

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1533
Judiciary

(Delegate Dumais)

Judicial Proceedings

Commission on Child Custody Decision Making - Extension

This bill extends, from December 31, 2014, to December 31, 2015, the termination date for the Commission on Child Custody Decision Making. The commission must submit an additional interim report of its findings and recommendations to the Governor and the General Assembly by December 31, 2014. The bill also extends to December 1, 2015, the date by which a final report must be submitted to the Governor and the General Assembly.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: Minimal general fund expenditures for the Judiciary to staff the commission continue through December 31, 2015. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Chapter 633 of 2013 established the Commission on Child Custody Decision Making. The commission, staffed by the Department of Family Administration within the Judiciary, was required to:

- study the practice, principles, and process for child custody decisionmaking in the State;

- hold five hearings in specified jurisdictions by December 31, 2013, to allow for public input and participation by interested persons;
- study how to make the establishment and modification of child custody orders more uniform, fair, and equitable;
- study how to reduce litigation in child custody proceedings;
- study and consider the adverse effects of child custody litigation and ways the court system can minimize those effects;
- study how to promote and ensure that children have ongoing relationships with each parent;
- study how to maximize the involvement of both parents in each child's life;
- study the advantages and disadvantages of joint physical custody and the impact of joint physical custody on the health and well-being of children;
- study whether or not there is any gender discrimination in custody decisions in the State and, if so, how to address the discrimination;
- study statutes from other states used for child custody determinations and assess whether those statutes improve the quality of decisions in child custody cases;
- study whether the Annotated Code should contain a statute regarding child custody decisionmaking that would include definitions and factors for consideration in such decisions;
- study case management systems for family law cases in Maryland and other states and study how to improve timely access to the court for temporary, *pendente lite* custody disputes, initial custody determinations, custody modification proceedings, and emergency proceedings, and how to expedite denial of visitation proceedings;
- study the accountability of Maryland courts when using interventions such as protective orders, whether the courts should adopt processes to allow for compliance hearings, and the impact of domestic violence proceedings on temporary and final custody determinations;

- make recommendations regarding the most effective manner in which to facilitate cooperative decisionmaking by parents involved in child custody proceedings as it relates to their children;
- study the judicial training programs currently available regarding child custody decisionmaking and assess how to improve the training, including how to make it more culturally sensitive and diverse, and how to make it more available to all judges on a consistent, ongoing basis;
- review the literature and research on decisionmaking responsibility and physical custody determinations, including child development literature and research on the impact of separation and divorce, and the literature and research on decisionmaking responsibility and physical custody determinations when the parents in the case were never married and may not have lived together;
- study standardization of the language used by courts in making child custody determinations for clarity and to eliminate exclusionary or discriminatory terms;
- study how to ensure that child custody determinations involving parents with mental health issues or sensory or physical disabilities are handled in a fair and even manner based on actual evidence and not presumed limitations;
- gather quantitative and qualitative data on the total number of contested custody cases per jurisdiction, including whether the court awarded joint physical custody to the parties or primary physical custody to the mother or the father over a two-year period; and
- gather quantitative data on whether *pro bono* legal resources are equally available for petitioners and respondents in domestic violence protective order proceedings in Maryland.

Commission members may not receive compensation but are entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget.

Background: The commission issued its interim report on December 31, 2013. The report noted that in 2013, the commission held five public hearings in specified jurisdictions, as required. A total of 166 members of the public attended the hearings and 73 individuals provided testimony. Staff of the commission also conducted background research about legislation and processes affecting custody decisionmaking in Maryland and other states.

State Fiscal Effect: Minimal general fund expenditures for the Judiciary to staff the commission continue through December 31, 2015. The Judiciary indicates that the extension of the commission may have a significant fiscal and operational impact. The Judiciary further indicates that no one was hired to staff the commission and that the staff of the Family Administration has instead been absorbing the workload, resulting in significant overtime costs. The Judiciary is not able to provide a more specific estimate of overtime costs generated by the commission. However, the Department of Legislative Services (DLS) notes that other than requiring another interim report in 2014, the bill does not add any additional responsibilities to the commission. Rather it extends the time the commission has to complete its existing responsibilities. The commission is already required to complete numerous requirements relating to child custody issues and to submit a report in December 2014. As indicated above, the commission has already submitted one interim report. The report noted numerous times that the commission's work was limited by budgetary and time constraints. Allowing additional time before a final report is due may help alleviate the time constraints and mitigate the need for extended overtime.

DLS agrees that the extension of the commission likely leads to additional commission meetings, which may minimally increase costs associated with preparation of materials for the meetings, staff time to prepare for and attend the meetings, and reimbursements for commission members. To the extent that the commission elects to use the additional year to study other matters related to custody matters that are not already required, expenditures may increase further.

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 11, 2014
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