

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 1559

(Delegate Shank)

Judiciary

Courts - Death Penalty Cases - Former Judges

This bill prohibits the Chief Judge of the Court of Appeals from recalling a former judge for a temporary assignment in a case in which the death penalty is sought.

Fiscal Summary

State Effect: Potential operational difficulties for the Judiciary in smaller jurisdictions.

Local Effect: Potential operational difficulties for circuit courts in smaller jurisdictions.

Small Business Effect: None.

Analysis

Current Law: The Chief Judge of the Court of Appeals may assign a former judge to sit temporarily in any court, subject to the approval of the administrative judge of the circuit in which the assignment is made, if the former judge:

- has served as a judge for specified minimum time periods;
- has been approved for assignment by a majority of the judges of the Court of Appeals;
- meets established standards for judges as well as any additional standards established by rule of the Court of Appeals; and
- has consented to the assignment.

A former judge may not be recalled for temporary assignment if the judge:

- was removed or involuntarily retired from judicial office pursuant to the Constitution or laws of this State;
- voluntarily retired by reason of disability;
- had the most recent service as a judge terminated following an electoral defeat or by rejection of confirmation by the Senate;
- was censured by the Court of Appeals upon recommendation of the Commission on Judicial Disabilities; or
- is engaged in the practice of law.

Generally a former judge may not be temporarily assigned for more than 180 days in any calendar year. A former judge temporarily assigned has all the power and authority of a judge of the court to which he or she is assigned.

State/Local Effect: The Judiciary advises the bill's prohibition could potentially lead to operational difficulties, specifically in the seven smaller jurisdictions that only have one circuit court judge, if a death penalty case were to be scheduled during a time in which a former judge was on temporary assignment.

Former judges are used frequently throughout the State. The bill's restriction would particularly impact smaller jurisdictions with only one circuit court judge. **Exhibit 1** shows the number of days a former judge was used in each of these jurisdictions during fiscal 2007.

Exhibit 1

<u>Jurisdiction</u>	<u>Number of Days</u>
Caroline	45.4
Dorchester	55.7
Garrett	25.6
Kent	18.4
Queen Anne's	73.0
Somerset	48.0
Talbot	174.9

Additional Information

Prior Introductions: None.

Cross File: None.

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

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