

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 570

(Chair, Judiciary Committee)

(By Request - Departmental - Human Resources)

Judiciary

Family Law - Adoption - Child's Age of Consent

This departmental bill alters, from 10 to 14, the minimum age at which a child may consent or fail to object to an order of adoption.

Fiscal Summary

State Effect: The bill does not substantively change State activities or operations.

Local Effect: None.

Small Business Effect: The Department of Human Resources (DHR) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: A juvenile court may enter an order for a child's adoption without prior termination of parental rights only if:

- both of the child's parents are deceased; a state or other jurisdiction has granted a governmental unit or person other than a parent the power to consent to adoption and consent is given; parental rights have been terminated on the order of another state or jurisdiction; or if certain conditions are met when one parent consents to the adoption and the other parent does not consent;

- the director of a local department of social services with custody of the child consents; and
- the child is represented by an attorney and the child either consents, if old enough to do so (at least 10 years old), or does not object (if under the age of 10).

A juvenile court may enter an order for a child's adoption after the termination of parental rights only if:

- for individuals under the age of 18 years old, the individual's guardian consents; and
- for individuals at least 10 years old, the individual consents.

Background: According to the Child Welfare Information Gateway, as of April 2007, nearly all states and the District of Columbia require that older children give consent to their adoption. Approximately 25 states and the District of Columbia set the age of consent at 14. Maryland is one of six states that require consent of children age 10.

DHR advises that the estimated number of children between the ages of 10 and 14 who have a plan of adoption is 382. A survey conducted among all Maryland jurisdictions found that between July 1, 2007 and June 25, 2008, 95 children between ages 10 and 13 were reported not to consent to their adoption. Jurisdictions overwhelmingly report that the child's cognitive ability, length of time in care, psychological history, and level of abuse and neglect are strong factors that impact a child's ability to give consent. According to DHR, the younger the child, the less likely the child is able to participate in such a significant decision making process.

Additional Information

Prior Introductions: HB 1149 of 2004 received an unfavorable report from the House Judiciary Committee. HB 1077 of 2003 had a hearing in House Judiciary Committee but was withdrawn.

Cross File: None.

Information Source(s): Department of Human Resources, Judiciary (Administrative Office of the Courts), Child Welfare Information Gateway, Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2009
ncs/hlb

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Family Law – Adoption – Child’s Age of Consent

BILL NUMBER: HB 570

PREPARED BY: Department of Human Resources
Social Service Administration

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

 X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

 WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.