

HOUSE BILL 944

D3, J1
HB 1084/21 – JUD

EMERGENCY BILL

2lr1214

By: **Delegate Shoemaker**

Introduced and read first time: February 10, 2022

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Catastrophic Health Emergencies – Immunity From Civil Liability**

3 FOR the purpose of establishing that a certain person is not civilly liable for certain acts or
4 omissions relating to the person's failure to comply with guidance during a
5 catastrophic health emergency except under certain circumstances; providing for the
6 retroactive application of this Act; and generally relating to civil immunity and
7 catastrophic health emergencies.

8 BY adding to

9 Article – Courts and Judicial Proceedings

10 Section 5–427

11 Annotated Code of Maryland

12 (2020 Replacement Volume and 2021 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – Courts and Judicial Proceedings

15 Section 12–303

16 Annotated Code of Maryland

17 (2020 Replacement Volume and 2021 Supplement)

18 BY repealing and reenacting, without amendments,

19 Article – Public Safety

20 Section 14–3A–01

21 Annotated Code of Maryland

22 (2018 Replacement Volume and 2021 Supplement)

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

25 **Article – Courts and Judicial Proceedings**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **5-427.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (2) "CATASTROPHIC HEALTH EMERGENCY" HAS THE MEANING
5 STATED IN § 14-3A-01 OF THE PUBLIC SAFETY ARTICLE.

6 (3) "GUIDANCE" MEANS ANY STATE OR COUNTY ORDER,
7 DECLARATION, RULE, OR REGULATION ISSUED IN RESPONSE TO A CATASTROPHIC
8 HEALTH EMERGENCY.

9 (4) (I) "PERSON" MEANS AN INDIVIDUAL, A CORPORATION, A
10 BUSINESS TRUST, A PARTNERSHIP, A LIMITED LIABILITY COMPANY, AN
11 ASSOCIATION, A JOINT VENTURE, A GOVERNMENTAL AGENCY, A PUBLIC
12 CORPORATION, OR ANY OTHER LEGAL ENTITY.

13 (II) "PERSON" INCLUDES:

14 1. AN ORGANIZATION THAT IS EXEMPT FROM TAXATION
15 UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE;

16 2. A PUBLIC OR NONPUBLIC SCHOOL; AND

17 3. AN INSTITUTION OF HIGHER EDUCATION.

18 (B) A PERSON IS NOT CIVILLY LIABLE FOR AN ACT OR OMISSION RELATED
19 TO THE PERSON'S FAILURE TO COMPLY WITH GUIDANCE DURING A CATASTROPHIC
20 HEALTH EMERGENCY UNLESS IT IS SHOWN BY CLEAR AND CONVINCING EVIDENCE
21 THAT THE ACT OR OMISSION WAS COMMITTED WITH MALICE OR GROSS
22 NEGLIGENCE.

23 12-303.

24 A party may appeal from any of the following interlocutory orders entered by a circuit
25 court in a civil case:

26 (1) An order entered with regard to the possession of property with which
27 the action is concerned or with reference to the receipt or charging of the income, interest,
28 or dividends therefrom, or the refusal to modify, dissolve, or discharge such an order;

29 (2) An order granting or denying a motion to quash a writ of attachment;
30 and

(3) An order:

(i) Granting or dissolving an injunction, but if the appeal is from an order granting an injunction, only if the appellant has first filed his answer in the cause;

(ii) Refusing to dissolve an injunction, but only if the appellant has first filed his answer in the cause;

(iii) Refusing to grant an injunction; and the right of appeal is not prejudiced by the filing of an answer to the bill of complaint or petition for an injunction on behalf of any opposing party, nor by the taking of depositions in reference to the allegations of the bill of complaint to be read on the hearing of the application for an injunction;

(iv) Appointing a receiver but only if the appellant has first filed his answer in the cause;

(v) For the sale, conveyance, or delivery of real or personal property or the payment of money, or the refusal to rescind or discharge such an order, unless the delivery or payment is directed to be made to a receiver appointed by the court;

(vi) Determining a question of right between the parties and directing an account to be stated on the principle of such determination;

(vii) Requiring bond from a person to whom the distribution or delivery of property is directed, or withholding distribution or delivery and ordering the retention or accumulation of property by the fiduciary or its transfer to a trustee or receiver, or deferring the passage of the court's decree in an action under Title 10, Chapter 600 of the Maryland Rules;

(viii) Deciding any question in an insolvency proceeding brought under Title 15, Subtitle 1 of the Commercial Law Article;

(ix) Granting a petition to stay arbitration pursuant to § 3–208 of this article;

(x) Depriving a parent, grandparent, or natural guardian of the care and custody of his child, or changing the terms of such an order; [and]

(xi) Denying immunity asserted under § 5–525 or § 5–526 of this article; AND

(XII) DENYING IMMUNITY ASSERTED UNDER § 5–427 OF THIS ARTICLE.

Article – Public Safety

14–3A–01.

(a) In this subtitle the following words have the meanings indicated.

(b) “Catastrophic health emergency” means a situation in which extensive loss of life or serious disability is threatened imminently because of exposure to a deadly agent.

(c) “Deadly agent” means:

(1) anthrax, ebola, plague, smallpox, tularemia, or other bacterial, fungal, rickettsial, or viral agent, biological toxin, or other biological agent capable of causing extensive loss of life or serious disability;

(2) mustard gas, nerve gas, or other chemical agent capable of causing extensive loss of life or serious disability; or

(3) radiation at levels capable of causing extensive loss of life or serious disability.

(d) “Exposure to a deadly agent” means a threat to human health caused by the release, distribution, or transmission of a deadly agent in:

(1) this State; or

(2) another jurisdiction because of movement into the State of the deadly agent or of individuals exposed to the deadly agent.

(e) “Health care provider” means:

(1) a health care facility as defined in § 19–114(d)(1) of the Health – General Article;

(2) a health care practitioner as defined in § 19–114(e) of the Health – General Article; and

(3) an individual licensed or certified as an emergency medical services provider under § 13–516 of the Education Article.

(f) “Secretary” means the Secretary of Health.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect the liability of a person for acts or omissions related to the person’s failure to comply with guidance during a catastrophic health emergency occurring on or after March 5, 2020.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three–fifths of all the members elected to

1 each of the two Houses of the General Assembly, and shall take effect from the date it is
2 enacted.