

HOUSE BILL 152

P1

CONSTITUTIONAL AMENDMENT
(PRE-FILED)

2lr0782

By: **Delegate Stewart**

Requested: October 15, 2021

Introduced and read first time: January 12, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Advocate Act of 2022**

3 FOR the purpose of establishing the Office of the Public Advocate; establishing procedures
4 for the election of the Public Advocate; establishing the duties, term, qualifications,
5 and method of setting the salary of the Public Advocate; establishing procedures for
6 the removal of the Public Advocate from office and for filling a vacancy; establishing
7 that, if vacancies in the offices of Governor and Lieutenant Governor exist at the
8 same time, the Public Advocate shall succeed to the office of Governor for the
9 remainder of the term; and submitting this amendment to the qualified voters of the
10 State of Maryland for their adoption or rejection.

11 BY proposing an amendment to the Maryland Constitution
12 Article II – Executive Department
13 Section 6

14 BY proposing an addition to the Maryland Constitution
15 New Article II–A – Office of the Public Advocate
16 Section 1 through 5

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

20 **Article II – Executive Department**

21 6.

22 (a) If the Governor–elect is disqualified, resigns, or dies, the Lieutenant
23 Governor–elect shall become Governor for the full term. If the Governor–elect fails to
24 assume office for any other reason, the newly elected Lieutenant Governor shall become

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Lieutenant Governor and shall serve as acting Governor until the Governor–elect assumes
2 office or until the office becomes vacant.

3 (b) The Lieutenant Governor shall serve as acting Governor when notified in
4 writing by the Governor that the Governor will be temporarily unable to perform the duties
5 of [his] **THE GOVERNOR’S** office. The Lieutenant Governor also shall serve as acting
6 Governor when the Governor is disabled but is unable to communicate to the Lieutenant
7 Governor the fact of [his] **THE GOVERNOR’S** inability to perform the duties of [his] **THE**
8 **GOVERNOR’S** office. In either event the Lieutenant Governor shall serve as acting
9 Governor until notified in writing by the Governor that [he] **THE GOVERNOR** is able to
10 resume the duties of [his] **THE GOVERNOR’S** office or until the office becomes vacant.

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

29 (d) When a vacancy occurs in the office of Governor, the Lieutenant Governor
30 shall succeed to that office for the remainder of the term. When a vacancy occurs in the
31 office of Lieutenant Governor, the Governor shall nominate a person who shall succeed to
32 that office upon confirmation by the affirmative vote of a majority of all members of the
33 General Assembly in joint session.

34 **(E) IF VACANCIES IN THE OFFICES OF GOVERNOR AND LIEUTENANT**
35 **GOVERNOR EXIST AT THE SAME TIME, THE PUBLIC ADVOCATE SHALL SUCCEED TO**
36 **THE OFFICE OF GOVERNOR FOR THE REMAINDER OF THE TERM.**

37 **[(e)] (F)** If vacancies in the offices of Governor [and], Lieutenant Governor, **AND**
38 **PUBLIC ADVOCATE** exist at the same time, the General Assembly shall convene forthwith,
39 and the office of Governor shall be filled for the remainder of the term by the affirmative
40 vote of a majority of all members of the General Assembly in joint session. The person so
41 chosen as Governor by the General Assembly shall then nominate a person to succeed to

1 the office of Lieutenant Governor, upon confirmation by the affirmative vote of a majority
 2 of all members of the General Assembly in the same joint session. The President of the
 3 Senate shall serve as acting Governor until the newly elected Governor has qualified. If a
 4 vacancy exists in the office of Lieutenant Governor, at a time when the Lieutenant
 5 Governor is authorized to serve as acting Governor, the President of the Senate shall serve
 6 as acting Governor. If there is a vacancy in the office of the President of the Senate at a
 7 time when [he] **THE PRESIDENT** is authorized to serve as acting Governor, the Senate
 8 shall forthwith convene and fill the vacancy.

