

# SENATE BILL 388

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CF 0lr2682

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By: **Senators Benson, Augustine, Hayes, Kagan, King, Patterson, and Sydnor**  
Introduced and read first time: January 27, 2020  
Assigned to: Finance and Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Circuit Courts and District Court of Maryland Employees – Collective**  
3 **Bargaining**

4 FOR the purpose of establishing collective bargaining rights for certain employees of the  
5 circuit courts and the District Court of Maryland; establishing the State Judicial  
6 Employees Labor Relations Board as an independent unit of State government;  
7 providing for the composition, chair, staffing, powers, and duties of the Board;  
8 providing for the staggering of terms of the members of the Board; requiring the  
9 Board to appoint an Executive Director of the Board; specifying the powers and  
10 duties of the Executive Director; requiring the Board to recognize one statewide  
11 bargaining unit; requiring the Board to adopt certain regulations related to the  
12 establishment of a certain bargaining unit and the designation of an exclusive  
13 representative; requiring the Board to conduct certain investigations; authorizing  
14 the Board to hold certain hearings under certain circumstances; authorizing certain  
15 persons to petition a certain court for a certain purpose; applying certain provisions  
16 of law to certain employees, the District Court of Maryland, the Chief Judge of the  
17 District Court, the Administrative Office of the Courts, and the exclusive  
18 representative for certain employees; providing for the duties of a certain exclusive  
19 representative; requiring the circuit courts and the District Court of Maryland and  
20 an employee organization to negotiate in a certain manner under certain  
21 circumstances; requiring the Board to conduct a certain hearing or authorize a  
22 certain arbitrator to conduct a hearing for a certain purpose under certain  
23 circumstances; requiring collective bargaining to include certain matters;  
24 authorizing collective bargaining to include negotiations relating to service fees;  
25 providing that negotiations shall conclude with a memorandum of understanding  
26 that covers certain matters; providing that a memorandum of understanding is not  
27 valid under certain circumstances; providing for the ratification of a memorandum  
28 of understanding; defining a certain term; specifying the terms of the initial  
29 members of the Board; and generally relating to collective bargaining for employees  
30 of the circuit courts and the District Court of Maryland.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY adding to  
Article – Courts and Judicial Proceedings  
Section 2–609  
Annotated Code of Maryland  
(2013 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That the Laws of Maryland read as follows:

**Article – Courts and Judicial Proceedings**

**2–609.**

(A) IN THIS SECTION, “COLLECTIVE BARGAINING” HAS THE MEANING  
STATED IN § 3–101 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(B) CLERICAL, ADMINISTRATIVE CONSTABULARY, AND MAINTENANCE AND  
HOUSEKEEPING EMPLOYEES OF THE CIRCUIT COURTS AND THE DISTRICT COURT  
SHALL HAVE THE RIGHT TO:

(1) SELF ORGANIZATION;

(2) BARGAIN COLLECTIVELY THROUGH AN EMPLOYEE  
ORGANIZATION THAT IS AN EXCLUSIVE REPRESENTATIVE OF THE EMPLOYEES’ OWN  
CHOOSING; AND

(3) ENGAGE IN, OR REFRAIN FROM ENGAGING IN, OTHER CONCERTED  
ACTIVITIES FOR THE PURPOSE OF COLLECTIVE BARGAINING OR OTHER MUTUAL AID  
OR PROTECTION.

(C) (1) THERE IS A STATE JUDICIAL EMPLOYEES LABOR RELATIONS  
BOARD ESTABLISHED AS AN INDEPENDENT UNIT OF STATE GOVERNMENT.

