

HOUSE BILL 388

D1 CONSTITUTIONAL AMENDMENT
HB 1071/15 – JUD & W&M

6lr2520

By: **Delegates Hill, Dumais, Kramer, and Sydnor**

Introduced and read first time: January 28, 2016

Assigned to: Judiciary and Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Circuit Court Judges – Election, Qualifications, and Term of Office**

3 FOR the purpose of proposing an amendment to the Maryland Constitution relating to the
4 selection and tenure of circuit court judges; altering the method of filling vacancies
5 in the office of a judge of a circuit court; providing for retention elections following
6 an appointment to fill a vacancy in the office of a judge of a circuit court; altering the
7 term of office of circuit court judges; altering certain qualifications for appointment
8 of circuit court judges; providing for a transitional period during which the terms of
9 certain amendments are effective; repealing certain obsolete provisions; making
10 stylistic changes; generally relating to the selection, election, appointment,
11 qualification, tenure, and term of office for judges of the circuit courts; and
12 submitting this amendment to the qualified voters of the State for their adoption or
13 rejection.

14 BY proposing an amendment to the Maryland Constitution
15 Article IV – Judiciary Department
16 Section 2, 3, 5A, 11, and 21(a)

17 BY proposing a repeal of the Maryland Constitution
18 Article IV – Judiciary Department
19 Section 5; 18B and the part “Part IIA – Interim Provisions”; and 21A

20 BY proposing an addition to the Maryland Constitution
21 Article XVIII – Provisions of Limited Duration
22 Section 6

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

26 **Article IV – Judiciary Department**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 2.

2 The Judges of all of the said Courts shall be citizens of the State of Maryland, and
3 qualified voters under this Constitution, and shall have resided therein not less than five
4 years, and not less than six months next preceding their [election, or] appointment[, as the
5 case may be,] in the city, county, district, judicial circuit, intermediate appellate judicial
6 circuit or appellate judicial circuit for which they may be[, respectively, elected or]
7 appointed. They shall be not less than thirty years of age at the time of their [election or]
8 appointment, and shall be selected from those who have been admitted to practice law in
9 this State, and who are most distinguished for integrity, wisdom and sound legal
10 knowledge.

11 3.

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

26 [5.

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

39 [5A.] 5.

1 (a) A vacancy in the office of a judge of **A CIRCUIT COURT OR** an appellate court,
2 whether occasioned by the death, resignation, removal, retirement, disqualification by
3 reason of age, or rejection by the voters of an incumbent, the creation of the office of a judge,
4 or otherwise, shall be filled as provided in this section.

5 (b) Upon the occurrence of a vacancy the Governor shall appoint, by and with the
6 advice and consent of the Senate, a person duly qualified to fill [said office] **THE VACANCY**
7 who shall hold the [same] **OFFICE** until the election for continuance in office as provided
8 in subsections (c) [and], (d), **AND (E) OF THIS SECTION.**

9 (c) The continuance in office of a judge of the Court of Appeals, **FOLLOWING AN**
10 **APPOINTMENT TO FILL A VACANCY**, is subject to approval or rejection by the registered
11 voters of the appellate judicial circuit from which [he] **THE JUDGE** was appointed at the
12 next general election following the expiration of [one] **1** year from the date of the occurrence
13 of the vacancy which [he] **THE JUDGE** was appointed to fill, and at the general election
14 next occurring every [ten] **10** years thereafter.

15 (d) The continuance in office of a judge of the Court of Special Appeals,
16 **FOLLOWING AN APPOINTMENT TO FILL A VACANCY**, is subject to approval or rejection
17 by the registered voters of the geographical area prescribed by law at the next general
18 election following the expiration of [one] **1** year from the date of the occurrence of the
19 vacancy which [he] **THE JUDGE** was appointed to fill, and at the general election next
20 occurring every [ten] **10** years thereafter.

