

HOUSE BILL 691

P5, G1

01r2010

By: **Delegates Jennings, Frank, Impallaria, McDonough, Smigiel, Sossi, and Stifler**

Introduced and read first time: February 4, 2010

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **General Assembly – Member Called to Active Duty – Temporary Replacement**
3 **– Implementing Legislation**

4 FOR the purpose of requiring the Governor to appoint a temporary successor to serve
5 in the General Assembly for an absent member called to active duty in the
6 armed services under certain circumstances; requiring the Governor to make
7 the appointment, within a certain time, from a list of nominees submitted by
8 the central committee of a certain political party in a certain county or district;
9 requiring a temporary successor to have certain qualifications and meet certain
10 eligibility requirements; requiring the Governor to issue a proclamation after
11 making an appointment of a temporary successor; providing that a temporary
12 successor serves at the pleasure of the house of the General Assembly of which
13 the individual is a member, is subject to relevant provisions of the Maryland
14 Constitution and the laws of the State governing members of the General
15 Assembly, and is entitled to exercise the powers and assume the duties and
16 privileges of a member of the General Assembly while serving in office;
17 prohibiting a temporary successor from removing a certain employee;
18 authorizing a temporary successor to hire a certain employee for a temporary
19 period; requiring a temporary successor to receive certain ethics counsel and to
20 file a certain ethics financial disclosure statement under certain circumstances;
21 providing for salary or compensation for the temporary successor; prohibiting an
22 absent member from receiving certain salary or compensation; prohibiting a
23 temporary successor from being a candidate for election to a certain office under
24 certain circumstances; making this Act contingent on the passage and
25 ratification of a certain constitutional amendment; and generally relating to a
26 temporary successor for an absent member of the General Assembly who is
27 called to active duty in the armed services.

28 BY adding to
29 Article – Election Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 5–1401 through 5–1409 to be under the new subtitle “Subtitle 14.
2 Temporary Successor for General Assembly Member”
3 Annotated Code of Maryland
4 (2003 Volume and 2009 Supplement)

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

7 **Article – Election Law**

8 **SUBTITLE 14. TEMPORARY SUCCESSOR FOR GENERAL ASSEMBLY MEMBER.**

9 **5–1401.**

10 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (B) “ABSENT MEMBER” MEANS A MEMBER OF THE HOUSE OF
13 DELEGATES OR THE SENATE OF MARYLAND WHO IS ORDERED TO ACTIVE DUTY
14 IN THE ARMED SERVICES FOR A PERIOD OF 180 DAYS OR MORE.

15 (C) (1) “ARMED SERVICES” MEANS THE ARMED FORCES OF THE
16 UNITED STATES AS DEFINED UNDER 10 U.S.C. 101(A)(4).

17 (2) “ARMED SERVICES” INCLUDES:

18 (I) THE RESERVE COMPONENTS OF THE ARMED FORCES;

19 (II) THE ARMY NATIONAL GUARD; AND

20 (III) THE AIR NATIONAL GUARD.

21 (D) “IMMEDIATE FAMILY” MEANS AN INDIVIDUAL’S SPOUSE AND
22 DEPENDENT CHILDREN.

23 (E) “TEMPORARY SUCCESSOR” MEANS AN INDIVIDUAL WHO IS
24 APPOINTED IN ACCORDANCE WITH THIS SUBTITLE TO SERVE IN THE GENERAL
25 ASSEMBLY TEMPORARILY FOR AN ABSENT MEMBER.

26 **5–1402.**

27 THE GOVERNOR SHALL APPOINT A TEMPORARY SUCCESSOR FROM A LIST
28 OF NOMINEES SUBMITTED TO THE GOVERNOR BY THE CENTRAL COMMITTEE:

1 (1) OF THE SAME POLITICAL PARTY, IF ANY, WITH WHICH THE
2 ABSENT MEMBER WAS AFFILIATED AT THE TIME OF THE ABSENT MEMBER'S
3 LAST ELECTION OR APPOINTMENT; AND

4 (2) IN THE COUNTY OR DISTRICT FROM WHICH THE ABSENT
5 MEMBER WAS ELECTED OR APPOINTED.

6 **5-1403.**

7 AN INDIVIDUAL APPOINTED TO SERVE AS A TEMPORARY SUCCESSOR FOR
8 AN ABSENT MEMBER SHALL:

9 (1) HAVE THE QUALIFICATIONS REQUIRED OF A MEMBER OF THE
10 GENERAL ASSEMBLY; AND

11 (2) BE ELIGIBLE TO SERVE AS A MEMBER OF THE GENERAL
12 ASSEMBLY FROM THE SAME DISTRICT AS THE ABSENT MEMBER.

13 **5-1404.**

14 (A) WITHIN 10 DAYS AFTER A GENERAL ASSEMBLY MEMBER'S RECEIPT
15 OF AN ORDER TO ACTIVE DUTY IN THE ARMED SERVICES FOR AT LEAST 30 DAYS
16 OF A LEGISLATIVE SESSION, THE CENTRAL COMMITTEE DESIGNATED UNDER §
17 5-1402 OF THIS SUBTITLE SHALL SUBMIT TO THE GOVERNOR A LIST OF THE
18 NAMES AND CONTACT INFORMATION OF AT LEAST THREE QUALIFIED NOMINEES
19 WHO MAY ACT AS THE ABSENT MEMBER'S TEMPORARY SUCCESSOR.

