

HOUSE BILL 223

D1

CONSTITUTIONAL AMENDMENT

6lr1483

By: **Delegates West and Barron**

Introduced and read first time: January 22, 2016

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Circuit Court Judges – Election**

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; requiring Senate confirmation of individuals
6 appointed by the Governor to the office of a judge of a circuit court; providing for
7 contested elections following an appointment to fill a vacancy in the office of a judge
8 of a circuit court under certain circumstances; providing for a transitional period
9 under which the terms of certain amendments are to become effective; making
10 stylistic changes; generally relating to the selection, election, appointment, and
11 tenure of judges of the circuit courts; and submitting this amendment to the qualified
12 voters of the State for their adoption or rejection.

13 BY proposing a repeal of the Maryland Constitution
14 Article IV – Judiciary Department
15 Section 3 and 5

16 BY proposing an addition to the Maryland Constitution
17 Article IV – Judiciary Department
18 Section 3 and 5

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

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

25 **Article IV – Judiciary Department**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 [3.

2 Except for the Judges of the District Court, the Judges of the several Courts other
3 than the Court of Appeals or any intermediate courts of appeal shall, subject to the
4 provisions of Section 5 of this Article of the Constitution, be elected in Baltimore City and
5 in each county, by the qualified voters of the city and of each county, respectively, all of the
6 said Judges to be elected at the general election to be held on the Tuesday after the first
7 Monday in November, as now provided for in the Constitution. Each of the said Judges
8 shall hold his office for the term of fifteen years from the time of his election, and until his
9 successor is elected and qualified, or until he shall have attained the age of seventy years,
10 whichever may first happen, and be reeligible thereto until he shall have attained the age
11 of seventy years, and not after. In case of the inability of any of said Judges to discharge
12 his duties with efficiency, by reason of continued sickness, or of physical or mental
13 infirmity, it shall be in the power of the General Assembly, two-thirds of the members of
14 each House concurring, with the approval of the Governor to retire said Judge from office.]

15 **3.**

16 **(A) ON THE OCCURRENCE OF A VACANCY IN THE OFFICE OF A JUDGE OF A**
17 **CIRCUIT COURT, WHETHER BY DEATH, RESIGNATION, REMOVAL, RETIREMENT,**
18 **DISQUALIFICATION BY REASON OF AGE, REJECTION BY THE VOTERS OF AN**
19 **INCUMBENT, THE CREATION OF THE OFFICE OF A JUDGE, OR OTHERWISE, THE**
20 **GOVERNOR, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, SHALL**
21 **APPOINT AN INDIVIDUAL WHO IS QUALIFIED TO FILL THE OFFICE.**

22 **(B) CONFIRMATION BY THE SENATE SHALL BE MADE ON A MAJORITY VOTE**
23 **OF ALL MEMBERS OF THE SENATE.**

24 **(C) (1) A CIRCUIT COURT JUDGE APPOINTED BY THE GOVERNOR AND**
25 **CONFIRMED BY THE SENATE MAY TAKE OFFICE BY TAKING THE PRESCRIBED OATH**
26 **OF OFFICE WITHIN 30 DAYS AFTER CONFIRMATION.**

27 **(2) IF A CIRCUIT COURT JUDGE APPOINTED BY THE GOVERNOR AND**
28 **CONFIRMED BY THE SENATE FAILS TO TAKE OFFICE WITHIN 30 DAYS AFTER**
29 **CONFIRMATION, THE OFFICE SHALL BE DEEMED VACANT.**

