

HOUSE BILL 1490

P4, E4

8lr2566

By: **Delegates Dumais, Anderson, Barnes, Conaway, Dwyer, Lee, McComas, McConkey, Ramirez, Rosenberg, Shank, and Smigiel**

Introduced and read first time: February 18, 2008

Assigned to: Rules and Executive Nominations

Re-referred to: Judiciary, February 29, 2008

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 19, 2008

CHAPTER _____

1 AN ACT concerning

2 **State Government – Maryland Tort Claims Act – Broadcasting of AMBER**
3 **Alert**

4 FOR the purpose of altering a certain definition so as to bring within the scope of the
5 Maryland Tort Claims Act a person or officer, director, employee, or agent of the
6 person who broadcasts or otherwise disseminates a certain AMBER alert under
7 certain circumstances; providing that certain requirements for filing an action
8 under the Maryland Tort Claims Act do not apply to an action under this Act;
9 requiring a certain notice to the Treasurer under certain circumstances;
10 providing for the application of this Act; and generally relating to the Maryland
11 Tort Claims Act.

12 BY repealing and reenacting, with amendments,
13 Article – State Government
14 Section 12–101(a) and 12–106
15 Annotated Code of Maryland
16 (2004 Replacement Volume and 2007 Supplement)

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

19 **Article – State Government**

20 12–101.

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 (a) In this subtitle, unless the context clearly requires otherwise, “State
2 personnel” means:

3 (1) a State employee or official who is paid in whole or in part by the
4 Central Payroll Bureau in the Office of the Comptroller of the Treasury;

5 (2) an employee or official of the:

6 (i) Maryland Transportation Authority;

7 (ii) Injured Workers’ Insurance Fund;

8 (iii) Maryland Stadium Authority;

9 (iv) Maryland Environmental Service;

10 (v) overseas programs of the University College of the
11 University System of Maryland;

12 (vi) Maryland Economic Development Corporation;

13 (vii) Maryland Technology Development Corporation;

14 (viii) Maryland African American Museum Corporation; and

15 (ix) Maryland Automobile Insurance Fund;

16 (3) a person who:

17 (i) is a member of a State board, commission, or similar State
18 entity; or

19 (ii) 1. is providing a service to or for the State;

20 2. is not paid in whole or in part by the State; and

21 3. satisfies all other requirements for designation as
22 State personnel as may be set forth in regulations adopted by the Treasurer pursuant
23 to Title 10 of this article;

24 (4) an individual who, without compensation, exercises a part of the
25 sovereignty of the State;

26 (5) a student enrolled in a State educational institution:

27 (i) who is providing services to third parties in the course of
28 participation in an approved clinical training or academic program;

1 (ii) who, as determined by the Treasurer, is required to have
2 liability insurance covering claims arising from services to third parties performed by
3 the student in the course of the approved clinical training or academic program;

4 (iii) who, as determined by the Treasurer, cannot obtain
5 commercial liability insurance at an affordable cost; and

6 (iv) who, as determined by the Treasurer, may be required to
7 contribute to an insurance program for claims arising from services to third parties
8 performed by the student in the course of the approved clinical training or academic
9 program;

10 (6) a sheriff or deputy sheriff of a county or Baltimore City;

11 (7) an employee of a county who is assigned to a local department of
12 social services, including a Montgomery County employee who carries out State
13 programs administered under Title 3, Subtitle 4 of the Human Services Article;

14 (8) a State's Attorney of a county or Baltimore City, or an employee of
15 an office of a State's Attorney;

16 (9) a member of a board of license commissioners of a county or
17 Baltimore City appointed under the provisions of Article 2B of the Code, or an
18 employee of a board of license commissioners;

19 (10) a member of a local board of elections, or an employee of a local
20 board of elections;

21 (11) a judge of a circuit court of a county or Baltimore City, or an
22 employee of a circuit court;

23 (12) a judge of an orphans' court of a county or Baltimore City, or an
24 employee of an orphans' court;

25 (13) to the extent of a nonprofit organization's activities as a third party
26 payee, and to the extent the nonprofit organization has no other insurance for this
27 purpose, a nonprofit organization that has been approved by the Department of
28 Human Resources or its designee to serve as a third party payee for purposes of
29 providing temporary cash assistance, transitional assistance, or child-specific benefits
30 to Family Investment Program recipients; [or]