(2) THE BOARD CONSISTS OF THE FOLLOWING FIVE MEMBERS:

(I) ONE MEMBER REPRESENTING THE PUBLIC, APPOINTED BY  
THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE, WHO:

1. IS NOT AN OFFICER OR EMPLOYEE OF THE STATE OR  
A STATE EMPLOYEE ORGANIZATION; AND

2. IS NOT AN ELECTED OFFICIAL OF THE STATE OR A  
STATE EMPLOYEE ORGANIZATION;

(II) ONE MEMBER OF THE STATE JUDICIARY, APPOINTED BY THE CHIEF JUDGE OF THE COURT OF APPEALS;

(III) ONE MEMBER OF THE NATIONAL ACADEMY OF ARBITRATORS, OR WHO IS RECOMMENDED BY THE AMERICAN ARBITRATION ASSOCIATION, WITH KNOWLEDGE OF AND EXPERIENCE IN PERSONNEL AND COLLECTIVE BARGAINING MATTERS, APPOINTED BY THE GOVERNOR;

(IV) ONE MEMBER APPOINTED BY THE CHIEF JUDGE OF THE COURT OF APPEALS FROM A LIST OF CANDIDATES RECOMMENDED BY THE PRESIDENT OF THE SENATE WHO:

1. IS NOT AN OFFICER OR EMPLOYEE OF THE STATE OR A STATE EMPLOYEE ORGANIZATION; AND

2. IS NOT AN ELECTED OFFICIAL OF THE STATE OR A STATE EMPLOYEE ORGANIZATION; AND

(V) ONE MEMBER APPOINTED BY THE CHIEF JUDGE OF THE COURT OF APPEALS FROM A LIST PROVIDED BY THE SPEAKER OF THE HOUSE WHO:

1. IS NOT AN OFFICER OR EMPLOYEE OF THE STATE OR A STATE EMPLOYEE ORGANIZATION; AND

2. IS NOT AN ELECTED OFFICIAL OF THE STATE OR A STATE EMPLOYEE ORGANIZATION.

(3) THE FIVE BOARD MEMBERS SHALL BE:

(I) KNOWN FOR OBJECTIVE AND INDEPENDENT JUDGMENT;

(II) RESIDENTS OF THE STATE; AND

(III) REGISTERED TO VOTE IN THE STATE.

(4) BEFORE TAKING OFFICE, EACH MEMBER SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

(5) FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR.

(6) (I) THE TERM OF A MEMBER IS 5 YEARS.

(II) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY

1 THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON JULY 1, 2020.

2 (III) A VACANCY SHALL BE FILLED FOR AN UNEXPIRED TERM IN  
3 THE SAME MANNER AS AN ORIGINAL APPOINTMENT.

4 (IV) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE  
5 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

6 (V) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN  
7 SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED  
8 AND QUALIFIES.

9 (7) THE GOVERNOR OR THE CHIEF JUDGE OF THE COURT OF  
10 APPEALS MAY REMOVE A MEMBER OF THE BOARD ONLY FOR INCOMPETENCE,  
11 MISCONDUCT, OR WILLFUL NEGLECT OF DUTY.

12 (8) (I) A MAJORITY OF THE VOTING MEMBERS SHALL CONSTITUTE  
13 A QUORUM FOR:

14 1. THE TRANSACTION OF BUSINESS; OR

15 2. THE EXERCISE OF ANY POWER OR THE  
16 PERFORMANCE OF ANY DUTY AUTHORIZED OR IMPOSED BY LAW.

17 (II) NO FORMAL ACTION MAY BE TAKEN BY THE BOARD  
18 WITHOUT THE APPROVAL OF A MAJORITY OF THE VOTING MEMBERS OF THE BOARD.

19 (9) THE BOARD SHALL SET THE TIMES AND PLACES OF ITS MEETINGS,  
20 CONSISTENT WITH TITLE 10, SUBTITLES 1 AND 5 OF THE STATE GOVERNMENT  
21 ARTICLE.

22 (10) A MEMBER OF THE BOARD IS ENTITLED TO:

23 (I) THE COMPENSATION PROVIDED IN THE STATE BUDGET;  
24 AND

25 (II) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD  
26 STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

27 (11) (I) THE STATE JUDICIAL EMPLOYEES LABOR RELATIONS  
28 BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR OF THE BOARD.

