

**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 1138  
Criminal Law – Maryland RICO (Racketeer Influenced and  
Corrupt Organizations) Act  
**DATE:** February 15, 2023  
(3/9)  
**POSITION:** Oppose

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The Maryland Judiciary opposes House Bill 1138. House Bill 1138 establishes Criminal Law Article, Subtitle 9- Maryland RICO (Racketeer Influenced and Corrupt Organizations) Act and Criminal Procedure Article, Subtitle 6 – Violations of the RICO Law.

The Judiciary has several concerns with this legislation. First, this bill requires courts to hold hearings within 60 days after certain notices. That requirement infringes on courts’ abilities to control their own dockets. Docket management is an essential element of the Court’s function and should not be infringed by a separate branch of government.

Further, at Criminal Law §§ 9-906(a) and 13-637(a), the bill allows the state to file with the clerk of court a certificate that the case is “of special public importance” which the clerk shall then forward to the Chief Justice of the Supreme Court of Maryland who must designate a judge to hear the case. The Judiciary questions the appropriateness of requiring the Chief Justice to designate judges to hear cases under this bill and also believes that the bill should define “special public importance” since otherwise it is a vague phrase. There is also no definition of the certificate or of the term “immediately” so it is unclear how or when this new requirement would be carried out.

The Judiciary is also concerned that the bill may ignore due process protections in the forfeiture process like those found in the existing statutes regarding forfeiture in drug or human trafficking cases.

The Judiciary further recognizes concerns raised by the Clerks of Court about the bill’s requirements that clerks appraise properties, serve summonses, and publish notices. For example, the bill provides that a clerk shall obtain an independent appraisal of the value

of the property. Clerks do not get involved in appraising property for any other circumstances and this would have a significant operational and fiscal impact on them.

Further, on page 21, the bill provides within 20 days after the filing of the complaint, copies of the summons and complaint shall be sent by certified mail requesting “restricted delivery – show to whom, date, address of delivery” and first-class mail to all known owners and lienholders whose identities are reasonably subject to discovery, including all real property owners and lienholders shown in the records required by law for notice or perfection of the lien. It is unclear if this is to be the filer who perfects service in this manner. If this duty falls on the clerks, this would have a large fiscal impact.

There are several other unclear provisions making implementation by the Judiciary impossible. For example, on page seven, what are “due provisions” or on page eight, “substantially similar?” Further, what does “close proximity” entail in page 12.

The bill also provides on page 16 that a sworn affidavit by the chief law enforcement officer is admissible in evidence in a proceeding. This removes the court’s authority to determine what is credible and relevant evidence. This page also requires the owner of seized property who wishes to obtain possession of the property, to convey an interest in real property, or to remove a building or fixture from real property to notify the clerk of the proper court. This bill does not indicate the form of notification to the clerk.

cc. Hon. Karen Toles  
Judicial Council  
Legislative Committee  
Kelley O’Connor