

SENATE BILL 321

N2
SB 649/13 – JPR

4lr1706

By: **Senator Getty**
Introduced and read first time: January 17, 2014
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts – Personal Representatives and Guardians – Standards**

3 FOR the purpose of defining “serious crime” for purposes of a certain prohibition
4 against a register of wills or court granting letters of administration to a person
5 convicted of a serious crime; providing a certain exception to the prohibition;
6 prohibiting a court, unless good cause is shown, from appointing, as a guardian
7 of the person of a minor or disabled person, a person who has been convicted of
8 a certain crime; prohibiting a court, unless good cause is shown, from
9 appointing, as a guardian of the property of a minor or disabled person, a person
10 who has been convicted of a certain crime; providing for the application of this
11 Act; and generally relating to personal representatives or guardians of persons
12 or property.

13 BY repealing and reenacting, with amendments,
14 Article – Estates and Trusts
15 Section 5–105
16 Annotated Code of Maryland
17 (2011 Replacement Volume and 2013 Supplement)

18 BY adding to
19 Article – Estates and Trusts
20 Section 11–114
21 Annotated Code of Maryland
22 (2011 Replacement Volume and 2013 Supplement)

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

25 **Article – Estates and Trusts**

26 5–105.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) **(1)** **IN THIS SECTION, “SERIOUS CRIME” MEANS A CRIME THAT**
2 **REFLECTS ADVERSELY ON AN INDIVIDUAL’S HONESTY, TRUSTWORTHINESS, OR**
3 **FITNESS TO PERFORM THE DUTIES OF A PERSONAL REPRESENTATIVE.**

4 **(2)** **“SERIOUS CRIME” INCLUDES FRAUD, EXTORTION,**
5 **EMBEZZLEMENT, FORGERY, PERJURY, AND THEFT.**

6 **(B)** Subject to § 5–104 of this subtitle, the register or court may grant letters
7 to:

8 (1) A trust company;

9 (2) Any other corporation authorized by law to be a personal
10 representative; or

11 (3) Subject to subsection **[(b)] (C)** of this section, any individual.

12 **[(b)] (C)** Letters may not be granted to a person who, at the time a
13 determination of priority is made, has filed with the register a declaration in writing
14 that the person renounces the right to administer or is:

15 (1) Under the age of 18 years;

16 (2) Mentally incompetent;

17 (3) Convicted of a serious crime, **UNLESS THE PERSON SHOWS GOOD**
18 **CAUSE FOR THE GRANTING OF LETTERS;**

19 (4) Not a citizen of the United States unless the person is a permanent
20 resident of the United States and is:

21 (i) The spouse of the decedent;

22 (ii) An ancestor of the decedent;

23 (iii) A descendant of the decedent; or

24 (iv) A sibling of the decedent;

25 (5) A full-time judge of a court established under the laws of
26 Maryland or the United States including, a judge of an orphans’ or probate court, or a
27 clerk of court, or a register, unless the person is the surviving spouse or is related to
28 the decedent within the third degree; or

1 (6) A nonresident of the State, unless there shall be on file with the
2 register an irrevocable designation by the nonresident of an appropriate person who
3 resides in the State on whom service of process may be made in the same manner and
4 with the effect as if it were served personally in the State on the nonresident.

5 **11-114.**

6 **(A) UNLESS GOOD CAUSE IS SHOWN FOR THE APPOINTMENT, A COURT**
7 **MAY NOT APPOINT, AS A GUARDIAN OF THE PERSON OF A MINOR OR DISABLED**
8 **PERSON, A PERSON WHO HAS BEEN CONVICTED OF:**

9 **(1) A FELONY;**

10 **(2) A CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THE**
11 **CRIMINAL LAW ARTICLE;**

12 **(3) ASSAULT IN THE SECOND DEGREE; OR**

13 **(4) A SEXUAL OFFENSE IN THE THIRD OR FOURTH DEGREE OR**
14 **ATTEMPTED RAPE OR SEXUAL OFFENSE IN THE THIRD OR FOURTH DEGREE.**

15 **(B) UNLESS GOOD CAUSE IS SHOWN FOR THE APPOINTMENT, A COURT**
16 **MAY NOT APPOINT, AS A GUARDIAN OF THE PROPERTY OF A MINOR OR**
17 **DISABLED PERSON, A PERSON WHO HAS BEEN CONVICTED OF A CRIME THAT**
18 **REFLECTS ADVERSELY ON AN INDIVIDUAL'S HONESTY, TRUSTWORTHINESS, OR**
19 **FITNESS TO PERFORM THE DUTIES OF A GUARDIAN OF THE PROPERTY OF A**
20 **MINOR OR DISABLED PERSON, INCLUDING FRAUD, EXTORTION,**
21 **EMBEZZLEMENT, FORGERY, PERJURY, AND THEFT.**

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
23 construed to apply only prospectively and may not be applied or interpreted to have
24 any effect on or application to any letters of administration granted before the effective
25 date of this Act.

26 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
27 construed to apply only prospectively and may not be applied or interpreted to have
28 any effect on or application to any guardian of the person or property of a minor or
29 disabled person appointed before the effective date of this Act.

30 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2014.