

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 48

(Baltimore County Senators)

Judicial Proceedings

Judiciary

Baltimore County - Orphans' Court Judges - Qualifications

This proposed constitutional amendment prescribes additional qualifications for judges of the orphans' court in Baltimore County. An orphans' court judge in Baltimore County is required to be a member in good standing of the Maryland Bar who is admitted to practice law in the State. The amendment continues the requirements that an orphans' court judge in Baltimore County be a citizen of the State and a resident of Baltimore County for the 12 months preceding the election.

Fiscal Summary

State Effect: None. It is assumed that the potential for increased costs to include any constitutional amendments proposed by the General Assembly on the ballot at the next general election will have been anticipated in the State Board of Elections' budget.

Local Effect: None. If approved by the General Assembly, this proposed constitutional amendment will be submitted to the voters at the 2012 general election. It is assumed that the potential for increased costs to notify voters of any constitutional amendments proposed by the General Assembly, and to include any proposed constitutional amendments on the ballot at the next general election, will have been anticipated in local boards of elections' budgets.

Small Business Effect: None.

Analysis

Current Law: Under the Maryland Constitution, each county elects three judges to the orphans' court of their respective jurisdictions, with the exception of Montgomery and Harford counties where a circuit court judge sits as the orphans' court. The judges must be citizens of the State and residents, for the preceding 12 months, in the city or county in which they may be elected.

Judges of the Orphans' Court for Baltimore City, in addition to being required to be citizens of the State and a city resident for the preceding 12 months, are also required to be members in good standing of the Maryland Bar and admitted to practice law in the State. These additional requirements for Baltimore City orphans' court judges were established pursuant to Chapter 481 of 2010, which was adopted by the voters of the State and Baltimore City at the November 2010 general election.

Other than in Baltimore City, orphans' court judges are not required to be attorneys or members of the State bar. Pursuant to Chapter 394 of 2011, a proposed constitutional amendment to require orphans' court judges in Prince George's County to be members in good standing of the Maryland Bar and admitted to practice law in the State will be submitted to the voters for adoption or rejection in the November 2012 general election.

Background: An orphans' court hears all contested matters regarding a decedent's estate, including validity of wills and legal questions involving transfers of property. The court also supervises estates that are probated judicially; approves accounts, awards of personal representatives' commissions, and attorney's fees in all estates; and has concurrent jurisdiction with the circuit courts in the guardianship of minors and their property.

All of the current judges of the orphans' court in Baltimore County are attorneys and have been admitted to practice law in the State.

State Fiscal Effect: State costs of printing absentee and provisional ballots may increase to the extent inclusion of the proposed constitutional amendment on the ballot at the next general election would result in a need for a larger ballot card size or an additional ballot card for a given ballot (the content of ballots varies across the State, depending on the offices, candidates, and questions being voted on). Any increase in costs, however, is expected to be relatively minimal, and it is assumed that the potential for such increased costs will have been anticipated in the State Board of Elections' budget. Pursuant to Chapter 564 of 2001, the State Board of Elections shares the costs of printing paper ballots with the local boards of elections.

Local Fiscal Effect: Local boards of elections' printing and mailing costs may increase to include information on the proposed constitutional amendment with specimen ballots mailed to voters prior to the next general election and to include the proposed amendment on absentee and provisional ballots. It is assumed, however, that the potential for such increased costs will have been anticipated in local boards of elections' budgets.

Additional Comments: This bill is nearly identical to SB 81 (Senator Zirkin – Judicial Proceedings).

Additional Information

Prior Introductions: SB 832 of 2011 received a hearing in the Senate Judicial Proceedings Committee and was subsequently withdrawn. Its cross file, HB 1165, was withdrawn without a hearing. Another identical bill, HB 930 of 2011, received an unfavorable report from the House Judiciary Committee.

Cross File: Although not designated as a cross file, HB 4 (Delegate Cardin, *et al* – Judiciary) is identical.

Information Source(s): Judiciary (Administrative Office of the Courts), Orphans' Court of Baltimore County, Department of Legislative Services

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jkb/kdm

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