

# HOUSE BILL 1255

D1  
HB 35/21 – JUD & W&M

CONSTITUTIONAL AMENDMENT

3lr2959

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By: **Delegate Cardin**

Introduced and read first time: February 16, 2023

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Courts – Justices and Judges – Selection and Retention**

3 FOR the purpose of decreasing the term of office for the judges of the circuit courts;  
4 increasing the number of years between successive retention elections for justices of  
5 the Supreme Court of Maryland and judges of the Appellate Court of Maryland; and  
6 providing for a transitional period during which the terms of certain amendments  
7 are to become effective.

8 BY proposing a repeal of the Maryland Constitution  
9 Article IV – Judiciary Department  
10 Section 3

11 BY proposing an amendment to the Maryland Constitution  
12 Article IV – Judiciary Department  
13 Section 5 and 5A

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

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 IV – Judiciary Department**

21 [3.

22 Except for the Judges of the District Court, the Judges of the several Courts other  
23 than the Supreme Court of Maryland or any intermediate courts of appeal shall, subject to

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 the provisions of Section 5 of this Article of the Constitution, be elected in Baltimore City  
2 and in each county, by the qualified voters of the city and of each county, respectively, all  
3 of the said Judges to be elected at the general election to be held on the Tuesday after the  
4 first Monday in November, as now provided for in the Constitution. Each of the said Judges  
5 shall hold the office for the term of fifteen years from the time of the election, and until the  
6 Judge's successor is elected and qualified, or until the Judge shall have attained the age of  
7 seventy years, whichever may first happen, and be reeligible thereto until the Judge shall  
8 have attained the age of seventy years, and not after. In case of the inability of any of said  
9 Judges to discharge the Judge's duties with efficiency, by reason of continued sickness, or  
10 of physical or mental infirmity, it shall be in the power of the General Assembly, two-thirds  
11 of the members of each House concurring, with the approval of the Governor to retire said  
12 Judge from office.]

13 5.

14 (A) (1) IN CASE OF THE INABILITY OF A JUDGE OF A CIRCUIT COURT TO  
15 DISCHARGE DUTIES WITH EFFICIENCY, BY REASON OF CONTINUED SICKNESS OR OF  
16 PHYSICAL OR MENTAL INFIRMITY, IT SHALL BE IN THE POWER OF THE GENERAL  
17 ASSEMBLY, TWO-THIRDS OF THE MEMBERS OF EACH HOUSE CONCURRING, WITH  
18 THE APPROVAL OF THE GOVERNOR TO RETIRE SAID JUDGE FROM OFFICE.

19 (2) A VACANCY IN THE OFFICE OF A JUDGE OF A CIRCUIT COURT,  
20 WHETHER OCCASIONED BY THE DEATH, RESIGNATION, REMOVAL, RETIREMENT,  
21 DISQUALIFICATION BY REASON OF AGE, OR REJECTION BY THE VOTERS OF AN  
22 INCUMBENT, THE CREATION OF THE OFFICE OF A JUDGE, OR OTHERWISE, SHALL BE  
23 FILLED AS PROVIDED IN THIS SECTION.

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

37 (C) THE CONTINUANCE IN OFFICE OF A JUDGE OF A CIRCUIT COURT IS  
38 SUBJECT TO APPROVAL OR REJECTION BY THE REGISTERED VOTERS OF  
39 BALTIMORE CITY AND OF EACH COUNTY, RESPECTIVELY, PRESCRIBED BY LAW AT  
40 THE NEXT GENERAL ELECTION FOLLOWING THE EXPIRATION OF 1 YEAR FROM THE

1 DATE OF THE OCCURRENCE OF THE VACANCY THAT THE JUDGE WAS APPOINTED TO  
2 FILL, AND AT THE GENERAL ELECTION NEXT OCCURRING EVERY 12 YEARS  
3 THEREAFTER.

4 (D) THE APPROVAL OR REJECTION BY THE REGISTERED VOTERS OF A  
5 JUDGE AS PROVIDED FOR IN SUBSECTION (C) OF THIS SECTION SHALL BE A VOTE  
6 FOR THE JUDGE'S RETENTION IN OFFICE FOR A TERM OF 12 YEARS OR THE JUDGE'S  
7 REMOVAL. THE JUDGE'S NAME SHALL BE ON THE APPROPRIATE BALLOT, WITHOUT  
8 OPPOSITION, AND THE VOTERS SHALL VOTE YES OR NO FOR THE RETENTION IN  
9 OFFICE OF THE JUDGE. IF THE VOTERS REJECT THE RETENTION IN OFFICE OF A  
10 JUDGE, OR IF THE VOTE IS TIED, THE OFFICE BECOMES VACANT 10 DAYS AFTER  
11 CERTIFICATION OF THE ELECTION RETURNS.

