SENATE BILL 130

D1 8lr1521
SB 744/17 – JPR

By: **Senator Zirkin**
Introduced and read first time: January 11, 2018
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1   AN ACT concerning

2   **Election of Circuit Court Judges – Nonpartisan Elections**

3   FOR the purpose of establishing a method of electing judges to the circuit court on a
4   nonpartisan basis, without regard to political party affiliation; establishing a
5   primary election for candidates for nomination for a circuit court judgeship 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 a candidate for a circuit court judgeship may not be nominated by
10   petition or by a political party not required to nominate candidates by party primary;
11   making conforming changes; providing for a delayed effective date; and generally
12   relating to the nonpartisan nomination and election of circuit court judges.

13 BY repealing and reenacting, without amendments,
14   Article – Election Law
15   Section 5–203 and 5–301(a)
16   Annotated Code of Maryland
17   (2017 Replacement Volume and 2017 Supplement)

18 BY repealing and reenacting, with amendments,
19   Article – Election Law
20   Section 5–703(a), 5–703.1(a), 5–706, and 9–210(a)
21   Annotated Code of Maryland
22   (2017 Replacement Volume and 2017 Supplement)

23 BY adding to
24   Article – Election Law
25   Section 8–901 through 8–905 to be under the new subtitle "Subtitle 9. Election of
26   Circuit Court Judges"
27   Annotated Code of Maryland
28   (2017 Replacement Volume and 2017 Supplement)

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

3 **Article – Election Law**

4 5–203.

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

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

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

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

10 (i) an office of that political party; or

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

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

15 (1) a judicial office; or

16 (2) a county board of education.

17 5–301.

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

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

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

23 5–703.

24 (a) Except for a candidate for **CIRCUIT COURT JUDGE OR** a nonpartisan county
25 board of education, this section applies to any candidate for public office subject to this title.

26 5–703.1.

27 (a) Except for a candidate for **CIRCUIT COURT JUDGE OR** a nonpartisan county

1   board of education, this section applies to any candidate for public office subject to this title.

2   5–706.

3   (a)   This section does not apply to:

4   (1)   a candidate selected by a political party to fill a vacancy in nomination
5   under Subtitle 9 or Subtitle 10 of this title; or

6   (2)   a candidate defeated in a presidential preference primary.

7   (b)   [Except as provided in subsection (c) of this section, the] **THE** name of a
8   candidate who is defeated for the nomination for a public office may not appear on the ballot
9   at the next succeeding general election as a candidate for any office.

10   [(c)   The name of a candidate for the office of judge of the circuit court who is
11   defeated in the primary election in each contest for the office of circuit court judge in which
12   the candidate appears on the ballot may not appear on the ballot at the succeeding general
13   election as a candidate for any office.]

14   **SUBTITLE 9. ELECTION OF CIRCUIT COURT JUDGES.**

15   **8–901.**

16   **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE PROVISIONS OF**
17   **THIS ARTICLE RELATING TO THE NOMINATION AND ELECTION OF CANDIDATES TO**
18   **PUBLIC OFFICE SHALL GOVERN THE NOMINATION AND ELECTION OF JUDGES OF**
19   **THE CIRCUIT COURTS.**

20   **8–902.**

21   **(A)   (1)   JUDGES OF THE CIRCUIT COURTS SHALL BE ELECTED ON A**
22   **NONPARTISAN BASIS.**

23   **(2)   IN A PRIMARY ELECTION TO NOMINATE CIRCUIT COURT JUDGE**
24   **CANDIDATES, ANY REGISTERED VOTER OF THE COUNTY, REGARDLESS OF PARTY**
25   **AFFILIATION OR LACK OF PARTY AFFILIATION, IS ELIGIBLE TO VOTE IN THOSE**
26   **CONTESTS FOR NOMINATION.**

27   **(B)   CANDIDATES FOR ELECTION TO THE CIRCUIT COURT SHALL, WITHOUT**
28   **PARTY DESIGNATION OR REGARD TO PARTY AFFILIATION:**

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

30   **(2)   BE CERTIFIED TO THE BALLOT;**

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

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

3   **(5)**   BE NOMINATED AND ELECTED.

