

**Department of Legislative Services**  
Maryland General Assembly  
2004 Session

**FISCAL AND POLICY NOTE**

House Bill 614

(Chairman, Judiciary Committee)

(By Request – Maryland Judicial Conference)

Judiciary

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**Civil Proceedings - Jurors and Alternates**

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This bill provides that in a civil action, if a court believes that one or more jurors may be unable to complete their duties due to the duration of a trial, the court may order that the jury consist of more than six but not more than nine jurors. If the court finds that one or more jurors is unable to perform or is disqualified from performing a juror's duties, the remaining jurors may render a verdict if: (1) at least six jurors remain; or (2) with the approval of the court, the parties agree to accept a verdict from fewer than six jurors.

The bill only applies to jury trials that begin on or after the bill's effective date of October 1, 2004.

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**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.

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**Analysis**

**Bill Summary:** The bill does not preclude the appointment of one or more alternate jurors as provided in the Maryland Rules. An alternate who does not replace a juror who is unable to perform, or is disqualified from performing, may not participate in the jury's deliberations.

**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."

**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.

The Judicial Conference requested that this legislation be introduced in the 2004 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 by the State.

**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:** Bills concerning the same budget subject matter were introduced in 2003 and 2002. HB 64 of 2003 and HB 224 of 2002 each received an unfavorable report from the Judiciary Committee. SB 137 of 2003 and SB 198 of 2002 each received an unfavorable report from the Judicial Proceedings Committee.

**Cross File:** SB 518 (Chairman, Judicial Proceedings Committee) (By Request – Maryland Judicial Conference) – Judicial Proceedings.

**Information Source(s):** Montgomery County, Howard County, Calvert County, Caroline County, Baltimore City, Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - February 19, 2004  
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