

HOUSE BILL 430

D3, E4

3lr0597

By: **Delegate Wilkins**

Introduced and read first time: January 30, 2023

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Police Immunity and Accountability Act**

3 FOR the purpose of specifying that a police officer who subjects or causes to be subjected
4 any individual to the deprivation of certain rights under the Maryland Constitution
5 or the U.S. Constitution is liable for certain damages; establishing that a police
6 officer is not immune from civil or criminal liability for violations of another
7 individual's constitutional rights; requiring the Maryland Police Training and
8 Standards Commission to review certain cases brought under this Act; requiring an
9 officer's employer or a local jurisdiction to satisfy certain judgments or settlements;
10 requiring an officer's employer or a local jurisdiction to seek certain reimbursement;
11 and generally relating to actions against police officers and government liability.

12 BY adding to

13 Article – Courts and Judicial Proceedings

14 Section 5–1301 and 5–1302 to be under the new subtitle “Subtitle 13. Police
15 Immunity and Accountability Act”

16 Annotated Code of Maryland

17 (2020 Replacement Volume and 2022 Supplement)

18 Preamble

19 WHEREAS, The Equal Protection Clause of the United States Constitution protects
20 individuals from biased and discriminatory policing; and

21 WHEREAS, Every Maryland resident has the right to fair, safe, and equitable
22 policing; and

23 WHEREAS, In order to hold police officers accountable and to promote proper
24 policing, an officer who violates another individual's constitutional rights under the State
25 or U.S. Constitution is not immune from civil or criminal liability for the violation; now,
26 therefore,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That the Laws of Maryland read as follows:

3 **Article – Courts and Judicial Proceedings**

4 **SUBTITLE 13. POLICE IMMUNITY AND ACCOUNTABILITY ACT.**

5 **5–1301.**

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (B) “LOCAL JURISDICTION” MEANS A COUNTY OR MUNICIPAL
9 CORPORATION.

10 (C) “MARYLAND POLICE TRAINING AND STANDARDS COMMISSION” MEANS
11 THE UNIT WITHIN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL
12 SERVICES ESTABLISHED UNDER § 3–202 OF THE PUBLIC SAFETY ARTICLE.

13 (D) “OFFICER” MEANS A POLICE OFFICER AS DEFINED IN § 3–201 OF THE
14 PUBLIC SAFETY ARTICLE.

15 **5–1302.**

16 (A) AN OFFICER WHO SUBJECTS OR CAUSES TO BE SUBJECTED ANY
17 INDIVIDUAL TO THE DEPRIVATION OF ANY RIGHTS, PRIVILEGES, OR IMMUNITIES
18 SECURED BY THE MARYLAND CONSTITUTION OR THE U.S. CONSTITUTION SHALL
19 BE LIABLE FOR DAMAGES BROUGHT IN AN ACTION AGAINST THE OFFICER.

20 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN OFFICER WHO
21 VIOLATES ANOTHER INDIVIDUAL’S CONSTITUTIONAL RIGHTS UNDER THE
22 MARYLAND CONSTITUTION OR THE U.S. CONSTITUTION IS NOT IMMUNE FROM
23 CIVIL OR CRIMINAL LIABILITY FOR THE VIOLATION.

24 (C) (1) STATUTORY IMMUNITY PROVIDED UNDER SUBTITLE 5 OF THIS
25 TITLE OR TITLE 12, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE OR COMMON
26 LAW PUBLIC OFFICIAL IMMUNITY DOES NOT APPLY TO A CLAIM BROUGHT UNDER
27 THIS SECTION.

28 (2) QUALIFIED IMMUNITY IS NOT A DEFENSE TO LIABILITY OR AN
29 IMMUNITY FROM SUIT UNDER THIS SECTION.

1 **(D) THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION**
2 **SHALL:**

3 **(1) REVIEW ANY CASE BROUGHT UNDER THIS SECTION IN WHICH AN**
4 **OFFICER OR OFFICER'S EMPLOYER:**

5 **(I) WAS HELD LIABLE; OR**

6 **(II) ENTERED INTO A SETTLEMENT AGREEMENT; AND**

7 **(2) DETERMINE WHETHER THE OFFICER'S CERTIFICATION TO WORK**
8 **IN THE STATE SHOULD BE REVOKED.**

9 **(E) (1) IN AN ACTION BROUGHT UNDER THIS SECTION, THE COURT SHALL**
10 **AWARD REASONABLE ATTORNEY'S FEES AND COURT COSTS TO A PREVAILING**
11 **PLAINTIFF.**

12 **(2) EACH SETTLEMENT AGREEMENT FOR AN ACTION BROUGHT**
13 **UNDER THIS SECTION SHALL PROVIDE THAT THE PLAINTIFF IS ENTITLED TO**
14 **REASONABLE ATTORNEY'S FEES AND COURT COSTS.**

15 **(F) (1) IN AN ACTION BROUGHT UNDER THIS SECTION, ANY FINAL**
16 **JUDGMENT OR SETTLEMENT AGAINST THE OFFICER OR THE OFFICER'S EMPLOYER**
17 **OR THE LOCAL JURISDICTION WHERE THE OFFICER IS EMPLOYED SHALL BE**
18 **ENTERED AND SATISFIED BY THE OFFICER'S EMPLOYER OR THE LOCAL**
19 **JURISDICTION WHERE THE OFFICER IS EMPLOYED.**

20 **(2) THE OFFICER'S EMPLOYER OR THE LOCAL JURISDICTION WHERE**
21 **THE OFFICER IS EMPLOYED SHALL SEEK REIMBURSEMENT FROM THE OFFICER FOR**
22 **5% OR \$25,000, WHICHEVER IS LESS, FROM ANY FINAL JUDGMENT OR SETTLEMENT**
23 **ENTERED AGAINST THE OFFICER'S EMPLOYER OR THE LOCAL JURISDICTION WHERE**
24 **THE OFFICER IS EMPLOYED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

25 **(G) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE RIGHT OF AN**
26 **INDIVIDUAL TO SEEK REMEDIES OTHERWISE AVAILABLE UNDER ANY OTHER**
27 **PROVISION OF LAW.**

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
29 apply only prospectively and may not be applied or interpreted to have any effect on or
30 application to any cause of action arising before the effective date of this Act.

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2023.