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February 17, 2026

Chairman J. Sandy Bartlett
House Judiciary Committee
100 Taylor House Office Building
Annapolis, Maryland 21401

RE: HB 722 – Child Sexual Abuse Claims – Doctrine of Charitable Immunity - Abrogation - OPPOSE

Dear Chairman Bartlett, Vice Chair Davis, and Members of the House Judiciary Committee:

On behalf of the Maryland Defense Counsel, Inc. ("MDC") we oppose House Bill 722 ("HB 722"), which seeks to abrogate Charitable Immunity in Maryland in cases brought under the Maryland Child Victims Act. If passed, HB 722 would upend more than 140 years of Maryland's commitment to philanthropic organizations being immune from tort liability beyond their insurance coverage. Such action would adversely impact all charitable organizations in Maryland and could produce a chilling effect on charities choosing Maryland as their home.

Before addressing the impact of HB 722, we will provide a brief overview of Maryland law, as it presently stands, regarding charitable immunity and the Child Victims Act.

A. History of Charitable Immunity

The charitable immunity defense, now codified in Maryland Rule 2-323(g)(20), has been recognized as part of the common law of Maryland dating back to 1885. *See Perry v. House of Refuge*, 63 Md. 20, 28 (1885). It has long been the black letter law of this State that "[i]n the absence of [liability] insurance, a negligence action cannot be maintained against a charitable institution." *Abramson v. Reiss*, 334 Md. 193, 197 (1994). It is also well recognized that when the charitable organization has liability insurance that is capable of providing coverage for a loss alleged in a civil action, "the liability is limited to funds available under the organization's liability policy coverage. *See* Md. Code (1995, 2002 Repl. Vol), § 19-103 of the Insurance Article...." *Brooks v. Hous. Auth.*, 411 Md. 603, 624 (2009).

A charitable organization's objectives are religious, charitable, and/or educational, and its assets are held in furtherance of those purposes, *not* to the



benefit of individuals or private shareholders.¹ The funds it receives are "contributed by individuals impelled by philanthropic motives." *House of Refuge*, 63 Md. at 26. As set out by the Maryland Supreme Court, "charitable immunity is premised on the trust fund theory, that is, because funds of the organization are impressed with a trust for charitable purposes, those funds should not be diverted to pay tort damage awards." *Montrose Christian School Corp. v. Walsh*, 363 Md. 565, 582 (2001) citing *Loeffler v. Trustees of Sheppard & Enoch Pratt Hospital*, 130 Md. 265, 100 A. 301 (1917). Doing so would undermine "the intention of the donor," and "the real object of charity would be defeated." *House of Refuge*, 63 Md. at 27. Accordingly, charitable immunity encourages the continued financial support of charitable organizations, and promotes and protects these institutions' beneficial activities and services to the citizens of Maryland.

B. Child Victims Act And Charitable Immunity Defense

In 2023, the Maryland Child Victims Act ("CVA"), Md. Code, Courts & Judicial Proceedings § 5-117, was amended to abolish the statute of limitations enacted in 2017 such that the defense would not apply to civil lawsuits alleging sexual abuse that occurred when the plaintiff was a minor. In no other area of civil law is the statute of limitations completely absent.

Charitable immunity only applies to organizations that meet three criteria: (1) the predominant character of the organization is charitable; (2) the assets of the charitable organization are held in trust, either expressly or by implication; and (3) the corporation has no liability insurance covering the complained of act." *See Abramson*, 334 Md. at 205-06; *James v. Prince George's Cnty.*, 288 Md 315, 337 (1980), superseded in part by statute on other grounds as stated in *Prince George's Cnty. v. Fitzhugh*, 308 Md. 384 (1987). The preservation of this defense is paramount to Maryland's citizens, including those that are most vulnerable.

These negligence-based lawsuits made possible by the CVA have been brought not only against alleged perpetrators but, more often, against their employers and former employers, as well as other organizations that have no legal relationship to the alleged perpetrator. The reality is that the criminal actors and alleged perpetrators are seldom defendants in these cases, and the vast majority of lawsuits are aimed at the hospitals, schools, churches, religious orders, and other charitable institutions that possibly employed the accused--sometimes many decades earlier.

