

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 205

Judiciary

(Delegate Bartlett)

Judicial Proceedings

Clerks of the Circuit Courts – Bonds, Licenses, Oaths, and Commissions

This bill amends numerous provisions under the Courts and Judicial Proceedings Article relating to the administrative duties of a clerk of a circuit court. The bill also repeals penalties for nonperformance of certain covered duties.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances or operations.

Local Effect: The bill is not anticipated to materially affect local finances or operations.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Section 2-106: Relating to Oaths and Bonds

Under current law, a person who is required to take a specified oath or file a specified bond to qualify for office, but who fails to do so within 30 days from the date the person's commission is received by the clerk (or 30 days after the person otherwise receives notice), is deemed to have refused the office, and the office must be considered vacant unless the time is extended by the court for good cause shown. The bill repeals a provision specifying that a clerk who fails to execute the required bond (1) may not receive fees or compensation and (2) is subject to a monetary penalty of \$1,000.

Section 2-208: Relating to Applications for Blank Licenses from the Comptroller

Under current law, by May 1 of each year the clerk of a circuit court must apply to the Comptroller for the number of blank licenses of each sort, as specified, that will probably be required for use by the county during the year, or part of a year, ending the next April 30. A clerk who fails to apply for blank licenses must pay a penalty of \$1,000 for each failure.

The bill requires the clerk of a circuit court to *coordinate* with (instead of *apply* to) the Comptroller by May 1 of each year regarding the issuance of licenses by the clerk on behalf of the Comptroller. The bill also repeals the penalty for failing to apply for blank licenses.

Section 2-210: Relating to Accounts to the Comptroller Regarding Licenses

Under current law, by the first Monday of June and December of each year, the clerk of a circuit court must return to the Comptroller, under oath, an account of the licenses issued by the clerk stating (1) the number of licenses issued of each grade and kind; (2) the date each license was issued; (3) the amount of money received for each license; (4) the person to whom each license was issued; and (5) the number, grade, and description of all blank licenses remaining. If a clerk fails to make such an account, the Comptroller must (1) charge the clerk with the entire cost of blank licenses delivered to the clerk, as specified, and (2) immediately afterwards, direct a suit to be brought against the official bond of the clerk, to recover the amount.

The bill repeals the requirement to return an account under oath to the Comptroller by the specified dates; instead, the bill requires the clerk of a circuit court to *coordinate* with the Comptroller regarding the same information described above. The bill also repeals the provision requiring the Comptroller to charge the clerk and direct a suit in the event a clerk fails to make such a required account.

State/Local Fiscal Effect: The bill's alteration to administrative protocols and repeal of certain associated penalties are not anticipated to have a material impact on State or local operations or finances. The Comptroller advises that although it likely needs to promulgate regulations interpreting the bill's new reporting standards, it can handle the bill's changes with existing resources.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 97 (Senator Beidle) - Judicial Proceedings.

Information Source(s): Comptroller's Office; Secretary of State; Maryland State Treasurer's Office; Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - January 31, 2022
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