



## House Bill 818

### *Award of Attorney's Fees and Expenses - Violation of Maryland Constitutional Right*

MACo Position: **OPPOSE**

To: Judiciary Committee

Date: February 19, 2025

From: Sarah Sample

The Maryland Association of Counties (MACo) **OPPOSES** HB 818. The bill establishes a path toward granting attorney's fees in any case asserting a State constitutional claim. In practice, the bill would likely lead to an increase in litigation and costs for the State and local governments and create an unbalanced system that enriches attorneys at the taxpayer's expense.

Counties take no issue with the general intent to increase legal representation to resource scarce communities but currently, there is little, if any, evidence that trial attorneys are refusing to take these cases. With the provisions of HB 818 in place, however, trial attorneys would be incentivized to seek more of these cases regardless of a plaintiff's interest in filing or the strength of the case. This sets in motion an alarming set of circumstances that could impair local governments significantly.

HB 818 would authorize a court to award a prevailing plaintiff reasonable attorney's fees and expenses in a civil action to enforce a right secured by the Maryland Constitution or Declaration of Rights. This includes claims such as due process, seizure of goods or property, right to an adequate education, freedom of the press, and the like. Currently, these claims are often for injunctive or non-monetary relief and do not include a monetary component. The effects of the bill would upend this and take these claims from having a balanced impact on local and state government, as well as taxpayers, to a cascading array of new fiscal and operational challenges.

An increased number of claims are likely to be filed as trial attorneys attempt to pursue payment for newly eligible fees, while doing very little to extend more justice to victims. That cost will be paid by Maryland residents as expenses of the state and local governments. This will be necessitated due to increases in claims, defenses, settlements, and judgments. Additional attorneys and support staff will need to be hired by both state and local agencies for defense but also for the courts to research and vet the flood of new cases. Insurance premiums and costs to self-insure government activities will surge.

The current process for these claims to be brought and resolved appropriately is sufficient to balance justice and taxpayer impact. HB 818 would severely erode the operations and efficiency of current procedures for the benefit of private attorneys. Accordingly, MACo urges an **UNFAVORABLE** report on HB 818.