

Department of Legislative Services  
Maryland General Assembly  
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 818

(Senator Forehand, *et al.*)

Judicial Proceedings

Judiciary

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State Government - Human Trafficking Address Confidentiality Program

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This bill requires the Secretary of State to establish a Human Trafficking Address Confidentiality Program for human trafficking victims. The bill establishes eligibility requirements for the program and procedures for the program's operation, including fines for certain program violations.

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Fiscal Summary

**State Effect:** Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions. Potential minimal increase in general fund expenditures for the Secretary of State to administer the program. The Judiciary can handle any additional cases generated by the bill with existing resources.

**Local Effect:** Potential minimal increase in expenditures due to the bill's incarceration provision. Otherwise, the bill's requirements can be met with existing resources. Revenues are not affected.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** The bill requires the Secretary of State to establish and administer a Human Trafficking Address Confidentiality Program (HTACP) for human trafficking victims. A program participant may be an individual, a parent/guardian acting on behalf of a minor who resides with the parent/guardian, or a guardian acting on behalf of a disabled person. The purpose of HTACP is to enable State and local agencies to respond to requests for public records without disclosing the location of a human trafficking

victim. The Secretary of State will accept service of process, first-class, certified, and registered mail for the participant and must create a substitute address for the participant to use. A participant's actual address and telephone number, as maintained by the Secretary of State or a State or local agency, is not a public record under the Public Information Act. Upon request, a State or local agency must use a participant's substitute address instead of the actual address unless the agency obtains a waiver from the Secretary of State. The Secretary of State may not disclose a participant's actual address or telephone number or substitute address, with limited exceptions related to law enforcement, court orders, and court cases.

The bill also requires each local board of elections to use the participant's actual address for all election-related purposes (including voter registration), but prohibits a local board from making the participant's actual address contained in voter registration records available for public inspection or copying, with limited exceptions for law enforcement or court orders.

The Secretary of State must designate applicants as program participants upon the filing of a properly completed application that contains specified items, including a voluntary release and waiver of all future claims against the State for any claim that may arise from participation in the program except a claim based on gross negligence. An applicant must be a participant in the program for four years from the date of filing unless the participation is canceled or withdrawn. A participant may withdraw from participation in the program by filing a signed, notarized request for withdrawal with the Secretary of State. The Secretary of State must cancel the participation of a program participant under specified conditions and subject to specified requirements. A participant may appeal a cancellation decision as provided in the bill.

An applicant who falsely attests to the danger of the applicant's address disclosure, or who knowingly provides false information, may not participate in the program. The bill also provides that a person who knowingly makes a false attestation or knowingly provides false information in an application is guilty of a misdemeanor and is subject to maximum penalties of imprisonment for six months and/or a fine of \$500.

A person may not knowingly and intentionally obtain a participant's actual address or phone number from any agency without authorization. Additionally, if an employee of the Secretary of State obtains a participant's actual address or phone number in the course of the employee's duties and has specific knowledge that the actual address or phone number belongs to a HTACP participant, then the employee may not knowingly and intentionally disclose a participant's actual address or phone number to another person unless authorized. Violations of both prohibitions are misdemeanors, subject to a maximum fine of \$2,500.

The Secretary of State is required to adopt regulations to carry out the bill's provisions.

**Current Law/Background:** The Secretary of State operates the Maryland Safe at Home Address Confidentiality Program, an address confidentiality program for domestic violence victims. The program was established pursuant to Chapters 374 and 375 of 2006.

Generally, under the Public Information Act, a custodian of a public record must permit inspection of the record at a reasonable time.

A custodian has to deny inspection of a public record or any part of a public record if (1) the public record is privileged or confidential by law or (2) the inspection would be contrary to a State statute, a federal statute or regulation, the Maryland Rules, or an order of a court of record. Denial of inspection is also mandatory for public records relating to adoption, welfare records, letters of reference, specified information about an individual maintained by a library, retirement records, certain police records, criminal charging documents, arrest warrants, personnel records, certain hospital and school records, records of certain State agencies, and certain recorded and surveillance images. Denial of inspection is required for information in a public record relating to certain medical, psychological, sociological, and financial information; trade secrets; certain personal information about public employees; information about the security of an information system; and licensing records.

