

Amendment1_FAV_SB330

Uploaded by: Waldstreicher, Senator

Position: FAV



SB0330/653929/1

AMENDMENTS PREPARED BY THE DEPT. OF LEGISLATIVE SERVICES <i>Lucas</i>
30 JAN 20 10:42:02

BY: Senator Waldstreicher
(To be offered in the Judicial Proceedings Committee)

AMENDMENT TO SENATE BILL 330
(First Reading File Bill)

On page 2, strike line 4 in its entirety; and in line 5, strike "(4)" and substitute "(3)".

PGCEX_FAV_SB330

Uploaded by: alsobrooks, angela

Position: FAV



THE PRINCE GEORGE'S COUNTY GOVERNMENT

OFFICE OF THE COUNTY EXECUTIVE

BILL: Senate Bill 330 - Civil Actions - Defenses - Fireman's Rule

SPONSOR: Senators Waldstreicher, *et al.*

HEARING DATE: February 12, 2020

COMMITTEE: Judicial Proceedings

CONTACT: Intergovernmental Affairs Office, 301-780-8411

POSITION: SUPPORT

The Office of the Prince George's County Executive **SUPPORTS Senate Bill 330 - Civil Actions - Defenses - Fireman's Rule**, which would eliminate the 'fireman's rule' as a defense for civil liability for persons whose negligence led to the injury of public safety personnel during the course of their duties. This would allow first responders to sue (civil) parties whose actions/negligence force a course of action which leads to a public safety employee being injured

The fireman's rule is a common-law doctrine that public safety officers from suing for damages the parties whose actions necessitated the summoning of the public safety officers. While some exceptions already exist in Maryland to the rule, this bill will ensure that our first responders will be able be able seek restitution for damages stemming from gross and willful negligence, even while on-duty. As of 2019, 18 states have already moved on from the Fireman's rule,¹ and it is time to add Maryland to the list.

For the reasons stated above, the Office of the Prince George's County Executive **SUPPORTS Senate Bill 330** and asks for a **FAVORABLE** report.

¹ Clark, John. "The Fireman's Rule," *Air Medical Journal*, 38, 2019, pg. 10, Accessed on Feb. 11, 2020, at [https://www.airmedicaljournal.com/article/S1067-991X\(18\)30327-4/pdf](https://www.airmedicaljournal.com/article/S1067-991X(18)30327-4/pdf)

JeffreyBuddle_FAV_SB330

Uploaded by: Buddle, Jeffrey

Position: FAV

PROFESSIONAL FIRE FIGHTERS OF MARYLAND

JEFFREY BUDDLE, PRESIDENT
JOHN F. QUIRK, SECRETARY TREASURER



THOMAS SKINNER, 1ST VICE PRESIDENT
MELISSA BRAGG, 2ND VICE PRESIDENT

CHARTERED 1969

February 12, 2020

Senator William C. Smith, Jr., Chair
Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
11 Bladen Street
Annapolis, Maryland 21401

SUBJECT: Senate Bill 330 – Civil Actions – Defenses – Fireman’s Rule

Chairman Smith,

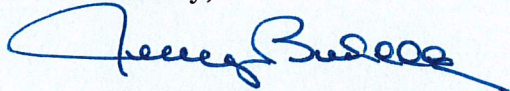
The Professional Fire Fighters of Maryland represents over 10,000 active and retired fire fighters and paramedics across the State of Maryland. On behalf of our members we strongly support Senate Bill 330 and urge the Senate Judicial Proceedings Committee to issue a **favorable report**.

Senate Bill 330 would eliminate as a defense the common law doctrine know as the “Fireman’s Rule”. Under current law the firefighters’ rule does not allow firefighters or police officers to recover tort damages from individuals whose negligent actions required the firefighters or police officers service where the injury occurred. The Maryland Court of Appeals affirmed this rule in the Case of White v. State, 419 Md. 265 (2011).

Senate Bill 330 fixes a long outdated common law provision which time has passed. It is also important to remember that other common law or statutory defenses, privileges or immunities to a tort claim are not affected by this legislation

On behalf of all the members of the Professional Fire Fighters of Maryland we strongly support SB330 and urge the Senate Judicial Proceedings Committee to issue a **favorable report**.

