

SENATE BILL 1031

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By: **Senator Carter**

Introduced and read first time: February 2, 2024

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions – Lead Poisoning – Liability and Statute of Limitations**
3 **(Maryland Lead Poisoning Compensation Act)**

4 FOR the purpose of establishing that an action against the owner or manager of certain
5 property to recover certain damages arising from lead poisoning may be brought at
6 any time; establishing strict liability for the owner or manager of a property with
7 lead-based paint hazards resulting in lead poisoning of another; establishing that
8 limitations on certain damages awarded to a prevailing plaintiff do not apply to a
9 claim under this Act; prohibiting the State, a local government, or a county school
10 board from raising a certain defense of sovereign immunity in an action under this
11 Act; establishing a certain affirmative defense; providing for the retroactive
12 application of this Act; and generally relating to civil actions for damages resulting
13 from lead poisoning.

14 BY adding to
15 Article – Courts and Judicial Proceedings
16 Section 5–122
17 Annotated Code of Maryland
18 (2020 Replacement Volume and 2023 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Courts and Judicial Proceedings
21 Section 5–303(a), 5–518(b) and (c), and 11–108(e)
22 Annotated Code of Maryland
23 (2020 Replacement Volume and 2023 Supplement)

24 BY repealing and reenacting, without amendments,
25 Article – Courts and Judicial Proceedings
26 Section 11–108(a) and (b)
27 Annotated Code of Maryland
28 (2020 Replacement Volume and 2023 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – State Government
3 Section 12–104(a)
4 Annotated Code of Maryland
5 (2021 Replacement Volume and 2023 Supplement)

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

8 **Article – Courts and Judicial Proceedings**

9 **5–122.**

10 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (2) “LEAD POISONING” MEANS ELEVATED BLOOD LEAD LEVELS IN AN
13 INDIVIDUAL AS INDICATED BY THE BLOOD LEAD REFERENCE VALUE ESTABLISHED
14 BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

15 (3) “NONECONOMIC DAMAGES” HAS THE MEANING STATED IN §
16 11–108 OF THIS ARTICLE.

17 (4) “OWNER OR MANAGER OF A PROPERTY” INCLUDES THE STATE, A
18 LOCAL GOVERNMENT, AND A COUNTY BOARD OF EDUCATION.

19 (B) THE PURPOSE OF THIS SECTION IS TO ADDRESS THE SERIOUS HEALTH
20 CONSEQUENCES OF LEAD POISONING AND ENSURE FAIR COMPENSATION FOR
21 VICTIMS OF LEAD POISONING.

22 (C) NOTWITHSTANDING ANY TIME LIMITATION UNDER A STATUTE OF
23 LIMITATIONS, THE MARYLAND TORT CLAIMS ACT, THE LOCAL GOVERNMENT TORT
24 CLAIMS ACT, OR ANY OTHER LAW, AN ACTION FOR COMPENSATORY AND
25 NONECONOMIC DAMAGES FOR INJURIES SUSTAINED DUE TO LEAD POISONING
26 ALLEGEDLY CAUSED BY LEAD–BASED PAINT HAZARDS ON A PROPERTY MAY BE
27 FILED AT ANY TIME.

28 (D) THE OWNER OR MANAGER OF A PROPERTY IS STRICTLY LIABLE FOR
29 COMPENSATORY AND NONECONOMIC DAMAGES CAUSED BY LEAD POISONING
30 ARISING FROM LEAD–BASED PAINT HAZARDS ON THE PROPERTY AT THE TIME OF
31 OWNERSHIP OF THE PROPERTY.

