

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 1383

(Delegate Schuh)

Judiciary

Good Samaritan - State of Emergency - Liability Protection

This bill extends civil liability protection from damages for any personal injury, wrongful death, property damage, or other loss caused by a person's act, error, or omission in good faith related to providing services or goods voluntarily and without compensation at the request, direction, or control of a State or local government emergency management official acting in an official capacity in response to a state of emergency proclaimed by the Governor.

The bill only applies prospectively to causes of action arising on or after the October 1, 2008 effective date.

Fiscal Summary

State Effect: None. The bill would not materially affect State operations or finances.

Local Effect: None.

Small Business Effect: Potentially meaningful for any business that provides goods and services in response to a state of emergency.

Analysis

Current Law: In general, an *individual* is not civilly liable for any act or omission in providing assistance or medical aid to a victim at the scene of an emergency if the assistance or aid is provided in a reasonably prudent manner, without fee or other compensation, and the individual relinquishes care of the victim when someone who is

licensed or certified to provide medical care or services becomes available to take responsibility. This statutory liability protection is commonly referred to as “Good Samaritan” immunity.

In addition, the Maryland Associations, Organizations, and Agents Act (MAOAA) limits the liability of specified organizations and agents of the organizations for the act or omission of an agent of the organization if the organization maintains liability insurance meeting specified minimums. Charitable organizations are among the entities included in MAOAA.

Under MAOAA, if the liability insurance is maintained by the organization • the agents (directors, officers, trustees, employees, whether paid or unpaid, and volunteers) of the organization may not be held personally liable as long as the acts are made without malice or gross negligence; and • the organization’s liability for the act or omission is limited to the applicable limit of insurance coverage. Charitable organizations are among the entities included in MAOAA.

Also, the Maryland Volunteer Service Act (MVSA) limits the liability of volunteers, excluding health care providers, of charitable organizations and other specified organizations for an act or omission of a volunteer. In general, a volunteer is not liable for damages beyond any personal insurance that the volunteer may have if the act or omission of the volunteer does not constitute gross negligence, reckless, willful, or wanton misconduct, or intentionally tortious conduct.

In the event of a public emergency in the State, the Governor may proclaim a state of emergency and designate the emergency area (1) if public safety is endangered or on reasonable apprehension of immediate danger to public safety; and (2) on the Governor’s own initiative or on application of the chief executive officer or governing body of a county or municipal corporation or the Secretary of State Police.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mll/jr

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