

HOUSE BILL 290

D1, G1

CONSTITUTIONAL AMENDMENT

71r0806

By: **Delegates Cardin, Barve, James, Niemann, and Shewell**

Introduced and read first time: January 31, 2007

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Circuit Court Judges – Retention Elections**

3 FOR the purpose of proposing amendments to the Maryland Constitution relating to
4 the election and tenure of judges of the circuit courts; establishing the Judicial
5 Recommendation Committee and providing for the appointment of its members;
6 providing for retention elections of certain circuit court judges at certain
7 intervals; making interim provisions for certain incumbent judges; and
8 submitting this amendment to the qualified voters of the State of Maryland for
9 their adoption or rejection.

10 BY proposing a repeal of the Maryland Constitution
11 Article IV – Judiciary Department
12 Section 3 and 5

13 BY proposing an amendment to the Maryland Constitution
14 Article IV – Judiciary Department
15 Section 11 and 21

16 BY proposing an addition to the Maryland Constitution
17 Article XVIII – Provisions of Limited Duration
18 Section 6

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article IV – Judiciary Department

[3.

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

[5.

Upon every occurrence or recurrence of a vacancy through death, resignation, removal, disqualification by reason of age or otherwise, or expiration of the term of fifteen years of any judge of a circuit court, or creation of the office of any such judge, or in any other way, the Governor shall appoint a person duly qualified to fill said office, who shall hold the same until the election and qualification of his successor. His successor shall be elected at the first biennial general election for Representatives in Congress after the expiration of the term of fifteen years (if the vacancy occurred in that way) or the first such general election after one year after the occurrence of the vacancy in any other way than through expiration of such term. Except in case of reappointment of a judge upon expiration of his term of fifteen years, no person shall be appointed who will become disqualified by reason of age and thereby unable to continue to hold office until the prescribed time when his successor would have been elected.]

11.

The **CLERK OF EACH CIRCUIT COURT SHALL CERTIFY THE** election for Judges, [hereinbefore provided,] and all elections for Clerks, Registers of Wills, and other officers[,] provided in this Constitution, except State's Attorneys, [shall be certified,] and **MAKE** the returns [made, by the Clerks of the Circuit Courts of the Counties, and the Clerk of the Superior Court of Baltimore City, respectively,] to the

1 Governor, who shall issue commissions to the [different persons] **INDIVIDUALS** for the
2 offices to which they shall have been, respectively, elected; and in all such elections for
3 officers other than judges of an appellate **OR CIRCUIT** court **RETAINED IN OFFICE**
4 **UNDER THIS ARTICLE**, the [person] **INDIVIDUAL** having the greatest number of
5 votes, shall be declared to be elected.

6 21.

7 (a) (1) Subject to [the provisions of] **PARAGRAPH (2) OF THIS** subsection
8 [(b)], the General Assembly shall determine by law the number of judges of the circuit
9 court in each county and circuit. [These judges shall be selected in accordance with
10 Sections 3 and 5 of this Article.]

11 [(b)] (2) There shall be at least four circuit court judges resident in each
12 circuit, and at least one circuit court judge shall be resident in each county. There
13 shall be at least two such judges resident in Anne Arundel County, at least three
14 resident in Baltimore County, at least four resident in Prince George's County, and at
15 least five resident in Montgomery County.

16 (B) (1) **WHETHER OCCASIONED BY REASON OF AGE, DEATH,**
17 **REMOVAL, RESIGNATION, RETIREMENT, DISQUALIFICATION, OR REJECTION BY**
18 **THE VOTERS OF AN INCUMBENT, CREATION OF A CIRCUIT COURT JUDGE'S**
19 **OFFICE, OR OTHERWISE, A VACANCY IN THE OFFICE OF A JUDGE OF A CIRCUIT**
20 **COURT SHALL BE FILLED AS PROVIDED IN THIS SUBSECTION.**

21 (2) (I) **THERE IS A JUDICIAL RECOMMENDATION COMMITTEE**
22 **COMPOSED OF AT LEAST 10 ANONYMOUS JUDGES OF THE CIRCUIT COURTS.**

23 (II) **THE MEMBERS OF THE JUDICIAL RECOMMENDATION**
24 **COMMITTEE SHALL BE APPOINTED BY THE CHIEF JUDGE OF THE COURT OF**
25 **APPEALS.**

