

CONSTITUTIONAL AMENDMENT

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6lr1482

**By: Delegates Gordon and Kagan**

Introduced and read first time: January 29, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **State's Attorneys, Registers of Wills, Clerks of Court, and Sheriffs - Appointment to Fill**  
3 **Vacancy**

4 FOR the purpose of altering provisions relating to the filling of vacancies in the offices of  
5 State's Attorney, Register of Wills, Clerk of Court, and Sheriff; providing that the  
6 individual appointed to fill the vacancy shall be from a list provided by a political  
7 party central committee under certain circumstances; providing that appointments  
8 shall be subject to the advice and consent of the General Assembly; generally  
9 relating to the filling of vacancies in constitutional offices; and submitting this  
10 amendment to the qualified voters of the State of Maryland for their adoption or  
11 rejection.

12 BY proposing an amendment to the Constitution of Maryland  
13 Article IV - Judiciary Department  
14 Section 25, 41, and 44

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

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

21 **Article IV - Judiciary Department**

22 25.

23 There shall be a Clerk of the Circuit Court for each County and Baltimore City, who  
24 shall be elected by a plurality of the qualified voters of said County or City, and shall hold  
25 his office for four years from the time of his election, and until his successor is elected and  
26 qualified, and be re-eligible, subject to be removed for wilful neglect of duty or other  
27 misdemeanor in office, on conviction in a Court of Law. In case of a vacancy in the office  
28 of Clerk of a Circuit Court, the Judges of that Court may fill the vacancy until the general  
29 election for Delegates to the General Assembly, to be held next thereafter, when a  
30 successor shall be elected for the term of four years. THE JUDGES SHALL APPOINT AN  
31 INDIVIDUAL WHOSE NAME HAS BEEN SUBMITTED BY THE COUNTY CENTRAL  
32 COMMITTEE, OR THE BALTIMORE CITY CENTRAL COMMITTEE, OF THE POLITICAL

2  
1 PARTY WITH WHICH THE VACATING CLERK WAS AFFILIATED AT THE TIME OF THE  
2 CLERK'S LAST ELECTION OR APPOINTMENT. IF THE VACATING CLERK WAS NOT  
3 AFFILIATED WITH ANY POLITICAL PARTY AT THE TIME OF THE CLERK'S LAST  
4 ELECTION OR APPOINTMENT, THE JUDGES MAY APPOINT AN INDIVIDUAL OF ANY  
5 POLITICAL AFFILIATION. THE APPOINTMENT SHALL BE SUBJECT TO THE ADVICE  
6 AND CONSENT OF THE GENERAL ASSEMBLY.

7 41.

8           There shall be a Register of Wills in each county of the State, and the City of  
9 Baltimore, to be elected by the legal and qualified voters of said counties and city,  
10 respectively, who shall hold his office for four years from the time of his election and until  
11 his successor is elected and qualified; he shall be re-eligible, and subject at all times to  
12 removal for willful neglect of duty, or misdemeanor in office in the same manner that the  
13 Clerks of the Courts are removable. In the event of any vacancy in the office of the  
14 Register of Wills, [said] THE vacancy shall be filled by the Judges of the Orphans' Court,  
15 in which such vacancy occurs, until the next general election for Delegates to the General  
16 Assembly when a Register shall be elected to serve for four years thereafter. THE  
17 JUDGES OF THE ORPHANS' COURT SHALL APPOINT AN INDIVIDUAL WHOSE NAME  
18 HAS BEEN SUBMITTED BY THE COUNTY CENTRAL COMMITTEE, OR THE BALTIMORE  
19 CITY CENTRAL COMMITTEE, OF THE POLITICAL PARTY WITH WHICH THE VACATING  
20 REGISTER WAS AFFILIATED AT THE TIME OF THE REGISTER'S LAST ELECTION OR  
21 APPOINTMENT. IF THE VACATING REGISTER WAS NOT AFFILIATED WITH ANY  
22 POLITICAL PARTY AT THE TIME OF THE REGISTER'S LAST ELECTION OR  
23 APPOINTMENT, THE JUDGES MAY APPOINT AN INDIVIDUAL OF ANY POLITICAL  
24 AFFILIATION. THE APPOINTMENT SHALL BE SUBJECT TO THE ADVICE AND CONSENT  
25 OF THE GENERAL ASSEMBLY.

