

SENATE BILL 88
CONSTITUTIONAL AMENDMENT

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2003 Regular Session
3r0907

By: **Senators Frosh, Forehand, Colburn, Garagiola, Hogan, and Ruben**
Introduced and read first time: January 22, 2003
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Circuit Court Judges -- Appointment and Term of Office**

3 FOR the purpose of proposing amendments to the Constitution of Maryland relating
4 to the selection and tenure of circuit court judges; repealing provisions relating
5 to election of circuit court judges; requiring the Governor to fill a vacancy in the
6 office of a judge of a circuit court by appointment, subject to Senate
7 confirmation; providing for retention elections following confirmation by the
8 Senate; authorizing reappointment of a judge at the end of the judge's term;
9 altering the term of office of circuit court judges; providing certain provisions of
10 limited duration for the purpose of implementing these amendments; generally
11 relating to the selection, appointment, tenure, and term of office of judges of the
12 circuit courts; and submitting this amendment to the qualified voters of the
13 State of Maryland for their adoption or rejection.

14 BY repealing and reenacting, with amendments,
15 Article IV - Judiciary Department
16 Section 3 and 5
17 Annotated Code of Maryland
18 (1981 Replacement Volume and 2002 Supplement)

19 BY adding to
20 Article XVIII - Provisions of Limited Duration
21 Section 6
22 Annotated Code of Maryland
23 (1981 Replacement Volume and 2002 Supplement)

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

1

Article IV - Judiciary Department

2 3.

3 [Except for the Judges of the District Court, the Judges of the several Courts
4 other than the Court of Appeals or any intermediate courts of appeal shall, subject to
5 the provisions of Section 5 of this Article of the Constitution, be elected in Baltimore
6 City and in each county, by the qualified voters of the city and of each county,
7 respectively, all of the said Judges to be elected at the general election to be held on
8 the Tuesday after the first Monday in November, as now provided for in the
9 Constitution. Each of the said Judges shall hold his office for the term of fifteen years
10 from the time of his election, and until his successor is elected and qualified, or until
11 he shall have attained the age of seventy years, whichever may first happen, and be
12 reeligible thereto until he shall have attained the age of seventy years, and not after.]
13 In case of the inability of any [of said Judges] CIRCUIT COURT JUDGE to discharge
14 [his] THE JUDGE'S duties with efficiency, by reason of continued sickness, or of
15 physical or mental infirmity, it shall be in the power of the General Assembly,
16 two-thirds of the members of each House concurring, with the approval of the
17 Governor to retire said Judge from office.

18 5.

19 (A) Upon every occurrence or recurrence of a vacancy through death,
20 resignation, removal, disqualification by reason of age or otherwise, or expiration of
21 the term [of fifteen years] of any judge of a circuit court, or creation of the office of
22 any such judge, or in any other way, the Governor shall appoint, BY AND WITH THE
23 ADVICE AND CONSENT OF THE SENATE, a person duly qualified to fill said office[,
24 who shall hold the same until the election and qualification of his successor. His
25 successor shall be elected at the first biennial general election for Representatives in
26 Congress after the expiration of the term of fifteen years (if the vacancy occurred in
27 that way) or the first such general election after one year after the occurrence of the
28 vacancy in any other way than through expiration of such term. Except in case of
29 reappointment of a judge upon expiration of his term of fifteen years, no person shall
30 be appointed who will become disqualified by reason of age and thereby unable to
31 continue to hold office until the prescribed time when his successor would have been
32 elected].

33 (B) A JUDGE APPOINTED BY THE GOVERNOR MAY TAKE OFFICE UPON
34 QUALIFICATION AND BEFORE CONFIRMATION BY THE SENATE, BUT SHALL CEASE
35 TO HOLD OFFICE AT THE CLOSE OF THE REGULAR ANNUAL SESSION OF THE
36 GENERAL ASSEMBLY NEXT FOLLOWING THE JUDGE'S APPOINTMENT OR DURING
37 WHICH THE JUDGE SHALL HAVE BEEN APPOINTED BY THE GOVERNOR, IF THE
38 SENATE SHALL NOT HAVE CONFIRMED THE APPOINTMENT BEFORE THEN.

39 (C) IF THE SENATE CONFIRMS THE APPOINTMENT, THE CONTINUANCE IN
40 OFFICE OF THE JUDGE IS THEN SUBJECT TO APPROVAL OR REJECTION BY THE
41 REGISTERED VOTERS OF THE CITY OR COUNTY FROM WHICH THE JUDGE WAS
42 APPOINTED AT THE NEXT GENERAL ELECTION FOLLOWING THE EXPIRATION OF ONE
43 YEAR FROM THE DATE OF THE APPOINTMENT.

