

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 975
Judiciary

(Delegates Rosenberg and Morales)

Lawyers - Admission to the Bar - Qualifications

This bill establishes that, in order to qualify for admission to the Bar, an undocumented immigrant must, in addition to meeting current requirements, (1) have attended a secondary school in the State for at least three years; (2) have graduated from a secondary school or received the equivalent of a high school diploma in Maryland; (3) provide documentation that the applicant or the applicant's parent or legal guardian has filed a Maryland income tax return annually during the three years the applicant attended secondary school in the State; (4) provide an affidavit stating that the applicant will file an application to become a permanent resident within 30 days after becoming eligible to do so, if the applicant is not already a permanent resident of the State; and (5) provide documentation that the applicant has complied with the requirement to register with the Selective Service System, if applicable.

The bill's provisions do not apply to a nonimmigrant alien as defined in federal law.

Fiscal Summary

State Effect: Significant operational impact on the Judiciary's State Board of Law Examiners (SBLE). Minimal increase in general fund expenditures for the board, beginning in FY 2017, as discussed below. Revenues are not likely affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: SBLE administers the Maryland Bar examination, investigates the legal competence and character and fitness of a person that seeks a license to practice law in the State courts of the State of Maryland, and recommends qualified candidates for admission to the Bar to the Court of Appeals. To qualify for admission to the Bar, an applicant must meet several statutory requirements: (1) be of good character and reputation; (2) be at least 18 years old; (3) have completed necessary academic work to meet the minimum requirements for admission to an American Bar Association-approved law school and have a Juris Doctor (JD) or its equivalent; (4) pass a written examination; and (5) any other qualifications or requirements established by the Court of Appeals. Undocumented immigrants are not barred from admission to the Bar if they meet these qualifications.

State Expenditures: SBLE advises that the bill imposes significant operational burdens on the board during its annual application process and may result in an increase in expenditures. However, the board is unable to provide a specific cost estimate because the increase in time and expenditures related to application review depends on the number of undocumented immigrants applying for admission to the Bar. The board advises that it reviews approximately 2,200 applications annually.

Currently, the board collects only an official college transcript with the Bar application prior to an applicant sitting for the Bar examination. After a candidate completes the exam, SBLE collects an official law school transcript to confirm the award of a JD. Both the college and law school transcripts can usually be requested and delivered electronically. SBLE anticipates that collecting the required documents under the bill may be difficult and will likely increase, perhaps by double, the number of “problem files” during the application review period. During the three weeks surrounding the filing deadline, SBLE staff already performs 10 to 20 hours of overtime. SBLE anticipates that the bill’s requirements increase the amount of time to review applications. As the increase in workload is generally confined to a few weeks, a regular or contractual position is not justified; however, temporary staffing assistance or increased overtime may be necessary. This may cause problems when contracting for examination vendors to the extent that the board does not have an accurate estimate of the number of applicants in a timely manner prior to exam scheduling and may also increase costs.

Additional Comments: SBLE advises that collecting an official high school transcript for undocumented immigrant applicants may be difficult given that law school graduates are normally a minimum of 7 years removed from high school. SBLE ceased collecting reference letters from applicants’ high schools because the records were often not available. Thus, SBLE anticipates it may be similarly difficult to collect high school documents as required under the bill. SBLE expects that obtaining the required tax information will be

even more difficult given that these records were likely generated a minimum of 8 to 10 years prior to the Bar application.

Finally, SBLE advises that it is not qualified to determine whether or not an applicant is a permanent resident. Under current law, applicants must state, but not document, whether they have registered with the Selective Service System if so required.

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 - February 23, 2016
min/mcr

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