

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 192
Judiciary

(Delegate Mitchell, *et al.*)

Courts - Service of Process - Increase in Sheriff's Fees - Distribution to Rental Allowance Program Fund

This bill increases the fees collected by county sheriffs for service of process and other papers by \$10 each. The entirety of the additional fee revenue is distributed to a newly created Rental Allowance Program Fund to support the existing Rental Allowance Program in the Department of Housing and Community Development (DHCD).

Fiscal Summary

State Effect: Special fund revenues increase significantly due to the increase in fees collected by county sheriffs and directed to the State; revenues could exceed \$2.0 million annually beginning in FY 2014. Special fund expenditures from the new fund within DHCD increase correspondingly.

Local Effect: None. Any additional money collected by the county sheriffs would be distributed to the Rental Allowance Program Fund in DHCD. Any overhead costs associated with collecting the additional fees and distributing them to the Rental Allowance Program Fund could be handled with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: This bill increases the fees that a sheriff is required to collect as follows:

- from \$40 to \$50 for service of a paper not including an execution or attachment;
- from \$40 to \$50 for service including an execution or attachment by taking into custody a person or seizing real or personal property;
- from \$40 to \$50 for service of process papers arising out of administrative agency proceedings where the party requesting the service is a nongovernmental entity; and
- from \$60 to \$70 for service of a paper originating from a foreign court.

In addition to the revenue generated from the fee increase, the fund consists of money appropriated in the State budget for the program and any other money accepted for the benefit of the fund from any other source. Investment earnings are paid into the fund. Money from the fund may be spent only to carry out the purposes of DHCD's Rental Allowance Program and in accordance with an appropriation approved by the General Assembly in the State budget. Specified fee refunds made to a party by a sheriff unable to serve a paper are calculated and made after the distribution to the Rental Allowance Program Fund.

Current Law: Service of process may be made by a sheriff or, except as otherwise provided, by a competent person 18 years of age or older, including an attorney of record, but not by a party to the action. All process requiring execution other than delivery, mailing, or publication, must be executed by the sheriff of the county where execution takes place, unless the court orders otherwise.

County sheriffs are entitled to collect fees for service of process and other actions during court proceedings involving the sheriff's office. These fees include:

- \$5 for service of summary ejectment papers;
- \$40 for service of a paper not including an execution or attachment;
- \$40 for service including an execution or attachment by taking a person into custody or seizing property;
- \$40 for service of process papers arising out of administrative agency proceedings where the party requesting the service of process is a nongovernmental entity; and
- \$60 for service of a paper originating from a foreign court.

Except in the case of summary ejectment papers, if the sheriff is unable to serve a paper, 50% of the fee must be refunded to the party requesting the service.

The Rental Allowance Program is administered by DHCD's Division of Development Finance. The program was established to assist low-income households that are homeless or at risk of being homeless by providing housing assistance payments to or on behalf of eligible households. The Governor's proposed fiscal 2014 budget includes \$1.7 million in general funds for the program.

Background: Chapter 431 of 2007 (HB 740) increased various fees for service of process and other papers (except for service of summary ejectment papers) from \$30 to \$40 and established the \$60 fee for service of a paper originating from a foreign court.

The Rental Allowance Program assists approximately 350 households annually. The program's general fund appropriation has been \$1.7 million since 2005. The demand for assistance from the program exceeds the availability of resources and this discrepancy has become more pronounced with the current economic and employment situation. Creating a dedicated funding source would allow the program to help more families.

State Fiscal Effect: The increase in special fund revenues under the bill is substantial and equal to the amount of the fee increase collected by the county sheriffs. Not all counties use their sheriffs to serve process or other court papers. Among the counties that do use their sheriffs for this purpose, some do not track the fees collected. For these reasons, it is not possible at this time to produce a reliable estimate of the revenues created for the Rental Allowance Program Fund from this source.

The following additional information was provided by counties in 2012:

- Charles County indicated that the county sheriff's office performed service of process over 12,000 times in fiscal 2011. The sheriff's office did not collect fees for each instance because there is no charge if a summons is from a governmental entity.
- Anne Arundel County indicated that, excluding summary ejectment papers and summons from a governmental entity, service of process occurred 79,000 times in fiscal 2011.

The following additional information was provided by counties in 2008:

- In Frederick County, approximately \$482,000 was collected in fiscal 2006 for service of process and other court papers.
- In Cecil County, approximately \$91,700 was collected in fiscal 2007 for service of process and other court papers.

Assuming that sheriffs charge \$40 for the majority of service of process events, sheriffs in these four counties collect an additional \$790,000 in fiscal 2014 and \$1.05 million in fiscal 2015 and subsequent years as a result of the bill. Since these jurisdictions account for approximately 18% of the State's population, actual revenue collections would be considerably higher and could exceed \$2.0 million annually.

Special fund expenditures from the Rental Allowance Program Fund in DHCD increase correspondingly to provide payments to or on behalf of eligible households under the Rental Allowance Program.

Any need to revise and reprint a cost schedule at the Judiciary can be handled with existing resources.

As noted above, the Governor's proposed fiscal 2014 budget includes \$1.7 million in general funds for the Rental Allowance Program. To the extent that fee revenues are sufficient to cover the costs of the Rental Allowance Program, the need for general funds for the program could decrease.

Additional Information

Prior Introductions: A similar bill, SB 413 of 2012, passed the Senate but received an unfavorable report from the House Judiciary Committee. Another similar bill, SB 125 of 2008, passed the Senate and received a hearing in the House Judiciary Committee, but no further action was taken.

Cross File: SB 156 (Senator Brochin, *et al.*) - Judicial Proceedings and Education, Health, and Environmental Affairs.

Information Source(s): Baltimore, Charles, Frederick, and Montgomery counties; Department of Housing and Community Development; Judiciary (Administrative Office of the Courts); U.S. Census Bureau; Department of Legislative Services

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mc/lgc

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