

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 722
Judiciary

(Delegate Embry, *et al.*)

Child Sexual Abuse Claims - Doctrine of Charitable Immunity - Abrogation

This bill establishes that an organization is not immune from liability in any action for damages arising out of a claim or claims of sexual abuse that occurred while the claimant was a minor on the grounds that the organization is a charitable organization. The bill specifies that it is the intent of the General Assembly to abrogate the doctrine of charitable immunity as a defense to an action for damages arising from a claim of child sexual abuse. The bill must be construed to apply retroactively and must be applied and interpreted to affect any action for damages arising out of claim or claims of sexual abuse that occurred while the claimant was a minor, whether the action is pending, concluded, dismissed, or arising before the bill's October 1, 2026 effective date.

Fiscal Summary

State Effect: The bill may have an operational effect in specified circumstances, as discussed below. No material impact on revenues.

Local Effect: The bill may have a fiscal and operational effect in specified circumstances, as discussed below.

Small Business Effect: Potential meaningful.

Analysis

Current Law:

Child Victims Act of 2023 – Amended in 2025

Except for actions where the alleged victim of abuse is deceased at the commencement of the action and notwithstanding any time limitation under a statute of limitations, a statute of repose, the Maryland Tort Claims Act (MTCA), Local Government Tort Claims Act (LGTCA), or any other law, an action for damages arising out of *a claim or claims* of

“sexual abuse” (as defined in § 5-117 of the Courts and Judicial Proceedings Article) that occurred when the victim was a minor may be filed at any time.

Except for actions subject to MTCA, LGTCA, or specified provisions pertaining to local boards of education, the total amount of noneconomic damages that may be awarded to a single claimant in an action against a single defendant for injuries arising from a claim or claims that would have been time-barred before October 1, 2023, is \$1.5 million (for an action filed on or before May 31, 2025), and \$700,000 (for an action filed on or after June 1, 2025).

In any action for damages filed on or after June 1, 2025, arising out of a claim or claims of sexual abuse that occurred while the claimant was a minor, counsel may not charge or receive fees that exceed 20% of the settlement or 25% of the judgment. (MTCA currently prohibits attorneys from charging or receiving a fee that exceeds 20% of a settlement or 25% of a judgment, regardless of the type of claim/case.)

The Child Victims Act (CVA) of 2023 and subsequent legislation made related changes to MTCA, LGTCA, and provisions related to local boards of education.

Charitable Immunity

Charitable immunity is a court-made doctrine dating back to the 1800s in Maryland. The premise of the doctrine, sometimes referred to as the “trust fund theory,” is that damages should not be recoverable from funds held in trust by a charitable organization because doing so would divert funds from the purpose for which the donations were made. The doctrine applies when the assets of the charitable organization are held in trust, either expressly or by implication, and when the organization has no liability insurance covering the complained of act. *James v. Prince George’s County*, 288 Md. 315, 337 (1980).

Under § 19-103 of the Insurance Article, each policy issued to cover the liability of a charitable institution for negligence or any other tort must provide that, for a claim covered by the policy, the insurer may not assert the defense that the insured is immune from liability because it is a charitable institution.

As noted above, charitable immunity is a doctrine of case law. However, § 6-101 of the Business Regulation Article defines a “charitable organization” as:

- a person that is or holds itself out to be a benevolent, educational, eleemosynary, humane, patriotic, philanthropic, or religious organization; and solicits or receives charitable contributions from the public; or
- an ambulance, fire fighting, fraternal, rescue, or police or other law enforcement organization when it solicits charitable contributions from the public.

“Charitable organization” includes an area, branch, chapter, office, or similar affiliate that solicits charitable contributions from the public within the State for a charitable organization that is organized or has its principal place of business outside the State. “Charitable organization” does not include an agency of the State government or of a political subdivision or a political club, committee, or party.

