

HOUSE BILL 430

D3, E4

3lr0597

By: ~~Delegate Wilkins~~ Delegates Wilkins, Kaufman, and Simmons

Introduced and read first time: January 30, 2023

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 27, 2023

CHAPTER _____

1 AN ACT concerning

2 ~~Police Immunity and Accountability Act~~
3 ~~Public Safety – Maryland State Commission on Criminal Sentencing Policy~~
4 Police Training and Standards Commission – Notification of Action Filed
5 Against Police Officer

6 FOR the purpose of ~~specifying that a police officer who subjects or causes to be subjected~~
7 ~~any individual to the deprivation of certain rights under the Maryland Constitution~~
8 ~~or the U.S. Constitution is liable for certain damages; establishing that a police~~
9 ~~officer is not immune from civil or criminal liability for violations of another~~
10 ~~individual's constitutional rights; requiring the Maryland Police Training and~~
11 ~~Standards Commission to review certain cases brought under this Act; requiring an~~
12 ~~officer's employer or a local jurisdiction to satisfy certain judgments or settlements;~~
13 ~~requiring an officer's employer or a local jurisdiction to seek certain reimbursement;~~
14 ~~and generally relating to actions against police officers and government liability~~
15 requiring a court to notify the Maryland Police Training and Standards Commission
16 of the filing of a certain civil action against a police officer at a certain time; and
17 generally relating to the Maryland Police Training and Standards Commission.

18 ~~By adding to~~
19 ~~Article – Courts and Judicial Proceedings~~
20 ~~Section 5-1301 and 5-1302 to be under the new subtitle “Subtitle 13. Police~~
21 ~~Immunity and Accountability Act”~~
22 ~~Annotated Code of Maryland~~
23 ~~(2020 Replacement Volume and 2022 Supplement)~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Preamble

~~WHEREAS, The Equal Protection Clause of the United States Constitution protects individuals from biased and discriminatory policing; and~~

~~WHEREAS, Every Maryland resident has the right to fair, safe, and equitable policing; and~~

~~WHEREAS, In order to hold police officers accountable and to promote proper policing, an officer who violates another individual's constitutional rights under the State or U.S. Constitution is not immune from civil or criminal liability for the violation; now, therefore,~~

BY adding to

Article – Public Safety

Section 3-219

Annotated Code of Maryland

(2022 Replacement Volume)

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

~~Article – Courts and Judicial Proceedings~~

~~SUBTITLE 13. POLICE IMMUNITY AND ACCOUNTABILITY ACT.~~

~~5-1301.~~

~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(B) “LOCAL JURISDICTION” MEANS A COUNTY OR MUNICIPAL CORPORATION.~~

~~(C) “MARYLAND POLICE TRAINING AND STANDARDS COMMISSION” MEANS THE UNIT WITHIN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES ESTABLISHED UNDER § 3-202 OF THE PUBLIC SAFETY ARTICLE.~~

~~(D) “OFFICER” MEANS A POLICE OFFICER AS DEFINED IN § 3-201 OF THE PUBLIC SAFETY ARTICLE.~~

~~5-1302.~~

~~(A) AN OFFICER WHO SUBJECTS OR CAUSES TO BE SUBJECTED ANY INDIVIDUAL TO THE DEPRIVATION OF ANY RIGHTS, PRIVILEGES, OR IMMUNITIES~~

~~1 SECURED BY THE MARYLAND CONSTITUTION OR THE U.S. CONSTITUTION SHALL
2 BE LIABLE FOR DAMAGES BROUGHT IN AN ACTION AGAINST THE OFFICER.~~

~~3 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN OFFICER WHO
4 VIOLATES ANOTHER INDIVIDUAL'S CONSTITUTIONAL RIGHTS UNDER THE
5 MARYLAND CONSTITUTION OR THE U.S. CONSTITUTION IS NOT IMMUNE FROM
6 CIVIL OR CRIMINAL LIABILITY FOR THE VIOLATION.~~

~~7 (C) (1) STATUTORY IMMUNITY PROVIDED UNDER SUBTITLE 5 OF THIS
8 TITLE OR TITLE 12, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE OR COMMON
9 LAW PUBLIC OFFICIAL IMMUNITY DOES NOT APPLY TO A CLAIM BROUGHT UNDER
10 THIS SECTION.~~

~~11 (2) QUALIFIED IMMUNITY IS NOT A DEFENSE TO LIABILITY OR AN
12 IMMUNITY FROM SUIT UNDER THIS SECTION.~~

~~13 (D) THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION
14 SHALL:~~

~~15 (1) REVIEW ANY CASE BROUGHT UNDER THIS SECTION IN WHICH AN
16 OFFICER OR OFFICER'S EMPLOYER:~~

~~17 (I) WAS HELD LIABLE; OR~~

~~18 (II) ENTERED INTO A SETTLEMENT AGREEMENT; AND~~

~~19 (2) DETERMINE WHETHER THE OFFICER'S CERTIFICATION TO WORK
20 IN THE STATE SHOULD BE REVOKED.~~

~~21 (E) (1) IN AN ACTION BROUGHT UNDER THIS SECTION, THE COURT SHALL
22 AWARD REASONABLE ATTORNEY'S FEES AND COURT COSTS TO A PREVAILING
23 PLAINTIFF.~~

~~24 (2) EACH SETTLEMENT AGREEMENT FOR AN ACTION BROUGHT
25 UNDER THIS SECTION SHALL PROVIDE THAT THE PLAINTIFF IS ENTITLED TO
26 REASONABLE ATTORNEY'S FEES AND COURT COSTS.~~

~~27 (F) (1) IN AN ACTION BROUGHT UNDER THIS SECTION, ANY FINAL
28 JUDGMENT OR SETTLEMENT AGAINST THE OFFICER OR THE OFFICER'S EMPLOYER
29 OR THE LOCAL JURISDICTION WHERE THE OFFICER IS EMPLOYED SHALL BE
30 ENTERED AND SATISFIED BY THE OFFICER'S EMPLOYER OR THE LOCAL
31 JURISDICTION WHERE THE OFFICER IS EMPLOYED.~~

~~(2) THE OFFICER'S EMPLOYER OR THE LOCAL JURISDICTION WHERE THE OFFICER IS EMPLOYED SHALL SEEK REIMBURSEMENT FROM THE OFFICER FOR 5% OR \$25,000, WHICHEVER IS LESS, FROM ANY FINAL JUDGMENT OR SETTLEMENT ENTERED AGAINST THE OFFICER'S EMPLOYER OR THE LOCAL JURISDICTION WHERE THE OFFICER IS EMPLOYED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(C) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE RIGHT OF AN INDIVIDUAL TO SEEK REMEDIES OTHERWISE AVAILABLE UNDER ANY OTHER PROVISION OF LAW.~~

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

Article – Public Safety

3-219.

(A) A COURT SHALL NOTIFY THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION OF THE FILING OF A CIVIL ACTION AGAINST A POLICE OFFICER INVOLVING ALLEGATIONS THAT THE POLICE OFFICER WRONGFULLY CAUSED THE DEATH OF OR SERIOUS BODILY INJURY TO AN INDIVIDUAL.

(B) THE COURT SHALL MAKE THE NOTIFICATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION WITHIN 10 DAYS AFTER THE FILING OF THE CIVIL ACTION.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.