MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader   187 Harry S. Truman Parkway
Chief Justice   Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
                        Suzanne D. Pelz, Esq.
                        410-260-1523
RE: House Bill 773
                        Maryland False Claims Act and Maryland False Health Claims Act
                        – Revisions
DATE: February 15, 2023
                        (3/1)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes House Bill 733, as drafted. This bill makes revisions to the Maryland False Claims Act and False Health Claims Act.

The Judiciary takes no issues with the policy aims of the legislation but notes opposition to certain mandatory provisions, in the current drafting of the bill. This bill includes several mandatory provisions that take away discretion that is more appropriately left with courts. At General Provisions § 8-102(c)(1)(i) and Health – General § 2-602(b)(1)(i) the bill includes mandatory minimum civil penalties. At General Provisions § 8-104(b)(7)(iii) and Health – General § 2-604(b)(7)(iii), the bill mandates that courts allow government entities to intervene in certain cases. At General Provisions § 8-105(a) and Health – General § 2-605(a), the bill sets mandatory minimum fractions of proceeds of an action that must be awarded to the initiating party. The Judiciary generally opposes mandatory minimums because courts should retain discretion to fashion appropriate judgments based on the individual circumstances of each case. And decisions whether to allow parties to intervene in a case should similarly be left to courts so that the circumstances of the case can inform the decision. Finally, General Provisions § 8-105(a) and Health – General § 2-605(a) also instructs the court to set make the percentage award "proportional to the amount of time and effort" that the initiating party contributed to the case. That is a vague standard which would benefit from additional clarification.

cc.   Hon. Adrienne Jones
          Judicial Council
          Legislative Committee
          Kelley O'Connor