

Department of Legislative Services
 Maryland General Assembly
 2003 Session

FISCAL AND POLICY NOTE

Senate Bill 523

(Senator Mooney, *et al.*)

Judicial Proceedings

Judiciary

Family Law - Domestic Violence - Address Confidentiality Program

This bill requires the Office of the Attorney General (OAG) to establish an “Address Confidentiality Program” for domestic violence victims. The bill establishes eligibility requirements for the program and procedures for the program’s operation, including fines for certain program violations.

Fiscal Summary

State Effect: General fund expenditures for OAG would increase by \$192,400 in FY 2004 for personnel and related expenditures. Future years reflect annualization and inflation.

(in dollars)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	192,400	241,300	253,800	267,300	281,700
Net Effect	(\$192,400)	(\$241,300)	(\$253,800)	(\$267,300)	(\$281,700)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: This bill requires OAG to establish and administer an Address Confidentiality Program (ACP) for domestic violence victims. A program participant may be an individual, a parent, or a guardian acting on behalf of a minor who resides

with the parent or guardian, or a guardian acting on behalf of a disabled person. The purpose of the ACP is to enable State and local agencies to respond to requests for public records without disclosing the location of a domestic violence victim. OAG accepts service of process, first-class, certified, and registered mail for the participant and creates a substitute address for the participant to use. Upon request, a State or local agency must use a participant's substitute address instead of the actual address.

ACP applications must be signed, be in an approved format, and contain:

- a statement that the applicant is a domestic violence victim and the applicant fears for the applicant's safety or the safety of the applicant's child;
- evidence that the applicant is a domestic violence victim, including appropriate documentation;
- a statement that disclosure of the applicant's actual address would endanger the applicant's safety or the safety of the applicant's child;
- a designation of the Attorney General as agent for service of process and receipt of first-class, certified, or registered mail;
- the applicant's mailing address and a phone number where the applicant may be contacted by OAG;
- the actual address that the applicant requests not be disclosed by the Attorney General;
- information about any existing court orders or action involving the applicant and related to divorce, child support, child custody, or child visitation, and information about the court that issued any orders or has jurisdiction over any of these actions; and
- a sworn statement by the applicant regarding the truth of the applicant's information.

OAG must certify applicants as program participants. A certification is valid for four years from the date of filing unless the certification is canceled or withdrawn. A participant may withdraw a certification by filing a signed, notarized request for withdrawal with the Attorney General.

An applicant who falsely attests to the danger of the applicant's address disclosure, or who knowingly provides false information must lose certification. OAG is required to investigate any allegations of noncompliance. If OAG finds that a violation has occurred, a civil fine not exceeding \$500 must be imposed against the applicant.

An ACP participant who obtains a legal name change must notify OAG within 30 days, and provide sufficient evidence of the name change. A participant who changes an address or phone number must notify the Attorney General at least seven days before the change occurs. The Attorney General must cancel the certification of a participant if the ACP participant fails to provide notification of name, address, or telephone changes as required, the participant files a withdrawal request, the participant submits false information, or the Attorney General receives mail addressed to the participant that has been returned as undeliverable.

The Attorney General is required to send notice of certification cancellation to the participant with the reason for cancellation. The participant may appeal a cancellation decision in accordance with procedures developed by OAG. A person who ceases to be a program participant is responsible for notifying any person that the substitute address supplied by OAG is no longer valid.

An ACP participant may request any State or local agency to use the substitute address provided by OAG as the participant's address. An agency must comply with this request unless the agency has a bona fide reason for using the participant's actual address and has received a waiver from OAG. A waiver authorizes an agency to use the actual address only for the required statutory or administrative purpose.

Each local board of elections must use a participant's actual address for all election-related purposes. A participant may not use the substitute address for voter registration purposes. However, a local board of elections may not make a participant's address available for public inspection or copying except as provided by statute.

Generally, a participant's actual address and telephone number as maintained by OAG or any other State or local agency is not a public record. OAG may not disclose an ACP participant's actual address or phone number, or substitute address. However, the Attorney General must notify the appropriate court of a participant's certification and the substitute address designated by the Attorney General if the participant is subject to a court order or involved in a court action related to divorce, child custody, child support, or child visitation.

A person may not knowingly and intentionally obtain a participant's actual address or phone number from any agency without authorization. Additionally, if an OAG employee obtains a participant's actual address or phone number in the course of the

employee's duties and has specific knowledge that the actual address or phone number belongs to an ACP participant, then the employee may not knowingly and intentionally disclose a participant's actual address or phone number to another person unless authorized. Both violations are misdemeanors, subject to a maximum fine of \$2,500.

The Attorney General is required to designate State and local agencies and nonprofit organizations to provide assistance to ACP applicants. The assistance may not be construed as legal advice. The Attorney General is required to adopt regulations to carry out the bill's provisions.

Current Law: There are no provisions in State law that provide for the confidentiality of personal information because a person or someone under the person's care is a victim of domestic violence.

Personal information means information that identifies an individual, including an address, telephone number, and other identifying information. A "custodian" is an officer or employee of State or local government who is responsible for keeping the public record. With certain exceptions, a custodian may not knowingly disclose a public record of the Motor Vehicle Administration (MVA) containing personal information. A custodian must disclose personal information, however, to a federal, State, or local government, including a law enforcement agency or court, and other entities, as provided by statute. A person receiving personal information relating to MVA records may not use or redisclose the personal information for a purpose other than that for which the custodian disclosed the personal information. A person who rediscloses this personal information must keep a record regarding who the information was provided to for five years and provide it to the custodian upon request.

For the purpose of public inspection, and except upon special order of the local board, original voter registration records must be available for public inspection at all times when a local board is open and may not be removed from the office except by court order or for temporary removal solely for the purposes of data processing.

Background: According to the Maryland Network Against Domestic Violence, the U.S. Department of Justice estimates that about 25% of domestic violence assaults are actually reported to police. The *2001 Crime Report* for Maryland reports a total of 20,688 domestic violence crimes during calendar 2001. This is a decrease of 1.1% compared to calendar 2000.

The National Conference of State Legislatures reports that the following states have enacted address confidentiality programs: California, Florida, Illinois, Indiana, Maine, Massachusetts, Nevada, New Hampshire, New Jersey, North Carolina, Oklahoma, Rhode Island, Vermont, and Washington.

State Expenditures: General fund expenditures for OAG are expected to increase by \$192,396 in fiscal 2004, accounting for an October 1, 2003 start-up date. It is difficult to reliably predict how many people would take advantage of the ACP. Based on the experiences of other states with similar programs, OAG would need three positions. An attorney position would be responsible for program management, evaluate and certify program applicants, draft regulations, investigate alleged violations, and administer the imposition of fines for those who violate program provisions. An administrator would be needed for training and outreach to social services and domestic violence organizations, and would also provide application assistance to prospective ACP participants. A clerical employee would also be needed. Postage costs, for the processing of mail for ACP participants, are estimated to be \$10,000 annually, as shown below:

	<u>FY 2004</u>
Salaries and Fringe Benefits	\$158,638
Postage	10,000
Other Operating Expenses	<u>23,758</u>
Total FY 2004 Expenditures	\$192,396

Future year expenditures reflect: (1) full salaries with 4.5% annual increases and 3% annual turnover; and (2) 1% increase in ongoing operating expenditures.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County, Prince George's County, Caroline County, Calvert County, Howard County, Baltimore City, Office of the Attorney General, National Conference of State Legislatures, Florida Office of the Attorney General, Department of Legislative Services

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Analysis by: Karen D. Morgan

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

