

**HB466, Civil Actions—Motor Vehicle Accidents Involving Vulnerable Individuals –  
Comparative Negligence**

**FAVORABLE REPORT REQUESTED**

**Background.** I am a long-distance bicyclist. I am former Anne Arundel County Circuit Court Judge and lawyer since 1975. I submit this written support because I am not available to testify in the hearing this week.

**Limited Comparative Negligence Exception.** Maryland remains one of five jurisdictions (Alabama, North Carolina, Virginia, and D.C.) that generally applies contributory negligence to completely bar a person from recovery due to another person’s negligent conduct. All other states adopted comparative negligence. HB465 creates an exception in limited circumstances.

**Patterned on D.C. Statute.** Since 2016, the District of Columbia has an almost identical law that protects pedestrians and cyclists, D.C. Code § 50-2204.52, that states: “... negligence does not bar recovery ‘[u]nless the plaintiff’s negligence is a proximate cause of the plaintiff’s injury and greater than the aggregated total negligence of all the defendants that proximately caused the plaintiff’s injury.’” *Zuk v. Wash. Metro. Area Transit Auth.*, 2025 U.S. Dist. LEXIS 33745, at 3 (D.D.C. Feb. 25, 2025). This is an exception to the contributory negligence standard for all other D.C. personal injury cases.

**Common Sense Exception, Vulnerable Individuals.** HB466 would only apply to “vulnerable individuals as defined in Md. Code Ann., *Transp.* §21-901.3 that applies, for example, to cyclists, pedestrians, highway worker, etc. The rationale for adopting this exception includes: power imbalance between motorized vehicles and pedestrians/cyclists and that strict contributory negligence favors drivers, leaving injured pedestrians or cyclists without a court remedy.

**Balanced Approach.** Comparative negligence does not automatically mean that the vulnerable individual will prevail and get recovery when contributory negligence would bar recover. It means that the injured person and the vehicle operator would prove the extent to which each contributed to the injury so that a judge or jury could evaluate that respective conduct.

A 2012 Study, Eli K. Best & John J. Donohue III, *Jury Nullification in Modified Comparative Negligence Regimes*, 79 U. Chi. L. Rev. 945, 963 (2012) evaluated over 1,000 cases and concluded that the injured party was found to be over 50% negligence in approximately 22% of cases.

**Why adopt?** A crash between a vehicle and vulnerable individual most often results in severe injuries even when that person was only slightly at fault. This Bill would bring fairness to determining fault and damages allocation.