

**SB 485 - LWVMD - Fav.pdf**

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**TESTIMONY TO THE SENATE COMMITTEE ON JUDICIAL PROCEEDINGS**

**SB 485 Orphans' Court Judges – Election and Restriction on Practicing Law**

**POSITION: Favorable**

**BY: Nancy Soreng – President**

**Date: February 15, 2022**

The League of Women Voters of Maryland supports SB 485, which would change the method for electing judges of the Orphans' Court from a partisan to a nonpartisan process and would also restrict the practice of law by those judges.

The League of Women Voters of Maryland has long supported the nonpartisan election of judges of the Orphans' Court. Although partisan advocacy is appropriate for policy-making positions such as the General Assembly and Governor, a nonpartisan approach is essential for a fair judicial process. It is the duty of judges to apply the law without regard to their own views and partisan nominations for these offices undermine that principle.

Because many of the Orphans' Court judges work part-time, there is an inherent risk of a conflict of interest if the judge's law practice involves the subject matter within the court's jurisdiction. A judge should not preside over a matter in which the decision could affect someone who is also a client of the judge in her or his legal practice.

The LWVMD strongly urges a favorable report on SB 485.

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Uploaded by: Melissa Bright

Position: UNF

**SB 0485**

**Melissa Pollitt Bright and the  
Maryland Association of Orphans' Court Judges (MAJOC)**

**Unfavorable**

**Senate Judicial Proceedings Committee**

Senator Smith, Senator Waldstreicher, and Members of the Committee,

Good morning. I am the Chief Judge of the Orphans' Court for Wicomico County, but I must make it clear that I come to you today in my individual capacity and on behalf of the Maryland Association of Orphans' Court Judges (MAJOC), of which I am president, and not on behalf of the Maryland Judiciary or any of its parts.

SB0485 and its counterpart, HB879, stem from the work of the recent Task Force to Study the Orphans' Court. The Task Force completed its work and submitted its final recommendations in mid-December, only eight weeks ago. While my colleagues and I have great respect and appreciation for the work the Task Force did, we feel this bill was too hastily crafted and the matters which are its subject should be given more thought as to implementation. We are deeply concerned for the following reasons:

1. The matters the bill addresses, having Orphans' Court candidates run non-partisan and restrictions on the practice of law by attorney judges, are in no way related and should not be merged in a single bill.
2. If passed, the bill will become law on October 1st, too late for implementation in regard to this year's election, but prior to the General Election. This could create confusion and cast doubt on the validity of the election process. There is precedent in a similar situation which nullified the results of an election for a winning candidate. The part of this proposal pertaining to the election cannot alter the current primary status quo, so there is no rush for this year.
3. Section 8-905(B)(2) provides that in the case of a tie for the third position on the court, the position shall be viewed as vacant and filled as though the vacancy occurred during the term of office. Since there are often many candidates for Orphans' Court, even under the current system, there is a strong potential for at least one third of the court in multiple jurisdictions to be appointed rather than elected following each election. To have appointed judges for the entire term, especially as a default procedure, is disenfranchisement of the voters and could be a constitutional conflict.

For these reasons we oppose this bill in its current form and respectfully request that it be returned for further study and more detailed consideration of how these matters would be implemented.

Sincerely,  
Melissa Pollitt Bright  
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443-735-2631

**SB 485 - MSBA Opposition Letter (2022.02.15).pdf**

Uploaded by: Shaoli Katana

Position: UNF

## 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

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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](mailto:shaoli@msba.org).