

Department of Legislative Services  
Maryland General Assembly  
2006 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 25

(Senator Mooney, *et al.*)

Judicial Proceedings

Judiciary

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**Family Law - Domestic Violence - Address Confidentiality Program**

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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.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in revenues and expenditures due to the bill’s penalty provisions. It is expected that the Secretary of State and the Judiciary could meet the bill’s requirements using existing resources.

**Local Effect:** Potential minimal increase in expenditures due to the bill’s incarceration provision. Otherwise, the bill’s requirements could be met with existing resources.

**Small Business Effect:** None.

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**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 will accept service of process, first-class, certified, and registered mail for the participant and create 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.

The Secretary of State must designate applicants as program participants upon the filing of a properly completed application and a voluntary release and waiver of all future claims against the State for any claim that may arise from participation in the program except a claim based on gross negligence. An applicant must be a participant in the program for four years from the date of filing unless the participation is canceled or withdrawn. A participant may withdraw from participation in the program 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 will not be allowed to participate in the program. The bill also provides that a person who knowingly makes a false attestation or knowingly provides false information in an application is guilty of a misdemeanor and is subject to maximum penalties of imprisonment for six months and/or a fine of \$500.

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 *2004 Uniform Crime Report* (the latest information available) shows that 23,013 domestic violence crimes occurred during calendar 2004. This is an increase of 28.9% compared to calendar 2003. However, the 2003 domestic violence total does not include reporting from Baltimore City, due to data conversion issues. In 2004, Baltimore City reported 5,643 domestic violence crimes. Assaults were the most frequently reported crime, with 21,365 assaults occurring statewide in calendar 2004. According to the Administrative Office of the Courts, the circuit courts opened 4,166 domestic violence cases and the District Court opened 23,627 in fiscal 2005.

The National Conference of State Legislatures reports that 15 states have enacted address confidentiality programs: California, Florida, Illinois, Indiana, Maine, Massachusetts, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, Oklahoma, Rhode Island, Vermont, and Washington.

Domestic violence advocates have indicated that address confidentiality programs can help keep victims safe from their abusers, providing the peace of mind to start rebuilding their lives.

**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.

General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to increased payments to counties for reimbursement of inmate costs and more people being committed to Division of Correction (DOC) facilities. The number of people convicted of this proposed crime is expected to be minimal.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90

days. State per diem reimbursements for fiscal 2007 are estimated to range from \$17 to \$65 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. Currently, the DOC average total cost per inmate, including overhead, is estimated at \$1,974 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$341 per month.

**Local Expenditures:** Expenditures could increase as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$33 to \$119 per inmate in fiscal 2007.

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### Additional Information

**Prior Introductions:** This bill is a reintroduction of SB 10 as amended/HB962 of the 2005 session. SB 10 passed the Senate, but was not reported out of the Judiciary Committee. HB 962 was not reported out of the Judiciary Committee. SB 152 of 2004, a similar bill, passed the Senate and passed the House on second reading, but failed after rejection of a motion to suspend the rules. In 2003 a similar bill (SB 523) passed the Senate, but received an unfavorable report from the Judiciary Committee.

**Cross File:** None.

**Information Source(s):** Secretary of State, Montgomery County, Prince George's County, Caroline County, Calvert County, 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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