9 **[(f)] (G)** When the Lieutenant Governor, **PUBLIC ADVOCATE**, or a person
 10 elected by the General Assembly succeeds to the office of Governor, [he] **THE PERSON WHO**
 11 **SUCCEEDS TO THE OFFICE** shall have the title, powers, duties, and emoluments of that
 12 office; but when the Lieutenant Governor or the President of the Senate serves as acting
 13 Governor, [he] **THE ACTING GOVERNOR** shall have only the powers and duties of that
 14 office. When the President of the Senate serves as acting Governor, [he] **THE PRESIDENT**
 15 shall continue to be President of the Senate, but [his] **THE PRESIDENT'S** duties as
 16 president shall be performed by such other person as the Senate shall select.

17 **[(g)] (H)** The Court of Appeals shall have original and exclusive jurisdiction to
 18 adjudicate disputes or questions arising from the failure of the Governor—elect to take
 19 office, or the service of the Lieutenant Governor or President of the Senate as acting
 20 Governor, or the creation of a vacancy in the office of Governor or Lieutenant Governor by
 21 reason of disability, or the succession to the office of Governor or Lieutenant Governor, or
 22 the exercise of the powers and duties of a successor to the office of Governor.

23 **ARTICLE II—A – OFFICE OF THE PUBLIC ADVOCATE**

24 **1.**

25 **THERE SHALL BE A PUBLIC ADVOCATE ELECTED BY THE QUALIFIED VOTERS**
 26 **OF THE STATE, ON GENERAL TICKET, ON THE TUESDAY NEXT AFTER THE FIRST**
 27 **MONDAY IN THE MONTH OF NOVEMBER, TWO THOUSAND AND TWENTY—SIX, AND ON**
 28 **THE SAME DAY, IN EVERY FOURTH YEAR THEREAFTER, WHO SHALL HOLD THE**
 29 **OFFICE FOR 4 YEARS FROM THE TIME OF ELECTION AND QUALIFICATION, AND UNTIL**
 30 **A SUCCESSOR IS ELECTED AND QUALIFIED, AND SHALL BE RE—ELIGIBLE THERETO,**
 31 **AND SHALL BE SUBJECT TO REMOVAL FOR INCOMPETENCY, WILLFUL NEGLECT OF**
 32 **DUTY OR MISDEMEANOR IN OFFICE, ON CONVICTION IN A COURT OF LAW.**

33 **2.**

34 **ALL ELECTIONS FOR PUBLIC ADVOCATE SHALL BE CERTIFIED TO, AND**
 35 **RETURNS MADE THEREOF BY, THE CLERKS OF THE CIRCUIT COURTS OF THE**
 36 **SEVERAL COUNTIES, AND THE CLERK OF THE SUPERIOR COURT OF BALTIMORE**
 37 **CITY, TO THE GOVERNOR OF THE STATE, WHOSE DUTY IT SHALL BE TO DECIDE ON**
 38 **THE ELECTION AND QUALIFICATION OF THE PERSON RETURNED; AND IN CASE OF A**

1 TIE BETWEEN TWO OR MORE PERSONS, TO DESIGNATE WHICH OF SAID PERSONS
2 SHALL QUALIFY AS PUBLIC ADVOCATE, AND TO ADMINISTER THE OATH OF OFFICE
3 TO THE PERSON ELECTED.

4 **3.**

5 (A) THE PUBLIC ADVOCATE SHALL:

6 (1) ACT AS AN INDEPENDENT LIAISON BETWEEN THE CITIZENS OF
7 MARYLAND AND THE STATE GOVERNMENT;

8 (2) FACILITATE DEMOCRATIC ENGAGEMENT IN STATE
9 GOVERNMENT; AND

10 (3) RECEIVE, RESPOND TO, AND INDEPENDENTLY INVESTIGATE
11 ETHICS COMPLAINTS AGAINST STATE OFFICIALS IN THE EXECUTIVE, LEGISLATIVE,
12 AND JUDICIAL BRANCHES OF STATE GOVERNMENT, COLLABORATE WITH THE
13 APPROPRIATE ENFORCEMENT ENTITIES IN ENFORCING ETHICS COMPLAINTS, AND
14 ADVOCATE FOR CONSTRUCTIVE, SYSTEMIC SOLUTIONS TO ETHICS COMPLAINTS.

