



SUPPORT - HB 0818

Written Testimony of National Lawyers Guild-National Police Accountability Project, Keisha James, Staff Attorney
House Judiciary Committee – Wednesday, February 19, 2025

Dear Chair Clippinger and Members of the Committee,

The National Lawyers Guild National Police Accountability Project (“NPAP”) is a nonprofit organization dedicated to holding law enforcement officers accountable to constitutional and professional standards. We urge you to give a favorable review to HB 0818, which will allow state courts to award prevailing plaintiffs reasonable attorney’s fees and expenses in cases where a Maryland constitutional right was violated by the government or a government employee. Although HB 0818 applies to all government employees, it was initially conceived as a response to demands for police accountability.¹ HB 0818 will enable attorneys at private firms and nonprofit organizations to afford to take on cases that would otherwise be rejected due to the prospect of low damages and high costs. The bill will help deter government misconduct, including police misconduct, by increasing the likelihood that meritorious cases will be brought against bad actors.

Many civil rights cases do not involve large damage awards for plaintiffs, particularly where the challenged conduct did not result in serious injury or death. Accordingly, contingent fee arrangements in civil rights cases are often insufficient to compensate attorneys. As a solution to this problem at the federal level, Congress enacted the Civil Rights Attorney’s Fees Award Act.²

Currently, if a Marylander’s state constitutional rights are violated and they have suffered harm, there is no guarantee that their case will be brought in state court since these are difficult—and often expensive—cases to bring. If an attorney does decide to take on the case, they are more likely to bring it in federal court because they can get justice for their clients and attorney’s fees to help cover their significant investment of time and resources into the case if they prevail. When attorneys file these cases in federal court, Maryland judges are missing the opportunity to interpret and issue opinions on the Maryland Constitution and Maryland residents are inconvenienced by traveling further to federal court when they could be going to their local circuit court instead.

¹ HB 0818, or a version of it, has been introduced in prior sessions and has previously received a favorable review from this committee. *See* HB 0903, HB 0393, HB0283.

² 42 U.S.C. 1988.



HB 0818 will help victims of police misconduct obtain counsel irrespective of the damage value of their case and promote enforcement of the Maryland Constitution and the Maryland Declaration of Rights in local communities by state court judges.³ Without this law, many meritorious civil rights cases will never be filed, or they will be exclusively filed in federal court where federal judges will be interpreting and issuing opinions on Maryland state law claims along with federal claims.

Any concerns that HB 0818 will open the floodgates to civil rights claims and overwhelm state courts is overblown. Attorneys know they will only recover fees and expenses if the claims are valid and well-vetted and prospective cases will still need to meet the case selection criteria set by private firms and public interest legal organizations. It is worth noting that federal courts were not overwhelmed with civil rights cases after the Civil Rights Attorney's Fees Award Act was enacted.

There is also precedent in other states for bills like HB 0818. At least a dozen other states have enacted similar laws. In fact, some are even more broad than HB 0818, covering all civil rights violations enforceable by statute or any civil action brought against the state. Others require mandatory fee awards rather than leaving it to the court's discretion to award fees. HB 0818, by comparison, is narrower in its approach to attorney's fees.

We urge you to help expand access to justice in Maryland and give HB 0818 a favorable review. I am happy to answer any questions you may have. You can contact me at keisha.npap@nlg.org.

Sincerely,

Keisha James
National Police Accountability Project

³ See *Riverside v. Rivera*, 477 U.S. 561, 578 (1986) (“The function of an award of attorney’s fees is to encourage the bringing of meritorious civil rights claims which might otherwise be abandoned because of the financial imperatives surrounding the hiring of competent counsel[.]”) (internal citation omitted).