26 (3) (I) **ON OCCURRENCE OF A VACANCY ON THE CIRCUIT**
27 **COURT FOR BALTIMORE CITY OR A COUNTY, THE GOVERNOR SHALL APPOINT**
28 **AN INDIVIDUAL WHO IS QUALIFIED TO FILL THE OFFICE.**

29 (II) **A QUALIFIED INDIVIDUAL SHALL HAVE POSITIVE**
30 **RECOMMENDATIONS FROM THE JUDICIAL RECOMMENDATION COMMITTEE AND**
31 **THE MARYLAND STATE BAR ASSOCIATION.**

1 (III) THE APPOINTEE SHALL HOLD THE OFFICE UNTIL THE
2 ELECTION AND QUALIFICATION OF THE APPOINTEE'S SUCCESSOR. THE
3 REGISTERED VOTERS OF BALTIMORE CITY OR THE AFFECTED COUNTY SHALL
4 ELECT THE SUCCESSOR AT THE NEXT GENERAL ELECTION FOLLOWING THE
5 EXPIRATION OF 1 YEAR AFTER THE DATE OF THE OCCURRENCE OF THE
6 VACANCY. THE SUCCESSOR ELECTED UNDER THIS PARAGRAPH SHALL HOLD
7 OFFICE UNTIL THE ELECTION FOR CONTINUANCE IN OFFICE UNDER
8 PARAGRAPH (4) OF THIS SUBSECTION.

9 (IV) THE GOVERNOR MAY NOT APPOINT AN INDIVIDUAL
10 WHO WILL BECOME 70 YEARS OLD BEFORE THE TIME FOR ELECTION OF THE
11 INDIVIDUAL'S SUCCESSOR.

12 (V) A MEMBER OF THE GENERAL ASSEMBLY WHO IS
13 OTHERWISE QUALIFIED FOR APPOINTMENT TO JUDICIAL OFFICE IS NOT
14 DISQUALIFIED BY REASON OF MEMBERSHIP IN A GENERAL ASSEMBLY THAT
15 PROPOSED OR ENACTED ANY CONSTITUTIONAL AMENDMENT OR STATUTE
16 AFFECTING THE METHOD OF SELECTION, CONTINUANCE IN OFFICE, REMOVAL,
17 OR RETIREMENT OF A JUDGE, THE ABOLITION OR CREATION OF A COURT, A
18 DECREASE OR INCREASE IN THE NUMBER OF JUDGES OF ANY COURT, OR A
19 DECREASE OR INCREASE IN THE SALARY, PENSION, OR OTHER ALLOWANCES OF
20 ANY JUDGE.

21 (4) (I) RETENTION IN OFFICE OF A JUDGE ELECTED UNDER
22 THIS SUBSECTION TO THE CIRCUIT COURT FOR BALTIMORE CITY OR A COUNTY
23 IS SUBJECT TO CONFIRMATION BY THE REGISTERED VOTERS OF BALTIMORE
24 CITY OR THE AFFECTED COUNTY AT THE GENERAL ELECTION NEXT OCCURRING
25 15 YEARS AFTER THE JUDGE WAS FIRST ELECTED UNDER THIS SECTION AND
26 EVERY 10 YEARS THEREAFTER.

27 (II) CONFIRMATION OF A JUDGE BY THE REGISTERED
28 VOTERS UNDER THIS PARAGRAPH SHALL BE A VOTE FOR THE JUDGE'S
29 CONTINUANCE IN OFFICE FOR A TERM OF 10 YEARS OR THE JUDGE'S REMOVAL.
30 THE JUDGE'S NAME SHALL BE ON THE APPROPRIATE BALLOT, WITHOUT
31 OPPOSITION, AND THE VOTERS SHALL VOTE FOR THE JUDGE'S RETENTION IN
32 OFFICE. IF THE JUDGE FAILS TO SECURE AT LEAST 20% OF THE VOTES OF THE
33 REGISTERED VOTERS OF THE CITY OR COUNTY, OR IF THE VOTE IS TIED, THE
34 OFFICE BECOMES VACANT 10 DAYS AFTER CERTIFICATION OF THE ELECTION
35 RETURNS.

