

SENATE BILL 388

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By: **Senators Benson, Augustine, Hayes, Kagan, King, Patterson, and Sydnor**
Introduced and read first time: January 27, 2020
Assigned to: Finance and Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Circuit Courts and District Court of Maryland Employees – Collective**
3 **Bargaining**

4 FOR the purpose of establishing collective bargaining rights for certain employees of the
5 circuit courts and the District Court of Maryland; establishing the State Judicial
6 Employees Labor Relations Board as an independent unit of State government;
7 providing for the composition, chair, staffing, powers, and duties of the Board;
8 providing for the staggering of terms of the members of the Board; requiring the
9 Board to appoint an Executive Director of the Board; specifying the powers and
10 duties of the Executive Director; requiring the Board to recognize one statewide
11 bargaining unit; requiring the Board to adopt certain regulations related to the
12 establishment of a certain bargaining unit and the designation of an exclusive
13 representative; requiring the Board to conduct certain investigations; authorizing
14 the Board to hold certain hearings under certain circumstances; authorizing certain
15 persons to petition a certain court for a certain purpose; applying certain provisions
16 of law to certain employees, the District Court of Maryland, the Chief Judge of the
17 District Court, the Administrative Office of the Courts, and the exclusive
18 representative for certain employees; providing for the duties of a certain exclusive
19 representative; requiring the circuit courts and the District Court of Maryland and
20 an employee organization to negotiate in a certain manner under certain
21 circumstances; requiring the Board to conduct a certain hearing or authorize a
22 certain arbitrator to conduct a hearing for a certain purpose under certain
23 circumstances; requiring collective bargaining to include certain matters;
24 authorizing collective bargaining to include negotiations relating to service fees;
25 providing that negotiations shall conclude with a memorandum of understanding
26 that covers certain matters; providing that a memorandum of understanding is not
27 valid under certain circumstances; providing for the ratification of a memorandum
28 of understanding; defining a certain term; specifying the terms of the initial
29 members of the Board; and generally relating to collective bargaining for employees
30 of the circuit courts and the District Court of Maryland.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Courts and Judicial Proceedings
3 Section 2–609
4 Annotated Code of Maryland
5 (2013 Replacement Volume and 2019 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 **2–609.**

10 (A) IN THIS SECTION, “COLLECTIVE BARGAINING” HAS THE MEANING
11 STATED IN § 3–101 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

12 (B) CLERICAL, ADMINISTRATIVE CONSTABULARY, AND MAINTENANCE AND
13 HOUSEKEEPING EMPLOYEES OF THE CIRCUIT COURTS AND THE DISTRICT COURT
14 SHALL HAVE THE RIGHT TO:

15 (1) SELF ORGANIZATION;

16 (2) BARGAIN COLLECTIVELY THROUGH AN EMPLOYEE
17 ORGANIZATION THAT IS AN EXCLUSIVE REPRESENTATIVE OF THE EMPLOYEES’ OWN
18 CHOOSING; AND

19 (3) ENGAGE IN, OR REFRAIN FROM ENGAGING IN, OTHER CONCERTED
20 ACTIVITIES FOR THE PURPOSE OF COLLECTIVE BARGAINING OR OTHER MUTUAL AID
21 OR PROTECTION.

22 (C) (1) THERE IS A STATE JUDICIAL EMPLOYEES LABOR RELATIONS
23 BOARD ESTABLISHED AS AN INDEPENDENT UNIT OF STATE GOVERNMENT.

24 (2) THE BOARD CONSISTS OF THE FOLLOWING FIVE MEMBERS:

25 (I) ONE MEMBER REPRESENTING THE PUBLIC, APPOINTED BY
26 THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE, WHO:

27 1. IS NOT AN OFFICER OR EMPLOYEE OF THE STATE OR
28 A STATE EMPLOYEE ORGANIZATION; AND

29 2. IS NOT AN ELECTED OFFICIAL OF THE STATE OR A
30 STATE EMPLOYEE ORGANIZATION;

