

CONSTITUTIONAL AMENDMENT

D1

7lr1719

By: Delegates Dembrow, Genn, Grosfeld, Petzold, Preis, and Harkins

Introduced and read first time: January 29, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Montgomery and Harford Counties - Retired Judges - Assignment to Orphans' Court**

3 FOR the purpose of proposing amendments to the Constitution of Maryland authorizing
4 the Chief Judge of the Court of Appeals to assign under certain conditions a retired
5 judge of the Circuit Court for Montgomery County to do an act that a judge of the
6 Orphans' Court for Montgomery County is authorized to perform; authorizing the
7 Chief Judge to assign under certain conditions a retired judge of the Circuit Court
8 for Harford County to do an act that a judge of the Orphans' Court for Harford
9 County is authorized to perform; and submitting this amendment to the qualified
10 voters of the State of Maryland for their adoption or rejection.

11 BY proposing an amendment to the Constitution of Maryland
12 Article IV - Judiciary Department
13 Section 3A and 18(b)

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

17 **Article IV - Judiciary Department**

18 3A.

19 (a) (1) [Any] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
20 SUBSECTION, ANY former judge, except a former judge of the Orphans' Court, may be
21 assigned by the Chief Judge of the Court of Appeals, upon approval of a majority of the
22 court, to sit temporarily in any court of this State, except an Orphans' Court, as provided
23 by law.

24 (2) (I) A RETIRED JUDGE OF THE CIRCUIT COURT FOR
25 MONTGOMERY COUNTY THAT SITS AS THE ORPHANS' COURT FOR MONTGOMERY
26 COUNTY MAY BE ASSIGNED BY THE CHIEF JUDGE OF THE COURT OF APPEALS, UPON
27 APPROVAL OF A MAJORITY OF THE COURT OF APPEALS, TO DO AN ACT THAT A
28 JUDGE OF THE ORPHANS' COURT FOR MONTGOMERY COUNTY IS AUTHORIZED TO
29 PERFORM.

30 (II) A RETIRED JUDGE OF THE CIRCUIT COURT FOR HARFORD
31 COUNTY THAT SITS AS THE ORPHANS' COURT FOR HARFORD COUNTY MAY BE
32 ASSIGNED BY THE CHIEF JUDGE OF THE COURT OF APPEALS, UPON APPROVAL OF A

2

1 MAJORITY OF THE COURT OF APPEALS, TO DO AN ACT THAT A JUDGE OF THE
2 ORPHANS' COURT FOR HARFORD COUNTY IS AUTHORIZED TO PERFORM.

3 (b) The provisions of this section apply, notwithstanding provisions appearing
4 elsewhere in this Article pertaining to retirement of judges upon attaining age 70.

5 18.

6 (b) (1) The Chief Judge of the Court of Appeals shall be the administrative
7 head of the Judicial system of the State. He shall from time to time require, from each of
8 the judges of the Circuit Courts, of the District Court and of any intermediate courts of
9 appeal, reports as to the judicial work and business of each of the judges and their
10 respective courts.

11 (2) [He] SUBJECT TO PARAGRAPHS (3) AND (4) OF THIS SUBSECTION,
12 HE may, in case of a vacancy, or of the illness, disqualification or other absence of a judge
13 or for the purpose of relieving an accumulation of business in any court assign any judge
14 except a judge of the Orphans' Court to sit temporarily in any court except an Orphans'
15 Court.

16 (3) A RETIRED JUDGE OF THE CIRCUIT COURT FOR MONTGOMERY
17 COUNTY THAT SITS AS THE ORPHANS' COURT FOR MONTGOMERY COUNTY MAY BE
18 ASSIGNED BY THE CHIEF JUDGE OF THE COURT OF APPEALS, UPON APPROVAL OF A
19 MAJORITY OF THE COURT OF APPEALS, TO DO AN ACT THAT A JUDGE OF THE
20 ORPHANS' COURT FOR MONTGOMERY COUNTY IS AUTHORIZED TO PERFORM.

21 (4) A RETIRED JUDGE OF THE CIRCUIT COURT FOR HARFORD COUNTY
22 THAT SITS AS THE ORPHANS' COURT FOR HARFORD COUNTY MAY BE ASSIGNED BY
23 THE CHIEF JUDGE OF THE COURT OF APPEALS, UPON APPROVAL OF A MAJORITY OF
24 THE COURT OF APPEALS, TO DO AN ACT THAT A JUDGE OF THE ORPHANS' COURT
25 FOR HARFORD COUNTY IS AUTHORIZED TO PERFORM.

26 (5) Any judge assigned by the Chief Judge of the Court of Appeals pursuant
27 to this section has all the power and authority pertaining to a judge of the court to which
28 he is so assigned; and his power and authority shall continue with respect to all cases
29 (including any motion, or other matters incidental thereto) which may come before him
30 by virtue of such assignment until his action thereon shall be completed. In the absence of
31 the Chief Judge of the Court of Appeals, the provisions of this section shall be applicable
32 to the senior judge present in the Court of Appeals. The powers of the Chief Judge set
33 forth in this section shall be subject to any rule or regulation adopted by the Court of
34 Appeals.

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

39 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
40 proposed as an amendment to the Constitution of Maryland shall be submitted to the
41 legal and qualified voters of this State at the next general election to be held in
42 November, 1998 for their adoption or rejection in pursuance of directions contained in
43 Article XIV of the Constitution of this State. At that general election, the vote on this

3

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