

# HOUSE BILL 826

D1 CONSTITUTIONAL AMENDMENT  
HB 223/16 – JUD & W&M

7lr0734

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By: **Delegates West and Barron**

Introduced and read first time: February 3, 2017

Assigned to: Judiciary and Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Circuit Court Judges – Selection and Tenure**

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 the reappointment of  
9 certain judges; providing for a transitional period under which the terms of certain  
10 amendments are to become effective; making stylistic changes; generally relating to  
11 the selection, election, appointment, and tenure of 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 a repeal of the Maryland Constitution  
15 Article IV – Judiciary Department  
16 Section 3 and 5

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

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:

26 **Article IV – Judiciary Department**

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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) A CIRCUIT COURT JUDGE APPOINTED BY THE GOVERNOR AND  
31 CONFIRMED BY THE SENATE BY A VOTE OF AT LEAST 80% OF ALL MEMBERS WHO  
32 TAKES OFFICE WITHIN 30 DAYS AFTER CONFIRMATION SHALL HOLD THE OFFICE  
33 FOR A TERM OF 15 YEARS FROM THE DATE THAT THE JUDGE TOOK OFFICE AND  
34 UNTIL THE JUDGE'S SUCCESSOR IS APPOINTED OR ELECTED, AS APPLICABLE, AND  
35 QUALIFIED, OR UNTIL THE JUDGE ATTAINS THE AGE OF 70 YEARS, WHICHEVER  
36 OCCURS FIRST.

1           **(E) (1) IF A CIRCUIT COURT JUDGE WHO WAS CONFIRMED BY THE**  
2 **SENATE BY A VOTE OF AT LEAST A MAJORITY BUT LESS THAN 80% OF ALL MEMBERS**  
3 **OF THE SENATE TAKES OFFICE FOLLOWING CONFIRMATION BY THE SENATE, THE**  
4 **CONTINUANCE IN OFFICE OF THE JUDGE IS SUBJECT TO APPROVAL OR REJECTION**  
5 **BY THE REGISTERED VOTERS OF THE CITY OR COUNTY FROM WHICH THE JUDGE WAS**  
6 **APPOINTED AT THE NEXT GENERAL ELECTION FOLLOWING THE EXPIRATION OF 1**  
7 **YEAR FROM THE DATE THAT THE JUDGE TOOK OFFICE.**

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

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

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

20           **(F) (1) IF THE 15-YEAR TERM OF A CIRCUIT COURT JUDGE EXPIRES**  
21 **BEFORE THE JUDGE ATTAINS THE AGE OF 70 YEARS, THAT JUDGE MAY BE**  
22 **REAPPOINTED BY THE GOVERNOR FOR ANOTHER 15-YEAR TERM, OR UNTIL THE**  
23 **JUDGE ATTAINS THE AGE OF 70 YEARS, WHICHEVER OCCURS FIRST.**

24           **(2) THE REAPPOINTMENT OF A JUDGE UNDER THIS SUBSECTION IS**  
25 **NOT SUBJECT TO CONFIRMATION BY THE SENATE.**

26 [5.

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

1 reason of age and thereby unable to continue to hold office until the prescribed time when  
2 his successor would have been elected.]

3 **5.**

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

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

10 **6.**

11 **(A) FOR THE PURPOSE OF IMPLEMENTING THE AMENDMENTS TO ARTICLE**  
12 **IV OF THE MARYLAND CONSTITUTION PROPOSED BY HOUSE BILL \_\_\_\_ OF 2017**  
13 **(7LR0734) CONCERNING THE SELECTION AND TENURE OF CIRCUIT COURT JUDGES,**  
14 **THE FOLLOWING PROVISIONS SHALL GOVERN. IN ACCORDANCE WITH ARTICLE XIV,**  
15 **SECTION 1A OF THE MARYLAND CONSTITUTION, THIS SECTION SHALL EXPIRE**  
16 **WHEN ALL OF THE JUDGES OF THE CIRCUIT COURTS HAVE COMPLETED ALL OF THE**  
17 **TERMS FOR WHICH THE JUDGES ARE RETAINED IN OFFICE UNDER SUBSECTIONS (B)**  
18 **AND (C) OF THIS SECTION OR HAVE VACATED THEIR OFFICES FOR ANY REASON.**

19 **(B) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE FOR AN ELECTED**  
20 **TERM ON THE EFFECTIVE DATE OF THESE AMENDMENTS, UNLESS THE JUDGE DIES,**  
21 **RESIGNS, RETIRES, OR IS OTHERWISE LAWFULLY REMOVED, SHALL CONTINUE IN**  
22 **OFFICE UNTIL THE JUDGE'S SUCCESSOR IS APPOINTED OR ELECTED, AS**  
23 **APPLICABLE, AND QUALIFIED OR UNTIL THE JUDGE ATTAINS THE AGE OF 70 YEARS,**  
24 **WHICHEVER OCCURS FIRST. CONTINUANCE OF THE JUDGE IN OFFICE IS THEN**  
25 **SUBJECT TO THE PROVISIONS OF ARTICLE IV, SECTION 3 OF THE MARYLAND**  
26 **CONSTITUTION, BUT IN NO EVENT SHALL ANY JUDGE CONTINUE IN OFFICE AFTER**  
27 **ATTAINING THE AGE OF 70 YEARS.**

28 **(C) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE ON THE EFFECTIVE**  
29 **DATE OF THESE AMENDMENTS, BUT WHO HAS NOT BEEN ELECTED TO THAT OFFICE**  
30 **BY THE VOTERS, SHALL CONTINUE TO BE GOVERNED BY ARTICLE IV, SECTIONS 3**  
31 **AND 5 OF THE MARYLAND CONSTITUTION, AS IN EFFECT BEFORE THE**  
32 **RATIFICATION OF THE AMENDMENTS TO ARTICLE IV OF THE MARYLAND**  
33 **CONSTITUTION PROPOSED BY HOUSE BILL \_\_\_\_ OF 2017 (7LR0734). IF THE JUDGE**  
34 **IS ELECTED TO THE OFFICE, THE JUDGE SHALL CONTINUE IN OFFICE UNTIL THE**  
35 **JUDGE'S SUCCESSOR IS APPOINTED OR ELECTED, AS APPLICABLE, AND QUALIFIED**  
36 **OR UNTIL THE JUDGE ATTAINS THE AGE OF 70 YEARS, WHICHEVER OCCURS FIRST.**  
37 **CONTINUANCE OF THE JUDGE IN OFFICE AT THE END OF THE ELECTED TERM IS**

1 **THEN SUBJECT TO THE PROVISIONS OF ARTICLE IV, SECTION 3 OF THE MARYLAND**  
2 **CONSTITUTION, BUT IN NO EVENT SHALL ANY JUDGE CONTINUE IN OFFICE AFTER**  
3 **ATTAINING THE AGE OF 70 YEARS.**

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

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