

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 364

(Senator McCray)

Judicial Proceedings

Judiciary

**Baltimore City - Civil Claims Against Law Enforcement Officers of an
Institution of Higher Education - Prohibition Against Nondisparagement Clause
in Settlement Agreement**

This bill prohibits the inclusion of and declares unenforceable a nondisparagement clause in a settlement agreement or any general release of liability between the parties to a claim or suit asserting misconduct in the performance of duties by a law enforcement officer of a law enforcement agency of an institution of higher education. The bill only applies to a claim or suit arising in Baltimore City. The bill applies prospectively and may not be applied to or interpreted to have any effect on or application to any agreement or release of liability executed before the bill's October 1, 2021 effective date.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations.

Local Effect: The bill is not expected to materially affect finances or operations in Baltimore City.

Small Business Effect: None.

Analysis

Current Law: There are no statutory provisions directly applicable to the bill. However, with specified exceptions, a "law enforcement officer" is an individual who, in an official capacity, is authorized by law to make arrests and is a member of one of a list of specified law enforcement agencies, including the (1) police forces of the University System of Maryland, Morgan State University, and Baltimore City Community College and (2) the

police department of the Johns Hopkins University, except for the department's Chief of Police.

The Baltimore City Code prohibits settlement agreements between Baltimore City and claimants for claims involving police misconduct or unlawful discrimination from including "non-disparagement clauses" that require the claimant to waive the claimant's rights to make specified statements regarding the claim.

Additional Information

Prior Introductions: SB 829 of 2020, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

Designated Cross File: None.

Information Source(s): Baltimore City; Maryland State Treasurer's Office; Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - February 5, 2021
rh/jkb Third Reader - March 22, 2021
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