

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 874 (Senator Frosh, *et al.*)
Judicial Proceedings

Judgeships - Circuit Courts and District Court - Creation in Areas of Greatest Certified Need

This bill alters the number of resident judges of the circuit courts by adding one additional judgeship each in Baltimore City and in Baltimore, Montgomery, and Prince George’s counties. The bill also creates one additional District Court judgeship in the following six districts: District 1 (Baltimore City), District 4 (Charles, St. Mary’s, and Calvert counties), District 5 (Prince George’s County), District 6 (Montgomery County), District 9 (Harford County), and District 11 (Frederick and Washington counties). The bill further specifies that the additional judge from District 4 must be from Charles County and the additional judge from District 11 must be from Washington County.

Fiscal Summary

State Effect: General fund expenditures increase by \$1.7 million in FY 2011 for additional judges and associated staff. Future year expenditures reflect annualization and inflation. Revenues are not affected.

(\$ in millions)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	1.7	2.2	2.3	2.5	2.7
Net Effect	(\$1.7)	(\$2.2)	(\$2.3)	(\$2.5)	(\$2.7)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local government expenditures for the circuit courts will increase for the affected jurisdictions. Revenues are not directly affected.

Small Business Effect: None.

Analysis

Current Law: There are currently 157 circuit court judges in the State. Baltimore County has 18 resident court judges, Montgomery County has 22, Prince George's County has 23, and Baltimore City has 33.

For purposes of the operation and administration of the District Court, the State is divided into 12 districts. **Exhibit 1** illustrates the geographic area and current number of judges for the districts impacted by the bill's provisions:

Exhibit 1 District Court Jurisdictions

<u>District/Jurisdiction</u>	<u>Number of Resident Judges</u>
1 – Baltimore City	27
4 – Charles, St. Mary's, and Calvert counties	5
5 – Prince George's County	15
6 – Montgomery County	11
9 – Harford County	4
11 – Frederick and Washington counties	5

Of the five judges sitting in District 4, two are to be appointed from Calvert County and two are to be appointed from Charles County. Of the five judges sitting in District 11, three are to be appointed from Frederick County and two are to be appointed from Washington County.

Background: At the suggestion of the Legislative Policy Committee, in January 1979 the Chief Judge of the Court of Appeals began an annual procedure of formally certifying to the General Assembly the need for additional judges in the State. The annual certification is prepared based upon a statistical analysis of the workload of the courts and the comments of the circuit administrative judges and the Chief Judge of the District Court. Since fiscal 2002, the Judiciary has implemented a weighted caseload methodology to assist in determining judgeship needs. This methodology weights cases to account for the varying degrees of complexity associated with particular case types and the amount of judicial time required to process the workload. Chapter 269 of 2009 authorized one additional circuit court judge each in Baltimore City and Anne Arundel, Baltimore, and Montgomery counties. Although the weighted caseload methodology has

consistently supported the need for new judges, no new District Court judgeships have been added since 2005, when the General Assembly authorized six new judgeships.

Findings in the annual certification specific to the jurisdictions covered under the bill are as follows:

Circuit Courts

Baltimore City

The judicial workload standards indicate a need for three additional judges. In fiscal 2009, Baltimore City accounted for 27.2% of all criminal cases; 10.2% of all family-related cases; and 19% of all civil cases in the circuit courts.

Baltimore County

The judicial workload standards indicate a need for three additional judges. Although civil filings increased only slightly in fiscal 2009 and family-related and juvenile case filings decreased, criminal judicial proceedings increased by 37.1% in fiscal 2009.

Montgomery County

The judicial workload standards indicate a need for two additional judges. Between fiscal 2004 and 2009, civil case filings have increased by 30.3%, family-related case filings have increased by 33.8%, and criminal case filings have increased by 37.8%.

Prince George's County

The judicial workload standards indicate a need for one additional judge. Since fiscal 2004, civil case filings have increased by 37.5% and criminal filings have increased by 22.6%. The demand for jury trials from cases originating in the District Court has increased by 35.8% since fiscal 2004.

District Court

The annual certification also included documentation by the Chief Judge of the District Court that reiterated the need for additional judges in Baltimore City and Charles, Harford, Montgomery, Prince George's, and Washington counties.

Retired Judges

Retired judges receive a pension equal to two-thirds of a sitting judge's salary (currently \$140,352 for circuit courts and \$127,252 for district courts) and may earn up to the remaining one-third by hearing cases on special assignment. The fiscal 2011 allowance includes \$4.4 million for the purpose of recalling retired judges to the bench, \$374,000 more than in fiscal 2010.

State Expenditures: General fund expenditures increase by \$1,724,513 in fiscal 2011, accounting for the October 1, 2010 effective date of the bill. This estimate reflects the cost of creating one judgeship each in Baltimore City and Baltimore, Montgomery, and Prince George's counties, the associated positions of one courtroom clerk and one law clerk with each judgeship (a total of 12 positions) and includes salaries and fringe benefits. The estimate also reflects the cost of creating six new District Court judgeships and the associated positions of one court clerk and one bailiff with each new judgeship (a total of 18 positions). Future year expenditures reflect full salaries with 4.4% annual increases and 3% turnover.

