



THE MARYLAND-NATIONAL CAPITAL
Park and Planning Commission

POSITION STATEMENT

Informational

Bill: SB 1061 Employee Autoimmune Disorder Protection Act

Position: Informational

Date: March 12, 2024

Contact: Debra Borden, General Counsel

Jordan Baucum Colbert, Government Affairs Liaison

Dear Chair Pamela Beidle and Vice Chair Katherine Klausmeier

The Maryland-National Capital Park and Planning Commission (M-NCPPC or “the Commission”) has authorized Commission staff to prepare an informational statement. The Commission respectfully requests that the Finance committee consider this information and include it in the record.

What this bill Does. This bill seeks to prohibit an employer from requiring an employee to work on-site at the employer’s workplace if the employee provides documentation from a physician or other licensed health care practitioner that the employee has been diagnosed with an autoimmune disorder or other qualifying illness and certain other conditions are met; and generally relating to employment of individuals with autoimmune disorders. This bill also subjects an employer to a civil penalty for non-compliance of this bill.

Americans with Disabilities Act (ADA) Accommodations. As pandemic public health measures wind down, the Commission understands the importance of considering how people with compromised immune system might keep themselves safe and healthy in the workplace. For example, the Commission treats a request for ADA accommodations for an individual with a compromised immune system the same as any other request for ADA accommodations and considers the essential functions of that person’s position. However, if their essential job functions require

them to work onsite, or work with equipment/materials that are only found onsite, the analysis would be quite different than an employee who solely works at a computer and can more readily work remotely.

Costs and Benefits. This bill in its current form has the potential to increase administrative costs to review requests and determine appropriate accommodations for staff who believe they have a qualifying illness. While the Commission has a good process in place for ADA accommodations, this law would add to that complexity legally and in practice. Additionally, considering aggregated medical insurance plan data, more employees may have these conditions than are currently requesting ADA accommodations, so we anticipate an increase in administrative workload if this bill becomes law.

Non-Remote Jobs. Many Commission staff members are already equipped to work from home due to the Pandemic. However, the Commission has several positions that require staff to work onsite. For example, we employ individuals to perform courier services. That courier would not be able to do his job remotely. This bill does not provide information on whether this type of position would qualify to work from home. Another example of concern would be a Park Maintenance worker. It is unclear how this law could be implemented for those types of positions, some of which are covered by collective bargaining agreements. The intersection of this law, with current federal requirements in the ADA, the Rehabilitation Act and other disability laws and existing collective bargaining agreements is hard to ascertain. Also, this bill lacks information on how long someone would need to telework. Would the option to telework be indefinite? What if we had to hire another person to handle the onsite duties of the person on indefinite telework? This seems to contradict the ADA which requires an employee to be able to perform the essential functions of the job with or without accommodation.