

# SENATE BILL 502

D1  
SB 847/15 – JPR

CONSTITUTIONAL AMENDMENT

6lr1388  
CF HB 481

---

By: **Senators Miller, Bates, Benson, Conway, Currie, DeGrange, Eckardt, Edwards, Guzzone, Jennings, Kagan, King, Klausmeier, Lee, Madaleno, Manno, Mathias, Middleton, Norman, Peters, Pinsky, Pugh, Ramirez, Salling, Serafini, Waugh, and Zirkin**

Introduced and read first time: February 3, 2016

Assigned to: Judicial Proceedings

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Judges – Mandatory Retirement Age**

3 FOR the purpose of proposing amendments to the Maryland Constitution altering the  
4 mandatory retirement age for certain judges under certain circumstances; repealing  
5 certain obsolete provisions; making certain technical corrections; making certain  
6 stylistic changes; proposing an addition to the Maryland Constitution to provide for  
7 the application of certain amendments to the Maryland Constitution; and submitting  
8 this amendment to the qualified voters of the State for their adoption or rejection.

9 BY proposing an amendment to the Maryland Constitution  
10 Article IV – Judiciary Department  
11 Section 3, 3A, 5A(c) through (g), and 41D

12 BY proposing a repeal of the Maryland Constitution  
13 Article IV – Judiciary Department  
14 Section 18B

15 BY proposing an addition to the Maryland Constitution  
16 Article IV – Judiciary Department  
17 Section 18B

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

21 **Article IV – Judiciary Department**

22 3.

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (A) Except for the Judges of the District Court, the Judges of the several Courts  
2 other than the Court of Appeals or any intermediate courts of appeal shall, subject to the  
3 provisions of Section 5 of this Article of the Constitution, be elected in Baltimore City and  
4 in each county, by the qualified voters of the city and of each county, respectively, all of the  
5 said Judges to be elected at the general election to be held on the Tuesday after the first  
6 Monday in November, as now provided for in the Constitution.

7           (B) Each of the said Judges shall hold [his] **THE** office for the term of fifteen years  
8 from the time of [his] **THE JUDGE'S** election, and until [his] **THE JUDGE'S** successor is  
9 elected and qualified, or until [he] **THE JUDGE** shall have attained the age of [seventy]  
10 **SEVENTY-THREE** years, whichever may first happen, and be reeligible thereto until [he]  
11 **THE JUDGE** shall have attained the age of [seventy] **SEVENTY-THREE** years, and not  
12 after.

13           (C) In case of the inability of any of said Judges to discharge [his] **THE JUDGE'S**  
14 duties with efficiency, by reason of continued sickness, or of physical or mental infirmity,  
15 it shall be in the power of the General Assembly, two-thirds of the members of each House  
16 concurring, with the approval of the Governor to retire said Judge from office.

17 3A.

18           (a) (1) Except as provided in paragraph (2) of this subsection, any former  
19 judge, except a former judge of the Orphans' Court, may be assigned by the Chief Judge of  
20 the Court of Appeals, upon approval of a majority of the court, to sit temporarily in any  
21 court of this State, except an Orphans' Court, as provided by law.

22           (2) (i) A retired judge of the Circuit Court for Montgomery County that  
23 sits as the Orphans' Court for Montgomery County may be assigned by the Chief Judge of  
24 the Court of Appeals, upon approval of a majority of the Court of Appeals, to do an act that  
25 a judge of the Orphans' Court for Montgomery County is authorized to perform.

26           (ii) A retired judge of the Circuit Court for Harford County that sits  
27 as the Orphans' Court for Harford County may be assigned by the Chief Judge of the Court  
28 of Appeals, upon approval of a majority of the Court of Appeals, to do an act that a judge of  
29 the Orphans' Court for Harford County is authorized to perform.

30           (b) The provisions of this section apply, notwithstanding provisions appearing  
31 elsewhere in this Article pertaining to retirement of judges upon attaining age [70] **73**.

32 5A.

33           (c) The continuance in office of a judge of the Court of Appeals is subject to  
34 approval or rejection by the registered voters of the appellate judicial circuit from which  
35 [he] **THE JUDGE** was appointed at the next general election following the expiration of one

1 year from the date of the occurrence of the vacancy which [he] **THE JUDGE** was appointed  
2 to fill, and at the general election next occurring every ten years thereafter.

3 (d) The continuance in office of a judge of the Court of Special Appeals is subject  
4 to approval or rejection by the registered voters of the geographical area prescribed by law  
5 at the next general election following the expiration of one year from the date of the  
6 occurrence of the vacancy which [he] **THE JUDGE** was appointed to fill, and at the general  
7 election next occurring every ten years thereafter.

