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BALTIMORE COUNTY
CHAIR

HON. RICHARD SANDY
CIRCUIT COURT
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MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq., Staff
410-260-1523
RE: Senate Bill 827
Courts and Judicial Proceedings – Jury Examination
DATE: February 27, 2024
(2/29)

COMMENT PAPER

The Judiciary respects the separation of powers doctrine and acknowledges that the legislature is the policy-making branch. However, the Judiciary writes to respectfully request that this bill be amended to form a workgroup to study the important issue of voir dire. As currently drafted, this bill would be a drastic change to well-settled law in Maryland regarding the permitted purpose of voir dire. “This Court has frequently emphasized that, unlike courts in many other jurisdictions, Maryland courts allow only ‘limited voir dire’ – meaning that the sole purpose of voir dire questioning is to determine whether prospective jurors should be struck for cause, not to elicit information for the exercise of peremptory strikes in the second stage of jury selection.” *Kidder v. State*, 475 Md. 113, 125, 256 A.3d 829, 835 (2021). In other words, Maryland courts are currently focused solely on removing potential jurors who are unable to be fair and impartial (and thus stricken for cause.) This bill would alter that focus to make equally important the litigants’ ability to gather information on jurors to exercise discretionary strikes/removal. It is important to note that there have been recent questions raised as to whether those discretionary, or peremptory strikes, foster discriminatory practices. To that end, the Rules Review Subcommittee of the Equal Justice Committee of the Judicial Council recommended the altogether elimination of peremptory challenges. While this recommendation has not been fully considered, the Judiciary thought it important to bring to the legislature’s attention given the importance of the concerns raised. Additionally, expanded voir dire would have an operational impact on the Judiciary in the length of

time allotted for jury selection. Because this bill would be a dramatic departure from current law, and because of the varying and important views on the topic, the Judiciary believes that the topic warrants further study with input from a wide variety of stakeholders. The Judiciary would welcome inclusion in a workgroup to determine how best to consider this important topic.

cc. Hon. William Smith
Judicial Council
Legislative Committee
Kelley O'Connor