

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1191
Judiciary

(Delegate McComas, *et al.*)

Clerk of Court - Prohibition Against Ruling

This bill prohibits the clerk of a court from ruling on any motion or application.

Fiscal Summary

State Effect: Although the bill does not directly affect the finances of the Judiciary, it may have a significant operational impact, as discussed below.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: The clerk of a court has numerous duties, including (1) having custody of the books, records, and papers of the clerk's office; (2) issuing writs which may be legally issued from the court; (3) recording papers filed with the clerk's office, as specified; (4) administering oaths; and (5) performing other duties required by law or rule.

Pursuant to District Court Administrative Regulations, individuals desiring to have any civil, criminal, or traffic case continued or postponed must, at least five days prior to the scheduled trial date, file a motion for such postponement or continuance with the clerk of the court specifically designated to consider such motions. Such motions must not be granted by the clerk except for good cause shown. If the motion is denied by the clerk, the party requesting the postponement or continuance may then address the motion to the

presiding judge of the court. Motions within five days of the scheduled trial date must be addressed directly to the judge assigned to such motions or the presiding judge. Each administrative judge must designate one or more clerks at each court location to consider motions for postponements or continuances.

State Fiscal Effect: The Judiciary advises that if District Court clerks are no longer able to review and rule on motions for postponements as authorized above, judges will need to rule and sign these motions, thereby increasing their workloads. While this does not directly impact the finances of the Judiciary, it may have a significant operational impact by necessitating the reallocation of judicial resources to handle routine postponement matters.

Additional Information

Prior Introductions: None.

Cross File: SB 378 (Senator Norman, *et al.*) - Judicial Proceedings.

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

Fiscal Note History: First Reader - February 14, 2017
md/kdm

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