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CIRCUIT COURT
JUDGE
BALTIMORE COUNTY
CHAIR

HON. RICHARD SANDY
CIRCUIT COURT
JUDGE
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VICE-CHAIR



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MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

MEMORANDUM

TO: House Health and Government Operations Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 884
Public Health – Abortions - Coercion
DATE: February 14, 2024
(3/15)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 884. This proposed legislation if enacted would prohibit an individual from committing or threatening certain actions intended to coerce a pregnant woman into having an abortion.

The Judiciary is concerned about Health General § 20-219(b)(2) of the bill which requires courts to provide counsel for pregnant women in certain cases. The action in question is civil, not criminal, and thus does not carry an automatic right to counsel. Moreover, the bill does not state that the woman must be indigent in order to be provided counsel, simply that the court shall provide counsel upon request. The language of the bill is “provide”, rather than “appoint”, as is used when referring to counsel from the Office of the Public Defender. There is no mechanism for the court to provide counsel upon request in a civil matter, and it would not be possible to estimate the cost of creating such a mechanism for these cases (in large part because there is no way to know how many pregnant women might file such a suit). Courts should retain discretion to decide when it is appropriate to appoint counsel for a party. This bill also does not provide any guidance as to who would fund this counsel.

The proposed language of § 20-222(b)(1) could also pose a grave danger to victims of trafficking. That section would require that if any employee or volunteer of a health care facility that provides abortion care suspects that a pregnant woman is a victim of trafficking, that they will make a report to law enforcement that includes the woman's name and address. This could be harmful and traumatic to the alleged victim, who (if she is a victim of trafficking) might be relying on the health care facility's promise of discretion. Requiring such a report could be far more harmful than helpful.

The bill also does not specify how the court might grant "any relief necessary" to prevent the alleged perpetrator from committing a future (as yet unrealized) violation.

cc. Hon. April Miller
Judicial Council
Legislative Committee
Kelley O'Connor