

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 543

(Senator Giannetti)

Judicial Proceedings

**Courts - Service of Process - Motor Vehicle Administration as Agent for
Nonresident Driver**

This bill designates the Motor Vehicle Administration (MVA) as the agent for a nonresident driver with regard to service of process pertaining to an action related to an accident or collision involving a motor vehicle driven by the nonresident. The bill establishes when service on a nonresident driver is sufficient and authorizes the MVA to collect a fee to recover costs associated with receiving process.

The bill only applies prospectively to cases filed on or after the October 1, 2006 effective date.

Fiscal Summary

State Effect: Potential increase in Transportation Trust Fund (TTF) expenditures. The actual effect would depend on the number of subpoenas served on the MVA. Potential effect on judicial operations, due to the potential increase in caseload.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: By exercising the nonresident's privilege to drive, a nonresident irrevocably appoints the MVA as agent to receive a subpoena, summons, or other process that is directed to the nonresident driver and is issued in an action that is related to an

accident or collision involving a motor vehicle driven by the nonresident driver and in which the nonresident driver is named a party.

Service of process is sufficient service on the nonresident driver if:

- service is made by personal delivery and leaving of a copy of the process with the MVA;
- a fee for service of process is paid to the MVA;
- the MVA sends a copy of the process by certified mail, return receipt requested, to the nonresident driver at the nonresident driver's last known address; and
- the MVA files an affidavit of compliance with the provisions of this section with the clerk of the court in which the action is pending.

The MVA shall provide a copy of the affidavit to the party seeking service upon the party's request. The party seeking service is required to send a copy of the affidavit of compliance to the automobile insurer of the nonresident driver. The affidavit must be sent to the insurer by certified mail, return receipt requested.

The MVA must keep a record of all process served that shows the date and hour of the service. When the certified return receipt is returned to the MVA, the MVA must:

- deliver it to the party seeking service; and
- keep a record of the date of its receipt and delivery to the party seeking service.

The MVA is authorized to establish and collect a fee to recover its costs under the bill.

Current Law: Maryland Rule 2-124 sets out the persons who are to be served with process.

Service is made on an individual by serving the individual or an agent authorized by appointment or by law to receive service of process for the individual.

Background: Montana, North Carolina, South Carolina, and Washington have enacted statutes providing that a nonresident who operates a motor vehicle on the roads of a state automatically authorizes a specified official of that state (usually the Secretary of State or the Commissioner of Motor Vehicles) to accept service of process pertaining to an action related to an accident or collision involving a motor vehicle driven by the nonresident. Some of the statutes extend to motor vehicles driven for or under the control of the nonresident.

State Fiscal Effect: According to the *National Safety Council Report*, 192,873 drivers were involved in traffic accidents in Maryland in 2002. Nonresident drivers accounted for 20,624 drivers in this group; no residence was stated for 37,725 drivers in this group.

The MVA processed 8,783 subpoenas in fiscal 2005. The subpoenas are currently processed by one full-time customer agent. *For illustrative purposes only*, if the MVA issued subpoenas for 10% of the nonresident and unknown residence drivers, the MVA would require one additional full-time customer agent and one part-time teletypewriter operator, at a total TTF cost of \$81,530 (includes salaries, fringe benefits, and operating expenses) in fiscal 2007.

The MVA is authorized to recover its costs for processing subpoenas. Therefore, the total fiscal impact should be minimal.

The District Court advises that it may experience an increase in caseloads. Additional clerical time will be required to process the additional cases and additional court time will be necessary for the increased number of trials.

Additional Information

Prior Introductions: SB 653 of 2005, a similar bill, received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: HB 1279 (Delegate Anderson) – Judiciary.

Information Source(s): Maryland Department of Transportation, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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ncs/jr

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