

HOUSE BILL 579

D1 CONSTITUTIONAL AMENDMENT
HB 388/16 – JUD & W&M

7lr2218

By: **Delegates Hill, Atterbeary, Dumais, Frush, C. Howard, Kramer, Lam, Sydnor, Turner, and M. Washington**

Introduced and read first time: January 30, 2017

Assigned to: Judiciary and Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Circuit Court Judges – Election, Qualifications, and Term of Office**

3 FOR the purpose of proposing an amendment 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; altering the
7 term of office of circuit court judges; altering certain qualifications for appointment
8 of circuit court judges; providing for a transitional period during which the terms of
9 certain amendments are effective; repealing certain obsolete provisions; making
10 stylistic changes; generally relating to the selection, election, appointment,
11 qualifications, tenure, and term of office for judges of the circuit courts; and
12 submitting this amendment to the qualified voters of the State for their adoption or
13 rejection.

14 BY proposing an amendment to the Maryland Constitution
15 Article IV – Judiciary Department
16 Section 2, 3, 5A, 11, and 21(a)

17 BY proposing a repeal of the Maryland Constitution
18 Article IV – Judiciary Department
19 Section 5; 18B and the part “Part IIA – Interim Provisions”; and 21A

20 BY proposing an addition to the Maryland Constitution
21 Article XVIII – Provisions of Limited Duration
22 Section 6

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article IV – Judiciary Department**

2 2.

3 The Judges of all of the said Courts shall be citizens of the State of Maryland, and
4 qualified voters under this Constitution, and shall have resided therein not less than five
5 years, and not less than six months next preceding their [election, or] appointment[, as the
6 case may be,] in the city, county, district, judicial circuit, intermediate appellate judicial
7 circuit or appellate judicial circuit for which they may be[, respectively, elected or]
8 appointed. They shall be not less than thirty years of age at the time of their [election or]
9 appointment, and shall be selected from those who have been admitted to practice law in
10 this State, and who are most distinguished for integrity, wisdom and sound legal
11 knowledge.

12 3.

13 [Except for the Judges of the District Court, the Judges of the several Courts other
14 than the Court of Appeals or any intermediate courts of appeal shall, subject to the
15 provisions of Section 5 of this Article of the Constitution, be elected in Baltimore City and
16 in each county, by the qualified voters of the city and of each county, respectively, all of the
17 said Judges to be elected at the general election to be held on the Tuesday after the first
18 Monday in November, as now provided for in the Constitution. Each of the said Judges
19 shall hold his office for the term of fifteen years from the time of his election, and until his
20 successor is elected and qualified, or until he shall have attained the age of seventy years,
21 whichever may first happen, and be reeligible thereto until he shall have attained the age
22 of seventy years, and not after.] In case of the inability of any [of said Judges] **CIRCUIT**
23 **COURT JUDGE** to discharge [his] **THE JUDGE’S** duties with efficiency, by reason of
24 continued sickness, or of physical or mental infirmity, it shall be in the power of the General
25 Assembly, two-thirds of the members of each House concurring, with the approval of the
26 Governor to retire said Judge from office.

27 [5.

28 Upon every occurrence or recurrence of a vacancy through death, resignation,
29 removal, disqualification by reason of age or otherwise, or expiration of the term of fifteen
30 years of any judge of a circuit court, or creation of the office of any such judge, or in any
31 other way, the Governor shall appoint a person duly qualified to fill said office, who shall
32 hold the same until the election and qualification of his successor. His successor shall be
33 elected at the first biennial general election for Representatives in Congress after the
34 expiration of the term of fifteen years (if the vacancy occurred in that way) or the first such
35 general election after one year after the occurrence of the vacancy in any other way than
36 through expiration of such term. Except in case of reappointment of a judge upon expiration
37 of his term of fifteen years, no person shall be appointed who will become disqualified by
38 reason of age and thereby unable to continue to hold office until the prescribed time when
39 his successor would have been elected.]

1 [5A.] 5.

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

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

10 (c) The continuance in office of a judge of the Court of Appeals, **FOLLOWING AN**
11 **APPOINTMENT TO FILL A VACANCY**, is subject to approval or rejection by the registered
12 voters of the appellate judicial circuit from which [he] **THE JUDGE** was appointed at the
13 next general election following the expiration of [one] **1** year from the date of the occurrence
14 of the vacancy which [he] **THE JUDGE** was appointed to fill, and at the general election
15 next occurring every [ten] **10** years thereafter.

16 (d) The continuance in office of a judge of the Court of Special Appeals,
17 **FOLLOWING AN APPOINTMENT TO FILL A VACANCY**, is subject to approval or rejection
18 by the registered voters of the geographical area prescribed by law at the next general
19 election following the expiration of [one] **1** year from the date of the occurrence of the
20 vacancy which [he] **THE JUDGE** was appointed to fill, and at the general election next
21 occurring every [ten] **10** years thereafter.

