

Department of Legislative Services
 Maryland General Assembly
 2016 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 866 (Delegates Rosenberg and Dumais)
 Judiciary

Civil Right to Counsel - Pilot Program - Domestic Violence

This bill requires the Governor, beginning in fiscal 2018, to include an appropriation of at least \$250,000 in the annual budget bill to fund a pilot program in Harford and Prince George’s counties to provide legal representation in protective order proceedings to petitioners and respondents who meet income eligibility requirements established by the Maryland Legal Services Corporation (MLSC). The bill also establishes the Workgroup to Monitor Implementation of a Civil Right to Counsel.

The bill takes effect June 1, 2016.

Fiscal Summary

State Effect: General fund expenditures increase by \$250,000 beginning in FY 2018, which represents the minimum mandated appropriation required by the bill, to fund legal representation in protective order proceedings; special fund revenues and expenditures increase correspondingly. The bill may increase operational efficiency for the Judiciary by decreasing the number of *pro se* litigants in protective order proceedings. **This bill establishes a mandated appropriation beginning in FY 2018.**

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
SF Revenue	\$0	\$0	\$250,000	\$250,000	\$250,000
GF Expenditure	\$0	\$0	\$250,000	\$250,000	\$250,000
SF Expenditure	\$0	\$0	\$250,000	\$250,000	\$250,000
Net Effect	\$0	\$0	(\$250,000)	(\$250,000)	(\$250,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill does not materially impact the workload of the circuit courts.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Funding for Pilot Program

At least 20% of the money appropriated for legal representation in protective order proceedings must be allocated to programs that provide legal representation to income-eligible respondents. Funding must be used to supplement and not supplant existing funding for legal representation in protective order proceedings and other civil legal services programs.

Workgroup to Monitor Implementation of a Civil Right to Counsel

The Governor must designate the chair of the workgroup, which is to be staffed by MLSC. A member of the workgroup may not receive compensation but is entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget.

The workgroup must monitor implementation of the programs that provide legal representation in protective order proceedings and evaluate the effectiveness of the programs. By November 1, 2019, and annually thereafter, the workgroup must report its findings and recommendations to the Governor, the Speaker of the House of Delegates, the President of the Senate, and specified legislative committees.

Current Law/Background: There is no civil right to counsel in protective order proceedings. As noted in the bill's preamble, the Task Force to Study Implementing a Civil Right to Counsel in Maryland recommended the phased-in establishment of a right to counsel in civil domestic violence cases. The Judiciary advises that a significant number of individuals are unrepresented in these types of cases. For example, of the 3,722 final protective order hearings in Prince George's County during fiscal 2015, respondents were represented approximately 14% of the time; petitioners were represented in approximately 15% of cases. Of the 585 final protective order hearings in Harford County during fiscal 2015, petitioners were represented approximately 31% of the time; respondents were represented in 24% of cases. The Judiciary also estimates that approximately half of the litigants in protective order proceedings are likely to be income eligible for assistance once guidelines are established by MLSC pursuant to the bill.

MLSC was established by the Maryland General Assembly in 1982. It receives and distributes funds to nonprofit grantees that provide legal assistance to eligible clients in civil cases. MLSC receives some State funding from specified sources, including revenues from a surcharge assessed on fees, charges, and costs in civil cases. These funds are deposited by the Administrative Office of the Courts into the MLSC Fund, which MLSC then distributes in the form of grants to various organizations that perform the legal assistance services.

State Fiscal Effect: General fund expenditures increase by at least \$250,000 beginning in fiscal 2018, which reflects the minimum mandated appropriation required by the bill. Because MLSC is responsible for developing income eligibility guidelines and staffing the workgroup established to monitor implementation of the pilot program, for purposes of this estimate, it is assumed that the funds are initially deposited into the MLSC Fund and distributed to MLSC, and that MLSC then awards funding to attorneys and/or organizations to provide legal representation. Accordingly, special fund revenues and expenditures increase correspondingly.

The bill may improve operational efficiency for the Judiciary by reducing the number of *pro se* litigants, who may require more judicial resources. Because the majority of protective order cases are heard in the District Court, it is assumed that the bill does not materially impact operations in the circuit courts.

Any expense reimbursements for workgroup members are assumed to be minimal and absorbable within existing resources. MLSC also advises that it can staff the workgroup using existing resources.

Small Business Effect: The bill may have a meaningful impact on small businesses to the extent that State funding is awarded to private attorneys and/or nonprofit organizations to provide legal representation to income-eligible respondents or petitioners in protective order cases.

Additional Information

Prior Introductions: None.

Cross File: SB 833 (Senator Guzzone) - Judicial Proceedings.

Information Source(s): Prince George's County, Judiciary (Administrative Office of the Courts), Maryland Legal Services Corporation, Department of Legislative Services

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kb/kdm

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