABLE
10 DISCOVERY WHICH SHALL BE FILED AT LEAST 30 DAYS BEFORE THE HEARING DATE.

11 (3) A HEARING ON THE ACTION SHALL BE HELD NO LATER THAN 60
12 DAYS FROM THE DATE OF INITIAL CONFERENCE.

13 (H) THE MARYLAND RULES DO NOT APPLY TO THE ADMISSION OF EVIDENCE
14 UNDER THIS SECTION.

15 (I) (1) THE HEARING SHALL BE CLOSED TO THE PUBLIC.

16 (2) THE DELIBERATIONS AND DISCUSSION OF A PANEL AND THE
17 TESTIMONY OF AN EXPERT, WHETHER CALLED BY A PARTY OR THE PANEL, SHALL BE
18 PRIVILEGED AND CONFIDENTIAL.

19 (J) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A CHAIR:

20 (I) SHALL CONVENE THE PANEL, SCHEDULE HEARINGS, AND
21 PRESIDE OVER THE PANEL'S MEETINGS;

22 (II) SHALL ESTABLISH A SCHEDULE FOR SUBMISSION OF
23 EVIDENCE TO THE PANEL;

24 (III) MAY ADJOURN THE HEARING FROM TIME TO TIME, AS
25 NECESSARY;

26 (IV) SHALL EXPEDITE THE PANEL'S REVIEW OF THE MEDICAL
27 EVIDENCE;

28 (V) SHALL DECIDE ISSUES RELATING TO DISCOVERY AND MOTIONS
29 IN LIMINE;

30 (VI) SHALL ADVISE THE PANEL ON ISSUES OF LAW THAT ARISE
31 DURING THE REVIEW; AND

32 (VII) SHALL PREPARE THE DECISION OF THE PANEL IN
33 ACCORDANCE WITH SUBSECTION (M) OF THIS SECTION.

34 (2) A CHAIR MAY NOT VOTE IN THE DELIBERATIONS OF THE PANEL.

1 (K) A PANEL SHALL DETERMINE, AFTER A HEARING HELD IN ACCORDANCE
2 WITH SUBSECTION (G) OF THIS SECTION, IF THE EVIDENCE PRESENTED, IF
3 PROPERLY SUBSTANTIATED, IS SUFFICIENT TO RAISE A LEGITIMATE QUESTION
4 THAT:

5 (1) THE DEFENDANT'S ACTIONS OR OMISSIONS WERE A DEPARTURE
6 FROM THE APPROPRIATE STANDARD OF CARE AS CHARGED IN THE PLAINTIFF'S
7 COMPLAINT; AND

8 (2) THE DEFENDANT'S ACTIONS OR OMISSIONS PROXIMATELY CAUSED
9 THE PLAINTIFF'S ALLEGED INJURY.

10 (L) (1) AT THE HEARING, THE PLAINTIFF SHALL PRESENT THE COMPLAINT
11 TO THE PANEL AND THE DEFENDANT MAY MAKE A PRESENTATION IN RESPONSE.

12 (2) AFTER THE PRESENTATIONS BY THE PARTIES, THE PANEL MAY
13 REQUEST FROM EITHER PARTY ADDITIONAL FACTS, RECORDS, OR OTHER
14 INFORMATION TO BE SUBMITTED IN WRITING.

15 (3) (I) THE PANEL MAY SUBPOENA ANY RECORDS OR ANY EXPERT
16 NECESSARY TO SUBSTANTIATE OR CLARIFY EVIDENCE PRESENTED IN THE
17 HEARING.

18 (II) THE PANEL MAY APPOINT AN IMPARTIAL AND QUALIFIED
19 HEALTH CARE PROVIDER TO CONDUCT NECESSARY PROFESSIONAL OR EXPERT
20 TESTIMONY OF THE PARTIES OR THE PARTIES' WITNESSES.

21 (III) PROPERLY AUTHENTICATED HOSPITAL RECORDS AND THE
22 RECORDS OF A TREATING HEALTH CARE PROVIDER ARE ADMISSIBLE WITHOUT THE
23 NECESSITY OF CALLING THE HEALTH CARE PROVIDER, SUBJECT TO REASONABLE
24 NOTICE AND THE RIGHT OF THE OPPOSING PARTY TO DEPOSE THE HEALTH CARE
25 PROVIDER.

26 (4) AT THE PANEL HEARING, THE PARTIES HAVE THE RIGHT:

27 (I) TO BE HEARD;

28 (II) TO PRESENT EVIDENCE MATERIAL TO THE COMPLAINT; AND

29 (III) TO CROSS-EXAMINE WITNESSES WHO APPEAR AT THE
30 HEARING.

31 (M) (1) A PANEL SHALL ISSUE ITS WRITTEN DECISION WITHIN 30 DAYS OF
32 THE HEARING.

33 (2) THE DECISION SHALL ANSWER THE FOLLOWING QUESTIONS:

34 (I) WHETHER THERE IS A REASONABLE MEDICAL OR
35 PROFESSIONAL PROBABILITY THAT THE ACTS OR OMISSIONS COMPLAINED OF OR
36 FOUND BY THE PANEL TO EXIST CONSTITUTE A DEPARTURE FROM THE APPLICABLE

1 STANDARD OF CARE BY THE HEALTH CARE PROVIDER CHARGED WITH THAT CARE;
2 AND

3 (II) WHETHER THERE IS A REASONABLE MEDICAL OR
4 PROFESSIONAL PROBABILITY THAT THE ACTS OR OMISSIONS COMPLAINED OF
5 PROXIMATELY CAUSED THE INJURY COMPLAINED OF OR AS FOUND BY THE PANEL.

