

HOUSE BILL 728

D3

5lr1286

By: **Delegates Carter, Anderson, Conaway, Glenn, Haynes, Oaks, B. Robinson, and
A. Washington**

Introduced and read first time: February 13, 2015

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Governmental Tort Claims – Excessive Force or Misuse of Force by Law**
3 **Enforcement Officer**

4 FOR the purpose of altering the liability of a local government for certain claims of
5 excessive force or misuse of force by a law enforcement officer; altering the liability
6 of the State and its units for certain claims of excessive force or misuse of force by a
7 law enforcement officer; providing for the application of this Act; and generally
8 relating to altering the liability of a local government and the State and its units for
9 excessive force or misuse of force by a law enforcement officer.

10 BY repealing and reenacting, with amendments,
11 Article – Courts and Judicial Proceedings
12 Section 5–303(a) and 5–522(a)(5)
13 Annotated Code of Maryland
14 (2013 Replacement Volume and 2014 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – State Government
17 Section 12–104(a)
18 Annotated Code of Maryland
19 (2014 Replacement Volume)

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

22 **Article – Courts and Judicial Proceedings**

23 5–303.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) Subject to paragraph (2) of this subsection, the liability of a local
 2 government may not exceed \$200,000 per an individual claim, and \$500,000 per total
 3 claims that arise from the same occurrence for damages resulting from tortious acts or
 4 omissions, or liability arising under subsection (b) of this section and indemnification under
 5 subsection (c) of this section.

6 (2) **THE LIABILITY OF A LOCAL GOVERNMENT MAY NOT EXCEED**
 7 **\$1,000,000 FOR AN INDIVIDUAL CLAIM, AND \$1,500,000 FOR TOTAL CLAIMS THAT**
 8 **ARISE FROM THE SAME INCIDENT OR OCCURRENCE, OF EXCESSIVE FORCE OR**
 9 **MISUSE OF FORCE BY A LAW ENFORCEMENT OFFICER, OR LIABILITY ARISING UNDER**
 10 **SUBSECTION (B) OF THIS SECTION AND INDEMNIFICATION UNDER SUBSECTION (C)**
 11 **OF THIS SECTION RESULTING FROM EXCESSIVE FORCE OR MISUSE OF FORCE BY A**
 12 **LAW ENFORCEMENT OFFICER.**

13 (3) The limits on liability provided under [paragraph (1)] **PARAGRAPHS**
 14 **(1) AND (2)** of this subsection do not include interest accrued on a judgment.

15 5-522.

16 (a) Immunity of the State is not waived under § 12-104 of the State Government
 17 Article for:

18 (5) (I) **[A] SUBJECT TO ITEM (II) OF THIS ITEM,** A claim by an
 19 individual arising from a single incident or occurrence that exceeds \$200,000; **OR**

20 (II) **A CLAIM BY AN INDIVIDUAL THAT EXCEEDS \$1,000,000 FOR**
 21 **AN INDIVIDUAL CLAIM OF EXCESSIVE FORCE OR MISUSE OF FORCE BY A LAW**
 22 **ENFORCEMENT OFFICER, OR \$1,500,000 FOR TOTAL CLAIMS THAT ARISE FROM THE**
 23 **SAME INCIDENT OR OCCURRENCE;** or

24 **Article – State Government**

25 12-104.

26 (a) (1) Subject to the exclusions and limitations in this subtitle and
 27 notwithstanding any other provision of law, the immunity of the State and of its units is
 28 waived as to a tort action, in a court of the State, to the extent provided under paragraph
 29 (2) of this subsection.

30 (2) (I) **[The] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
 31 **PARAGRAPH,** THE liability of the State and its units may not exceed \$200,000 to a single
 32 claimant for injuries arising from a single incident or occurrence.

33 (II) **THE LIABILITY OF THE STATE AND ITS UNITS MAY NOT**
 34 **EXCEED \$1,000,000 FOR AN INDIVIDUAL CLAIM OF EXCESSIVE FORCE OR MISUSE OF**

1 **FORCE BY A LAW ENFORCEMENT OFFICER, OR \$1,500,000 FOR TOTAL CLAIMS THAT**
2 **ARISE FROM THE SAME INCIDENT OR OCCURRENCE.**

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

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2015.