

# SENATE BILL 46

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SB 324/06 – EHE

71r0616

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By: **Senators Dyson, Kittleman, and Zirkin**  
Introduced and read first time: January 17, 2007  
Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable  
Senate action: Adopted  
Read second time: March 15, 2007

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Election of Circuit Court Judges – Nonpartisan Elections**

3 FOR the purpose of establishing a method of electing judges to the circuit court on a  
4 nonpartisan basis, without regard to political party affiliation; establishing a  
5 primary election for candidates for nomination for a circuit court judgeship 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 circuit court judgeship may  
10 not be nominated by petition; and generally relating to the nonpartisan  
11 nomination and election of circuit court judges.

12 BY repealing and reenacting, without amendments,  
13 Article – Election Law  
14 Section 5–203 and 5–301(a)  
15 Annotated Code of Maryland  
16 (2003 Replacement Volume and 2006 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article – Election Law  
19 Section 5–703(a), 5–706, and 9–210(a)

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1           Annotated Code of Maryland  
2           (2003 Replacement Volume and 2006 Supplement)

3 BY adding to

4           Article – Election Law

5           Section 8–901 through 8–905 to be under the new subtitle “Subtitle 9. Election  
6                           of Circuit Court Judges”

7           Annotated Code of Maryland

8           (2003 Replacement Volume and 2006 Supplement)

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

11   **Article – Election Law**

12          5–203.

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

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

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

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

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

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

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

23                           (1)    a judicial office; or

24                           (2)    a county board of education.

25          5–301.

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

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

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

5 5-703.

6 (a) Except for a candidate for **CIRCUIT COURT JUDGE OR** a nonpartisan  
7 county Board of Education, this section applies to any candidate for public office  
8 subject to this title.

9 5-706.

10 (a) This section does not apply to:

11 (1) [a candidate for the office of judge of the Circuit Court;

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

14 [(3)] (2) a candidate defeated in a presidential preference primary.

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

18 **SUBTITLE 9. ELECTION OF CIRCUIT COURT JUDGES.**

19 **8-901.**

20 **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE PROVISIONS OF**  
21 **THIS ARTICLE RELATING TO THE NOMINATION AND ELECTION OF CANDIDATES**  
22 **TO PUBLIC OFFICE SHALL GOVERN THE NOMINATION AND ELECTION OF JUDGES**  
23 **OF THE CIRCUIT COURTS.**

24 **8-902.**

25 (A) (1) **JUDGES OF THE CIRCUIT COURTS SHALL BE ELECTED ON A**  
26 **NONPARTISAN BASIS.**

1           (2) IN A PRIMARY ELECTION TO NOMINATE CIRCUIT COURT  
2 JUDGE CANDIDATES, ANY REGISTERED VOTER OF THE COUNTY, REGARDLESS  
3 OF PARTY AFFILIATION OR LACK OF PARTY AFFILIATION, IS ELIGIBLE TO VOTE  
4 IN THOSE CONTESTS FOR NOMINATION FOR THE NUMBER OF CANDIDATES FOR  
5 WHICH THERE ARE OFFICES TO BE FILLED.

6           (B) CANDIDATES FOR ELECTION TO THE CIRCUIT COURT SHALL,  
7 WITHOUT PARTY DESIGNATION OR REGARD TO PARTY AFFILIATION:

8           (1) FILE CERTIFICATES OF CANDIDACY;

9           (2) BE CERTIFIED TO THE BALLOT;

10          (3) APPEAR ON THE BALLOT;

11          (4) BE VOTED ON; AND

12          (5) BE NOMINATED AND ELECTED.

13 **8-903.**

14          (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
15 SUBSECTION, IN EACH YEAR THAT ONE OR MORE JUDGES ARE TO BE ELECTED  
16 TO THE CIRCUIT COURT FOR A COUNTY, CANDIDATES SHALL BE NOMINATED AT  
17 THE PRIMARY ELECTION.

