

HOUSE BILL 48

D1
HB 1255/23 – HRU

CONSTITUTIONAL AMENDMENT
(PRE-FILED)

4lr0964

By: **Delegate Cardin**

Requested: October 15, 2023

Introduced and read first time: January 10, 2024

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Courts – Justices and Judges – Selection and Retention**

3 FOR the purpose of decreasing the term of office for the judges of the circuit courts;
4 increasing the number of years between successive retention elections for justices of
5 the Supreme Court of Maryland and judges of the Appellate Court of Maryland; and
6 providing for a transitional period during which the terms of certain amendments
7 are to become effective.

8 BY proposing a repeal of the Maryland Constitution
9 Article IV – Judiciary Department
10 Section 3

11 BY proposing an amendment to the Maryland Constitution
12 Article IV – Judiciary Department
13 Section 5 and 5A

14 BY proposing an addition to the Maryland Constitution
15 Article XVIII – Provisions of Limited Duration
16 Section 6

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 (Three-fifths of all the members elected to each of the two Houses concurring), That it be
19 proposed that the Maryland Constitution read as follows:

20 **Article IV – Judiciary Department**

21 [3.

22 Except for the Judges of the District Court, the Judges of the several Courts other

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



than the Supreme Court of Maryland or any intermediate courts of appeal shall, subject to the provisions of Section 5 of this Article of the Constitution, be elected in Baltimore City and in each county, by the qualified voters of the city and of each county, respectively, all of the said Judges to be elected at the general election to be held on the Tuesday after the first Monday in November, as now provided for in the Constitution. Each of the said Judges shall hold the office for the term of fifteen years from the time of the election, and until the Judge's successor is elected and qualified, or until the Judge shall have attained the age of seventy years, whichever may first happen, and be reeligible thereto until the Judge shall have attained the age of seventy years, and not after. In case of the inability of any of said Judges to discharge the Judge's duties with efficiency, by reason of continued sickness, or of physical or mental infirmity, it shall be in the power of the General Assembly, two-thirds of the members of each House concurring, with the approval of the Governor to retire said Judge from office.]

5.

(A) (1) IN CASE OF THE INABILITY OF A JUDGE OF A CIRCUIT COURT TO DISCHARGE DUTIES WITH EFFICIENCY, BY REASON OF CONTINUED SICKNESS OR OF PHYSICAL OR MENTAL INFIRMITY, IT SHALL BE IN THE POWER OF THE GENERAL ASSEMBLY, TWO-THIRDS OF THE MEMBERS OF EACH HOUSE CONCURRING, WITH THE APPROVAL OF THE GOVERNOR TO RETIRE SAID JUDGE FROM OFFICE.

(2) A VACANCY IN THE OFFICE OF A JUDGE OF A CIRCUIT COURT, WHETHER OCCASIONED BY THE DEATH, RESIGNATION, REMOVAL, RETIREMENT, DISQUALIFICATION BY REASON OF AGE, OR REJECTION BY THE VOTERS OF AN INCUMBENT, THE CREATION OF THE OFFICE OF A JUDGE, OR OTHERWISE, SHALL BE FILLED AS PROVIDED IN THIS SECTION.

(B) [Upon every] ON THE occurrence [or recurrence] of a vacancy [through death, resignation, removal, disqualification by reason of age or otherwise, or expiration of the term of fifteen years of any judge of a circuit court, or creation of the office of any such judge, or in any other way], the Governor shall appoint a person duly qualified to fill said office[,] who shall hold the same until the election [and qualification of his successor. His successor shall be elected at the first biennial general election for Representatives in Congress after the expiration of the term of fifteen years (if the vacancy occurred in that way) or the first such general election after one year after the occurrence of the vacancy in any other way than through expiration of such term. Except in case of reappointment of a judge upon expiration of his term of fifteen years, no person shall be appointed who will become disqualified by reason of age and thereby unable to continue to hold office until the prescribed time when his successor would have been elected] FOR CONTINUANCE IN OFFICE AS PROVIDED IN SUBSECTION (C) OF THIS SECTION.

(C) THE CONTINUANCE IN OFFICE OF A JUDGE OF A CIRCUIT COURT IS SUBJECT TO APPROVAL OR REJECTION BY THE REGISTERED VOTERS OF BALTIMORE CITY AND OF EACH COUNTY, RESPECTIVELY, PRESCRIBED BY LAW AT

1 THE NEXT GENERAL ELECTION FOLLOWING THE EXPIRATION OF 1 YEAR FROM THE
2 DATE OF THE OCCURRENCE OF THE VACANCY THAT THE JUDGE WAS APPOINTED TO
3 FILL, AND AT THE GENERAL ELECTION NEXT OCCURRING EVERY 12 YEARS
4 THEREAFTER.

