HOUSE BILL 515

By: **Delegate Rosenberg**
Introduced and read first time: January 30, 2013
Assigned to: Ways and Means

Committee Report: Favorable with amendments
House action: Adopted with floor amendments
Read second time: March 17, 2013

CHAPTER _____

1 AN ACT concerning

2 **Elections for Judges ~~of the Orphans' Courts~~ – Nonpartisan Elections**

3 FOR the purpose of ~~establishing a method of electing judges of the orphans' courts on~~
4 ~~a nonpartisan basis, without regard to political party affiliation; establishing a~~
5 ~~primary election for candidates for nomination for a certain office to be~~
6 ~~administered in a certain manner; authorizing any registered voter, with or~~
7 ~~without any political party affiliation, to participate in such a primary;~~
8 ~~prohibiting candidates from appearing on primary ballots under certain~~
9 ~~circumstances; establishing that a candidate for a certain office may not be~~
10 ~~nominated by petition or by a political party that is not required to nominate its~~
11 ~~candidates by party primary; making a conforming change;~~ clarifying that the
12 requirements for party affiliation for a candidate for office do not apply to a
13 candidate for judge of the orphans' court, except in a certain county; requiring
14 that a certificate of candidacy for judge of the orphans' court, except for a
15 certain county, be filed with the State Board of Elections; providing that a
16 certain provision of law prohibiting the name of a certain candidate from
17 appearing on a certain ballot does not apply to a candidate for judge of the
18 orphans' court, except for a certain county; altering the order in which offices to
19 be voted on appear on a ballot; requiring that the names of candidates for judge
20 of the orphans' court, except for a certain county, be placed on the ballot without
21 a party label or other indication of party affiliation; requiring that the names of
22 the candidates for judicial offices be listed on a ballot in alphabetical order by
23 surname; and generally relating to the nonpartisan ~~nomination and~~ election of
24 judges ~~of the orphans' courts~~.

1 BY repealing and reenacting, with amendments,
2   Article – Election Law
3   Section 5–203, ~~5–703(a), 5–703.1(a), and 9–210(a)~~ 5–302, 5–706, and 9–210(a)
4   and (g)
5   Annotated Code of Maryland
6   (2010 Replacement Volume and 2012 Supplement)

7 BY repealing and reenacting, without amendments,
8   Article – Election Law
9   Section 5–301(a)
10   Annotated Code of Maryland
11   (2010 Replacement Volume and 2012 Supplement)

12 BY adding to
13   Article – Election Law
14   Section 9–210(l)
15   Annotated Code of Maryland
16   (2010 Replacement Volume and 2012 Supplement

17 ~~BY adding to~~
18   ~~Article – Election Law~~
19   ~~Section 8–901 through 8–905 to be under the new subtitle "Subtitle 9. Election~~
20   ~~of Judge of the Orphans' Court"~~
21   ~~Annotated Code of Maryland~~
22   ~~(2010 Replacement Volume and 2012 Supplement)~~

23   SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

25   **Article – Election Law**

26 5–203.

27   (a)   (1)   This subsection does not apply to a candidate for:

28   (i)   President or Vice President of the United States; or

29   (ii)   any federal office who seeks nomination by petition.

30   (2)   Unless the individual is a registered voter affiliated with the
31 political party, an individual may not be a candidate for:

32   (i)   an office of that political party; or

33   (ii)   except as provided in subsection (b) of this section,
34 nomination by that political party.

1   (b)   The requirements for party affiliation specified under subsection (a) of
2 this section do not apply to a candidate for:

3   (1)   a judicial office**, INCLUDING, EXCEPT IN ANNE ARUNDEL**
4 **COUNTY, JUDGE OF THE ORPHANS' COURT**; [or]

5   (2)   a county board of education; **OR**

6   (3)   JUDGE OF THE ORPHANS' COURT.

7 5–301.

8   (a)   An individual may become a candidate for a public or party office only if:

9   (1)   the individual files a certificate of candidacy in accordance with
10 this subtitle; and

11   (2)   the individual does not file a certificate of withdrawal under
12 Subtitle 5 of this title.

