

# HOUSE BILL 393

D3  
HB 283/15 – JUD

6lr2140  
CF SB 362

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By: **Delegates Carter, Anderson, B. Barnes, Dumais, Lierman, Moon, Morales, Rosenberg, and Smith**

Introduced and read first time: January 28, 2016

Assigned to: Judiciary

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Committee Report: Favorable

House action: Adopted

Read second time: February 23, 2016

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Award of Attorney's Fees and Expenses – Violation of Maryland Constitutional**  
3 **Right**

4 FOR the purpose of authorizing a court to award to a prevailing plaintiff reasonable  
5 attorney's fees and expenses in certain actions seeking to remedy a violation of a  
6 Maryland constitutional right; authorizing a court to award reasonable attorney's  
7 fees and expenses to a prevailing defendant under certain circumstances;  
8 establishing that certain limits on attorney's fees under the Maryland Tort Claims  
9 Act do not apply to a certain award of attorney's fees and expenses; providing for the  
10 application of this Act; and generally relating to awarding attorney's fees and  
11 expenses in certain actions seeking to remedy a violation of a Maryland  
12 constitutional right.

13 BY adding to

14 Article – Courts and Judicial Proceedings

15 Section 3–2101 and 3–2102 to be under the new subtitle “Subtitle 21. Award of  
16 Attorney's Fees and Expenses – Violation of Maryland Constitutional Right”

17 Annotated Code of Maryland

18 (2013 Replacement Volume and 2015 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article – State Government

21 Section 12–109

22 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2014 Replacement Volume and 2015 Supplement)

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

**Article – Courts and Judicial Proceedings**

**SUBTITLE 21. AWARD OF ATTORNEY’S FEES AND EXPENSES – VIOLATION OF  
MARYLAND CONSTITUTIONAL RIGHT.**

**3–2101.**

(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A COURT MAY  
AWARD TO A PREVAILING PLAINTIFF REASONABLE ATTORNEY’S FEES AND  
EXPENSES FOR ANY CLAIM FOR RELIEF AGAINST THE STATE, ANY POLITICAL  
SUBDIVISION OF THE STATE, OR AN EMPLOYEE OR AGENT OF THE STATE OR ANY  
POLITICAL SUBDIVISION OF THE STATE IF THE CLAIM FOR RELIEF SEEKS TO  
REMEDY A VIOLATION OF A RIGHT THAT IS SECURED BY THE MARYLAND  
CONSTITUTION OR THE MARYLAND DECLARATION OF RIGHTS.

(B) A COURT MAY AWARD REASONABLE ATTORNEY’S FEES AND EXPENSES  
TO A PREVAILING DEFENDANT ONLY ON A FINDING THAT THE CLAIM FOR RELIEF  
BROUGHT BY THE PLAINTIFF TO REMEDY A VIOLATION OF A RIGHT THAT IS SECURED  
BY THE MARYLAND CONSTITUTION OR THE MARYLAND DECLARATION OF RIGHTS  
WAS MAINTAINED IN BAD FAITH OR WITHOUT SUBSTANTIAL JUSTIFICATION.

**3–2102.**

FOR PURPOSES OF THIS SUBTITLE, A COURT SHALL DETERMINE WHETHER TO  
AWARD ATTORNEY’S FEES AND EXPENSES BY CONSIDERING THE FACTORS LISTED IN  
MARYLAND RULE 2–703(F)(3).

**Article – State Government**

**12–109.**

[Counsel] EXCEPT AS PROVIDED IN § 3–2101 OF THE COURTS ARTICLE,  
COUNSEL may not charge or receive fees that exceed:

- (1) 20% of a settlement made under this subtitle; or
- (2) 25% of a judgment made under this subtitle.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
2 apply only prospectively and may not be applied or interpreted to have any effect on or  
3 application to any case filed before the effective date of this Act.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2016.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.