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Judicial Proceedings Committee



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THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

February 29<sup>th</sup>, 2024

The Maryland State Senate Judicial Proceedings Committee  
The Honorable William C. Smith, Jr.  
2 East Miller Senate Building  
Annapolis, Maryland 21401

**Re: Senate Bill 793: *Maryland Tort Claims Act - Sheriffs and Deputy Sheriffs - County Responsibility***

Dear Chairman Smith and Members of the Committee,

Senate Bill 793 was brought to me by MACo in order to resolve a technical issue that has arisen relating to the liability of sheriffs in counties which are insured by the Local Governments Insurance Trust.

Sheriffs and their deputies are State employees and provide courthouse security, service of process, the transportation of incarcerated persons to and from court proceedings and administrative activities. If sued for incidents that occur in their performance of such State activities, the State is responsible for handling the lawsuits and dealing with any judgments.

But in some counties, sheriffs also perform local law enforcement functions, which generally consist of operating and administering county detention centers and engaging in general law enforcement activities such as conducting patrol, making stops and arrests and investigating criminal offenses. Due to their engaging in such local law enforcement work, the sheriffs occasionally are sued for incidents that occur. In such cases, the Local Governments Insurance Trust stands ready to handle the lawsuits and pay any judgments.

Here's the problem that this bill seeks to resolve: Sometimes lawsuits arising out of the local law enforcement work are filed against the State. Since the enabling statute for the Local Governments Insurance Trust and the operative Trust Agreement do not provide for indemnification of the State, the State frequently negotiates a settlement with the plaintiffs in these lawsuits against the State and then recoups the settlement amount from the county income tax. The settlement amounts are thus ultimately paid by the counties, not by the Local Governments Insurance Trust.

Working with the Attorney General, MACo has come up with a solution to this problem which is embodied in this bill. The bill defines “tort claim” as meaning a tort claim filed in State court against a sheriff or deputy sheriff or the State arising out of local law enforcement work performed by the sheriff or deputy sheriff.

The bill then provides that the State is the proper defendant in such a tort claim and that the county may not be named as a defendant in such a tort claim. In such a case, the liability for such a tort claim may not exceed the State’s waiver of liability under the State Tort Claims Act, which is currently \$400,000 to a single claimant for injuries arising from a single incident or occurrence. Finally, the bill provides that the liabilities of the State for such a tort claim shall be assumed by the applicable county. Of course, such liabilities would in turn be paid for by the Local Governments Insurance Trust.

So the bill establishes a circular route for judgements entered in lawsuits arising out of local law enforcement work performed by county sheriffs and deputy sheriffs to ultimately be paid by the Local Governments Insurance Trust. It’s a bit complicated to be sure, but it neatly solves the problem.

For the affected counties, this bill is extremely important. I urge the Committee to grant this bill a favorable report and would be pleased to answer questions about the bill.