29 (II) THE EXECUTIVE DIRECTOR:

- 1                                    1.     IS RESPONSIBLE TO AND SERVES AT THE PLEASURE  
2 OF THE BOARD;  
3  
4                                    2.     SHALL ISSUE ALL NOTICES OF MEETINGS AND  
5 HEARINGS;  
6  
7                                    3.     SHALL PREPARE AND PUBLISH THE MEETING  
8 AGENDA; AND  
9  
10                                  4.     IS ENTITLED TO THE SALARY PROVIDED IN THE  
11 STATE BUDGET.

9                                  (III) THE EXECUTIVE DIRECTOR SHALL PERFORM THE DUTIES  
10 THAT THE BOARD ASSIGNS, INCLUDING:

- 11                                  1.     OPERATING THE OFFICE OF THE BOARD; AND  
12  
13                                  2.     KEEPING THE OFFICIAL RECORDS OF THE BOARD.

13                                  (IV) THE EXECUTIVE DIRECTOR MAY HIRE ANY STAFF  
14 NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION.

15                                  (V) 1.     WITH APPROVAL OF THE BOARD, THE EXECUTIVE  
16 DIRECTOR MAY EMPLOY PROFESSIONAL CONSULTANTS.

17                                  2.     EACH PROFESSIONAL CONSULTANT SERVES AT THE  
18 PLEASURE OF THE EXECUTIVE DIRECTOR.

19                                  (12) THE BOARD:

20                                  (I)     IS RESPONSIBLE FOR ADMINISTERING AND ENFORCING  
21 PROVISIONS OF THIS SECTION; AND

22                                  (II)    SHALL RECOGNIZE ONE STATEWIDE BARGAINING UNIT  
23 COMPRISING ALL CLERICAL, ADMINISTRATIVE CONSTABULARY, AND MAINTENANCE  
24 AND HOUSEKEEPING EMPLOYEES OF THE CIRCUIT COURTS AND THE DISTRICT  
25 COURT.

26                                  (13) IN ADDITION TO ANY OTHER POWERS OR DUTIES PROVIDED FOR  
27 ELSEWHERE IN THIS SECTION, THE BOARD, CONSISTENT WITH TITLE 10 OF THE  
28 STATE GOVERNMENT ARTICLE, SHALL ADOPT REGULATIONS THAT:

(I) ESTABLISH GUIDELINES FOR ESTABLISHING THE BARGAINING UNIT THAT TAKE INTO CONSIDERATION:

1. THE ADMINISTRATIVE STRUCTURES OF THE DISTRICT COURT AS AN EMPLOYER;

2. THE EXISTING FUNCTIONS OF THE ADMINISTRATIVE OFFICE OF THE DISTRICT COURT;

3. THE RECOMMENDATIONS OF THE EXECUTIVE DIRECTOR;

4. THE DESIRES OF THE EMPLOYEES INVOLVED;

5. THE COMMUNITIES OF INTEREST OF THE EMPLOYEES INVOLVED; AND

6. THE WAGES, HOURS, AND OTHER WORKING CONDITIONS OF THE EMPLOYEES INVOLVED; AND

(II) ESTABLISH PROCEDURES THAT ARE CONSISTENT WITH §§ 3-401, 3-402, 3-404, AND 3-406 OF THE STATE PERSONNEL AND PENSIONS ARTICLE FOR THE DETERMINATION OF QUESTIONS RELATING TO REPRESENTATION, INCLUDING:

1. THE PROPER MANNER OF PETITIONING BY EMPLOYEE ORGANIZATIONS;

2. THE ANNOUNCEMENT, CONDUCT, AND SUPERVISION OF A SECRET BALLOT ELECTION FOR THE DETERMINATION OR DECERTIFICATION OF AN EXCLUSIVE REPRESENTATIVE; AND

3. CERTIFICATION OF AN EXCLUSIVE REPRESENTATIVE.

(14) THE BOARD SHALL:

(I) INVESTIGATE AND TAKE APPROPRIATE ACTION IN RESPONSE TO COMPLAINTS OF UNFAIR LABOR PRACTICES AND LOCKOUTS;

(II) INVESTIGATE ANY ALLEGED VIOLATION OF THIS SECTION OR ANY REGULATION ADOPTED UNDER THIS SECTION; AND

(III) INVESTIGATE ANY OTHER RELEVANT MATTER.

