

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Senate Bill 823
Judicial Proceedings

(Senator Britt, *et al.*)

Task Force to Promote Nonviolent and Peaceful Ways to Resolve Conflict

This bill establishes a Task Force to Promote Nonviolent and Peaceful Ways to Resolve Conflict staffed by the Governor's Office. The task force is charged with identifying (1) ways of promoting peaceful resolution of conflicts; (2) organizations with experience in nonviolent conflict resolution; and (3) ways that peaceful resolution can be encouraged and promoted in the State, including at the local level and in the juvenile and criminal justice systems. The task force must report its findings to the Governor and the General Assembly by December 1, 2008.

The bill takes effect October 1, 2007 and terminates September 30, 2009.

Fiscal Summary

State Effect: Any expense reimbursements and staffing costs are assumed to be minimal and absorbable within existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Statutes relating to alternative dispute resolution (including mediation) can be found in various areas of potential conflict, including agricultural disputes and health care malpractice claims.

The Maryland Department of Agriculture has an agricultural mediation program whose purpose is to serve as a voluntary and low-cost process to settle agriculturally-related disputes.

Generally, a claim for personal injury resulting from a health care providers' alleged malpractice must be filed with the Health Claims Alternative Dispute Resolution Office. A case filed with that office is referred to an arbitration panel for resolution. However, either party may waive out of arbitration. If a party waives arbitration, the case is brought for trial in circuit court. Within 30 days after the later of the filing of the defendant's answer to the complaint or the defendant's certificate of a qualified expert, the court must order the parties to engage in "alternative dispute resolution" (mediation, neutral case evaluation, neutral fact finding, or a settlement conference) at the earliest possible date. Alternative dispute resolution is not required if the court finds that it would not be productive and all parties agree not to use it.

Background: The Maryland Alternative Dispute Resolution Commission was created in 1998 by the Honorable Robert M. Bell, Chief Judge. The commission was charged with advancing the use of mediation and alternative conflict resolution processes throughout the State, including in the judicial system, the business arena, schools, and neighborhoods. The commission eventually evolved into the Mediation and Conflict Resolution Office (MACRO). MACRO is a court-related agency and serves as an alternative dispute resolution resource for the State.

According to MACRO's *Annual Report for Fiscal Year 2004*:

- mediation is provided in all contested parenting cases in the State (excluding cases involving allegations of domestic violence);
- mediation is available in some jurisdictions for Child In Need of Assistance and Termination of Parental Rights cases;
- civil mediation and facilitation programs exist in District Court jurisdictions throughout Maryland;
- community mediation programs exist in several jurisdictions through MACRO's collaboration with the Maryland Association for Community Mediation; and
- peer mediation and conflict resolution projects have been developed and expanded in schools and universities throughout the State.

MACRO also supports a variety of mediation programs at State's Attorneys offices throughout the State. These programs offer mediation through in-house mediators or partnerships with community mediation programs in criminal and juvenile justice cases. The programs focus on diverting citizens' complaint summons docket cases into

mediation. Other juvenile justice programs, offered in conjunction with the Community Conferencing Center, focus on community responses to juvenile offenses and preventing future occurrences in the juvenile population through community-based services.

Additional Information

Prior Introductions: SB 989, a similar bill, was passed by the Senate. The cross filed bill, HB 1548 of 2006, was referred to the House Health and Government Operations Committee, but no further action was taken.

Cross File: HB 902 (Delegate Niemann) – Health and Government Operations.

Information Source(s): Department of Legislative Services

Fiscal Note History: First Reader - February 26, 2007
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