SENATE BILL 195

G1, N2   3lr0875

By: **Senator West**
Introduced and read first time: January 20, 2023
Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

Orphans' Court Judges – Election

FOR the purpose of requiring that candidates for judge of the orphans' court appear on the ballot without party designation; and generally relating to judges of the orphans' court.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 5–203, 5–706, and 9–210(a)(6) and (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. Orphans' Court Judges"
Annotated Code of Maryland
(2022 Replacement Volume and 2022 Supplement)

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.

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
    [Brackets] indicate matter deleted from existing law.

(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**, INCLUDING A JUDGE OF THE ORPHANS' COURT**; or

(2)   a county board of education.

5–706.

(a)   This section does not apply to:

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

(2)   a candidate defeated in a presidential preference primary.

(b)   (1)   Except as provided in subsection (c) of this section, the name of a candidate who is defeated for the nomination for a public office may not appear on the ballot at the next succeeding general election as a candidate for any office.

(2)   A candidate who is defeated for the nomination for a public office may not file a certificate of candidacy as a write–in candidate at the next succeeding general election as a candidate for any office.

(c)   The name of a candidate for the office of judge of the circuit court **OR JUDGE OF THE ORPHANS' COURT** who is defeated in the primary election in each contest for the office of circuit court judge **OR JUDGE OF THE ORPHANS' COURT** in which the candidate appears on the ballot may not appear on the ballot at the succeeding general election as a candidate for any office.

SUBTITLE 9. ORPHANS' COURT JUDGES.

8–901.

EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE AND ARTICLE IV OF THE MARYLAND CONSTITUTION, THE PROVISIONS OF THIS ARTICLE RELATING TO THE

ELECTION OF CANDIDATES TO PUBLIC OFFICE SHALL GOVERN THE ELECTION OF ORPHANS' COURT JUDGES.

8–902.

CANDIDATES FOR ELECTION AS AN ORPHANS' COURT JUDGE SHALL, WITHOUT PARTY DESIGNATION OR REGARD TO PARTY AFFILIATION:

      (1)   FILE CERTIFICATES OF CANDIDACY;

      (2)   BE CERTIFIED TO BE ON THE BALLOT;

      (3)   APPEAR ON THE BALLOT;

      (4)   BE VOTED ON; AND

      (5)   BE ELECTED.

8–903.

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

      (2)   IF THE NUMBER OF REMAINING CANDIDATES IS LESS THAN THE NUMBER OF OFFICES TO BE FILLED, THE OFFICE SHALL BE DEEMED VACANT AND SHALL BE FILLED AS IF THE VACANCY OCCURRED DURING THE TERM OF OFFICE.

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

      (2)   IF THAT CANDIDATE RECEIVES SUFFICIENT VOTES TO HAVE BEEN ELECTED, THE OFFICE SHALL BE DEEMED VACANT AND SHALL BE FILLED AS IF THE VACANCY OCCURRED DURING THE TERM OF OFFICE.

8–904.

    (A)   EACH CANDIDATE FOR JUDGE OF THE ORPHANS' COURT SHALL APPEAR ON THE BALLOT IN A PRIMARY ELECTION.

    (B)   A VOTER MAY VOTE FOR A NUMBER OF CANDIDATES EQUAL TO THE NUMBER OF OFFICES TO BE FILLED.

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

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

8–905.

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

(B)   (1)   THE CANDIDATES, 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)   IF TWO OR MORE CANDIDATES 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 DEEMED VACANT AND SHALL BE FILLED AS IF THE VACANCY OCCURRED DURING THE TERM OF OFFICE.

9–210.

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

(6)   judicial offices, in the following order:

(I)   JUDGE OF THE ORPHANS' COURT;

[(i)**] (II)**   judge of the circuit court; and

[(ii)**] (III)**   appellate judges, continuance in office, in the following order:

1.   Court of Appeals; and

2.   Court of Special Appeals;

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

        (i)   county treasurer;

        (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;

    (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**, 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.