

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 857

(Delegate Smigiel, *et al.*)

Judiciary

Judicial Proceedings

Courts - Attorneys - Subpoena Procedures and Forms for Circuit Courts

This bill authorizes an attorney or other officer of a court entitled to the issuance of a subpoena by a clerk of a court to obtain from the clerk of the court a subpoena that is signed and sealed by the clerk of the court. The attorney or other officer of the court may photocopy or otherwise copy the subpoena and use the subpoena for service.

The bill takes effect June 1, 2014.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing State resources.

Local Effect: The bill's requirements can be handled with existing local resources.

Small Business Effect: None.

Analysis

Current Law: The Maryland Rules specify required content for subpoenas and certain procedural requirements for the issuance and service of subpoenas.

On the request of a person entitled to the issuance of a subpoena, a circuit court clerk is required to issue a completed subpoena, or provide a blank form of subpoena, which must be filled in and returned to the clerk to be signed and sealed before service. On the request of an attorney entitled to the issuance of a subpoena, the clerk must issue a subpoena signed and sealed but otherwise in blank, to be filled in before service.

Generally, a subpoena issued by a clerk in Maryland must contain (1) the caption of the action; (2) the name and address of the person to whom it is directed; (3) the name of the person requesting the subpoena; (4) the date, time, and place where attendance is required; (5) a description of any documents or other tangible things to be produced; and (6) when applicable, a notice for an organization to designate an individual to testify on the organization's behalf.

Additional Information

Prior Introductions: HB 22 of 2011 was passed as amended by the General Assembly and vetoed by the Governor. While agreeing that there ought to be uniformity in the circuit court subpoena process and uniform operating procedures by clerks, the Governor vetoed the bill based on concerns expressed by the Judiciary of the potential for fraud and abuse under the bill.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - February 16, 2014
mm/kdm

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