

FAVORABLE
House Bill 137
Civil Actions – Civil Immunity – Educator Intervention

Senate Judicial Proceedings Committee
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The Maryland State Education Association supports House Bill 137. House Bill 137 grants civil immunity to administrative, educational, or support staff of any public, private, or parochial school from civil actions claiming personal injury or property damage resulting from an intervention in an altercation between students or other student disturbance. In order to receive the protection of civil immunity, the administrative, educational, or support staff member must: i) be acting in an official capacity, ii) intervene in a reasonably prudent manner, and iii) the intervening action must not constitute gross negligence, willful, wanton, or intentionally tortious conduct. Given the Maryland Supreme Court's decision in *Gambrill v. Board of Education of Dorchester County*,¹ MSEA believes House Bill 137 provides additional legal protections to public school employees who act in good faith to end a physical altercation between students.

MSEA represents 75,000 educators and school employees who work in Maryland's public schools, teaching and preparing our almost 900,000 students so they can pursue their dreams. MSEA also represents 39 local affiliates in every county across the state of Maryland, and our parent affiliate is the 3 million-member National Education Association (NEA).

Under extant Maryland law, public school educators, among other school personnel, are permitted to "take reasonable action necessary to prevent violence on school premises or on a school-sponsored trip, including intervening in a fight or physical struggle that takes place in his or her presence, whether the fight is among students

¹ 481 Md. 274 (2022).



or other individuals.”² If a suit, claim, or criminal charge is brought by a parent or other claimant on behalf of the combatant against an educator, or other school personnel member, because of the preventative action or intervention then the school board must provide legal counsel for the educator or other school personnel member named in the action.³ Alternatively, in the event of a criminal charge if the county board deems it appropriate, they may provide reimbursement for the reasonable expenses of the legal defense.⁴ Additionally, the county board must save the educator, or other school personnel member, harmless from any award or decree issued against him or her.⁵

Moreover, an employee of a county board of education is not personally liable for damages resulting from a tortious act or omission, so long as the employee was acting within the scope of their employment, and they acted without malice and gross negligence.⁶

However, in 2022, the Maryland Supreme Court ruled, among other things, that the federal Paul D. Coverdell Teacher Protection Act does not provide civil immunity to teachers for harm they cause through negligent act or omissions within the scope of their employment.⁷ Therefore, to mitigate the effects of this ruling MSEA believes public school employees who act with good faith in a reasonable manner to end a physical altercation between students should receive civil immunity and would benefit from House Bill 137. Public school employees should not face civil liability for attempting to keep students safe from physical harm.

We urge the committee to issue a Favorable Report on House Bill 137.

² MD Code, Education, § 7-307(a)(1).

³ MD Code, Education, § 7-307(c)(1).

⁴ *Id.*

⁵ MD Code, Education, § 7-307(c)(2).

⁶ MD Code, Courts and Judicial Proceedings, § 5-518(e).

⁷ *Gambrill*, 481 Md. 274, 307 (2022).