

# HOUSE BILL 879

N2, G1

2lr2870  
CF SB 485

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By: **Delegates Buckel and Atterbear**

Introduced and read first time: February 7, 2022

Assigned to: Judiciary and Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Orphans' Court Judges – Election and Restriction on Practicing Law**

3 FOR the purpose of prohibiting a candidate for judge of the orphans' court from appearing  
4 on the ballot in a primary election or being nominated by a political party or by  
5 petition; prohibiting judges of the orphans' court from acting as an attorney during  
6 their term of office in any matter that is within the jurisdiction of the court and  
7 related to the administration of an estate or guardianship of a minor; and generally  
8 relating to judges of the orphans' court.

9 BY repealing and reenacting, with amendments,  
10 Article – Election Law  
11 Section 5–303(a), 5–703(a), 5–703.1(a), and 9–210(a)(7) and (g)(3)  
12 Annotated Code of Maryland  
13 (2017 Replacement Volume and 2021 Supplement)

14 BY adding to  
15 Article – Election Law  
16 Section 5–303(e); and 8–901 through 8–905 to be under the new subtitle “Subtitle 9.  
17 Orphans' Court Judges”  
18 Annotated Code of Maryland  
19 (2017 Replacement Volume and 2021 Supplement)

20 BY repealing and reenacting, without amendments,  
21 Article – Election Law  
22 Section 5–703(b) and 5–703.1(b)  
23 Annotated Code of Maryland  
24 (2017 Replacement Volume and 2021 Supplement)

25 BY repealing and reenacting, without amendments,  
26 Article – Estates and Trusts  
27 Section 2–101

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2017 Replacement Volume and 2021 Supplement)

3 BY repealing and reenacting, with amendments,  
4 Article – Estates and Trusts  
5 Section 2–109  
6 Annotated Code of Maryland  
7 (2017 Replacement Volume and 2021 Supplement)

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

10 **Article – Election Law**

11 5–303.

12 (a) Except as provided in subsections (b), (c), [and] (d), **AND (E)** of this section:

13 (1) in the year in which the Governor is elected, a certificate of candidacy  
14 shall be filed not later than 9 p.m. on the last Tuesday in February in the year in which the  
15 primary election will be held; and

16 (2) for any other regularly scheduled election, a certificate of candidacy  
17 shall be filed not later than 9 p.m. on the 95th day before the day on which the primary  
18 election will be held.

19 **(E) A CANDIDATE FOR JUDGE OF THE ORPHANS’ COURT SHALL FILE A**  
20 **CERTIFICATE OF CANDIDACY NOT LATER THAN 5 P.M. ON THE FIRST MONDAY IN**  
21 **AUGUST IN THE YEAR OF THE GENERAL ELECTION FOR THE OFFICE.**

22 5–703.

23 (a) Except for a candidate for a nonpartisan county board of education **OR A**  
24 **CANDIDATE FOR JUDGE OF THE ORPHANS’ COURT**, this section applies to any candidate  
25 for public office subject to this title.

26 (b) A candidate for a public office may be nominated by petition under this  
27 subtitle if the candidate is not affiliated with any political party.

28 5–703.1.

29 (a) Except for a candidate for a nonpartisan county board of education **OR A**  
30 **CANDIDATE FOR JUDGE OF THE ORPHANS’ COURT**, this section applies to any candidate  
31 for public office subject to this title.

32 (b) A candidate for a public office may be nominated by a political party under

1 this subtitle if the political party is not required to nominate its candidates by party  
2 primary.

3 **SUBTITLE 9. ORPHANS' COURT JUDGES.**

4 **8-901.**

5 **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE AND ARTICLE IV OF THE**  
6 **MARYLAND CONSTITUTION, THE PROVISIONS OF THIS ARTICLE RELATING TO THE**  
7 **ELECTION OF CANDIDATES TO PUBLIC OFFICE SHALL GOVERN THE ELECTION OF**  
8 **ORPHANS' COURT JUDGES.**

9 **8-902.**

10 **(A) ORPHANS' COURT JUDGES SHALL BE ELECTED ON A NONPARTISAN**  
11 **BASIS.**

12 **(B) CANDIDATES FOR ELECTION AS AN ORPHANS' COURT JUDGE SHALL,**  
13 **WITHOUT PARTY DESIGNATION OR REGARD TO PARTY AFFILIATION:**

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

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

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

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

18 **(5) BE ELECTED.**

19 **8-903.**

20 **(A) A CANDIDATE FOR ORPHANS' COURT JUDGE MAY NOT APPEAR ON THE**  
21 **BALLOT IN A PRIMARY ELECTION.**

22 **(B) A CANDIDATE FOR ORPHANS' COURT JUDGE SHALL FILE A CERTIFICATE**  
23 **OF CANDIDACY BY THE TIME PRESCRIBED IN § 5-303 OF THIS ARTICLE.**

24 **(C) THE CERTIFICATE OF CANDIDACY FOR A CANDIDATE FOR ORPHANS'**  
25 **COURT JUDGE SHALL COMPLY WITH THE REQUIREMENTS FOR A CERTIFICATE OF**  
26 **CANDIDACY UNDER TITLE 5, SUBTITLE 3 OF THIS ARTICLE.**

27 **8-904.**

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

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

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

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

13 **8-905.**

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

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

20           **(2) IF TWO OR MORE CANDIDATES EACH RECEIVE THE LOWEST**  
21 **NUMBER OF VOTES NECESSARY TO QUALIFY FOR ELECTION, CREATING A TIE FOR**  
22 **THE LAST OFFICE TO BE FILLED, THE OFFICE SHALL BE CONSIDERED VACANT AND**  
23 **SHALL BE FILLED AS IF THE VACANCY OCCURRED DURING THE TERM OF OFFICE.**

24 **9-210.**

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

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

29           (i) county treasurer;

30           (ii) State's Attorney;

31           (iii) clerk of the circuit court;

- 1 (iv) register of wills;
- 2 (v) [judge of the orphans' court;
- 3 (vi)] sheriff; and
- 4 [(vii)] **(VI)** other offices filled by partisan election;

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

9 **Article – Estates and Trusts**

10 2–101.

11 In the estates of decedents law, the word “court” means the orphans’ court in a  
 12 county, or the court exercising the jurisdiction of the orphans’ court in a county.

13 2–109.

14 [(a) Except as provided in subsection (b) of this section, a] **A** judge of the court may  
 15 not act as an attorney at law in a civil or criminal matter during a term of office **IF THE**  
 16 **MATTER IS:**

- 17 **(1) WITHIN THE JURISDICTION OF THE COURT IN ANY COUNTY; AND**
- 18 **(2) RELATED TO THE ADMINISTRATION OF AN ESTATE OR A**  
 19 **GUARDIANSHIP OF A MINOR.**

20 [(b) This section does not apply:

- 21 (1) In Harford County;
- 22 (2) In Montgomery County;
- 23 (3) In Baltimore City, to a judge of the Court while practicing law before  
 24 any court of the State except an orphans’ court; or
- 25 (4) In Prince George’s County, Baltimore County, Calvert County, and  
 26 Howard County, to a judge of the Court while practicing law in connection with a case that  
 27 is:

- 28 (i) Outside the jurisdiction of orphans’ court; and

1 (ii) Unrelated to the administration of an estate or guardianship.]

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
3 October 1, 2022.