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BALTIMORE COUNTY
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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.
410-260-1523
RE: Senate Bill 871
Civil Actions – Punitive Damage Awards - Surcharge
DATE: February 11, 2026
(3/11)

INFORMATIONAL COMMENT PAPER

The Judiciary respects the separation of powers doctrine and acknowledges the policy-making authority of the legislative branch. As such, the Judiciary has no position on the policy aims of this legislation.

The Judiciary provides the following information for the Committee's consideration. As drafted, the bill seems to allow punitive damages only in cases where an individual acted with gross negligence. This language appears to eliminate the ability to award punitive damages for intentional acts or acts with malice. It is unclear if that was the intent of the legislation.

In addition, the bill requires the State Court Administrator (SCA) to assess a surcharge on punitive damages. The General Assembly has required the SCA to assess surcharges in two other contexts, but only at the time of filing. This bill differs from those instances. Under existing Courts and Judicial Proceedings § 7-102(b), the SCA is required to assess a surcharge of \$11 per case filed with the Clerk of the Supreme Court of Maryland and

the Clerk of the Appellate Court of Maryland. Also, pursuant to Courts and Judicial Proceedings § 7-202(d), the SCA is required to assess a surcharge of \$85 per civil case filed in the circuit courts. As noted, those surcharges are imposed at the time of filing and, thus, easily collectible and enforced at the outset of a case filing. This bill requires a surcharge post-judgment but does not provide a mechanism for the collection of such surcharge. It is unclear how the surcharge would be collected and what post-judgment collection method would be employed. This presents operational concerns as well as concerns about the Court operating outside of its judicial function in potentially pursuing collection actions.

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