

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 917
Judiciary

(Delegate Smigiel, *et al.*)

**Administrative Office of the Courts - Uniform Subpoena Procedures and Forms
for Circuit Courts**

This bill requires the Administrative Office of the Courts (AOC) to design uniform subpoena procedures and forms to be provided to and used in circuit courts for criminal, civil, or traffic matters. AOC must design the procedures and forms by January 1, 2010.

Fiscal Summary

State Effect: Assuming the bill's requirements are met with the development of a uniform paper form, then the Judiciary can fulfill the bill's requirements with existing resources.

Local Effect: Potential minimal increase in expenditures if circuit courts need to print new forms and instructions, and reprogram computers.

Small Business Effect: None.

Analysis

Current Law: The Maryland Rules specify required content for subpoenas and certain procedural requirements for the issuance and service of subpoenas. However, the rules do not require that each circuit court adopt the same form and procedures.

On the request of a person entitled to the issuance of a subpoena, a circuit court clerk is required to issue a completed subpoena, or provide a blank form of subpoena, which must be filled in and returned to the clerk to be signed and sealed before service. On the request of an attorney entitled to the issuance of a subpoena, the clerk must issue a subpoena signed and sealed but otherwise in blank, to be filled in before service.

Generally, a subpoena issued by a clerk in Maryland must contain (1) the caption of the action; (2) the name and address of the person to whom it is directed; (3) the name of the person requesting the subpoena; (4) the date, time, and place where attendance is required; (5) a description of any documents or other tangible things to be produced; and (6) when applicable, a notice for an organization to designate an individual to testify on the organization's behalf.

Background: Unlike the District Court of Maryland, which is a unified system run by the State, circuit courts are local courts administered by the county in which they are located. While the circuit courts of the State have implemented some common forms, (particularly in family law and domestic abuse cases) other forms have not been designed by any of the circuit courts or the forms are only court-specific.

Traffic cases are typically under the jurisdiction of the District Court. If a defendant requests and is granted a jury trial, however, the case goes to a circuit court. However, very few District Court traffic cases result in jury trial prayers. In traffic cases, the traffic citation and/or the notice generated within the automated traffic system is the subpoena, in all other instances, a subpoena is issued using a separate form. In the District Court, all subpoenas are computer-generated.

State Fiscal Effect: This estimate assumes that AOC is able to fulfill the bill's requirements using existing resources by developing a uniform paper-based subpoena form and uniform subpoena procedures. However, the Judiciary advises that the bill may result in a significant expenditure increase because it will necessitate the updating of seven databases and massive computer reprogramming. The Department of Legislative Services advises, however, that complying with the bill's requirements does not in and of itself, necessitate systemwide reprogramming.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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ncs/kdm

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