4   **8–903.**

5   **(A)   (1)**   EXCEPT AS PROVIDED IN PARAGRAPH **(2)** OF THIS SUBSECTION,
6   IN EACH YEAR THAT ONE OR MORE JUDGES ARE TO BE ELECTED TO THE CIRCUIT
7   COURT FOR A COUNTY, CANDIDATES SHALL BE NOMINATED AT THE PRIMARY
8   ELECTION.

9   **(2)**   IF, AFTER THE DEADLINE FOR WITHDRAWAL AS PROVIDED IN §
10   **5–503** OF THIS ARTICLE, THE NUMBER OF CANDIDATES HAVING FILED
11   CERTIFICATES OF CANDIDACY IN ANY CONTEST DOES NOT EXCEED ONE MORE THAN
12   THE NUMBER OF OFFICES TO BE FILLED, A CERTIFICATE OF NOMINATION SHALL BE
13   ISSUED TO EACH CANDIDATE.

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

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

20   **(C)   (1)**   THE CANDIDATES, EQUAL IN NUMBER TO ONE MORE THAN THE
21   NUMBER OF OFFICES TO BE FILLED, WHO RECEIVE THE LARGEST NUMBER OF TOTAL
22   VOTES CAST IN THE PRIMARY ELECTION SHALL BE THE NOMINATED CANDIDATES.

23   **(2)**   IF TWO OR MORE CANDIDATES EACH RECEIVE THE LOWEST
24   NUMBER OF TOTAL VOTES CAST NECESSARY TO QUALIFY FOR NOMINATION,
25   CREATING A TIE FOR THE LAST NOMINATION FOR THE OFFICE TO BE FILLED, EACH
26   SHALL BE A NOMINATED CANDIDATE.

27   **8–904.**

28   **(A)**   AFTER THE PRIMARY ELECTION BUT BEFORE THE GENERAL ELECTION,
29   IF A NOMINEE DIES, DECLINES THE NOMINATION, OR BECOMES DISQUALIFIED
30   BEFORE THE BALLOTS ARE PRINTED OR AT A TIME WHEN THE BALLOTS CAN BE
31   REPRINTED, THE NAME OF THE NOMINEE MAY NOT APPEAR ON THE BALLOT.

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

6   **8–905.**

7   **(A) IN A GENERAL ELECTION FOR JUDGE OF THE CIRCUIT COURT FOR A**
8 **COUNTY, A VOTER MAY VOTE FOR A NUMBER OF NOMINEES EQUAL TO THE NUMBER**
9 **OF JUDGES TO BE ELECTED IN THAT COUNTY'S ELECTION.**

10   **(B) (1) THE NOMINEES, EQUAL IN NUMBER TO THE NUMBER OF OFFICES**
11 **TO BE FILLED, WHO RECEIVE THE LARGEST NUMBER OF VOTES IN THE GENERAL**
12 **ELECTION SHALL BE DECLARED ELECTED.**

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

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

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

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

22   9–210.

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

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

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

29   (ii) Governor and Lieutenant Governor;

30   (iii) Comptroller;

1   (iv)   Attorney General; and

2   (v)   United States Senator;

3   (2)   Representative in Congress;

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

5   (i)   Senate of Maryland; and

6   (ii)   House of Delegates;

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

8   (i)   county executive; and

9   (ii)   county council or county commissioner;

10 11   (5)   offices in the government of the City of Baltimore, in the following order:

12   (i)   Mayor;

13   (ii)   President of the City Council;

14   (iii)   Comptroller; and

15   (iv)   member of the City Council;

16   (6)   judicial offices, in the following order:

17   (i)   judge of the circuit court; and

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

19   1.   Court of Appeals; and

20   2.   Court of Special Appeals;

21 22   (7)   public offices for which the voters of a county may vote, in the following order:

23   (i)   county treasurer;

24   (ii)   State's Attorney;

25   (iii)   clerk of the circuit court;

1   (iv)   register of wills;

2   (v)   judge of the orphans' court;

3   (vi)   sheriff; and

4   (vii)   other offices filled by partisan election;

5   (8)   party offices; and

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

7   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 January 1, 2019.