

Department of Legislative Services
 Maryland General Assembly
 2010 Session

FISCAL AND POLICY NOTE

House Bill 698
 Judiciary

(Delegate Kelly, *et al.*)

Judicial Proceedings

District Court - Mailings - Notice of Dismissal, Nolle Prosequi, or Stet

This bill requires a clerk of the District Court to mail notice of a dismissal, *nolle prosequi*, or stet to a defendant and the defendant’s attorney of record if both the defendant and the defendant’s attorney of record are not present in court when the dismissal or *nolle prosequi* is entered or the charge is steted. The clerk is prohibited from mailing notice if the defendant’s whereabouts are unknown or if either the defendant or the defendant’s attorney of record is present in court when the dismissal or *nolle prosequi* is entered or the charge is steted.

Fiscal Summary

State Effect: General fund expenditures decrease by \$23,900 in FY 2011 due to reduced postage costs offset by an increase in computer programming costs. Future year expenditures decrease by at least \$106,900 annually to reflect reduced postage costs for the Judiciary. Revenues are not affected.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	(23,900)	(106,900)	(106,900)	(106,900)	(106,900)
Net Effect	\$23,900	\$106,900	\$106,900	\$106,900	\$106,900

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A defendant is not required to be present in court if a *nolle prosequi* is entered. If a defendant is not present, the clerk must send notice of the *nolle prosequi* to the defendant, if the defendant's whereabouts are known, and to the defendant's attorney of record. A *nolle prosequi* is entered when a State's Attorney declines to prosecute a case and dismisses the charge. (See Maryland Rule 4-247.)

Placing a charge on the *stet* docket represents an indefinite postponement of the trial. A stettered charge may be rescheduled for trial at the request of either party within one year. After one year, a stettered charge can only be reopened by order of the court on a showing of good cause. A defendant is not required to be present in court when a charge is stettered. If a defendant is not present when a charge is stettered, the clerk must send notice of the stet to the defendant, if the defendant's whereabouts are known, and to the defendant's attorney of record. (See Maryland Rule 4-248.)

Background: The District Court currently mails a separate notice for each *nolle prosequi*, dismissal, or stet to the defendant, the defendant's attorney of record, and the charging officer. This is done even when the individuals were present in court at the time of the dismissal, *nolle prosequi*, or stet. Defendants who had more than one charge arising out of the same set of circumstances receive separate notifications for each *nolle prosequi*, dismissal, or stet.

Of the 194,087 criminal cases filed in the District Court during fiscal 2009, 79,765 resulted in a *nolle prosequi*, 24,809 were stettered, and 1,638 were dismissed. Information regarding the number of cases in which either the defendant or the defendant's attorney of record were present in court is not available.

Of the 1,202,647 traffic citations that were issued in fiscal 2009, including those for which a defendant could elect to pay the citation without appearing in court, a *nolle prosequi* was entered for 224,893 citations, 24,772 were dismissed, and a stet was entered for 36,413. Information regarding the number of cases in which either the defendant or the defendant's attorney of record were present in court is not available.

State Expenditures: General fund expenditures decrease by \$23,850 in fiscal 2011, which accounts for the bill's October 1, 2010 effective date. This estimate reflects decreased postage expenditures of \$80,196 for the Judiciary and is offset by one-time expenditures of \$56,346 in fiscal 2011 only for computer programming costs. The information and assumptions used in calculating the estimate are stated below:

- the prohibition against sending notice to a defendant and the defendant's attorney of record if either is present in court will reduce District Court expenditures associated with the postage and supplies used to send the notices;

- the bill will reduce the number of notices being sent to defendants by at least 50% (53,106 for criminal cases and 143,039 for traffic cases);
- the number of notices sent to attorneys will also decrease by at least 26,553 for criminal cases and 71,520 for traffic cases (which assumes that there was an attorney of record for 25% of the total number of cases);
- standard postage rates of \$0.44 apply for criminal notices and a bulk rate of \$0.335 for traffic notices is assumed; and
- the decrease in general fund expenditures is partially offset in fiscal 2011 only for one-time computer programming changes to the case management system, estimated at \$56,346.

Future year expenditures for the Judiciary decrease by an estimated \$106,926 annually. This assumes a constant postage rate and a constant decrease in the number of notices that will no longer be required to be mailed.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 9, 2010
mlm/kdm

Analysis by: Jennifer K. Botts

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