

SENATE BILL 705

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SB 362/16 – JPR

7lr2403
CF HB 903

By: **Senators Muse, Kelley, Lee, Ramirez, and Smith**

Introduced and read first time: February 3, 2017

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2017

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 certain Maryland constitutional right; authorizing a court to award reasonable
7 attorney’s 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 certain 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 2016 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article – State Government

21 Section 12–109

22 Annotated Code of Maryland

23 (2014 Replacement Volume and 2016 Supplement)

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.



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

6 **3-2101.**

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

14 (1) ARTICLE 7 OF THE MARYLAND DECLARATION OF RIGHTS
15 (ELECTIONS TO BE FREE AND FREQUENT; RIGHT OF SUFFRAGE);

16 (2) ARTICLE 10 OF THE MARYLAND DECLARATION OF RIGHTS
17 (FREEDOM OF SPEECH AND DEBATE AND PROCEEDINGS IN LEGISLATURE);

18 (3) ARTICLE 13 OF THE MARYLAND DECLARATION OF RIGHTS
19 (RIGHT TO PETITION THE LEGISLATURE FOR REDRESS OF GRIEVANCES);

20 (4) ARTICLE 14 OF THE MARYLAND DECLARATION OF RIGHTS (NO
21 TAX, ETC., TO BE LEVIED WITHOUT CONSENT OF LEGISLATURE);

22 (5) ARTICLE 19 OF THE MARYLAND DECLARATION OF RIGHTS
23 (REMEDY FOR INJURY TO PERSON OR PROPERTY);

24 (6) ARTICLE 21 OF THE MARYLAND DECLARATION OF RIGHTS
25 (RIGHTS OF ACCUSED; INDICTMENT; COUNSEL; CONFRONTATION; SPEEDY TRIAL;
26 IMPARTIAL AND UNANIMOUS JURY);

27 (7) ARTICLE 22 OF THE MARYLAND DECLARATION OF RIGHTS (SELF
28 INCRIMINATION);

29 (8) ARTICLE 23 OF THE MARYLAND DECLARATION OF RIGHTS (JURY
30 JUDGES OF LAW AND FACT; RIGHT OF TRIAL BY JURY IN CIVIL PROCEEDINGS);

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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, 2017.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.