The litigation costs in cases permitted by the CVA are high, even though due to the decades old allegations, competent witnesses are scarce and documentation often no longer exists or is lost through no fault of either party. While the burden of the proof is on the plaintiff, the defense of these cases is made

¹ As a result, the organization receives tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.



all the more difficult by virtue of the fact that the perpetrators and other witnesses are often deceased or are otherwise unable to testify due to age or infirmity. Personnel and other relevant records relating to the alleged perpetrator, a defendant or even the plaintiff from 40 to 70 years ago are difficult to locate, to the extent such documents still exist. Accordingly, in many cases, the only party available to testify on the alleged facts is the plaintiff, increasing the likelihood that verdicts will be in plaintiff's favor. This risk and the unfair prejudice faced by defendants are in direct correlation to elimination of the statute of limitations for negligence claims alleging sexual abuse as a harm. The defendants' access to evidence to form its defense is compromised, and as a result, the risk of door-closing verdicts to charitable organizations has increased exponentially.

The present bill threatens to strip philanthropic organizations and institutions of a long-established protection that is necessary to protect funds donated for beneficent purposes and held in trust to fulfill the charitable mission. The CVA allows for non-economic damages of \$1.5 million per plaintiff, in addition to unlimited economic damages, and without the benefit of charitable immunity, a *single* case by a single claimant would have the potential to bankrupt a small church, non-public school, or other charitable organization. If judgments are able to reach charitable funds, the organization's ability to pursue its mission and serve its community will be compromised if not made completely impossible. Donors will stop contributing to charitable causes if there is a belief that the funds may go to legal claims. If just one of these charitable entities folds due to a judgment that it cannot fund, will the State of Maryland step in to fill that void?

C. Slippery Slope

While HB 722 is arguably aimed only at child sexual abuse matters, there can be no question that it seeks to serve as a foot in the door to the ultimate goal of abrogating the doctrine of charitable immunity in Maryland for any tort action. As noted above, the CVA made an untimely negligence claim timely only when the alleged harm is sexual abuse. If the legislature would take the step of removing the protection of charitable immunity and exposing the assets of charitable and religious organizations to liability for tort damages in claims involving sexual abuse, the next logical proposed iteration would be to remove it for any party alleging any other injury. This could have catastrophic effects on the financial health of the charitable organizations that serve the citizens of Maryland.

D. Retroactivity

Finally, the most significant and disastrous provision of HB 722 comes in the form of its retroactive application. Many of the allegations of abuse occurred during decades ago when it was not common practice for charitable organizations to carry liability insurance. The various hospitals, schools, churches and programs -- both those who are presently defending sexual abuse lawsuits or those who will be subject to them in the future -- have no avenue to obtain liability insurance to



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cover purported past wrongdoing. Tort defendants cannot obtain insurance for incidents that have already occurred. *C.f. Mayor and City Council of Baltimore v. Utica Mut. Ins. Co.*, 145 Md. App. 256, 306-07 (2002) (explaining that the "known loss" rule prohibits an insured from obtaining insurance to cover a loss that is known before the policy takes effect); BLACK'S LAW DICTIONARY 1041 (12th ed. 2024) (defining the known-loss doctrine as "[a] principle precluding insurance coverage when, before the policy's effective date, the loss has begun or is substantially certain to happen, and it is known to the insured"). Such retroactive application of the statute also violates the U.S. Constitution and Bill of Rights and the Maryland Constitution and Declaration of Rights, including in its impairment of a vested right. To allow the defense of charitable immunity to be abrogated for claims arising from purported past actions would essentially pull the rug out from under these charitable institutions. Such an action would be inconsistent with due process and any idea of fairness and justice.

The central purpose of the charitable immunity doctrine is to protect the intended use of funds donated for charitable purposes. This essential protection will be eradicated if HB 722 is used to misdirect those funds to the payment of decades old tort claims. The parishioners, congregants and volunteers who have donated their hard-earned money to small local churches, schools, and other charities to improve their communities did not do so with fair warning that those funds could be appropriated to pay tort claims. These donors and the communities they fight for are not responsible for any purported wrongful conduct, and nothing will be gained by closing the doors of charitable institutions that cannot afford to pay a judgment of any significance without insurance.

For all these reasons, MDC urges an unfavorable report on HB 722.

Sincerely,

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