5 (D) THE APPROVAL OR REJECTION BY THE REGISTERED VOTERS OF A
6 JUDGE AS PROVIDED FOR IN SUBSECTION (C) OF THIS SECTION SHALL BE A VOTE
7 FOR THE JUDGE'S RETENTION IN OFFICE FOR A TERM OF 12 YEARS OR THE JUDGE'S
8 REMOVAL. THE JUDGE'S NAME SHALL BE ON THE APPROPRIATE BALLOT, WITHOUT
9 OPPOSITION, AND THE VOTERS SHALL VOTE YES OR NO FOR THE RETENTION IN
10 OFFICE OF THE JUDGE. IF THE VOTERS REJECT THE RETENTION IN OFFICE OF A
11 JUDGE, OR IF THE VOTE IS TIED, THE OFFICE BECOMES VACANT 10 DAYS AFTER
12 CERTIFICATION OF THE ELECTION RETURNS.

13 (E) A JUDGE OF A CIRCUIT COURT SHALL RETIRE WHEN THE JUDGE
14 ATTAINS THE AGE OF 70 YEARS.

15 5A.

16 (a) A vacancy in the office of a justice or judge of an appellate court, whether
17 occasioned by the death, resignation, removal, retirement, disqualification by reason of age,
18 or rejection by the voters of an incumbent, the creation of the office of a justice or judge, or
19 otherwise, shall be filled as provided in this section.

20 (b) [Upon] ON the occurrence of a vacancy the Governor shall appoint, by and
21 with the advice and consent of the Senate, a person duly qualified to fill said office who
22 shall hold the same until the election for continuance in office as provided in subsections
23 (c) and (d) OF THIS SECTION.

24 (c) The continuance in office of a justice of the Supreme Court of Maryland is
25 subject to approval or rejection by the registered voters of the appellate judicial circuit from
26 which the justice was appointed at the next general election following the expiration of
27 [one] 1 year from the date of the occurrence of the vacancy which the justice was appointed
28 to fill, and at the general election next occurring every [ten] 12 years thereafter.

29 (d) The continuance in office of a judge of the Appellate Court of Maryland is
30 subject to approval or rejection by the registered voters of the geographical area prescribed
31 by law at the next general election following the expiration of one year from the date of the
32 occurrence of the vacancy which the judge was appointed to fill, and at the general election
33 next occurring every [ten] 12 years thereafter.

34 (e) The approval or rejection by the registered voters of a justice or judge as
35 provided for in subsections (c) and (d) OF THIS SECTION shall be a vote for the justice's or
36 judge's retention in office for a term of [ten] 12 years or the justice's or judge's removal.
37 The justice's or judge's name shall be on the appropriate ballot, without opposition, and the

voters shall vote yes or no for the justice's or judge's retention in office. If the voters reject the retention in office of a justice or judge, or if the vote is tied, the office becomes vacant [ten] **10** days after certification of the election returns.

(f) An appellate court justice or judge shall retire when the justice or judge attains [the justice's or judge's seventieth birthday] **THE AGE OF 70 YEARS**.

(g) A member of the General Assembly who is otherwise qualified for appointment to judicial office is not disqualified by reason of the member's membership in a General Assembly which proposed or enacted any constitutional amendment or statute affecting the method of selection, continuance in office, or retirement or removal of a justice or judge, the creation or abolition of a court, an increase or decrease in the number of justices or judges of any court, or an increase or decrease in the salary, pension or other allowances of any justice or judge.

Article XVIII – Provisions of Limited Duration

6.

(A) (1) **FOR THE PURPOSE OF IMPLEMENTING THE AMENDMENTS TO ARTICLE IV OF THE MARYLAND CONSTITUTION PROPOSED BY HOUSE BILL ____ (4LR0964) OF 2024 CONCERNING THE SELECTION AND TENURE OF JUSTICES OF THE SUPREME COURT OF MARYLAND, JUDGES OF THE APPELLATE COURT OF MARYLAND, AND CIRCUIT COURT JUDGES, THE FOLLOWING PROVISIONS SHALL GOVERN.**

(2) **IN ACCORDANCE WITH ARTICLE XIV, SECTION 1A OF THE MARYLAND CONSTITUTION, THIS SECTION SHALL EXPIRE WHEN ALL OF THE JUSTICES OR JUDGES HAVE COMPLETED ALL THE TERMS FOR WHICH THE JUSTICES AND JUDGES ARE RETAINED IN OFFICE UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION OR HAVE VACATED THEIR OFFICES FOR ANY REASON.**

(B) (1) **EACH JUSTICE OF THE SUPREME COURT OF MARYLAND, JUDGE OF THE APPELLATE COURT OF MARYLAND, OR JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE FOR AN ELECTED TERM ON THE EFFECTIVE DATE OF THESE AMENDMENTS, UNLESS THE JUSTICE OR JUDGE DIES, RESIGNS, RETIRES, OR IS OTHERWISE LAWFULLY REMOVED, SHALL CONTINUE IN OFFICE UNTIL THE JUDGE'S OR JUSTICE'S SUCCESSOR IS APPOINTED OR ELECTED, AS APPLICABLE, AND QUALIFIED OR UNTIL THE JUSTICE OR JUDGE ATTAINS THE AGE OF 70 YEARS, WHICHEVER OCCURS FIRST.**

