



**KSC** KAHN  
SMITH &  
COLLINS, P.A.

Attorneys At Law

201 North Charles Street • Tenth Floor  
Baltimore, Maryland 21201

410-244-1010 phone  
410-244-8001 fax  
877-244-1212 toll free  
[www.kahnsmith.com](http://www.kahnsmith.com)

Joel A. Smith  
Francis J. Collins  
Keith J. Zimmerman  
David Gray Wright  
Christopher R. Ryon  
Christopher Smith  
Heather Hellman  
Ernie Dominguez  
Trevonne Walford  
David Maher

## **SB 388 – Circuit Court and District Courts Employees - Collective Bargaining**

As labor counsel for AFSCME Council 3, we support SB 388. This bill extends collective bargaining rights to clerical, administrative, constabulary, maintenance, and housekeeping employees of the circuit courts and the district court of Maryland. It also establishes the State Judicial Employees Labor Relations Board as an independent unit of State government to administer and enforce these rights. The bill is, of course, lawful and constitutional, and it is by all measures appropriate and routine.

The General Assembly has the power to enact legislation concerning employees of the Judiciary. The Office of the Attorney General confirmed and elaborated on that power in a 1980 opinion. That opinion remains standing. The General Assembly may enact legislation governing such matters as hiring, compensation, promotion, discipline, and establishment of a personnel system governing employees of the Judiciary. The General Assembly has routinely enacted such legislation. To do so does not violate the separation of powers clause of the Constitution because to do so “does not usurp the judicial power and permits the courts to effectively exercise the judicial power, the General Assembly is not precluded from exercising its plenary power on matters affecting the Judiciary, and the inherent powers of the courts are qualified by the exercise of this legislative power.” 65 Md. Op. Atty Gen. 309 (1980).

Other states have extended collective bargaining rights to their judiciary employees. Judiciary employees in at least sixteen (16) states have a voice in their wages and terms and conditions of employment. Those states include California, Connecticut, Delaware, Illinois, Iowa, Maine, Massachusetts, Minnesota, New Jersey, New Hampshire, New York, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington.

In Maryland, the General Assembly has granted collective bargaining rights to State executive branch employees and public higher education employees, as well as many public safety employees. Among those employees are sheriffs’ deputies, police, and other personnel who work in courthouses alongside Judiciary employees. Collective bargaining is established and working in Maryland and there is no basis in law to exclude Judiciary employees from those rights.

While the General Assembly has the power enact this legislation, SB 388 was structured and drafted to address concerns raised in the past by Chief Judges of the Court of Appeals in testimony and letters. In particular, SB 388 grants the Judiciary control in the make-up of the State Judicial Employees Labor Relations Board. Past bills seeking to establish collective bargaining for employees of the Judiciary gave the Governor the appointment power over members of the Board. While such a structure would have been lawful, SB 388 addresses this issue by making three members of the Board—a voting majority—appointed by the Chief Judge of the Court of Appeals. Allowing the Judiciary to retain control over membership of the Board accommodate the concern stated in relation to prior bills.

SB 388 is a wholly lawful exercise of the General Assembly’s power to give more State employees a voice in the workplace and to help ensure those working in the administration of justice have a just and fair workplace.