

**HOUSE BILL 187**  
CONSTITUTIONAL AMENDMENT

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HB 257/97 - JUD

1998 Regular Session  
8lr0106

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By: **Delegates Dembrow, Palumbo, Genn, Menes, R. Baker, Conroy, M. Burns, Turner, and Bissett**

Introduced and read first time: January 22, 1998

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 6, 1998

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2

**Courts of Appeals - Name Change**

3 FOR the purpose of changing the name of the Court of Appeals to the Supreme Court  
4 of Maryland; changing the name of the Court of Special Appeals to the Maryland  
5 Appellate Court; clarifying language; providing for a certain date for this  
6 amendment to take effect; and submitting this amendment to the qualified  
7 voters of the State of Maryland for their adoption or rejection.

8 BY proposing an amendment to the Constitution of Maryland

9 Article II - Executive Department

10 Section 6(c) and (g)

11 BY proposing an amendment to the Constitution of Maryland

12 Article III - Legislative Department

13 Section 5, 30, and 52(11)

14 BY proposing an amendment to the Constitution of Maryland

15 Article IV - Judiciary Department

16 Section 1, 3, 3A(a), 4B(a) and (b), 5A(c) and (d), 10(a), 14, 15, 16, 17, ~~18(b)~~ 18,

17 22, and 41E

18 BY proposing an amendment to the Constitution of Maryland

19 Article V - Attorney-General and State's Attorneys

20 Section 6

21 BY proposing an amendment to the Constitution of Maryland

1 Article XVII - Quadrennial Elections  
2 Section 3

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

6 **Article II - Executive Department**

7 6.

8 (c) The General Assembly, by the affirmative vote of three-fifths of all its  
9 members in joint session, may adopt a resolution declaring that the Governor or  
10 Lieutenant Governor is unable by reason of physical or mental disability to perform  
11 the duties of [his] THE GOVERNOR'S OR THE LIEUTENANT GOVERNOR'S office. When  
12 action is undertaken pursuant to this subsection of the Constitution, the officer who  
13 concludes that the other officer is unable, by reason of disability to perform the duties  
14 of [his] THE OTHER OFFICER'S office shall have the power to call the General  
15 Assembly into Joint Session. The resolution, if adopted, shall be delivered to the  
16 SUPREME Court OF MARYLAND [of Appeals], which then shall have exclusive  
17 jurisdiction to determine whether that officer is unable by reason of the disability to  
18 perform the duties of [his] THAT OFFICER'S office. If the SUPREME Court OF  
19 MARYLAND [of Appeals] determines that such officer is unable to discharge the  
20 duties of [his] THAT OFFICER'S office by reason of a permanent disability, the office  
21 shall be vacant. If the SUPREME Court OF MARYLAND [of Appeals] determines that  
22 such officer is unable to discharge the duties of [his] THAT OFFICER'S office by  
23 reason of a temporary disability, it shall declare the office to be vacant during the  
24 time of the disability and the SUPREME Court OF MARYLAND shall have continuing  
25 jurisdiction to determine when the disability has terminated. If the General Assembly  
26 and the SUPREME Court OF MARYLAND [of Appeals], acting in the same manner as  
27 described above, determine that the Governor-elect or Lieutenant Governor-elect is  
28 unable by reason of physical or mental disability to perform the duties of the office to  
29 which [he] THE GOVERNOR-ELECT OR LIEUTENANT GOVERNOR-ELECT has been  
30 elected, [he] THE GOVERNOR-ELECT OR LIEUTENANT GOVERNOR-ELECT shall be  
31 disqualified to assume office.

32 (g) The SUPREME Court OF MARYLAND [of Appeals] shall have original and  
33 exclusive jurisdiction to adjudicate disputes or questions arising from the failure of  
34 the Governor-elect to take office, or the service of the Lieutenant Governor or  
35 President of the Senate as acting Governor, or the creation of a vacancy in the office  
36 of Governor or Lieutenant Governor by reason of disability, or the succession to the  
37 office of Governor or Lieutenant Governor, or the exercise of the powers and duties of  
38 a successor to the office of Governor.

1

**Article III - Legislative Department**

2 5.

3 Following each decennial census of the United States and after public hearings,  
4 the Governor shall prepare a plan setting forth the boundaries of the legislative  
5 districts for electing of the members of the Senate and the House of Delegates.