32 (E) (1) LIMITATIONS ON NONECONOMIC DAMAGES UNDER § 11–108 OF

1 THIS ARTICLE DO NOT APPLY TO CLAIMS BROUGHT UNDER THIS SECTION.

2 (2) IN AN ACTION FILED UNDER THIS SECTION, THE STATE, A LOCAL
3 GOVERNMENT, OR A COUNTY SCHOOL BOARD MAY NOT RAISE A DEFENSE OF
4 SOVEREIGN IMMUNITY FOR CLAIMS EXCEEDING CLAIM LIMITS UNDER § 12-104 OF
5 THE STATE GOVERNMENT ARTICLE OR § 5-303 OR § 5-518 OF THIS TITLE.

6 (F) IT IS AN AFFIRMATIVE DEFENSE TO A CLAIM UNDER THIS SECTION THAT
7 AN OWNER OR MANAGER OF A PROPERTY WAS COMPLIANT WITH REQUIREMENTS
8 FOR LEAD-AFFECTED PROPERTIES UNDER TITLE 6, SUBTITLE 8 OF THE
9 ENVIRONMENT ARTICLE AT THE TIME OF THE PLAINTIFF'S ALLEGED EXPOSURE TO
10 LEAD-BASED PAINT HAZARDS ON THE PROPERTY.

11 5-303.

12 (a) (1) Except as provided in paragraphs (2), (3), and (4) of this subsection OR
13 § 5-122 OF THIS TITLE, the liability of a local government may not exceed \$400,000 per
14 an individual claim, and \$800,000 per total claims that arise from the same occurrence for
15 damages resulting from tortious acts or omissions, or liability arising under subsection (b)
16 of this section and indemnification under subsection (c) of this section.

17 (2) The limits on liability provided under paragraph (1) of this subsection
18 do not include interest accrued on a judgment.

19 (3) If the liability of a local government arises from intentional tortious acts
20 or omissions or a violation of a constitutional right committed by a law enforcement officer,
21 the following limits on liability apply:

22 (i) Subject to item (ii) of this paragraph, the combined award for
23 both economic and noneconomic damages may not exceed a total of \$890,000 for all claims
24 arising out of the same incident or occurrence, regardless of the number of claimants or
25 beneficiaries who share in the award; and

26 (ii) In a wrongful death action in which there are two or more
27 claimants or beneficiaries, an award for noneconomic damages may not exceed 150% of the
28 limitation established under item (i) of this paragraph, regardless of the number of
29 claimants or beneficiaries who share in the award.

30 (4) If the liability of a local government arises from a claim of sexual abuse,
31 as defined in § 5-117 of this title, the liability may not exceed \$890,000 to a single claimant
32 for injuries arising from an incident or occurrence.

33 5-518.

34 (b) [A] EXCEPT AS PROVIDED IN § 5-122 OF THIS TITLE, A county board of
35 education, described under Title 4, Subtitle 1 of the Education Article, may raise the

1 defense of sovereign immunity to:

2 (1) Any amount claimed above the limit of its insurance policy; or

3 (2) If self-insured or a member of a pool described under § 4-105(c)(1)(ii)
4 of the Education Article:

5 (i) Except as provided in item (ii) of this item, any amount above
6 \$400,000; or

7 (ii) If the liability of the county board of education arises from a
8 claim of sexual abuse, as defined in § 5-117 of this title, any amount above \$890,000 to a
9 single claimant for claims arising from an incident or occurrence.

10 (c) (1) Except as provided in [paragraph] **PARAGRAPHS (2) AND (3)** of this
11 subsection, a county board of education may not raise the defense of sovereign immunity to
12 any claim of \$400,000 or less.

13 (2) If liability of a county board of education arises under a claim of sexual
14 abuse, as defined in § 5-117 of this title, the liability may not exceed \$890,000 to a single
15 claimant for injuries arising from an incident or occurrence.

16 **(3) A COUNTY BOARD OF EDUCATION MAY NOT RAISE THE DEFENSE**
17 **OF SOVEREIGN IMMUNITY TO ANY AMOUNT CLAIMED UNDER § 5-122 OF THIS TITLE.**

18 11-108.

