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1997 Regular Session

CONSTITUTIONAL AMENDMENT

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SB 341/95 - JPR

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By: Delegates Malone and Rudolph

Introduced and read first time: January 31, 1997

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Death Penalty Cases - Removal**

3 FOR the purpose of proposing an amendment to the Maryland Constitution to permit the
4   General Assembly to impose a time limit on a party's right to obtain automatic
5   removal in certain criminal cases in which the death penalty may be imposed;
6   permitting the General Assembly to prohibit a party from obtaining removal after
7   the time limit expires unless the party seeking removal establishes that the party
8   cannot obtain a fair trial or sentencing proceeding in the jurisdiction in which the
9   case is pending; and submitting this amendment to the qualified voters of the State
10   of Maryland for their adoption or rejection.

11 BY proposing an amendment to the Constitution of Maryland
12   Article IV - Judiciary Department
13   Section 8

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 8.

19   (a) The parties to any cause may submit the cause to the court for determination
20 without the aid of a jury.

21   (b) (1) [In] SUBJECT TO ANY REQUIREMENTS ESTABLISHED BY THE
22 GENERAL ASSEMBLY UNDER PARAGRAPH (2) OF THIS SUBSECTION, IN all cases of
23 presentments or indictments for offenses that are punishable by death, on suggestion in
24 writing under oath of either of the parties to the proceedings that the party cannot have
25 a fair and impartial trial in the court in which the proceedings may be pending, the court
26 shall order and direct the record of proceedings in the presentment or indictment to be
27 transmitted to some other court having jurisdiction in such case for trial.

28   (2) THE GENERAL ASSEMBLY MAY IMPOSE A TIME LIMIT ON A PARTY'S
29 RIGHT TO AUTOMATIC REMOVAL UNDER PARAGRAPH (1) OF THIS SUBSECTION AND
30 MAY PROHIBIT A PARTY FROM OBTAINING REMOVAL AFTER THE TIME LIMIT HAS
31 EXPIRED UNLESS THE PARTY SEEKING REMOVAL ESTABLISHES THAT THE PARTY

1 CANNOT OBTAIN A FAIR TRIAL OR SENTENCING PROCEEDING IN THE JURISDICTION
2 IN WHICH THE CASE IS PENDING.

3   (c) In all other cases of presentment or indictment, and in all suits or actions at
4 law or issues from the Orphans' Court pending in any of the courts of law in this State
5 which have jurisdiction over the cause or case, in addition to the suggestion in writing of
6 either of the parties to the cause or case that the party cannot have a fair and impartial
7 trial in the court in which the cause or case may be pending, it shall be necessary for the
8 party making the suggestion to make it satisfactorily appear to the court that the
9 suggestion is true, or that there is reasonable ground for the same; and thereupon the
10 court shall order and direct the record of the proceedings in the cause or case to be
11 transmitted to some other court, having jurisdiction in the cause or case, for trial. The
12 right of removal also shall exist on suggestion in a cause or case in which all the judges of
13 the court may be disqualified under the provisions of this Constitution to sit. The court to
14 which the record of proceedings in such suit or action, issue, presentment or indictment
15 is transmitted, shall hear and determine that cause or case in the same manner as if it had
16 been originally instituted in that Court. The General Assembly shall modify the existing
17 law as may be necessary to regulate and give force to this provision.

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

22   SECTION 3. AND BE IT FURTHER ENACTED, That the aforegoing section
23 proposed as an amendment to the Constitution of Maryland shall be submitted to the
24 legal and qualified voters of this State at the next general election to be held in
25 November, 1998 for their adoption or rejection in pursuance of directions contained in
26 Article XIV of the Constitution of this State. At that general election, the vote on this
27 proposed amendment to the Constitution shall be by ballot, and upon each ballot there
28 shall be printed the words "For the Constitutional Amendments" and "Against the
29 Constitutional Amendments," as now provided by law. Immediately after the election, all
30 returns shall be made to the Governor of the vote for and against the proposed
31 amendment, as directed by Article XIV of the Constitution, and further proceedings had
32 in accordance with Article XIV.