6 (N) THE PANEL'S DECISION, SIGNED BY THE PANEL MEMBERS, SHALL BE
7 SERVED BY CERTIFIED MAIL ON THE COURT AND THE PARTIES WITHIN 5 DAYS OF
8 THE DATE OF ISSUANCE OF THE DECISION.

9 (O) (1) EXCEPT FOR THE CHAIR, EACH MEMBER OF THE PANEL IS ENTITLED
10 TO BE REIMBURSED:

11 (I) UP TO \$350 FOR ALL WORK PERFORMED AS A MEMBER OF THE
12 PANEL, EXCLUSIVE OF THE TIME INVOLVED IF CALLED AS A WITNESS TO TESTIFY IN
13 COURT; AND

14 (II) REASONABLE TRAVEL EXPENSES.

15 (2) (I) THE CHAIR SHALL KEEP AN ACCURATE RECORD OF THE TIME
16 AND EXPENSES OF THE MEMBERS OF THE PANEL.

17 (II) THE RECORD SHALL BE SUBMITTED TO THE PARTIES FOR
18 PAYMENT WITH THE PANEL'S DECISION.

19 (3) UNLESS OTHERWISE AGREED BY THE PARTIES, THE COSTS OF THE
20 HEARING AND REASONABLE EXPENSES OF REVIEW UNDER THIS SECTION SHALL BE
21 DIVIDED EQUALLY BETWEEN THE PARTIES.

22 (P) (1) (I) A PARTY MAY REJECT THE DECISION OF THE PANEL ISSUED
23 UNDER SUBSECTION (M) OF THIS SECTION FOR ANY REASON.

24 (II) THE PARTY REJECTING THE DECISION SHALL FILE A NOTICE
25 OF REJECTION WITH THE CHAIR AND THE CIRCUIT ADMINISTRATIVE JUDGE OF THE
26 CIRCUIT IN WHICH THE ACTION WAS FILED OR THE UNITED STATES DISTRICT COURT
27 AND SERVE THE NOTICE ON THE OTHER PARTY WITHIN 30 DAYS OF RECEIVING THE
28 DECISION.

29 (III) ON RECEIVING THE NOTICE OF REJECTION, THE COURT SHALL
30 REINSTATE THE COMPLAINT TO THE ACTIVE TRIAL LIST AND LIFT THE SUSPENSION
31 OF TIME LIMITS UNDER SUBSECTION (E) OF THIS SECTION.

32 (2) (I) BOTH PARTIES MAY ACCEPT THE DECISION OF THE PANEL
33 ISSUED UNDER SUBSECTION (M) OF THIS SECTION.

34 (II) IF BOTH PARTIES ACCEPT THE DECISION, BOTH PARTIES SHALL
35 MOVE TO DISMISS THE COMPLAINT FILED IN COURT WITHIN 30 DAYS OF RECEIVING
36 THE DECISION.

1 (Q) (1) THE PANEL'S DECISION UNDER SUBSECTION (M) OF THIS SECTION IS
2 ADMISSIBLE AS EVIDENCE IN A SUBSEQUENT TRIAL.

3 (2) A UNANIMOUS DECISION OF THE PANEL ON EITHER OR BOTH
4 QUESTIONS UNDER SUBSECTION (M) OF THIS SECTION SHALL BE ACCORDED A
5 PRESUMPTION OF CORRECTNESS IN THE SUBSEQUENT TRIAL OF THE CASE.

6 (R) EITHER PARTY HAS THE RIGHT TO CALL A MEMBER OF THE PANEL AS A
7 WITNESS IN COURT.

8 (S) (1) A PARTY THAT IS THE LOSING PARTY IN A DECISION BEFORE A
9 PANEL UNDER THIS SECTION AND IN A SUBSEQUENT TRIAL IS RESPONSIBLE FOR:

10 (I) COSTS IN ACCORDANCE WITH MARYLAND RULE 2-603; AND

11 (II) PAYING THE REASONABLE ATTORNEY FEES OF THE
12 PREVAILING PARTY.

13 (2) A PARTY THAT:

14 (I) IS THE PREVAILING PARTY IN A DECISION BEFORE A PANEL
15 UNDER THIS SECTION; BUT

16 (II) IS THE LOSING PARTY IN A SUBSEQUENT TRIAL IS
17 RESPONSIBLE FOR COSTS IN ACCORDANCE WITH MARYLAND RULE 2-603.

18 (T) AN INDIVIDUAL WHO SERVES AS A MEMBER OF A PANEL UNDER THIS
19 SECTION SHALL HAVE THE IMMUNITY FROM SUIT DESCRIBED UNDER § 5-615 OF
20 THIS ARTICLE.

21 5-615.

22 In the absence of an affirmative showing of malice or bad faith, each arbitrator
23 or individual conducting alternative dispute resolution AND EACH MEMBER OF A
24 MEDICAL MALPRACTICE REVIEW PANEL CONDUCTING A REVIEW in a health care
25 malpractice claim or action under Title 3, Subtitle 2A of this article from the time of
26 acceptance of appointment has immunity from suit for any act or decision made
27 during tenure and within the scope of designated authority.

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

31 SECTION 3. AND BE IT FURTHER ENACTED, That if any provision of this
32 Act or the application thereof to any person or circumstance is held invalid for any
33 reason in a court of competent jurisdiction, the invalidity does not affect other
34 provisions or any other application of this Act which can be given effect without the
35 invalid provision or application, and for this purpose the provisions of this Act are
36 declared severable.

1 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 June 1, 2005.