

HOUSE BILL 1056

G1, D1

7lr3043

By: **Delegates Flanagan, Anderton, Hill, Hornberger, Jackson, Jalisi, Kittleman, Korman, A. Miller, W. Miller, Moon, and Robinson**

Introduced and read first time: February 8, 2017

Assigned to: Judiciary and Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Court Offices – Nonpartisan Elections**

3 FOR the purpose of establishing a method of election for certain court offices on a
4 nonpartisan basis, without regard to political party affiliation; establishing a
5 primary election for candidates for nomination for certain court offices to be
6 administered in a certain manner; authorizing any registered voter, with or without
7 any political party affiliation, to participate in such a primary; prohibiting
8 candidates from appearing on primary ballots under certain circumstances;
9 establishing that candidates for certain court offices may not be nominated by
10 petition or by a political party that is not required to nominate its candidates by
11 party primary; and generally relating to a nonpartisan nomination and election for
12 certain court offices.

13 BY repealing and reenacting, with amendments,
14 Article – Election Law
15 Section 5–203, 5–703(a), 5–703.1(a), and 9–210(a)
16 Annotated Code of Maryland
17 (2010 Replacement Volume and 2016 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article – Election Law
20 Section 5–301(a)
21 Annotated Code of Maryland
22 (2010 Replacement Volume and 2016 Supplement)

23 BY adding to
24 Article – Election Law
25 Section 8–901 through 8–906 to be under the new subtitle “Subtitle 9. Nonpartisan
26 Election for Court Offices”
27 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2010 Replacement Volume and 2016 Supplement)

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

Article – Election Law

5–203.

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

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

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

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

(i) an office of that political party; or

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

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

(1) a judicial office; [or]

(2) a county board of education; OR

(3) THE FOLLOWING COURT OFFICES:

(I) CLERK OF THE CIRCUIT COURT;

(II) JUDGE OF THE ORPHANS' COURT;

(III) REGISTER OF WILLS;

(IV) SHERIFF; OR

(V) STATE'S ATTORNEY.

5–301.

(a) An individual may become a candidate for a public or party office only if:

(1) the individual files a certificate of candidacy in accordance with this subtitle; and

(2) the individual does not file a certificate of withdrawal under Subtitle 5 of this title.

5–703.

(a) **(1)** Except [for a candidate for a nonpartisan county board of education] **AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION**, this section applies to any candidate for public office subject to this title.

(2) THIS SECTION DOES NOT APPLY TO:

(I) A CANDIDATE FOR A NONPARTISAN COUNTY BOARD OF EDUCATION; OR

(II) A CANDIDATE FOR:

- 1. CLERK OF THE COURT;**
- 2. JUDGE OF THE ORPHANS' COURT;**
- 3. REGISTER OF WILLS;**
- 4. SHERIFF; OR**
- 5. STATE'S ATTORNEY.**

5–703.1.

(a) **(1)** Except [for a candidate for a nonpartisan county board of education] **AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION**, this section applies to any candidate for public office subject to this title.

(2) THIS SECTION DOES NOT APPLY TO:

(I) A CANDIDATE FOR A NONPARTISAN COUNTY BOARD OF EDUCATION; OR

(II) A CANDIDATE FOR:

- 1. CLERK OF THE COURT;**

2. JUDGE OF THE ORPHANS' COURT;

3. REGISTER OF WILLS;

4. SHERIFF; OR

5. STATE'S ATTORNEY.

SUBTITLE 9. NONPARTISAN ELECTION FOR COURT OFFICES.

8-901.

THIS SUBTITLE APPLIES TO THE FOLLOWING COURT OFFICES:

(1) CLERK OF THE COURT;

(2) JUDGE OF THE ORPHANS' COURT;

(3) REGISTER OF WILLS;

(4) SHERIFF; AND

(5) STATE'S ATTORNEY.

8-902.

EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE PROVISIONS OF THIS ARTICLE RELATING TO THE NOMINATION AND ELECTION OF CANDIDATES TO PUBLIC OFFICE SHALL GOVERN THE NOMINATION AND ELECTION FOR COURT OFFICES SUBJECT TO THIS SUBTITLE.

8-903.

(A) (1) AN OFFICER UNDER THIS SUBTITLE SHALL BE ELECTED ON A NONPARTISAN BASIS.

(2) IN A PRIMARY ELECTION TO NOMINATE A CANDIDATE FOR AN OFFICE UNDER THIS SUBTITLE, ANY REGISTERED VOTER OF THE COUNTY, REGARDLESS OF PARTY AFFILIATION OR LACK OF PARTY AFFILIATION, IS ELIGIBLE TO VOTE IN THE CONTEST FOR NOMINATION FOR ONE CANDIDATE.

(B) A CANDIDATE FOR ELECTION TO AN OFFICE UNDER THIS SUBTITLE SHALL, WITHOUT PARTY DESIGNATION OR REGARD TO PARTY AFFILIATION:

(1) FILE A CERTIFICATE OF CANDIDACY;

(2) BE CERTIFIED TO THE BALLOT;

(3) APPEAR ON THE BALLOT;

(4) BE VOTED ON; AND

(5) BE NOMINATED AND ELECTED.

