

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 681
Judicial Proceedings

(Senator Conway)

Department of Human Resources - Contracts for Legal Services

This bill requires the Secretary of Human Resources to enter into a contract with a nonprofit legal service delivery organization based in the State to represent children and indigent adults in (1) child adoptions or guardianships as part of termination of parental rights proceedings; (2) proceedings involving a child in need of assistance; (3) adult guardianships or adult protective services proceedings; (4) adult guardianship review hearings in which the Department of Human Resources (DHR) or the Department of Aging is involved; or (5) cases requiring legal services to be provided for a child or vulnerable adult in which the Department of Health and Mental Hygiene is involved. The organization must have an office, a physical presence, or a demonstrated capacity to operate in each county and Baltimore City. The organization may subcontract no more than 50% of the cases the organization receives under the contract to private attorneys, subject to the approval of DHR.

Fiscal Summary

State Effect: Potential significant increase in general and federal fund expenditures (primarily general funds) for DHR due to higher contracting costs for the provision of legal services in specified cases.

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Current Law/Background: DHR is required to provide legal representation for children involved in Child in Need of Assistance (CINA) and termination of parental rights (TPR) proceedings. DHR must also provide legal representation for indigent adults involved in adult protective services and adult public guardianship review board proceedings statewide. The Maryland Legal Services Program (MLSP) within DHR contracts with organizations and law firms to provide the required legal counsel. Maryland Legal Aid (MLA), a nonprofit legal service delivery organization with an office, a physical presence, or a demonstrated capacity to operate in each county and Baltimore City, is one organization with which DHR contracts for services.

In August 2013, DHR brought planned new contract awards and a temporary extension of some current contracts for legal services to the Board of Public Works (BPW). The new contracts and contract extensions related to legal representation of CINA and TPR cases were denied by BPW, and the board requested a study of the procurement of legal services. The requested study is ongoing with a report expected to be submitted in 2014.

State Expenditures: The bill results in a potential significant increase in general and federal fund expenditures due to higher contracting costs for the provision of legal services. DHR advises that MLA is the only nonprofit organization meeting the qualifications required by the bill. DHR contracts with MLA to provide legal services in several jurisdictions, and advises that contracts with MLA represent approximately 55% of MLSP's budget for contractual services. DHR advises that in its most recent request for proposals, MLA's price bid was significantly higher than the average of all other contractors providing services. Specifically, MLA's average price bid was \$1,671 for child cases and \$1,620 for adult cases; the average price bid for all other contractors currently providing services was \$1,108 for child cases and \$592 for adult cases. The Governor's proposed fiscal 2015 budget estimates that contractors will handle 8,867 child cases and 1,908 adult cases in fiscal 2015. *For illustrative purposes only, applying the average price bid by MLA to these cases results in legal contracting costs of more than \$17.9 million annually.* The Governor's proposed fiscal 2015 budget includes \$13.1 million for contracted legal services. For every 10% increase in contracting costs, State expenditures (primarily general funds) increase by \$1.3 million.

Small Business Effect: To the extent that MLA uses its option to subcontract a portion of its cases to private attorneys, some law firms may receive increased business. However, law firms currently contracting with DHR to provide legal services may be negatively affected, as DHR is required to contract solely with the nonprofit organization meeting the specified criteria (MLA). DHR advises that for some of the providers, the contract with DHR is their sole source of income. If MLA elects to subcontract a portion

of its cases to law firms with current contracts with DHR, the loss of business may be partially mitigated.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources, Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Department of Juvenile Services, Department of Aging, Department of Legislative Services

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