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**To:** Maryland Senate – Judicial Proceedings Committee

**From:** MSBA Estate & Trust Law Section

**Date:** February 9, 2023

**Subject:** SB 195 – Orphans’ Court Judges - Election

**Position:** Support

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The Estate and Trust Law Section of the Maryland State Bar Association (MSBA) **supports Senate Bill 195 – Orphans’ Court Judges – Election.**

### **Description of Current Law**

The Orphans’ Courts oversee the administration of probate estates and guardianship of minors. It has been the historic practice of judicial candidates for the Orphans’ Court – which may include lay individuals in certain jurisdictions – to list their party affiliation in order to qualify for the ballot. This interjects partisan politics into the election of Orphans’ Court judges and differs from the election of all other Maryland judges, who participate in non-partisan elections.

Maryland Code Ann., Elec. Law § 5-203 provides that “[t]he requirements for party affiliation specified under subsection (a) of this section do not apply to a candidate for (1) a judicial office ....” The Maryland Constitution is silent on party affiliation in the context of judicial elections. Yet, candidates for election to the Orphans’ Courts uniformly list their party affiliation in order to qualify for the ballot.

### **Problem Addressed by this Legislation:**

Given the ever increasing political divide within in our state and country, it is more important now than ever before that the judiciary be perceived as, and remain, politically neutral. However, it is difficult for the public to see Orphans’ Court judges as neutral when they are designated as being aligned with a particular political party.



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### **How this Legislation Solves the Problem:**

Senate Bill 195 resolves the issue of partisan elections of Orphans' Court judges by making clear that judicial candidates for the Orphans' Court are to register "without party designation or regard to party affiliation." The result will be an election of Orphans' Court judges based on their qualifications and suitability for the office and not party affiliation.

For the reasons stated above, the Estate and Trust Law Section of the MSBA **supports SB 195 and urges a favorable committee report. For further information, please contact:**

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