

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE
Revised

House Bill 496
Judiciary

(Delegate Anderson, *et al.*)

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, 2007 effective date.

Fiscal Summary

State Effect: Increase in Transportation Trust Fund (TTF) expenditures to process subpoenas offset by cost recovery fee revenues. The actual effect would depend on the number of subpoenas served on the MVA. Insignificant effect on the Judiciary's workload.

Local Effect: None.

Small Business Effect: Minimal.

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 a certification of the last known address of the nonresident driver, 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 has to provide a copy of the affidavit to the party seeking service. 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 forth 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: Statutes in the majority of states provide for some form of constructive or substituted service of process on nonresident motorists involved in a accident while using the state's highways. Such statutes have survived constitutional challenge. Montana, North Carolina, South Carolina, and Washington have enacted statutes providing that a nonresident who operates a motor vehicle on that state's roads 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 Expenditures: The MVA processed 8,783 subpoenas in fiscal 2005. The subpoenas are currently processed by one full-time customer agent. However, the MVA advises that the process necessary to issue subpoenas under this bill would require substantially more labor than the current process for issuing subpoenas. In fiscal 2004, nonresident or unknown residence drivers were involved in 59,694 accidents. The number of subpoenas actually served on the MVA as a result of the bill cannot be reliably estimated at this time.

For illustrative purposes only, if the MVA issued subpoenas for 10% of the nonresident and unknown residence drivers, the MVA could require three additional full-time customer agents at a cost of \$162,783 in fiscal 2008, which accounts for the bill's October 1, 2007 effective date. Future year expenditures would reflect annualization and inflation.

The District Court advises that it may experience an increase in caseloads that may require additional clerical time to process more cases and additional court time for more trials. Any such increase is not expected to be significant.

State Revenues: The MVA is authorized to recover its costs for processing subpoenas. Therefore, the total fiscal impact should be minimal. *For illustrative purposes only*, if the MVA has to process an additional 6,000 subpoenas per year, assuming the expenditure increases above, the cost for each subpoena is estimated at \$36.17 during the year of implementation, and \$32.68 on an annualized basis. MVA would need to revisit the cost per subpoena annually based on actual expenditures incurred.

Additional Information

Prior Introductions: Similar cross filed bills were introduced in 2006. HB 1279 was passed by the House of Delegates, while SB 543 received an unfavorable report from the Senate Judicial Proceedings Committee. SB 653 of 2005, a similar bill, received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: None.

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

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