21 **(E) THE CONTINUANCE IN OFFICE OF A JUDGE OF A CIRCUIT COURT,**
22 **FOLLOWING AN APPOINTMENT TO FILL A VACANCY, IS SUBJECT TO APPROVAL OR**
23 **REJECTION BY THE REGISTERED VOTERS OF BALTIMORE CITY OR THE COUNTY**
24 **FROM WHICH THE JUDGE WAS APPOINTED AT THE NEXT GENERAL ELECTION**
25 **FOLLOWING THE EXPIRATION OF 1 YEAR FROM THE DATE OF THE OCCURRENCE OF**
26 **THE VACANCY THAT THE JUDGE WAS APPOINTED TO FILL, AND AT THE GENERAL**
27 **ELECTION NEXT OCCURRING EVERY 10 YEARS THEREAFTER.**

28 [(e)] **(F)** The approval or rejection by the registered voters of a judge as provided
29 for in subsections (c) [and], (d), **AND (E) OF THIS SECTION** shall be a vote for the judge's
30 retention in office for a term of [ten] **10** years or [his] **THE JUDGE'S** removal. The judge's
31 name shall be on the appropriate ballot, without opposition, and the voters shall vote yes
32 or no for [his] **THE JUDGE'S** retention in office. If the voters reject the retention in office of
33 a judge, or if the vote is tied, the office becomes vacant [ten] **10** days after certification of
34 the election returns.

35 [(f)] **(G)** An appellate **OR CIRCUIT** court judge shall retire when [he] **THE**
36 **JUDGE** attains [his seventieth birthday] **THE AGE OF 70 YEARS.**

1 [(g)] (H) A member of the General Assembly who is otherwise qualified for
2 appointment to judicial office is not disqualified by reason of [his] THE MEMBER'S
3 membership in a General Assembly which proposed or enacted any constitutional
4 amendment or statute affecting the method of selection[, Continuance], CONTINUANCE in
5 office, or retirement or removal of a judge, the creation or abolition of a court, an increase
6 or decrease in the number of judges of any court, or an increase or decrease in the salary,
7 pension, or other allowances of any judge.

8 11.

9 The election for Judges, hereinbefore provided, and all elections for Clerks, Registers
10 of Wills, and other officers, provided in this Constitution, except State's Attorneys, shall be
11 certified, and the returns made, by the Clerks of the Circuit Courts [of the Counties, and
12 the Clerk of the Superior Court of Baltimore City, respectively,] to the Governor, who shall
13 issue commissions to the different persons for the offices to which they shall have been,
14 respectively, elected; and in all such elections for officers other than judges of an appellate
15 OR CIRCUIT court, the person having the greatest number of votes, shall be declared to be
16 elected.

17 [Part IIA – Interim Provisions]

18 [18B.

19 (a) For the purpose of implementing the amendments to this article, dealing with
20 the selection and tenure of appellate court judges, the following provisions shall govern.

21 (b) Each judge of an appellate court who is in office for an elected term on the
22 effective date of these amendments, unless he dies, resigns, retires, or is otherwise lawfully
23 removed, shall continue in office until the general election next after the end of his elected
24 term, or until his seventieth birthday, whichever first occurs. His continuance in office is
25 then subject to the provisions of section 5A(c) and (d) of this article, applicable to judges of
26 that court, but in no event shall any judge continue in office after his seventieth birthday.

27 (c) Each judge of a court specified in subsection (b) who is in office on the effective
28 date of these amendments, but who has not been elected to that office by the voters, shall,
29 within fifteen days after the effective date of these amendments, be reappointed to that
30 office. His continuance in office is then subject to the provisions of section 5A(c) and (d) of
31 this article, applicable to judges of that court, but in no event shall any judge continue in
32 office after his seventieth birthday.]

33 21.

34 (a) Subject to the provisions of subsection (b) OF THIS SECTION, the General
35 Assembly shall determine by law the number of judges of the circuit court in BALTIMORE
36 CITY AND each county and circuit. These judges shall be selected in accordance with
37 [Sections 3 and 5] PART II of this Article.