8-904.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A CANDIDATE FOR AN OFFICE UNDER THIS SUBTITLE SHALL BE NOMINATED AT THE PRIMARY ELECTION.

(2) IF, AFTER THE DEADLINE FOR WITHDRAWAL AS PROVIDED IN § 5-503 OF THIS ARTICLE, THERE ARE NO MORE THAN TWO CANDIDATES WHO HAVE FILED CERTIFICATES OF CANDIDACY FOR A CONTEST UNDER THIS SUBTITLE, A CERTIFICATE OF NOMINATION SHALL BE ISSUED TO EACH CANDIDATE.

(B) (1) IF A CANDIDATE DIES OR BECOMES DISQUALIFIED BEFORE THE BALLOTS ARE PRINTED OR AT A TIME WHEN THE BALLOTS CAN BE REPRINTED, THE NAME OF THE CANDIDATE MAY NOT APPEAR ON THE BALLOT.

(2) IF A CANDIDATE DIES OR BECOMES DISQUALIFIED AFTER THE BALLOTS ARE PRINTED AND IT IS TOO LATE FOR THE BALLOTS TO BE REPRINTED, ANY VOTES CAST FOR THAT CANDIDATE MAY NOT BE COUNTED.

(C) (1) THE TWO CANDIDATES WHO RECEIVE THE HIGHEST NUMBER OF VOTES IN A CONTEST IN THE PRIMARY ELECTION SHALL BE THE NOMINATED CANDIDATES.

(2) IF TWO OR MORE CANDIDATES IN A CONTEST EACH RECEIVE THE LOWEST NUMBER OF VOTES NECESSARY TO QUALIFY FOR NOMINATION, CREATING A TIE FOR THE LAST NOMINATION FOR THE OFFICE TO BE FILLED, EACH SHALL BE A NOMINATED CANDIDATE.

8-905.

(A) AFTER THE PRIMARY ELECTION BUT BEFORE THE GENERAL ELECTION, IF A NOMINEE DIES, DECLINES THE NOMINATION, OR BECOMES DISQUALIFIED

BEFORE THE BALLOTS ARE PRINTED OR AT A TIME WHEN THE BALLOTS CAN BE REPRINTED, THE NAME OF THE NOMINEE MAY NOT APPEAR ON THE BALLOT.

(B) IF A NOMINEE DIES, DECLINES THE NOMINATION, OR IS DISQUALIFIED AFTER THE BALLOTS ARE PRINTED AND IT IS TOO LATE FOR THE BALLOTS TO BE REPRINTED, AND IF THAT NOMINEE RECEIVES SUFFICIENT VOTES TO HAVE BEEN ELECTED, THE OFFICE SHALL BE DEEMED VACANT AND SHALL BE FILLED AS IF THE VACANCY HAD OCCURRED DURING THE TERM OF OFFICE.

8-906.

(A) IN A GENERAL ELECTION FOR A CONTEST UNDER THIS SUBTITLE, A VOTER MAY VOTE FOR ONE NOMINEE.

(B) (1) THE NOMINEE WHO RECEIVES THE HIGHEST NUMBER OF VOTES IN THE GENERAL ELECTION SHALL BE DECLARED ELECTED.

(2) (I) IF TWO OR MORE NOMINEES EACH RECEIVE THE NUMBER OF VOTES NECESSARY TO QUALIFY FOR ELECTION, CREATING A TIE FOR THE OFFICE TO BE FILLED, THE OFFICE SHALL BE CONSIDERED VACANT.

(II) A VACANCY OCCURRING UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE FILLED:

1. AS IF THE VACANCY OCCURRED DURING THE TERM OF OFFICE FOR WHICH THE ELECTION IS BEING HELD; AND

2. BY THE SELECTION OF ONE OF THE NOMINEES WHO TIES IN THE GENERAL ELECTION.

9-210.

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

(1) public offices for which voters of the entire State may vote, in the following order:

(i) President of the United States, or President and Vice President of the United States;

(ii) Governor and Lieutenant Governor;

(iii) Comptroller;

(iv) Attorney General; and

(v) United States Senator;

(2) Representative in Congress;

(3) members of the General Assembly of Maryland, in the following order:

(i) Senate of Maryland; and

(ii) House of Delegates;

(4) members of the governing body of a county, in the following order:

(i) county executive; and

(ii) county council or county commissioner;

(5) offices in the government of the City of Baltimore, in the following order:

(i) Mayor;

(ii) President of the City Council;

(iii) Comptroller; and

(iv) member of the City Council;

(6) judicial offices, in the following order:

(i) judge of the circuit court; and

(ii) appellate judges, continuance in office, in the following order:

1. Court of Appeals; and

2. Court of Special Appeals;

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

(i) county treasurer;

(ii) State's Attorney;

(iii) clerk of the circuit court;

(iv) register of wills;

(v) judge of the orphans' court;

(vi) sheriff; and

(vii) other offices filled by partisan election;

(8) party offices; and

(9) **OTHER** offices filled by nonpartisan election.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
October 1, 2017.