Unless otherwise specified, if a custodian believes that inspection of a part of a public record by an applicant would be contrary to the public interest, the custodian may deny inspection to the applicant of that part of the record. Other permissible denials include information relating to documents that would not be available through discovery in a lawsuit, certain information about publicly administered tests, research projects conducted by an institution of the State or a political subdivision, real estate appraisals of property to be acquired by the State prior to its acquisition, certain information on inventions owned by State public higher educational institutions, and trade secrets or confidential information owned by the Maryland Technology Development Corporation.

The Judiciary advises that the Maryland Rules contains several protections of personal information in court records. A custodian is required to prevent remote access (electronic access outside the courthouse) to the name, address, telephone number, date of birth, email address, and place of employment of a victim or non-party witness in a (1) criminal action; (2) a juvenile delinquency action; (3) a domestic violence action; or (4) a peace order action. Moreover, a victim of a crime, the victim's representative and/or a witness in a criminal action may request that the address or telephone number of the person be

shielded. A person may file a motion to seal or otherwise limit access to a court record, which results in an automatic bar to inspection for up to five days, in order to determine whether a temporary order should be issued. If a temporary order is issued, a full adversary hearing must be held.

**State Expenditures:** General fund expenditures may increase minimally for the Secretary of State to administer the provisions of the bill, as discussed below.

The Secretary of State advises that it needs one additional administrative employee to administer the program and conduct outreach services. DLS estimates that the associated cost for the position will total \$47,400 in fiscal 2015, which accounts for the bill's October 1, 2014 effective date and includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. Fiscal 2016 expenditures associated with one additional employee are estimated to total \$59,200.

The Secretary of State advises that when the Maryland Safe at Home Address Confidentiality Program was created in 2006, it was administered by two existing employees who incorporated program functions into their official duties. At that time, there were 165 participants in the program. Participation in the program has grown, with 912 individuals currently participating, and a total of 1,402 individuals served since the program's inception. Due to the growth in program participation, the program is now administered by one-full time employee.

The bill defines a "victim of human trafficking" as an individual who has been recruited, harbored, transported, provided, or obtained for labor, services or a sexual act through the use of force, fraud, or coercion. The program established under the bill is open to a victim of human trafficking, as evidenced by (1) certified law enforcement, court or other records or files; (2) documentation from a human trafficking prevention or assistance program; or (3) documentation from a religious, medical, or other professional from which the applicant has sought assistance or treatment as a victim of human trafficking.

As a result, participation in the program is not limited to known victims of individuals convicted of human trafficking in State courts. According to the Maryland State Commission on Criminal Sentencing Policy (MSCCSP), there were two convictions for misdemeanor human trafficking and one conviction for felony human trafficking (human trafficking of a minor or taking/detaining another person with the intent to use force to compel marriage or perform a sexual act, *etc.*) in the State's circuit courts during fiscal 2013.

According to the Judiciary, in fiscal 2013, there were at least 28 cases in the District Court involving human trafficking offenses with victims who were minors. There were

approximately 229 human trafficking cases with adult victims in the District Court during fiscal 2013.

Despite the somewhat broad eligibility criteria, it is likely that the pool of individuals eligible to participate in this program is much smaller than the number of individuals eligible to participate in the domestic violence program. Thus, it is likely that the Secretary of State can handle the bill's requirements with at most a minimal increase in general fund expenditures for supplies and related administrative functions. However, should participation in the program increase to the point that additional personnel are needed, general fund expenditures for the Secretary of State would increase as indicated above.

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### **Additional Information**

**Prior Introductions:** HB 1427 of 2013 received a hearing in the House Judiciary Committee, but no further action was taken.

**Cross File:** HB 559 (Delegate B. Robinson, *et al.*) - Judiciary.

**Information Source(s):** Dorchester, Garrett, Howard, and Montgomery counties; City of Hagerstown; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Department of State Police; Secretary of State; Department of Legislative Services

**Fiscal Note History:** First Reader - February 12, 2014  
ncs/hlb

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