

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 199 (Delegate Bromwell)
Health and Government Operations

Orphans' Court - Change of Name to Probate Court

This proposed constitutional amendment changes all references to an Orphans' Court in the Maryland Constitution to a "Probate Court."

The bill also makes conforming statutory changes and contains directives that are contingent on the passage of the constitutional amendment and its ratification by the voters of the State.

Fiscal Summary

State Effect: None. The Judiciary can implement the directives in the bill (changes of letterhead and websites, etc.) with existing resources. It is assumed that the potential for increased costs to include any constitutional amendment proposed by the General Assembly on the ballot at the next general election will have been anticipated in the State Board of Elections' (SBE) budget.

Local Effect: None. It is anticipated that costs for effectuating the name change can be absorbed with the existing resources of orphans' courts and the circuit courts. 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: Minimal.

Analysis

Bill Summary: In addition to the name change, the bill directs the publishers of the Annotated Code in consultation with and subject to the approval of the Department of Legislative Services, to correct any references throughout the code that are rendered incorrect by the proposed constitutional amendment without further action from the General Assembly.

Any letterhead, business cards, and other documents reflecting the renaming of the orphans' court to be the Probate Court may not be used until all such letterhead, business cards, and other documents already in print and reflecting the previous name of the court have been used.

Current Law/Background: The counties and Baltimore City each elect 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 jurisdiction in which they may be elected. Pursuant to recent constitutional amendments, judges of the orphans' court in Baltimore City and Baltimore and Prince George's counties also must be admitted to practice law in the State and be members in good standing of the Maryland Bar. (*See Maryland Constitution, Art. IV, § 40.*)

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.

According to judges sitting on the Baltimore County Orphans' Court, every state uses the name "Probate Court" or "Surrogate Court" except Maryland and Pennsylvania.

State Fiscal Effect: None. State costs of printing ballots may increase to the extent inclusion of the proposed constitutional amendment on the ballot at the next general election results 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). However, it is assumed that the potential for such increased costs will have been anticipated in the SBE budget. Pursuant to Chapter 564 of 2001, SBE shares the costs of printing paper ballots with the local boards of elections.

Local Fiscal Effect: None. 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 ballots. It is assumed, however, that the potential for such increased costs will have been anticipated in local boards of elections' budgets.

Additional Information

Prior Introductions: HB 1257 of 2015 was referred to the House Rules and Executive Nominations Committee, but no further action was taken. HB 885 of 2011, a similar bill, received an unfavorable report from the House Judiciary Committee.

Cross File: None.

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

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mel/kdm

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