

HOUSE BILL 487

G1, D1

CONSTITUTIONAL AMENDMENT

9lr2422

By: **Delegate Dumais**

Introduced and read first time: February 1, 2019

Assigned to: Judiciary and Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Judicial Elections – Retention and Frequency**

3 FOR the purpose of proposing an amendment to the Maryland Constitution to increase the
4 number of years between successive retention elections for judges of the Court of
5 Appeals and Court of Special Appeals; proposing an amendment to the Maryland
6 Constitution to provide for retention elections for judges of the Circuit Court; making
7 stylistic changes; and submitting this amendment to the qualified voters of the State
8 for their adoption or rejection.

9 BY proposing an amendment to the Maryland Constitution
10 Article IV – Judiciary Department
11 Section 3 and 5A

12 BY proposing an addition to the Maryland Constitution
13 Article IV – Judiciary Department
14 Section 5B

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

18 **Article IV – Judiciary Department**

19 3.

20 Except for the Judges of the District Court **AND THE CIRCUIT COURT**, the Judges
21 of the several Courts other than the Court of Appeals or any intermediate courts of appeal
22 shall, subject to the provisions of Section 5 of this Article of the Constitution, be elected in
23 Baltimore City and in each county, by the qualified voters of the city and of each county,
24 respectively, all of the said Judges to be elected at the general election to be held on the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Tuesday after the first Monday in November, as now provided for in the Constitution. Each
2 of the said Judges shall hold [his] **THE** office for the term of fifteen years from the time of
3 [his] **THE JUDGE'S** election, and until [his] A successor is elected and qualified, or until
4 [he] **THE JUDGE** shall have attained the age of seventy years, whichever may first happen,
5 and be reeligible thereto until [he] **THE JUDGE** shall have attained the age of seventy
6 years, and not after. In case of the inability of any of said Judges to discharge [his] **THE**
7 **JUDGE'S** duties with efficiency, by reason of continued sickness, or of physical or mental
8 infirmity, it shall be in the power of the General Assembly, two-thirds of the members of
9 each House concurring, with the approval of the Governor to retire said Judge from office.

10 5A.

11 (a) A vacancy in the office of a judge of an appellate court, whether occasioned by
12 the death, resignation, removal, retirement, disqualification by reason of age, or rejection
13 by the voters of an incumbent, the creation of the office of a judge, or otherwise, shall be
14 filled as provided in this section.

15 (b) Upon the occurrence of a vacancy the Governor shall appoint, by and with the
16 advice and consent of the Senate, a person duly qualified to fill said office who shall hold
17 the same until the election for continuance in office as provided in subsections (c) and (d).

18 (c) The continuance in office of a judge of the Court of Appeals is subject to
19 approval or rejection by the registered voters of the appellate judicial circuit from which
20 [he] **THE JUDGE** was appointed at the next general election following the expiration of one
21 year from the date of the occurrence of the vacancy which [he] **THE JUDGE** was appointed
22 to fill, and at the general election next occurring every [ten] **TWELVE** years thereafter.

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

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

34 (f) An appellate court judge shall retire when [he] **THE JUDGE** attains [his] **THE**
35 **JUDGE'S** seventieth birthday.

36 (g) A member of the General Assembly who is otherwise qualified for
37 appointment to judicial office is not disqualified by reason of [his] membership in a General

1 Assembly which proposed or enacted any constitutional amendment or statute affecting the
2 method of selection. Continuance in office, or retirement or removal of a judge, the creation
3 or abolition of a court, an increase or decrease in the number of judges of any court, or an
4 increase or decrease in the salary, pension or other allowances of any judge.

5 **5B.**

6 (A) THE JUDGES OF THE CIRCUIT COURTS SHALL, SUBJECT TO THE
7 PROVISIONS OF SECTION 5 OF THIS ARTICLE OF THE CONSTITUTION, BE ELECTED
8 IN BALTIMORE CITY AND IN EACH COUNTY, BY THE QUALIFIED VOTERS OF THE CITY
9 AND OF EACH COUNTY, RESPECTIVELY, ALL OF THE SAID JUDGES TO BE ELECTED
10 AT THE GENERAL ELECTION TO BE HELD ON THE TUESDAY AFTER THE FIRST
11 MONDAY IN NOVEMBER, AS NOW PROVIDED FOR IN THE CONSTITUTION.

12 (B) THE CONTINUANCE IN OFFICE OF A JUDGE OF THE CIRCUIT COURT IS
13 SUBJECT TO APPROVAL OR REJECTION BY THE REGISTERED VOTERS OF THE CITY
14 AND OF EACH COUNTY PRESCRIBED BY LAW AT THE NEXT GENERAL ELECTION
15 FOLLOWING THE EXPIRATION OF ONE YEAR FROM THE DATE OF THE OCCURRENCE
16 OF THE VACANCY THAT THE JUDGE WAS APPOINTED TO FILL, AND AT THE GENERAL
17 ELECTION NEXT OCCURRING EVERY TWELVE YEARS THEREAFTER, OR UNTIL THE
18 JUDGE SHALL HAVE ATTAINED THE AGE OF SEVENTY YEARS, AND NOT AFTER.

19 (C) IN CASE OF THE INABILITY OF ANY OF SAID JUDGES TO DISCHARGE THE
20 JUDGE'S DUTIES WITH EFFICIENCY, BY REASON OF CONTINUED SICKNESS, OR OF
21 PHYSICAL OR MENTAL INFIRMITY, IT SHALL BE IN THE POWER OF THE GENERAL
22 ASSEMBLY, TWO-THIRDS OF THE MEMBERS OF EACH HOUSE CONCURRING, WITH
23 THE APPROVAL OF THE GOVERNOR TO RETIRE SAID JUDGE FROM OFFICE.

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

28 SECTION 3. AND BE IT FURTHER ENACTED, That the amendment to the
29 Maryland Constitution proposed by Section 1 of this Act shall be submitted to the qualified
30 voters of the State at the next general election to be held in November 2020 for adoption or
31 rejection pursuant to Article XIV of the Maryland Constitution. At that general election,
32 the vote on the proposed amendment to the Constitution shall be by ballot, and on each
33 ballot there shall be printed the words "For the Constitutional Amendment" and "Against
34 the Constitutional Amendment", as now provided by law. Immediately after the election,
35 all returns shall be made to the Governor of the vote for and against the proposed
36 amendment, as directed by Article XIV of the Maryland Constitution, and further
37 proceedings had in accordance with Article XIV.