

MARYLAND JUDICIAL CONFERENCE
OFFICE OF GOVERNMENT RELATIONS

Hon. Joseph M. Getty
Chief Judge

580 Taylor Avenue
Annapolis, MD 21401

MEMORANDUM

TO: Senate Finance Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 275
Labor and Employment – Family and Medical Leave Insurance
Program - Establishment
DATE: January 18, 2022
(2/10)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 275. The offered legislation provides for the introduction and implementation of a new program that would provide coverage to public employees, the self-employed, and service members for family and medical leave (FML) insurance. In order to qualify for program, the employee must meet the qualifications as a “covered employee,” which is defined as an individual who has worked 680 hours in the preceding twelve-month period. FML insurance would be for both the individual and family members that suffer from a serious health condition as defined under the application year which is defined as a twelve month period beginning on the first day of the calendar week in which the covered individual files an application for benefits.

This bill raises separation of power concerns as it impedes the Judiciary’s independence. Article IV, §18(b)(1) identifies the Chief Judge of the Court of Appeals as the administrative head of the Maryland Judiciary. The power to administer the Judiciary is not an implied or inherent power but is an express constitutional power of the Chief Judge. This constitutional authority includes managing the Judiciary’s personnel.

The Judiciary has its own comprehensive personnel system with policies that address recruitment, supervision, grievances, and termination. The Judiciary is exempt from those aspects of the State Personnel Management System. Indeed, in 1996, as part of the comprehensive personnel reform bill, the General Assembly enacted State Personnel and Pensions Article §2-201, which says “Except as otherwise provided by law, an employee in the Judicial, Legislative, or Executive Branch of State Government is governed by the laws and personnel policies and procedures applicable in that branch.” The Judiciary, therefore, submits that the same principle should be applied here: that this legislation should not be applied to the Judiciary.

The bill could also have a large operational impact on the Judiciary workforce as it expands leave benefits beyond what is currently allowed by Judiciary policy and the federal Family and Medical Leave Act, potentially leading to increased absences. The increased absences could have an operational impact, the extent of which could be substantial.

Finally, this legislation could have a significant fiscal impact on the Judiciary at an initial cost in excess of \$1 million. This cost has not been budgeted by the Judiciary.

cc. Hon. Antonio Hayes
Judicial Council
Legislative Committee
Kelley O'Connor