1 **(5) A CIRCUIT COURT JUDGE SHALL RETIRE WHEN THE JUDGE**
2 **ATTAINS THE AGE OF 70 YEARS.**

3 **(6) IF A JUDGE OF A CIRCUIT COURT IS UNABLE TO DISCHARGE**
4 **THE DUTIES OF OFFICE WITH EFFICIENCY BY REASON OF CONTINUED SICKNESS**
5 **OR OF MENTAL OR PHYSICAL DISABILITY, THE GENERAL ASSEMBLY,**
6 **TWO-THIRDS OF ALL OF THE MEMBERS ELECTED TO EACH HOUSE**
7 **CONCURRING, WITH THE APPROVAL OF THE GOVERNOR, MAY RETIRE THE**
8 **JUDGE FROM OFFICE.**

9 (c) The senior judge in length of service in each circuit shall be the chief
10 judge of the circuit. The other judges shall be associate judges.

11 (d) Except as otherwise provided by law, one judge shall constitute a quorum
12 for the transaction of any business.

13 (e) The terms of the circuit courts shall be determined by law.

14 [(f) A person is not ineligible for appointment or election as a judge because
15 he was a member of the General Assembly at a time when the number or salary of
16 judges were increased or decreased.]

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

18 **6.**

19 **(A) FOR THE PURPOSE OF IMPLEMENTING THE AMENDMENTS TO**
20 **ARTICLE IV OF THIS CONSTITUTION PROPOSED BY CHAPTER ____ (H.B. ____)**
21 **(7LR0806) OF THE ACTS OF THE GENERAL ASSEMBLY OF 2007 PERTAINING TO**
22 **THE ELECTION AND TENURE OF CIRCUIT COURT JUDGES, THE FOLLOWING**
23 **PROVISIONS SHALL GOVERN. IN ACCORDANCE WITH ARTICLE XIV, § 1A OF THIS**
24 **CONSTITUTION, THIS SECTION SHALL EXPIRE WHEN ALL THE JUDGES OF THE**
25 **CIRCUIT COURTS HAVE COMPLETED ALL OF THE TERMS FOR WHICH THE**
26 **JUDGES ARE CONTINUED IN OFFICE UNDER SUBSECTIONS (B) AND (C) OF THIS**
27 **SECTION OR HAVE VACATED THEIR OFFICES FOR ANY REASON.**

28 **(B) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE FOR AN**
29 **ELECTED TERM ON THE EFFECTIVE DATE OF THESE AMENDMENTS, UNLESS THE**
30 **JUDGE DIES, RESIGNS, RETIRES, OR IS OTHERWISE LAWFULLY REMOVED, SHALL**

1 CONTINUE IN OFFICE UNTIL THE NEXT GENERAL ELECTION FOLLOWING THE
2 END OF THE ELECTED TERM OR UNTIL THE JUDGE ATTAINS THE AGE OF 70
3 YEARS, WHICHEVER FIRST OCCURS. CONTINUANCE OF THE JUDGE IN OFFICE
4 THEN IS SUBJECT TO THE PROVISIONS OF ARTICLE IV, § 21(B) OF THIS
5 CONSTITUTION, BUT IN NO EVENT SHALL ANY JUDGE CONTINUE IN OFFICE
6 AFTER ATTAINING THE AGE OF 70 YEARS.

7 (C) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE ON THE
8 EFFECTIVE DATE OF THESE AMENDMENTS, BUT WHO HAS NOT BEEN ELECTED
9 TO THAT OFFICE BY THE VOTERS, SHALL CONTINUE IN OFFICE UNTIL THE NEXT
10 GENERAL ELECTION FOLLOWING THE EXPIRATION OF 1 YEAR AFTER THE DATE
11 OF THE OCCURRENCE OF THE VACANCY TO WHICH THE JUDGE WAS APPOINTED.
12 CONTINUANCE OF THE JUDGE IN OFFICE THEN IS SUBJECT TO THE PROVISIONS
13 OF ARTICLE IV, § 21(B) OF THIS CONSTITUTION, BUT IN NO EVENT SHALL ANY
14 JUDGE CONTINUE IN OFFICE AFTER ATTAINING THE AGE OF 70 YEARS.

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

20 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
21 proposed as an amendment to the Maryland Constitution shall be submitted to the
22 legal and qualified voters of this State at the next general election to be held in
23 November, 2008 for their adoption or rejection pursuant to Article XIV of the
24 Maryland Constitution. At that general election, the vote on this proposed amendment
25 to the Constitution shall be by ballot, and upon each ballot there shall be printed the
26 words "For the Constitutional Amendment" and "Against the Constitutional
27 Amendment," as now provided by law. Immediately after the election, all returns shall
28 be made to the Governor of the vote for and against the proposed amendment, as
29 directed by Article XIV of the Maryland Constitution, and further proceedings had in
30 accordance with Article XIV.