30 **(D) (1) IF A CIRCUIT COURT JUDGE WHO WAS CONFIRMED BY THE**
31 **SENATE BY A VOTE OF AT LEAST A MAJORITY BUT LESS THAN 80% OF ALL MEMBERS**
32 **OF THE SENATE TAKES OFFICE FOLLOWING CONFIRMATION BY THE SENATE, THE**
33 **CONTINUANCE IN OFFICE OF THE JUDGE IS SUBJECT TO APPROVAL OR REJECTION**
34 **BY THE REGISTERED VOTERS OF THE CITY OR COUNTY FROM WHICH THE JUDGE WAS**
35 **APPOINTED AT THE NEXT GENERAL ELECTION FOLLOWING THE EXPIRATION OF 1**
36 **YEAR FROM THE DATE THAT THE JUDGE TOOK OFFICE.**

1 **(2) THE APPROVAL OR REJECTION OF THE JUDGE BY THE**
2 **REGISTERED VOTERS SHALL BE BY CONTESTED ELECTION IN WHICH OTHER**
3 **CANDIDATES WHO ARE QUALIFIED FOR THE OFFICE OF CIRCUIT COURT JUDGE MAY**
4 **FILE AS CANDIDATES.**

5 **(3) IF THE JUDGE FAILS TO WIN ELECTION IN THE GENERAL**
6 **ELECTION, THE OFFICE BECOMES VACANT 10 DAYS AFTER CERTIFICATION OF THE**
7 **ELECTION RETURNS.**

8 **(4) IF THE JUDGE WINS ELECTION IN THE GENERAL ELECTION, THE**
9 **JUDGE SHALL SERVE FOR A TERM OF 15 YEARS FROM THE DATE THAT THE JUDGE**
10 **TOOK OFFICE AND UNTIL THE JUDGE'S SUCCESSOR IS APPOINTED OR ELECTED, AS**
11 **APPLICABLE, AND QUALIFIED, OR UNTIL THE JUDGE ATTAINS THE AGE OF 70 YEARS,**
12 **WHICHEVER OCCURS FIRST.**

13 **(E) A CIRCUIT COURT JUDGE SHALL BE ELIGIBLE FOR REAPPOINTMENT**
14 **UNTIL THE JUDGE ATTAINS THE AGE OF 70 YEARS.**

15 **[5.**

16 Upon every occurrence or recurrence of a vacancy through death, resignation,
17 removal, disqualification by reason of age or otherwise, or expiration of the term of fifteen
18 years of any judge of a circuit court, or creation of the office of any such judge, or in any
19 other way, the Governor shall appoint a person duly qualified to fill said office, who shall
20 hold the same until the election and qualification of his successor. His successor shall be
21 elected at the first biennial general election for Representatives in Congress after the
22 expiration of the term of fifteen years (if the vacancy occurred in that way) or the first such
23 general election after one year after the occurrence of the vacancy in any other way than
24 through expiration of such term. Except in case of reappointment of a judge upon expiration
25 of his term of fifteen years, no person shall be appointed who will become disqualified by
26 reason of age and thereby unable to continue to hold office until the prescribed time when
27 his successor would have been elected.]

28 **5.**

29 **IN CASE OF THE INABILITY OF ANY CIRCUIT COURT JUDGE TO DISCHARGE THE**
30 **JUDGE'S DUTIES WITH EFFICIENCY, BY REASON OF CONTINUED SICKNESS, OR OF**
31 **PHYSICAL OR MENTAL INFIRMITY, IT SHALL BE IN THE POWER OF THE GENERAL**
32 **ASSEMBLY, TWO-THIRDS OF THE MEMBERS OF EACH HOUSE CONCURRING, WITH**
33 **THE APPROVAL OF THE GOVERNOR TO RETIRE THE JUDGE FROM OFFICE.**