1 **(II) ONE MEMBER OF THE STATE JUDICIARY, APPOINTED BY**
2 **THE CHIEF JUDGE OF THE COURT OF APPEALS;**

3 **(III) ONE MEMBER OF THE NATIONAL ACADEMY OF**
4 **ARBITRATORS, OR WHO IS RECOMMENDED BY THE AMERICAN ARBITRATION**
5 **ASSOCIATION, WITH KNOWLEDGE OF AND EXPERIENCE IN PERSONNEL AND**
6 **COLLECTIVE BARGAINING MATTERS, APPOINTED BY THE GOVERNOR;**

7 **(IV) ONE MEMBER APPOINTED BY THE CHIEF JUDGE OF THE**
8 **COURT OF APPEALS FROM A LIST OF CANDIDATES RECOMMENDED BY THE**
9 **PRESIDENT OF THE SENATE WHO:**

10 **1. IS NOT AN OFFICER OR EMPLOYEE OF THE STATE OR**
11 **A STATE EMPLOYEE ORGANIZATION; AND**

12 **2. IS NOT AN ELECTED OFFICIAL OF THE STATE OR A**
13 **STATE EMPLOYEE ORGANIZATION; AND**

14 **(V) ONE MEMBER APPOINTED BY THE CHIEF JUDGE OF THE**
15 **COURT OF APPEALS FROM A LIST PROVIDED BY THE SPEAKER OF THE HOUSE WHO:**

16 **1. IS NOT AN OFFICER OR EMPLOYEE OF THE STATE OR**
17 **A STATE EMPLOYEE ORGANIZATION; AND**

18 **2. IS NOT AN ELECTED OFFICIAL OF THE STATE OR A**
19 **STATE EMPLOYEE ORGANIZATION.**

20 **(3) THE FIVE BOARD MEMBERS SHALL BE:**

21 **(I) KNOWN FOR OBJECTIVE AND INDEPENDENT JUDGMENT;**

22 **(II) RESIDENTS OF THE STATE; AND**

23 **(III) REGISTERED TO VOTE IN THE STATE.**

24 **(4) BEFORE TAKING OFFICE, EACH MEMBER SHALL TAKE THE OATH**
25 **REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.**

26 **(5) FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR.**

27 **(6) (I) THE TERM OF A MEMBER IS 5 YEARS.**

28 **(II) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY**

1 THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON JULY 1, 2020.

2 (III) A VACANCY SHALL BE FILLED FOR AN UNEXPIRED TERM IN
3 THE SAME MANNER AS AN ORIGINAL APPOINTMENT.

4 (IV) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE
5 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

6 (V) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN
7 SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED
8 AND QUALIFIES.

9 (7) THE GOVERNOR OR THE CHIEF JUDGE OF THE COURT OF
10 APPEALS MAY REMOVE A MEMBER OF THE BOARD ONLY FOR INCOMPETENCE,
11 MISCONDUCT, OR WILLFUL NEGLECT OF DUTY.

12 (8) (I) A MAJORITY OF THE VOTING MEMBERS SHALL CONSTITUTE
13 A QUORUM FOR:

14 1. THE TRANSACTION OF BUSINESS; OR

15 2. THE EXERCISE OF ANY POWER OR THE
16 PERFORMANCE OF ANY DUTY AUTHORIZED OR IMPOSED BY LAW.

17 (II) NO FORMAL ACTION MAY BE TAKEN BY THE BOARD
18 WITHOUT THE APPROVAL OF A MAJORITY OF THE VOTING MEMBERS OF THE BOARD.

19 (9) THE BOARD SHALL SET THE TIMES AND PLACES OF ITS MEETINGS,
20 CONSISTENT WITH TITLE 10, SUBTITLES 1 AND 5 OF THE STATE GOVERNMENT
21 ARTICLE.

22 (10) A MEMBER OF THE BOARD IS ENTITLED TO:

23 (I) THE COMPENSATION PROVIDED IN THE STATE BUDGET;
24 AND

25 (II) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD
26 STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

27 (11) (I) THE STATE JUDICIAL EMPLOYEES LABOR RELATIONS
28 BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR OF THE BOARD.