The estimate further assumes that the salary costs from the creation of judgeships and associated positions is offset by an estimated reduction of expenditures associated with the use of retired judges in each of these jurisdictions. In fiscal 2011, Legislative Services advises that the creation of the four circuit court judgeships offsets expenditures for retired judges by as much as \$421,400 in fiscal 2011 (which reflects the effective date) and by \$561,800 annually. For purposes of this analysis, the per diem rate of \$571 is used to generate the offset estimate. **Exhibit 2** shows the estimated cost of creating four additional circuit court judgeships and the offset from using retired judges to hear certain cases when the court docket is overloaded.

Exhibit 3 shows the estimated cost of creating six additional District Court judgeships and the offset from using retired judges to hear certain cases when the court docket is overloaded. A per diem rate of \$517 is used. Unlike in the circuit courts, the District Courts for which additional judges are requested did not use the full-time equivalent of a judge (except in Montgomery County), therefore, while the expenditures associated with the creation of additional judgeships is offset by the decreased use of retired judges, it is not offset to the extent that is shown in circuit courts.

The estimate assumes that the creation of permanent judgeship positions reduces the equivalent expenditures now allocated for the use of retired judges. Legislative Services further advises, however, that the extent to which retired judges are called upon and the purposes for which they are allocated vary for each jurisdiction. It is also possible that some jurisdictions may refrain from using retired judges for workload and instead may ask sitting judges to absorb workload beyond the prevailing judicial workload standard to

facilitate specific docket management issues. As a result, the creation of additional judgeships does not completely alleviate the need to use retired judges in the relevant jurisdictions because retired judges may be called upon to address issues other than those purely related to workload.

The Judiciary also advises that due to space limitations, State funds will be needed to renovate some District Court locations to accommodate the additional judgeships. Expenditures associated with these renovations are not included with the above estimate. One-time start-up costs for new positions and ongoing operating costs are reflected in the above estimate.

Local Expenditures: The counties provide support staff, supplies, and equipment for circuit court judges, as well as capital and operating expenses for courtrooms and office facilities used by the circuit court judges and their staff. Specific costs associated with the circuit courts vary by jurisdiction. The precise increase in expenditures that will be incurred by the counties affected by the bill cannot be estimated at this time. Expenditures could be significant however if building renovations or additional office space is needed.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 22, 2010
ncs/kdm

Analysis by: Jennifer K. Botts

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

Exhibit 2
Estimated Increase in General Fund Expenditures – SB 874 (Circuit Courts)

	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
Salaries					
Judges	561,408	586,110	611,899	638,822	666,931
Courtroom Clerks	121,960	127,326	132,929	138,777	144,884
Law Clerks	<u>171,720</u>	<u>179,276</u>	<u>187,164</u>	<u>195,399</u>	<u>203,996</u>
Subtotal	\$855,088	\$892,712	\$931,991	\$972,999	\$1,015,810
Fringe Benefits	\$533,327	\$562,391	\$591,549	\$622,304	\$654,749
Salaries and Benefits	\$1,388,415	\$1,455,103	\$1,523,540	\$1,595,303	\$1,670,559
Turnover/Start-up Delay	(306,754)	(38,419)	(40,110)	(41,875)	(43,717)
Total Expenditures	\$1,081,661	\$1,416,684	\$1,483,431	\$1,553,428	\$1,626,842
Offset – Retired Judges	(421,398)	(561,864)	(561,864)	(561,864)	(561,864)
Net Expenditures	\$660,263	\$854,820	\$921,566	\$991,564	\$1,064,978

Exhibit 3
Estimated Increase in General Fund Expenditures – SB 874 (District Courts)

	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
Salaries					
Judges	763,512	797,107	832,179	868,795	907,022
Courtroom Clerks	182,940	190,989	199,393	208,166	217,325
Bailiffs	<u>206,664</u>	<u>215,757</u>	<u>225,251</u>	<u>235,162</u>	<u>245,509</u>
Subtotal	\$1,153,116	\$1,203,853	\$1,256,823	\$1,312,123	\$1,369,856
Fringe Benefits	\$668,274	\$704,514	\$739,887	\$777,130	\$816,348
Salaries and Benefits	\$1,821,390	\$1,908,367	\$1,996,710	\$2,089,253	\$2,186,204
Turnover/Start-up Delay	(414,997)	(60,928)	(63,609)	(66,408)	(69,330)
Total Expenditures	\$1,406,392	\$1,847,439	\$1,933,101	\$2,022,845	\$2,116,874
Offset – Retired Judges	(394,342)	(525,789)	(525,789)	(525,789)	(525,789)
Operating Costs	52,200	6,181	6,243	6,305	6,368
Net Expenditures	\$1,064,250	\$1,327,831	\$1,413,555	\$1,503,361	\$1,597,453
