

HOUSE BILL 448

D1
HB 582/15 – JUD

CONSTITUTIONAL AMENDMENT

6lr1071
CF SB 179

By: **Delegates Sydnor, D. Barnes, Barron, Bromwell, Brooks, Dumais, Ebersole, Fennell, Hill, Jackson, Jones, Knotts, Luedtke, Moon, Morales, Patterson, Pena–Melnyk, Platt, Reznik, B. Robinson, Sample–Hughes, Sanchez, Smith, Stein, Tarlau, C. Wilson, and P. Young**

Introduced and read first time: January 29, 2016

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Circuit Court Judges – Selection, 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; repealing provisions relating to election
5 of circuit court judges; requiring the Governor, by and with the advice and consent
6 of the Senate, to appoint a qualified person to fill a vacancy in the office of a judge of
7 the circuit court; requiring certain hearings, deliberation, and debate on the
8 confirmation of certain appointees to be public; providing that a judge of the circuit
9 court shall cease to hold office if not confirmed by a certain time; altering the term
10 of office of circuit court judges; requiring the Governor to reappoint a circuit court
11 judge, by and with the advice and consent of the Senate, upon the expiration of the
12 judge’s term; requiring a certain judicial nominating commission or body to reflect a
13 certain demographic diversity; providing for a transitional period during which the
14 terms of certain amendments are effective; repealing certain obsolete provisions;
15 making stylistic changes; generally relating to the selection, election, appointment,
16 qualification, tenure, and term of office for judges of the circuit courts; and
17 submitting this amendment to the qualified voters of the State for their adoption or
18 rejection.

19 BY proposing an amendment to the Maryland Constitution

20 Article IV – Judiciary Department

21 Section 2 and 3

22 BY proposing a repeal of the Maryland Constitution

23 Article IV – Judiciary Department

24 Section 5; 18B and the part “Part IIA – Interim Provisions”; and 21A

25 BY proposing an addition to the Maryland Constitution

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article IV – Judiciary Department
2 Section 5 and 5B

3 BY proposing an addition to the Maryland Constitution
4 Article XVIII – Provisions of Limited Duration
5 Section 6

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

9 **Article IV – Judiciary Department**

10 2.

11 The Judges of all of the said Courts shall be citizens of the State of Maryland, and
12 qualified voters under this Constitution, and shall have resided therein not less than [five]
13 5 years, and not less than [six] 6 months next preceding their [election, or] appointment[,
14 as the case may be,] in the city, county, district, judicial circuit, intermediate appellate
15 judicial circuit or appellate judicial circuit for which they may be[, respectively, elected or]
16 appointed. They shall be not less than [thirty] 30 years of age at the time of their [election
17 or] appointment, and shall be selected from those who have been admitted to practice law
18 in this State, and who are most distinguished for integrity, wisdom and sound legal
19 knowledge.

20 3.

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

35 [5.

36 Upon every occurrence or recurrence of a vacancy through death, resignation,
37 removal, disqualification by reason of age or otherwise, or expiration of the term of fifteen

1 years of any judge of a circuit court, or creation of the office of any such judge, or in any
2 other way, the Governor shall appoint a person duly qualified to fill said office, who shall
3 hold the same until the election and qualification of his successor. His successor shall be
4 elected at the first biennial general election for Representatives in Congress after the
5 expiration of the term of fifteen years (if the vacancy occurred in that way) or the first such
6 general election after one year after the occurrence of the vacancy in any other way than
7 through expiration of such term. Except in case of reappointment of a judge upon expiration
8 of his term of fifteen years, no person shall be appointed who will become disqualified by
9 reason of age and thereby unable to continue to hold office until the prescribed time when
10 his successor would have been elected.]

11 **5.**

12 (A) UPON OCCURRENCE OF A VACANCY IN THE OFFICE OF A JUDGE OF A
13 CIRCUIT COURT, THE GOVERNOR, BY AND WITH THE ADVICE AND CONSENT OF THE
14 SENATE, SHALL APPOINT AN INDIVIDUAL WHO IS QUALIFIED TO FILL THE OFFICE.

15 (B) ALL HEARINGS, DELIBERATIONS, AND DEBATE ON THE CONFIRMATION
16 OF AN APPOINTEE OF THE GOVERNOR UNDER THIS SECTION SHALL BE PUBLIC, AND
17 THE SENATE OR ANY COMMITTEE OR SUBCOMMITTEE OF THE SENATE MAY NOT
18 CONDUCT HEARINGS, DELIBERATIONS, OR DEBATE ON A CONFIRMATION IN SECRET
19 OR EXECUTIVE SESSION.

20 (C) CONFIRMATION BY THE SENATE SHALL BE MADE UPON A MAJORITY
21 VOTE OF ALL MEMBERS OF THE SENATE.

