

HOUSE BILL 638

D1

CONSTITUTIONAL AMENDMENT

6lr3200

By: ~~Delegate Cardin~~ Delegates Cardin, Conaway, Simmons, and Woods

Introduced and read first time: January 30, 2026

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 7, 2026

CHAPTER _____

1 AN ACT concerning

2 **Judges – Mandatory Retirement Age**

3 FOR the purpose of altering the mandatory retirement age for certain judges under certain
4 circumstances; and establishing a mandatory retirement age for judges of the
5 Orphans’ Court, subject to a certain exception.

6 BY proposing an amendment to the Maryland Constitution

7 Article IV – Judiciary Department

8 Section 3, 3A, 5A, 18B, 40, and 41D

9 BY proposing an addition to the Maryland Constitution

10 Article XVIII – Provisions of Limited Duration

11 Section 6

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

15 **Article IV – Judiciary Department**

16 3.

17 Except for the Judges of the District Court, the Judges of the several Courts other
18 than the Supreme Court of Maryland or any intermediate courts of appeal shall, subject to
19 the provisions of Section 5 of this Article of the Constitution, be elected in Baltimore City

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

12 3A.

13 (a) (1) Except as provided in paragraph (2) of this subsection, any former
14 judge, except a former judge of the Orphans' Court, may be assigned by the Chief Justice
15 of the Supreme Court of Maryland, upon approval of a majority of the court, to sit
16 temporarily in any court of this State, except an Orphans' Court, as provided by law.

17 (2) (i) A retired judge of the Circuit Court for Montgomery County that
18 sits as the Orphans' Court for Montgomery County may be assigned by the Chief Justice of
19 the Supreme Court of Maryland, upon approval of a majority of the Supreme Court of
20 Maryland, to do an act that a judge of the Orphans' Court for Montgomery County is
21 authorized to perform.

22 (ii) A retired judge of the Circuit Court for Harford County that sits
23 as the Orphans' Court for Harford County may be assigned by the Chief Justice of the
24 Supreme Court of Maryland, upon approval of a majority of the Supreme Court of
25 Maryland, to do an act that a judge of the Orphans' Court for Harford County is authorized
26 to perform.

27 (b) The provisions of this section apply, notwithstanding provisions appearing
28 elsewhere in this Article pertaining to retirement of judges upon attaining age [70]
29 **SEVENTY-THREE**.

30 5A.

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

35 (b) Upon the occurrence of a vacancy the Governor shall appoint, by and with the
36 advice and consent of the Senate, a person duly qualified to fill said office who shall hold
37 the same until the election for continuance in office as provided in subsections (c) and (d).

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

6 (d) The continuance in office of a judge of the Appellate Court of Maryland is
7 subject to approval or rejection by the registered voters of the geographical area prescribed
8 by law at the next general election following the expiration of one year from the date of the
9 occurrence of the vacancy which the judge was appointed to fill, and at the general election
10 next occurring every ten years thereafter.

11 (e) The approval or rejection by the registered voters of a justice or judge as
12 provided for in subsections (c) and (d) shall be a vote for the justice's or judge's retention in
13 office for a term of ten years or the justice's or judge's removal. The justice's or judge's name
14 shall be on the appropriate ballot, without opposition, and the voters shall vote yes or no
15 for the justice's or judge's retention in office. If the voters reject the retention in office of a
16 justice or judge, or if the vote is tied, the office becomes vacant ten days after certification
17 of the election returns.

18 (f) An appellate court justice or judge shall retire when the justice or judge
19 attains the justice's or judge's ~~[seventieth]~~ **SEVENTY-THIRD** birthday.

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

27 18B.

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

30 (b) Each judge of an appellate court who is in office for an elected term on the
31 effective date of these amendments, unless [he] **THE JUDGE** dies, resigns, retires, or is
32 otherwise lawfully removed, shall continue in office until the general election next after the
33 end of [his] **THE JUDGE'S** elected term, or until [his seventieth] **THE JUDGE'S**
34 **SEVENTY-THIRD** birthday, whichever first occurs. [His] **THE JUDGE'S** continuance in
35 office is then subject to the provisions of section 5A(c) and (d) of this article, applicable to
36 judges of that court, but in no event shall any judge continue in office after [his seventieth]
37 **THE JUDGE'S SEVENTY-THIRD** birthday.

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

40.

(a) The qualified voters of the several Counties, except Howard County, Montgomery County, and Harford County, shall elect three Judges of the Orphans' Courts of Counties who shall be citizens of the State and residents, for the twelve months preceding, in the County for which they may be elected.

(b) The qualified voters of the City of Baltimore shall elect three Judges of the Orphans' Court for Baltimore City who shall be citizens of the State and residents, for the twelve months preceding, in Baltimore City and who have been admitted to practice law in this State and are members in good standing of the Maryland Bar.