12 (E) A JUDGE OF A CIRCUIT COURT SHALL RETIRE WHEN THE JUDGE  
13 ATTAINS THE AGE OF 70 YEARS.

14 5A.

15 (a) A vacancy in the office of a justice or judge of an appellate court, whether  
16 occasioned by the death, resignation, removal, retirement, disqualification by reason of age,  
17 or rejection by the voters of an incumbent, the creation of the office of a justice or judge, or  
18 otherwise, shall be filled as provided in this section.

19 (b) [Upon] ON the occurrence of a vacancy the Governor shall appoint, by and  
20 with the advice and consent of the Senate, a person duly qualified to fill said office who  
21 shall hold the same until the election for continuance in office as provided in subsections  
22 (c) and (d) OF THIS SECTION.

23 (c) The continuance in office of a justice of the Supreme Court of Maryland is  
24 subject to approval or rejection by the registered voters of the appellate judicial circuit from  
25 which the justice was appointed at the next general election following the expiration of  
26 [one] 1 year from the date of the occurrence of the vacancy which the justice was appointed  
27 to fill, and at the general election next occurring every [ten] 12 years thereafter.

28 (d) The continuance in office of a judge of the Appellate Court of Maryland is  
29 subject to approval or rejection by the registered voters of the geographical area prescribed  
30 by law at the next general election following the expiration of one year from the date of the  
31 occurrence of the vacancy which the judge was appointed to fill, and at the general election  
32 next occurring every [ten] 12 years thereafter.

33 (e) The approval or rejection by the registered voters of a justice or judge as  
34 provided for in subsections (c) and (d) OF THIS SECTION shall be a vote for the justice's or  
35 judge's retention in office for a term of [ten] 12 years or the justice's or judge's removal.  
36 The justice's or judge's name shall be on the appropriate ballot, without opposition, and the  
37 voters shall vote yes or no for the justice's or judge's retention in office. If the voters reject

1 the retention in office of a justice or judge, or if the vote is tied, the office becomes vacant  
2 [ten] 10 days after certification of the election returns.

3 (f) An appellate court justice or judge shall retire when the justice or judge  
4 attains [the justice's or judge's seventieth birthday] **THE AGE OF 70 YEARS.**

5 (g) A member of the General Assembly who is otherwise qualified for  
6 appointment to judicial office is not disqualified by reason of the member's membership in  
7 a General Assembly which proposed or enacted any constitutional amendment or statute  
8 affecting the method of selection, continuance in office, or retirement or removal of a justice  
9 or judge, the creation or abolition of a court, an increase or decrease in the number of  
10 justices or judges of any court, or an increase or decrease in the salary, pension or other  
11 allowances of any justice or judge.

## 12 **Article XVIII – Provisions of Limited Duration**

### 13 **6.**

14 (A) (1) **FOR THE PURPOSE OF IMPLEMENTING THE AMENDMENTS TO**  
15 **ARTICLE IV OF THE MARYLAND CONSTITUTION PROPOSED BY HOUSE BILL 1255**  
16 **OF 2023 CONCERNING THE SELECTION AND TENURE OF JUSTICES OF THE SUPREME**  
17 **COURT OF MARYLAND, JUDGES OF THE APPELLATE COURT OF MARYLAND, AND**  
18 **CIRCUIT COURT JUDGES, THE FOLLOWING PROVISIONS SHALL GOVERN.**

19 (2) **IN ACCORDANCE WITH ARTICLE XIV, SECTION 1A OF THE**  
20 **MARYLAND CONSTITUTION, THIS SECTION SHALL EXPIRE WHEN ALL OF THE**  
21 **JUSTICES OR JUDGES HAVE COMPLETED ALL THE TERMS FOR WHICH THE JUSTICES**  
22 **AND JUDGES ARE RETAINED IN OFFICE UNDER SUBSECTIONS (B) AND (C) OF THIS**  
23 **SECTION OR HAVE VACATED THEIR OFFICES FOR ANY REASON.**

24 (B) (1) **EACH JUSTICE OF THE SUPREME COURT OF MARYLAND, JUDGE**  
25 **OF THE APPELLATE COURT OF MARYLAND, OR JUDGE OF A CIRCUIT COURT WHO IS**  
26 **IN OFFICE FOR AN ELECTED TERM ON THE EFFECTIVE DATE OF THESE**  
27 **AMENDMENTS, UNLESS THE JUSTICE OR JUDGE DIES, RESIGNS, RETIRES, OR IS**  
28 **OTHERWISE LAWFULLY REMOVED, SHALL CONTINUE IN OFFICE UNTIL THE JUDGE'S**  
29 **SUCCESSOR IS APPOINTED OR ELECTED, AS APPLICABLE, AND QUALIFIED OR UNTIL**  
30 **THE JUSTICE OR JUDGE ATTAINS THE AGE OF 70 YEARS, WHICHEVER OCCURS FIRST.**

