

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 399
Judiciary

(Delegate Lisanti)

Civil Actions – Duty to Render Assistance
(First Responder Safety Act)

This bill requires an individual who knows or has reason to know that a law enforcement officer, a firefighter, an emergency medical services provider, or a similar individual is exposed to or has suffered serious physical injury while the individual is acting in an official capacity to provide “reasonable assistance” to the exposed or injured individual, to the extent that the individual can do so without danger or peril to self or others. A violator is subject to a civil penalty of \$250. Subject to specified criteria, an individual rendering assistance is not civilly liable for any act or omission while providing such assistance. The bill’s provisions may not be construed to require an individual to provide information in violation of the individual’s right against self-incrimination.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues from civil penalties imposed in the District Court. Expenditures are not affected.

Local Effect: The bill does not materially affect local finances or operations.

Small Business Effect: None.

Analysis

Bill Summary: “Reasonable assistance” includes (1) obtaining or attempting to obtain aid from law enforcement or medical personnel; (2) calling 9-1-1 or taking reasonable steps to ensure that 9-1-1 has been called; and (3) providing direct assistance such as administering cardiopulmonary resuscitation.

An individual who renders assistance is not civilly liable for any act or omission in providing reasonable assistance to an exposed or injured individual if (1) the assistance or aid is provided in a reasonably prudent manner; (2) the assistance or aid is provided without fee or other compensation; and (3) the individual relinquishes care of the injured individual when someone who is licensed or certified by the State to provide medical care or services becomes available to take responsibility.

Current Law/Background: In general, a person does not have an affirmative duty to rescue or aid a stranger in peril under American tort law. Exceptions to this rule include situations in which there is a particular relationship between the plaintiff and defendant (*e.g.*, business person/customer), when the defendant caused the plaintiff's peril, or the defendant commenced voluntarily rendering aid to the plaintiff.

In Maryland, as in many states, police officers have no affirmative duty to render aid to a member of the public who is in distress or in need of medical attention, although generally under common law, an officer can create a duty to act by being the cause of an injury or emergency. The general absence of an affirmative duty to render aid on the part of police officers, absent a special relationship, was reaffirmed by the Court of Appeals in *Ashburn v. Anne Arundel County*, 306 Md. 617 (1986). However, several states have case law establishing a requirement for law enforcement officers to render aid in all cases where they are able to do so. A failure to render aid on the part of a law enforcement officer may give rise to a civil action and could lead to administrative discipline or dismissal.

Under the Good Samaritan Act (Courts and Judicial Proceedings Article, § 5-603), various rescue and medical personnel are immune from civil liability for any act or omission in giving any assistance or medical care, if (1) the act or omission is not grossly negligent; (2) the assistance or medical care is provided without fee or other compensation; and (3) the assistance or medical care is provided at the scene of an emergency, in transit to a medical facility, or through communications with personnel providing emergency assistance.

The rescue and medical personnel covered by the Act's protections are:

- individuals licensed by this State to provide medical care;
- members of any State, county, municipal, or volunteer fire department, ambulance and rescue squad, or law enforcement agency; the National Ski Patrol System; or a corporate fire department responding to a call outside of its corporate premises, if the member has completed specified training, is certified or licensed by this State as an emergency medical services provider, or is administering medications or

treatment approved for use in response to an apparent drug overdose and the member meets specified licensing and certification requirements;

- a volunteer fire department or ambulance and rescue squad whose members have immunity; and
- a corporation when its fire department personnel are immune under the Act.

An individual who is not covered by the categories listed above 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 (1) the assistance or aid is provided in a reasonably prudent manner without fee or other compensation and (2) the individual relinquishes care of the victim when someone who is licensed or certified by this State to provide medical care or services becomes available to take responsibility.

Additional Information

Prior Introductions: HB 1053 of 2019 received a hearing in the House Judiciary Committee but was subsequently withdrawn. HB 1436 of 2017, a similar bill, received an unfavorable report from the House Judiciary Committee.

Designated Cross File: None.

Information Source(s): Maryland Institute for Emergency Medical Services Systems; Montgomery and Worcester counties; City of Westminster; towns of Bel Air and Leonardtown; Maryland State Treasurer's Office; Judiciary (Administrative Office of the Courts); Department of State Police; Department of Legislative Services

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