1           **(15) THE BOARD MAY HOLD A HEARING IN ACCORDANCE WITH TITLE**  
2 **10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE WHENEVER NECESSARY FOR**  
3 **A FAIR DETERMINATION OF ANY ISSUE OR COMPLAINT ARISING UNDER THIS**  
4 **SECTION OR ANY REGULATION ADOPTED UNDER THIS SECTION.**

5           **(16) IF A PERSON FAILS TO COMPLY WITH AN ORDER ISSUED BY THE**  
6 **BOARD, A PERSON AGGRIEVED, A MEMBER OF THE BOARD, OR THE BOARD IN ITS**  
7 **OWN NAME, MAY PETITION THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY TO**  
8 **ORDER THE PERSON TO COMPLY WITH THE BOARD'S ORDER.**

9           **(17) THE BOARD MAY NOT BE REQUIRED TO POST BOND IN AN ACTION**  
10 **UNDER PARAGRAPH (16) OF THIS SUBSECTION.**

11           **(D) ALL EMPLOYEES COVERED BY THIS SECTION ARE SUBJECT TO THE**  
12 **PROVISIONS OF §§ 3-301, 3-303, AND 3-305(B) OF THE STATE PERSONNEL AND**  
13 **PENSIONS ARTICLE.**

14           **(E) THE DISTRICT COURT, THE CHIEF JUDGE OF THE DISTRICT COURT,**  
15 **AND THE ADMINISTRATIVE OFFICE OF THE COURTS ARE SUBJECT TO THE**  
16 **PROVISIONS OF §§ 3-302, 3-304, AND 3-305(A) OF THE STATE PERSONNEL AND**  
17 **PENSIONS ARTICLE.**

18           **(F) (1) UNFAIR LABOR PRACTICES PROHIBITED UNDER § 3-306(A) OF**  
19 **THE STATE PERSONNEL AND PENSIONS ARTICLE SHALL APPLY TO THE DISTRICT**  
20 **COURT, THE CHIEF JUDGE OF THE DISTRICT COURT, AND THE ADMINISTRATIVE**  
21 **OFFICE OF THE COURTS.**

22           **(2) UNFAIR LABOR PRACTICES PROHIBITED UNDER § 3-306(B) OF**  
23 **THE STATE PERSONNEL AND PENSIONS ARTICLE SHALL APPLY TO THE EXCLUSIVE**  
24 **REPRESENTATIVE FOR COVERED EMPLOYEES OF THE CIRCUIT COURTS AND THE**  
25 **DISTRICT COURT.**

26           **(G) AN EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE**  
27 **REPRESENTATIVE SHALL:**

28           **(1) SERVE AS THE SOLE AND EXCLUSIVE BARGAINING AGENT FOR ALL**  
29 **EMPLOYEES IN THE BARGAINING UNIT;**

30           **(2) REPRESENT FAIRLY AND WITHOUT DISCRIMINATION ALL**  
31 **EMPLOYEES IN THE BARGAINING UNIT, WHETHER OR NOT THE EMPLOYEES ARE**  
32 **MEMBERS OF THE EMPLOYEE ORGANIZATION OR ARE PAYING DUES OR OTHER**  
33 **CONTRIBUTIONS TO IT OR ARE PARTICIPATING IN ITS AFFAIRS; AND**

**(3) PROMPTLY FILE WITH THE BOARD ALL CHANGES AND AMENDMENTS TO THE ORGANIZATION'S GOVERNING DOCUMENTS.**

**(H) (1) THE OBLIGATION OF THE PARTIES TO ENGAGE IN COLLECTIVE BARGAINING SHALL BEGIN ON CERTIFICATION OF AN EXCLUSIVE REPRESENTATIVE AND INCLUDE NEGOTIATION OVER THE TERMS OF A MEMORANDUM OF UNDERSTANDING.**

