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Maryland Association for Justice, Inc.

2020 Position Paper

SB 550 Constitutional Amendment – Civil Jury Trials SB 551 Courts – Civil Jury Trials – Amount in Controversy

FAVORABLE

The Maryland Association for Justice (MAJ) supports an amendment to the Maryland Constitution to increase the amount in controversy required to demand a jury trial pursuant to the Maryland Rules to Thirty Thousand Dollars (\$30,000.00).

This amendment would allow more cases to be adjudicated in District Court, which currently has exclusive original jurisdiction in civil cases with an amount in controversy up to \$5,000, and concurrent jurisdiction with the Circuit Court in matters with an amount in controversy above \$5,000 and up to \$30,000, exclusive of prejudgment interest and costs.

The Maryland Constitution drafted in the 1850 Convention established an amount in controversy of Five Dollars (\$5.00). Beginning in 1970, the amount in controversy requirement has increased: to \$500 in 1970; to \$5,000 in 1982; to \$10,000 in 1998; and to \$15,000 in 2010. In general, these increases were necessitated by the ever-increasing costs of discovery and litigation in the Circuit Court.

Take, for example, a personal injury action involving medical expert testimony. Medical experts charge for their time by the hour – to review documents, consult with an attorney, prepare for and give deposition testimony, and prepare for and testify at trial. Charges for a medical expert's time typically are measured by the physician's average hourly income seeing patients. If a medical expert charged \$100 an hour in 1982, a comparable medical expert today might charge \$500 an hour (or more, depending on the expert's specialization), because the value of physician time increases according to *medical inflation*, a component of the Consumer Price Index (CPI) that increases much faster than ordinary inflation.

Because medical experts charge increasingly more for their time, the cost of a single medical expert easily can exceed \$10,000 in a single case.

District Court has distinct advantages in cases where the amount in controversy is lower. Trials in District Court are generally shorter, commonly lasting less than one day. In addition, discovery is limited in District Court actions, resulting in substantially lower litigation costs. Moreover, evidence can be presented from medical experts without the need for live testimony.

Claims with a lower amount in controversy cannot be litigated economically in the Circuit Court, particularly when those claims require medical expert testimony; the high costs of expert witnesses and discovery in the Circuit Court make such cases uneconomical to pursue, essentially putting justice out of reach for plaintiffs with smaller claims. To keep pace with medical inflation, the amount in controversy threshold for removing cases from District Court to Circuit Court must be increased.

**MAJ respectfully urges a
FAVORABLE REPORT**

BCA_UNF_SB550

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BERNARD C. "JACK" YOUNG
MAYOR

*Office of Government Relations
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SB 550

February 18, 2020

TO: Members of the Senate Judicial Proceedings Committee
FROM: Nicholas Blendy, Deputy Director of Government Relations
RE: Senate Bill 550 - Constitutional Amendment - Civil Jury Trials
POSITION: OPPOSE

Chair Smith, Vice Chair Waldstreicher, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **opposes** Senate Bill (SB) 550.

SB 550 proposes a Constitutional amendment to increase, from more than \$15,000 to more than \$30,000, the amount in controversy in civil proceedings for which a trial by jury may be requested. SB 550 is a Constitutional amendment needed to allow for the change in the Code provisions.

Under current law, a plaintiff can elect to have their case tried in District Court for matters up to \$30k. However, for matters in excess of \$15,000, the defendant could decide to request a jury trial in Circuit Court. Because of the exposure to liability, defendants sometimes prefer Circuit Court as this would subject the plaintiff's claims to more vetting through full discovery (i.e., interrogatories, requests for documents, depositions and admissions). This allows for a balance between the plaintiff's wishes and the defendant's concerns. Increasing the jury trial level to \$30,000, as contemplated by SB 550, would allow plaintiffs to dictate all aspects of the litigation for all matters up to \$30,000. Defendants facing up to \$30,000 in liability will no longer be able to vet these claims through full discovery by having the matter transferred to Circuit Court by praying a jury trial. The present balance between the interests of both parties will be lost for matters between \$15,000 and \$30,000 and would be replaced by a system purely in the hands of plaintiffs.

Where this impacts the BCA is that this change will likely increase the amount of suits filed, as plaintiffs will be able to bring any lawsuit up to \$30,000 in District Court with limited pre-trial opportunity for defendants to winnow out weaker claims. For example, in District Court there is no opportunity for either party to seek summary judgment. Therefore, a plaintiff would be able to bring a suit seeking \$30,000 with the barest of facts in the complaint and only have to answer to fifteen interrogatories before they are allowed to proceed to trial. This will add to the burden on the judiciary, as claims that otherwise could not be substantiated and survive a summary judgment motion would now be on the trial docket.

The BCA notes that \$30,000 is not an inconsequential amount of damages; these add up. Defendants will need to devote additional resources to properly defend these larger potential liabilities without the possibility of full discovery. SB 550 would likely increase the total number of lawsuits, increasing the exposure on those additional suits, and limiting the availability of investigatory methods, the Bills will have a negative financial impact on cities and counties.