Sincerely,



Jeffrey Buddle, President
Professional Fire Fighters of Maryland

MACo_FAV_SB330

Uploaded by: Mehu, Natasha

Position: FAV



Senate Bill 330

Civil Actions – Defenses – Fireman’s Rule

MACo Position: **SUPPORT**

To: Judicial Proceedings Committee

Date: February 12, 2020

From: Natasha Mehu

The Maryland Association of Counties (MACo) **SUPPORTS** SB 330 as it strives to reform state law and policy to assist injured safety officers in targeted situations.

SB 330 would eliminate the “Fireman’s Rule” as well as other similar defenses under certain conditions. This common law doctrine generally prohibits a safety officer from recovering damages for injuries they have sustained in the course of their duties.

The global reasoning behind the rule is that safety officers willingly assume the risks their duties present and that costs of injuries should be spread among the public rather than the individual. However, the rule can be viewed as unfair to safety officers in circumstances where another party’s egregious actions cause them harm. To balance public policy arguments on behalf of the officers and of the public they serve, the bill removes the related defenses in cases of gross and willful negligence, criminal acts, and involving the owner/occupier of the physical property which is often a duty of care issue. Without dramatically altering the policy logic behind the “Fireman’s Rule,” SB 330 adds fairness on behalf of our first responders.

Importantly, the bill does not affect any other common law or statutory defense, privilege, or immunity and it protects the subrogation rights an insurer may have under a workers’ compensation insurance policy. Safety officers injured in the line of duty are usually covered by workers’ compensation, county self-insurance or other liability insurance. The bill’s subrogation provisions afford counties the ability to recover the injured officer’s workers’ compensation costs from the parties at fault.

Safety officers protect Maryland lives and risk their own daily. It is reasonable to narrowly allow these officers to recover damages directly from another responsible individual in cases where they are injured while on duty. For these reasons MACo urges a **FAVORABLE** report on SB 330.

MichaelShier_FAV_SB330

Uploaded by: Shier, Michael

Position: FAV

I am writing to SUPPORT Senate Bill 330. This bill eliminates the common law tort defense known as the “Fireman’s Rule.” This rule is founded upon faulty jurisprudence and logic. It only serves to punish public safety officers, such as police officers, firefighters, and emergency medical technicians, and their families, for getting injured or killed in the performance of their duties. Meanwhile, the rule gives a free-pass to negligent parties whose actions cause injuries or death to the public safety professionals who bravely serve our citizens.

My name is Michael Shier and I have proudly been a police officer in the State of Maryland for over sixteen years. I have been a member of the Fraternal Order of Police for that entire time. I have served on the board of directors for Anne Arundel County Lodge 70 of the FOP for over seven years. In May of this year, I will earn a Juris Doctorate from University of Maryland Carey School of Law where I am an editor of a law review journal and regularly rank at or near the top of my class. During my fall 2019 semester, I researched and wrote a paper regarding the Fireman’s Rule in Maryland, arguing for its elimination. I have attached a copy, but will summarize its contents in this letter.

The Fireman’s Rule was invented by the Illinois courts in 1892.¹ In that case, a firefighter was injured and eventually died from injuries sustained battling a fire. The firefighter’s survivors continued his court action to recover for the negligent acts of the landowner that caused his injuries. The court decided to protect the landowner, and not the firefighter. It used ancient premises liability categories that were never actually applicable to a public safety professionals who are expected to enter onto the land of others to protect life and property. Since then, courts, including Maryland, have expanded the rule by inexplicably changing their justifications for the rule. The Maryland court declared that because it is the occupation of a public safety officer to confront dangerous situations, they, or their survivors, should not be allowed to recover in a tort action against negligent parties who cause their injuries or death.² The court twisted the tort doctrine of assumption of risk, to apply to public safety officers—something that doctrine was never conceived to encompass.

Assumption of the risk eliminates a negligent party’s liability when an injury is caused to another. It is said that the injured party “assumed the risk” of injury by knowingly and VOLUNTARILY exposing themselves to that risk.³ The Maryland Court of Appeals erroneously declared that public safety officers are *voluntarily* exposing themselves to risks that cause their injuries.⁴ This is a distortion of reality. It is the legal and moral DUTY, of public safety officers to expose themselves to risk⁵ and our communities expect and demand that they do so.