26 44.

27           There shall be elected in each county and in Baltimore City one person, resident in  
28 said county or City, above the age of twenty-five years, and for at least five years  
29 preceding his election a citizen of the State, to the office of Sheriff. He shall hold office  
30 for four years, until his successor is duly elected and qualified, give such bond, exercise  
31 such powers and perform such duties as now are or may hereafter be fixed by law.

32           In case of vacancy by death, resignation, refusal to serve, or neglect to qualify or  
33 give bond, or by disqualification or removal from the County or City, the Governor shall  
34 appoint a person to be Sheriff for the remainder of the official term. THE GOVERNOR  
35 SHALL APPOINT AN INDIVIDUAL WHOSE NAME HAS BEEN SUBMITTED BY THE  
36 COUNTY CENTRAL COMMITTEE, OR THE BALTIMORE CITY CENTRAL COMMITTEE,  
37 OF THE POLITICAL PARTY WITH WHICH THE VACATING SHERIFF WAS AFFILIATED  
38 AT THE TIME OF THE SHERIFF'S LAST ELECTION OR APPOINTMENT. IF THE  
39 VACATING SHERIFF WAS NOT AFFILIATED WITH ANY POLITICAL PARTY AT THE  
40 TIME OF THE SHERIFF'S LAST ELECTION OR APPOINTMENT, THE GOVERNOR MAY  
41 APPOINT AN INDIVIDUAL OF ANY POLITICAL AFFILIATION. THE APPOINTMENT  
42 SHALL BE SUBJECT TO THE ADVICE AND CONSENT OF THE GENERAL ASSEMBLY.

43           The Sheriff in each county and in Baltimore City shall receive such salary or  
44 compensation and such expenses necessary to the conduct of his office as may be fixed by

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1 law. All fees collected by the Sheriff shall be accounted for and paid to the Treasury of  
2 the several counties and of Baltimore City, respectively.

3 **Article V - Attorney-General and State's Attorneys**

4 11.

5 In case of a vacancy in the office of State's Attorney, or of his removal from the  
6 county or city in which he shall have been elected, or on his conviction as herein specified,  
7 the Judge or Judges resident in the county or, if there be no resident Judge, the Judge or  
8 Judges having jurisdiction in the Circuit Court of the county in which the vacancy occurs,  
9 or by the [Supreme Bench of] CIRCUIT COURT FOR Baltimore City for a vacancy  
10 occurring in Baltimore City, shall appoint a person to fill the vacancy for the residue of  
11 the term. THE JUDGE OR JUDGES SHALL APPOINT AN INDIVIDUAL WHOSE NAME HAS  
12 BEEN SUBMITTED BY THE COUNTY CENTRAL COMMITTEE, OR THE BALTIMORE CITY  
13 CENTRAL COMMITTEE, OF THE POLITICAL PARTY WITH WHICH THE VACATING  
14 STATE'S ATTORNEY WAS AFFILIATED AT THE TIME OF THE STATE'S ATTORNEY'S  
15 LAST ELECTION OR APPOINTMENT. IF THE VACATING STATE'S ATTORNEY WAS NOT  
16 AFFILIATED WITH ANY POLITICAL PARTY AT THE TIME OF THE STATE'S  
17 ATTORNEY'S LAST ELECTION OR APPOINTMENT, THE JUDGE OR JUDGES MAY  
18 APPOINT AN INDIVIDUAL OF ANY POLITICAL AFFILIATION. THE APPOINTMENT  
19 SHALL BE SUBJECT TO THE ADVICE AND CONSENT OF THE GENERAL ASSEMBLY.

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

24 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section  
25 proposed as an amendment to the Constitution of Maryland shall be submitted to the  
26 legal and qualified voters of this State at the next general election to be held in  
27 November, 1996 for their adoption or rejection in pursuance of directions contained in  
28 Article XIV of the Constitution of this State. At that general election, the vote on this  
29 proposed amendment to the Constitution shall be by ballot, and upon each ballot there  
30 shall be printed the words "For the Constitutional Amendments" and "Against the  
31 Constitutional Amendments," as now provided by law. Immediately after the election, all  
32 returns shall be made to the Governor of the vote for and against the proposed  
33 amendment, as directed by Article XIV of the Constitution, and further proceedings had  
34 in accordance with Article XIV.