15 (B) THE PUBLIC ADVOCATE MAY:

16 (1) CONVENE PUBLIC FORUMS IN THE SPIRIT OF DEMOCRATIC VOICE
17 AND PARTICIPATION;

18 (2) EXPLORE CREATIVE CITIZEN ENGAGEMENT, INCLUDING
19 TECHNOLOGY-ENABLED CIVIC ENGAGEMENT, DIGITAL CITIZEN COMPLAINT AND
20 COMMENT TOOLS, CITIZEN ASSEMBLIES, GOVERNMENT MODERNIZATION, AND
21 STREAMLINING;

22 (3) ISSUE REPORTS;

23 (4) HOLD PRESS CONFERENCES; AND

24 (5) CONDUCT PUBLIC AWARENESS CAMPAIGNS.

25 (C) THE PUBLIC ADVOCATE SHALL HAVE AND PERFORM ANY OTHER
26 DUTIES AND POSSESS ANY OTHER POWERS, AND APPOINT THE NUMBER OF
27 DEPUTIES OR ASSISTANTS, AS THE GENERAL ASSEMBLY FROM TIME TO TIME MAY
28 PRESCRIBE BY LAW.

29 (D) THE PUBLIC ADVOCATE SHALL RECEIVE FOR THE PUBLIC ADVOCATE'S
30 SERVICES THE ANNUAL SALARY AS THE GENERAL ASSEMBLY FROM TIME TO TIME

1 MAY PRESCRIBE BY LAW, BUT THE PUBLIC ADVOCATE MAY NOT RECEIVE ANY FEES,
2 PERQUISITES, OR REWARDS WHATEVER, IN ADDITION TO THIS SALARY, FOR THE
3 PERFORMANCE OF ANY OFFICIAL DUTY.

4 4.

5 NO PERSON SHALL BE ELIGIBLE TO THE OFFICE OF PUBLIC ADVOCATE, WHO
6 IS NOT A CITIZEN OF THIS STATE, AND A QUALIFIED VOTER THEREIN, AND HAS NOT
7 RESIDED IN THIS STATE FOR AT LEAST 1 YEAR PRECEDING THE DATE OF ELECTION.

8 5.

9 (A) IN CASE OF VACANCY IN THE OFFICE OF PUBLIC ADVOCATE,
10 OCCASIONED BY DEATH, RESIGNATION, REMOVAL FROM THE STATE, OR FROM
11 OFFICE, OR OTHER DISQUALIFICATION, THE GOVERNOR SHALL APPOINT AN
12 INDIVIDUAL TO FILL THE VACANCY AS PROVIDED IN THIS SECTION.

13 (B) THE GOVERNOR SHALL APPOINT ONE OF THREE INDIVIDUALS WHOSE
14 NAMES ARE SUBMITTED TO THE GOVERNOR IN WRITING, WITHIN 30 DAYS AFTER
15 THE OCCURRENCE OF THE VACANCY, BY THE STATE CENTRAL COMMITTEE OF THE
16 POLITICAL PARTY, IF ANY, WITH WHICH THE VACATING PUBLIC ADVOCATE HAD
17 BEEN AFFILIATED AT THE TIME OF THE PUBLIC ADVOCATE'S LAST ELECTION OR
18 APPOINTMENT.

19 (C) EACH INDIVIDUAL WHOSE NAME IS SUBMITTED TO THE GOVERNOR
20 MUST HAVE BEEN A REGISTERED VOTER AFFILIATED WITH THE POLITICAL PARTY
21 OF THE VACATING PUBLIC ADVOCATE ON THE DATE IMMEDIATELY PRECEDING THE
22 DATE ON WHICH THE VACANCY OCCURRED.

