

TESTIMONY BEFORE THE MARYLAND SENATE JUDICIAL
PROCEEDINGS COMMITTEE
TUESDAY, JANUARY 26, 2021 AT 1 PM
SENATE BILL 295 – CIRCUIT COURT JUDICIAL ELECTIONS

Presented by Claudia Barber, 2016 and 2018 candidate for judge on Circuit Court for Anne Arundel County

Today, our state legislature seeks to replace the state circuit courts' current open judicial election process to a more limited judicial retention process where voters would not have the same input as voters have now in the current open process.

The 2020 presidential election is an indicator that contested judicial elections should never be eliminated. In 2020, seven of the last successful challengers have been women and four of them have been African-American. And one of the successful male challengers was Judge Quincy Coleman, an African American male now on the Circuit Court for Howard County. It should be noted that all ten defeated incumbent judges.

There are many county circuit courts in the state that lack diversity. They include the Circuit Court for Anne Arundel County, which has no Hispanics, no Asian Americans, no native Americans on its bench, and no African American males. Other circuit courts lacking African American male judges include Charles County, Montgomery County, Carroll County, and rural counties. The real problem is that the trial court judicial nominating commissions continue to practice exclusion when it short lists candidates for the governor to appoint. There is no sign that they will stop. They will continue state sponsored discrimination.

When Governor Marvin Mandel created his executive order decades ago establishing these judicial nominating commissions, someone recognized it would be an imperfect process. It is, and remains so. The fact that there have been less than six African Americans, no Hispanic Americans, no Native Americans, and no

Asian Americans in the 300 plus year history of Anne Arundel County Circuit Court exemplifies the insidious glass ceiling created by the judicial nominating committee process. To remove the only hope that most minority candidates have to being elected to the judiciary is to ensure, particularly in those counties where minorities are underrepresented, that the judiciary in Maryland will remain monochromatic. My running in a contested judicial election in 2016 was the only reason there was a sudden interest to diversify the bench in 2018.

I ask that this legislature reevaluate Senate Bill 295, as it further removes voter impact to effect change and to diversify the judiciary throughout the state of Maryland. Voters are in a better position to decide on who should be their trial court judges, more so than a non-elected commission chosen based on partisan relationships. This is too important of a matter to remove the voice of the voters. The electorate should continue to have a say in those adjudicating the most important matters of their lives.

Given the increase in racially charged incidents in this state and the existing composition (one African American female, the first appointed in 2018, in the 368 year history) of Anne Arundel County's Circuit Court, we need inclusion and diversity on every court in every county of this state. A Goucher Poll released February 18, 2019, indicates only 10 percent of African Americans polled believe the criminal justice system in Maryland treats whites and blacks equally. There is no legitimate reason why the Anne Arundel County Circuit Court still does not reflect the community it serves. The only explanation is that the judicial nominating committee through partisan politics has stacked the deck against minority judicial candidates. Therefore, limiting the electoral process is in essence institutionalizing partisan and racist policy and practices.

The collateral damage behind maintaining an all white judiciary in this county is creating an all white magistrate judge panel and white-only court auditors. It took the same Anne Arundel Circuit Court more than 369 years to appoint its first African American female magistrate judge. This is not equal opportunity employment. This is opening the door to allow one minority in at a time and

placing them there whenever we protest. This is also yet another example of state sponsored discrimination. These are ghosts of Jim Crow and a modern day version of an Emmett Till courthouse in various counties across the state.

Passing SB 295 would not eliminate or reduce this state sponsored discrimination, but it would exacerbate this racist legacy. The majority of Anne Arundel County Judicial Nominating Commission members during their respective tenures appear, based on statistics, to be concerned about only nominating one or no people of color. **Since the 2018 appointment of Judge Elizabeth Morris to the Circuit Court for Anne Arundel County, the Anne Arundel County Judicial Nominating Commission continues to practice exclusion by short listing all white candidates to the judiciary in 2019. This same Commission will continue to do so in the future without any concern about those disenfranchised by this process.** They did so in 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2019. There is no accountability or oversight of these judicial nominating commissions. And no task force has ever been established to study and provide information on why the process convenient to the ole boy network is so exclusionary. This is why the open process is better than a closed process. A study must be completed that provides real solutions. In the present situation, if trial court nominating commissions choose to practice exclusion, they can and will continue to do so.

The Maryland legislature must provide a procedural and legal process for those unfairly excluded from the judicial nominating process or denied positions for which they are qualified. An almost all white judiciary taints the entire justice system, and should not exist anywhere, let alone in the state's capital. This state has a history of wrongly incarcerating citizens. That history alone should stop legislators from rushing to change the existing open electoral process to a closed process.

Thank you Senate Judicial Proceedings Committee members, and Mr. Chairman for your time.