

# HOUSE BILL 115

D3  
HB 463/22 – JUD

(PRE-FILED)

3lr0966

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By: **Delegate Acevero**

Requested: November 18, 2022

Introduced and read first time: January 11, 2023

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Civil Rights – Violation of Rights – Government Liability**

3 FOR the purpose of establishing the civil liability of a police officer who deprives or allows  
4 another to deprive an individual of certain rights under the Maryland Declaration of  
5 Rights and the Maryland Constitution; requiring that the employer of a police officer  
6 indemnify the police officer against a judgment or settlement entered against the  
7 officer under this Act; establishing a certain statute of limitations for a civil action  
8 under this Act; defining a certain term; and generally relating to civil actions for  
9 violations of rights by police officers and governmental liability.

10 BY adding to

11 Article – Courts and Judicial Proceedings  
12 Section 5–809  
13 Annotated Code of Maryland  
14 (2020 Replacement Volume and 2022 Supplement)

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

17 **Article – Courts and Judicial Proceedings**

18 **5–809.**

19 (A) IN THIS SECTION, “POLICE OFFICER” HAS THE MEANING STATED IN §  
20 3–201 OF THE PUBLIC SAFETY ARTICLE.

21 (B) (1) THE IMMUNITY PROVISIONS PROTECTING STATE AND LOCAL  
22 GOVERNMENT PERSONNEL UNDER THE LOCAL GOVERNMENT TORT CLAIMS ACT  
23 UNDER SUBTITLE 3 OF THIS TITLE OR THE MARYLAND TORT CLAIMS ACT UNDER

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **TITLE 12, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE DO NOT APPLY TO A**  
2 **CIVIL ACTION BROUGHT UNDER THIS SECTION.**

3 **(2) THE FOLLOWING ARE NOT A DEFENSE TO A CLAIM BROUGHT**  
4 **UNDER THIS SECTION:**

5 **(I) ANY OF THE ELEMENTS OF THE FEDERAL DOCTRINE OF**  
6 **QUALIFIED IMMUNITY;**

7 **(II) IGNORANCE OF:**

8 **1. THE RIGHTS OF CITIZENS AND GOVERNMENT**  
9 **LIMITATIONS UNDER THE MARYLAND CONSTITUTION AND THE MARYLAND**  
10 **DECLARATION OF RIGHTS; OR**

11 **2. STATUTORY LAW OR THE COMMON LAW; OR**

12 **(III) GOOD FAITH ACTION.**

13 **(C) A POLICE OFFICER WHO, UNDER COLOR OF LAW, DEPRIVES AN**  
14 **INDIVIDUAL OF OR INFRINGES ON, OR ALLOWS ANOTHER TO DEPRIVE AN**  
15 **INDIVIDUAL OF OR INFRINGE ON, AN INDIVIDUAL RIGHT SECURED BY THE**  
16 **MARYLAND DECLARATION OF RIGHTS OR THE MARYLAND CONSTITUTION IS**  
17 **LIABLE FOR DAMAGES BROUGHT IN A CIVIL ACTION AGAINST THE POLICE OFFICER.**

18 **(D) (1) (I) THE COURT SHALL AWARD REASONABLE ATTORNEY'S FEES**  
19 **AND COSTS TO A PREVAILING PLAINTIFF UNDER THIS SECTION.**

20 **(II) IF A SUIT UNDER THIS SECTION SEEKS INJUNCTIVE RELIEF,**  
21 **THE PLAINTIFF SHALL BE ENTITLED TO REASONABLE ATTORNEY'S FEES AND COSTS**  
22 **IF THE PLAINTIFF'S SUIT WAS A SIGNIFICANT FACTOR IN THE STATE TAKING OR**  
23 **CEASING ACTION REGARDLESS OF WHETHER AN INJUNCTION WAS ISSUED BY THE**  
24 **COURT IN FAVOR OF THE PLAINTIFF.**

25 **(2) THE COURT MAY AWARD REASONABLE ATTORNEY'S FEES AND**  
26 **COSTS TO A PREVAILING DEFENDANT IF THE COURT FINDS THAT A PLAINTIFF HAS**  
27 **BROUGHT A FRIVOLOUS CLAIM.**

28 **(E) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHILE GOOD**  
29 **FAITH ACTION IS NOT A DEFENSE AGAINST A CLAIM UNDER THIS SECTION:**

30 **(1) IF A COURT DETERMINES THAT A LAW ENFORCEMENT OFFICER**  
31 **ACTED ON A GOOD FAITH, REASONABLE BELIEF THAT THE ACTIONS OF THE OFFICER**

1 WERE LAWFUL, THE OFFICER'S EMPLOYER SHALL ENTIRELY INDEMNIFY THE  
2 OFFICER FOR ANY JUDGMENT OR SETTLEMENT ENTERED AGAINST THE OFFICER  
3 UNDER THIS SECTION; OR

4           **(2)** EXCEPT AS PROVIDED IN SUBSECTIONS (F) AND (G) OF THIS  
5 SECTION, IF THE COURT DETERMINES THAT A POLICE OFFICER DID NOT ACT ON A  
6 GOOD FAITH, REASONABLE BELIEF THAT THE ACTIONS OF THE OFFICER WERE  
7 LAWFUL, THE OFFICER SHALL BE PERSONALLY LIABLE AND MAY NOT BE  
8 INDEMNIFIED FOR \$25,000 OR 5% OF ANY JUDGMENT OR SETTLEMENT ENTERED  
9 AGAINST THE OFFICER UNDER THIS SECTION, WHICHEVER IS LESS, AND THE  
10 REMAINDER SHALL BE PAID BY THE OFFICER'S EMPLOYER.

11           **(F)** IF THE AMOUNT FOR WHICH A POLICE OFFICER IS PERSONALLY  
12 RESPONSIBLE UNDER SUBSECTION (E)(2) OF THIS SECTION IS UNCOLLECTIBLE, THE  
13 OFFICER'S EMPLOYER OR ANY AVAILABLE INSURANCE SHALL SATISFY THE  
14 JUDGMENT OR SETTLEMENT IN FULL.

15           **(G)** THE EMPLOYER OF A POLICE OFFICER IS NOT RESPONSIBLE FOR  
16 INDEMNIFYING THE OFFICER UNDER THIS SECTION IF THE OFFICER WAS  
17 CONVICTED OF A CRIME FOR THE CONDUCT THAT GAVE RISE TO A CLAIM UNDER  
18 THIS SECTION.

19           **(H)** A CIVIL ACTION UNDER THIS SECTION SHALL BE FILED WITHIN 2 YEARS  
20 AFTER THE CAUSE OF ACTION ACCRUES.

21           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 2023.