

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 195

(Senator West)

Judicial Proceedings

Judiciary

Orphans' Court Judges – Election

This bill requires orphans' court judges to be elected without party designation or regard to party affiliation. Candidates for orphans' court judge must appear on the ballot in a primary election and the candidates, equal in number to the number of offices to be filled, who receive the largest number of votes in each primary election are nominated for the general election.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances.

Local Effect: The bill is not expected to materially affect local government finances.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires candidates for election as an orphans' court judge to file certificates of candidacy, be certified to the ballot, appear on the ballot, be voted on, and be elected, all without party designation or regard to party affiliation. The names of candidates for the office must be placed on the ballot without a party label or other distinguishing mark or location which might indicate party affiliation.

Each candidate for judge of the orphans' court must appear on the ballot in a primary election. A voter may vote for a number of candidates equal to the number of offices to be filled. The candidates, equal in number to the number of offices to be filled, who receive the largest number of votes in each primary election are the nominated candidates. If two or

more candidates are tied for the lowest number of votes necessary to qualify for nomination, each of the candidates is nominated. The bill adds orphans' court judges to an existing exception to a prohibition against the name of a candidate who is defeated for the nomination for a public office from appearing on the ballot at the next succeeding general election as a candidate for any office. The exception, which currently applies only to circuit court judges (and under the bill also applies to orphans' court judges), instead prohibits the name of a candidate who is defeated in the primary election in each contest for the office of circuit court judge (or, under the bill, orphans' court judge) from appearing on the ballot at the next succeeding general election as a candidate for any office.

The bill specifies rules governing circumstances in which a candidate for orphans' court judge dies or becomes disqualified before the general election.

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 and the candidates, equal in number to the number of offices to be filled, who receive the highest number of votes are elected. If two or more candidates tie for the lowest number of votes necessary to qualify for election, the office is deemed vacant, and the vacancy is filled as if it occurred during the term of the office.

Current Law: Under the Maryland Constitution, each county elects, for a term of four years, three judges to the orphans' court of their respective jurisdictions, with the exception of Harford, Howard, and Montgomery counties, where a circuit court judge sits as the orphans' court. The orphans' courts are the State's probate courts. The courts supervise the handling of estates and also have certain jurisdiction over the guardianship of minors and their property. Elections for judge of the orphans' court occur during the gubernatorial elections and candidates are nominated by primary election, nonprincipal political party nomination, or petition, and listed on the ballot with party designation.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1282 (Delegate Cardin) - Rules and Executive Nominations.

Information Source(s): Baltimore City; Baltimore, Kent, Washington, and Worcester counties; Department of Legislative Services

Fiscal Note History: First Reader - February 7, 2023
km/sdk Third Reader - March 2, 2023

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