23 (D) THE GOVERNOR SHALL MAKE THE APPOINTMENT WITHIN 15 DAYS
24 AFTER NAMES ARE SUBMITTED BY THE STATE CENTRAL COMMITTEE OF THE
25 APPROPRIATE POLITICAL PARTY.

26 (E) IF NAMES ARE NOT SUBMITTED BY THE STATE CENTRAL COMMITTEE
27 OF THE APPROPRIATE POLITICAL PARTY WITHIN 30 DAYS AFTER THE OCCURRENCE
28 OF THE VACANCY, THE GOVERNOR SHALL APPOINT WITHIN ANOTHER PERIOD OF 15
29 DAYS ANY QUALIFIED INDIVIDUAL WHO WAS A REGISTERED VOTER AFFILIATED
30 WITH THE POLITICAL PARTY OF THE VACATING PUBLIC ADVOCATE ON THE DATE
31 IMMEDIATELY PRECEDING THE DATE ON WHICH THE VACANCY OCCURRED.

32 (F) IF THE VACATING PUBLIC ADVOCATE WAS NOT AFFILIATED WITH A
33 POLITICAL PARTY AT THE TIME OF THE ATTORNEY GENERAL'S LAST ELECTION OR

1 APPOINTMENT, THE GOVERNOR SHALL APPOINT ANY QUALIFIED INDIVIDUAL
2 WITHIN 15 DAYS AFTER THE OCCURRENCE OF THE VACANCY.

3 (G) EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, AN
4 INDIVIDUAL APPOINTED UNDER THIS SECTION SHALL SERVE UNTIL A SUCCESSOR IS
5 ELECTED UNDER SUBSECTION (I) OF THIS SECTION TO FILL THE REMAINDER OF THE
6 TERM.

7 (H) AN INDIVIDUAL APPOINTED UNDER THIS SECTION SHALL SERVE FOR
8 THE REMAINDER OF THE TERM IF THE VACANCY OCCURS AFTER THE DATE THAT IS
9 21 DAYS BEFORE THE DEADLINE FOR FILING CERTIFICATES OF CANDIDACY FOR THE
10 REGULAR STATEWIDE ELECTION THAT IS HELD IN THE SECOND YEAR OF THE TERM.

11 (I) IF THE VACANCY OCCURS ON OR BEFORE THE DATE THAT IS 21 DAYS
12 BEFORE THE DEADLINE FOR FILING CERTIFICATES OF CANDIDACY FOR THE
13 REGULAR STATEWIDE ELECTION THAT IS HELD IN THE SECOND YEAR OF THE TERM,
14 THE GOVERNOR SHALL ISSUE A PROCLAMATION IMMEDIATELY AFTER THE
15 OCCURRENCE OF THE VACANCY DECLARING THAT A SPECIAL PRIMARY ELECTION
16 AND A SPECIAL GENERAL ELECTION SHALL BE HELD AT THE SAME TIME AS THE
17 REGULAR STATEWIDE PRIMARY ELECTION AND REGULAR STATEWIDE GENERAL
18 ELECTION THAT ARE HELD IN THE SECOND YEAR OF THE TERM.

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

23 SECTION 3. AND BE IT FURTHER ENACTED, That the amendment to the
24 Maryland Constitution proposed by Section 1 of this Act shall be submitted to the qualified
25 voters of the State at the next general election to be held in November 2022 for adoption or
26 rejection pursuant to Article XIV of the Maryland Constitution. At that general election,
27 the vote on the proposed amendment to the Constitution shall be by ballot, and on each
28 ballot there shall be printed the words "For the Constitutional Amendment" and "Against
29 the Constitutional Amendment", as now provided by law. Immediately after the election,
30 all returns shall be made to the Governor of the vote for and against the proposed
31 amendment, as directed by Article XIV of the Maryland Constitution, and further
32 proceedings had in accordance with Article XIV.