

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 Judiciary Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** House Bill 940  
Criminal Procedure – Probation before Judgment – Defendants  
Diagnosed with Autism or Intellectual Disabilities  
**DATE:** February 5, 2025  
(2/18)  
**POSITION:** Oppose

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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.

Although the Judiciary appreciates the policy aims of the legislation and agrees that consideration of an individual's intellectual capability is a consideration in both liability and sentencing decisions, the Judiciary has concerns with the mandatory language regarding staying entry of judgment on page two which would bind the courts to take specified action. The Judiciary traditionally opposes legislation that includes mandatory provisions. The bill also requires the court to consider the position of the State and any statement by a victim or victim's representative but it does not require consideration of the defendant or the defendant's representative (i.e. mental health provider). Finally, the bill may invite a constitutional challenge on 14th Amendment grounds, as it carves out a separate beneficial mechanism for a class of individuals based on a specific disability diagnosis.

cc. Hon. Aaron Kaufman

Judicial Council  
Legislative Committee  
Kelley O'Connor