

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

Senate Bill 619 (Senator Astle)
Judicial Proceedings

Consumer Protection - Mediation Services - Liability Insurance

This bill requires “mediators” to possess malpractice insurance, including coverage for mediation practice, of at least \$100,000 per occurrence and an aggregate limit of at least \$250,000. Violators are subject to administrative and/or civil penalties under existing consumer protection provisions.

Fiscal Summary

State Effect: General fund expenditure increase of \$50,000 for the Consumer Protection Division in FY 1998 as discussed below. Potential minimal increase in general fund revenues due to applicable administrative and civil penalty provisions. Assuming that the Consumer Protection Division will receive fewer than 50 complaints per year stemming from this bill, existing resources should be adequate to handle any additional workload relating to enforcement of these provisions.

Local Effect: Potential minimal revenue increase due to applicable civil penalty provisions. Potential indeterminate expenditure increases as discussed below.

Small Business Effect: Potential meaningful effect on small businesses as discussed below.

Fiscal Analysis

State Expenditures: The Consumer Protection Division uses approximately 70 volunteers for mediation services provided by the division. In addition, there are approximately 30 employees of the division, including Assistant Attorneys General, who are involved in the supervision of these volunteers, and who would require malpractice insurance under this bill. The cost of this insurance is estimated at \$500 per person per year.

Accordingly, unless the number of volunteers and/or supervisors of mediation services at the

division would change, general fund expenditures would increase by \$50,000 annually as a result of this bill. However, the division could decide to make such insurance coverage a precondition for volunteer mediation after fiscal 1998 or 1999. In so doing, the division's annual costs for malpractice insurance could be reduced by \$35,000 annually.

Local Expenditures: It is not known if any local jurisdictions are currently using private mediators or mediation organizations. If so, and local governments do not require the mediators to bear the cost of the malpractice insurance required under this bill, local expenditures could increase by an amount equal to the costs of the insurance if that jurisdiction wishes to continue using those services.

Small Business Effect: The January 1997 edition of the Directory of Maryland Dispute Resolution Professionals, produced by the University of Maryland at Baltimore Law School, has approximately 160 listings of persons or entities referring to themselves as alternative dispute resolution (ADR) professionals. Of that number, 25 are law firms, and 22 are ADR organizations separate from law firms. It is believed that there could be twice as many practitioners as are in this listing.

However, some of the directory listings representing firms or associations are actually only a single person. A certain number of other listings represent members of the clergy, the courts and other public entities (such as the Consumer Protection Division), and nonprofit community activists/organizations. Therefore, it is difficult to know the actual number of mediation practitioners in the State who would qualify as a small business. In addition, many attorneys offer these services without a business listing for mediation services.

In any event, this bill would add to the cost of the practice of mediation and could meaningfully impact a small business since the cost of the insurance would have to be borne by individual mediators or the business for which they work. The extent to which this additional cost of doing business would be a barrier to entry into the industry is unknown.

Information Source(s): Office of the Attorney General, Department of Fiscal Services

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