

**Department of Legislative Services**  
Maryland General Assembly  
2011 Session

**FISCAL AND POLICY NOTE**

Senate Bill 52 (Senator Conway)  
Education, Health, and Environmental Affairs

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**Elections - Candidates for Judicial Offices - Certificates of Candidacy and Campaign Finance Entities**

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This bill prohibits a judge from filing a certificate of candidacy for judicial office or establishing, or causing to be established, a campaign finance entity more than two years before the general election for the judicial office unless the judge is a newly appointed judge or a newly appointed judge has filed a certificate of candidacy for a judicial office on the same court. A “newly appointed judge” is a judge who was appointed to the judicial office since the last general election for the judicial office. These restrictions apply to circuit court and orphans’ court judges.

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**Fiscal Summary**

**State Effect:** The State Board of Elections and the Judiciary can use existing resources to ensure compliance with the bill’s requirements.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** The Maryland Rules prohibit judges from engaging in partisan political activity unless they are “candidates.” Under the Maryland Rules, a newly appointed judge becomes a candidate from the date the judge takes the oath of office. Any other incumbent judge becomes a candidate either two years prior to the general election pertaining to that judge’s election or subsequent retention or the date on which a newly appointed judge to that court becomes a candidate in the same general election,

whichever comes first. A lawyer who seeks judicial office becomes a candidate on the date on which the lawyer files a certificate of candidacy in accordance with election laws, but no earlier than two years prior to the general election for the office. (*See* Maryland Rule 16-814.)

Generally, a certificate of candidacy must be filed no later than 9 p.m. on the Monday that is 10 weeks or 70 days before the day on which the primary election will be held. Although statutory law does not restrict how early a certificate of candidacy may be filed, the State Board of Elections advises that as a policy, they do not accept certificates that are filed before one year prior to the cut-off date for candidacy.

State law generally requires all campaign finance activity carried out in connection with an election to be conducted through a campaign finance entity. An individual may not file a certificate of candidacy until that individual establishes, or causes to be established, an authorized political committee. There are no restrictions as to how early an individual may establish a campaign finance entity.

**Background:** Circuit court judges are elected at the general election by the qualified voters of the respective county or Baltimore City in which the circuit court sits. This is a “contested” election, in which any challenger who meets the constitutional requirements may run. Each judge holds the office for 15 years from the time of election, and until either the successor is elected and qualified, or the judge turns 70 years old, whichever occurs first.

Under the Maryland Constitution, each county and Baltimore City elects three judges to the orphans’ court of their respective jurisdictions, with the exception of Montgomery and Harford counties where a circuit court judge sits as the orphans’ court. An orphans’ court hears all contested matters regarding a decedent’s estate, including validity of wills and legal questions involving transfers of property. The court also supervises estates that are probated; approves accounts, awards of personal representatives’ commissions, and attorney’s fees in all estates; and has concurrent jurisdiction with the circuit courts in the guardianship of minors and their property.

**State Fiscal Effect:** The State Board of Elections indicates that it does not currently verify whether or not individuals who form campaign finance entities are judges. It also indicates that due to the volume of campaign finance entities that are formed each year, developing a process to ensure compliance with the bill may have a fiscal impact. The Department of Legislative Services disagrees with this assessment, however, and advises that such a process can be developed using existing resources and with the cooperation of the Judiciary.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland State Board of Elections, Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - January 21, 2011  
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