

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 10

(Senator Mooney, *et al.*)

Judicial Proceedings

Judiciary

Family Law - Domestic Violence - Address Confidentiality Program

This bill requires the Secretary of State 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: Potential minimal increase in revenues due to the bill’s penalty provisions. It is expected that the Secretary of State and the District Court could meet the bill’s requirements using existing resources.

Local Effect: The bill’s requirements could be met with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires the Secretary of State 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 ACP is to enable State and local agencies to respond to requests for public records without disclosing the location of a domestic violence victim. The Secretary of State 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 specified information.

The Secretary of State 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 A certification is valid for four years from the date of filing unless the certification is canceled or withdrawn.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 Secretary of State.

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

An ACP participant may request any State or local agency to use the substitute address provided by the Secretary of State 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 the Secretary of State. 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 the Secretary of State or any other State or local agency is not a public record. The Secretary of State may not disclose an ACP participant's actual address or phone number, or substitute address. However, the Secretary of State must notify the appropriate court of a participant's certification and the substitute address designated by the Secretary of State 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 employee of the Secretary of State 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 Secretary of State 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.

Generally, a custodian of a public record must permit inspection of the record at a reasonable time.

A custodian must deny inspection of a public record or any part of a public record if: (1) the public record is privileged or confidential by law; or (2) the inspection would be contrary to: (a) a State statute; (b) a federal statute or regulation; (c) the Maryland Rules; or (d) an order of a court of record. Denial of inspection is also mandatory for public records relating to adoption, welfare records, letters of reference, and specified information about an individual maintained by a library. Denial of inspection is required for information in a public record relating to certain medical, psychological, and sociological information; trade secrets; certain personal information about public employees; information about the security of an information system; licensing records and, with certain exceptions, personal identifying information contained in records of the Motor Vehicle Administration.

Background: According to the Maryland Network Against Domestic Violence, the U.S. Department of Justice estimates that only about 25% of domestic violence assaults are actually reported to police. The *2003 Uniform Crime Report* shows a total of 17,860 domestic violence crimes occurring during calendar 2003. This is a decrease of 5.8% compared to calendar 2002. However, the 2003 and 2002 totals do not include reporting from Baltimore City, due to data conversion issues. In 2001, Baltimore City reported 1,492 domestic violence crimes. Assaults were the most frequently reported crime, with 16,699 assaults occurring in calendar 2003 (not including Baltimore City). According to the Administrative Office of the Courts, in the District Court, 22,934 domestic violence cases were filed during fiscal 2004, compared to 21,333 cases filed in fiscal 2003.

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

State Revenues: General fund revenues could increase minimally under the bill's monetary penalty provisions for those cases heard in the District Court. It is expected that the number of people accused of the proposed crimes would be minimal.

State Expenditures: It is difficult to predict reliably how many people would take advantage of ACP. The bill requires resources for administration, investigations, mail forwarding, and regulatory review. However, the Secretary of State advises that these requirements could be handled with existing resources.

Additional Information

Prior Introductions: This bill is a reintroduction of SB 152 from the 2004 session. SB 152 passed the Senate and passed second reading in the House, but failed after rejection of a motion to suspend the rules. In the 2003 session, a similar bill (SB 523) passed the Senate, but received an unfavorable report from the Judiciary Committee.

Cross File: HB 962 (Delegate Bartlett, *et al.*) – Judiciary.

Information Source(s): Somerset County, Montgomery County, Prince George's County, Charles County, Baltimore County, Frederick County, Secretary of State, Judiciary (Administrative Office of the Courts), Department of State Police, National Conference of State Legislatures, Maryland Network Against Domestic Violence, Department of Legislative Services

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