

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 788

(Chair, Judiciary Committee, *et al.*) (By Request -
Maryland Judicial Conference)

Judiciary

Judicial Proceedings

Judiciary Department - Commission on Judicial Disabilities - Temporary
Appointment

This proposed constitutional amendment, if approved by the voters at the next general election, authorizes the chair of the Commission on Judicial Disabilities to take specified actions in the event of a member’s recusal or disqualification, or the expiration of a member’s term without a replacement. Specifically, the chair may (1) recall a former member to serve as a temporary substitute member or (2) request that the Governor appoint a temporary substitute member or extend a current member’s term. On request of the chair of the commission, the Governor may appoint a temporary substitute member for a specified period of time or extend a current member’s term until a replacement is appointed. Any temporary substitute member is subject to the same qualifications that were applicable to the member for whom the substitute is temporarily appointed, and if the member is a judge or an attorney, must be a member in good standing of the Maryland Bar.

Fiscal Summary

State Effect: If the constitutional amendment is approved by the voters, the Commission on Judicial Disabilities experiences operational efficiencies; there is otherwise no material impact on State finances or operations.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background:

Commission on Judicial Disabilities – Generally

As authorized under §§ 4A and 4B of Article IV of the Maryland Constitution, the Commission on Judicial Disabilities investigates complaints against judges in the State courts and recommends disciplinary action to the Supreme Court of Maryland, as appropriate.

Membership: The commission is composed of 11 members who are appointed by the Governor, with the advice and consent of the Senate. Of the members, in addition to being residents of the State:

- 3 must be judges, as specified;
- 3 must be appointed from those persons who are admitted to practice law in the State, as specified; and
- 5 must represent the public and not be active or retired judges, not be a person admitted to practice law in the State, and not have a financial relationship with or receive compensation from a judge or a person admitted to practice law in the State.

Terms and Compensation: The term of office of each member is four years beginning on January 1 following the expiration of the member's predecessor's term. A member may not serve more than two four-year terms, or for more than a total of ten years if appointed to fill a vacancy.

Following the expiration of a member's term, other than an automatic termination (disqualification) as specified in the Maryland Constitution, the commission may conduct business in the ordinary course with that member continuing to serve, until such time as the Governor appoints a replacement.

A member of the commission may not receive compensation for the member's services but is entitled to reimbursement for any expenses necessarily incurred in the performance of the member's duties.

Recusal by a Member: Under Maryland Rule 18-411, a member of the commission must not participate as a member in any discussion, disposition, or proceeding in which (1) the member is a complainant; (2) the member's disability, impairment, or sanctionable conduct is in issue; (3) the member's impartiality might reasonably be questioned; (4) the member has personal knowledge of disputed evidentiary facts involved in the proceeding; or (5) the

recusal of a judicial member would otherwise be required by the Maryland Code of Judicial Conduct.

Disqualification of a Member: Under the Maryland Constitution, a member's membership automatically terminates, as applicable, if the member (1) who is appointed from among judges in the State ceases to be a judge; (2) who is appointed from among those admitted to the practice of law becomes a judge; (3) who is representing the public becomes a judge or is admitted to the practice of law in the State or has a financial relationship with or receives compensation from a judge or a person admitted to practice law in the State; or (4) ceases to be a resident of the State.

Vacancies: Any vacancies on the commission must be filled for the unexpired term by the Governor in the same manner as for making of appointments to the commission and subject to the same qualifications which were applicable to the person causing the vacancy.

Quorum in a Proceeding: Under Maryland Rule 18-411, a majority of the members of the commission constitute a quorum for the transaction of business, as long as at least one judge, one attorney, and one public member are present. If, by reason of vacancies or recusals, the quorum in a particular proceeding does not include at least one judge, one attorney, and one public member, the Supreme Court of Maryland, only with the written consent of the judge who is the subject of the proceeding, may designate a judge, including a senior judge, an attorney, or a member of the public to serve as a substitute member of the commission, for purposes of a quorum in that proceeding.

Commission on Judicial Disabilities – Workload

According to the commission's annual [report](#) for fiscal 2024, 396 complaints were filed with the commission, an increase of 18% from fiscal 2023 and 34% from fiscal 2022. The Judiciary reports that 301 complaints were filed in the first 5 months of fiscal 2025, or an average of 60 complaints per month. If the same rate of monthly complaints continues, the number of complaints for fiscal 2025 may be as high as 720 (an 82% increase from fiscal 2024). The proposed constitutional amendment is aimed at positioning the commission to better accommodate its increasing workload by allowing members to serve on a temporary basis so that vacant member positions are not left unfilled.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced during the last three years.

Designated Cross File: SB 619 (Chair, Judicial Proceedings Committee)(By Request - Maryland Judicial Conference) - Judicial Proceedings.

Information Source(s): Governor's Office; Judiciary (Administrative Office of the Courts); Maryland State Board of Elections; Department of Legislative Services

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