6 The Governor shall present the plan to the President of the Senate and Speaker  
7 of the House of Delegates who shall introduce the Governor's plan as a joint  
8 resolution to the General Assembly, not later than the first day of its regular session  
9 in the second year following every census, and the Governor may call a special session  
10 for the presentation of [his] THE GOVERNOR'S plan prior to the regular session. The  
11 plan shall conform to Sections 2, 3 and 4 of this Article. Following each decennial  
12 census the General Assembly may by joint resolution adopt a plan setting forth the  
13 boundaries of the legislative districts for the election of members of the Senate and  
14 the House of Delegates, which plan shall conform to Sections 2, 3 and 4 of this Article.  
15 If a plan has been adopted by the General Assembly by the 45th day after the opening  
16 of the regular session of the General Assembly in the second year following every  
17 census, the plan adopted by the General Assembly shall become law. If no plan has  
18 been adopted by the General Assembly for these purposes by the 45th day after the  
19 opening of the regular session of the General Assembly in the second year following  
20 every census, the Governor's plan presented to the General Assembly shall become  
21 law.

22 Upon petition of any registered voter, the SUPREME Court OF MARYLAND [of  
23 Appeals] shall have original jurisdiction to review the legislative districting of the  
24 State and may grant appropriate relief, if it finds that the districting of the State is  
25 not consistent with requirements of either the Constitution of the United States of  
26 America, or the Constitution of Maryland.

27 30.

28 Every bill, when passed by the General Assembly, and sealed with the Great  
29 Seal, shall be presented by the presiding officer of the house in which it originated to  
30 the Governor for [his] THE GOVERNOR'S approval. All bills passed during a regular or  
31 special session shall be presented to the Governor for [his] THE GOVERNOR'S  
32 approval no later than 20 days after adjournment. Within 30 days after presentment,  
33 if the Governor approves the bill, [he] THE GOVERNOR shall sign the same in the  
34 presence of the presiding officers and Chief Clerks of the Senate and House of  
35 Delegates. Every Law shall be recorded in the office of the SUPREME Court OF  
36 MARYLAND [of Appeals], and in due time, be printed, published and certified under  
37 the Great Seal, to the several Courts, in the same manner as has been heretofore  
38 usual in this State.

39 52.

40 (11) For the purpose of making up the Budget, the Governor shall require from  
41 the proper State officials (including all executive departments, all executive and  
42 administrative offices, bureaus, boards, commissions and agencies that expend or

1 supervise the expenditure of, and all institutions applying, for State moneys and  
2 appropriations) such itemized estimates and other information, in such form and at  
3 such times as directed by the Governor. An estimate for a program required to be  
4 funded by a law which will be in effect during the fiscal year covered by the Budget  
5 and which was enacted before July 1 of the fiscal year prior to that date shall provide  
6 a level of funding not less than that prescribed in the law. The estimates for the  
7 Legislative Department, certified by the presiding officer of each House, of the  
8 Judiciary, as provided by law, certified by the Chief Judge of the SUPREME Court OF  
9 MARYLAND [of Appeals], and for the public schools, as provided by law, shall be  
10 transmitted to the Governor, in such form and at such times as directed by the  
11 Governor, and shall be included in the Budget without revision.

12

#### Article IV - Judiciary Department

13 1.

14 The Judicial power of this State is vested in a SUPREME Court OF MARYLAND  
15 [of Appeals], such intermediate courts of appeal as the General Assembly may create  
16 by law, Circuit Courts, Orphans' Courts, and a District Court. These Courts shall be  
17 Courts of Record, and each shall have a seal to be used in the authentication of all  
18 process issuing from it.

19 3.

20 Except for the Judges of the District Court, the Judges of the several Courts  
21 other than the SUPREME Court OF MARYLAND [of Appeals] or any intermediate  
22 courts of appeal shall, subject to the provisions of Section 5 of this Article of the  
23 Constitution, be elected in Baltimore City and in each county, by the qualified voters  
24 of the city and of each county, respectively, all of the said Judges to be elected at the  
25 general election to be held on the Tuesday after the first Monday in November, as now  
26 provided for in the Constitution. Each of the said Judges shall hold [his] THE  
27 JUDGE'S office for the term of fifteen years from the time of [his] THE JUDGE'S  
28 election, and until [his] THE JUDGE'S successor is elected and qualified, or until [he]  
29 THE JUDGE'S shall have attained the age of seventy years, whichever may first  
30 happen, and be reeligible thereto until [he] THE JUDGE shall have attained the age of  
31 seventy years, and not after. In case of the inability of any of said Judges to discharge  
32 [his] THE JUDGE'S duties with efficiency, by reason of continued sickness, or of  
33 physical or mental infirmity, it shall be in the power of the General Assembly,  
34 two-thirds of the members of each House concurring, with the approval of the  
35 Governor to retire said Judge from office.

