

HOUSE BILL 868

D1

CONSTITUTIONAL AMENDMENT

2lr0554

By: **Howard County Delegation**

Introduced and read first time: February 7, 2022

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Circuit Court for Howard County – Judges Sitting as Orphans’ Court**

3 **Ho. Co. 06–22**

4 FOR the purpose of requiring the judges of the Circuit Court for Howard County to sit as
5 the Orphans’ Court for Howard County; repealing a requirement that the qualified
6 voters of Howard County elect three Orphans’ Court judges for the county;
7 exempting Howard County from a provision of law authorizing a party to appeal a
8 final judgment of an orphans’ court to the circuit court of the county; and generally
9 relating to the Circuit Court and Orphans’ Court for Howard County.

10 BY proposing an amendment to the Maryland Constitution
11 Article IV – Judiciary Department
12 Section 20 and 40

13 BY repealing and reenacting, with amendments,
14 Article – Courts and Judicial Proceedings
15 Section 12–502(a)
16 Annotated Code of Maryland
17 (2020 Replacement Volume and 2021 Supplement)

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

21 **Article IV – Judiciary Department**

22 20.

23 (a) There shall be a Circuit Court for each County and for Baltimore City. The
24 Circuit Courts shall have and exercise, in the respective counties, and Baltimore City, all

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



the power, authority and jurisdiction, original and appellate, which the Circuit Courts of the counties exercised on the effective date of these amendments, and the greater or lesser jurisdiction hereafter prescribed by law.

(b) The judges of the Circuit Courts for **HOWARD**, Montgomery, and Harford Counties shall each, alternately and in rotation and on schedules to be established by those judges, sit as an Orphans' Court for their County, and shall have and exercise all the power, authority and jurisdiction which the present Orphans' Courts now have and exercise, or which may hereafter be provided by law.

40.

(a) The qualified voters of the several Counties, except **HOWARD COUNTY**, Montgomery County, and Harford County, shall elect three Judges of the Orphans' Courts of Counties who shall be citizens of the State and residents, for the twelve months preceding, in the County for which they may be elected.

(b) The qualified voters of the City of Baltimore shall elect three Judges of the Orphans' Court for Baltimore City who shall be citizens of the State and residents, for the twelve months preceding, in Baltimore City and who have been admitted to practice law in this State and are members in good standing of the Maryland Bar.

(c) The qualified voters of Prince George's County shall elect three Judges of the Orphans' Court for Prince George's County who shall be citizens of the State and residents, for the twelve months preceding, in Prince George's County and who have been admitted to practice law in this State and are members in good standing of the Maryland Bar.

(d) The qualified voters of Baltimore County shall elect three Judges of the Orphans' Court for Baltimore County who shall be citizens of the State and residents, for the twelve months preceding, in Baltimore County and who have been admitted to practice law in this State and are members in good standing of the Maryland Bar.

(e) The Judges shall have all the powers now vested in the Orphans' Courts of the State, subject to such changes as the Legislature may prescribe.

(f) Each of the Judges shall be paid such compensation as may be regulated by Law, to be paid by the City or Counties, respectively.

(g) In case of a vacancy in the office of Judge of the Orphans' Court, the Governor shall appoint, subject to confirmation or rejection by the Senate, some suitable person to fill the vacancy for the residue of the term.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

1 12-502.

2 (a) (1) (i) Instead of a direct appeal to the Court of Special Appeals under
3 § 12-501 of this subtitle, a party may appeal to the circuit court for the county from a final
4 judgment of an orphans' court.

5 (ii) The appeal shall be heard de novo by the circuit court.

6 (iii) The de novo appeal shall be treated as if it were a new proceeding
7 and as if there had never been a prior hearing or judgment by the orphans' court.

8 (iv) The circuit court shall give judgment according to the equity of
9 the matter.

10 (2) This subsection does not apply to Harford County, **HOWARD COUNTY**,
11 or Montgomery County.

12 SECTION 3. AND BE IT FURTHER ENACTED, That the General Assembly
13 determines that the amendment to the Maryland Constitution proposed by Section 1 of this
14 Act affects only one county and that the provisions of Article XIV, § 1 of the Maryland
15 Constitution concerning local approval of constitutional amendments apply.

16 SECTION 4. AND BE IT FURTHER ENACTED, That the amendment to the
17 Maryland Constitution proposed by Section 1 of this Act shall be submitted to the qualified
18 voters of the State at the next general election to be held in November 2022 for adoption or
19 rejection pursuant to Article XIV of the Maryland Constitution. At that general election,
20 the vote on the proposed amendment to the Constitution shall be by ballot, and on each
21 ballot there shall be printed the words "For the Constitutional Amendment" and "Against
22 the Constitutional Amendment", as now provided by law. Immediately after the election,
23 all returns shall be made to the Governor of the vote for and against the proposed
24 amendment, as directed by Article XIV of the Maryland Constitution, and further
25 proceedings had in accordance with Article XIV.

26 SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act is
27 contingent on the passage of Section 1 of this Act, a constitutional amendment, and its
28 ratification by the voters of the State.

29 SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions of
30 Section 5 of this Act, Section 2 of this Act shall take effect on the proclamation of the
31 Governor that the constitutional amendment, having received a majority of the votes cast
32 at the general election, has been adopted by the people of Maryland.