

Department of Legislative Services  
Maryland General Assembly  
2023 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 996  
Judiciary

(Delegate Fraser-Hidalgo, *et al.*)

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Artificial Intelligence - Implementation Causing Injury or Death - Civil and  
Criminal Liability

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This bill establishes that a person who intentionally designs and creates artificial intelligence software capable of causing personal injury or death is strictly liable for damages and subject to a civil penalty not to exceed the caps on noneconomic damages under § 3-2A-09 of the Courts and Judicial Proceedings Article (medical malpractice actions) if implementation of the software causes personal injury or death. The bill also criminally prohibits a person from intentionally committing a crime that causes physical injury to or death of another using a physical implement that acts independently of the person but is directed by artificial intelligence software. A person convicted of violating this prohibition is subject to a penalty not to exceed the maximum criminal penalty the person would have been subject to if the person had physically committed the act.

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Fiscal Summary

**State Effect:** The bill is not expected to materially affect State finances or operations.

**Local Effect:** The bill is not expected to materially affect local finances or operations.

**Small Business Effect:** Minimal.

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Analysis

**Current Law:** Strict liability is liability imposed on an individual based on the commission of a particular act, regardless of the individual's negligence or intent to do harm.

There is no cap on economic damages or punitive damages in Maryland. However, there are caps on noneconomic damages (often referred to as “pain and suffering” damages). Separate caps apply to noneconomic damages in medical malpractice cases and non-medical malpractice cases involving personal injury and wrongful death actions. The bill incorporates the caps on noneconomic damages in medical malpractice cases.

The caps on noneconomic damages that will be in effect on the bill’s October 1, 2023 effective date were set on January 1, 2023. As of January 1, 2023, Maryland’s cap for noneconomic damages in medical malpractice claims is \$875,000; the cap increases by \$15,000 on January 1 of each year. This cap applies in the aggregate to all claims for personal injury and wrongful death arising from the same medical injury, regardless of the number of claims, claimants, plaintiffs, beneficiaries, or defendants. However, the cap is 125% of that amount in wrongful death actions in which there are two or more claimants or beneficiaries, whether or not there is a personal injury action arising from the same medical injury and regardless of the number of claims, claimants, plaintiffs, beneficiaries, or defendants. As of January 1, 2023, this cap is \$1,093,750. The cap for individual causes of action is based on the date of the incident.

There are a wide range of crimes that may be committed against a person under the situations contemplated by the bill. The penalties for these offenses vary based on the circumstances involved.

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### **Additional Information**

**Prior Introductions:** Similar bills have not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Legislative Services

**Fiscal Note History:** First Reader - March 3, 2023  
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