36 3A.

37 (a) Any former judge, except a former judge of the Orphans' Court, may be  
38 assigned by the Chief Judge of the SUPREME Court OF MARYLAND [of Appeals], upon  
39 approval of a majority of the court, to sit temporarily in any court of this State, except  
40 an Orphans' Court, as provided by law.

1 4B.

2 (a) (1) The Commission on Judicial Disabilities has the power to:

3 (i) Investigate complaints against any judge of the SUPREME Court  
4 OF MARYLAND [of Appeals], any intermediate courts of appeal, the circuit courts, the  
5 District Court of Maryland, or the orphans' court; and

6 (ii) Conduct hearings concerning such complaints, administer oaths  
7 and affirmations, issue process to compel the attendance of witnesses and the  
8 production of evidence, and require persons to testify and produce evidence by  
9 granting them immunity from prosecution or from penalty or forfeiture.

10 (2) The Commission has the power to issue a reprimand and the power to  
11 recommend to the SUPREME Court OF MARYLAND [of Appeals] the removal, censure,  
12 or other appropriate disciplining of a judge or, in an appropriate case, retirement.

13 (3) All proceedings, testimony, and evidence before the Commission shall  
14 be confidential and privileged, except as provided by rule of the SUPREME Court OF  
15 MARYLAND [of Appeals]; the record and any proceeding filed with the SUPREME  
16 Court OF MARYLAND [of Appeals] shall lose its confidential character, except as  
17 ordered by the SUPREME Court OF MARYLAND [of Appeals].

18 (4) No judge shall participate as a member of the Commission in any  
19 proceedings involving that judge's own conduct, and the Governor shall appoint  
20 another judge as a substitute member of the Commission for those proceedings.

21 (5) The SUPREME Court OF MARYLAND [of Appeals] shall prescribe by  
22 rule the means to implement and enforce the powers of the Commission and the  
23 practice and procedure before the Commission.

24 (b) (1) Upon any recommendation of the Commission, the SUPREME Court  
25 OF MARYLAND [of Appeals], after a hearing and upon a finding of misconduct while  
26 in office, or of persistent failure to perform the duties of the office, or of conduct  
27 prejudicial to the proper administration of justice, may remove the judge from office  
28 or may censure or otherwise discipline the judge, or the SUPREME Court OF  
29 MARYLAND [of Appeals], after hearing and upon a finding of disability which is or is  
30 likely to become permanent and which seriously interferes with the performance of  
31 the judge's duties, may retire the judge from office.

32 (2) A judge removed under this section, and the judge's surviving spouse,  
33 shall have the rights and privileges accruing from the judge's judicial service only to  
34 the extent prescribed by the order of removal.

35 (3) A judge retired under this section shall have the rights and privileges  
36 prescribed by law for other retired judges.

1 (4) No judge of the SUPREME Court OF MARYLAND [of Appeals] shall sit  
2 in judgment in any hearing involving that judge's own conduct.

3 5A.

4 (c) The continuance in office of a judge of the SUPREME Court OF MARYLAND  
5 [of Appeals] is subject to approval or rejection by the registered voters of the  
6 appellate judicial circuit from which [he] THE JUDGE was appointed at the next  
7 general election following the expiration of one year from the date of the occurrence of  
8 the vacancy which [he] THE JUDGE was appointed to fill, and at the general election  
9 next occurring every ten years thereafter.

10 (d) The continuance in office of a judge of the MARYLAND APPELLATE Court  
11 [of Special Appeals] is subject to approval or rejection by the registered voters of the  
12 geographical area prescribed by law at the next general election following the  
13 expiration of one year from the date of the occurrence of the vacancy which [he] THE  
14 JUDGE was appointed to fill, and at the general election next occurring every ten  
15 years thereafter.

16 10.

17 (a) (1) The Clerks of the Courts shall have charge and custody of records  
18 and other papers and shall perform all the duties which appertain to their offices, as  
19 are regulated by Law.

