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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

January 11th, 2024

The Maryland State Senate Judicial Proceedings Committee
The Honorable William C. Smith, Jr.
2 East Miller Senate Building
Annapolis, Maryland 21401

Re: Senate Bill 23: Orphans' Court Judges - Elections

Dear Chairman Smith and Members of the Committee,

Senate Bill 23 is identical to last year's Senate Bill 195, which passed out of the Judicial Proceedings Committee unanimously and passed overwhelmingly on the floor of the State Senate. Unfortunately, last year the bill got lost over in the House of Delegates. That is why SB 23 is before you today.

In Maryland, our Orphans Courts are the State's probate courts. They supervise the handling of estates and have jurisdiction over the guardianship of minors and their property. Under the Maryland Constitution, the voters of each county except Harford, Howard and Montgomery counties elect, for a term a four years, three Orphans Court Judges of their respective jurisdictions. In Harford, Howard and Montgomery Counties, the Orphans Courts are presided over by Circuit Court Judges.

Orphans' Court Judges are the only judges in the state who are currently forced to participate in partisan elections. Circuit Court Judges do not run in partisan elections. Appellate Court Judges do not run in partisan elections. District Court Judges do not run in elections at all.

The simple fact is that the sort of issues that come before Orphans Court Judges NEVER involve partisan considerations. In a few minutes, you will hear from Orphans Court Judge Juliet Fisher that in her years on the Baltimore County Orphans Court she can never recall a single instance in which partisanship played any role at all in her evaluation of an issue before her. Orphans Court Judges spend their time administering the estates of deceased Maryland citizens, and they are called upon to make determinations about the intent of the testators. Politics is just not involved in any way.

In 2022, I was appointed as a member of the *Task Force to Study the Orphans' Courts*. The Task Force recommended making the election of Maryland's Orphans' Court Judges apolitical by instituting a system of non-partisan elections. Passage of Senate Bill 23 will accomplish the recommendation of the Orphans Court Task Force. These non-partisan elections will be identical to the non-partisan elections that for many decades have governed Circuit Court Judges.

Here's how they would work. Let's assume that in a particular county, the three sitting Orphans Court Judges run for re-election and there are two challengers. If this bill is passed, all five candidates will appear on both the Republican and Democratic Primary Ballots in alphabetical order, with no party affiliation disclosed. The top three vote-getters in each primary will move on to the General Election. If the same three candidates win in both primaries, only those three names will appear on the General Election ballot. If different candidates win in different primaries, then the names of all of the winners will appear on the General Election ballot, again listed alphabetically and with no party affiliation disclosed.

No Constitutional Amendment would be necessary to make this change in the law relating to Orphans Court elections. Therefore, Senate Bill 23 will facilitate making our judicial offices less political and more fully professional. For the first time, politics will be taken completely out of our judicial elections.

I appreciate the Committee's consideration of Senate Bill 23 and will be happy to answer any questions the Committee may have.