

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 121
Judiciary

(Delegate Anderson, *et al.*)

Judicial Proceedings

Office of the Public Defender - Eligibility for Services - Requests for Employment
Status and Income Information

This bill authorizes the Office of the Public Defender (OPD) to submit requests to the Department of Labor, Licensing, and Regulation (DLLR) and the Comptroller's Office for information regarding the employment status and income of individuals applying for the services of OPD. Each request must be accompanied by a signed authorization in a form acceptable to the responding agency. DLLR and the Comptroller's Office are required to comply with the requests. The bill specifies that requests and responsive information may be exchanged by facsimile transmission.

Fiscal Summary

State Effect: None. OPD, DLLR, and the Comptroller's Office can handle the bill's requirements using existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: OPD determines eligibility for services by evaluating the financial ability of the applicant to pay for a competent private attorney and all other necessary expenses of representation. Financial ability is determined by a number of specified factors, including the individual's assets, income, the nature of the offense, and the length and complexity of the proceedings.

OPD is required to investigate the financial status of an applicant when the circumstances merit. OPD may require an applicant to execute and deliver written requests or authorizations that are necessary under law to provide OPD with access to confidential records of public or private sources to determine eligibility. OPD, on request, may obtain information without charge from a public record office or other unit of the State or local government.

State law specifies that tax information, including the amount of income disclosed in a tax return, may be disclosed to an employee or officer of the State who, by reason of the employment or office, has the right to the information. However, federal law generally prohibits the disclosure of tax information. Although there are exceptions for the disclosure of tax information to state agencies, the exception is limited to those agencies charged with state tax administration. Taxpayers can authorize disclosure of their tax returns, but must submit a specific form to do so. (*See Tax-General Article § 13-203, Internal Revenue Code § 6103.*)

Employers must keep records that are accurate and contain information that the Secretary or Board of Appeals of DLLR requires. Employees in the performance of their public duties are authorized to inspect employment records, including otherwise confidential information revealing the identity of the employer. Federal law requires that certain security measures are followed when such disclosures are made to ensure that the information is made available only to authorized persons and that the public official receiving the information has instructed all authorized personnel regarding the confidentiality requirements. An agency disclosing the information to a public official must enter into a written, enforceable agreement which must be terminated if the specifications within the agreement are not followed. Finally, federal law prohibits the use of grant funds to pay the costs of making any disclosure to public officials. (*See Labor and Employment Article § 8-625, 20 Code of Federal Regulations § 603.*)

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation; Comptroller's Office; Department of Labor, Licensing, and Regulation; Office of the Public Defender; Internal Revenue Code; Department of Legislative Services

Fiscal Note History: First Reader - January 29, 2010
mam/kdm Revised - House Third Reader - March 29, 2010

Analysis by: Jennifer K. Botts

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