

HOUSE BILL 824

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01r2624
CF 01r2562

By: **Delegates Rosenberg, Anderson, Kipke, McComas, Montgomery, and Waldstreicher**

Introduced and read first time: February 9, 2010

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions – Immunity from Civil Liability – Health Care Providers**

3 FOR the purpose of providing immunity from civil liability for certain causes of action
4 to a health care provider or an agent or employee of a health care provider who
5 detains or causes the arrest of any person if there is probable cause to believe
6 that the person committed a certain offense on the premises of the health care
7 provider or obtained certain information without authorization; and generally
8 relating to immunity from civil liability for health care providers.

9 BY repealing and reenacting, without amendments,
10 Article – Commercial Law
11 Section 14–3501(d)
12 Annotated Code of Maryland
13 (2005 Replacement Volume and 2009 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Courts and Judicial Proceedings
16 Section 5–402
17 Annotated Code of Maryland
18 (2006 Replacement Volume and 2009 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – Health – General
21 Section 4–301(g)
22 Annotated Code of Maryland
23 (2009 Replacement Volume)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Commercial Law**

2 14–3501.

3 (d) (1) “Personal information” means an individual’s first name or first
4 initial and last name in combination with any one or more of the following data
5 elements, when the name or the data elements are not encrypted, redacted, or
6 otherwise protected by another method that renders the information unreadable or
7 unusable:

8 (i) A Social Security number;

9 (ii) A driver’s license number;

10 (iii) A financial account number, including a credit card number
11 or debit card number, that in combination with any required security code, access
12 code, or password, would permit access to an individual’s financial account; or

13 (iv) An Individual Taxpayer Identification Number.

14 (2) “Personal information” does not include:

15 (i) Publicly available information that is lawfully made
16 available to the general public from federal, State, or local government records;

17 (ii) Information that an individual has consented to have
18 publicly disseminated or listed; or

19 (iii) Information that is disseminated or listed in accordance
20 with the federal Health Insurance Portability and Accountability Act.

21 **Article – Courts and Judicial Proceedings**

22 5–402.

23 (a) A merchant or an agent or employee of the merchant who detains or
24 causes the arrest of any person shall not be held civilly liable for detention, slander,
25 malicious prosecution, false imprisonment, or false arrest of the person detained or
26 arrested, whether the detention or arrest takes place by the merchant or by his agent
27 or employee, if in detaining or in causing the arrest of the person, the merchant or the
28 agent or employee of the merchant had, at the time of the detention or arrest, probable
29 cause to believe that the person committed the crime of “theft,” as prohibited by §
30 7–104 of the Criminal Law Article, of property of the merchant from the premises of
31 the merchant.

32 (b) An owner or lessee of a motion picture theater or an agent or employee of
33 the owner or lessee who detains or causes the arrest of any person may not be held
34 civilly liable for detention, defamation, malicious prosecution, false imprisonment, or

1 false arrest of the person detained or arrested, if in detaining or causing the arrest of
 2 the person, the owner, lessee, agent, or employee had, at the time of the detention or
 3 arrest, probable cause to believe that the person committed in the motion picture
 4 theater a violation of § 7-308(e) of the Criminal Law Article.

5 (C) A HEALTH CARE PROVIDER, AS DEFINED IN § 4-301 OF THE
 6 HEALTH – GENERAL ARTICLE, OR AN AGENT OR EMPLOYEE OF A HEALTH CARE
 7 PROVIDER WHO DETAINS OR CAUSES THE ARREST OF ANY PERSON MAY NOT BE
 8 HELD CIVILLY LIABLE FOR DETENTION, SLANDER, MALICIOUS PROSECUTION,
 9 FALSE IMPRISONMENT, OR FALSE ARREST OF THE PERSON DETAINED OR
 10 ARRESTED, IF IN DETAINING OR IN CAUSING THE ARREST OF THE PERSON, THE
 11 HEALTH CARE PROVIDER OR THE AGENT OR EMPLOYEE OF THE HEALTH CARE
 12 PROVIDER HAD, AT THE TIME OF THE DETENTION OR ARREST, PROBABLE CAUSE
 13 TO BELIEVE THAT THE PERSON:

14 (1) COMMITTED THE CRIME OF “THEFT,” AS PROHIBITED BY §
 15 7-104 OF THE CRIMINAL LAW ARTICLE, OF PROPERTY OF THE HEALTH CARE
 16 PROVIDER FROM THE PREMISES OF THE HEALTH CARE PROVIDER; OR

17 (2) HAS OBTAINED PERSONAL INFORMATION, AS DEFINED IN §
 18 14-3501 OF THE COMMERCIAL LAW ARTICLE, WITHOUT AUTHORIZATION.

19 **Article – Health – General**

20 4-301.

21 (g) (1) “Health care provider” means:

22 (i) A person who is licensed, certified, or otherwise authorized
 23 under the Health Occupations Article or § 13-516 of the Education Article to provide
 24 health care in the ordinary course of business or practice of a profession or in an
 25 approved education or training program; or

26 (ii) A facility where health care is provided to patients or
 27 recipients, including a facility as defined in § 10-101(e) of this article, a hospital as
 28 defined in § 19-301 of this article, a related institution as defined in § 19-301 of this
 29 article, a health maintenance organization as defined in § 19-701(g) of this article, an
 30 outpatient clinic, and a medical laboratory.

31 (2) “Health care provider” includes the agents, employees, officers, and
 32 directors of a facility and the agents and employees of a health care provider.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 34 October 1, 2010.