

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 44

(Senator Giannetti)

Judicial Proceedings

Judiciary

Estates - Circuit Court Jurisdiction

This bill authorizes a circuit court to assume jurisdiction of an estate and direct the estate's administration on petition from an interested person or an Orphans' Court provided the circuit court determines it is necessary to avoid undue delay and expense. A petition from an interested person must allege that the Orphan's Court is unable or unwilling to grant complete and adequate relief in a pending case for other than jurisdictional reasons.

Fiscal Summary

State Effect: None.

Local Effect: To the extent that the bill only moderately augments the workload for circuit courts, the increase could be absorbed with existing resources.

Small Business Effect: None.

Analysis

Current Law: An Orphan's Court is required to transmit any issue of fact that arises during a controversy in the court to a court of law at the request of any interested person provided the request is made before the Orphan's Court has determined the issue and the request is made within the time determined by the court.

Article IV of the Maryland Constitution requires voters in each local jurisdiction, with the exception of Harford County and Montgomery County, to elect three judges to the

Orphan's Court. Judges must be State residents for the previous 12 months in the jurisdiction for which they may be elected. An Orphan's Court judge in Baltimore City is required by statute to also be an attorney-at-law. Probate cases are heard in the circuit courts of Harford and Montgomery counties.

Local Fiscal Effect: The quantity and complexity of the cases transferred as a result of the bill cannot be reliably estimated, but could potentially have a substantial effect on court capacity to complete cases. One complex probate case could take several days to adjudicate. Thus, a modest increase in the probate caseload of a circuit court could significantly affect the court's resources, but in most circumstances would not directly affect the court's finances. For example, in the more extreme scenario, transferred cases could amount to over 200 cases for one county circuit court. In this case, the court would have to consider increasing the number of sitting judges on the court.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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