

HON. STACY A. MAYER
CIRCUIT COURT
JUDGE
BALTIMORE COUNTY
CHAIR

HON. RICHARD SANDY
CIRCUIT COURT
JUDGE
FREDERICK COUNTY
VICE-CHAIR



KELLEY O'CONNOR
ASSISTANT STATE COURT
ADMINISTRATOR
GOVERNMENT RELATIONS
AND PUBLIC AFFAIRS
P: (410) 260-1560

SUZANNE PELZ, ESQ.
SNR. GOVT. RELATIONS AND
PUBLIC AFFAIRS OFFICER
P: (410)260-1523

MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

MEMORANDUM

TO: House Economic Matters Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 1261
Employment Discrimination - Intent
DATE: February 19, 2025
(2/27)

INFORMATIONAL COMMENT PAPER

The Judiciary respects the separation of powers doctrine and acknowledges that the legislature is the policy-making branch. As such, the Judiciary has no position on the policy aims of this legislation and defers to the legislative branch on such matters.

There are existing protections against particular employer practices that have a disparate impact on a protected characteristic. Those existing protections do not require proof of intent to discriminate, and typically require an employer to demonstrate that a challenged practice is job related for the position in question and consistent with business necessity. *See* 42 U.S.C.A. § 2000e-2(k). The provisions in House Bill 1261 appear to be broader than protections from employment practices that have a disparate impact, since they apply to any acts that have a discriminatory effect, instead of only a particular employment practice. This expansion requires the employer to demonstrate that every decision is justified by a legitimate business necessity and no other less discriminatory means of accomplishing that business necessity is available. The ability to prove a negative presents certain difficulties and the Judiciary has operational concerns about the bill's application to its practices.

cc. Hon. Adrian Boafo
Judicial Council
Legislative Committee
Kelley O'Connor