

HOUSE BILL 778

D1, G1

CONSTITUTIONAL AMENDMENT

5lr2279
CF SB 630

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

Introduced and read first time: January 29, 2025

Assigned to: Judiciary and Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Circuit Court Judges – Selection and Retention Elections**

3 FOR the purpose of proposing amendments to the Maryland Constitution relating to the
4 selection and tenure of circuit court judges; altering the method of filling vacancies
5 in the office of a judge of a circuit court; providing for retention elections following
6 an appointment to fill a vacancy in the office of a judge of a circuit court; providing
7 for a transitional period during which the terms of certain amendments are to
8 become effective; and submitting this amendment to the qualified voters of the State
9 for their adoption or rejection.

10 BY proposing a repeal of the Maryland Constitution
11 Article IV – Judiciary Department
12 Section 3 and 5

13 BY proposing an amendment to the Maryland Constitution
14 Article IV – Judiciary Department
15 Section 3A, 5A, and 11

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

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

22 **Article IV – Judiciary Department**

23 [3.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Except for the Judges of the District Court, the Judges of the several Courts other 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.]

3A.

(a) (1) Except as provided in paragraph (2) of this subsection, any former judge, except a former judge of the Orphans' Court, may be assigned by the Chief Justice of the Supreme Court of Maryland, upon approval of a majority of the court, to sit temporarily in any court of this State, except an Orphans' Court, as provided by law.

(2) (i) A retired judge of the Circuit Court for Montgomery County that sits as the Orphans' Court for Montgomery County may be assigned by the Chief Justice of the Supreme Court of Maryland, upon approval of a majority of the Supreme Court of Maryland, to do an act that a judge of the Orphans' Court for Montgomery County is authorized to perform.

(ii) A retired judge of the Circuit Court for Harford County that sits as the Orphans' Court for Harford County may be assigned by the Chief Justice of the Supreme Court of Maryland, upon approval of a majority of the Supreme Court of Maryland, to do an act that a judge of the Orphans' Court for Harford County is authorized to perform.

(b) The provisions of this section apply, notwithstanding provisions appearing elsewhere in this Article pertaining to retirement of judges [upon] attaining **THE** age **OF** **70 YEARS**.

[5.

Upon every 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

1 general election after one year after the occurrence of the vacancy in any other way than
2 through expiration of such term. Except in case of reappointment of a judge upon expiration
3 of his term of fifteen years, no person shall be appointed who will become disqualified by
4 reason of age and thereby unable to continue to hold office until the prescribed time when
5 his successor would have been elected.]

6 5A.

7 (a) A vacancy in the office of a justice or judge **OF A CIRCUIT COURT OR** of an
8 appellate court, whether occasioned by the death, resignation, removal, retirement,
9 disqualification by reason of age, or rejection by the voters of an incumbent, the creation of
10 the office of a justice or judge, or otherwise, shall be filled as provided in this section.

11 (b) [Upon] **ON** the occurrence of a vacancy the Governor shall appoint, by and
12 with the advice and consent of the Senate, a person duly qualified to fill [said office] **THE**
13 **VACANCY** who shall hold the [same] **OFFICE** until the election for continuance in office as
14 provided in subsections (c) [and], (d), **AND (E) OF THIS SECTION.**

15 (c) The continuance in office of a justice of the Supreme Court of Maryland,
16 **FOLLOWING AN APPOINTMENT TO FILL A VACANCY**, is subject to approval or rejection
17 by the registered voters of the appellate judicial circuit from which the justice was
18 appointed at the next general election following the expiration of [one] **1** year from the date
19 of the occurrence of the vacancy which the justice was appointed to fill, and at the general
20 election next occurring every [ten] **10** years thereafter.

21 (d) The continuance in office of a judge of [the Appellate Court of Maryland] **ANY**
22 **INTERMEDIATE COURTS OF APPEAL, FOLLOWING AN APPOINTMENT TO FILL A**
23 **VACANCY**, is subject to approval or rejection by the registered voters of the geographical
24 area prescribed by law at the next general election following the expiration of one year from
25 the date of the occurrence of the vacancy which the judge was appointed to fill, and at the
26 general election next occurring every [ten] **10** years thereafter.

