

**Department of Legislative Services**  
Maryland General Assembly  
2007 Session

**FISCAL AND POLICY NOTE**

Senate Bill 914 (Senator McFadden)  
Judicial Proceedings

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**Orphans' Court Judge - Degree of Juris Doctor or Its Equivalent**

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This constitutional amendment provides that judges of the orphans' courts must have received a degree of Juris Doctor, or its equivalent, from an accredited law school. A judge of an orphans' court in office on the effective date of the bill is not subject to this requirement in order to remain a judge or seek reelection.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** If approved by the General Assembly, this constitutional amendment will be submitted to the voters at the 2008 general election. It should not result in additional costs for the local election boards.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Under the Maryland Constitution, the counties and City of Baltimore, with the exception of Montgomery and Harford counties (in which a circuit court judge sits as the orphans' court), elect three judges to the orphans' court of their jurisdiction. The judges must be citizens of the State and residents, for the preceding 12 months, in the city or county in which they may be elected.

An orphans' court judge generally may not act as an attorney at law in a civil or criminal matter while in office. The restriction does not apply in Harford and Montgomery

counties (a circuit court judge is prohibited under other law from acting as an attorney in any matter); Baltimore City, with respect to practicing law before any court of the State except an orphans' court; and Prince George's, Baltimore, Calvert, and Howard counties, with respect to practicing law in connection with a case outside the jurisdiction of an orphans' court and unrelated to the administration of an estate or guardianship.

**Background:** An orphans' court is a probate court. Orphans' court judges are elected to serve four-year terms. Each county, other than Harford and Montgomery, has three judges sitting on its orphans' court. The chief judge of each county is appointed by the Governor. An orphans' court hears all contested matters regarding a decedent's estate, including validity of wills and legal questions involving transfers of property. The court also supervises estates that are probated judicially; approves accounts, awards of personal representatives' commissions, and attorney's fees in all estates; and has concurrent jurisdiction with the circuit court in the guardianship of minors and their property.

**Exhibit 1** lists the current salaries for orphans' court judges for each county and the City of Baltimore, with the exception of Harford and Montgomery counties where a circuit court judge sits as the orphans' court.

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**Exhibit 1**  
**Current Orphans' Court Salaries**

<u>County</u>	<u>Salary</u>	
	<u>Associate Judge</u>	<u>Chief Judge</u>
Allegany	\$4,500	\$4,500
Anne Arundel	27,000	27,500
Baltimore City	62,500	72,500
Baltimore County	39,000	39,500
Calvert County	8,250	8,450
Caroline County*	5,000	5,000
Carroll County	10,000	10,000
Cecil County	5,500	5,500
Charles County	10,000	10,000
Dorchester County*	4,700	4,700
Frederick County	6,000	6,500
Garrett County	1,800	2,000
Howard County	8,000	9,500
Kent County	4,000	4,000

## Salary

<u>County</u>	<u>Associate Judge</u>	<u>Chief Judge</u>
Prince George's County	42,000	42,500
Queen Anne's County	3,000	3,150
Somerset County	3,400	3,800
St. Mary's County	6,000	6,000
Talbot County	4,942	4,942
Washington County	7,000	7,000
Wicomico County	6,400	6,400
Worcester County	3,500	3,500

\* The governing bodies of these counties determine the judges' salaries, though State law requires that they not be less than the figures shown.

Note: Salaries listed are those set forth in the Annotated Code, with the exception of those in Allegany, Garrett, Queen Anne's, Talbot, Washington, and Worcester counties, which were obtained from the *Salary Survey of Maryland Local Governments, FY 2007*, a collaborative project of the Maryland Association of Counties, Maryland Municipal League, and Institute for Governmental Service and Research.

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**Local Fiscal Effect:** The Maryland Constitution requires that proposed amendments to the constitution be publicized either: (1) in at least two newspapers in each county, if available, and in at least three newspapers in Baltimore City once a week for four weeks immediately preceding the general election; or (2) by order of the Governor in a manner provided by law. State law requires local boards of elections to publicize proposed amendments to the constitution either in newspapers or on specimen ballots; local boards of elections are responsible for the costs associated with these requirements. It is anticipated that the budgets of local election boards will contain funding for notifying qualified voters about proposed constitutional amendments for the 2008 general election in newspapers or on specimen ballots.

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## **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 77 (Delegate Cardin) – Judicial Proceedings.

**Information Source(s):** Washington, Montgomery, Prince George's, and Worcester counties; Register of Wills; Department of Legislative Services

**Fiscal Note History:** First Reader - March 16, 2007  
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