20 (2) The office and business of the Clerks, in all their departments, shall  
21 be subject to and governed in accordance with rules adopted by the SUPREME Court  
22 OF MARYLAND [of Appeals] pursuant to Section 18 of this article.

23 14.

24 The SUPREME Court OF MARYLAND [of Appeals] shall be composed of seven  
25 judges, one from the First Appellate Judicial Circuit consisting of Caroline, Cecil,  
26 Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester  
27 Counties; one from the Second Appellate Judicial Circuit consisting of Baltimore and  
28 Harford Counties; one from the Third Appellate Judicial Circuit, consisting of  
29 Allegany, Carroll, Frederick, Garrett, Howard, and Washington Counties; one from  
30 the Fourth Appellate Judicial Circuit, consisting of Prince George's County; one from  
31 the Fifth Appellate Judicial Circuit, consisting of Anne Arundel, Calvert, Charles, and  
32 St. Mary's Counties; one from the Sixth Appellate Judicial Circuit, consisting of  
33 Baltimore City; and one from the Seventh Appellate Judicial Circuit, consisting of  
34 Montgomery County. The Judges of the SUPREME Court OF MARYLAND [of Appeals]  
35 shall be residents of their respective Appellate Judicial Circuits. The term of each  
36 Judge of the SUPREME Court OF MARYLAND [of Appeals] shall begin on the date of  
37 [his] THE JUDGE'S qualification. One of the Judges of the SUPREME Court OF  
38 MARYLAND [of Appeals] shall be designated by the Governor as the Chief Judge. The  
39 jurisdiction of the SUPREME Court OF MARYLAND [of Appeals] shall be co-extensive  
40 with the limits of the State and such as now is or may hereafter be prescribed by law.  
41 It shall hold its sessions in the City of Annapolis at such time or times as it shall from  
42 time to time by rule prescribe. Its session or sessions shall continue not less than ten

1 months in each year, if the business before it shall so require, and it shall be  
2 competent for the judges temporarily to transfer their sittings elsewhere upon  
3 sufficient cause. The salary of each Judge of the SUPREME Court OF MARYLAND [of  
4 Appeals] shall be that now or hereafter prescribed by the General Assembly and shall  
5 not be diminished during [his] THE JUDGE'S continuance in office. Five of the judges  
6 shall constitute a quorum, and five judges shall sit in each case unless the SUPREME  
7 Court OF MARYLAND shall direct that an additional judge or judges sit for any case.  
8 The concurrence of a majority of those sitting shall be sufficient for the decision of any  
9 cause, and an equal division of those sitting in a case has the effect of affirming the  
10 decision appealed from if there is no application for reargument as hereinafter  
11 provided. In any case where there is an equal division or a three to two division of the  
12 SUPREME Court OF MARYLAND a reargument before the full Court of seven judges  
13 shall be granted to the losing party upon application as a matter of right.

14 15.

15 Any judge of the SUPREME Court OF MARYLAND [of Appeals] or of an  
16 intermediate court of appeal who heard the cause below either as a trial judge or as a  
17 judge of any intermediate court of appeal as the case may be shall not participate in  
18 the decision. In every case an opinion, in writing, shall be filed within three months  
19 after the argument, or submission of the cause; and the judgment of the SUPREME  
20 Court OF MARYLAND [of Appeals] shall be final and conclusive.

21 16.

22 Provision shall be made by Law for publishing Reports of all causes, argued and  
23 determined in the SUPREME Court OF MARYLAND [of Appeals] and in the  
24 intermediate courts of appeal, which the judges thereof, respectively, shall designate  
25 as proper for publication.

26 17.

27 There shall be a Clerk of the SUPREME Court OF MARYLAND [of Appeals], who  
28 shall be appointed by and shall hold [his] THAT office at the pleasure of said  
29 SUPREME Court OF MARYLAND [of Appeals].

30 18.

31 (a) The SUPREME Court OF MARYLAND [of Appeals] from time to time shall  
32 adopt rules and regulations concerning the practice and procedure in and the  
33 administration of the appellate courts and in the other courts of this State, which  
34 shall have the force of law until rescinded, changed or modified by the SUPREME  
35 Court OF MARYLAND [of Appeals] or otherwise by law. The power of courts other  
36 than the SUPREME Court OF MARYLAND [of Appeals] to make rules of practice and  
37 procedure, or administrative rules, shall be subject to the rules and regulations  
38 adopted by the SUPREME Court OF MARYLAND [of Appeals] or otherwise by law.

