HOUSE BILL 1282

G1, N2

3lr3127
CF SB 195

By: **Delegate Cardin**
Introduced and read first time: February 24, 2023
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1   AN ACT concerning

Orphans' Court Judges – Election

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

6   BY repealing and reenacting, with amendments,
7   Article – Election Law
8   Section 5–203, 5–706, and 9–210(a)(6) and (7) and (g)
9   Annotated Code of Maryland
10   (2022 Replacement Volume and 2022 Supplement)

11 BY adding to
12   Article – Election Law
13   Section 8–901 through 8–905 to be under the new subtitle "Subtitle 9. Orphans'
14   Court Judges"
15   Annotated Code of Maryland
16   (2022 Replacement Volume and 2022 Supplement)

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

Article – Election Law

20 5–203.

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

22   (i)   President or Vice President of the United States; or

23   (ii)   any federal office who seeks nomination by petition.

EXPLANATION: **Capitals indicate matter added to existing law.**
   [Brackets] indicate matter deleted from existing law.

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

3   (i)   an office of that political party; or

4   (ii)   except as provided in subsection (b) of this section, nomination
5   by that political party.

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

8   (1)   a judicial office, **INCLUDING A JUDGE OF THE ORPHANS' COURT**; or

9   (2)   a county board of education.

10   5–706.

11   (a)   This section does not apply to:

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

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

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

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

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

SUBTITLE 9. ORPHANS' COURT JUDGES.

27   **8–901.**

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

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

3   **8–902.**

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

6   **(1)**   FILE CERTIFICATES OF CANDIDACY;

7   **(2)**   BE CERTIFIED TO BE ON THE BALLOT;

8   **(3)**   APPEAR ON THE BALLOT;

9   **(4)**   BE VOTED ON; AND

10   **(5)**   BE ELECTED.

11   **8–903.**

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

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

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

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

24   **8–904.**

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

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

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

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

8   **8–905.**

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

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

15 **(2)   IF TWO OR MORE CANDIDATES EACH RECEIVE THE LOWEST**
16 **NUMBER OF VOTES NECESSARY TO QUALIFY FOR ELECTION, CREATING A TIE FOR**
17 **THE LAST OFFICE TO BE FILLED, THE OFFICE SHALL BE DEEMED VACANT AND SHALL**
18 **BE FILLED AS IF THE VACANCY OCCURRED DURING THE TERM OF OFFICE.**

19 9–210.

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

22 (6)   judicial offices, in the following order:

23 **(I)   JUDGE OF THE ORPHANS' COURT;**

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

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

27 1.   Court of Appeals; and

28 2.   Court of Special Appeals;

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

1   (i)   county treasurer;

2   (ii)   State's Attorney;

3   (iii)   clerk of the circuit court;

4   (iv)   register of wills;

5   (v)   **[**judge of the orphans' court;

6   (vi)**]**   sheriff; and

7   **[**(vii)**] (VI)**   other offices filled by partisan election;

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

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

13   (ii)   A candidate who is affiliated with a partisan organization shall
14 be designated under "other candidates".

15   (3)   The names of candidates for judge of the circuit court**, JUDGE OF THE**
16 **ORPHANS' COURT,** or **[**for**]** a county board of education, and the names of incumbent
17 appellate judges, shall be placed on the ballot without a party label or other distinguishing
18 mark or location which might indicate party affiliation.

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