31 (14) a student, faculty, or staff member of an institution of higher
32 education who is providing a service under the Family Investment Program in
33 accordance with § 5-305, § 5-306, or § 5-317 of the Human Services Article; **OR**

~~(15) A PERSON OR AN OFFICER, DIRECTOR, EMPLOYEE, OR AGENT OF THE PERSON WHO BROADCASTS OR OTHERWISE DISSEMINATES AN AMBER ALERT THAT A MINOR HAS BEEN ABDUCTED AND IS IN DANGER, WHILE ACTING IN ACCORDANCE WITH THE VOLUNTARY AMBER ALERT PROGRAM ENTERED INTO BY STATE LAW ENFORCEMENT AGENCIES AND RADIO AND TELEVISION BROADCAST ORGANIZATIONS.~~

(15) A PERSON, OR AN OFFICER, DIRECTOR, EMPLOYEE, OR AGENT OF THE PERSON, WHO VOLUNTARILY BROADCASTS AN AMBER ALERT THAT A MINOR HAS BEEN ABDUCTED AND IS IN DANGER IF THE PERSON:

(I) IS A PARTY TO A MEMORANDUM OF UNDERSTANDING REGARDING THE AMBER ALERT PLAN ENTERED INTO BETWEEN THE MARYLAND STATE POLICE AND THE MARYLAND-DISTRICT OF COLUMBIA-DELAWARE BROADCASTERS' ASSOCIATION, INC.;

(II) HAS ESTABLISHED STANDARD OPERATING PROCEDURES APPROVED BY THE MARYLAND STATE POLICE THAT INCLUDE PROCEDURES GOVERNING:

1. THE MANAGEMENT, RECEIPT, DISSEMINATION, AND BROADCAST OF THE AMBER ALERT INFORMATION PROVIDED THROUGH THE EMERGENCY ALERT SYSTEM BY THE MARYLAND STATE POLICE;

2. WHICH DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS OF THE PERSON ARE AUTHORIZED BY THE PERSON TO RECEIVE THE AMBER ALERT INFORMATION PROVIDED THROUGH THE EMERGENCY ALERT SYSTEM; AND

3. WHICH DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS OF THE PERSON ARE AUTHORIZED BY THE PERSON TO DISSEMINATE THE AMBER ALERT INFORMATION PROVIDED THROUGH THE EMERGENCY ALERT SYSTEM; AND

(III) REQUIRES EACH OFFICER, DIRECTOR, EMPLOYEE, AND AGENT WHO IS AUTHORIZED BY THE PERSON TO RECEIVE OR DISSEMINATE THE AMBER ALERT INFORMATION PROVIDED THROUGH THE EMERGENCY ALERT SYSTEM TO CONSENT TO, IN WRITING, OR EXECUTE THE MEMORANDUM OF UNDERSTANDING DESCRIBED IN THIS ITEM.

12-106.

(a) (1) This section does not apply to a claim that is asserted by cross-claim, counterclaim, or third-party claim.

1 **(2) SUBSECTION (B)(1) AND (2) OF THIS SECTION DO NOT APPLY**
2 **TO AN ACTION AGAINST A PERSON OR AN OFFICER, DIRECTOR, EMPLOYEE, OR**
3 **AGENT OF THE PERSON UNDER § 12-101(A)(15) OF THIS SUBTITLE.**

4 **(b) A claimant may not institute an action under this subtitle unless:**

5 **(1) the claimant submits a written claim to the Treasurer or a**
6 **designee of the Treasurer within 1 year after the injury to person or property that is**
7 **the basis of the claim;**

8 **(2) the Treasurer or designee denies the claim finally; and**

9 **(3) the action is filed within 3 years after the cause of action arises.**

10 **(C) IF AN ACTION UNDER THIS TITLE IS FILED AGAINST A PERSON, OR A**
11 **DIRECTOR, OFFICER, EMPLOYEE, OR AGENT OF THE PERSON DESCRIBED UNDER**
12 **§ 12-101(A)(15) OF THIS SUBTITLE, THE PERSON SHALL SUBMIT WRITTEN**
13 **NOTICE OF THE ACTION TO THE TREASURER WITHIN 30 DAYS OF THE DATE**
14 **THAT THE ACTION IS FILED.**

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

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.