34 **Article XVIII – Provisions of Limited Duration**

35 **6.**

1 **(A) FOR THE PURPOSE OF IMPLEMENTING THE AMENDMENTS TO ARTICLE**
2 **IV OF THE MARYLAND CONSTITUTION PROPOSED BY HOUSE BILL ____ OF 2016**
3 **(6LR1483) CONCERNING THE SELECTION AND TENURE OF CIRCUIT COURT JUDGES,**
4 **THE FOLLOWING PROVISIONS SHALL GOVERN. IN ACCORDANCE WITH ARTICLE XIV,**
5 **SECTION 1A OF THE MARYLAND CONSTITUTION, THIS SECTION SHALL EXPIRE**
6 **WHEN ALL OF THE JUDGES OF THE CIRCUIT COURTS HAVE COMPLETED ALL OF THE**
7 **TERMS FOR WHICH THE JUDGES ARE RETAINED IN OFFICE UNDER SUBSECTIONS (B)**
8 **AND (C) OF THIS SECTION OR HAVE VACATED THEIR OFFICES FOR ANY REASON.**

9 **(B) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE FOR AN ELECTED**
10 **TERM ON THE EFFECTIVE DATE OF THESE AMENDMENTS, UNLESS THE JUDGE DIES,**
11 **RESIGNS, RETIRES, OR IS OTHERWISE LAWFULLY REMOVED, SHALL CONTINUE IN**
12 **OFFICE UNTIL THE JUDGE'S SUCCESSOR IS APPOINTED OR ELECTED, AS**
13 **APPLICABLE, AND QUALIFIED OR UNTIL THE JUDGE ATTAINS THE AGE OF 70 YEARS,**
14 **WHICHEVER OCCURS FIRST. CONTINUANCE OF THE JUDGE IN OFFICE IS THEN**
15 **SUBJECT TO THE PROVISIONS OF ARTICLE IV, SECTION 3 OF THE MARYLAND**
16 **CONSTITUTION, BUT IN NO EVENT SHALL ANY JUDGE CONTINUE IN OFFICE AFTER**
17 **ATTAINING THE AGE OF 70 YEARS.**

18 **(C) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE ON THE EFFECTIVE**
19 **DATE OF THESE AMENDMENTS, BUT WHO HAS NOT BEEN ELECTED TO THAT OFFICE**
20 **BY THE VOTERS, SHALL CONTINUE TO BE GOVERNED BY ARTICLE IV, SECTIONS 3**
21 **AND 5 OF THE MARYLAND CONSTITUTION, AS IN IN EFFECT BEFORE THE**
22 **RATIFICATION OF THE AMENDMENTS TO ARTICLE IV OF THE MARYLAND**
23 **CONSTITUTION PROPOSED BY HOUSE BILL ____ OF 2016 (6LR1483). IF THE JUDGE**
24 **IS ELECTED TO THE OFFICE, THE JUDGE SHALL CONTINUE IN OFFICE UNTIL THE**
25 **JUDGE'S SUCCESSOR IS APPOINTED OR ELECTED, AS APPLICABLE, AND QUALIFIED**
26 **OR UNTIL THE JUDGE ATTAINS THE AGE OF 70 YEARS, WHICHEVER OCCURS FIRST.**
27 **CONTINUANCE OF THE JUDGE IN OFFICE AT THE END OF THE ELECTED TERM IS**
28 **THEN SUBJECT TO THE PROVISIONS OF ARTICLE IV, SECTION 3 OF THE MARYLAND**
29 **CONSTITUTION, BUT IN NO EVENT SHALL ANY JUDGE CONTINUE IN OFFICE AFTER**
30 **ATTAINING THE AGE OF 70 YEARS.**

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

35 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
36 proposed as an amendment to the Maryland Constitution shall be submitted to the
37 qualified voters of the State at the next general election to be held in November 2016 for
38 their adoption or rejection pursuant to Article XIV of the Maryland Constitution. At that
39 general election, the vote on this proposed amendment to the Constitution shall be by

1 ballot, and upon each ballot there shall be printed the words “For the Constitutional
2 Amendment” and “Against the Constitutional Amendment,” as now provided by law.
3 Immediately after the election, all returns shall be made to the Governor of the vote for and
4 against the proposed amendment, as directed by Article XIV of the Maryland Constitution,
5 and further proceedings had in accordance with Article XIV.