13 5–302.

14   (a)   A certificate of candidacy shall be filed under oath on the prescribed form.

15   (b)   The certificate of candidacy shall be filed with the State Board if the
16 candidacy is for:

17   (1)   an office to be voted upon by the voters of the entire State;

18   (2)   the General Assembly of Maryland;

19   (3)   Representative in Congress;

20   (4)   the office of judge of the circuit court for a county; [or]

21   **(5)   THE OFFICE OF JUDGE OF THE ORPHANS' COURT FOR A**
22 **COUNTY OTHER THAN ANNE ARUNDEL COUNTY; OR**

23   [(5)] **(6)**   an office of elected delegate to a presidential national
24 convention provided for under Title 8, Subtitle 5 of this article.

25   (c)   (1)   If the candidacy is for an office other than an office described in
26 subsection (b) of this section, the certificate of candidacy shall be filed with the local
27 board of the applicable county.

1   (2)   In accordance with regulations adopted by the State Board, each
2   local board shall provide the name and other required information for each candidate
3   to the State Board.

4   5–706.

5   (a)   This section does not apply to:

6   (1)   a candidate for the office of judge of the circuit court;

7   **(2)   A CANDIDATE FOR THE OFFICE OF JUDGE OF THE ORPHANS'**
8   **COURT FOR A COUNTY OTHER THAN ANNE ARUNDEL COUNTY;**

9   [(2)] **(3)**   a candidate selected by a political party to fill a vacancy in
10   nomination under Subtitle 9 or Subtitle 10 of this title; or

11   [(3)] **(4)**   a candidate defeated in a presidential preference primary.

12   (b)   The name of a candidate who is defeated for the nomination for a public
13   office may not appear on the ballot at the next succeeding general election as a
14   candidate for any office.

15   5–703.

16   (a)   Except for a candidate for **JUDGE OF THE ORPHANS' COURT OR a**
17   nonpartisan county board of education, this section applies to any candidate for public
18   office subject to this title.

19   5–703.1.

20   (a)   Except for a candidate for **JUDGE OF THE ORPHANS' COURT OR a**
21   nonpartisan county board of education, this section applies to any candidate for public
22   office subject to this title.

23   SUBTITLE 9. ELECTION OF JUDGE OF THE ORPHANS' COURT.

24   8–901.

25   EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE PROVISIONS OF
26   THIS ARTICLE RELATING TO THE NOMINATION AND ELECTION OF CANDIDATES
27   TO PUBLIC OFFICE SHALL GOVERN THE NOMINATION AND ELECTION OF JUDGE
28   OF THE ORPHANS' COURT.

29   8–902.

1   ~~(A)~~   ~~(1)~~   ~~A JUDGE OF THE ORPHANS' COURT SHALL BE ELECTED ON A~~
2 ~~NONPARTISAN BASIS.~~

3   ~~(2)~~   ~~IN A PRIMARY ELECTION TO NOMINATE A CANDIDATE FOR~~
4 ~~JUDGE OF THE ORPHANS' COURT, ANY REGISTERED VOTER OF THE COUNTY,~~
5 ~~REGARDLESS OF PARTY AFFILIATION OR LACK OF PARTY AFFILIATION, IS~~
6 ~~ELIGIBLE TO VOTE IN THE CONTEST FOR NOMINATION FOR ONE CANDIDATE.~~

7   ~~(B)~~   ~~A CANDIDATE FOR ELECTION TO THE OFFICE OF JUDGE OF THE~~
8 ~~ORPHANS' COURT SHALL, WITHOUT PARTY DESIGNATION OR REGARD TO PARTY~~
9 ~~AFFILIATION:~~

