Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 512   (Delegate Montague)

(Commission on Uniform State Laws)

Judiciary

Maryland Uniform Child Custody Jurisdiction and Enforcement Act

This bill repeals the Maryland Uniform Child Custody Jurisdiction Act and adopts the Maryland Uniform Child Custody Jurisdiction and Enforcement Act. The bill is based upon and is substantially similar to the Uniform Child Custody Jurisdiction and Enforcement Act, which was drafted, approved, and recommended for enactment in all states by the National Conference of Commissioners on Uniform State Laws in 1997.

Subtitle 1 - "General Provisions" and Subtitle 2 - "Jurisdiction" of the bill contain provisions relating to the jurisdiction of Maryland courts over child custody matters vis-a-vis courts of other states. These provisions are more detailed, but also more restrictive, than the provisions of current law. Subtitle 3 - "Enforcement" contains provisions relating to enforcement of child custody orders, which are not contained in current law.

The bill applies only to cases filed to establish or modify child custody or motions or other requests for relief filed in child custody cases on or after the bill's October 1, 2000 effective date.

Fiscal Summary

State Effect: Potential significant increase in expenditures for the Judiciary to handle the additional workload. No effect on revenues.

Local Effect: Significant increase in expenditures for circuit courts and local law enforcement agencies to comply with the bill's requirements. Potential minimal increase in revenues. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential minimal.

Analysis

State Fiscal Effect: Child custody disputes are handled by the circuit courts. Due to a lack of codified procedures, there is a lack of uniformity throughout the State in the way that these types of matters are handled, especially in the area of enforcement. Some of the procedures set forth in the bill may already be carried out to an extent by some of the circuit courts.

To the extent that the bill's procedures are not already being followed, however, the State could incur costs to comply. For example, the bill requires courts to maintain a registry of out-of-state child custody determinations that have been submitted by parents or custodians. Upon receipt of an out-of-state child custody determination, the registering court is required to send a specified notice to interested parties, informing them of their right to contest the validity of the registration. If the validity of the registration is contested, the court must hold a hearing. In addition, the bill provides for the filing of petitions for enforcement of child custody determinations. Upon the filing of such a petition, the court is required to issue a show cause order and to schedule a hearing on the next judicial day after service of the order, if possible. A petitioner can also file an application for issuance of a warrant to take physical custody of a child, pursuant to which a court may issue a warrant and instruct law enforcement to obtain the child. The court must hold a hearing on the next judicial day after the warrant is executed, if possible.

Compliance with these and other requirements of the bill could result in a significant increase in the Judiciary's workload, creating the need for more personnel, possibly including judges.

Local Revenues: Revenues received by circuit courts could increase if this bill results in more filings for which fees are charged.

Local Expenditures: Compliance with the requirements of the bill would result in increased administrative and other expenses for the circuit courts. For example, the bill requires that any substantive communication between a Maryland judge and a court of another state about a child custody matter must be recorded or transcribed. Courts would therefore be required to ensure that there are speaker phones and recording devices or court reporters for these conversations, which are currently not usually recorded. In addition, under the bill, a court may allow a witness to testify by telephone, audiovisual means, or other electronic means. Courts could incur substantial additional costs associated with such off-site testimony. A recent study estimated that it could cost approximately $25,000 to $35,000 to equip one courtroom with an audio and video system capable of presenting witness testimony by electronic means. There would also be increased administrative costs for courts in connection with the registry required by the bill. However, the registry could conceivably result in net savings for the courts to the extent that it enables custodial parents to retrieve

their children without resorting to litigation in Maryland.

The bill also requires a court to preserve all files and records relating to a child custody proceeding until the child reaches the age of 18. This provision could present a major storage problem for circuit courts, many of which lack significant additional storage space.

To the extent that local law enforcement is called upon more frequently to assist in obtaining physical custody of children, expenditures for local law enforcement agencies could also increase.

Additional Comments: The specificity of the bill could result in efficiency savings for the Judiciary in that it would provide courts with guidance in how to proceed in child custody disputes.

Additional Information

Prior Introductions: A similar bill was introduced during the 1998 session as HB 310, which received an unfavorable report from the Judiciary Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Baltimore City Circuit Court, Montgomery County Circuit Court, Prince George's County Circuit Court, Maryland Commission on Uniform State Laws, Department of Legislative Services

Fiscal Note History: First Reader - February 17, 2000
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