

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

House Bill 43
Economic Matters

(Delegate Benson)

International Marriage Brokers - Regulation

This bill requires an international marriage broker to notify international recruits that the criminal and marital history of the broker's American client, as well as basic rights information, is available to the recruit on request. The bill establishes procedures the client must follow in providing the requested information. Information provided to the recruit must be provided in the recruit's native language, with all translation costs borne by the broker.

Fiscal Summary

State Effect: Provided that the Consumer Protection Division receives fewer than 50 complaints per year, the Office of the Attorney General would not require additional resources to fulfill the bill's requirements. Potential minimal increase in general fund expenditures due to the bill's incarceration provisions; potential minimal increase in revenues for District Court cases resulting in monetary penalties. Increases in expenditures for criminal history record checks would be offset by special fund revenues.

Local Effect: Potential minimal increase in local revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: Potential minimal impact on small business.

Analysis

Bill Summary: An international marriage broker is required to notify each recruit who is not a citizen or resident of the United States of the availability of • the criminal record information of a potential partner; • the marital history of the potential partner; and • information about human rights, immigration resources, and emergency assistance. The required notification must be conspicuously provided to the recruit in his or her native language. Any translation costs resulting from the request are the responsibility of the marriage broker.

Upon the request of the recruit, the broker's client is required to obtain a State and national criminal history report at his or her own expense from the central repository. The client must submit the report to the marriage broker with marital history information that includes all marriages, divorces, annulments, and domestic violence protective orders occurring in Maryland or elsewhere. The broker must provide this information to the recruit in his or her native language within 30 days of receipt of the request. Other basic rights information must be provided as soon as possible. The marriage broker may not provide other services to either party until the requested information has been provided.

An international marriage broker is subject to the provisions of the bill if the broker contracts with a State resident to provide services or is otherwise considered to be doing business in Maryland. Marriage brokers that operate on a not-for-profit basis, for religious or other purposes, are not subject to the law. A person who violates the law is guilty of a misdemeanor and is subject to a fine of up to \$10,000 and/or one year in prison.

Current Law: The federal International Marriage Broker Regulation Act of 2005 prohibits a marriage broker from providing a United States client with the contact information of a foreign national until the broker has provided the foreign national with specified information related to the client's criminal and marital history, number of dependents, and states of residence since age 18. The marriage broker then must obtain the consent of the foreign national before releasing his or her contact information.

The Act also requires the U.S. Department of Homeland Security to distribute pamphlets to foreign applicants for fiancée visas informing them of the nonimmigrant visa application process, their legal rights and obligations, and domestic violence and sexual abuse services. The pamphlets must be provided in a minimum of 15 specified languages, with other translations provided as necessary.

The Act further requires that petitions for fiancée visas include information on the criminal convictions of the petitioner. The Secretary of Homeland Security is required to

maintain a database that tracks multiple fiancée visa petitions by a single individual. A consular officer must verify that the individual has not simultaneously petitioned for multiple fiancée visas and that another fiancée visa has not been approved on behalf of the petitioner within the past two years.

Background: In 1999, the Immigration and Naturalization Service estimated that 200 international marriage brokers were in operation around the world, arranging between 4,000 and 6,000 marriages each year between American citizens and foreign nationals.

After several publicized accounts of domestic abuse of women who met their husbands through international marriage brokers, State of Washington lawmakers passed laws to regulate international marriage brokers operating in that state. Hawaii, Missouri, and Texas have enacted similar legislation. These statutes, as well as the federal law, generally work to provide foreign nationals with information about their potential spouses and the resources available to them in the United States. Advocates maintain that this information levels the field for prospective immigrants who themselves are subject to a background check before being approved for legal entry into the United States.

State Fiscal Effect: Provided that the Consumer Protection Division receives fewer than 50 complaints per year, the Office of the Attorney General would not require additional resources to fulfill the bill's requirements.

General fund revenues could increase minimally for District Court cases resulting in monetary penalties. In addition, general fund expenditures could potentially increase 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. In general, 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 2009 are estimated to range from \$19 to \$71 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. The DOC average total cost per inmate, including overhead, is estimated at \$2,600 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 \$526 per month.

Local Expenditures: Local revenues may increase if fines are imposed by the circuit court. Expenditures may also 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 a portion of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$40 to \$129 per inmate in fiscal 2009.

Small Business Effect: To the extent that international marriage brokers qualify as small businesses, the bill could result in additional postage, printing, and translation expenditures.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Public Safety and Correctional Services; Judiciary (Administrative Office of the Courts); Office of the Attorney General (Consumer Protection Division); United States Department of State; Center for Women Policy Studies; Department of Legislative Services

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Analysis by: Suzanne O. Potts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510