

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 396

(Senator Jones-Rodwell)(By Request - Baltimore City
Administration)

Judicial Proceedings

Judiciary

Equity Court Jurisdiction - Immigrant Children - Custody or Guardianship

This bill expands the jurisdiction of an equity court to include a petition to award custody or guardianship of an immigrant “child” that is filed with a motion for Special Immigrant Juvenile factual findings. A “child” is an unmarried individual younger than age 21.

Fiscal Summary

State Effect: The Judiciary can handle any additional hearings using existing resources.

Local Effect: The circuit courts can handle any additional hearings using existing resources.

Small Business Effect: None.

Analysis

Current Law/Background: The circuit courts are the highest common law and equity courts of record exercising original jurisdiction within the State. An equity court has jurisdiction over custody or guardianship cases unless the child is under the jurisdiction of a juvenile court and has previously been adjudicated to be a “child in need of assistance.” “A child in need of assistance” (CINA) is a child who requires court intervention because (1) the child has been abused or neglected or has a developmental disability or a mental disorder and (2) the child’s parents, guardian, or custodian are unable or unwilling to provide proper care and attention to the child. Child refers to an individual younger than age 18.

Special Immigrant Juvenile Status (SIJS) is a designation under federal law to assist certain undocumented children in obtaining lawful permanent residency. To qualify, one must have been abused, abandoned, or neglected by at least one of the parents. Youth are allowed to qualify for SIJS up until their twenty-first birthday. The Immigration and Nationality Act (INA) delegates to state “juvenile courts” the authority to make specific findings of fact regarding eligibility for SIJS. Federal regulations define a “juvenile court” as a court having jurisdiction under state law to make judicial determinations about the custody and care of juveniles. To obtain SIJS, an individual must initiate the process in juvenile court by obtaining a court order containing specific factual findings, including that the child cannot be reunited with one or both parents because of abuse, abandonment, or neglect.

Because State law requires a child to be younger than age 18 by the time the child is first declared a juvenile court dependent, the bill is intended to align State law with federal regulations on eligibility in these cases and provide equity courts with jurisdiction over SIJS applicants who would otherwise have aged out of the juvenile court system.

Additional Information

Prior Introductions: None.

Cross File: HB 315 (Delegate Anderson)(By Request - Baltimore City Administration) - Judiciary.

Information Source(s): Baltimore City, Judiciary (Administrative Office of the Courts), U.S. Department of Homeland Security, Maryland State Bar Association, Department of Legislative Services

Fiscal Note History: First Reader - February 4, 2014
ncs/kdm Revised - Senate Third Reader - March 24, 2014

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