

HOUSE BILL 361

E2

CONSTITUTIONAL AMENDMENT

5l2166
CF 5l2688

By: **Delegates Vallario, Anderson, Atterbeary, D. Barnes, Barron, Cluster, Conaway, Flanagan, Folden, Jackson, Jalisi, Kittleman, Kramer, McComas, Oaks, Parrott, Waldstreicher, and B. Wilson**

Introduced and read first time: February 5, 2015

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Government–Funded Legal Representation – Initial**
3 **Appearance**

4 FOR the purpose of proposing an amendment to the Maryland Constitution establishing
5 that an indigent defendant is entitled to government–funded legal representation at
6 the times and under the circumstances provided by statute and court rule, and that
7 a certain constitutional provision may not be construed to require
8 government–funded legal representation of an indigent defendant at an initial
9 appearance before a District Court commissioner; and submitting this amendment
10 to the qualified voters of the State for their adoption or rejection.

11 BY proposing an amendment to the Maryland Constitution
12 Declaration of Rights
13 Article 21

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

17 **Declaration of Rights**

18 21.

19 **(A)** That in all criminal prosecutions, every man hath a right to be informed of the
20 accusation against him; to have a copy of the Indictment, or charge, in due time (if required)
21 to prepare for his defence; to be allowed counsel; to be confronted with the witnesses against
22 him; to have process for his witnesses; to examine the witnesses for and against him on

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 oath; and to a speedy trial by an impartial jury, without whose unanimous consent he ought
2 not to be found guilty.

3 **(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN INDIGENT**
4 **DEFENDANT IS ENTITLED TO GOVERNMENT-FUNDED LEGAL REPRESENTATION AT**
5 **THE TIMES AND UNDER THE CIRCUMSTANCES PROVIDED BY STATUTE AND COURT**
6 **RULE.**

7 **(2) THIS ARTICLE MAY NOT BE CONSTRUED TO REQUIRE**
8 **GOVERNMENT-FUNDED LEGAL REPRESENTATION OF AN INDIGENT DEFENDANT AT**
9 **AN INITIAL APPEARANCE BEFORE A DISTRICT COURT COMMISSIONER.**

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

14 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
15 proposed as an amendment to the Maryland Constitution shall be submitted to the
16 qualified voters of the State at the next general election to be held in November 2016 for
17 their adoption or rejection pursuant to Article XIV of the Maryland Constitution. At that
18 general election, the vote on this proposed amendment to the Constitution shall be by
19 ballot, and upon each ballot there shall be printed the words "For the Constitutional
20 Amendment" and "Against the Constitutional Amendment," as now provided by law.
21 Immediately after the election, all returns shall be made to the Governor of the vote for and
22 against the proposed amendment, as directed by Article XIV of the Maryland Constitution,
23 and further proceedings had in accordance with Article XIV.