

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 794

(Senator Smith)

Judicial Proceedings

Judiciary

Legal Advice to Corporations - Clarification

This bill broadens an existing exception to the requirement that an individual be admitted to the Maryland Bar before the individual may practice law in the State. Specifically, it authorizes an individual who is admitted to the bar of any other state to provide legal advice to the individual's *employer* or the *employer's organizational affiliates*. For purposes of the bill, "affiliate" means a person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with an employer.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: Minimal. The bill may allow some small businesses that employ lawyers admitted to the bar of another state, but not Maryland, to be advised by those lawyers instead of having to hire a lawyer admitted to the Maryland Bar.

Analysis

Current Law: Generally, before an individual may practice law in the State, the individual must be admitted to the Maryland Bar and meet any requirement that the Court of Appeals may set by rule. However, an individual who is employed by a corporation and is admitted to the bar of any other state may provide legal advice to the corporation; the bill expands the exception to include any employer, not just corporations.

An individual giving legal advice under the existing exception (and the broader exception under the bill) is subject to disciplinary proceedings as the Maryland Rules provide. Further, that individual may not appear before a unit of State government or a unit of a political subdivision unless a court grants the individual a special admission.

Background: The Judiciary (Administrative Office of the Courts) advises that investigations into the unauthorized practice of law are first investigated by the Attorney Grievance Commission's (AGC) Office of Bar Counsel. AGC's fiscal 2016 annual report indicates that there were 31 unauthorized practice of law cases during that time and that, of those, 5 were referred to Maryland State's Attorneys' Offices and 1 was referred to the Office of the Attorney General.

Based on review of the case summaries in AGC's annual report, the Judiciary advises that it does not appear that any of the six cases that resulted in further action were related to the exception altered by the bill. It is unlikely that the language eliminates or adds any litigation; therefore, the bill is not anticipated to have any measurable effect on the Judiciary.

Additional Information

Prior Introductions: None.

Cross File: HB 236 (Delegate Barron, *et al.*) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - February 12, 2017
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