



HB 721 POSITION PAPER: STRONG SUPPORT

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HB 721 amends the damages caps under the State and Local Government Tort Claims Acts by allowing victims of law enforcement misconduct to recover their economic damages, modestly increasing caps on non-economic damages for all claims, and providing for future automatic increases in the cap by a small amount each year. This change in the law will deter future misconduct, provide more reasonable compensation for victims, and bring these caps more in line with other comparable caps while keeping them affordable for government.

Under current law, governmental liability in tort actions is limited, or “capped,” at \$400,000 and the same cap applies to both economic damages and non-economic damages. In the most violent cases, however, the actual out-of-pocket expenses, like lost wages, property damages and medical bills, exceed that cap. In this way, the most seriously-injured people are victimized twice – by the underlying misconduct, and by laws limiting fair compensation.

No other cap statute operates this way – other caps exclude economic damages from the cap as a matter of simple fairness. The purpose of the civil justice system is to make victims whole. This is not accomplished if actual, proven out-of-pocket damages are not fully compensated.

The current caps are too low to incentivize change. The City of Baltimore has an annual budget of about \$3.55 Billion; the current cap of \$400,000 is equivalent to a typical Marylander paying a fine of about \$9.40. Against a State budget of about \$43.6 Billion, the current cap equates to less than a dollar out of a typical Marylander’s personal household budget. Smaller jurisdictions have below-market-rate insurance through the Local Government Insurance Trust. State and local governments can afford more justice – and the goal is to avoid misconduct and the need for any compensation at all by incentivizing change.

Even with these changes, the *new* \$600,000 cap would be lower than any comparable caps in Maryland by hundreds of thousands of dollars. The caps on personal injury pain and suffering (\$875,000), medical malpractice (\$830,000) and wrongful death (\$1,037,500.00) in cases which are not against the government are all much higher than the new proposed caps. In addition to being significantly higher, *none* of these other caps limit economic damages.

HB 721 brings governmental liability into line with other caps by allowing full recovery of economic damages (such as lost wages and medical expenses) in cases of police misconduct and by modestly increasing the cap, to an amount still far below other comparable caps. In further keeping with other cap statutes, HB 721 also increases caps on non-economic damages each year, lessening the legislative burden of revising the caps and increasing fairness.

MAJ strongly supports HB 721 as a top legislative priority.