

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 680
Judiciary

(Delegate Moon, *et al.*)

Judicial Proceedings

Evidence - Conviction for Traffic Offense - Admissibility in Civil Proceeding

This bill authorizes evidence of a conviction for a traffic offense to be admitted as evidence in a civil proceeding to prove a fact that (1) is at issue in the civil proceeding and (2) was essential to sustain the conviction for the traffic offense. However, the evidence may not be admitted unless specified conditions are met. If the evidence is admitted, the trier of fact must determine the weight to be accorded to the evidence of the conviction.

The bill applies prospectively to civil actions filed on or after the bill's October 1, 2015 effective date.

Fiscal Summary

State Effect: None. The bill is procedural/technical and does not materially affect State finances.

Local Effect: None. The bill is procedural/technical and does not materially affect local finances.

Small Business Effect: Potential minimal impact on law firms that represent individuals in applicable civil proceedings.

Analysis

Bill Summary: Evidence of a conviction for a traffic offense may not be admitted as evidence in a civil proceeding by a court unless (1) a final judgment upholding the conviction is issued, if the defendant challenges the conviction by filing an appeal, applying for leave to appeal, or filing a notice for in banc review under the Maryland Rules or (2) the time period during which the defendant may take any of those actions has expired.

Current Law: The Maryland Rules generally follow the Federal Rules of Evidence (FRE). Under FRE 802, hearsay is not admissible unless otherwise specified in a federal statute, the Federal Rules of Evidence, or other rules prescribed by the U.S. Supreme Court.

FRE 803(22) contains an exception to the rule against hearsay and authorizes the admission into evidence of a final judgment of conviction if:

- the judgment was entered after a trial or guilty plea, but not a *nolo contendere* plea;
- the conviction was for a crime punishable by death or by imprisonment for more than a year;
- the evidence is admitted to prove any fact essential to the judgment; and
- when offered by the prosecutor in a criminal case for a purpose other than impeachment, the judgment was against the defendant.

The pendency of an appeal may be shown but does not affect admissibility.

However, Maryland has not adopted a rule similar to FRE 803(22). In Maryland, “a criminal conviction is inadmissible to establish the truth of the facts upon which it is rendered in a civil action for damages arising from the offense for which the person is convicted.” *State Farm Fire & Casualty Co. v. Carter*, 154 Md. App. 400, 409 (2003), quoting *Aetna Casualty & Surety Co. v. Kuhl*, 296 Md. 446, 450 (1983).

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), *University of Baltimore Law Forum*, Department of Legislative Services

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md/kdm

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