

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 86

(Senator Green)

Judicial Proceedings

Judiciary

Rules of Interpretation - Computation of Age

This bill provides that an individual attains a specified age on the day of the anniversary of the individual's birth. The bill further provides that an individual born on February 29 attains a specified age on March 1 of any year that is not a leap year.

The bill takes effect October 1, 2005.

Fiscal Summary

State Effect: The bill is not expected to have a significant impact on State finances.

Local Effect: The bill is not expected to have a significant impact on local finances.

Small Business Effect: None.

Analysis

Current Law: State law generally provides that a period of time is computed such that "the day of the act, event or default after which the designated period of time begins to run is not included" and "[t]he last day of the period so computed is included." Under this approach, for example, an individual would turn 18 on the individual's eighteenth birthday.

However, the State has also adopted the common law of England [Declaration of Rights, Art. 5]; and, at common law, there is an exception to this general rule: in computing a person's age, the day upon which the person was born is included, and the person therefore reaches the next year in age at the first moment of the day prior to the

anniversary of the person's birth. Under this approach, an individual turns 18 the day before the individual's eighteenth birthday.

Maryland has abrogated this rule statutorily in a number of circumstances where time is computed according to the attainment of a birthday. For example, the juvenile court can waive jurisdiction over a child "who has not reached his fifteenth birthday" under certain circumstances; the court will consider a minor's wishes in naming a guardian after the minor's sixteenth birthday; and a paternity action may be maintained at any time before a child's eighteenth birthday. However, in those situations where the common law has not been statutorily revised, the common law approach continues to be followed.

Background: The Maryland Court of Appeals most recently considered this issue in a June 2003 case, *Mason v. Board of Education of Baltimore Co.*, 375 Md. 504. The court held that a plaintiff who, on her twenty-first birthday, filed a negligence action against the Baltimore County Board of Education, her middle school principal, and a middle school teacher for breach of duty was time-barred from bringing the suit. The alleged negligence had occurred while the plaintiff was 14 years old. Under Maryland law, the plaintiff had three years after reaching her majority to file suit. Consistent with common law, and a number of earlier Maryland court decisions, the court ruled that that period had ended the day before her twenty-first birthday.

In his dissent (which was joined by Chief Judge Bell), Judge Eldridge opined (quoting Voltaire) that "[c]ommon sense is not so common." He further stated that "I see little difference in a statute that is based on an individual reaching the 'age of 18' and one based on a individual who has reached his or her '18th birthday,' and I doubt that the vast majority of people would see any difference."

Additional Information

Prior Introductions: SB 198 of 2004, an identical bill, passed in the Senate but received an unfavorable report from the House Judiciary Committee.

Cross File: None.

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

Fiscal Note History: First Reader - January 25, 2005
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Analysis by: Kineta A. Rotan

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