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

29 **[(e)] (F)** The approval or rejection by the registered voters of a judge as provided
30 for in subsections (c) [and], (d), **AND (E) OF THIS SECTION** shall be a vote for the judge's
31 retention in office for a term of [ten] **10** years or [his] **THE JUDGE'S** removal. The judge's
32 name shall be on the appropriate ballot, without opposition, and the voters shall vote yes
33 or no for [his] **THE JUDGE'S** retention in office. If the voters reject the retention in office of
34 a judge, or if the vote is tied, the office becomes vacant [ten] **10** days after certification of
35 the election returns.

36 **[(f)] (G)** An appellate **OR A CIRCUIT** court judge shall retire when [he] **THE**
37 **JUDGE** attains [his seventieth birthday] **THE AGE OF 70 YEARS.**

1 CITY AND each county and circuit. These judges shall be selected in accordance with
2 [Sections 3 and 5] PART II of this Article.

3 [21A.

4 If the amendments to sections 3 and 21 of Article IV proposed by House Bill 972,
5 Senate Bill 390 (1976) and the amendments to those sections proposed by House Bill 1048
6 (1976) are ratified by the voters at the election in November 1976, the amendments to those
7 sections proposed in House Bill 972, Senate Bill 390 (1976) shall take effect.]

8 Article XVIII – Provisions of Limited Duration

9 6.

10 (A) FOR THE PURPOSE OF IMPLEMENTING THE AMENDMENTS TO ARTICLE
11 IV OF THE MARYLAND CONSTITUTION PROPOSED BY HOUSE BILL ____ OF 2017
12 (7LR2218) CONCERNING JUDGES OF THE CIRCUIT COURTS, THE FOLLOWING
13 PROVISIONS SHALL GOVERN. IN ACCORDANCE WITH ARTICLE XIV, SECTION 1A OF
14 THE MARYLAND CONSTITUTION, THIS SECTION SHALL EXPIRE WHEN ALL THE
15 JUDGES OF THE CIRCUIT COURTS HAVE COMPLETED ALL THE TERMS FOR WHICH
16 THE JUDGES ARE RETAINED IN OFFICE UNDER SUBSECTIONS (B) AND (C) OF THIS
17 SECTION OR HAVE VACATED THEIR OFFICES FOR ANY REASON.

18 (B) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE FOR AN ELECTED
19 TERM ON THE EFFECTIVE DATE OF THESE AMENDMENTS, UNLESS THE JUDGE DIES,
20 RESIGNS, RETIRES, OR IS OTHERWISE LAWFULLY REMOVED, SHALL CONTINUE IN
21 OFFICE UNTIL THE NEXT GENERAL ELECTION AFTER THE END OF THE ELECTED
22 TERM OR UNTIL THE JUDGE ATTAINS THE AGE OF 70 YEARS, WHICHEVER OCCURS
23 FIRST. CONTINUANCE OF THE JUDGE IN OFFICE IS THEN SUBJECT TO THE
24 PROVISIONS OF ARTICLE IV, SECTION 5 OF THE MARYLAND CONSTITUTION, BUT IN
25 NO EVENT SHALL ANY JUDGE CONTINUE IN OFFICE AFTER ATTAINING THE AGE OF
26 70 YEARS.

27 (C) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE ON THE EFFECTIVE
28 DATE OF THESE AMENDMENTS, BUT WHO HAS NOT BEEN ELECTED TO THAT OFFICE
29 BY THE VOTERS, SHALL, WITHIN 15 DAYS AFTER THE EFFECTIVE DATE OF THESE
30 AMENDMENTS, BE REAPPOINTED TO THAT OFFICE. CONTINUANCE OF THE JUDGE IN
31 OFFICE IS THEN SUBJECT TO THE PROVISIONS OF ARTICLE IV, SECTION 5 OF THE
32 MARYLAND CONSTITUTION, BUT IN NO EVENT SHALL ANY JUDGE CONTINUE IN
33 OFFICE AFTER ATTAINING THE AGE OF 70 YEARS.

34 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
35 determines that the amendment to the Maryland Constitution proposed by this Act affects

1 multiple jurisdictions and that the provisions of Article XIV, § 1 of the Maryland
2 Constitution concerning local approval of constitutional amendments do not apply.

3 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
4 proposed as an amendment to the Maryland Constitution shall be submitted to the
5 qualified voters of the State at the next general election to be held in November 2018 for
6 their adoption or rejection pursuant to Article XIV of the Maryland Constitution. At that
7 general election, the vote on this proposed amendment to the Constitution shall be by
8 ballot, and upon each ballot there shall be printed the words “For the Constitutional
9 Amendment” and “Against the Constitutional Amendment,” as now provided by law.
10 Immediately after the election, all returns shall be made to the Governor of the vote for and
11 against the proposed amendment, as directed by Article XIV of the Maryland Constitution,
12 and further proceedings had in accordance with Article XIV.