

(PRE-FILED)

---

By: **Senator Giannetti**

Requested: November 15, 2004

Introduced and read first time: January 12, 2005

Assigned to: Judicial Proceedings

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Estates - Personal Representatives - Nomination by Power Conferred in Will**

3 FOR the purpose of adding personal representatives who have been nominated in  
4 accordance with a power conferred in a will that has been admitted to probate to  
5 a listing by priority of persons who may be granted letters in administrative or  
6 judicial probate or appointed as successor personal representatives or special  
7 administrators; establishing that personal representatives who have been  
8 nominated in accordance with a power conferred in a will that has been  
9 admitted to probate are entitled to probate; making a technical correction; and  
10 generally relating to estates and the nomination of personal representatives.

11 BY repealing and reenacting, with amendments,  
12 Article - Estates and Trusts  
13 Section 5-104 and 5-106  
14 Annotated Code of Maryland  
15 (2001 Replacement Volume and 2004 Supplement)

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

18 **Article - Estates and Trusts**

19 5-104.

20 In granting letters in administrative or judicial probate, or in appointing a  
21 successor personal representative, or a special administrator as provided in Subtitle 4  
22 of Title 6, the court and register shall observe the following order of priority, with any  
23 person in any one of the following paragraphs considered as a class:

24 (1) The personal representatives named in a will admitted to probate;

25 (2) THE PERSONAL REPRESENTATIVES NOMINATED IN ACCORDANCE  
26 WITH A POWER CONFERRED IN A WILL ADMITTED TO PROBATE;

- 1            [(2)]    (3)    The surviving spouse and children of an intestate decedent, or  
2 the surviving spouse of a testate decedent;
- 3            [(3)]    (4)    The residuary legatees;
- 4            [(4)]    (5)    The children of a testate decedent who are entitled to share in  
5 the estate;
- 6            [(5)]    (6)    The grandchildren of the decedent who are entitled to share in  
7 the estate;
- 8            [(6)]    (7)    Subject to §§ 3-111 and 3-112 of this article, the parents of the  
9 decedent who are entitled to share in the estate;
- 10           [(7)]    (8)    The brothers and sisters of the decedent who are entitled to  
11 share in the estate;
- 12           [(8)]    (9)    Other relations of the decedent who apply for administration;
- 13           [(9)]    (10)   The largest creditor of the decedent who applies for  
14 administration;
- 15           [(10)]   (11)   Any other person having a pecuniary interest in the proper  
16 administration of the estate of the decedent who applies for administration; or
- 17           [(11)]   (12)   Any other person.

18 5-106.

19        (a)        When there are several eligible persons in a class entitled to letters, the  
20 court or register may grant letters to one of them, or to more than one of them, as  
21 necessary or convenient for the proper administration of the estate. However, subject  
22 to § 5-105 of this subtitle, all personal representatives named in the will OR  
23 NOMINATED IN ACCORDANCE WITH A POWER CONFERRED IN THE WILL are entitled  
24 to probate.

25        (b)        Within classes [(2) through (9)] (3) THROUGH (10) of § 5-104 OF THIS  
26 SUBTITLE, letters may be granted to two or more persons in different classes provided  
27 that the person or class first entitled to letters consents.

28        SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 October 1, 2005.