

**MARYLAND JUDICIAL CONFERENCE**  
**GOVERNMENT RELATIONS AND PUBLIC AFFAIRS**

Hon. Matthew J. Fader  
Chief Justice

187 Harry S. Truman Parkway  
Annapolis, MD 21401

**MEMORANDUM**

**TO:** Senate Finance Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** Senate Bill 214  
Employment – Harassment and Intimidation – Reporting  
(Workplace Psychological Safety Act)  
**DATE:** February 8, 2023  
(2/9)  
**POSITION:** Oppose

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The Maryland Judiciary opposes Senate Bill 214. This bill primarily sets up a program for the Department of Labor to collect reports of “harassment or intimidation” against employees through the use of a “standard victim of harassment or intimidation reporting form” and possibly an anonymous electronic tip line. The bill then requires the Commissioner of Labor and Industry to prepare an annual report to the Legislature that summarizes the harassment and intimidation reporting for the preceding year.

This bill appears to apply to the Judiciary. This bill creates “harassment or intimidation” as a concept for occupational health and safety – which is confusing as there is an existing agency, the Md. Commission on Civil Rights, that is focused on harassment.

Also, the definition of harassment in this bill overlaps in part with the current definition in anti-discrimination laws. But it also adds things that are outside the scope as potential forms of “harassment or intimidation” – like hiring incompetent subordinates, and treatment that is based on physical appearance or socioeconomic status. Neither of those two characteristics are protected under state or federal law.

This would create confusion for employees, managers and offices that work to prevent harassment. For instance, someone reporting to the occupational health and safety tip line could be confused that there are separate, existing reporting procedures for workplace harassment that have obligations to do investigations. This bill is written as an information collection framework for a wide range of workplace grievances but does not address how to resolve them.

Furthermore, confusion arises as to whether there is any sort of investigation requirement by either employers or the Commissioner. The bill does not mention anything about employers having to investigate complaints of “harassment or intimidation” as defined in

the bill. Nor does it say that the Commissioner must investigate complaints. It only says that employers must pass along reports of any incidents that it receives and that the Commissioner must submit an annual report to the Legislature about the information it has received.

The two required elements of those reports are “a description of corrective actions taken by the employer or the Commissioner after receipt of the” victim reporting forms and “the number of unsubstantiated allegations reported.” It should be noted that this bill does not require the reports to include the total number of reports received or the number of substantiated reports. Without either of those figures, the number of unsubstantiated reports would seem to have zero context. Lastly, these elements of the reports seem to imply that employers or the Commissioner must investigate the reports, but nothing in the bill mandates this.

cc. Hon. Arthur Ellis  
Judicial Council  
Legislative Committee  
Kelley O'Connor