8 (e) The approval or rejection by the registered voters of a judge as provided for in  
9 subsections (c) and (d) shall be a vote for the judge's retention in office for a term of ten  
10 years or [his] **THE JUDGE'S** removal. The judge's name shall be on the appropriate ballot,  
11 without opposition, and the voters shall vote yes or no for [his] **THE JUDGE'S** retention in  
12 office. If the voters reject the retention in office of a judge, or if the vote is tied, the office  
13 becomes vacant ten days after certification of the election returns.

14 (f) An appellate court judge shall retire when [he] **THE JUDGE** attains [his] **THE**  
15 **JUDGE'S** [seventieth] **SEVENTY-THIRD** birthday.

16 (g) A member of the General Assembly who is otherwise qualified for  
17 appointment to judicial office is not disqualified by reason of [his] membership in a General  
18 Assembly which proposed or enacted any constitutional amendment or statute affecting the  
19 method of selection. Continuance in office, or retirement or removal of a judge, the creation  
20 or abolition of a court, an increase or decrease in the number of judges of any court, or an  
21 increase or decrease in the salary, pension or other allowances of any judge.

22 [18B.

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

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

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

37 **18B.**

1           **THE AMENDMENTS TO §§ 3, 3A, 5A, AND 41D OF THIS ARTICLE ALTERING THE**  
2 **MANDATORY RETIREMENT AGE OF JUDGES SHALL APPLY TO EACH JUDGE WHO:**

3           **(1) IS ELECTED, REELECTED, APPOINTED, OR REAPPOINTED ON OR**  
4 **AFTER THE DATE ON WHICH THE GOVERNOR ISSUES A PROCLAMATION UNDER**  
5 **ARTICLE XIV, § 1 OF THIS CONSTITUTION DECLARING THE AMENDMENTS TO BE**  
6 **ADOPTED; OR**

7           **(2) (I) IS UNDER THE AGE OF SEVENTY YEARS AS OF THE DATE ON**  
8 **WHICH THE GOVERNOR ISSUES A PROCLAMATION UNDER ARTICLE XIV, § 1 OF THIS**  
9 **CONSTITUTION DECLARING THE AMENDMENTS TO BE ADOPTED;**

10           **(II) REACHES THE AGE OF SEVENTY YEARS BEFORE THE DATE**  
11 **THAT THE JUDGE IS ELIGIBLE TO BE ELECTED, REELECTED, APPOINTED, OR**  
12 **REAPPOINTED; AND**

13           **(III) APPLIES FOR, AND IS GRANTED, AN EXTENSION BY THE**  
14 **GOVERNOR TO SERVE UNTIL THE JUDGE COMPLETES THE JUDGE'S CURRENT TERM**  
15 **OR ATTAINS THE AGE OF SEVENTY-THREE YEARS, WHICHEVER OCCURS FIRST.**

16 41D.

17           **(A) (1)** The Governor, by and with the advice and consent of the Senate, shall  
18 appoint each judge of the District Court whenever for any reason a vacancy shall exist in  
19 the office.

20           **(2)** All hearings, deliberations, and debate on the confirmation of  
21 appointees of the Governor shall be public, and no hearings, deliberations or debate thereon  
22 shall be conducted by the Senate or any committee or subcommittee thereof in secret or  
23 executive session.

24           **(3)** Confirmation by the Senate shall be made upon a majority vote of all  
25 members of the Senate.

26           **(4)** A judge appointed by the Governor may take office upon qualification  
27 and before confirmation by the Senate, but shall cease to hold office at the close of the  
28 regular annual session of the General Assembly next following [his] **THE JUDGE'S**  
29 appointment or during which [he] **THE JUDGE** shall have been appointed by the Governor,  
30 if the Senate shall not have confirmed [his] **THE JUDGE'S** appointment before then.

31           **(B) (1)** Each judge appointed by the Governor and confirmed by the Senate  
32 shall hold the office for a term of ten years or until [he] **THE JUDGE** shall have attained  
33 the age of [seventy] **SEVENTY-THREE** years, whichever may first occur.

1           **(2)** If the ten year term of a judge shall expire before that judge shall have  
2 attained the age of [seventy] ~~SEVENTY-THREE~~ years, that judge shall be reappointed by  
3 the Governor, with the Senate's consent, for another ten year term or until [he] ~~THE JUDGE~~  
4 shall have attained the age of [seventy] ~~SEVENTY-THREE~~ years, whichever may first  
5 occur.

6           **(C)** To the extent inconsistent herewith, the provisions of Sections 3 and 5 of this  
7 Article shall not apply to judges of the District Court.

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

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