

HOUSE BILL 823

N2

2lr2218
CF SB 416

By: **Delegate Waldstreicher**

Introduced and read first time: February 9, 2012

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Orphans' Court – Minor – Guardianship of the Person**

3 FOR the purpose of altering the authority of an orphans' court to exercise jurisdiction
4 over guardianship of the person of a minor by repealing a certain requirement
5 that the presiding judge of the orphans' court be a member of the Bar of
6 Maryland; providing that an orphans' court may exercise jurisdiction over
7 guardianship of the person of a minor in uncontested matters; providing for the
8 application of this Act; and generally relating to the jurisdiction of an orphans'
9 court over guardianship of the person of a minor.

10 BY repealing and reenacting, with amendments,
11 Article – Estates and Trusts
12 Section 13–105
13 Annotated Code of Maryland
14 (2011 Replacement Volume and 2011 Supplement)

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

17 **Article – Estates and Trusts**

18 13–105.

19 (a) (1) **[The] SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE**
20 orphans' courts and the circuit courts have concurrent jurisdiction over guardians of
21 the person of a minor and over protective proceedings for minors.

22 (2) Upon petition of an interested person, a matter initiated in the
23 orphans' court may be transferred to the circuit court.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) Subject to Title 13.5 of this article, the circuit courts have exclusive
2 jurisdiction over protective proceedings for disabled persons.

3 (c) (1) An orphans' court may exercise jurisdiction over guardianship of
4 the person of a minor [if the presiding judge of the orphans' court is a member of the
5 bar] **IN UNCONTESTED MATTERS**, regardless of whether the minor who is the subject
6 of the petition for guardianship of the person has property, may inherit property, or is
7 destitute.

8 (2) An orphans' court that exercises jurisdiction or is requested to
9 exercise jurisdiction under this subsection may:

10 (i) Transfer the matter to the circuit court on a finding that the
11 best interests of the child require utilization of the equitable powers of the circuit
12 court; and

13 (ii) Waive the costs, if any, of a transfer under this paragraph.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
15 construed to apply only prospectively and may not be applied or interpreted to have
16 any effect on or application to any petition for guardianship of the person of a minor
17 filed before the effective date of this Act.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2012.