

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Appropriations Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 796
Higher Education – Freedom of Speech on Campus -Protection
(Forming Open and Robust University Minds (FORUM) Act)
DATE: February 12, 2020
(3/10)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 796. The offered legislation adds to the Education Article §15-118 and prohibits institutions of higher education from creating areas of a campus outside of which expressive activities (lawful oral, written, audio-visual or electronic means of communication) are prohibited. The legislation states that any person aggrieved by a violation of the section may bring an action against the public institution of higher education and any of its employees acting in their official capacities who are responsible for the violation. If a court finds that a public institution or employee violated the section, the court shall award the aggrieved person at least \$5,000 and any other appropriate relief.

This bill includes a mandatory minimum judgment award of \$5,000. The Judiciary traditionally opposes legislation that includes mandatory provisions. The Judiciary believes it is important for judges to weigh the facts and circumstances for each individual case when making a determination. Provisions that place restrictions on the judge prevent the judge from considering legislative intent or factors unique to the case.

cc. Hon. Robin Grammer
Judicial Council
Legislative Committee
Kelley O'Connor