

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 646

(Senator Giannetti)

Judicial Proceedings

Judiciary

Estates - Right to Letters

This bill expands the class of individuals eligible for appointment as a personal representative of an estate to include a person who is a noncitizen, permanent resident of the U.S. and is: (1) an ancestor of the decedent; (2) a descendant of the decedent; or (3) a sibling of the decedent.

The bill is to be construed prospectively only and may not be applied or interpreted to apply to an estate of a decedent who dies before the bill's October 1, 2004 effective date.

Fiscal Summary

State Effect: None.

Local Effect: The bill's requirements could be handled within the existing resources of the register of wills in each local jurisdiction.

Small Business Effect: None.

Analysis

Current Law: State law sets forth a priority order of classes of individuals to be named personal representative of an estate by a register of wills or probate court. The classes in order of priority are: (1) the personal representative named in a will admitted to probate; (2) the surviving spouse and children of an intestate decedent, or surviving spouse of a testate decedent; (3) residuary legatees (other persons named in a will); (4) children of a testate decedent who are entitled to share in the estate; (5) grandchildren of a decedent who are entitled to share in the estate; (6) parents of a decedent who are entitled to share

in the estate; (7) siblings of a decedent who are entitled to share in the estate; (8) other relations of a decedent; (9) the largest creditor of a decedent; (10) any other person having a pecuniary interest in the proper administration of an estate; and (11) any other person. A register of wills or court must observe the statutory order of priority.

Personal representative status may not be granted to a person who, at the time a determination of priority is made, has filed with the register a declaration in writing that the person renounces the right to administer or is:

- under the age of 18 years;
- mentally incompetent;
- convicted of a serious crime;
- not a citizen of the U.S. unless the person is the spouse of the decedent and is a permanent resident of the U.S.;
- a full-time judge of a court established under the Laws of Maryland or the U.S., unless the person is the surviving spouse or a relative of the decedent within the third degree; or
- a nonresident of the State, unless that person designates a resident of the State to receive service of process on their behalf.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Register of Wills, Department of Legislative Services

Fiscal Note History: First Reader - March 8, 2004
mh/jr Revised - Senate Third Reader - March 25, 2004

Analysis by: Michelle L. Harrison-Davis

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