We respectfully request an **unfavorable** report on Senate Bill 550.

Robert Enten_ UNF_SB 550

Uploaded by: Enten, D. Robert

Position: UNF

Testimony of
American Property Casualty Insurance Association (APCIA)
Senate Judicial Proceedings Committee
SB0551 Courts - Civil Jury Trials - Amount in Controversy
SB0550 Constitutional Amendment - Civil Jury Trials - Amount in Controversy
February 18, 2020

Letter of Opposition

The American Property Casualty Insurance Association (APCIA) is a national trade organization representing nearly 60 percent of the U.S. property casualty insurance market. APCIA appreciates the opportunity to provide written comments in opposition to Senate Bill 550 and its companion Senate Bill 551. Senate Bill 550 is the constitutional amendment needed to allow for the change as required by the Maryland Declaration of Rights. Senate Bill 551 amends the provision in the Courts and Judicial Proceedings Article to raise the limit for requesting a jury trial for a civil case from its current limit of \$15,000 to \$30,000. In order to increase the amount in controversy, the legislature must pass a bill which provides for a constitutional amendment to be approved by the voters in the next general election.

Prior to 2006, there was no minimum limit amount for a civil case for a jury trial. In 2006, this limit was raised to \$10,000. In 2010, this threshold was raised to \$15,000. Now in 2020, this legislation is before the General Assembly which would double the amount up to \$30,000 and further curtail the right of a citizen to a jury trial. Where is the need for this legislation? No data has been shown that the right to a jury trial needs to be changed from the current limits. An analysis of civil jury trial threshold limits for all 50 states found that the vast majority of states have no threshold for civil jury trials, and among those 14 states that do, Maryland's threshold is the **second highest** in the nation only behind Louisiana¹. Rounding out the top twelve state limits are \$6,000 for Alabama², \$5,000 for Hawaii and Rhode Island, \$4,500 for Virginia, \$1,500 for New Hampshire and Oklahoma, \$750 for Oregon, and \$250 for Alaska, Connecticut and Kentucky. Maryland doubling this threshold would only further demonstrate that Maryland is out of touch as compared to other states for civil jury cases. Maryland has a system in place that works. A plaintiff may elect to have their case tried in District Court for matters up to \$30,000 but for matters in excess of \$15,000, the defendant could request a jury trial in Circuit Court. This would subject the plaintiff's claims to more vetting through full discovery. The current system strikes a balance between the plaintiff's and defendant's interests. This would increase the amount of suits brought in District Court with limited discovery and without

¹ Reducing Access to the Courts: The Impact of Louisiana's Jury Trial Threshold. A Research Report by Louisiana Lawsuit Abuse Watch, February 2012.

² Since the 2012 above report, Alabama increased the civil jury limit to \$6,000 in 2015.

the ability to file a motion for summary judgment by the defendant as this not available in District Court.

For these reasons, the APCIA urges the Committee to provide an unfavorable report on Senate Bills 550 and 551.

Respectfully submitted,

Nancy J. Egan, State Government Relations Counsel, DE, MD, VA, WV

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February 18, 2020
SB 550 (Constitutional Amendment – Civil Jury Trials)

State Farm Insurance requests an unfavorable report on SB 550 because:

1. Maryland already has the second highest jury trial threshold in the Country at \$15,000 (as do Minnesota and North Dakota). **Forty two states have thresholds of \$5,000 or less.** California, Nevada and DC are lower at \$10,000. Only Louisiana, at \$50,000, is higher.
2. Maryland's jury trial threshold has already increased 30 fold since 1990, rising from \$500 to \$5,000 in 1990, to \$10,000 in 2006, to its present \$15,000 in 2010. By contrast, medical bill inflation since 1990 is approximately three fold.
3. Ironically, the only proponents of this further limitation of the right to a jury trial are trial attorneys from the Maryland Association of Justice. In their literature, they maintain: "We support the constitutional right to a trial by jury" Apparently, they support it only at the election of Plaintiffs who alone can determine an ad damnum that triggers a right to jury trial.
4. That ad damnum routinely went from \$10,000 per case in 2010 to \$15,000. The limitation in the amount being plead is solely to prevent Defendants from asking for a jury trial. If these bills become law, there will be no reason at all for a Plaintiff to ever ask for less than \$30,000 from a District Court Judge. Every case limited to a trial by judge will carry potential for higher awards.
5. Arguments that a Defendant's exercise of the right to a trial by jury results in added delay or expense are exaggerated and unfounded. Most cases transferred from District Court to Circuit Court by a Defendant's demand for jury trial settle without going to trial, aided by the opportunity to conduct a deposition and having a pre-trial settlement conference (limited discovery in District Court (no depositions) leads to fewer cases being settled prior to District Court trials). Those cases that do go to jury trial after removal from District Court are usually tried within eight months of original filing and are tried in a day and without added expert expense.
6. The real motivation for this bill is that District Court Judges' awards in cases of small or questionable value are routinely significantly higher than amounts awarded by juries in comparable cases.

Very truly yours,



H. Barritt Peterson, Jr.