

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 1158

(Delegates Kerr and Bagnall)

Health and Government Operations

Judicial Proceedings

State Government – Attorney General – Reports

This bill repeals the requirement that the Attorney General, by December 1 of each year, report to the Governor and the Legislative Policy Committee on any action taken under the Maryland Defense Act regarding the investigation, prosecution, or defense against any action or inaction by the federal government that threatens the public interest and welfare of the State’s residents, as specified. The bill also repeals the requirement that the Office of the Attorney General (OAG) annually publish its annual report and opinions of the Attorney General from the preceding year in a bound volume; instead, OAG must publish the information on its website. Finally, the bill (1) repeals a requirement for the annual report to include an itemized statement of the receipts and disbursements of the Attorney General during the preceding fiscal year and (2) specifies that the annual report must also be submitted to the General Assembly.

Fiscal Summary

State Effect: The bill is not expected to have a material effect on State operations or finances, but OAG may experience administrative efficiencies as a result of the bill.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Maryland Defense Act

Chapter 26 of 2017 (the Maryland Defense Act) authorizes the Attorney General to investigate, commence, and prosecute or defend any civil or criminal suit or action that is based on the federal government's action or inaction that threatens the public interest and welfare of the residents of the State with respect to (1) protecting the health of the residents of the State and ensuring the availability of affordable health care; (2) safeguarding public safety and security; (3) protecting civil liberties; (4) preserving and enhancing the economic security of workers and retirees; (5) protecting financial security of the residents of the State, as specified; (6) protecting the residents of the State against fraud and other deceptive and predatory practices; (7) protecting the natural resources and environment of the State; (8) protecting the residents of the State against illegal and unconstitutional federal immigration and travel restrictions; or (9) otherwise protecting as *parens patriae*, the State's interest in the general health and well-being of its residents.

Before commencing a suit or action, the Attorney General must provide the Governor with written notice and an opportunity for review and comment, unless the Attorney General determines that emergency circumstances require immediate action. If the Governor objects to the intended suit or action, then the Governor must provide in writing to the Attorney General the reasons for the objection within 10 days after receiving the notice. Unless there are emergency circumstances that require the immediate commencement of the suit or action, the Attorney General must consider the Governor's objection before proceeding. If the Attorney General determines that emergency circumstances require the immediate commencement of a suit or action to protect the public interest and welfare of the residents of the State, as specified, the Attorney General must provide the Governor notice of the suit or action as soon as reasonably practicable. Annually by December 1, the Attorney General must report to the Governor and the Legislative Policy Committee, as specified. The Governor must include an appropriation of at least \$1.0 million in the annual budget for the authorized activities and to employ five attorneys.

Annual Report of the Attorney General

Annually by January 1, the Attorney General must submit a report to the Governor that (1) describes the business and proceedings of the office during the preceding calendar year; (2) includes an itemized statement of the receipts and disbursements of the Attorney General during the preceding fiscal year; and (3) includes any recommendations that the Attorney General considers appropriate.

Publication of Opinions and Annual Report

Among other things, the Attorney General must annually have published, in bound volume (1) the opinions that OAG issued during the preceding year, and (2) the annual report for the preceding year.

Maryland Uniform Electronic Legal Materials Act

Under Title 10, Subtitle 16 of the State Government Article (the Maryland Uniform Electronic Legal Materials Act), a State agency designated as an “official publisher” that publishes legal material only in an electronic record must designate the electronic record as official. To designate the electronic record as official, the official publisher must authenticate the electronic record in a specified manner, take specified actions to preserve and secure the record, and ensure that the material is reasonably available for use by the public on a permanent basis. The Act creates a legal presumption that authenticated legal material in an electronic record is an accurate copy of the legal material.

An “official publisher” includes OAG for an opinion issued by the office; “legal material” includes, whether or not in effect, an opinion issued by OAG.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Office of the Attorney General; Department of Legislative Services

Fiscal Note History: First Reader - March 7, 2024
km/jkb Third Reader - March 18, 2024

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