10   ~~(1)~~   ~~FILE A CERTIFICATE OF CANDIDACY;~~

11   ~~(2)~~   ~~BE CERTIFIED TO THE BALLOT;~~

12   ~~(3)~~   ~~APPEAR ON THE BALLOT;~~

13   ~~(4)~~   ~~BE VOTED ON; AND~~

14   ~~(5)~~   ~~BE NOMINATED AND ELECTED.~~

15 ~~8–903.~~

16   ~~(A)~~   ~~(1)~~   ~~EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~
17 ~~SUBSECTION, A CANDIDATE FOR JUDGE OF THE ORPHANS' COURT SHALL BE~~
18 ~~NOMINATED AT THE PRIMARY ELECTION.~~

19   ~~(2)~~   ~~IF, AFTER THE DEADLINE FOR WITHDRAWAL AS PROVIDED IN~~
20 ~~§ 5–503 OF THIS ARTICLE, THERE ARE NO MORE THAN TWO CANDIDATES WHO~~
21 ~~HAVE FILED CERTIFICATES OF CANDIDACY FOR THE CONTEST, A CERTIFICATE~~
22 ~~OF NOMINATION SHALL BE ISSUED TO EACH CANDIDATE.~~

23   ~~(B)~~   ~~(1)~~   ~~IF A CANDIDATE DIES OR BECOMES DISQUALIFIED BEFORE~~
24 ~~THE BALLOTS ARE PRINTED OR AT A TIME WHEN THE BALLOTS CAN BE~~
25 ~~REPRINTED, THE NAME OF THE CANDIDATE MAY NOT APPEAR ON THE BALLOT.~~

26   ~~(2)~~   ~~IF A CANDIDATE DIES OR BECOMES DISQUALIFIED AFTER THE~~
27 ~~BALLOTS ARE PRINTED AND IT IS TOO LATE FOR THE BALLOTS TO BE~~
28 ~~REPRINTED, ANY VOTES CAST FOR THAT CANDIDATE MAY NOT BE COUNTED.~~

29   ~~(C)~~   ~~(1)~~   ~~THE TWO CANDIDATES WHO RECEIVE THE LARGEST NUMBER~~
30 ~~OF VOTES IN THE PRIMARY ELECTION SHALL BE THE NOMINATED CANDIDATES.~~

1 ~~(2)   IF TWO OR MORE CANDIDATES EACH RECEIVE THE LOWEST~~
2 ~~NUMBER OF VOTES NECESSARY TO QUALIFY FOR NOMINATION, CREATING A TIE~~
3 ~~FOR THE LAST NOMINATION FOR THE OFFICE TO BE FILLED, EACH SHALL BE A~~
4 ~~NOMINATED CANDIDATE.~~

5 ~~8–904.~~

6 ~~(A)   AFTER THE PRIMARY ELECTION BUT BEFORE THE GENERAL~~
7 ~~ELECTION, IF A NOMINEE DIES, DECLINES THE NOMINATION, OR BECOMES~~
8 ~~DISQUALIFIED BEFORE THE BALLOTS ARE PRINTED OR AT A TIME WHEN THE~~
9 ~~BALLOTS CAN BE REPRINTED, THE NAME OF THE NOMINEE MAY NOT APPEAR ON~~
10 ~~THE BALLOT.~~

11 ~~(B)   IF A NOMINEE DIES, DECLINES THE NOMINATION, OR IS~~
12 ~~DISQUALIFIED AFTER THE BALLOTS ARE PRINTED AND IT IS TOO LATE FOR THE~~
13 ~~BALLOTS TO BE REPRINTED, AND IF THAT NOMINEE RECEIVES SUFFICIENT~~
14 ~~VOTES TO HAVE BEEN ELECTED, THE OFFICE SHALL BE DEEMED VACANT AND~~
15 ~~SHALL BE FILLED AS IF THE VACANCY HAD OCCURRED DURING THE TERM OF~~
16 ~~OFFICE.~~

17 ~~8–905.~~

18 ~~(A)   IN A GENERAL ELECTION FOR JUDGE OF THE ORPHANS' COURT, A~~
19 ~~VOTER MAY VOTE FOR ONE NOMINEE.~~

20 ~~(B)   (1)   THE NOMINEE WHO RECEIVES THE LARGEST NUMBER OF~~
21 ~~VOTES IN THE GENERAL ELECTION SHALL BE DECLARED ELECTED.~~