22 (D) A CIRCUIT COURT JUDGE APPOINTED BY THE GOVERNOR MAY TAKE
23 OFFICE UPON QUALIFICATION AND BEFORE CONFIRMATION BY THE SENATE, BUT
24 SHALL CEASE TO HOLD OFFICE AT THE CLOSE OF THE REGULAR ANNUAL SESSION
25 OF THE GENERAL ASSEMBLY NEXT FOLLOWING THE JUDGE'S APPOINTMENT OR
26 DURING WHICH THE JUDGE IS APPOINTED BY THE GOVERNOR, IF THE SENATE DOES
27 NOT CONFIRM THE APPOINTMENT BEFORE THEN.

28 (E) EACH CIRCUIT COURT JUDGE APPOINTED BY THE GOVERNOR AND
29 CONFIRMED BY THE SENATE SHALL HOLD THE OFFICE FOR A TERM OF 10 YEARS OR
30 UNTIL THE JUDGE ATTAINS THE AGE OF 70 YEARS, WHICHEVER OCCURS FIRST.

31 (F) IF THE 10-YEAR TERM OF A JUDGE EXPIRES BEFORE THAT JUDGE HAS
32 ATTAINED THE AGE OF 70 YEARS, THAT JUDGE SHALL BE REAPPOINTED BY THE
33 GOVERNOR, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, FOR
34 ANOTHER 10-YEAR TERM OR UNTIL THE JUDGE ATTAINS THE AGE OF 70 YEARS,
35 WHICHEVER OCCURS FIRST.

36 **5B.**

1 IF THE GOVERNOR APPOINTS A JUDICIAL NOMINATING COMMISSION OR
2 SIMILAR BODY TO PROPOSE NOMINEES FOR APPOINTMENT TO A COURT, THE
3 COMMISSION OR BODY SHALL REFLECT THE DEMOGRAPHIC DIVERSITY OF THE
4 STATE OR THE JUDICIAL CIRCUIT FOR WHICH THE COMMISSION OR BODY IS
5 CHARGED WITH PROPOSING NOMINEES.

6 [Part IIA – Interim Provisions]

7 [18B.

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

10 (b) Each judge of an appellate court who is in office for an elected term on the
11 effective date of these amendments, unless he dies, resigns, retires, or is otherwise lawfully
12 removed, shall continue in office until the general election next after the end of his elected
13 term, or until his seventieth birthday, whichever first occurs. His continuance in office is
14 then subject to the provisions of section 5A(c) and (d) of this article, applicable to judges of
15 that court, but in no event shall any judge continue in office after his seventieth birthday.

16 (c) Each judge of a court specified in subsection (b) who is in office on the effective
17 date of these amendments, but who has not been elected to that office by the voters, shall,
18 within fifteen days after the effective date of these amendments, be reappointed to that
19 office. His continuance in office is then subject to the provisions of section 5A(c) and (d) of
20 this article, applicable to judges of that court, but in no event shall any judge continue in
21 office after his seventieth birthday.]

22 [21A.

23 If the amendments to sections 3 and 21 of Article IV proposed by House Bill 972,
24 Senate Bill 390 (1976) and the amendments to those sections proposed by House Bill 1048
25 (1976) are ratified by the voters at the election in November 1976, the amendments to those
26 sections proposed in House Bill 972, Senate Bill 390 (1976) shall take effect.]

27 Article XVIII – Provisions of Limited Duration

28 6.

29 (A) FOR THE PURPOSE OF IMPLEMENTING THE AMENDMENTS TO ARTICLE
30 IV OF THE MARYLAND CONSTITUTION PROPOSED BY HOUSE BILL ___ (LR 1071) OF
31 2016 CONCERNING JUDGES OF THE CIRCUIT COURTS, THE FOLLOWING PROVISIONS
32 SHALL GOVERN. IN ACCORDANCE WITH ARTICLE XIV, SECTION 1A OF THE
33 MARYLAND CONSTITUTION, THIS SECTION SHALL EXPIRE WHEN ALL OF THE
34 JUDGES OF THE CIRCUIT COURTS HAVE COMPLETED ALL OF THE TERMS FOR WHICH

1 THE JUDGES ARE REAPPOINTED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION
2 OR HAVE VACATED THEIR OFFICES FOR ANY REASON.

3 (B) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE FOR AN ELECTED
4 TERM ON THE EFFECTIVE DATE OF THESE AMENDMENTS, UNLESS THE JUDGE DIES,
5 RESIGNS, RETIRES, OR IS OTHERWISE LAWFULLY REMOVED, SHALL CONTINUE IN
6 OFFICE UNTIL THE END OF THE ELECTED TERM OR UNTIL THE JUDGE ATTAINS THE
7 AGE OF 70 YEARS, WHICHEVER OCCURS FIRST. CONTINUANCE OF THE JUDGE IN
8 OFFICE IS THEN SUBJECT TO THE PROVISIONS OF ARTICLE IV, SECTION 5 OF THE
9 MARYLAND CONSTITUTION, BUT IN NO EVENT SHALL ANY JUDGE CONTINUE IN
10 OFFICE AFTER ATTAINING THE AGE OF 70 YEARS.

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

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

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