

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 430
Police Immunity and Accountability Act
DATE: February 8, 2023
(2/21)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 430. This bill states that a police officer who causes any individual to be deprived of any constitutional rights, privileges, or immunities shall be liable for damages. It adds that a police officer who violates another individual's constitutional rights is not immune from civil or criminal liability. It further eliminates qualified immunity as a defense to liability from suit under the bill.

The Judiciary is concerned that, as written, this bill could lead to confusion with other statutes on state or local immunity. The Judiciary also opposes the mandatory provision in this bill on page 3, lines 9-11, which requires courts to award attorney's fees and court costs to a prevailing plaintiff. Courts should retain discretion to fashion appropriate judgments based on the individual circumstances of each case. The Judiciary also believes that the requirement in § 5-1302(e)(2) that any settlement include attorney's fees and court costs for the plaintiff is not possible to monitor.

Finally, the Judiciary believes the bill should specify that it applies to acts committed by an officer in the scope of their employment since the bill also provides that any judgment shall be entered against the officer's employer or the local jurisdiction where the officer is employed. That appears to be the intent of the legislation. However, the language indicating that requirement/intent is unclear. On page 3, lines 15-19, the bill reads that a "judgment or settlement ... shall be entered ... by the officer's employer." That language is hard to understand. While an employer could *satisfy* a judgment entered by the court, there is no mechanism for an employer to *enter* a judgment. That is a function of the adjudication of the court.

cc. Hon. Jheanelle Wilkins
Judicial Council
Legislative Committee
Kelley O'Connor