

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 514 (Chairman, Judicial Proceedings Committee)
(By Request – Maryland Judicial Conference)

Judicial Proceedings

Marriage Ceremonies - Authorized Officials - Fees

This bill clarifies the definition of “judge” for the purpose of performing marriage ceremonies. Judge means a judge of the District Court, a circuit court, Court of Special Appeals, or Court of Appeals, and a judge approved under the Maryland Constitution and State law for recall and assignment to a District Court, a circuit court, the Court of Special Appeals, or the Court of Appeals. It also means a judge of a U.S. District Court or a U.S. Court of Appeals and a judge of a state court if the judge is active or retired but eligible for recall.

The bill specifies that the fee paid to the judge, for performance of a marriage ceremony is nonrefundable and payable before a marriage license is issued. The fee is \$30 in Cecil County and \$25 in any other county.

The bill is effective July 1, 2004.

Fiscal Summary

State Effect: The bill would not directly affect State operations or finances.

Local Effect: Minimal increase in revenues from fees generated by judges performing marriage ceremonies.

Small Business Effect: None.

Analysis

Current Law: For the purpose of performing marriage ceremonies, a judge is defined as a sitting or retired judge of: (1) the District Court; (2) a circuit court; (3) the Court of Special Appeals; (4) the Court of Appeals; (5) the U.S. District Court for the District of Maryland; or (6) the U.S. Court of Appeals for the Fourth Circuit. The definition also includes a sitting or retired judge of another state or federal court that has substantially equivalent jurisdiction.

A marriage ceremony in Maryland may be performed by: any official of a religious order or body authorized by that order to perform a marriage ceremony, any clerk, any deputy clerk designated by a county administrative judge, or a judge. Only an authorized person may perform a marriage ceremony. An unauthorized person who performs a marriage ceremony is guilty of a misdemeanor and is subject to a fine of \$500.

A clerk or deputy clerk may not receive any fee, remuneration, or gift for performing a marriage ceremony other than the fee specified in statute. Except for Cecil County, the clerk's or deputy clerk's fee for performing a marriage ceremony is \$25. Ten dollars of this fee goes to the county general fund. The clerk retains the remainder. In some counties, a portion of the remaining fee is paid to a historical society.

In Cecil County, the clerk's or deputy clerk's fee for performing a marriage ceremony is \$30. Of the funds remaining after payment to the general fund, the Cecil County clerk must pay \$5 of each fee to the Cecil Historical Trust, Inc., and \$5 of each fee to the Historical Society of Cecil County.

Background: This bill was requested by the Maryland Judicial Conference as a corrective measure to clarify provisions from Chapter 207 of 2002 (HB 106), which authorizes judges to perform marriage ceremonies. This bill is intended to expand and clarify what judges may perform marriage ceremonies. Under Chapter 207, there was some ambiguity regarding the status of some retired and former judges.

The bill also clarifies that the fee for a marriage ceremony performed by a judge is the same fee that a clerk or deputy clerk may charge – \$30 in Cecil County and \$25 in all other counties. Chapter 207 did not specify the fee that judges could charge for a marriage ceremony. As a result, according to the Administrative Office of the Courts, few judges have been performing marriage ceremonies due to uncertainty about whether a fee could be charged.

Local Revenues: Since HB 106 became effective in June 2002, administrative judges report that relatively few judges have performed marriage ceremonies. Any additional revenue generated by this bill is expected to be minimal.

Additional Information

Prior Introductions: This bill is similar to HB 58/SB 143 of the 2003 session. HB 58 was passed by the House and referred to the Judicial Proceedings Committee, where it received an unfavorable report. SB 143 was referred to the Judicial Proceedings Committee, where it received an unfavorable report.

Cross File: HB 746 (Chairman, Judiciary Committee)(By Request – Maryland Judicial Conference – Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services, Charles County, Montgomery County

Fiscal Note History: First Reader - February 23, 2004
mll/jr

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