

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