

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 891 (Senator Zirkin)
Judicial Proceedings

Courts - Service of Process - Driver of Motor Vehicle or Driver's Estate

This bill alters who may be served process in a lawsuit related to an accident or collision involving a motor vehicle driven by a person named as a party to the action who has died, whether or not the action was commenced during the lifetime of the driver.

The bill allows process to be served on the insurer of the driver's motor vehicle that was insured under an insurance policy or self-insurance plan at the time the alleged liability in the action arose or in an action against the estate of the person. It also allows process to be served on the Maryland Automobile Insurance Fund (MAIF) if the person was driving an "uninsured motor vehicle" at the time the alleged liability in the action arose or in an action against the estate of that person. The bill establishes that the drivers described above irrevocably appoint their motor vehicle insurer or MAIF as an agent to receive a subpoena, summons, or other process directed to them.

The bill applies prospectively to cases filed on or after the bill's October 1, 2013 effective date.

Fiscal Summary

State Effect: Potential minimal increase in nonbudgeted expenditures for MAIF if the bill increases administrative time spent on cases involving claims against MAIF clients. Revenues are not affected.

Local Effect: None.

Small Business Effect: None. Automobile insurers are not small businesses.

Analysis

Bill Summary: An “uninsured motor vehicle” is a vehicle that does not carry the required minimum insurance coverage or a vehicle that does carry this minimum coverage with an insurer for whom a receiver or conservator has been appointed by the court.

Current Law:

Service of Process: Under the Maryland Rules, service of process may be made:

- by delivering to the person to be served a copy of the summons, complaint, and all other papers filed with it;
- if the person to be served is an individual, by leaving a copy of the summons, complaint, and all other papers filed with it at the individual’s dwelling house or usual place of abode with a resident of suitable age and discretion; or
- by mailing to the person to be served a copy of the summons, complaint, and all other papers filed with it by certified mail requesting: “Restricted Delivery – show to whom, date, address of delivery.”

If a defendant has acted to evade service, the court may order that service be made by mailing a copy of the summons, complaint, and all other papers filed with it to the defendant at the defendant’s last known residence and delivering a copy of each to a person of suitable age and discretion at the place of business of the defendant.

If good faith efforts to serve the defendant by personal service, certified mail, or leaving a copy at the defendant’s dwelling have not succeeded and the plaintiff proves that service by mailing and leaving a copy at the defendant’s place of business is inapplicable or impracticable, the court may order any other means of service that it deems appropriate in the circumstances and reasonably calculated to give actual notice. These means may include service on the defendant’s insurer. *See Wiant v. Hudson*, 101 Md. App.74 (1994).

These methods of service are in addition to and not exclusive of any other means of service that may be provided by statute or rule for obtaining jurisdiction over a defendant.

If a claim is being made against the estate of a decedent, then the claim is usually presented to the personal representative of the estate within specified time limits. Different time limits apply to claims covered by a liability insurance policy.

In certain actions, statute authorizes an entity (other than the person for whom the process was intended) to receive service of process. For instance, by exercising the nonresident’s

SB 891/ Page 2

privilege to drive, a nonresident irrevocably appoints the Motor Vehicle Administration (MVA) as the agent to receive a subpoena, summons, or other process that is directed to the nonresident driver and is issued in an action that is related to an accident or collision involving a motor vehicle driven by the nonresident driver and in which the nonresident driver is named a party. MVA is required to forward the service of process to the nonresident driver's last known address and is authorized to collect a fee for the service of process.

Motor Vehicle Insurance: Maryland law requires an owner of a motor vehicle that is required to be registered in the State to maintain insurance for the vehicle during the registration period. MVA may not issue or transfer the registration of a motor vehicle unless the owner or prospective owner of the vehicle furnishes evidence satisfactory to MVA that the required insurance is in effect. Maryland drivers are not required to carry proof of insurance. The required insurance, specified under Title 17, Subtitle 1 of the Transportation Article and Title 19, Subtitle 5 of the Insurance Article, must provide for at least:

- the payment of claims for bodily injury or death arising from an accident of up to \$30,000 for any one person and up to \$60,000 for any two or more persons, in addition to interest and costs (liability coverage);
- the payment of claims for property of others damaged or destroyed in an accident of up to \$15,000, in addition to interest and costs;
- unless waived, personal injury protection coverage (minimum coverage for medical, hospital, and disability benefits up to \$2,500 for payment of expenses that arise from the accident, lost income, and reimbursement for essential services for care and maintenance of the family or family household); and
- uninsured motorist coverage (unless waived, the amount equals the amount of liability coverage provided under the policy; if waived, the amount equals the minimum required insurance for liability coverage).

Uninsured motorist coverage pays for injury and damages caused by an uninsured (or underinsured) or hit-and-run driver. This coverage reimburses the policyholder, members of the policyholder's family, or designated driver for an accident caused by the uninsured motorist. This coverage generally pays for medical bills and wage loss; pain, suffering, and disfigurement; emotional distress; and loss of future earning capacity. Uninsured motorist coverage may also include property damage as long as the insurer's coverage is at least equal to the required coverage under MAIF's Uninsured Division and minimum coverage levels specified in Title 17 of the Transportation Article.

The Uninsured Division of MAIF exists to compensate, if specified conditions are met, qualifying individuals who file accident-related claims against unidentified, disappearing, or unavailable and uninsured vehicles.

State Expenditures: Nonbudgeted expenditures for MAIF increase minimally if the bill increases administrative time spent on cases involving claims against MAIF clients. MAIF advises that commencing the paperwork process in these claims and providing proper notification consumes approximately four hours per case. Although the bill does not require MAIF to do anything with a served process, it is assumed that MAIF goes through the appropriate notification procedures for cases involving MAIF clients. This estimate assumes that (1) the bill applies to very few MAIF cases; (2) the bill does not affect the overall number of claims against MAIF clients; and (3) MAIF is unable to locate uninsured motorists to whom MAIF has no connection.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Insurance Administration, Judiciary (Administrative Office of the Courts), Maryland Automobile Insurance Fund, Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - March 15, 2013
ncs/kdm

Analysis by: Amy A. Devadas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510