39 (b) The Chief Judge of the SUPREME Court OF MARYLAND [of Appeals] shall  
40 be the administrative head of the Judicial system of the State. [He] THE CHIEF  
41 JUDGE OF THE SUPREME COURT OF MARYLAND shall from time to time require, from

1 each of the judges of the Circuit Courts, of the District Court and of any intermediate  
2 courts of appeal, reports as to the judicial work and business of each of the judges and  
3 their respective courts. [He] THE CHIEF JUDGE OF THE SUPREME COURT OF  
4 MARYLAND may, in case of a vacancy, or of the illness, disqualification or other  
5 absence of a judge or for the purpose of relieving an accumulation of business in any  
6 court assign any judge except a judge of the Orphans' Court to sit temporarily in any  
7 court except an Orphans' Court. Any judge assigned by the Chief Judge of the  
8 SUPREME Court OF MARYLAND [of Appeals] pursuant to this section has all the  
9 power and authority pertaining to a judge of the court to which [he] THE JUDGE is so  
10 assigned; and [his] THE JUDGE'S power and authority shall continue with respect to  
11 all cases (including any motion, or other matters incidental thereto) which may come  
12 before [him] THE JUDGE by virtue of such assignment until [his] THE JUDGE'S  
13 action thereon shall be completed. In the absence of the Chief Judge of the SUPREME  
14 Court OF MARYLAND [of Appeals], the provisions of this section shall be applicable to  
15 the senior judge present in the SUPREME Court OF MARYLAND [of Appeals]. The  
16 powers of the Chief Judge set forth in this section shall be subject to any rule or  
17 regulation adopted by the SUPREME Court OF MARYLAND [of Appeals].

18 22.

19 Where any Term is held, or trial conducted by less than the whole number of  
20 said Circuit Judges, upon the decision or determination of any point, or question, by  
21 the Court, it shall be competent to the party, against whom the ruling or decision is  
22 made, upon motion, to have the point, or question reserved for the consideration of  
23 the three Judges of the Circuit, who shall constitute a court in banc for such purpose;  
24 and the motion for such reservation shall be entered of record, during the sitting, at  
25 which such decision may be made; and the several Circuit Courts shall regulate, by  
26 rules, the mode and manner of presenting such points, or questions to the Court in  
27 banc, and the decision of the said Court in banc shall be the effective decision in the  
28 premises, and conclusive, as against the party, at whose motion said points, or  
29 questions were reserved; but such decision in banc shall not preclude the right of  
30 Appeal, or writ of error to the adverse party, in those cases, civil or criminal, in which  
31 appeal, or writ of error to the SUPREME Court OF MARYLAND [of Appeals] may be  
32 allowed by Law. The right of having questions reserved shall not, however, apply to  
33 trials of Appeals from judgments of the District Court, nor to criminal cases below the  
34 grade of felony, except when the punishment is confinement in the Penitentiary; and  
35 this Section shall be subject to such provisions as may hereafter be made by Law.

36 41E.

37 The Chief Judge of the SUPREME Court OF MARYLAND [of Appeals] shall  
38 designate one judge of the District Court as Chief Judge of that Court, to serve as  
39 Chief Judge at [his pleasure] THE PLEASURE OF THE CHIEF JUDGE OF THE  
40 SUPREME COURT OF MARYLAND. The Chief Judge of the District Court may assign  
41 administrative duties to other judges of the District Court and shall perform such  
42 other duties in the administration of the District Court as may be prescribed by rule  
43 or by law.



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

2 6.

3 It shall be the duty of the Clerk of the SUPREME Court OF MARYLAND [of  
4 Appeals] and the Clerks of any intermediate courts of appeal, respectively, whenever  
5 a case shall be brought into said Courts, in which the State is a party or has interest,  
6 immediately to notify the Attorney General thereof.

7 **Article XVII - Quadrennial Elections**

8 3.

9 All State and county officers elected by qualified voters (except judges of the  
10 Circuit Courts, [judges of the Supreme Bench of Baltimore City,] judges of the  
11 SUPREME Court OF MARYLAND [of Appeals] and judges of any intermediate courts of  
12 appeal) shall hold office for terms of four years, and until their successors shall  
13 qualify.

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

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

29 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the approval  
30 of this Act by the voters, in accordance with Section 3 of this Act, this Act shall take  
31 effect January 1, 2000.