29 (II) THE EXECUTIVE DIRECTOR:

- 1 1. IS RESPONSIBLE TO AND SERVES AT THE PLEASURE
2 OF THE BOARD;
- 3 2. SHALL ISSUE ALL NOTICES OF MEETINGS AND
4 HEARINGS;
- 5 3. SHALL PREPARE AND PUBLISH THE MEETING
6 AGENDA; AND
- 7 4. IS ENTITLED TO THE SALARY PROVIDED IN THE
8 STATE BUDGET.

9 (III) THE EXECUTIVE DIRECTOR SHALL PERFORM THE DUTIES
10 THAT THE BOARD ASSIGNS, INCLUDING:

- 11 1. OPERATING THE OFFICE OF THE BOARD; AND
- 12 2. KEEPING THE OFFICIAL RECORDS OF THE BOARD.

13 (IV) THE EXECUTIVE DIRECTOR MAY HIRE ANY STAFF
14 NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION.

15 (V) 1. WITH APPROVAL OF THE BOARD, THE EXECUTIVE
16 DIRECTOR MAY EMPLOY PROFESSIONAL CONSULTANTS.

17 2. EACH PROFESSIONAL CONSULTANT SERVES AT THE
18 PLEASURE OF THE EXECUTIVE DIRECTOR.

19 (12) THE BOARD:

20 (I) IS RESPONSIBLE FOR ADMINISTERING AND ENFORCING
21 PROVISIONS OF THIS SECTION; AND

22 (II) SHALL RECOGNIZE ONE STATEWIDE BARGAINING UNIT
23 COMPRISING ALL CLERICAL, ADMINISTRATIVE CONSTABULARY, AND MAINTENANCE
24 AND HOUSEKEEPING EMPLOYEES OF THE CIRCUIT COURTS AND THE DISTRICT
25 COURT.

26 (13) IN ADDITION TO ANY OTHER POWERS OR DUTIES PROVIDED FOR
27 ELSEWHERE IN THIS SECTION, THE BOARD, CONSISTENT WITH TITLE 10 OF THE
28 STATE GOVERNMENT ARTICLE, SHALL ADOPT REGULATIONS THAT:

1 **(I) ESTABLISH GUIDELINES FOR ESTABLISHING THE**
2 **BARGAINING UNIT THAT TAKE INTO CONSIDERATION:**

3 **1. THE ADMINISTRATIVE STRUCTURES OF THE**
4 **DISTRICT COURT AS AN EMPLOYER;**

5 **2. THE EXISTING FUNCTIONS OF THE ADMINISTRATIVE**
6 **OFFICE OF THE DISTRICT COURT;**

7 **3. THE RECOMMENDATIONS OF THE EXECUTIVE**
8 **DIRECTOR;**

9 **4. THE DESIRES OF THE EMPLOYEES INVOLVED;**

10 **5. THE COMMUNITIES OF INTEREST OF THE EMPLOYEES**
11 **INVOLVED; AND**

12 **6. THE WAGES, HOURS, AND OTHER WORKING**
13 **CONDITIONS OF THE EMPLOYEES INVOLVED; AND**

14 **(II) ESTABLISH PROCEDURES THAT ARE CONSISTENT WITH §§**
15 **3-401, 3-402, 3-404, AND 3-406 OF THE STATE PERSONNEL AND PENSIONS**
16 **ARTICLE FOR THE DETERMINATION OF QUESTIONS RELATING TO**
17 **REPRESENTATION, INCLUDING:**

18 **1. THE PROPER MANNER OF PETITIONING BY EMPLOYEE**
19 **ORGANIZATIONS;**

20 **2. THE ANNOUNCEMENT, CONDUCT, AND SUPERVISION**
21 **OF A SECRET BALLOT ELECTION FOR THE DETERMINATION OR DECERTIFICATION**
22 **OF AN EXCLUSIVE REPRESENTATIVE; AND**

23 **3. CERTIFICATION OF AN EXCLUSIVE REPRESENTATIVE.**

24 **(14) THE BOARD SHALL:**

25 **(I) INVESTIGATE AND TAKE APPROPRIATE ACTION IN**
26 **RESPONSE TO COMPLAINTS OF UNFAIR LABOR PRACTICES AND LOCKOUTS;**