1 (D) THE APPROVAL OR REJECTION BY THE REGISTERED VOTERS OF A JUDGE
2 SHALL BE A VOTE FOR THE JUDGE'S RETENTION IN OFFICE FOR A TERM OF TEN
3 YEARS OR FOR THE JUDGE'S REMOVAL. THE JUDGE'S NAME SHALL BE ON THE
4 APPROPRIATE BALLOT, WITHOUT OPPOSITION, AND THE VOTERS SHALL VOTE YES
5 OR NO FOR THE JUDGE'S RETENTION IN OFFICE. IF THE VOTERS REJECT THE
6 RETENTION IN OFFICE OF A JUDGE, OR IF THE VOTE IS TIED, THE OFFICE BECOMES
7 VACANT TEN DAYS AFTER CERTIFICATION OF THE ELECTION RETURNS.

8 (E) EACH JUDGE APPOINTED BY THE GOVERNOR, CONFIRMED BY THE
9 SENATE, AND APPROVED BY THE VOTERS SHALL HOLD THE OFFICE FOR A TERM OF
10 TEN YEARS OR UNTIL THE JUDGE ATTAINS THE AGE OF SEVENTY YEARS,
11 WHICHEVER OCCURS FIRST.

12 (F) IF THE TEN-YEAR TERM OF A JUDGE EXPIRES BEFORE THAT JUDGE HAS
13 ATTAINED THE AGE OF SEVENTY YEARS, THAT JUDGE MAY BE REAPPOINTED BY THE
14 GOVERNOR, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, AND SUBJECT
15 TO APPROVAL OR REJECTION BY THE VOTERS, IN ACCORDANCE WITH SUBSECTION
16 (A) THROUGH (D) OF THIS SECTION, FOR ANOTHER TEN-YEAR TERM OR UNTIL THE
17 JUDGE ATTAINS THE AGE OF SEVENTY YEARS, WHICHEVER OCCURS FIRST.

18 **Article XVIII - Provisions of Limited Duration**

19 6.

20 (A) FOR THE PURPOSE OF IMPLEMENTING THE AMENDMENTS TO ARTICLE IV
21 OF THIS CONSTITUTION DEALING WITH THE SELECTION AND TENURE OF CIRCUIT
22 COURT JUDGES, THE FOLLOWING PROVISIONS SHALL GOVERN. IN ACCORDANCE
23 WITH ARTICLE XIV, § 1A OF THIS CONSTITUTION, THIS SECTION SHALL EXPIRE WHEN
24 ALL THE JUDGES OF THE CIRCUIT COURTS HAVE COMPLETED ALL OF THE TERMS
25 FOR WHICH THE JUDGES ARE CONTINUED IN OFFICE UNDER SUBSECTIONS (B) AND
26 (C) OF THIS SECTION OR HAVE VACATED THEIR OFFICES FOR ANY REASON.

27 (B) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE FOR AN ELECTED
28 TERM ON THE EFFECTIVE DATE OF THESE AMENDMENTS, UNLESS THE JUDGE DIES,
29 RESIGNS, RETIRES, OR IS OTHERWISE LAWFULLY REMOVED, SHALL CONTINUE IN
30 OFFICE UNTIL THE END OF THE ELECTED TERM OR UNTIL THE JUDGE ATTAINS THE
31 AGE OF SEVENTY, WHICHEVER OCCURS FIRST. CONTINUANCE OF THE JUDGE IN
32 OFFICE THEN IS SUBJECT TO THE PROVISIONS OF ARTICLE IV, § 5 OF THIS
33 CONSTITUTION, BUT IN NO EVENT SHALL ANY JUDGE CONTINUE IN OFFICE AFTER
34 ATTAINING THE AGE OF SEVENTY.

35 (C) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE ON THE EFFECTIVE
36 DATE OF THESE AMENDMENTS, BUT WHO HAS NOT BEEN ELECTED TO THAT OFFICE
37 BY THE VOTERS, SHALL, WITHIN 15 DAYS AFTER THE EFFECTIVE DATE OF THESE
38 AMENDMENTS, BE REAPPOINTED TO THAT OFFICE. CONTINUANCE OF THE JUDGE IN
39 OFFICE THEN IS SUBJECT TO THE PROVISIONS OF ARTICLE IV, § 5 OF THIS
40 CONSTITUTION, BUT IN NO EVENT SHALL ANY JUDGE CONTINUE IN OFFICE AFTER
41 ATTAINING THE AGE OF SEVENTY.

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

5 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
6 proposed as an amendment to the Constitution of Maryland shall be submitted to the
7 legal and qualified voters of this State at the next general election to be held in
8 November, 2004 for their adoption or rejection in pursuance of directions contained in
9 Article XIV of the Constitution of this State. At that general election, the vote on this
10 proposed amendment to the Constitution shall be by ballot, and upon each ballot
11 there shall be printed the words "For the Constitutional Amendment" and "Against
12 the Constitutional Amendment," as now provided by law. Immediately after the
13 election, all returns shall be made to the Governor of the vote for and against the
14 proposed amendment, as directed by Article XIV of the Constitution, and further
15 proceedings had in accordance with Article XIV.