

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 683

(Senator Garagiola)

Judicial Proceedings

Judiciary

Courts - Parent-Child Immunity - Motor Vehicle Torts

This bill expands the abrogation of the doctrine of parent-child immunity as it applies to actions for wrongful death, personal injury, or property damage arising from the operation of a motor vehicle, up to the limits of motor vehicle liability coverage or uninsured motor vehicle coverage, as opposed to the statutory limits. The abrogation only applies to an action between a parent and an unemancipated child.

The bill only applies to cases filed on or after the bill's October 1, 2005 effective date.

Fiscal Summary

State Effect: Potential minimal increase in special fund revenues from the \$125 filing fees for insurers to file forms, rates, and rules to comply with the bill. Potential minimal increase in general fund revenues from the 2% premium tax to the extent insurers raise rates because of the bill. Any workload increase could be handled with existing Maryland Insurance Administration (MIA) resources. Expenditures would not be affected.

Maryland Automobile Insurance Fund (MAIF): As only 1% of MAIF's policies are above the statutory limits, the bill is not expected to have a significant impact on MAIF operations or finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The doctrine of parent-child immunity prevents parents and children from suing each other for torts. The doctrine arose from case law and is based on the public policy of preventing disruptions to the family relationship. Case law has, however, carved out exceptions to this doctrine. For example, the immunity does not apply in the case of an emancipated child or to a child who is the victim of cruel or inhumane conduct.

Chapter 199 of 2001 partially abrogated the doctrine of parent-child immunity. Under Chapter 199, an action between a parent and a child or the estate of a parent or child for wrongful death, personal injury, or property damage arising out of the operation of a motor vehicle may not be restricted by the doctrine of parent-child immunity or any insurance policy provisions, up to the State's mandatory minimum coverage limits. In *Bozman v. Bozman*, 376 Md. 461 (2003), the Court of Appeals completely abrogated the doctrine of interspousal tort immunity in Maryland.

State law requires minimum vehicle liability insurance coverage of (1) \$20,000 for one person and \$40,000 for two or more persons for bodily injury or death; and (2) \$15,000 for property damage.

State/Local Fiscal Effect: As a result of this bill, parents and children would be able to recover damages from each other in motor vehicle cases up to policy limits. Insurers would be responsible for payment in these cases and could pass increased costs along to consumers in the form of premium increases. To the extent insurers pass costs along to insureds in the form of higher rates, the insurers would be required to pay the \$125 filing fee for each rate filed with MIA. The number of rates that would be filed cannot be accurately estimated. General fund revenues from the 2% insurance premium tax would increase to the extent insurers raised rates as a result of the bill. Any such increase in general fund revenues is expected to be minimal.

The bill is not expected to have a significant effect on court caseloads.

MAIF: MAIF estimates that only 1% of its policies are above the statutory limits and previously estimated that it handles approximately six cases involving parent-child immunity per year. Any fiscal or operational impact on MAIF is expected to be minimal.

Small Business Effect: Insurers would be liable for payment up to the limits of the motor vehicle liability or uninsured motorist coverage, which could result in increased payouts. Insurers could pass these increased costs on to the consumers.

Additional Information

Prior Introductions: None.

Cross File: HB 1081 (Delegate Simmons, *et al.*) – Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Automobile Insurance Fund, Maryland Insurance Administration, Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2005
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