

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 149

(Senator West)

Judicial Proceedings

Judiciary

Orphans' Courts - Appeals - Procedures

This bill alters statutory provisions regarding the appeal of a final judgment of the orphans' court by (1) requiring a notice of appeal, instead of an order for appeal, to be filed with the register of wills within a specified timeframe and (2) extending, from 30 days to 60 days, the time period by which the register of wills must transmit all pleadings and orders, as specified. The bill applies prospectively and only affects appeals filed on or after the bill's October 1, 2020 effective date.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances, as it the generally conforms statutory language to the applicable Maryland Rule.

Local Effect: The bill does not materially affect local government operations or finances, as it generally conforms statutory language to the applicable Maryland Rule.

Small Business Effect: None.

Analysis

Current Law: Although a party is authorized to file a direct appeal to the Court of Special Appeals from the final judgment of an orphans' court, as specified, a party may instead appeal to the circuit court. The appeal must be heard *de novo* by the circuit court and treated as if it were a new proceeding, as specified. Pursuant to statutory requirements, an appeal must be taken by filing an order for appeal with the register of wills within 30 days after the date of the final judgment from which the appeal is taken. Within 30 days, the register

of wills must transmit all pleadings and orders of the proceedings to the court to which the appeal is taken, unless the orphans' court extends the time.

Maryland Rules 7-501 through 7-510 set forth additional procedures regarding appeals from the orphans' court. Pursuant to the Maryland Rules, appellate review in the circuit court may be obtained only if a notice of appeal is filed, as specified. Maryland Rule 7-505 requires the register of wills to transmit the appropriate records to the circuit court within 60 days after the date the first notice of appeal is filed, unless a different time is fixed by court order. On motion or on its own initiative, the orphans' court or the circuit court, on a showing of good cause, may shorten or extend the time for the record transmission.

Background: Under the Maryland Constitution, each county elects, for a term of four years, three judges to the orphans' court of their respective jurisdictions, with the exception of Harford and Montgomery counties, where a circuit court judge sits as the orphans' court. The orphans' courts are the State's probate courts. The courts supervise the handling of estates and also have certain jurisdiction over the guardianship of minors and their property.

Among other duties, registers of wills provide administrative support to the orphans' court. Registers of wills are elected to four-year terms under the Maryland Constitution.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 247 (Delegate Malone) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts); Register of Wills; Department of Legislative Services

Fiscal Note History: First Reader - January 20, 2020
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