

SB 140

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 140 (Senator Zirkin)
Judicial Proceedings

Courts - Service of Process - Motor Vehicle Administration as Agent for Resident Driver

This bill expands to resident drivers the statutory provisions designating the Motor Vehicle Administration (MVA) as the agent for a nonresident driver with regard to service of process. Under the bill, a person who drives or attempts to drive a motor vehicle in the State irrevocably appoints MVA as the agent to receive a subpoena, summons, or other process that (1) is directed to the driver; and (2) is issued in an action related to an accident or collision involving a motor vehicle driven by the driver and in which the driver is named as a party.

The bill only applies prospectively to cases filed on or after the October 1, 2011 effective date.

Fiscal Summary

State Effect: Potential increase in Transportation Trust Fund (TTF) expenditures to process subpoenas offset by cost recovery fee revenues. Under one set of assumptions, TTF expenditures and fee revenues increase by approximately \$105,900 in FY 2012. However, the actual impact may be significantly less if resident drivers choose other methods for service of process. The bill does not have a material effect on the Judiciary's workload.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: By exercising the nonresident's privilege to drive, a nonresident irrevocably appoints MVA as the 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 MVA;
- a fee for service of process is paid to MVA;
- 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
- MVA files an affidavit of compliance with these provisions with the clerk of the court in which the action is pending.

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 motor vehicle insurer of the nonresident driver. The affidavit must be sent to the insurer by certified mail, return receipt requested.

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 MVA, MVA must:

- deliver it to the party seeking service; and
- keep a record of the date of its receipt and the date of delivery to the party seeking service.

MVA is authorized to establish and collect a fee to recover its costs.

MVA is required to submit an annual report to the General Assembly that includes the following information for the preceding calendar year:

- the total number of subpoenas, summonses, and other service of process issued in accordance with the current law;
- the number of instances in which MVA failed to reach the individual being served and the reasons that those attempts failed;
- a breakdown of all direct and indirect costs incurred by MVA in carrying out the law's requirements; and
- the total fees collected by MVA from persons requesting service of process.

Background: MVA acted as the agent for nonresident drivers in 46 instances in 2010.

State Fiscal Effect: Potential increase in fiscal 2012 TTF expenditures offset by a potential increase in TTF fee revenue to cover the costs of processing subpoenas for resident drivers as required by the bill.

According to MVA, in fiscal 2004 (the latest information available) nonresident or unknown drivers were involved in 59,694 accidents. However, MVA only processed 46 subpoenas for nonresident drivers in calendar 2010. Assuming that the number of nonresident accidents has remained consistent, the number of subpoenas processed by MVA compared to the number of motor vehicle accidents has historically been very low.

Given that the bill adds one more avenue for service of process to the numerous existing options for service of process, the number of individuals who will choose MVA as their process server cannot be reliably predicted at this time. However, given the low response to MVA's nonresident driver subpoena program, it is assumed that resident drivers are more likely to choose other methods for service of process.

MVA advised that it was likely to process 4,900 subpoenas under this bill. *For illustrative purposes only*, if MVA received that many subpoena requests, it would need to hire two additional customer agents. MVA also advises that postage expenses would increase by \$28,322 under the bill. As a result, TTF expenditures would increase by \$105,879 in fiscal 2012, which accounts for the bill's October 1, 2011 effective date. MVA is authorized to recover its costs for processing subpoenas. Therefore, the total net fiscal impact should be minimal. Assuming that MVA has to process 4,900 additional subpoenas per year, MVA estimates the cost for each subpoena to be \$28 in fiscal 2012. MVA would need to revisit the cost per subpoena annually based on actual expenditures incurred. While the bill will require MVA to reprogram its computer systems, those requirements can be handled with existing resources.

The Judiciary does not anticipate that the bill will have a material effect on the finances or operations of the District Court.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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ncs/kdm

Analysis by: Amy A. Devadas

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