

# HOUSE BILL 951

N2, D1

CONSTITUTIONAL AMENDMENT

2lr2847  
CF 2lr1541

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By: **Delegate Buckel**

Introduced and read first time: February 10, 2022

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts – Cross–Jurisdictional Probate Judges**

3 FOR the purpose of creating the office of cross–jurisdictional probate judge in each judicial  
4 circuit; authorizing a cross–jurisdictional probate judge to adjudicate matters within  
5 the jurisdiction of the orphans’ court on the request of an interested person; and  
6 generally relating to cross–jurisdictional probate judges.

7 BY proposing an addition to the Maryland Constitution  
8 Article IV – Judiciary Department  
9 Section 40A

10 BY repealing and reenacting, with amendments,  
11 Article – Courts and Judicial Proceedings  
12 Section 12–701(a)  
13 Annotated Code of Maryland  
14 (2020 Replacement Volume and 2021 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article – Estates and Trusts  
17 Section 2–105  
18 Annotated Code of Maryland  
19 (2017 Replacement Volume and 2021 Supplement)

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

23 **Article IV – Judiciary Department**

24 **40A.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(A) THE JUDGES OF EACH JUDICIAL CIRCUIT SHALL APPOINT ONE OR MORE**  
2 **CROSS-JURISDICTIONAL PROBATE JUDGES FROM EACH JUDICIAL CIRCUIT.**

3           **(B) A CROSS-JURISDICTIONAL PROBATE JUDGE SHALL HAVE THE**  
4 **AUTHORITY TO ADJUDICATE ANY MATTER WITHIN THE JURISDICTION OF THE**  
5 **ORPHANS' COURT WHERE AN INTERESTED PERSON REQUESTS ADJUDICATION BY A**  
6 **CROSS-JURISDICTIONAL PROBATE JUDGE.**

7           **(C) (1) CROSS-JURISDICTIONAL PROBATE JUDGES SHALL BE CITIZENS**  
8 **OF THE STATE AND QUALIFIED VOTERS UNDER THIS CONSTITUTION, AND SHALL**  
9 **HAVE RESIDED NOT LESS THAN 12 MONTHS PRECEDING APPOINTMENT IN THE**  
10 **JUDICIAL CIRCUIT.**

11           **(2) CROSS-JURISDICTIONAL PROBATE JUDGES SHALL BE SELECTED**  
12 **FROM THOSE ADMITTED TO PRACTICE LAW IN THE STATE, AND WHO ARE MOST**  
13 **DISTINGUISHED FOR INTEGRITY, WISDOM, AND SOUND LEGAL KNOWLEDGE.**

14           **(D) (1) EACH CROSS-JURISDICTIONAL PROBATE JUDGE SHALL SERVE**  
15 **FOR A TERM OF 6 YEARS AND SHALL BE ELIGIBLE FOR REAPPOINTMENT.**

16           **(2) IF A CROSS-JURISDICTIONAL PROBATE JUDGE LEAVES OFFICE**  
17 **BEFORE THE EXPIRATION OF THE CROSS-JURISDICTIONAL PROBATE JUDGE'S**  
18 **TERM, THE JUDGES OF THE JUDICIAL CIRCUIT SHALL APPOINT A QUALIFIED**  
19 **INDIVIDUAL TO SERVE FOR THE REMAINDER OF THE TERM.**

20           SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
21 as follows:

22   **Article – Courts and Judicial Proceedings**

23 12-701.

24           (a) (1) An appeal from an orphans' court or a [circuit court]  
25 **CROSS-JURISDICTIONAL PROBATE JUDGE** stays all proceedings in the orphans' court  
26 concerning the issue appealed.

27           (2) An appeal from an orphans' court or a [circuit court]  
28 **CROSS-JURISDICTIONAL PROBATE JUDGE** does not stay any proceedings in the orphans'  
29 court that do not concern the issue appealed, if the orphans' court can provide for  
30 conforming to the decision of the appellate court.

31           (3) (i) An appeal from a final order of an orphans' court or a [circuit  
32 court] **CROSS-JURISDICTIONAL PROBATE JUDGE** removing a personal representative

1 does not stay an order appointing a successor personal representative or special  
2 administrator.

3 (ii) If an appeal is filed from the final order of an orphans' court or a  
4 [circuit court] **CROSS-JURISDICTIONAL PROBATE JUDGE** removing a personal  
5 representative and the court appointed a successor personal representative, the successor  
6 personal representative shall have the powers of a special administrator.

7 **Article – Estates and Trusts**

8 2–105.

9 (a) In a controversy in the court, an issue of fact may be determined by the court.

10 (b) (1) At the request of an interested person made within the time determined  
11 by the court, the issue of fact may be determined by a [court of law]  
12 **CROSS-JURISDICTIONAL PROBATE JUDGE**.

13 (2) When the request is made before the court has determined the issue of  
14 fact, the court shall transmit the issue to a [court of law] **CROSS-JURISDICTIONAL**  
15 **PROBATE JUDGE**.

16 (c) After the determination of the issue, whether by the court or after  
17 transmission to a [court of law] **CROSS-JURISDICTIONAL PROBATE JUDGE**, the court  
18 shall enter an appropriate judgment or decree.

19 (d) This section does not apply where the estate is administered under the  
20 jurisdiction of a court having general equity jurisdiction.

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

25 SECTION 4. AND BE IT FURTHER ENACTED, That the amendment to the  
26 Maryland Constitution proposed by Section 1 of this Act shall be submitted to the qualified  
27 voters of the State at the next general election to be held in November 2022 for adoption or  
28 rejection pursuant to Article XIV of the Maryland Constitution. At that general election,  
29 the vote on the proposed amendment to the Constitution shall be by ballot, and on each  
30 ballot there shall be printed the words “For the Constitutional Amendment” and “Against  
31 the Constitutional Amendment”, as now provided by law. Immediately after the election,  
32 all returns shall be made to the Governor of the vote for and against the proposed  
33 amendment, as directed by Article XIV of the Maryland Constitution, and further  
34 proceedings had in accordance with Article XIV.

35 SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act is

1 contingent on the passage of Section 1 of this Act, a constitutional amendment, and its  
2 ratification by the voters of the State.

3           SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions of  
4 Section 5 of this Act, Section 2 of this Act shall take effect on the proclamation of the  
5 Governor that the constitutional amendment, having received a majority of the votes cast  
6 at the general election, has been adopted by the people of Maryland.