

Department of Legislative Services  
Maryland General Assembly  
2011 Session

**FISCAL AND POLICY NOTE**

House Bill 1165 (Delegates Lafferty and Minnick)  
Rules and Executive Nominations

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**Baltimore County - Orphans' Court Judges - Qualifications**

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This proposed constitutional amendment prescribes additional qualifications for judges of the orphans' court in Baltimore County. An orphans' court judge in Baltimore County is required to be a member in good standing of the Maryland Bar who is admitted to practice law in the State. The amendment continues the requirements that an orphans' court judge in Baltimore County be a citizen of the State and a resident of Baltimore County for the 12 months preceding the election.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** If approved by the General Assembly, this proposed constitutional amendment will be submitted to the voters at the 2012 general election. It should not result in additional costs for the local boards of elections.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Under the Maryland Constitution, each county 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.

Judges of the Orphans' Court for Baltimore City, in addition to being required to be citizens of the State and a city resident for the preceding 12 months, are also required to be members in good standing of the Maryland Bar and admitted to practice law in the State. These additional requirements for Baltimore City orphans' court judges were established pursuant to Chapter 481 of 2010, which was adopted by the voters of the State and Baltimore City at the November 2010 general election.

Other than in Baltimore City, orphans' court judges are not required to be attorneys or members of the State bar.

**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 (1) 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 (2) 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 2012 general election in newspapers or on specimen ballots.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** SB 832 (Senator Stone) - Judicial Proceedings. Also, HB 930 is identical.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Orphans' Court of Baltimore County, Register of Wills, Department of Legislative Services

**Fiscal Note History:** First Reader - March 22, 2011  
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