

Department of Legislative Services  
Maryland General Assembly

**FISCAL NOTE**

House Bill 486 (Delegate R. Baker. *et al.*)

Judiciary

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**Soliciting or Marketing Legal Services - Access to Records**

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This bill requires that every charging document for criminal offenses and incarcerable traffic offenses include a specified notice informing the defendant of his or her right to withhold consent to the inspection of records relating to the charge by people whose purpose is to solicit or market the services of lawyers. The judicial officer before whom a defendant initially appears must ensure that the defendant is aware of the right to withhold consent to records inspection, ascertain whether or not the defendant consents to the inspection of his or her records, and indicate accordingly on the charging document. Court personnel must deny access to criminal records to persons seeking to review the records for purposes of soliciting or marketing legal services if the defendant has withheld consent.

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**Fiscal Summary**

**State Effect:** Indeterminate, but potentially significant, increase in general fund expenditures. No effect on revenues.

**Local Effect:** Indeterminate increase in expenditures. No effect on revenues. **This bill imposes a mandate on units of local government.**

**Small Business Effect:** Potential meaningful.

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**Fiscal Analysis**

**State Expenditures:** This bill would require the District Court and circuit courts to modify and reprint charging documents to include the prescribed notice, a relatively minimal expense.

The District Court and circuit courts would also be required to modify their computer systems to limit public computer access to criminal records in accordance with the bill. The

District Court estimates that making such changes to its computer system would cost approximately \$20,000. The State would perform and/or pay for the necessary programming changes for the circuit courts, with the exception of Prince George's, Montgomery, and Howard counties, which maintain their own criminal information systems. It would cost the State approximately \$50,000 to modify the circuit court computer programs for the counties that do not maintain their own systems.

In addition, the bill would add significantly to the workload of the District Court and circuit court clerks' offices. For every request to review criminal records, an employee would have to determine whether the defendant had consented or withheld consent to inspection for purposes of legal solicitation. If consent was withheld, the employee would then have to inquire as to the purpose of the review, and deny access to the file if the purpose was solicitation or marketing of legal services. To ensure compliance, the courts might deem it necessary to develop a form for information seekers to sign, stating that the information sought is not for the purpose of solicitation. The additional work for the clerks' offices resulting from this bill would require training and could require the hiring of additional personnel, depending upon the volume of requests for inspection and the frequency with which consent is withheld. It is expected that consent would be withheld frequently, based on the experience of the Motor Vehicle Administration (MVA) since the enactment of legislation in 1997 permitting people to deny public access to MVA information.

**Local Expenditures:** Prince George's, Montgomery, and Howard counties would incur costs associated with computer programming modifications. Such costs could exceed \$10,000 per county.

**Small Business Effect:** This bill would adversely affect small law firms and other small businesses that use criminal case information to market legal services to criminal defendants, because the access of those businesses to criminal case information would be limited. The magnitude of the impact on a given law firm or small business would depend on the extent to which the firm or business relies upon solicitation of criminal defendants as a source of revenues.

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**Information Source(s):** Judiciary (District Court of Maryland, Judicial Information Systems); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Legislative Services

**Fiscal Note History:** First Reader - February 5, 1998

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