

SENATE BILL 132

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By: **Senator Jackson**

Introduced and read first time: January 12, 2023

Assigned to: Education, Energy, and the Environment and Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

State's Attorney, Clerk of the Circuit Court, Register of Wills, Sheriff, and Judge of the Orphans' Court – Nonpartisan Elections

FOR the purpose of requiring State's Attorneys, clerks of the circuit court, registers of wills, sheriffs, and judges of the orphans' court to be elected on a nonpartisan basis; establishing procedures for the nomination and election of State's Attorneys, clerks of the circuit court, registers of wills, sheriffs, and judges of the orphans' court on a nonpartisan basis; and generally relating to nonpartisan elections for the offices of State's Attorney, clerk of the circuit court, register of wills, sheriff, and judge of the orphans' court.

BY repealing and reenacting, with amendments,

Article – Election Law

Section 5–203, 5–703(a), 5–703.1(a), and 9–210(a)(7) and (g)

Annotated Code of Maryland

(2022 Replacement Volume and 2022 Supplement)

BY adding to

Article – Election Law

Section 8–901 through 8–905 to be under the new subtitle “Subtitle 9. State's Attorney, Clerk of the Circuit Court, Register of Wills, Sheriff, and Judge of the Orphans' Court”

Annotated Code of Maryland

(2022 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, without amendments,

Article – Election Law

Section 9–210(a)(9)

Annotated Code of Maryland

(2022 Replacement Volume and 2022 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

Article – Election Law

5–203.

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

- (i) President or Vice President of the United States; or
- (ii) any federal office who seeks nomination by petition.

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

- (i) an office of that political party; or
- (ii) except as provided in subsection (b) of this section, nomination by that political party.

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

- (1) a judicial office; [or]
- (2) a county board of education;
- (3) A STATE’S ATTORNEY;**
- (4) A CLERK OF THE CIRCUIT COURT;**
- (5) A REGISTER OF WILLS;**
- (6) A SHERIFF; OR**
- (7) A JUDGE OF THE ORPHANS’ COURT.**

5–703.

(a) Except for a candidate for **STATE’S ATTORNEY, CLERK OF THE CIRCUIT COURT, REGISTER OF WILLS, SHERIFF, JUDGE OF THE ORPHANS’ COURT, OR** a nonpartisan county board of education, this section applies to any candidate for public office subject to this title.

5–703.1.

(a) Except for a candidate for **STATE'S ATTORNEY, CLERK OF THE CIRCUIT COURT, REGISTER OF WILLS, SHERIFF, JUDGE OF THE ORPHANS' COURT, OR** a nonpartisan county board of education, this section applies to any candidate for public office subject to this title.

SUBTITLE 9. STATE'S ATTORNEY, CLERK OF THE CIRCUIT COURT, REGISTER OF WILLS, SHERIFF, AND JUDGE OF THE ORPHANS' COURT.

8-901.

EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE PROVISIONS OF THIS ARTICLE RELATING TO THE NOMINATION AND ELECTION OF CANDIDATES TO PUBLIC OFFICE SHALL GOVERN THE NOMINATION AND ELECTION OF:

- (1) A STATE'S ATTORNEY;**
- (2) A CLERK OF THE CIRCUIT COURT;**
- (3) A REGISTER OF WILLS;**
- (4) A SHERIFF; AND**
- (5) A JUDGE OF THE ORPHANS' COURT.**

8-902.

(A) (1) A STATE'S ATTORNEY, CLERK OF THE CIRCUIT COURT, REGISTER OF WILLS, SHERIFF, AND JUDGE OF THE ORPHANS' COURT SHALL BE ELECTED ON A NONPARTISAN BASIS.

(2) IN A PRIMARY ELECTION TO NOMINATE CANDIDATES FOR STATE'S ATTORNEY, CLERK OF THE CIRCUIT COURT, REGISTER OF WILLS, SHERIFF, OR JUDGE OF THE ORPHANS' COURT, ANY REGISTERED VOTER OF THE COUNTY, REGARDLESS OF PARTY AFFILIATION OR LACK OF PARTY AFFILIATION, IS ELIGIBLE TO VOTE IN THE CONTESTS FOR NOMINATION.

(B) A CANDIDATE FOR ELECTION TO THE OFFICE OF STATE'S ATTORNEY, CLERK OF THE CIRCUIT COURT, REGISTER OF WILLS, SHERIFF, OR JUDGE OF THE ORPHANS' COURT SHALL, WITHOUT PARTY DESIGNATION OR REGARD TO PARTY AFFILIATION:

- (1) FILE A CERTIFICATE OF CANDIDACY;**

- (2) BE CERTIFIED TO THE BALLOT;**
- (3) APPEAR ON THE BALLOT;**
- (4) BE VOTED ON; AND**
- (5) BE NOMINATED AND ELECTED.**

8-903.

(A) A CANDIDATE FOR STATE'S ATTORNEY, CLERK OF THE CIRCUIT COURT, REGISTER OF WILLS, SHERIFF, OR JUDGE OF THE ORPHANS' COURT SHALL BE NOMINATED AT THE PRIMARY ELECTION.

(B) (1) IF A CANDIDATE DIES OR BECOMES DISQUALIFIED BEFORE THE BALLOTS ARE PRINTED OR AT A TIME WHEN THE BALLOTS CAN BE REPRINTED, THE NAME OF THE CANDIDATE MAY NOT APPEAR ON THE BALLOT.

(2) IF A CANDIDATE DIES OR BECOMES DISQUALIFIED AFTER THE BALLOTS ARE PRINTED AND IT IS TOO LATE FOR THE BALLOTS TO BE REPRINTED, ANY VOTES CAST FOR THAT CANDIDATE MAY NOT BE COUNTED.

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

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

8-904.

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

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

8-905.

(A) IN A GENERAL ELECTION FOR STATE'S ATTORNEY, CLERK OF THE CIRCUIT COURT, REGISTER OF WILLS, SHERIFF, OR JUDGE OF THE ORPHANS' COURT, A VOTER MAY VOTE FOR A NUMBER OF NOMINEES EQUAL TO THE NUMBER OF OFFICES TO BE FILLED.

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

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

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

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

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

9-210.

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

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

- (i) county treasurer; AND**
- (ii) [State's Attorney;**
- (iii) clerk of the circuit court;**
- (iv) register of wills;**
- (v) judge of the orphans' court;**
- (vi) sheriff; and**

(vii)] other offices filled by partisan election;

(9) offices filled by nonpartisan election.

(g) (1) Except for contests for judicial office or an office to be filled by nonpartisan election, the party affiliation of a candidate who is a nominee of a political party shall be indicated on the ballot.

(2) (i) A candidate who is not a nominee of a political party or affiliated with a partisan organization shall be designated as an “unaffiliated”.

(ii) A candidate who is affiliated with a partisan organization shall be designated under “other candidates”.

(3) The names of candidates for judge of the circuit court, **STATE’S ATTORNEY, CLERK OF THE CIRCUIT COURT, REGISTER OF WILLS, SHERIFF, JUDGE OF THE ORPHANS’ COURT**, or for a county board of education, and the names of incumbent appellate judges, shall be placed on the ballot without a party label or other distinguishing mark or location which might indicate party affiliation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.