

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 989
Rules

(Senator Klausmeier)

Courts - Civil Matters and Jury Trials - Informed Written Consent

This bill requires an attorney representing a client in a civil case to demand a jury trial if the client is eligible to do so unless the attorney obtains the written consent of the client to waive the client's right to a jury trial.

Fiscal Summary

State Effect: None. The bill is procedural/technical in nature and is not expected to materially affect State finances.

Local Effect: None. While the bill has the potential to generate additional jury trials in the circuit courts, it is assumed that a client's written waiver can be obtained during routine attorney/client pre-trial meetings and discussions.

Small Business Effect: None.

Analysis

Current Law/Background: A civil case involving an amount in controversy of \$5,000 or less *must* be filed in the District Court. A case involving more than \$30,000 must be filed in circuit court. A plaintiff may elect to file a case involving an amount more than \$5,000 and not more than \$30,000 in the District Court or a circuit court. If the amount in controversy exceeds \$15,000, any party to the case has the right to demand a jury trial, in which case the matter should be filed in or transferred to circuit court. Jury trials always take place in circuit court.

Under Rule 1.4 of the Maryland Lawyers' Rules of Professional Conduct, a lawyer must promptly inform his/her client of any decision or circumstance with respect to which the client's informed consent is required. "Informed consent" is defined as an agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct. A lawyer is also required to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding legal representation.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 25, 2011
mlm/kdm

Analysis by: Amy A. Devadas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510