

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Senate Bill 508 (Senator Zirkin)
Judicial Proceedings

Circuit Courts - Medical Liability Division

This bill authorizes the Chief Judge of the Court of Appeals to establish a medical liability division in each circuit court where a division's creation is feasible.

Fiscal Summary

State Effect: Since the bill is authorizing in nature, the effect on the Judiciary's finances cannot be reliably estimated. Assigning resources exclusively to one type of action may strain other case management in the judicial system.

Local Effect: See above.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill expresses the intent of the General Assembly that:

- medical liability matters be treated efficiently, equitably, and effectively in the judicial system;
- the chief judge use judicial resources to establish a medical liability division in the circuit courts throughout the State to afford convenient access to lawyers and litigants involved in matters under the division's jurisdiction; and
- judges in the division should have special experience or training and an understanding of the issues likely to come before the division.

The chief judge is required to consult with a county's administrative judge before establishing a division in a circuit court. Unless the administration of justice requires otherwise, judges assigned to the division must devote full time and attention to matters under the division's jurisdiction.

The chief judge (or designee) must assess and report on the effectiveness of the divisions by December 1, 2010.

Current Law: When medical professional liability cases (malpractice cases) are litigated in court, they are docketed in the same manner as other civil actions in circuit court. There is no separate division or track for these cases.

Background: The Health Claims Alternative Dispute Resolution Office advises that of the 578 medical professional liability cases filed with the office in 2006, 376 were waived into circuit court for adjudication. The number of cases in each jurisdiction is unknown.

Chapter 198 of 1993 expressed the intent of the General Assembly that the chief judge should establish a family division in each circuit court where the creation was feasible. Chapter 198 also expressed the intent that the chief judge and the circuit courts should take all necessary steps to create a family division in each circuit court, where feasible. After passage of Chapter 198, a family division was established under the Maryland Rules to handle the following matters: dissolution of marriage, child custody and visitation, alimony and child support, establishment and termination of parent-child relationships, juvenile causes, domestic violence proceedings, criminal nonsupport and desertion, name changes, guardianships of minors and disabled persons, involuntary admission to State facilities, and specified family legal and medical issues.

Chapter 10 of 2000 established the Business and Technology Division Task Force to study establishing a business and technology division in the circuit courts. After the task force issued its report recommending the creation of a business and technology case management program, one was established under the Maryland Rules. Under the rules, on a party's written request or the court's own initiative, the Circuit Administrative Judge may assign actions to the program that present commercial or technological issues of such a complex or novel nature that specialized treatment is likely to improve the administration of justice. Decisions from this case management system may be accessed on the Judiciary's web site.

Additional Information

Prior Introductions: HB 1136 of 2006, which would have established a task force to study establishing a medical malpractice division in the appropriate circuit courts, received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Health Claims Alternative Dispute Resolution Office, Maryland Insurance Administration, Department of Legislative Services

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