

SENATE BILL 74

D1

CONSTITUTIONAL AMENDMENT
(PRE-FILED)

5lr1597

By: **Senator Muse**

Requested: October 31, 2024

Introduced and read first time: January 8, 2025

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Judges – Mandatory Retirement Age**

3 FOR the purpose of altering the mandatory retirement age for certain judges under certain
4 circumstances.

5 BY proposing an amendment to the Maryland Constitution

6 Article IV – Judiciary Department

7 Section 3, 3A, 5A, 18B, and 41D

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

11 **Article IV – Judiciary Department**

12 3.

13 Except for the Judges of the District Court, the Judges of the several Courts other
14 than the Supreme Court of Maryland or any intermediate courts of appeal shall, subject to
15 the provisions of Section 5 of this Article of the Constitution, be elected in Baltimore City
16 and in each county, by the qualified voters of the city and of each county, respectively, all
17 of the said Judges to be elected at the general election to be held on the Tuesday after the
18 first Monday in November, as now provided for in the Constitution. Each of the said Judges
19 shall hold the office for the term of fifteen years from the time of the election, and until the
20 Judge's successor is elected and qualified, or until the Judge shall have attained the age of
21 [seventy] **SEVENTY-FIVE** years, whichever may first happen, and be reeligible thereto
22 until the Judge shall have attained the age of [seventy] **SEVENTY-FIVE** years, and not
23 after. In case of the inability of any of said Judges to discharge the Judge's duties with
24 efficiency, by reason of continued sickness, or of physical or mental infirmity, it shall be in

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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 age [70] SEVENTY-FIVE.

5A.

(a) A vacancy in the office of a justice or judge of an appellate 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 justice or judge, or otherwise, shall be filled as provided in this section.

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

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

(d) The continuance in office of a judge of the Appellate Court of Maryland is subject to approval or rejection by the registered voters of the geographical area prescribed by law at the next general election following the expiration of one year from the date of the

1 occurrence of the vacancy which the judge was appointed to fill, and at the general election
2 next occurring every ten years thereafter.

3 (e) The approval or rejection by the registered voters of a justice or judge as
4 provided for in subsections (c) and (d) shall be a vote for the justice's or judge's retention in
5 office for a term of ten years or the justice's or judge's removal. The justice's or judge's name
6 shall be on the appropriate ballot, without opposition, and the voters shall vote yes or no
7 for the justice's or judge's retention in office. If the voters reject the retention in office of a
8 justice or judge, or if the vote is tied, the office becomes vacant ten days after certification
9 of the election returns.

10 (f) An appellate court justice or judge shall retire when the justice or judge
11 attains the justice's or judge's [seventieth] **SEVENTY-FIFTH** birthday.

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

19 18B.

20 (a) For the purpose of implementing the amendments to this article, dealing with
21 the selection and tenure of appellate court judges, the following provisions shall govern.

22 (b) Each judge of an appellate court who is in office for an elected term on the
23 effective date of these amendments, unless [he] **THE JUDGE** dies, resigns, retires, or is
24 otherwise lawfully removed, shall continue in office until the general election next after the
25 end of [his] **THE JUDGE'S** elected term, or until [his seventieth] **THE JUDGE'S**
26 **SEVENTY-FIFTH** birthday, whichever first occurs. [His] **THE JUDGE'S** continuance in
27 office is then subject to the provisions of section 5A(c) and (d) of this article, applicable to
28 judges of that court, but in no event shall any judge continue in office after [his seventieth]
29 **THE JUDGE'S SEVENTY-FIFTH** birthday.

30 (c) Each judge of a court specified in subsection (b) who is in office on the effective
31 date of these amendments, but who has not been elected to that office by the voters, shall,
32 within fifteen days after the effective date of these amendments, be reappointed to that
33 office. [His] **THE JUDGE'S** continuance in office is then subject to the provisions of section
34 5A(c) and (d) of this article, applicable to judges of that court, but in no event shall any
35 judge continue in office after [his seventieth] **THE JUDGE'S SEVENTY-FIFTH** birthday.

36 41D.

1 The Governor, by and with the advice and consent of the Senate, shall appoint each
2 judge of the District Court whenever for any reason a vacancy shall exist in the office. All
3 hearings, deliberations, and debate on the confirmation of appointees of the Governor shall
4 be public, and no hearings, deliberations or debate thereon shall be conducted by the Senate
5 or any committee or subcommittee thereof in secret or executive session. Confirmation by
6 the Senate shall be made upon a majority vote of all members of the Senate. A judge
7 appointed by the Governor may take office upon qualification and before confirmation by
8 the Senate, but shall cease to hold office at the close of the regular annual session of the
9 General Assembly next following **[his] THE JUDGE’S** appointment or during which **[he]**
10 **THE JUDGE** shall have been appointed by the Governor, if the Senate shall not have
11 confirmed **[his] THE JUDGE’S** appointment before then. Each judge appointed by the
12 Governor and confirmed by the Senate shall hold the office for a term of ten years or until
13 **[he] THAT JUDGE** shall have attained the age of **[seventy] SEVENTY-FIVE** years
14 whichever may first occur. If the ten year term of a judge shall expire before that judge
15 shall have attained the age of **[seventy] SEVENTY-FIVE** years, that judge shall be
16 reappointed by the Governor, with the Senate’s consent, for another ten year term or until
17 **[he] THAT JUDGE** shall have attained the age of **[seventy] SEVENTY-FIVE** years,
18 whichever may first occur. To the extent inconsistent herewith, the provisions of Sections
19 3 and 5 of this Article shall not apply to judges of the District Court.

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

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