

Department of Legislative Services  
Maryland General Assembly  
2022 Session

FISCAL AND POLICY NOTE  
Third Reader

House Bill 868  
Judiciary

(Howard County Delegation)

Judicial Proceedings

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Circuit Court for Howard County – Judges Sitting as Orphans’ Court Ho. Co.  
06–22

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This proposed constitutional amendment repeals the requirement that voters in Howard County elect three orphans’ court judges and instead requires the judges of the circuit court for the county to sit as the orphans’ court. Contingent on the passage of the constitutional amendment, the bill makes a conforming change to § 12-502 of the Courts and Judicial Proceedings Article to establish that, in Howard County, a party does not have the option to appeal a final judgment of an orphans’ court to the circuit court for the county and must instead directly appeal to the Court of Special Appeals.

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**Fiscal Summary**

**State Effect:** If the proposed constitutional amendment is adopted, general fund expenditures for the Judiciary may increase, potentially significantly, for costs associated with the additional workload to be performed by the Howard County Circuit Court. Revenues are not affected.

**Local Effect:** If the proposed constitutional amendment is adopted, Howard County expenditures decrease by approximately \$27,750 in FY 2023 and by \$55,600 annually thereafter. These savings are partially offset by costs associated with a new circuit court judgeship *if* the Judiciary needs a new circuit court judge to accommodate the additional workload that is required under the bill’s provisions. Revenues are not affected.

**Small Business Effect:** None.

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## Analysis

**Current Law:** Under the Maryland Constitution, each county elects three judges to the orphans' court of their respective jurisdictions, with the exception of Harford and Montgomery counties. In these counties, the judges of the circuit court sit as the orphans' court and have all the power, authority, and jurisdiction of the orphans' court. Because the judges of the circuit court sit as the orphans' court in those counties, appeals from a final judgment of an orphans' court in Harford and Montgomery counties must be taken directly to the Court of Special Appeals.

An orphans' court judge must be a citizen of the State and resident, for the preceding 12 months, in the city or county in which he or she may be elected. In Baltimore City and in Baltimore and Prince George's counties, the judges must also be members in good standing of the Maryland Bar and admitted to practice law in the State.

An orphans' court hears contested matters regarding a decedent's estate, including validity of wills and legal questions involving transfers of property. The court also (1) supervises estates that are probated judicially; (2) approves accounts, awards of personal representatives' commissions, and attorney's fees in all estates; and (3) has concurrent jurisdiction with the circuit courts in the guardianship of minors and their property.

**State Expenditures:** If adopted, the amendment would require circuit court judges in Howard County to assume the workload presently being done by the orphans' court. The Judiciary advises that it is unable to reliably estimate the extent to which judicial resources will be needed to manage the workload of the orphans' court, but does indicate that current judicial resources may not be adequate. The Howard County orphans' court handled 844 cases in fiscal 2020 and 1,079 cases in fiscal 2021.

*If* absorbing the workload of the orphans' court is such that an additional circuit court judge is needed, annual expenditures for the Judiciary increase by more than \$400,000 annually. However, annual expenditures for the Judiciary are *significantly* lower to the extent the circuit court is instead able to manage the additional workload by utilizing senior (retired) judges more frequently, as the Judiciary often does to supplement the resources of sitting judges. Such judges may be called upon to a greater extent to handle the traditional workload of sitting circuit court judges, thereby providing the sitting judges with the ability to sit as the orphans' court. *For illustrative purposes only*, if senior judges are used one additional day per week, general fund expenditures increase by approximately \$36,900 annually.

**Local Expenditures:** If the circuit court judges assume responsibility for the orphans' court workload, Howard County will no longer be responsible for salaries for the orphans' court judges, which total \$55,500 annually. (Each orphans' court judge in

Howard County is also entitled to an expense allowance of up to \$50 per month.) Accordingly, Howard County expenditures decrease by approximately \$27,750 in fiscal 2023 (which assumes the Howard County Circuit Court assumes responsibility for orphans' court functions on January 1, 2023) and by \$55,500 annually thereafter. This expenditure reduction is mitigated to the extent that the Judiciary instead needs (and seeks the authority to create) a new judgeship for the Howard County Circuit Court as a result of the increase in workload. Counties are responsible for providing secretarial staff, supplies, and equipment for circuit court judges, as well as capital and operating expenses for courtrooms and office facilities.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Howard County; Judiciary (Administrative Office of the Courts); Maryland State Board of Elections; Department of Legislative Services

**Fiscal Note History:** First Reader - February 28, 2022  
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Analysis by: Tyler Allard

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