



Senate Bill 793

Maryland Tort Claims Act – Sheriffs and Deputy Sheriffs – County Responsibility

MACo Position: **SUPPORT**

To: Judicial Proceedings Committee

Date: February 29, 2024

From: Sarah Sample

The Maryland Association of Counties (MACo) **SUPPORTS** SB 793. This bill ensures that the Local Government Insurance Trust (LGIT) will be able to effectively represent and defend insured counties when charges are brought against a sheriff or deputy, who is conducting county functions, consistent with a clarified delineation under current state law. This bill helpfully remedies confusion, currently arising in litigation, for all parties.

The effects of this bill only concern claims brought against a sheriff or deputy for actions taken while performing a law enforcement function, or managing a correctional facility. These functions are outside the “constitutional” functions of the Sheriff, engaged by the county government at their discretion. Additionally, it clarifies what constitutes a law enforcement function for the purpose of further illuminating the distinction between state and local obligations for this shared employee.

Counties have long been responsible for cases when a claim is brought against a sheriff or deputy sheriff for law enforcement and corrections-related actions. Often, trial attorneys bring the case directly against the county, the sheriff or deputy, and the State. Due to confusion in the existing statute, some plaintiffs file cases only against the State because of the specification in statute that the State is the sole employer of a sheriff and their deputies. These cases result in the State taking on unwarranted liability and defense costs for cases outside of their purview.

As a statutorily enabled entity, LGIT has the expressed authority granted by the law, which currently does not clarify their ability to indemnify the State in these circumstances. SB 793 does three useful things for the counties whose deputies provide these services:

- identifies the State as the sole employer of sheriffs and their deputies;
- enumerates a specific list of functions triggering liability for counties; and
- clarifies procedures for plaintiffs looking to bring cases in these instances.

Counties appreciate that this bill will remove confusion, clarify responsibility, and ensure appropriate liability coverage for existing responsibilities. For these reasons, MACo urges a **FAVORABLE** report for SB 793.