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) (i) “Noneconomic damages” means:

21 1. In an action for personal injury, pain, suffering,
22 inconvenience, physical impairment, disfigurement, loss of consortium, or other
23 nonpecuniary injury; and

24 2. In an action for wrongful death, mental anguish,
25 emotional pain and suffering, loss of society, companionship, comfort, protection, care,
26 marital care, parental care, filial care, attention, advice, counsel, training, guidance, or
27 education, or other noneconomic damages authorized under Title 3, Subtitle 9 of this
28 article.

29 (ii) “Noneconomic damages” does not include punitive damages.

30 (3) “Primary claimant” means a claimant in an action for the death of a
31 person described under § 3-904(d) of this article.

32 (4) “Secondary claimant” means a claimant in an action for the death of a

1 person described under § 3–904(e) of this article.

2 (b) (1) In any action for damages for personal injury in which the cause of
3 action arises on or after July 1, 1986, an award for noneconomic damages may not exceed
4 \$350,000.

5 (2) (i) Except as provided in paragraph (3)(ii) of this subsection, in any
6 action for damages for personal injury or wrongful death in which the cause of action arises
7 on or after October 1, 1994, an award for noneconomic damages may not exceed \$500,000.

8 (ii) The limitation on noneconomic damages provided under
9 subparagraph (i) of this paragraph shall increase by \$15,000 on October 1 of each year
10 beginning on October 1, 1995. The increased amount shall apply to causes of action arising
11 between October 1 of that year and September 30 of the following year, inclusive.

12 (3) (i) The limitation established under paragraph (2) of this subsection
13 shall apply in a personal injury action to each direct victim of tortious conduct and all
14 persons who claim injury by or through that victim.

15 (ii) In a wrongful death action in which there are two or more
16 claimants or beneficiaries, an award for noneconomic damages may not exceed 150% of the
17 limitation established under paragraph (2) of this subsection, regardless of the number of
18 claimants or beneficiaries who share in the award.

19 (e) The provisions of this section do not apply to [a]:

20 (1) A verdict under Title 3, Subtitle 2A of this article for damages in which
21 the cause of action arises on or after January 1, 2005; OR

22 (2) A VERDICT UNDER § 5–122 OF THIS ARTICLE FOR DAMAGES.

23 Article – State Government

24 12–104.

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

29 (2) (i) Except as provided in subparagraphs (ii) and (iii) of this
30 paragraph OR § 5–122 OF THE COURTS ARTICLE, the liability of the State and its units
31 may not exceed \$400,000 to a single claimant for injuries arising from a single incident or
32 occurrence.

33 (ii) If liability of the State or its units arises from intentional tortious

1 acts or omissions or a violation of a constitutional right committed by a law enforcement
2 officer, the following limits on liability shall apply:

3 1. subject to item 2 of this subparagraph, the combined
4 award for both economic and noneconomic damages may not exceed a total of \$890,000 for
5 all claims arising out of the same incident or occurrence, regardless of the number of
6 claimants or beneficiaries who share in the award; and

7 2. in a wrongful death action in which there are two or more
8 claimants or beneficiaries, an award for noneconomic damages may not exceed 150% of the
9 limitation established under item 1 of this item, regardless of the number of claimants or
10 beneficiaries who share in the award.

11 (iii) If liability of the State or its units arises under a claim of sexual
12 abuse, as defined in § 5–117 of the Courts Article, the liability may not exceed \$890,000 to
13 a single claimant for injuries arising from an incident or occurrence.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
15 apply retroactively to revive any action that was barred by the application of the period of
16 limitations applicable before October 1, 2024.

17 SECTION 3. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
18 the application of any provision of this Act to any person or circumstance is held invalid for
19 any reason in a court of competent jurisdiction, the invalidity does not affect other
20 provisions or any other application of this Act that can be given effect without the invalid
21 provision or application, and for this purpose the provisions of this Act are declared
22 severable.

23 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2024.