

2024-03-21 HB137 (Support).pdf

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March 21, 2024

TO: The Honorable Will Smith
Chair, Judicial Proceedings Committee

FROM: Adam Spangler
Legislative aide, Legislative Affairs, Office of the Attorney General

RE: HB137 Civil Actions – Civil Immunity – Educator Intervention - **Support**

The Maryland Office of the Attorney General writes to urge the Judicial Proceedings Committee to favorably report House Bill 137. Delegate Robin L. Grammer, Jr.'s bill makes administrators, teachers, and support staff of public and private schools immune from civil liability for any personal injury or property damage resulting from an intervention in an altercation between students, so long as the individual intervened in a reasonably prudent manner. This bill is similar to the federal Paul D. Coverdell Teacher Protection Act, 20 U.S.C. § 7946, which also limits the liability of teachers seeking to maintain order in the classroom. Notably, this bill follows on the heels of *Gambrill v. Board of Education of Dorchester County*, 481 Md. 274 (2022), in which a middle school student's parents brought a negligence action against school staff for injuries sustained via bullying by other students. The circuit court granted summary judgment for the school staff, and the Maryland Appellate Court affirmed, both holding that the Coverdell Act preempted State law. The Maryland Supreme Court reversed, holding that the Coverdell Act did not preempt CJP § 5-518, which limits teacher liability by making the local board of education liable for the acts or omissions of its teachers and fits within an exception to the Coverdell Act.

We think it axiomatic that teachers who intervene in reasonably prudent manners should not be held liable for personal injury or property damage and, therefore, urge a favorable report on HB 137.

cc: The Honorable Robin Grammer
Judicial Proceedings Committee Members

3.20.2024 MSEA Testimony XHB 137 Testimony_FAV.pdf

Uploaded by: Christian Gobel

Position: FAV

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

Senate Judicial Proceedings Committee
March 21, 2024

Christian Gobel
Government Relations

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).

MD Catholic Conference_HB 137_FAV SENATE CROSS.pdf

Uploaded by: Garrett O'Day

Position: FAV



MARYLAND
CATHOLIC
CONFERENCE

March 21, 2024

HB 137

Civil Actions - Civil Immunity - Educator Intervention

Senate Judicial Proceedings Committee

Position: FAVORABLE

The Maryland Catholic Conference offers this testimony in support of House Bill 137. The Catholic Conference is the public policy representative of the three (arch)dioceses serving Maryland, which together encompass over one million Marylanders. Statewide, their parishes, schools, hospitals and numerous charities combine to form our state's second largest social service provider network, behind only our state government. We offer this testimony on behalf of the families of more than 50,000 students served by over 150 PreK-12 Catholic schools in Maryland.

House Bill 137 would provide immunity from civil liability for school teachers, staff or administrators who intervene in student altercations. The bill requires that said school personnel intervene in a reasonably prudent manner and that their intervention does not include any intentionally tortious or grossly negligent conduct. This bill would apply to intervening educators at public and nonpublic schools.

This bill protects students and teachers alike. In a time where school safety has become a paramount concern of parents, students and the dedicated educators charged with their wellbeing during the school day, this bill is a great step today ensuring that good deeds do not go punished. Empowering those educators to intervene in student altercations by ameliorating the fear of civil liability will indubitably promote more instances of intervention. Over time, knowing the educators will intervene in altercations might quell peer-on-peer school violence and thus eventually help to perpetuate alternative methods of dispute resolution amongst students.

The State of Maryland strongly values education as a bedrock of society and invests a great deal of resources into its teachers and students. This bill is another step toward a safe and secure school day for both, enhancing the productivity of the school day. Maryland should do all it can to keep educators and children safe, both physically and emotionally, and this bill further promotes those values. It is for these reasons the we urge a favorable report on House Bill 137.

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Uploaded by: Nancy Egan

Position: FAV



Testimony of

American Property Casualty Insurance Association (APCIA)

Senate Judicial Proceedings Committee

House Bill 137- Civil Actions - Civil Immunity - Educator Intervention

March 21, 2024

The American Property Casualty Insurance Association (APCIA) is the primary national trade organization representing nearly 60 percent of the U.S. property casualty insurance market. Our members write approximately 70.5 percent of total commercial general liability insurance sold in Maryland. APCIA supports this legislation which provides immunity for administrators, teachers and support staff of public and private schools from civil liability for any personal injury or property damage resulting from an intervention in an altercation between students, so long as the individual intervened in a reasonably prudent manner.

APCIA supports this legislation and urges the committee to provide a favorable report.