**(2) (I) IF THE PARTIES DO NOT CONCLUDE NEGOTIATIONS FOR THE NEXT FISCAL YEAR BEFORE OCTOBER 25, ON DEMAND OF THE CHIEF JUDGE OF THE DISTRICT COURT, THE ADMINISTRATIVE OFFICE OF THE COURTS, OR THE EXCLUSIVE REPRESENTATIVE, THE BOARD SHALL:**

**1. CONDUCT A HEARING; OR**

**2. AUTHORIZE AN ARBITRATOR ADMITTED TO THE NATIONAL ACADEMY OF ARBITRATORS TO CONDUCT A HEARING.**

**(II) THE PURPOSE OF A HEARING CONDUCTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS FACT-FINDING TO RESOLVE THE MAJOR ISSUES IN DISPUTE AND ISSUE A WRITTEN STATEMENT OF FINDINGS AND RECOMMENDATIONS AS TO APPROPRIATE TERMS AND CONDITIONS OF EMPLOYMENT.**

**(I) (1) COLLECTIVE BARGAINING SHALL INCLUDE ALL MATTERS RELATING TO WAGES, HOURS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT.**

**(2) COLLECTIVE BARGAINING MAY INCLUDE NEGOTIATIONS RELATING TO THE RIGHT OF AN EMPLOYEE ORGANIZATION TO RECEIVE SERVICE FEES FROM NONMEMBERS CONSISTENT WITH § 3-502(B) OF THE STATE PERSONNEL AND PENSIONS ARTICLE.**

**(3) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE DISTRICT COURT AND THE CIRCUIT COURTS, AND THE EXCLUSIVE REPRESENTATIVE:**

**(I) MAY NOT BE REQUIRED TO NEGOTIATE OVER ANY MATTER THAT IS INCONSISTENT WITH APPLICABLE LAW; AND**

**(II) MAY NEGOTIATE AND REACH AGREEMENT WITH REGARD TO A MATTER THAT IS INCONSISTENT WITH APPLICABLE LAW ONLY IF IT IS**

1 UNDERSTOOD THAT THE AGREEMENT WITH RESPECT TO THE MATTER CANNOT  
2 BECOME EFFECTIVE UNLESS THE APPLICABLE LAW IS AMENDED BY THE GENERAL  
3 ASSEMBLY.

4 (J) (1) NEGOTIATIONS SHALL CONCLUDE WITH A MEMORANDUM OF  
5 UNDERSTANDING THAT COVERS ALL MATTERS OF AGREEMENT REACHED IN THE  
6 COLLECTIVE BARGAINING PROCESS.

7 (2) A MEMORANDUM OF UNDERSTANDING IS NOT VALID IF IT  
8 EXTENDS FOR LESS THAN 1 YEAR OR FOR MORE THAN 3 YEARS.

9 (3) (I) A MEMORANDUM OF UNDERSTANDING MAY NOT TAKE  
10 EFFECT UNLESS IT IS RATIFIED BY:

11 1. A SECRET BALLOT VOTE OF A MAJORITY OF THE  
12 EMPLOYEES VOTING IN THE BARGAINING UNIT; AND

13 2. THE SIGNATURE OF THE CHIEF JUDGE OF THE  
14 COURT OF APPEALS.

15 (II) ON RATIFICATION OF THE MEMORANDUM OF  
16 UNDERSTANDING UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE  
17 MEMORANDUM OF UNDERSTANDING SHALL:

18 1. BE SIGNED BY THE CHIEF JUDGE OF THE DISTRICT  
19 COURT AND THE PRINCIPAL EXECUTIVE OFFICER OF THE EXCLUSIVE  
20 REPRESENTATIVE; AND

21 2. TAKE EFFECT AS OF THE EFFECTIVE DATE AGREED  
22 TO BY THE PARTIES AS STATED IN THE MEMORANDUM OF UNDERSTANDING.

23 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial  
24 members of the State Judicial Employees Labor Relations Board shall expire as follows:

25 (1) two members in 2022;

26 (2) two members in 2023; and

27 (3) one member in 2024.

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
29 1, 2020.