

MEMORANDUM

To: Members of the Senate Judicial Proceedings Committee

From: Maryland State Bar Association (MSBA)
Shaoli Katana, Esq., Director

Subject: Senate Bill 485 - Orphans' Court Judges - Election and Restriction on Practicing Law

Date: February 14, 2022

Position: Oppose

The Maryland State Bar Association (MSBA) respectfully opposes **Senate Bill 485 - Orphans' Court Judges - Election and Restriction on Practicing Law**. Senate Bill 485 prohibits a candidate for judge of the orphans' court from appearing on the ballot in a primary election or being nominated by a political party or by petition; and prohibiting judges of the orphans' court from acting as an attorney during their term of office in any matter that is within the jurisdiction of the court and related to the administration of an estate or guardianship of a minor.

MSBA represents more attorneys than any other organization across the State in all practice areas. MSBA serves as the voice of Maryland's legal profession. Through its Laws Committee and various practice-specific sections, MSBA monitors and takes positions on legislation of importance to the legal profession.

Orphans' Court judges serve an important function conducting judicial probate, directing the conduct of personal representatives, and passing orders necessary for the administration of a decedent's estate. Some Orphans' Court judges also practice law as Maryland attorneys, serving as an Orphan's Court judge in a part-time capacity. SB 485 expands the restriction to practice beyond the county where the Orphans' Court judge sits. MSBA opposes broad restrictions on Maryland attorneys' ability to practice law, as this could discourage attorneys from seeking positions as Orphans' Court judges. Additionally, ethical considerations for the scope of attorney practice should be governed by rule, not by the legislature.

MSBA has concerns with the details of this legislation and respectfully requests an **unfavorable report**.

For additional information, please feel free to contact Shaoli Katana at MSBA at shaoli@msba.org.