1 [21A.

2 If the amendments to sections 3 and 21 of Article IV proposed by House Bill 972,
3 Senate Bill 390 (1976) and the amendments to those sections proposed by House Bill 1048
4 (1976) are ratified by the voters at the election in November 1976, the amendments to those
5 sections proposed in House Bill 972, Senate Bill 390 (1976) shall take effect.]

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

7 **6.**

8 **(A) FOR THE PURPOSE OF IMPLEMENTING THE AMENDMENTS TO ARTICLE**
9 **IV OF THE MARYLAND CONSTITUTION PROPOSED BY HOUSE BILL ____ OF 2016**
10 **(6LR2520) CONCERNING JUDGES OF THE CIRCUIT COURTS, THE FOLLOWING**
11 **PROVISIONS SHALL GOVERN. IN ACCORDANCE WITH ARTICLE XIV, SECTION 1A OF**
12 **THE MARYLAND CONSTITUTION, THIS SECTION SHALL EXPIRE WHEN ALL OF THE**
13 **JUDGES OF THE CIRCUIT COURTS HAVE COMPLETED ALL OF THE TERMS FOR WHICH**
14 **THE JUDGES ARE RETAINED IN OFFICE UNDER SUBSECTIONS (B) AND (C) OF THIS**
15 **SECTION OR HAVE VACATED THEIR OFFICES FOR ANY REASON.**

16 **(B) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE FOR AN ELECTED**
17 **TERM ON THE EFFECTIVE DATE OF THESE AMENDMENTS, UNLESS THE JUDGE DIES,**
18 **RESIGNS, RETIRES, OR IS OTHERWISE LAWFULLY REMOVED, SHALL CONTINUE IN**
19 **OFFICE UNTIL THE NEXT GENERAL ELECTION AFTER THE END OF THE ELECTED**
20 **TERM OR UNTIL THE JUDGE ATTAINS THE AGE OF 70 YEARS, WHICHEVER OCCURS**
21 **FIRST. CONTINUANCE OF THE JUDGE IN OFFICE IS THEN SUBJECT TO THE**
22 **PROVISIONS OF ARTICLE IV, SECTION 5 OF THE MARYLAND CONSTITUTION, BUT IN**
23 **NO EVENT SHALL ANY JUDGE CONTINUE IN OFFICE AFTER ATTAINING THE AGE OF**
24 **70 YEARS.**

25 **(C) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE ON THE EFFECTIVE**
26 **DATE OF THESE AMENDMENTS, BUT WHO HAS NOT BEEN ELECTED TO THAT OFFICE**
27 **BY THE VOTERS, SHALL, WITHIN 15 DAYS AFTER THE EFFECTIVE DATE OF THESE**
28 **AMENDMENTS, BE REAPPOINTED TO THAT OFFICE. CONTINUANCE OF THE JUDGE IN**
29 **OFFICE IS THEN SUBJECT TO THE PROVISIONS OF ARTICLE IV, SECTION 5 OF THE**
30 **MARYLAND CONSTITUTION, BUT IN NO EVENT SHALL ANY JUDGE CONTINUE IN**
31 **OFFICE AFTER ATTAINING THE AGE OF 70 YEARS.**

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

1 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
2 proposed as an amendment to the Maryland Constitution shall be submitted to the
3 qualified voters of the State at the next general election to be held in November 2016 for
4 their adoption or rejection pursuant to Article XIV of the Maryland Constitution. At that
5 general election, the vote on this proposed amendment to the Constitution shall be by
6 ballot, and upon each ballot there shall be printed the words "For the Constitutional
7 Amendment" and "Against the Constitutional Amendment," as now provided by law.
8 Immediately after the election, all returns shall be made to the Governor of the vote for and
9 against the proposed amendment, as directed by Article XIV of the Maryland Constitution,
10 and further proceedings had in accordance with Article XIV.