It is offensive to every public safety officer and their families that our courts declare that injury and death is **expected** of them for their service. It is offensive to every public safety officer that our courts declare they **volunteer** to be injured or killed. It is offensive to every public safety officer and their

¹ *Gibson v. Leonard*, 32 N.E. 182 (Ill. 1892).

² *Flowers v. Rock Creek Terrace*, 308 Md. 432 (1987)

³ RESTATEMENT (SECOND) OF TORTS § 496A (Am. Law Inst. 1981)

⁴ *Flowers*, 520 A.2d at 368.

⁵ The California appellate courts recognized in *Bilyeu v. Standard Freight Lines* that public safety officers have a duty that is LEGAL and MORAL to confront risks. (6 Cal.Rptr. 65, 70 (Cal. Ct. App. 1960)).

families that our court system would not allow us to hold negligent parties accountable for their actions which causes injury or death. And it should be offensive to our citizens that their tax dollars are used to subsidize the negligent actions of an individual.

The Fireman's Rule was never founded upon any correct logic or legal theory. California, Virginia, Michigan, New Jersey, and many others, have eliminated this rule, and it is past time for Maryland to do so as well. I SUPPORT Senate Bill 330.

A handwritten signature in black ink, appearing to read "Michael Shier". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Michael Shier

Fraternal Order of Police

Anne Arundel County, Lodge #70

Lodge Conductor & Legislative Chair

University of Maryland, Carey School of Law: J.D. Candidate-2020

Articles Editor, Journal of Business and Technology

MichaelYoung_FAV_SB330

Uploaded by: Young, Michael

Position: FAV



ISMAEL VINCENT CANALES
STATE PRESIDENT

MARYLAND STATE LODGE
FRATERNAL ORDER OF POLICE®

1506 LESLIE ROAD, BALTIMORE, MD 21222



KENNETH SCHUBERT
SECRETARY

EARL KRATSCH
TREASURER

The Maryland Fraternal Order of Police SUPPORTS Senate Bill 330. This bill eliminates the common law tort defense known as the "Fireman's Rule." This rule, promulgated by state courts beginning in Illinois in 1892, was an ill-conceived and unjust method to protect landowners from causing injuries to public safety professionals. The rule has been legislatively abolished in a growing number of states which have recognized the importance of deterring bad conduct and protecting the firefighters, emergency medical providers, and law enforcement officers who work so bravely to protect our communities.

The Fireman's Rule was originally designed as a premises liability protection. There was no way for the court to classify the duty a landowner owed to a public safety professional who gets injured while protecting that landowner or the landowner's property. The common law definitions of trespasser, licensee, and invitee simply did not apply easily. Instead of creating a special classification, the court shoehorned public safety professionals into the category of licensee. The oblivious aim was to protect landowners from any judgment of liability at the expense of the injured public safety officer or, if the officer made the ultimate sacrifice, his or her survivors. Since the rule's emergence, the Maryland courts have expanded the rule to protect not just landowners, but any party who negligently causes injury or death to a public safety officer.

The result of this peculiar rule is that when a firefighter, emergency medical technician, or law enforcement officer is called to protect life and property from someone's negligent act, and the public safety officer is killed or injured, the negligent actor who caused the injury cannot be sued by the officers or their families. The offender gets off scot-free and the injured officer and his or her family are left with paltry benefits. Had it been any other party who was injured, they could recover a tort judgment appropriate for the level of injury.

This rule should offend every citizen's sense of justice. Under this rule, the family of a public safety officer who rushes into the inferno and makes the ultimate sacrifice can't sue the person who caused the fire. The officer's spouse, parents, and children, are left with publicly provided death benefits that pale in comparison to what we, through our courts and tort law, assess to be the true value of their sacrifice. And while the offender walks away, the rest of society bears the tax burden of paying those paltry benefits. We must reverse this unjust arrangement. Abolishing the Fireman's Rule would allow our brave public safety professionals to hold responsible those that are negligently causing injuries and lift that burden from the innocent taxpayer. Many states have already taken the legislative steps necessary to eliminate this rule and Maryland should waste no time in following those states. For these reasons, the FOP SUPPORTS Senate Bill 330.