(c) The qualified voters of Prince George's County shall elect three Judges of the Orphans' Court for Prince George's County who shall be citizens of the State and residents, for the twelve months preceding, in Prince George's County and who have been admitted to practice law in this State and are members in good standing of the Maryland Bar.

(d) The qualified voters of Baltimore County shall elect three Judges of the Orphans' Court for Baltimore County who shall be citizens of the State and residents, for the twelve months preceding, in Baltimore County and who have been admitted to practice law in this State and are members in good standing of the Maryland Bar.

(e) The Judges shall have all the powers now vested in the Orphans' Courts of the State, subject to such changes as the Legislature may prescribe.

(f) Each of the Judges shall be paid such compensation as may be regulated by Law, to be paid by the City or Counties, respectively.

(g) In case of a vacancy in the office of Judge of the Orphans' Court, the Governor shall appoint, subject to confirmation or rejection by the Senate, some suitable person to fill the vacancy for the residue of the term.

(H) IN NO EVENT SHALL A JUDGE OF THE ORPHANS' COURT CONTINUE IN OFFICE AFTER THE JUDGE'S SEVENTY-THIRD BIRTHDAY.

41D.

The Governor, by and with the advice and consent of the Senate, shall appoint each judge of the District Court whenever for any reason a vacancy shall exist in the office. All hearings, deliberations, and debate on the confirmation of appointees of the Governor shall

1 be public, and no hearings, deliberations or debate thereon shall be conducted by the Senate
 2 or any committee or subcommittee thereof in secret or executive session. Confirmation by
 3 the Senate shall be made upon a majority vote of all members of the Senate. A judge
 4 appointed by the Governor may take office upon qualification and before confirmation by
 5 the Senate, but shall cease to hold office at the close of the regular annual session of the
 6 General Assembly next following [his] **THE JUDGE'S** appointment or during which [he]
 7 **THE JUDGE** shall have been appointed by the Governor, if the Senate shall not have
 8 confirmed [his] **THE JUDGE'S** appointment before then. Each judge appointed by the
 9 Governor and confirmed by the Senate shall hold the office for a term of ten years or until
 10 [he] **THAT JUDGE** shall have attained the age of [seventy] **SEVENTY-THREE** years
 11 whichever may first occur. If the ten year term of a judge shall expire before that judge
 12 shall have attained the age of [seventy] **SEVENTY-THREE** years, that judge shall be
 13 reappointed by the Governor, with the Senate's consent, for another ten year term or until
 14 [he] **THAT JUDGE** shall have attained the age of [seventy] **SEVENTY-THREE** years,
 15 whichever may first occur. To the extent inconsistent herewith, the provisions of Sections
 16 3 and 5 of this Article shall not apply to judges of the District Court.

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

18 **6.**

19 **(A) (1) FOR THE PURPOSE OF IMPLEMENTING THE AMENDMENTS TO**
 20 **ARTICLE IV OF THE MARYLAND CONSTITUTION PROPOSED BY HOUSE BILL 638 OF**
 21 **2026, CONCERNING THE TENURE OF JUDGES IN THE STATE, THE FOLLOWING**
 22 **PROVISIONS SHALL GOVERN.**

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

28 **(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, EACH**
 29 **JUSTICE OR JUDGE WHO WAS IN OFFICE OR ELECTED TO A TERM ON OR BEFORE**
 30 **NOVEMBER 3, 2026, MAY CONTINUE IN OFFICE ONLY UNTIL THE JUDGE OR JUSTICE**
 31 **ATTAINS THE AGE OF 70 YEARS.**

32 **(C) EACH JUDGE OF THE ORPHANS' COURT WHO WAS ELECTED TO A TERM**
 33 **ON OR BEFORE NOVEMBER 3, 2026, MAY SERVE THE ENTIRETY OF THE TERM,**
 34 **REGARDLESS OF THE AGE OF THE JUDGE.**

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

1 SECTION 3. AND BE IT FURTHER ENACTED, That the amendment to the
2 Maryland Constitution proposed by Section 1 of this Act shall be submitted to the qualified
3 voters of the State at the next general election to be held in November 2026 for adoption or
4 rejection in accordance with Article XIV of the Maryland Constitution. At that general
5 election, the vote on the proposed amendment to the Constitution shall be by ballot, and on
6 each ballot there shall be printed the words “For the Constitutional Amendment” and
7 “Against the Constitutional Amendment”, as now provided by law. Immediately after the
8 election, all returns shall be made to the Governor of the vote for and against the proposed
9 amendment, as directed by Article XIV of the Maryland Constitution, and further
10 proceedings held in accordance with Article XIV.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.