

HOUSE BILL 147

L2, D3

4r0711
CF 4r1760

By: **Montgomery County Delegation**

Introduced and read first time: January 13, 2014

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Montgomery County – Maryland Tort Claims Act – Human Services Torts**

3 **MC 13–14**

4 FOR the purpose of clarifying that, under certain circumstances, Montgomery County
5 acts as a unit of the State and, for the purposes of certain tort claims, the State
6 shall be named as the proper defendant; altering certain procedures; altering a
7 certain definition; providing for the application of this Act; and generally
8 relating to the Maryland Tort Claims Act and claims arising out of human
9 services administered by Montgomery County.

10 BY repealing and reenacting, with amendments,
11 Article – State Government
12 Section 12–103.2 and 12–106
13 Annotated Code of Maryland
14 (2009 Replacement Volume and 2013 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Courts and Judicial Proceedings
17 Section 5–304
18 Annotated Code of Maryland
19 (2013 Replacement Volume and 2013 Supplement)

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

22 **Article – State Government**

23 12–103.2.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) In this section, “tort claim” means a tort claim, **INCLUDING STATE AND**
2 **CONSTITUTIONAL TORTS**, filed in [State court against the Montgomery County
3 government relating to] **COURT ARISING OUT OF** the administration of a State
4 program under Title 3, Subtitle 4 of the Human Services Article **BY THE**
5 **MONTGOMERY COUNTY GOVERNMENT**.

6 (b) (1) A tort claim shall be considered, defended, settled, and paid in the
7 same manner as any other claim covered by the Montgomery County Self–Insurance
8 Fund.

9 (2) **UNDER THIS SECTION, WHENEVER MONTGOMERY COUNTY**
10 **ADMINISTERS A STATE PROGRAM UNDER TITLE 3, SUBTITLE 4 OF THE HUMAN**
11 **SERVICES ARTICLE, MONTGOMERY COUNTY ACTS AS A UNIT OF THE STATE,**
12 **AND ANY TORT CLAIM SHALL NAME THE STATE OF MARYLAND AS THE PROPER**
13 **DEFENDANT**.

14 (c) Liability for a tort claim may not exceed the insurance coverage granted
15 to units of State government under Title 9 of the State Finance and Procurement
16 Article.

17 (d) (1) The State Treasurer is not liable under § 9–107(c) of the State
18 Finance and Procurement Article for a tort claim.

19 (2) For tort claims, the duties, responsibilities, and liabilities of the
20 Treasurer under this subtitle shall be assumed by the Montgomery County
21 Self–Insurance Fund **WITH DAMAGES LIMITED IN ACCORDANCE WITH**
22 **SUBSECTION (C) OF THIS SECTION**.

23 (E) **THE NOTICE REQUIREMENTS UNDER § 12–106 OF THIS SUBTITLE**
24 **SHALL APPLY TO ALL TORT CLAIMS MADE UNDER THIS SECTION**.

25 12–106.

26 (a) This section does not apply to a claim that is asserted by cross–claim,
27 counterclaim, or third–party claim.

28 (b) A claimant may not institute an action under this subtitle unless:

29 (1) the claimant submits a written claim to the Treasurer or a
30 designee of the Treasurer **AND, IN THE CASE OF A TORT CLAIM UNDER § 12–103.2**
31 **OF THIS SUBTITLE, THE COUNTY EXECUTIVE OF MONTGOMERY COUNTY** within
32 1 year after the injury to person or property that is the basis of the claim;

1 (2) the Treasurer or designee **AND, IN THE CASE OF A TORT CLAIM**
2 **UNDER § 12-103.2 OF THIS SUBTITLE, THE COUNTY EXECUTIVE OF**
3 **MONTGOMERY COUNTY** denies the claim finally; and

4 (3) the action is filed within 3 years after the cause of action arises.

5 **Article – Courts and Judicial Proceedings**

6 5-304.

7 (a) This section does not apply to an action against a nonprofit corporation
8 described in § 5-301(d)(23), (24), (25), (26), or (28) of this subtitle or its employees.

9 (b) (1) Except as provided in subsections (a) and (d) of this section **AND AS**
10 **OTHERWISE PROVIDED IN §§ 12-103.2 AND 12-106 OF THE STATE**
11 **GOVERNMENT ARTICLE**, an action for unliquidated damages may not be brought
12 against a local government or its employees unless the notice of the claim required by
13 this section is given within 180 days after the injury.

14 (2) The notice shall be in writing and shall state the time, place, and
15 cause of the injury.

16 (c) (1) The notice required under this section shall be given in person or
17 by certified mail, return receipt requested, bearing a postmark from the United States
18 Postal Service, by the claimant or the representative of the claimant.

19 (2) Except as otherwise provided, if the defendant local government is
20 a county, the notice required under this section shall be given to the county
21 commissioners or county council of the defendant local government.

22 (3) If the defendant local government is:

23 (i) Baltimore City, the notice shall be given to the City
24 Solicitor;

25 (ii) Howard County or Montgomery County, the notice shall be
26 given to the County Executive; and

27 (iii) Anne Arundel County, Baltimore County, Harford County,
28 or Prince George's County, the notice shall be given to the county solicitor or county
29 attorney.

30 (4) For any other local government, the notice shall be given to the
31 corporate authorities of the defendant local government.

1 (d) Notwithstanding the other provisions of this section, unless the
2 defendant can affirmatively show that its defense has been prejudiced by lack of
3 required notice, upon motion and for good cause shown the court may entertain the
4 suit even though the required notice was not given.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
6 construed to apply only prospectively and may not be applied or interpreted to have
7 any effect on or application to any cause of action arising before the effective date of
8 this Act.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2014.