



HB 1049 POSITION PAPER: STRONG SUPPORT

info@mdforjustice.com Contact for this legislation: Cary Hansel (cary@hansellaw.com)

With the sponsor amendments, HB 1049 creates a cause of action for the worst cases of law enforcement misconduct, those arising above mere negligence. It will lift restrictive damage caps on the worst cases and assign liability jointly to both the officer and the employer in those limited cases. This change in the law will deter future misconduct and provide more reasonable compensation for victims.

Critics of reform claim that truly reprehensible law enforcement misconduct is rare in Maryland, but even these critics agree that the worst behavior should be stopped and the victims fairly compensated. This bill addresses these issues in lifting caps on only to the most egregious misconduct.

By lifting the caps in the worst cases, this bill brings Maryland law more in line with the federal approach, where there are no damage caps. In doing so, it trusts juries and the judges reviewing their decisions, as the arbiters of justice.

The bill as amended also allows for “joint and several” liability between the officer and his employer. In other words, only one judgment is entered, but it can be collected from either the officer or his employer or both, like co-signors on a loan.

This feature is crucial to deter misconduct. The worst police misconduct is the result of a combination of poor training, poor leadership, bad departmental culture, overt and institutional racism and the occasional rogue officer. But even rogue officers cannot persist to the point of public misconduct in well-governed departments, which weed them out early. This is why police misconduct tends to be centered in certain departments, which consistently produce officers engaged in misconduct.

The bill addresses all of these problems by motivating *both* the officer and the department to change. This is crucial to meaningful reform because misconduct does not occur unless both the officers and departments are complicit.

To those that voice concern about the appropriate use of tax dollars, if misconduct ends, so will any judgments. That is the aim of this bill.

Who better to decide how tax revenue will be spent than the people themselves? Jurors are chosen from among registered voters. They are both taxpayers and your constituents. They invariably weigh the price of justice in reaching their conclusions. As we trust the public with the sacred obligation to vote, they can also be trusted to provide reasonable and measured compensation in the worst cases of police misconduct. This is especially true given that jury verdicts are subject to reduction by the trial judge and two different appellate courts. We should trust our juries and judges. This bill frees them, in the worst cases, to do justice.

MAJ strongly supports HB 1049.