

HOUSE BILL 788

D1

CONSTITUTIONAL AMENDMENT

5lr2305
CF SB 619

By: **Chair, Judiciary Committee (By Request – Maryland Judicial Conference)**

Introduced and read first time: January 29, 2025

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Judiciary Department – Commission on Judicial Disabilities – Temporary**
3 **Appointment**

4 FOR the purpose of allowing the chair of the Commission on Judicial Disabilities to appoint
5 a former member to temporarily fill a certain vacancy on the Commission; and
6 allowing the Governor, on certain request of the chair, to appoint a temporary
7 substitute member or extend the term of an existing member of the Commission.

8 BY proposing an amendment to the Maryland Constitution
9 Article IV – Judiciary Department
10 Section 4A and 4B

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

14 **Article IV – Judiciary Department**

15 4A.

16 (a) There is a Commission on Judicial Disabilities composed of eleven persons
17 appointed by the Governor of Maryland, by and with the advice and consent of the Senate.

18 (b) The members of the Commission shall be citizens and residents of this State.

19 (c) (1) Three members of the Commission shall be appointed from among the
20 judges of the State, with one member representing the appellate courts, one member
21 representing the Circuit Courts, and one member representing the District Court.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2) Three members shall be appointed from among those persons who are admitted to practice law in the State, who have been so engaged for at least seven years, and who are not judges of any court.

(3) Five members shall represent the public, who may not be active or retired judges, who are not admitted to practice law in this State, and who may not have a financial relationship with or receive compensation from a judge or a person admitted to practice law in this State.

(4) The composition of the Commission should reflect the race, gender, and geographic diversity of the population of the State.

(d) **[The] SUBJECT TO THE PROVISIONS OF § 4B(A)(5) OF THIS ARTICLE,** THE term of office of each member is four years commencing on January 1 following the expiration of the member's predecessor's term. A member may not serve more than two four-year terms, or for more than a total of ten years if appointed to fill a vacancy.

(e) A member's membership automatically terminates:

(1) When any member of the Commission appointed from among judges in the State ceases to be a judge;

(2) When any member appointed from among those admitted to practice law becomes a judge;

(3) When any member representing the public becomes a judge or is admitted to the practice of law in this State or has a financial relationship with or receives compensation from a judge or a person admitted to practice law in this State; or

(4) When any member ceases to be a resident of the State.

(f) Any vacancies on the Commission shall be filled for the unexpired term by the Governor in the same manner as for making of appointments to the Commission and subject to the same qualifications which were applicable to the person causing the vacancy.

(g) A member of the Commission may not receive any compensation for the member's services as such but shall be allowed any expenses necessarily incurred in the performance of the member's duties as such member.

4B.

(a) (1) The Commission on Judicial Disabilities has the power to:

(i) Investigate complaints against any justice or judge of the Supreme Court of Maryland, any intermediate courts of appeal, the circuit courts, the District Court of Maryland, or the orphans' court; and

(ii) Conduct hearings concerning such complaints, administer oaths and affirmations, issue process to compel the attendance of witnesses and the production of evidence, and require persons to testify and produce evidence by granting them immunity from prosecution or from penalty or forfeiture.

(2) The Commission has the power to issue a reprimand and the power to recommend to the Supreme Court of Maryland the removal, censure, or other appropriate disciplining of a justice or judge or, in an appropriate case, retirement.

(3) All proceedings, testimony, and evidence before the Commission shall be confidential and privileged, except as provided by rule of the Supreme Court of Maryland; the record and any proceeding filed with the Supreme Court of Maryland shall lose its confidential character, except as ordered by the Supreme Court of Maryland.

(4) No justice or judge shall participate as a member of the Commission in any proceedings involving that justice's or judge's own conduct, and the Governor shall appoint another justice or judge as a substitute member of the Commission for those proceedings.

(5) (I) IN THE EVENT OF A MEMBER'S RECUSAL OR DISQUALIFICATION OR THE EXPIRATION OF A MEMBER'S TERM WITHOUT A REPLACEMENT, THE COMMISSION CHAIR MAY:

1. RECALL A FORMER MEMBER TO SERVE AS A TEMPORARY SUBSTITUTE MEMBER; OR

2. REQUEST THAT THE GOVERNOR APPOINT A TEMPORARY SUBSTITUTE MEMBER OR EXTEND A CURRENT MEMBER'S TERM.

(II) ON REQUEST OF THE COMMISSION CHAIR MADE UNDER THIS PARAGRAPH, THE GOVERNOR MAY APPOINT A TEMPORARY SUBSTITUTE MEMBER FOR A SPECIFIED PERIOD OR EXTEND A CURRENT MEMBER'S TERM UNTIL A REPLACEMENT IS APPOINTED.

(III) ANY SUBSTITUTE MEMBER IS SUBJECT TO THE SAME QUALIFICATIONS THAT WERE APPLICABLE TO THE MEMBER FOR WHOM THE SUBSTITUTE IS TEMPORARILY APPOINTED.

(6) The Supreme Court of Maryland shall prescribe by rule the means to implement and enforce the powers of the Commission and the practice and procedure before the Commission.

(b) (1) Upon any recommendation of the Commission, the Supreme Court of Maryland, after a hearing and upon a finding of misconduct while in office, or of persistent failure to perform the duties of the office, or of conduct prejudicial to the proper

administration of justice, may remove the justice or judge from office or may censure or otherwise discipline the justice or judge, or the Supreme Court of Maryland, after hearing and upon a finding of disability which is or is likely to become permanent and which seriously interferes with the performance of the justice's or judge's duties, may retire the justice or judge from office.

(2) A justice or judge removed under this section, and the justice's or judge's surviving spouse, shall have the rights and privileges accruing from the justice's or judge's judicial service only to the extent prescribed by the order of removal.

(3) A justice or judge retired under this section shall have the rights and privileges prescribed by law for other retired justices or judges.

(4) No justice of the Supreme Court of Maryland shall sit in judgment in any hearing involving that justice's own conduct.

(c) This section is alternative to, and cumulative with, the methods of retirement and removal provided in Sections 3 and 4 of this Article, and in Section 26 of Article III of this Constitution.

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

SECTION 3. AND BE IT FURTHER ENACTED, That the amendment to the Maryland Constitution proposed by Section 1 of this Act shall be submitted to the qualified voters of the State at the next general election to be held in November 2026 for adoption or rejection in accordance with Article XIV of the Maryland Constitution. At that general election, the vote on the proposed amendment to the Constitution shall be by ballot, and on each ballot there shall be printed the words "For the Constitutional Amendment" and "Against the Constitutional Amendment", as now provided by law. Immediately after the election, all returns shall be made to the Governor of the vote for and against the proposed amendment, as directed by Article XIV of the Maryland Constitution, and further proceedings had in accordance with Article XIV.