

# HOUSE BILL 734

P5

CONSTITUTIONAL AMENDMENT

4lr1304

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By: **Delegate Dwyer**

Introduced and read first time: January 31, 2014

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **General Assembly – Removal of Members – Incarceration**

3 FOR the purpose of requiring that a member of the General Assembly who is found guilty  
4 of any crime for which the member is sentenced to serve a period of incarceration in  
5 any penal institution during the member's term of office be suspended and, under  
6 certain circumstances, removed from office by operation of law; requiring that a  
7 member of the General Assembly who enters a certain plea relating to any crime  
8 for which the member is sentenced to serve a period of incarceration in any penal  
9 institution during the member's term of office be removed from office by operation  
10 of law; and submitting this amendment to the qualified voters of the State for  
11 their adoption or rejection.

12 BY proposing an amendment to the Maryland Constitution  
13 Article XV – Miscellaneous  
14 Section 2

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

18 **Article XV – Miscellaneous**

19 2.

20 Any elected official of the State, or of a county or of a municipal corporation who  
21 during the elected official's term of office is found guilty of any crime which is a felony,  
22 or which is a misdemeanor related to the elected official's public duties and  
23 responsibilities and involves moral turpitude for which the penalty may be  
24 incarceration in any penal institution, **OR A MEMBER OF THE GENERAL ASSEMBLY**  
25 **WHO IS FOUND GUILTY OF ANY CRIME FOR WHICH THE MEMBER IS SENTENCED**  
26 **TO SERVE A PERIOD OF INCARCERATION IN ANY PENAL INSTITUTION DURING**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **THE MEMBER'S TERM OF OFFICE** shall be suspended by operation of law without pay  
2 or benefits from the elective office. During and for the period of suspension of the  
3 elected official, the appropriate governing body and/or official authorized by law to fill  
4 any vacancy in the elective office shall appoint a person to temporarily fill the elective  
5 office, provided that if the elective office is one for which automatic succession is  
6 provided by law, then in such event the person entitled to succeed to the office shall  
7 temporarily fill the elective office. If the finding of guilt becomes a final conviction,  
8 after judicial review or otherwise, such elected official shall be removed from the  
9 elective office by operation of Law and the office shall be deemed vacant. If the finding  
10 of guilt of the elected official is reversed or overturned, the elected official shall be  
11 reinstated by operation of Law to the elective office for the remainder, if any, of the  
12 elective term of office during which the elected official was so suspended or removed,  
13 and all pay and benefits shall be restored. Any elected official of the State, or of a  
14 county or of a municipal corporation who during the elected official's term of office  
15 enters a guilty plea or a plea of nolo contendere to any crime which is a felony, or  
16 which is a misdemeanor related to the elected official's public duties and  
17 responsibilities and involves moral turpitude for which the penalty may be  
18 incarceration in any penal institution, **OR A MEMBER OF THE GENERAL ASSEMBLY**  
19 **WHO ENTERS A GUILTY PLEA OR A PLEA OF NOLO CONTENDERE TO ANY CRIME**  
20 **FOR WHICH THE MEMBER IS SENTENCED TO SERVE A PERIOD OF**  
21 **INCARCERATION IN ANY PENAL INSTITUTION DURING THE MEMBER'S TERM OF**  
22 **OFFICE** shall be removed from the elective office by operation of Law and the office  
23 shall be deemed vacant.

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

29 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section  
30 proposed as an amendment to the Maryland Constitution shall be submitted to the  
31 qualified voters of the State at the next general election to be held in November 2014  
32 for their adoption or rejection pursuant to Article XIV of the Maryland Constitution.  
33 At that general election, the vote on this proposed amendment to the Constitution  
34 shall be by ballot, and upon each ballot there shall be printed the words "For the  
35 Constitutional Amendment" and "Against the Constitutional Amendment," as now  
36 provided by law. Immediately after the election, all returns shall be made to the  
37 Governor of the vote for and against the proposed amendment, as directed by Article  
38 XIV of the Maryland Constitution, and further proceedings had in accordance with  
39 Article XIV.