

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE
Revised

Senate Bill 173 (Senator Frosh, *et al.*)

Judicial Proceedings

Judiciary

**Estates and Trusts - Intestate Succession - Abandonment or Failure to Support
Minor Child**

This bill precludes a surviving parent from inheriting by intestate succession from a minor child of the parent if the parent abandoned the child or willfully failed to contribute to the support of the child for at least three consecutive years immediately preceding the death of the child or for the life of the child, whichever is less. A parent is deemed to have abandoned a minor child under the bill if the conduct of that parent demonstrates a settled purpose willfully and intentionally to relinquish all parental rights and duties with respect to the child and to renounce and forsake the child entirely. The bill applies only to an estate of a minor child who dies on or after October 1, 2001.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues to the extent that parents who failed to support their deceased child are disinherited in favor of other taxable beneficiaries or the State. Expenditures would not be affected.

Local Effect: Potential minimal increase in revenues to local boards of education.

Small Business Effect: None.

Analysis

Bill Summary: The bill also removes a surviving parent who has abandoned or failed to support his or her child from the list of those eligible to be granted letters of administration or appointed as successor personal representative or special administrator of an estate.

Current Law: A minor child may not make a will. When a person dies without a will and there is neither a surviving issue nor a surviving spouse, each surviving parent's share of the intestate estate is one-half. If only one parent survives, the surviving parent receives the entire estate.

Maryland imposes two death taxes. The inheritance tax is applied to the receipt of property from a decedent's estate. For decedents dying on or after July 1, 2000, however, direct beneficiaries, including parents, are exempt from inheritance tax. Direct beneficiaries also include grandparents, spouses, children, other lineal descendants, stepparents, and stepchildren, or a corporation if all stockholders are direct beneficiaries. Siblings are also exempt from the inheritance tax. Collateral beneficiaries include all other beneficiaries and are taxed at the rate of 10%.

Maryland's other death tax, the "pick-up" estate tax, applies only if a federal estate tax return is required for the estate of a decedent. Only estates valued greater than \$675,000 in tax years 2000 and 2001 are subject to the federal estate tax, with the floor increasing each year until 2006 when only estates with a gross value of greater than \$1 million are subject. Any estate subject to both the estate tax and the inheritance tax may receive a credit against the estate tax for any inheritance tax paid. Increased inheritance tax collections could therefore be somewhat offset by a decrease in the estate tax paid, depending on the size of the estate.

State Revenues: The bill prohibits certain parents who have abandoned or failed to support their children from claiming any part of the estate of these children. Under current law, the parent is exempt from inheritance tax. If the succeeding heir is also an exempt heir, general fund revenues would not be affected by this bill. On the other hand, if the succeeding heir is an heir subject to the inheritance tax, general fund revenues would increase. If there are no other heirs, the Department of Health and Mental Hygiene or the local board of education would receive the distribution of the child's estate.

The Department of Legislative Services does not have any information on which to base an estimate of the number of parents who would be prohibited from claiming their children's estates. In addition, it is unknown how many other heirs would be eligible to inherit the child's estate, and what relationship they would have to the decedent. Given the relatively small number of estates affected, however, it is assumed that the total additional revenues collected would be minimal.

Additional Information

Prior Introductions: A similar but not identical bill was introduced in the 2000 session as SB 219. It was approved by the Senate but received an unfavorable report from the House Judiciary Committee. SB 258 of 1999, identical to SB 219 of 2000, received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Comptroller's Office, Department of Health and Mental Hygiene, Department of Human Resources, Registers of Wills, Department of Legislative Services

Fiscal Note History: First Reader – February 1, 2001
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