

SENATE BILL 485

N2, G1

2lr1542
CF 2lr2870

By: **Senators West and Watson**

Introduced and read first time: January 27, 2022

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Orphans' Court Judges – Election and Restriction on Practicing Law**

3 FOR the purpose of prohibiting a candidate for judge of the orphans' court from appearing
4 on the ballot in a primary election or being nominated by a political party or by
5 petition; prohibiting judges of the orphans' court from acting as an attorney during
6 their term of office in any matter that is within the jurisdiction of the court and
7 related to the administration of an estate or guardianship of a minor; and generally
8 relating to judges of the orphans' court.

9 BY repealing and reenacting, with amendments,

10 Article – Election Law

11 Section 5–303(a), 5–703(a), 5–703.1(a), and 9–210(a)(7) and (g)(3)

12 Annotated Code of Maryland

13 (2017 Replacement Volume and 2021 Supplement)

14 BY adding to

15 Article – Election Law

16 Section 5–303(e); and 8–901 through 8–905 to be under the new subtitle “Subtitle 9.

17 Orphans' Court Judges”

18 Annotated Code of Maryland

19 (2017 Replacement Volume and 2021 Supplement)

20 BY repealing and reenacting, without amendments,

21 Article – Election Law

22 Section 5–703(b) and 5–703.1(b)

23 Annotated Code of Maryland

24 (2017 Replacement Volume and 2021 Supplement)

25 BY repealing and reenacting, without amendments,

26 Article – Estates and Trusts

27 Section 2–101

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland (2017 Replacement Volume and 2021 Supplement)

pealing and reenacting, with amendments,
Article – Estates and Trusts
Section 2-109
Annotated Code of Maryland
(2017 Replacement Volume and 2021 Supplement)

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

Article – Election Law

1

(a) Except as provided in subsections (b), (c), [and] (d), AND (E) of this section:

(1) in the year in which the Governor is elected, a certificate of candidacy to be filed not later than 9 p.m. on the last Tuesday in February in the year in which the primary election will be held; and

(2) for any other regularly scheduled election, a certificate of candidacy be filed not later than 9 p.m. on the 95th day before the day on which the primary election will be held.

(E) A CANDIDATE FOR JUDGE OF THE ORPHANS' COURT SHALL FILE A
CERTIFICATE OF CANDIDACY NOT LATER THAN 5 P.M. ON THE FIRST MONDAY IN
JULY IN THE YEAR OF THE GENERAL ELECTION FOR THE OFFICE.

(a) Except for a candidate for a nonpartisan county board of education **OR A CANDIDATE FOR JUDGE OF THE ORPHANS' COURT**, this section applies to any candidate for public office subject to this title.

(b) A candidate for a public office may be nominated by petition under this rule if the candidate is not affiliated with any political party.

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(a) Except for a candidate for a nonpartisan county board of education **OR A
CANDIDATE FOR JUDGE OF THE ORPHANS' COURT**, this section applies to any candidate
for public office subject to this title.

SUBTITLE 9. ORPHANS' COURT JUDGES.

5 8-901.

6 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE AND ARTICLE IV OF THE
7 MARYLAND CONSTITUTION, THE PROVISIONS OF THIS ARTICLE RELATING TO THE
8 ELECTION OF CANDIDATES TO PUBLIC OFFICE SHALL GOVERN THE ELECTION OF
9 ORPHANS' COURT JUDGES.

10 8-902.

11 (A) ORPHANS' COURT JUDGES SHALL BE ELECTED ON A NONPARTISAN
12 BASIS.

13 (B) CANDIDATES FOR ELECTION AS AN ORPHANS' COURT JUDGE SHALL,
14 WITHOUT PARTY DESIGNATION OR REGARD TO PARTY AFFILIATION:

15 (1) FILE CERTIFICATES OF CANDIDACY;

16 (2) BE CERTIFIED TO BE ON THE BALLOT;

17 (3) APPEAR ON THE BALLOT;

18 (4) BE VOTED ON; AND

19 (5) BE ELECTED.

20 8-903.

21 (A) A CANDIDATE FOR ORPHANS' COURT JUDGE MAY NOT APPEAR ON THE
22 BALLOT IN A PRIMARY ELECTION.

23 (B) A CANDIDATE FOR ORPHANS' COURT JUDGE SHALL FILE A CERTIFICATE
24 OF CANDIDACY BY THE TIME PRESCRIBED IN § 5-303 OF THIS ARTICLE.

25 (C) THE CERTIFICATE OF CANDIDACY FOR A CANDIDATE FOR ORPHANS'
26 COURT JUDGE SHALL COMPLY WITH THE REQUIREMENTS FOR A CERTIFICATE OF
27 CANDIDACY UNDER TITLE 5, SUBTITLE 3 OF THIS ARTICLE.

28 8-904.

1 (A) (1) IF A CANDIDATE FOR ORPHANS' COURT JUDGE DIES OR BECOMES
2 DISQUALIFIED MORE THAN 65 DAYS BEFORE THE GENERAL ELECTION, THE NAME
3 OF THE CANDIDATE MAY NOT APPEAR ON THE BALLOT.

7 **(B) (1) IF A CANDIDATE DIES OR IS DISQUALIFIED 65 DAYS OR LESS**
8 **BEFORE THE GENERAL ELECTION, THE NAME OF THE CANDIDATE SHALL REMAIN ON**
9 **THE BALLOT.**

13 8-905.

14 (A) IN THE GENERAL ELECTION FOR AN ORPHANS' COURT JUDGE, A VOTER
15 MAY VOTE FOR A NUMBER OF CANDIDATES EQUAL TO THE NUMBER OF ORPHANS'
16 COURT JUDGES TO BE ELECTED.

17 (B) (1) THE CANDIDATES, EQUAL IN NUMBER TO THE NUMBER OF
18 OFFICES TO BE FILLED, WHO RECEIVE THE LARGEST NUMBER OF VOTES IN THE
19 GENERAL ELECTION SHALL BE DECLARED ELECTED.

24 9-210.

27 (7) public offices for which the voters of a county may vote, in the following
28 order:

29 (i) county treasurer;

30 (ii) State's Attorney;

- (iii) clerk of the circuit court;
- (iv) register of wills;
- (v) [judge of the orphans' court;
- (vi)] sheriff; and
- [(vii)] **(VI)** other offices filled by partisan election;

Article – Estates and Trusts

11 2-101.

12 In the estates of decedents law, the word "court" means the orphans' court in a
13 county, or the court exercising the jurisdiction of the orphans' court in a county.

14 2-109.

15 [a] Except as provided in subsection (b) of this section, a] A judge of the court may
16 not act as an attorney at law in a civil or criminal matter during a term of office **IF THE**
17 **MATTER IS:**

(1) WITHIN THE JURISDICTION OF THE COURT IN ANY COUNTY; AND

19 (2) RELATED TO THE ADMINISTRATION OF AN ESTATE OR A
20 GUARDIANSHIP OF A MINOR.

21 (b) This section does not apply:

22 (1) In Harford County;

23 (2) In Montgomery County;

24 (3) In Baltimore City, to a judge of the Court while practicing law before
25 any court of the State except an orphans' court; or

26 (4) In Prince George's County, Baltimore County, Calvert County, and
27 Howard County, to a judge of the Court while practicing law in connection with a case that
28 is:

- (i) Outside the jurisdiction of orphans' court; and
- (ii) Unrelated to the administration of an estate or guardianship.]

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2022.