

HOUSE BILL 77

D1

CONSTITUTIONAL AMENDMENT

71r0805

By: **Delegate Cardin**

Introduced and read first time: January 22, 2007

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Orphans' Court Judge – Degree of Juris Doctor or Its Equivalent**

3 FOR the purpose of proposing an amendment to the Maryland Constitution to require
4 an individual to possess a degree of Juris Doctor, or its equivalent, from an
5 accredited law school to be eligible to be a judge of an orphans' court; providing
6 for an exception of limited duration; providing for the expiration of a certain
7 exception; generally relating to the requirements of becoming a judge of an
8 orphans' court; and submitting this amendment to the qualified voters of the
9 State of Maryland for their adoption or rejection.

10 BY proposing an amendment to the Maryland Constitution
11 Article IV – Judiciary Department
12 Section 40

13 BY proposing an addition to the Maryland Constitution
14 Article XVIII – Provisions of Limited Duration
15 Section 6

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

19 **Article IV – Judiciary Department**

20 40.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 The qualified voters of the City of Baltimore, and of the several Counties, except
2 Montgomery County and Harford County, shall elect three Judges of the Orphans'
3 Courts of City and Counties, respectively, who shall be citizens of the State and
4 residents, for the twelve months preceding, in the City or County for which they may
5 be elected **AND WHO SHALL HAVE RECEIVED A DEGREE OF JURIS DOCTOR, OR**
6 **ITS EQUIVALENT, FROM AN ACCREDITED LAW SCHOOL.** They shall have all the
7 powers now vested in the Orphans' Courts of the State, subject to such changes as the
8 Legislature may prescribe. Each of the Judges shall be paid such compensation as may
9 be regulated by Law, to be paid by the City or Counties, respectively. In case of a
10 vacancy in the office of Judge of the Orphans' Court, the Governor shall appoint,
11 subject to confirmation or rejection by the Senate, some suitable person to fill the
12 vacancy for the residue of the term.

13 **Article XVIII – Provisions of Limited Duration**

14 **6.**

15 (A) **NOTWITHSTANDING ARTICLE IV, SECTION 40 OF THE MARYLAND**
16 **CONSTITUTION, A JUDGE OF AN ORPHANS' COURT IN OFFICE ON THE**
17 **EFFECTIVE DATE OF HOUSE BILL ____ OF 2007 (7LR0805) IS NOT REQUIRED TO**
18 **HAVE RECEIVED A DEGREE OF JURIS DOCTOR, OR ITS EQUIVALENT, FROM AN**
19 **ACCREDITED LAW SCHOOL IN ORDER TO REMAIN A JUDGE OR SEEK**
20 **REELECTION.**

21 (B) **THE PROVISIONS OF THIS SECTION SHALL EXPIRE IN ACCORDANCE**
22 **WITH ARTICLE XIV, SECTION 1A OF THE MARYLAND CONSTITUTION WHEN NO**
23 **JUDGE OF AN ORPHANS' COURT IN THAT OFFICE ON THE EFFECTIVE DATE OF**
24 **HOUSE BILL ____ OF 2007 (7LR0805) REMAINS IN THAT OFFICE.**

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Constitutional
26 Amendment shall be construed to apply only prospectively and may not be applied or
27 interpreted to have any effect on or application to any current judge of an orphans'
28 court.

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

1 SECTION 4. AND BE IT FURTHER ENACTED, That the foregoing section
2 proposed as an amendment to the Maryland Constitution shall be submitted to the
3 legal and qualified voters of this State at the next general election to be held in
4 November, 2008 for their adoption or rejection pursuant to Article XIV of the
5 Maryland Constitution. At that general election, the vote on this proposed amendment
6 to the Constitution shall be by ballot, and upon each ballot there shall be printed the
7 words "For the Constitutional Amendment" and "Against the Constitutional
8 Amendment," as now provided by law. Immediately after the election, all returns shall
9 be made to the Governor of the vote for and against the proposed amendment, as
10 directed by Article XIV of the Maryland Constitution, and further proceedings had in
11 accordance with Article XIV.