



Maryland Municipal League
The Association of Maryland's Cities and Towns

TESTIMONY

February 10, 2021

Committee: House Judiciary

Bill: HB 353 – Civil Actions - Violation of Rights – Governmental Liability

Position: Oppose

Reason for Position:

The Maryland Municipal League opposes House Bill 353 which addresses civil liability of a law enforcement officer for violation of the individual's rights under the Maryland Declaration of Rights or the Maryland Constitution.

This measure is redundant and implementing it will unnecessarily burden local governments. The causes of action which this bill intends to create are already in place. The Maryland Court of Appeals recognized a common law civil action against a police officer for violations of the Maryland State Constitution in *Clea v. Mayor and Council of Baltimore City* in 1988.¹ State case law also clarifies that there is no immunity, either in statute or common law, that can be asserted in a claim against a municipal officer or a local government.² With these parameters in place, there is no need to create a statutory cause of action targeting police officers.

Furthermore, local governments are obligated under the Local Government Tort Claims Act to defend employees acting within the scope of their employment. This measure would open the door for these claims to be filed as state statutory claims, in addition to the state common law and federal claims which are already in place. Increasing liability would place a significant financial burden on local governments.

For these reasons, the Maryland Municipal League opposes HB 353 and respectfully requests an unfavorable committee report.

FOR MORE INFORMATION CONTACT:

¹ *Clea v. Mayor of Baltimore*, 312 Md. 662, 541 A.2d 1303 (Md. 1988).

² *DiPino v. Davis*, 354 Md. 18, 729 A.2d 354 (Md. 1999). When acting in a private or proprietary context, a local government has *respondeat superior* liability for the tortious conduct of its employees, including State constitutional claims. *Id.* at 47-48.

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