18          (2) IF, AFTER THE DEADLINE FOR WITHDRAWAL AS PROVIDED IN  
19 § 5-503 OF THIS ARTICLE, THE NUMBER OF CANDIDATES HAVING FILED  
20 CERTIFICATES OF CANDIDACY IN ANY CONTEST DOES NOT EXCEED TWICE THE  
21 NUMBER OF OFFICES TO BE FILLED, A CERTIFICATE OF NOMINATION SHALL BE  
22 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.

1           **(C) (1) THE CANDIDATES, EQUAL IN NUMBER TO TWICE THE NUMBER**  
2 **OF OFFICES TO BE FILLED, WHO RECEIVE THE LARGEST NUMBER OF VOTES IN**  
3 **THE PRIMARY ELECTION SHALL BE THE NOMINATED CANDIDATES.**

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

8 **8-904.**

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

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

20 **8-905.**

21           **(A) IN A GENERAL ELECTION FOR JUDGE OF THE CIRCUIT COURT FOR A**  
22 **COUNTY, A VOTER MAY VOTE FOR A NUMBER OF NOMINEES EQUAL TO THE**  
23 **NUMBER OF JUDGES TO BE ELECTED IN THAT COUNTY'S ELECTION.**

24           **(B) (1) THE NOMINEES, EQUAL IN NUMBER TO THE NUMBER OF**  
25 **OFFICES TO BE FILLED, WHO RECEIVE THE LARGEST NUMBER OF VOTES IN THE**  
26 **GENERAL ELECTION SHALL BE DECLARED ELECTED.**

27           **(2) (I) IF TWO OR MORE NOMINEES EACH RECEIVE THE**  
28 **LOWEST NUMBER OF VOTES NECESSARY TO QUALIFY FOR ELECTION, CREATING**  
29 **A TIE FOR THE LAST OFFICE TO BE FILLED, THE OFFICE SHALL BE CONSIDERED**  
30 **VACANT.**

1                   **(II) A VACANCY OCCURRING UNDER SUBPARAGRAPH (I) OF**  
2 **THIS PARAGRAPH SHALL BE FILLED:**

3                   **1. AS IF THE VACANCY OCCURRED DURING THE**  
4 **TERM OF OFFICE FOR WHICH THE ELECTION IS BEING HELD; AND**

5                   **2. BY THE SELECTION OF ONE OF THE NOMINEES**  
6 **WHO TIES IN THE GENERAL ELECTION.**

7 9–210.

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

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

12                           (i) President of the United States, or President and Vice  
13 President of the United States;

14                           (ii) Governor and Lieutenant Governor;

15                           (iii) Comptroller;

16                           (iv) Attorney General; and

17                           (v) United States Senator;

18                   (2) Representative in Congress;

19                   (3) members of the General Assembly of Maryland, in the following  
20 order:

21                           (i) Senate of Maryland; and

22                           (ii) House of Delegates;

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

24                           (i) county executive; and

- 1                                   (ii) county council or county commissioner;
- 2                   (5) offices in the government of the City of Baltimore, in the following
- 3 order:
- 4                                   (i) Mayor;
- 5                                   (ii) President of the City Council;
- 6                                   (iii) Comptroller; and
- 7                                   (iv) member of the City Council;
- 8                   (6) judicial offices, in the following order:
- 9                                   (i) judge of the circuit court;
- 10                                  (ii) appellate judges, continuance in office, in the following
- 11 order:
- 12   1. Court of Appeals; and
- 13   2. Court of Special Appeals;
- 14                   (7) public offices for which the voters of a county may vote, in the
- 15 following order:
- 16                                   (i) county treasurer;
- 17                                   (ii) State's Attorney;
- 18                                   (iii) clerk of the circuit court;
- 19                                   (iv) register of wills;
- 20                                   (v) judge of the orphans' court;
- 21                                   (vi) sheriff; and
- 22                                   (vii) other offices filled by partisan election;
- 23                   (8) party offices; and

1                   (9)    **OTHER** offices filled by nonpartisan election.

2                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
3   October 1, 2007.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.