(2) (I) **FOLLOWING THE PERIOD DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, CONTINUANCE IN OFFICE OF A JUSTICE OF THE SUPREME COURT OF MARYLAND OR JUDGE OF THE APPELLATE COURT OF MARYLAND OR OF A**

CIRCUIT COURT IS THEN SUBJECT TO THE FOLLOWING PROVISIONS:

1. FOR A JUSTICE OF THE SUPREME COURT OF MARYLAND OR JUDGE OF THE APPELLATE COURT OF MARYLAND, ARTICLE IV, SECTION 5A OF THE MARYLAND CONSTITUTION; AND

2. FOR A JUDGE OF A CIRCUIT COURT, ARTICLE IV, SECTION 5 OF THE MARYLAND CONSTITUTION.

(II) IN NO EVENT SHALL ANY JUSTICE OR JUDGE CONTINUE IN OFFICE AFTER ATTAINING THE AGE OF 70 YEARS.

(C) (1) EACH JUSTICE OF THE SUPREME COURT OF MARYLAND, JUDGE OF THE APPELLATE COURT OF MARYLAND, OR JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE ON THE EFFECTIVE DATE OF THE AMENDMENTS TO ARTICLE IV OF THE MARYLAND CONSTITUTION PROPOSED BY HOUSE BILL ____ (4LR0964) OF 2024, BUT WHO HAS NOT BEEN ELECTED TO THAT OFFICE BY THE VOTERS, SHALL CONTINUE TO BE GOVERNED BY THE FOLLOWING PROVISIONS AS IN EFFECT BEFORE THE RATIFICATION OF THE AMENDMENTS TO ARTICLE IV OF THE MARYLAND CONSTITUTION PROPOSED BY HOUSE BILL ____ (4LR0964) OF 2024:

(I) FOR A JUSTICE OF THE SUPREME COURT OF MARYLAND OR JUDGE OF THE APPELLATE COURT OF MARYLAND, ARTICLE IV, SECTION 5A OF THE MARYLAND CONSTITUTION; AND

(II) FOR A JUDGE OF A CIRCUIT COURT, ARTICLE IV, SECTIONS 3 AND 5 OF THE MARYLAND CONSTITUTION.

(2) IF THE JUSTICE OR JUDGE IS ELECTED TO THE OFFICE, THE JUSTICE OR JUDGE SHALL CONTINUE IN OFFICE UNTIL THE JUSTICE'S OR JUDGE'S SUCCESSOR IS APPOINTED OR ELECTED, AS APPLICABLE, AND QUALIFIED OR UNTIL THE JUSTICE OR JUDGE ATTAINS THE AGE OF 70 YEARS, WHICHEVER OCCURS FIRST.

(3) (I) CONTINUANCE OF THE JUSTICE OR JUDGE IN OFFICE AT THE END OF THE ELECTED TERM IS THEN SUBJECT TO:

1. FOR A JUSTICE OF THE SUPREME COURT OF MARYLAND OR JUDGE OF THE APPELLATE COURT OF MARYLAND, THE PROVISIONS OF ARTICLE IV, SECTION 5A OF THE MARYLAND CONSTITUTION; AND

2. FOR A JUDGE OF A CIRCUIT COURT, THE PROVISIONS OF ARTICLE IV, SECTION 5 OF THE MARYLAND CONSTITUTION.

1 **(II) IN NO EVENT SHALL ANY JUSTICE OR JUDGE CONTINUE IN**
2 **OFFICE AFTER ATTAINING THE AGE OF 70 YEARS.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
4 determines that the amendment to the Maryland Constitution proposed by Section 1 of this
5 Act affects multiple jurisdictions and that the provisions of Article XIV, § 1 of the Maryland
6 Constitution concerning local approval of constitutional amendments do not apply.

7 SECTION 3. AND BE IT FURTHER ENACTED, That the amendment to the
8 Maryland Constitution proposed by Section 1 of this Act shall be submitted to the qualified
9 voters of the State at the next general election to be held in November 2024 for adoption or
10 rejection pursuant to Article XIV of the Maryland Constitution. At that general election,
11 the vote on the proposed amendment to the Constitution shall be by ballot, and on each
12 ballot there shall be printed the words “For the Constitutional Amendment” and “Against
13 the Constitutional Amendment”, as now provided by law. Immediately after the election,
14 all returns shall be made to the Governor of the vote for and against the proposed
15 amendment, as directed by Article XIV of the Maryland Constitution, and further
16 proceedings had in accordance with Article XIV.