Maryland Associations, Organizations, and Agents Act and the Maryland Volunteer Service Act

The Maryland Associations, Organizations, and Agents Act (§ 5-406 of the Courts and Judicial Proceedings Article) and the Maryland Volunteer Service Act (§ 5-407 of the Courts and Judicial Proceedings Article) provide limited protection from liability to agents (including a director, officer, trustee, or employee) or volunteers of an association or organization. The provisions of these Acts do not apply to suits brought by the Attorney General upon referral by the Secretary of State in which willful violations of statutory provisions regarding charitable organizations, representatives, and solicitations, as specified, are alleged and proven. Both Acts define a “charitable organization” as an organization, institution, association, society, or corporation that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

Generally, under the Maryland Associations, Organizations, and Agents Act, an agent of an association or organization is not personally liable for damages in any suit if:

- the association or organization maintains insurance covering liability incurred by it or its agents, or both, as a result of the acts or omissions of its agents in providing services or performing duties on behalf of the association or organization;
- the terms of the insurance policy provide coverage for the act or omission that is the subject matter of the suit, and there is no meritorious basis denying coverage by the insurer; and
- the insurance meets specified coverage requirements.

The plaintiff in a lawsuit to which the Act applies may recover damages from the association or organization up to the applicable limit of the association or organization’s insurance coverage, including any applicable deductible or coinsurance. However, the agent of an association or organization is liable for damages if it is found that the agent acted with malice or gross negligence, to the extent that the judgment for damages exceeds the liability limits specified above.

Under the Maryland Associations, Organizations, and Agents Act, an “association or organization” means (1) an athletic club; (2) a charitable organization; (3) a civic league or organization; (4) a community association; (5) a cooperative housing corporation; (6) a condominium’s council of unit owners; or (7) a homeowners’ association.

Maryland Volunteer Service Act

The Maryland Volunteer Service Act protects volunteers of associations and organizations from liability under specified circumstances. The Act generally establishes that a volunteer is not liable in damages beyond the limits of the volunteer's personal insurance coverage in any suit that arises from the volunteer's own acts or omissions or the acts or omissions of an officer, director, employee, trustee, or another volunteer of the association or organization. However, with respect to the acts or omissions of another individual, the Act's protections do not apply if (1) the volunteer knew or should have known of the individual's acts or omissions and the volunteer authorizes, approves, or otherwise actively participates in the acts or omissions or (2) the volunteer, with full knowledge, ratifies the act or omission after it occurs. The Act's protections also do not apply to the volunteer's own acts or omissions that constitute gross negligence, reckless, willful or wanton misconduct, or intentionally tortious conduct.

Under the Maryland Volunteer Service Act, an "association or organization" means (1) a business league; (2) a charitable organization; (3) a civic league; (4) a club; (5) a labor, agricultural, or horticultural organization; or (6) a local association of employees.

State and Local Fiscal Effect: The bill may have an operational impact on the Judiciary, depending on its overall effect on case volume and workloads, which cannot be reliably determined at this time.

The State Treasurer's Office (STO) advises that the bill does not impact MTCA or the State Insurance Trust Fund. However, STO notes that if the State has any involvement with businesses (including charities), there may be an impact on the Office of Attorney General (OAG), since OAG defends actions filed against the State. OAG provides counsel and advice on an as needed basis for claims-related matters. The Department of Legislative Services advises that information regarding the State's involvement with charities facing litigation, especially litigation for child sexual abuse-related torts is not readily available. Should any such litigation exist or occur in the future, this analysis assumes that it is a small portion of overall litigation volume for OAG.

Counties face similar issues as the ones described above. However, the extent to which local governments are involved (if at all) with charities who face child sexual abuse claims (present or future) is unknown; any such circumstance is assumed to be rare. Furthermore, it is unclear how the bill, in conjunction with the LGTCA, affects local government liability exposure in this narrow set of circumstances. The Maryland Association of Counties did not respond to a request for information regarding the fiscal and operational impact of the bill on local governments.

Small Business Effect: The bill may have a meaningful effect on small business law firms that litigate applicable cases.

Additional Comments: In a federal bankruptcy case filed to address the financial impact of claims under the CVA, the Archdiocese of Baltimore (Archdiocese) initially argued that charitable immunity prevented claimants from recovering; the Archdiocese eventually withdrew that position. Over 900 claimants filed sexual abuse-related claims in the bankruptcy case.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): State Treasurer's Office; Judiciary (Administrative Office of the Courts); WBAL TV; Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2026
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