

Department of Legislative Services  
Maryland General Assembly  
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 23 (Senator Young)  
Judicial Proceedings

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Estates - Closing - Statement of Compensation and Reporting of Income (Mike Cady Act)

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This bill requires the orphans' court, or the court exercising the jurisdiction of the orphans' court, or the register of wills, after an estate has been closed, to provide to the personal representative of the estate a document stating the amount of compensation received by the personal representative and informing the personal representative that the compensation is income that must be reported to the Internal Revenue Service (IRS). The bill also requires that a copy of the document be sent to IRS and the Office of the Comptroller.

The bill applies only prospectively, to an estate closed on or after the bill's October 1, 2015 effective date.

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Fiscal Summary

**State Effect:** General fund revenues may increase minimally to the extent the bill causes additional State individual income tax to be collected. Expenditures are not materially affected.

**Local Effect:** Local government revenues may increase minimally to the extent the bill causes additional local income tax to be collected.

**Small Business Effect:** None.

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Analysis

**Current Law/Background:** A personal representative is a fiduciary and has the responsibility of settling and distributing a deceased person's estate. The personal representative is entitled to reasonable compensation for services, determined generally by

any stated compensation in a will and/or what the court determines is appropriate. Unless a larger measure of compensation is provided for in a will, the court may allow the commissions it considers appropriate but not more than (1) 9%, if the property subject to administration is not over \$20,000 and (2) \$1,800 plus 3.6% of the excess over \$20,000, if the property subject to administration is over \$20,000. A court may allow compensation in addition to that provided in a will if the amount provided in the will is judged by the court to be insufficient. The adequacy of a commission may be appealed to circuit court. A personal representative may also renounce at any time all or a part of the right to compensation.

IRS Publication 559 (addressing tax responsibilities of personal representatives of estates) indicates that personal representatives must include fees paid to them from an estate in their gross income and report the fees on their Form 1040.

**State Revenues:** General fund revenues may increase to the extent the documentation required to be provided to personal representatives under the bill causes personal representatives that otherwise would not report compensation received from an estate to report the income to IRS and pay income tax on it. State income tax is calculated based on an individual's federal adjusted gross income from the individual's federal tax return. The extent to which general fund revenues may increase cannot be reliably estimated, but is expected to be minimal. It is not known how much compensation received by personal representatives is not reported to IRS.

**Local Revenues:** Local income tax revenues may increase to the extent additional compensation of personal representatives is reported to IRS as income as a result of the bill. Local income tax is calculated based on a person's Maryland taxable income (income taxable for State individual income tax purposes), which is based on a person's federal adjusted gross income. Any increase cannot be reliably estimated, but is expected to be minimal.

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### **Additional Information**

**Prior Introductions:** SB 23 of 2014 received an unfavorable report from the Senate Judicial Proceedings Committee. SB 982 of 2013, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** Comptroller's Office, Judiciary (Administrative Office of the Courts), Register of Wills, U.S. Department of the Treasury (Internal Revenue Service), Department of Legislative Services

**Fiscal Note History:** First Reader - January 26, 2015  
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Analysis by: Matthew B. Jackson

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