31 (2) (i) **FOLLOWING THE PERIOD DESCRIBED IN PARAGRAPH (1) OF**  
32 **THIS SUBSECTION, CONTINUANCE IN OFFICE OF A JUSTICE OF THE SUPREME COURT**  
33 **OF MARYLAND OR JUDGE OF THE APPELLATE COURT OF MARYLAND OR OF A**  
34 **CIRCUIT COURT IS THEN SUBJECT TO THE FOLLOWING PROVISIONS:**

35 1. **FOR A JUSTICE OF THE SUPREME COURT OF**

1 MARYLAND OR JUDGE OF THE APPELLATE COURT OF MARYLAND, ARTICLE IV,  
2 SECTION 5A OF THE MARYLAND CONSTITUTION; AND

3                   2. FOR A JUDGE OF A CIRCUIT COURT, ARTICLE IV,  
4 SECTION 5 OF THE MARYLAND CONSTITUTION.

5                   (ii) IN NO EVENT SHALL ANY JUSTICE OR JUDGE CONTINUE IN  
6 OFFICE AFTER ATTAINING THE AGE OF 70 YEARS.

7           (c) (1) EACH JUSTICE OF THE SUPREME COURT OF MARYLAND, JUDGE  
8 OF THE OF THE APPELLATE COURT OF MARYLAND, OR JUDGE OF A CIRCUIT COURT  
9 WHO IS IN OFFICE ON THE EFFECTIVE DATE OF THE AMENDMENTS TO ARTICLE IV  
10 OF THE MARYLAND CONSTITUTION PROPOSED BY HOUSE BILL 1255 OF 2023, BUT  
11 WHO HAS NOT BEEN ELECTED TO THAT OFFICE BY THE VOTERS, SHALL CONTINUE  
12 TO BE GOVERNED BY THE FOLLOWING PROVISIONS AS IN EFFECT BEFORE THE  
13 RATIFICATION OF THE AMENDMENTS TO ARTICLE IV OF THE MARYLAND  
14 CONSTITUTION PROPOSED BY HOUSE BILL 1255 OF 2023:

15                   (i) FOR A JUSTICE OF THE SUPREME COURT OF MARYLAND OR  
16 JUDGE OF THE APPELLATE COURT OF MARYLAND, ARTICLE IV, SECTION 5A OF  
17 THE MARYLAND CONSTITUTION; AND

18                   (ii) FOR A JUDGE OF A CIRCUIT COURT, ARTICLE IV, SECTIONS  
19 3 AND 5 OF THE MARYLAND CONSTITUTION.

20                   (2) IF THE JUSTICE OR JUDGE IS ELECTED TO THE OFFICE, THE  
21 JUSTICE OR JUDGE SHALL CONTINUE IN OFFICE UNTIL THE JUSTICE'S OR JUDGE'S  
22 SUCCESSOR IS APPOINTED OR ELECTED, AS APPLICABLE, AND QUALIFIED OR UNTIL  
23 THE JUSTICE OR JUDGE ATTAINS THE AGE OF 70 YEARS, WHICHEVER OCCURS FIRST.

24                   (3) (i) CONTINUANCE OF THE JUSTICE OR JUDGE IN OFFICE AT  
25 THE END OF THE ELECTED TERM IS THEN SUBJECT TO:

26                           1. FOR A JUSTICE OF THE SUPREME COURT OF  
27 MARYLAND OR JUDGE OF THE APPELLATE COURT OF MARYLAND, THE PROVISIONS  
28 OF ARTICLE IV, SECTION 5A OF THE MARYLAND CONSTITUTION; AND

29                           2. FOR A JUDGE OF A CIRCUIT COURT, THE PROVISIONS  
30 OF ARTICLE IV, SECTION 5 OF THE MARYLAND CONSTITUTION.

31                   (ii) IN NO EVENT SHALL ANY JUSTICE OR JUDGE CONTINUE IN  
32 OFFICE AFTER ATTAINING THE AGE OF 70 YEARS.

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

5 SECTION 3. AND BE IT FURTHER ENACTED, That the amendment to the  
6 Maryland Constitution proposed by Section 1 of this Act shall be submitted to the qualified  
7 voters of the State at the next general election to be held in November 2024 for adoption or  
8 rejection pursuant to Article XIV of the Maryland Constitution. At that general election,  
9 the vote on the proposed amendment to the Constitution shall be by ballot, and on each  
10 ballot there shall be printed the words “For the Constitutional Amendment” and “Against  
11 the Constitutional Amendment”, as now provided by law. Immediately after the election,  
12 all returns shall be made to the Governor of the vote for and against the proposed  
13 amendment, as directed by Article XIV of the Maryland Constitution, and further  
14 proceedings had in accordance with Article XIV.