27 **(II) INVESTIGATE ANY ALLEGED VIOLATION OF THIS SECTION**
28 **OR ANY REGULATION ADOPTED UNDER THIS SECTION; AND**

29 **(III) INVESTIGATE ANY OTHER RELEVANT MATTER.**

1 **(15) THE BOARD MAY HOLD A HEARING IN ACCORDANCE WITH TITLE**
2 **10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE WHENEVER NECESSARY FOR**
3 **A FAIR DETERMINATION OF ANY ISSUE OR COMPLAINT ARISING UNDER THIS**
4 **SECTION OR ANY REGULATION ADOPTED UNDER THIS SECTION.**

5 **(16) IF A PERSON FAILS TO COMPLY WITH AN ORDER ISSUED BY THE**
6 **BOARD, A PERSON AGGRIEVED, A MEMBER OF THE BOARD, OR THE BOARD IN ITS**
7 **OWN NAME, MAY PETITION THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY TO**
8 **ORDER THE PERSON TO COMPLY WITH THE BOARD'S ORDER.**

9 **(17) THE BOARD MAY NOT BE REQUIRED TO POST BOND IN AN ACTION**
10 **UNDER PARAGRAPH (16) OF THIS SUBSECTION.**

11 **(D) ALL EMPLOYEES COVERED BY THIS SECTION ARE SUBJECT TO THE**
12 **PROVISIONS OF §§ 3-301, 3-303, AND 3-305(B) OF THE STATE PERSONNEL AND**
13 **PENSIONS ARTICLE.**

14 **(E) THE DISTRICT COURT, THE CHIEF JUDGE OF THE DISTRICT COURT,**
15 **AND THE ADMINISTRATIVE OFFICE OF THE COURTS ARE SUBJECT TO THE**
16 **PROVISIONS OF §§ 3-302, 3-304, AND 3-305(A) OF THE STATE PERSONNEL AND**
17 **PENSIONS ARTICLE.**

18 **(F) (1) UNFAIR LABOR PRACTICES PROHIBITED UNDER § 3-306(A) OF**
19 **THE STATE PERSONNEL AND PENSIONS ARTICLE SHALL APPLY TO THE DISTRICT**
20 **COURT, THE CHIEF JUDGE OF THE DISTRICT COURT, AND THE ADMINISTRATIVE**
21 **OFFICE OF THE COURTS.**

22 **(2) UNFAIR LABOR PRACTICES PROHIBITED UNDER § 3-306(B) OF**
23 **THE STATE PERSONNEL AND PENSIONS ARTICLE SHALL APPLY TO THE EXCLUSIVE**
24 **REPRESENTATIVE FOR COVERED EMPLOYEES OF THE CIRCUIT COURTS AND THE**
25 **DISTRICT COURT.**

26 **(G) AN EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE**
27 **REPRESENTATIVE SHALL:**

28 **(1) SERVE AS THE SOLE AND EXCLUSIVE BARGAINING AGENT FOR ALL**
29 **EMPLOYEES IN THE BARGAINING UNIT;**

30 **(2) REPRESENT FAIRLY AND WITHOUT DISCRIMINATION ALL**
31 **EMPLOYEES IN THE BARGAINING UNIT, WHETHER OR NOT THE EMPLOYEES ARE**
32 **MEMBERS OF THE EMPLOYEE ORGANIZATION OR ARE PAYING DUES OR OTHER**
33 **CONTRIBUTIONS TO IT OR ARE PARTICIPATING IN ITS AFFAIRS; AND**

1 **(3) PROMPTLY FILE WITH THE BOARD ALL CHANGES AND**
2 **AMENDMENTS TO THE ORGANIZATION’S GOVERNING DOCUMENTS.**

3 **(H) (1) THE OBLIGATION OF THE PARTIES TO ENGAGE IN COLLECTIVE**
4 **BARGAINING SHALL BEGIN ON CERTIFICATION OF AN EXCLUSIVE REPRESENTATIVE**
5 **AND INCLUDE NEGOTIATION OVER THE TERMS OF A MEMORANDUM OF**
6 **UNDERSTANDING.**

7 **(2) (I) IF THE PARTIES DO NOT CONCLUDE NEGOTIATIONS FOR**
8 **THE NEXT FISCAL YEAR BEFORE OCTOBER 25, ON DEMAND OF THE CHIEF JUDGE**
9 **OF THE DISTRICT COURT, THE ADMINISTRATIVE OFFICE OF THE COURTS, OR THE**
10 **EXCLUSIVE REPRESENTATIVE, THE BOARD SHALL:**