22 ~~(2)   (I)   IF TWO OR MORE NOMINEES EACH RECEIVE THE~~
23 ~~NUMBER OF VOTES NECESSARY TO QUALIFY FOR ELECTION, CREATING A TIE~~
24 ~~FOR THE OFFICE TO BE FILLED, THE OFFICE SHALL BE CONSIDERED VACANT.~~

25 ~~(II)   A VACANCY OCCURRING UNDER SUBPARAGRAPH (I) OF~~
26 ~~THIS PARAGRAPH SHALL BE FILLED:~~

27 ~~1.   AS IF THE VACANCY OCCURRED DURING THE~~
28 ~~TERM OF OFFICE FOR WHICH THE ELECTION IS BEING HELD; AND~~

29 ~~2.   BY THE SELECTION OF ONE OF THE NOMINEES~~
30 ~~WHO TIES IN THE GENERAL ELECTION.~~

31 9–210.

1   (a)   The offices to be voted on shall be arranged on the ballot in the following
2 order, as applicable:

3   (1)   public offices for which voters of the entire State may vote, in the
4 following order:

5   (i)   President of the United States, or President and Vice
6 President of the United States;

7   (ii)   Governor and Lieutenant Governor;

8   (iii)   Comptroller;

9   (iv)   Attorney General; and

10   (v)   United States Senator;

11   (2)   Representative in Congress;

12   (3)   members of the General Assembly of Maryland, in the following
13 order:

14   (i)   Senate of Maryland; and

15   (ii)   House of Delegates;

16   (4)   members of the governing body of a county, in the following order:

17   (i)   county executive; and

18   (ii)   county council or county commissioner;

19   (5)   offices in the government of the City of Baltimore, in the following
20 order:

21   (i)   Mayor;

22   (ii)   President of the City Council;

23   (iii)   Comptroller; and

24   (iv)   member of the City Council;

25   (6)   judicial offices, in the following order:

26   (i)   **JUDGE OF THE ORPHANS' COURT FOR A COUNTY OTHER**
27 **THAN ANNE ARUNDEL COUNTY;**

1   **(II)**   judge of the circuit court; and

2   ~~(ii)~~ **(III)**   appellate judges, continuance in office, in the
3   following order:

4   1.   Court of Appeals; and

5   2.   Court of Special Appeals;

6   (7)   public offices for which the voters of a county may vote, in the
7   following order:

8   (i)   county treasurer;

9   (ii)   State's Attorney;

10   (iii)   clerk of the circuit court;

11   (iv)   register of wills;

12   (v)   ~~judge of the orphans' court;~~ judge of the orphans' court **FOR**
13   **ANNE ARUNDEL COUNTY**;

14   ~~(vi)~~ (vi)   sheriff; and

15   ~~(vii)~~ **(VI)** (vii)   other offices filled by partisan election;

16   (8)   party offices; and

17   (9)   ~~OTHER~~ offices filled by nonpartisan election.

18   (g)   (1)   Except for contests for judicial office or an office to be filled by
19   nonpartisan election, the party affiliation of a candidate who is a nominee of a political
20   party shall be indicated on the ballot.

21   (2)   (i)   A candidate who is not a nominee of a political party or
22   affiliated with a partisan organization shall be designated as an "unaffiliated".

23   (ii)   A candidate who is affiliated with a partisan organization
24   shall be designated under "other candidates".

25   (3)   The names of candidates for judge of the circuit court**, JUDGE OF**
26   **THE ORPHANS' COURT FOR A COUNTY OTHER THAN ANNE ARUNDEL COUNTY,** or
27   for a county board of education, and the names of incumbent appellate judges, shall be

1 <u>placed on the ballot without a party label or other distinguishing mark or location</u>
2 <u>which might indicate party affiliation.</u>

3 **(L)** **ON A BALLOT, THE NAMES OF THE CANDIDATES FOR JUDICIAL**
4 **OFFICES SHALL BE LISTED IN ALPHABETICAL ORDER BY SURNAME.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2013.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.