



House Bill 721

Tort Claims Acts – Limits on Liability

MACo Position: **OPPOSE**

To: Judiciary Committee

Date: February 10, 2021

From: Michael Sanderson

The Maryland Association of Counties (MACo) **OPPOSES** HB 721. The bill dramatically increases the liability exposure for local governments for all civil lawsuits, and even further extends liability for police torts far beyond the scope of recently revised State laws. The principal effect of the bill will be to drain public resources away from needed services, and instead increase the flow of funds to plaintiffs and settlements – an unnecessary and costly shift that will not actually solve the problem this bill ultimately seeks to address.

Accidents, oversights, and police misconduct do not arise from a lack of penalties. Governments and their employees follow a wide range of safety protocols and risk management to limit such incidents. Law enforcement agencies engage in screening, training, and ongoing personnel evaluations to avoid misconduct. Other pending legislation would specify new measures for law enforcement training and screening, and may be warranted. But, merely increasing liability exposure to taxpayers will not spur “best practices” to reduce unfortunate torts – those practices already exist. And the heightened liability exposure in HB 721 would remain, even for governments that follow every available best practice.

Widespread concern over social justice matters has understandably prompted Maryland to re-evaluate a wide swath of laws governing law enforcement agencies, their policies, and officer protections. HB 721, however, despite being conceptually incorporated under this umbrella, does not advance these goals. HB 721 will merely enrich specific plaintiffs, and will promote and encourage more marginal cases to be brought to the courts in search of more lucrative settlements.

Maryland very recently doubled the tort limits on State and local governments. Under the Tort Claims Acts, this balanced law affords plaintiffs a reliable source to receive actual compensation for acts of a public employee performing work duties. The substantial dollar values allowed provide a proper avenue and remedy for meritorious cases in State courts. There is no policy reason to relocate these constitutional claims from federal courts to State courts (the likely practical outcome of this bill), other than to enable greater dollar values for local jury decisions.

HB 721 is introduced among a wave of legislation promoting police reform, but instead will merely trigger greater fiscal liability for taxpayers, siphoning public funds away from needed services – education, public health, and transportation. Accordingly, MACo requests the Committee give HB 721 an **UNFAVORABLE** report.