

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 387
Judiciary

(Delegates Rosenberg and Cardin)

Orphans' Court Judges - Qualifications

This constitutional amendment allows the General Assembly, upon request by the governing body of a county or Baltimore City by resolution, to prescribe qualifications for orphans' court judges in addition to the qualifications required by the Maryland Constitution. Any additional qualifications may not be more stringent than those prescribed in the constitution for judges in other courts. The amendment does not apply to the circuit court judges who sit as the orphans' court in Montgomery and Harford counties.

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.

Analysis

Current Law: Under the Maryland Constitution, each county and the City of Baltimore elects three judges to the orphans' court of their respective jurisdictions, with the exception of Montgomery and Harford counties where a circuit court judge sits as the orphans' court. 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.

Under the Maryland Constitution, qualifications for judges in other courts include, in addition to specified residency requirements, that they are qualified voters, at least age 30 at the time of their election or appointment, and admitted to practice law in Maryland.

Background: 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 courts in the guardianship of minors and their property.

Local Fiscal Effect: The Maryland Constitution requires that proposed amendments to the constitution be publicized either • 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 • 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.

Additional Information

Prior Introductions: HB 77 and SB 914 of 2007 were constitutional amendments requiring that prospective orphans' court judges have a juris doctor degree or its equivalent from an accredited law school. HB 77 received an unfavorable report from the House Judiciary Committee. SB 914 was withdrawn.

Cross File: SB 293 (Senators Frosh and Gladden) – Judicial Proceedings.

Information Source(s): Department of Legislative Services

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ncs/jr

Analysis by: Scott D. Kennedy

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