11 **1. CONDUCT A HEARING; OR**

12 **2. AUTHORIZE AN ARBITRATOR ADMITTED TO THE**
13 **NATIONAL ACADEMY OF ARBITRATORS TO CONDUCT A HEARING.**

14 **(II) THE PURPOSE OF A HEARING CONDUCTED UNDER**
15 **SUBPARAGRAPH (I) OF THIS PARAGRAPH IS FACT-FINDING TO RESOLVE THE MAJOR**
16 **ISSUES IN DISPUTE AND ISSUE A WRITTEN STATEMENT OF FINDINGS AND**
17 **RECOMMENDATIONS AS TO APPROPRIATE TERMS AND CONDITIONS OF**
18 **EMPLOYMENT.**

19 **(I) (1) COLLECTIVE BARGAINING SHALL INCLUDE ALL MATTERS**
20 **RELATING TO WAGES, HOURS, AND OTHER TERMS AND CONDITIONS OF**
21 **EMPLOYMENT.**

22 **(2) COLLECTIVE BARGAINING MAY INCLUDE NEGOTIATIONS**
23 **RELATING TO THE RIGHT OF AN EMPLOYEE ORGANIZATION TO RECEIVE SERVICE**
24 **FEEES FROM NONMEMBERS CONSISTENT WITH § 3-502(B) OF THE STATE PERSONNEL**
25 **AND PENSIONS ARTICLE.**

26 **(3) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE**
27 **DISTRICT COURT AND THE CIRCUIT COURTS, AND THE EXCLUSIVE**
28 **REPRESENTATIVE:**

29 **(I) MAY NOT BE REQUIRED TO NEGOTIATE OVER ANY MATTER**
30 **THAT IS INCONSISTENT WITH APPLICABLE LAW; AND**

31 **(II) MAY NEGOTIATE AND REACH AGREEMENT WITH REGARD TO**
32 **A MATTER THAT IS INCONSISTENT WITH APPLICABLE LAW ONLY IF IT IS**

1 UNDERSTOOD THAT THE AGREEMENT WITH RESPECT TO THE MATTER CANNOT
2 BECOME EFFECTIVE UNLESS THE APPLICABLE LAW IS AMENDED BY THE GENERAL
3 ASSEMBLY.

4 (J) (1) NEGOTIATIONS SHALL CONCLUDE WITH A MEMORANDUM OF
5 UNDERSTANDING THAT COVERS ALL MATTERS OF AGREEMENT REACHED IN THE
6 COLLECTIVE BARGAINING PROCESS.

7 (2) A MEMORANDUM OF UNDERSTANDING IS NOT VALID IF IT
8 EXTENDS FOR LESS THAN 1 YEAR OR FOR MORE THAN 3 YEARS.

9 (3) (I) A MEMORANDUM OF UNDERSTANDING MAY NOT TAKE
10 EFFECT UNLESS IT IS RATIFIED BY:

11 1. A SECRET BALLOT VOTE OF A MAJORITY OF THE
12 EMPLOYEES VOTING IN THE BARGAINING UNIT; AND

13 2. THE SIGNATURE OF THE CHIEF JUDGE OF THE
14 COURT OF APPEALS.

15 (II) ON RATIFICATION OF THE MEMORANDUM OF
16 UNDERSTANDING UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE
17 MEMORANDUM OF UNDERSTANDING SHALL:

18 1. BE SIGNED BY THE CHIEF JUDGE OF THE DISTRICT
19 COURT AND THE PRINCIPAL EXECUTIVE OFFICER OF THE EXCLUSIVE
20 REPRESENTATIVE; AND

21 2. TAKE EFFECT AS OF THE EFFECTIVE DATE AGREED
22 TO BY THE PARTIES AS STATED IN THE MEMORANDUM OF UNDERSTANDING.

23 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial
24 members of the State Judicial Employees Labor Relations Board shall expire as follows:

25 (1) two members in 2022;

26 (2) two members in 2023; and

27 (3) one member in 2024.

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
29 1, 2020.