

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 108

(Chair, Judicial Proceedings Committee)(By Request -
Maryland Judicial Conference)

Judicial Proceedings

Juvenile Causes - Exceptions - Hearings

This bill repeals a provision of law that allows a party in a juvenile proceeding, other than the State in a juvenile delinquency proceeding, who files exceptions to a master's findings, conclusions, or recommendations, to elect a hearing *de novo* or a hearing on the record. Under the bill, in proceedings not involving juvenile delinquency, exceptions must be decided on the evidence presented to the master. The bill authorizes a juvenile court to decide exceptions without a hearing unless certain conditions are met and specifies when a court may consider additional evidence.

Fiscal Summary

State Effect: The bill may increase operational efficiency for the Judiciary by eliminating the need for duplicate hearings in some cases, but is not expected to have a material effect on State finances.

Local Effect: The bill may increase operational efficiency for the circuit courts by eliminating the need for duplicate hearings in some cases, but is not expected to have a material effect on local government finances.

Small Business Effect: None.

Analysis

Bill Summary: The court is authorized to decide exceptions without a hearing unless a request for a hearing is filed with the exceptions or by an opposing party within 10 days after service of the exceptions. The exceptions must be decided on the evidence

presented to the master unless the proceeding is one involving juvenile delinquency. The court may consider additional evidence only if: (1) the party filing exceptions specifies the additional evidence to be offered and the reasons why the evidence was not offered before the master; and (2) the court determines that the additional evidence should be considered. If these conditions are met, the court may hear and consider the additional evidence or remand the matter to the master. A party who files exceptions in a juvenile delinquency proceeding is still authorized to elect a hearing *de novo* or a hearing on the record before a court, unless the excepting party is the State.

Current Law: Following approval from the Chief Judge of the Court of Appeals, the circuit court judges in each county may appoint masters for juvenile causes. A juvenile master may conduct hearings and must make findings of fact, conclusions of law, and recommendations as to an appropriate order. A party, in accordance with the Maryland Rules, may file written exceptions to any or all of the master's findings, conclusions, and recommendations. The items to which the party objects must be specified. Unless the party is the State in a juvenile delinquency proceeding, any party who files exceptions may elect a *de novo* hearing (a new hearing which tries a matter as if it has not been heard before) or a hearing on the record before the court. If the State is the excepting party in a juvenile delinquency proceeding, the hearing must be on the record and supplemented by any additional evidence that is considered relevant by the judge and not objected to by the parties.

A hearing must only address matters to which exceptions have been taken. The proposals and recommendations of a master for juvenile causes do not represent orders or final actions of the court, and must be promptly reviewed by the court. If timely and proper exceptions are not made, the court may enter an order based on the proposals and recommendations. A master may order detention, community detention, or shelter care pending a court review of the master's findings, conclusions, and recommendations. If the court, on its own motion and in the absence of timely and proper exceptions, decides not to adopt the master's findings, conclusions, and recommendations, the court must hold a *de novo* hearing, unless all parties and the court agree to a hearing on the record.

Background: This bill is intended to make the manner in which exceptions are handled in child in need of assistance (CINA) cases similar to the way exceptions are handled in family law cases. (*See* Maryland Rule 9-208.) Information on the number of CINA cases for which exceptions were filed is not readily available.

State and Local Fiscal Effect: By authorizing a juvenile court to decide exceptions without a hearing unless certain conditions are met, the bill's provisions will eliminate the need to have two separate hearings (first before a master, then before a judge) in every case in which a party files exceptions. In addition, limiting the evidence which

may be considered, even in the cases in which a hearing is properly requested, will further allow circuit courts to handle CINA cases more efficiently.

Additional Information

Prior Introductions: None.

Cross File: HB 94 (Chair, Judiciary Committee) (By Request – Maryland Judicial Conference) – Judiciary.

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

Fiscal Note History: First Reader - January 26, 2010
ncs/kdm

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