20 (B) ON NOTIFICATION THAT A MEMBER HAS COMMENCED ACTIVE DUTY
21 IN THE ARMED SERVICES FOR AT LEAST 30 DAYS OF A LEGISLATIVE SESSION,
22 THE GOVERNOR SHALL:

23 (1) APPOINT A TEMPORARY SUCCESSOR FOR THE ABSENT
24 MEMBER FROM THE LIST OF NOMINEES SUBMITTED BY THE CENTRAL
25 COMMITTEE TO THE GOVERNOR UNDER SUBSECTION (A) OF THIS SECTION; AND

26 (2) ISSUE A PROCLAMATION DECLARING THE APPOINTMENT OF
27 THE TEMPORARY SUCCESSOR.

28 (C) IF FOR ANY REASON A TEMPORARY SUCCESSOR IS UNABLE TO
29 SERVE, THE GOVERNOR SHALL APPOINT A DIFFERENT TEMPORARY SUCCESSOR
30 FROM THE LIST OF QUALIFIED NOMINEES SUBMITTED BY THE CENTRAL
31 COMMITTEE.

32 **5-1405.**

1 **A TEMPORARY SUCCESSOR:**

2 **(1) SERVES AT THE PLEASURE OF THE HOUSE OF WHICH THE**
3 **INDIVIDUAL IS A MEMBER;**

4 **(2) IS SUBJECT TO ALL PROVISIONS OF THE MARYLAND**
5 **CONSTITUTION AND STATE LAW RELATING TO A MEMBER OF THE GENERAL**
6 **ASSEMBLY;**

7 **(3) IS ENTITLED TO EXERCISE THE POWERS AND ASSUME THE**
8 **DUTIES AND PRIVILEGES OF A MEMBER OF THE GENERAL ASSEMBLY FROM THE**
9 **DATE OF THE APPOINTMENT UNTIL THE ABSENT MEMBER NOTIFIES THE**
10 **PRESIDING OFFICER OF THE APPLICABLE HOUSE THAT THE ABSENT MEMBER:**

11 **(I) IS RELEASED FROM ACTIVE DUTY IN THE ARMED**
12 **SERVICES; AND**

13 **(II) IS AVAILABLE TO RESUME SERVICE AS A MEMBER OF**
14 **THE GENERAL ASSEMBLY.**

15 **5-1406.**

16 **A TEMPORARY SUCCESSOR:**

17 **(1) MAY NOT REMOVE A LEGISLATIVE ASSISTANT EMPLOYED BY**
18 **AN ABSENT MEMBER; BUT**

19 **(2) IN THE EVENT OF A VACANCY IN THE POSITION OF**
20 **LEGISLATIVE ASSISTANT, MAY EMPLOY AN INDIVIDUAL TO SERVE AS THE**
21 **TEMPORARY SUCCESSOR'S LEGISLATIVE ASSISTANT UNTIL THE ABSENT**
22 **MEMBER RETURNS AS A MEMBER OF THE GENERAL ASSEMBLY.**

23 **5-1407.**

24 **(A) WITHIN 14 DAYS AFTER APPOINTMENT, A TEMPORARY SUCCESSOR**
25 **SHALL MEET WITH THE COUNSEL TO THE JOINT COMMITTEE ON LEGISLATIVE**
26 **ETHICS OF THE GENERAL ASSEMBLY FOR THE PURPOSES OF § 2-709(B)(4) OF**
27 **THE STATE GOVERNMENT ARTICLE.**

28 **(B) A TEMPORARY SUCCESSOR WHO SERVES IN THE GENERAL**
29 **ASSEMBLY FOR ALL OR PART OF 6 OR MORE MONTHS SHALL FILE WITH THE**
30 **STATE ETHICS COMMISSION THE FINANCIAL DISCLOSURE STATEMENT**

1 REQUIRED UNDER TITLE 15, SUBTITLE 6 OF THE STATE GOVERNMENT
2 ARTICLE.

3 5-1408.

4 DURING THE TIME THAT A TEMPORARY SUCCESSOR SERVES AS A MEMBER
5 OF THE GENERAL ASSEMBLY:

6 (1) THE TEMPORARY SUCCESSOR SHALL BE ACCORDED THE
7 SALARY AND COMPENSATION TO WHICH A MEMBER OF THE GENERAL
8 ASSEMBLY IS ENTITLED;

9 (2) THE ABSENT MEMBER IS NOT ENTITLED TO THE SALARY OR
10 COMPENSATION OF A MEMBER OF THE GENERAL ASSEMBLY; AND

11 (3) THE EXPENSE ALLOWANCES FOR THE DISTRICT OFFICE OF
12 THE ABSENT MEMBER SHALL CONTINUE IN THE SAME MANNER AS PROVIDED BY
13 LAW AND THE RULES AND POLICIES OF THE GENERAL ASSEMBLY.

14 5-1409.

15 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IN THE
16 GENERAL ELECTION IMMEDIATELY FOLLOWING THE TERM IN WHICH A
17 TEMPORARY SUCCESSOR SERVES, THE TEMPORARY SUCCESSOR MAY NOT
18 QUALIFY AS A CANDIDATE FOR ELECTION TO THAT SAME OFFICE.

19 (B) A TEMPORARY SUCCESSOR IS NOT SUBJECT TO THE CANDIDACY
20 RESTRICTION UNDER SUBSECTION (A) OF THIS SECTION IF THE ABSENT
21 MEMBER IS NOT A CANDIDATE FOR THAT OFFICE IN THAT ELECTION.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is contingent on
23 the passage of Chapter _____ (S.B. _____/H.B. _____) (0lr2016) of the Acts of the
24 General Assembly of 2010, a constitutional amendment, and its ratification by the
25 voters of the State.

26 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions
27 of Section 2 of this Act, this Act shall take effect on the proclamation of the Governor
28 that the constitutional amendment, having received a majority of the votes cast at the
29 general election, has been adopted by the people of Maryland.