

HOUSE BILL 770

D1

CONSTITUTIONAL AMENDMENT

8lr2266

By: **Delegates Hornberger, Buckel, and Moon**

Introduced and read first time: February 1, 2018

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Courts – Appointments to Vacant Offices by the Judiciary – Same Party as**
3 **Predecessor**

4 FOR the purpose of requiring that a vacancy occurring during the elected term of a clerk of
5 the circuit court be filled by the circuit court with a qualified individual of the same
6 political party, if any, as the vacating clerk; requiring that a vacancy during the
7 elected term of a Register of Wills be filled by the Orphans' Court with a qualified
8 individual of the same political party, if any, as the vacating Register of Wills;
9 requiring that a vacancy occurring during the elected term of a State's Attorney be
10 filled by the court with a qualified individual of the same political party, if any, as
11 the vacating State's Attorney; making stylistic changes; and submitting this
12 amendment to the qualified voters of the State for their adoption or rejection.

13 BY proposing an amendment to the Maryland Constitution
14 Article IV – Judiciary Department
15 Section 25 and 41

16 BY proposing an amendment to the Maryland Constitution
17 Article V – Attorney-General and State's Attorneys
18 Section 11

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

22 **Article IV – Judiciary Department**

23 25.

24 There shall be a Clerk of the Circuit Court for each County and Baltimore City, who
25 shall be elected by a plurality of the qualified voters of said County or City, and shall hold

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 [his] THE office for four years from the time of [his] THE CLERK'S election, and until [his]
 2 THE CLERK'S successor is elected and qualified, and be re-eligible, subject to be removed
 3 for [wilful] WILLFUL neglect of duty or other misdemeanor in office, on conviction in a
 4 Court of Law. In case of a vacancy in the office of Clerk of a Circuit Court, the Judges of
 5 that Court may fill the vacancy, **PROVIDED THAT THE APPOINTEE SHALL BE OF THE**
 6 **SAME POLITICAL PARTY, IF ANY, AS WAS THAT OF THE VACATING CLERK**, until the
 7 general election for Delegates to the General Assembly, to be held next thereafter, when a
 8 successor shall be elected for the term of four years.

9 41.

10 There shall be a Register of Wills in each county of the State, and the City of
 11 Baltimore, to be elected by the legal and qualified voters of said counties and city,
 12 respectively, who shall hold [his] THE office for four years from the time of [his] election
 13 **OF THE REGISTER** and until [his] A successor **TO THE REGISTER** is elected and qualified;
 14 [he] THE REGISTER shall be re-eligible, and subject at all times to removal for willful
 15 neglect of duty, or misdemeanor in office in the same manner that the Clerks of the Courts
 16 are removable. In the event of any vacancy in the office of the Register of Wills, said vacancy
 17 shall be filled by the Judges of the Orphans' Court, in which such vacancy occurs,
 18 **PROVIDED THAT THE APPOINTEE SHALL BE OF THE SAME POLITICAL PARTY, IF ANY,**
 19 **AS WAS THAT OF THE VACATING REGISTER**, until the next general election for Delegates
 20 to the General Assembly when a Register shall be elected to serve for four years thereafter.

21 Article V – Attorney-General and State's Attorneys

22 11.

23 In case of a vacancy in the office of State's Attorney, or of [his] THE STATE'S
 24 ATTORNEY'S removal from the county or city in which [he] THE STATE'S ATTORNEY
 25 shall have been elected, or on [his] THE STATE'S ATTORNEY'S conviction as herein
 26 specified, the Judge or Judges resident in the county or, if there be no resident Judge, the
 27 Judge or Judges having jurisdiction in the Circuit Court of the county in which the vacancy
 28 occurs, or by the Supreme Bench of Baltimore City for a vacancy occurring in Baltimore
 29 City, shall appoint a person **OF THE SAME POLITICAL PARTY, IF ANY, AS WAS THAT OF**
 30 **THE VACATING STATE'S ATTORNEY**, to fill the vacancy for the residue of the term.

31 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
 32 determines that the amendment to the Maryland Constitution proposed by Section 1 of this
 33 Act affects 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 amendment to the
 36 Maryland Constitution proposed by Section 1 of this Act shall be submitted to the qualified
 37 voters of the State at the next general election to be held in November 2018 for adoption or
 38 rejection pursuant to Article XIV of the Maryland Constitution. At that general election,
 39 the vote on the proposed amendment to the Constitution shall be by ballot, and on each

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