

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE
Revised

House Bill 740

(Delegate Love, *et al.*)

Judiciary

Judicial Proceedings

Courts - Service of Process - Fees Collected by Sheriff

This bill increases various fees for service of process collected by a sheriff as part of a court proceeding. The bill also strikes separate fee provisions for Cecil County, bringing Cecil County under the statewide fee schedule. The bill increases the fee for:

- service of a paper not including an execution or attachment from \$30 to \$40;
- service including an execution or attachment by taking a person into custody or seizing property from \$30 to \$40; and
- service of process papers arising out of administrative agency proceedings where the party requesting the service of process is a nongovernment entity from \$30 to \$40.

The bill also establishes a \$60 fee for service of a paper originating from a foreign court.

Except for service of summary ejectment papers, the bill changes the amount of the fee refunded to the requesting party if the sheriff is unable to serve a paper from the full fee to 50% of the fee. The sheriff may not collect a fee from a housing authority created under the Housing and Community Development Article or for a summons for a law enforcement officer to appear as a witness in a criminal case.

Fiscal Summary

State Effect: The Judiciary would incur expenses of approximately \$500 to print and distribute a new fee schedule, which could be handled with existing resources.

Local Effect: Potentially meaningful increase in local revenues.

Small Business Effect: Minimal.

Analysis

Current Law: Under Maryland Rules 2-123 (circuit court) and 3-123 (District Court), service of process may be made by a sheriff or, except as otherwise provided, by a competent private person, 18 years of age or older, including an attorney of record, but not by a party to the action. All process requiring execution other than delivery, mailing, or publication shall be executed by the sheriff of the county where execution takes place, unless the court orders otherwise.

County sheriffs are entitled to collect fees for service of process and other actions during court proceedings involving the sheriff's office. These fees include:

- \$5 for service of summary ejectment papers;
- \$30 for service of a paper not including an execution or attachment;
- \$30 for service including an execution or attachment by taking a person into custody or seizing property;
- \$30 for service of process papers arising out of administrative agency proceedings where the party requesting the service of process is a nongovernment;
- a percentage of the sale following the execution or attachment of personal property, ranging from \$15 to \$500;
- a percentage of the sale following the execution or attachment of real property, ranging from \$1.50 to \$250; and
- the amount specified in a cooperating agreement with the Child Support Enforcement Administration under § 10-111 of the Family Law Article for service including an execution or attachment in cases relevant to that section.

In Cecil County, the above \$30 fees are increased to \$35. If the sheriff is unable to serve a paper, the full fee shall be refunded to the party requesting the service. The sheriff is also entitled to be reimbursed for expenses incurred for the purpose of conserving or protecting the seized property.

Local Revenues: Several counties report that the bill would increase local revenues. Frederick County estimates that revenues would increase \$149,500 per year due to increased sheriff's process fees. Anne Arundel County advises that the bill will increase local revenues by an estimated \$279,000 in fiscal 2008 and \$372,000 annually thereafter.

Anne Arundel County currently collects approximately \$900,000 per year in sheriff's fees for service of process.

Other counties report that the bill would have minimal or uncertain fiscal impact, because some parties may turn to other methods of process service if fees are increased.

Additional Information

Prior Introductions: None.

Cross File: SB 872 (Senator Astle) – Rules.

Information Source(s): Charles County, Frederick County, Montgomery County, Prince George's County, Somerset County, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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ncs/jr Revised - House Third Reader - March 24, 2007
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