

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 137 (Chairman, Judicial Proceedings Committee)
(Maryland Judicial Conference)

Judicial Proceedings

Civil Proceedings - Size of Jury

This bill alters the number of jurors making up the jury in a civil action, from a fixed number of six to a requirement of at least six jurors.

The bill only applies to jury trials that begin on or after the bill's effective date of October 1, 2003.

Fiscal Summary

State Effect: Any increased cost in paying additional jurors could be handled with existing resources.

Local Effect: None – see above.

Small Business Effect: None.

Analysis

Current Law: Pursuant to statute, in a civil action in which a jury trial is permitted, the jury must consist of six jurors. The Maryland Rules also require that a jury consist of six persons. However, the parties are permitted – with the court's approval – to agree to accept a verdict from fewer than six jurors if one or more of the jurors becomes unable to perform or is disqualified from performing the juror's duties during trial. The Maryland Rules also permit the court to impanel alternate jurors to replace a juror who becomes unable to perform or is disqualified from performing the juror's duties during trial.

Article 5 of the Maryland Declaration of Rights guarantees that “[t]he parties to any civil proceeding in which the right to a jury trial is preserved are entitled to a trial by jury of at least six jurors.” The language added by the bill mirrors this language.

Background: At a meeting in September 2001, the Court of Appeals Standing Committee on Rules of Practice and Procedure approved a request for legislative action to allow the committee to recommend to the Court of Appeals that the Maryland Rules be amended to eliminate the concept of alternate jurors and permit more than six jurors in lieu of alternates. The identified issues that this change proposes to address include:

- reducing wasted time, effort, and money that results from a mistrial when a juror becomes ill during deliberations and must be excused;
- encouraging attentiveness in jurors labeled as “alternates” where those jurors may not pay attention to details because they do not expect to participate in deliberations; and
- eliminating juror dissatisfaction for those jurors who spend their time listening to the evidence in a case but are unable to participate in deciding the case because they are “alternates.”

In December 2002, the Judicial Conference requested that this legislation be introduced in the 2003 session.

State Expenditures: By law, jurors are entitled to a State per diem amount of \$15 for each day the juror attends court. This bill is not expected to result in a significant increase in the number of jurors impaneled, or consequently, juror payments made statewide.

Local Expenditures: By law, each county and Baltimore City may supplement the State per diems for jurors. Inasmuch as this bill is not expected to increase the number of jurors significantly, any local supplemental expenditures are expected to be minimal.

Additional Information

Prior Introductions: HB 113 in the 2002 session received an unfavorable report from the House Judiciary Committee. SB 198 in the 2002 session received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: HB 53 (Chairman, Judiciary Committee) – Judiciary.

Information Source(s): State's Attorneys Association, Montgomery County, Harford County, St. Mary's County, Carroll County, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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Analysis by: Rita A. Reimer

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