

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 728 (Senators Gladden and Giannetti)
Judicial Proceedings

Estates - Appointment of Personal Representatives

This bill gives an orphan's court discretionary power to appoint personal representatives outside of the priority order prescribed by law, for good cause.

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

Fiscal Summary

State Effect: None. The changes are procedural in nature and would not directly affect governmental finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill provides that, in appointing a personal representative, an orphan's court may pass over a person or persons with equal or higher priority to appoint an individual with equal or lower priority or no priority. The bill requires a court to have "good cause" when exercising this authority.

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. There are 11 classes total. The classes in order of priority are: (1) personal representatives 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 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.

When there are several eligible persons in a class entitled to appointment, the court or register may appoint one or more of them as necessary or convenient for the proper administration of the estate. However, subject to certain statutory exceptions, all personal representatives named in the will are entitled to probate. Within classes two through nine, two or more persons in different classes may be appointed provided that the person or class first entitled to appointment consents.

Additional Information

Prior Introductions: SB 311 was introduced during the 2003 session. It received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Register of Wills, Department of Legislative Services.

Fiscal Note History: First Reader - March 8, 2004
mh/jr

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