

STATE OF MICHIGAN
COURT OF CLAIMS

MOTHERING JUSTICE et al.,

Plaintiffs,

v

Case No. 21-000095-MM

DANA NESSEL, et al,

Hon. Douglas B. Shapiro

Defendants.

**ORDER RE: STATE OF MICHIGAN'S MOTION FOR STAY OF THIS COURT'S
JULY 19, 2022 OPINION AND ORDER PENDING APPEAL**

The State moves for a stay pending appeal of this Court's July 19, 2022 Opinion and Order granting declaratory relief to plaintiffs. The factors relevant to the decision whether to grant a stay pending appeal are as follows: (1) whether the moving party is likely to prevail on the merits; (2) whether the movant will suffer irreparable harm if the stay is denied; (3) whether the non-moving party will suffer irreparable harm if the stay is granted; and (4) whether the grant or denial of a stay would harm the public interest. *Detroit Fire Fighters Ass'n IAFF Local 344 v Detroit*, 482 Mich 18, 34; 753 NW2d 579 (2008).

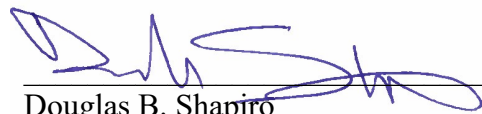
The Court finds that consideration of these factors weigh against the grant of a stay pending appeal. The Court concludes that defendant State of Michigan is not likely to prevail on the merits, that the defendant is not likely to suffer substantial harm if a stay is not issued, and that further delay will cause irreparable harm to plaintiff employees who would benefit from enforcement, particularly in light of the fact that only prospective relief has been sought with no request for

monetary damages. The Court finds that consideration of harm to the public interest is a neutral factor since the initiative is intended to provide a benefit to much of the population while also imposing new demands on other segments of the population. Accordingly, a stay pending appeal is DENIED.

Despite defendant's failure to demonstrate entitlement to a stay pending appeal, the Court finds that there are justified concerns regarding the ability of employers and the relevant state agencies to immediately accommodate the changes required by 2018 PA 337 and 2018 PA 338. For this reason, the Court finds that it is in the public interest to stay the effect of the Court's decision for a period of time equivalent to the time between the date of the Legislature's adoption of 2018 PA 337 and 338, i.e., September 5, 2018, through the effective date of those Acts, i.e., March 29, 2019, a period of 205 days. Accordingly, the Court GRANTS a stay, without bond, for a period of 205 days, i.e., through February 19, 2023. Any further stays should be sought at the Court of Appeals and/or Supreme Court.

IT IS SO ORDERED.

Date: July 29, 2022



Douglas B. Shapiro
Judge, Court of Claims