27 **(E) THE CONTINUANCE IN OFFICE OF A JUDGE OF A CIRCUIT COURT,**
28 **FOLLOWING AN APPOINTMENT TO FILL A VACANCY, IS SUBJECT TO APPROVAL OR**
29 **REJECTION BY THE REGISTERED VOTERS OF THE CITY OR COUNTY FROM WHICH THE**
30 **JUDGE WAS APPOINTED AT THE NEXT GENERAL ELECTION FOLLOWING THE**
31 **EXPIRATION OF 1 YEAR FROM THE DATE OF THE OCCURRENCE OF THE VACANCY**
32 **WHICH THE JUDGE WAS APPOINTED TO FILL, AND AT THE GENERAL ELECTION NEXT**
33 **OCCURRING EVERY 10 YEARS THEREAFTER.**

34 [(e)] **(F)** The approval or rejection by the registered voters of a justice or judge
35 as provided for in subsections (c) [and], (d), **AND (E) OF THIS SECTION** shall be a vote for
36 the justice's or judge's retention in office for a term of [ten] **10** years or the justice's or
37 judge's removal. The justice's or judge's name shall be on the appropriate ballot, without
38 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)] (G) An appellate court **OR A CIRCUIT 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)] (H) 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.

11.

The election for Judges, hereinbefore provided, and all elections for Clerks, Registers of Wills, and other officers, provided in this Constitution, except State's Attorneys, shall be certified, and the returns made, by the Clerks of the Circuit Courts of the Counties, and the Clerk of the Superior Court of Baltimore City, respectively, to the Governor, who shall issue commissions to the different persons for the offices to which they shall have been, respectively, elected; and in all such elections for officers other than **JUSTICES AND** judges of an appellate court **OR A CIRCUIT COURT**, the person having the greatest number of votes, shall be declared to be elected.

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 778 OF 2025 CONCERNING THE SELECTION AND TENURE OF 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 JUDGES OF THE CIRCUIT COURTS HAVE COMPLETED ALL THE TERMS FOR WHICH THE JUDGES ARE RETAINED IN OFFICE UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION OR HAVE VACATED THEIR OFFICES FOR ANY REASON.

(B) (1) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE FOR AN ELECTED TERM ON THE EFFECTIVE DATE OF THESE AMENDMENTS, UNLESS THE JUDGE DIES, RESIGNS, RETIRES, OR IS OTHERWISE LAWFULLY REMOVED, SHALL CONTINUE IN OFFICE UNTIL THE NEXT GENERAL ELECTION AFTER THE END OF THE

1 JUDGE'S ELECTED TERM OR UNTIL THE JUDGE ATTAINS THE AGE OF 70 YEARS,
2 WHICHEVER OCCURS FIRST.

3 (2) (I) FOLLOWING THE PERIOD DESCRIBED IN PARAGRAPH (1) OF
4 THIS SUBSECTION, CONTINUANCE IN OFFICE OF A JUDGE OF A CIRCUIT COURT IS
5 THEN SUBJECT TO ARTICLE IV, SECTION 5A OF THE MARYLAND CONSTITUTION.

6 (II) IN NO EVENT SHALL ANY JUDGE OF THE CIRCUIT COURT
7 CONTINUE IN OFFICE AFTER ATTAINING THE AGE OF 70 YEARS.

8 (C) (1) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE ON THE
9 EFFECTIVE DATE OF THESE AMENDMENTS, BUT WHO HAS NOT BEEN ELECTED TO BE
10 IN THAT OFFICE BY THE VOTERS, SHALL, WITHIN 15 DAYS AFTER THE EFFECTIVE
11 DATE OF THESE AMENDMENTS, BE REAPPOINTED TO THAT OFFICE.

12 (2) (I) CONTINUANCE OF THE JUDGE OF A CIRCUIT COURT IN
13 OFFICE UNDER PARAGRAPH (1) OF THIS SUBSECTION IS THEN SUBJECT TO ARTICLE
14 IV, SECTION 5A OF THE MARYLAND CONSTITUTION.

15 (II) IN NO EVENT SHALL ANY JUDGE OF A CIRCUIT COURT
16 CONTINUE IN OFFICE AFTER ATTAINING THE AGE OF 70 YEARS.

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

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