

MD Judiciary - Testimony SB 295.pdf

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Position: FAV

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 295
Circuit Court Judges - Election
DATE: January 21, 2021
(1/26)
POSITION: Support

Find attached information for Senate Bill 295 regarding the selection and election of judges.

Attached:

1. List of incumbent judges defeated in a contested election from 1956 to present which includes demographics.
2. Chart reflecting number of women and minority judges over time from 1981 to present.
3. Demographic breakdown chart from 1981 to present.
4. Distribution of Judges – Race and Sex - present

cc. Hon. Benjamin Kramer
Judicial Council
Legislative Committee
Kelley O'Connor

**SUCCESSFUL CHALLENGES TO SITTING JUDGES
(1956-2020)**

<u>CHALLENGER</u>	<u>DEMOGRAPHICS</u>	<u>DEFEATED INCUMBENT</u>	<u>DEMOGRAPHICS</u>	<u>CIRCUIT COURT</u>	<u>YEAR</u>
Harlan, Edwin	WM	Mundy, Cornelius P.	WM	Baltimore City	1956
Raine, John E., Jr.	WM	None		Baltimore County	1956
Dorf, Paul A.	WM	Wolf, Edwin J.	WM	Baltimore City	1968
Howard, Joseph C.	BM	Kenney, Thomas J.	M (Race Not Available)	Baltimore City	1968
Murphy, James W.	WM	Solter, George D.	Not Available	Baltimore City	1970
Mattingly, Joseph A.	WM	Weiner, Joseph D.	Not Available	St. Mary's	1972
Williams, Bruce C.	WM	Biener, Karl F.	WM	Anne Arundel	1976
Clark, Richard J.	WM	Nalley, Robert C.	WM	Charles	1980
Cole, Jr., Donaldson C.	WM	Evans, William B.	WM	Cecil	1980
Murphy, Jr., William H.	BM	Figinski, M. Albert	WM	Baltimore City	1980

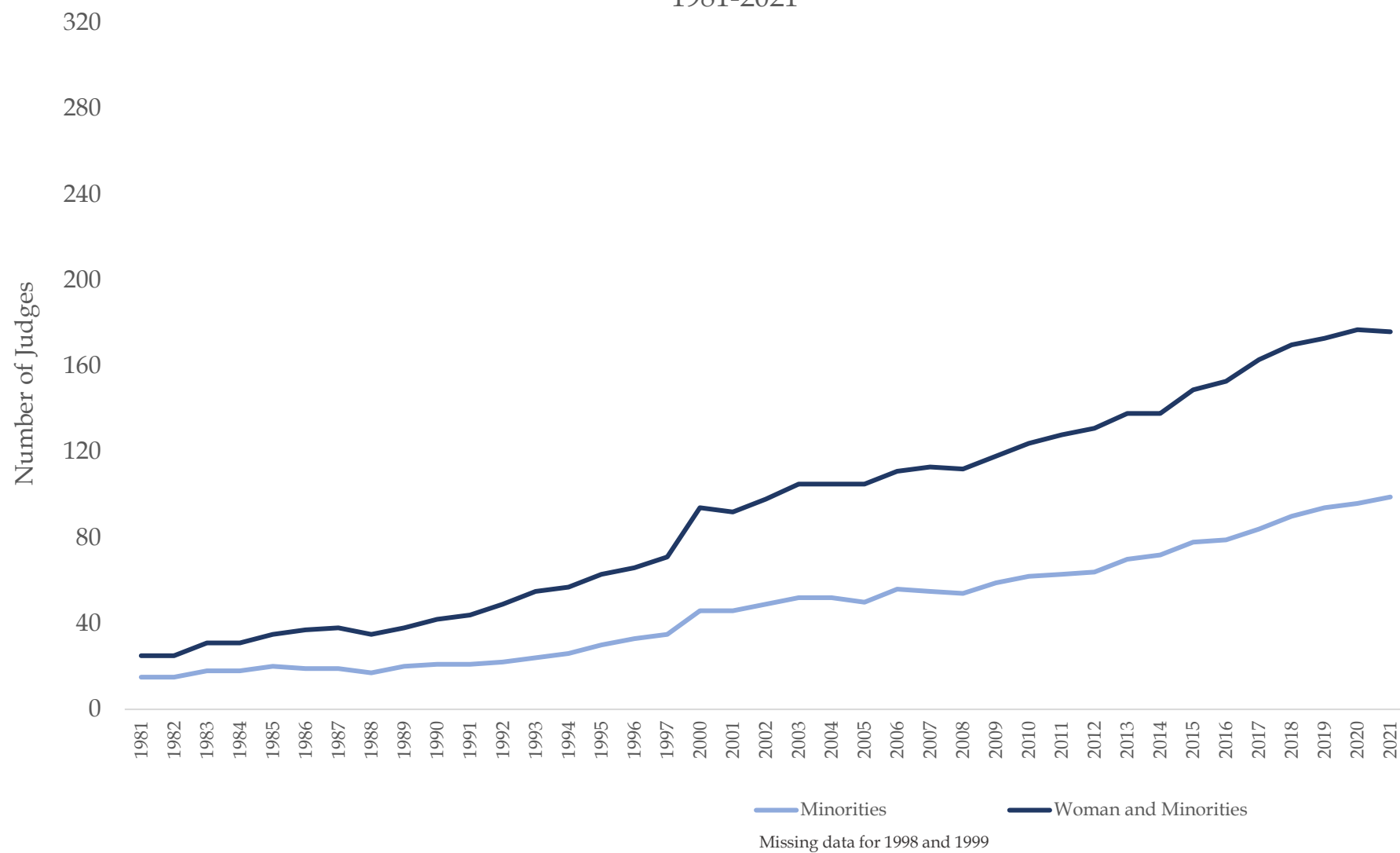
**SUCCESSFUL CHALLENGES TO SITTING JUDGES
(1956-2020)**

<u>CHALLENGER</u>	<u>DEMOGRAPHICS</u>	<u>DEFEATED INCUMBENT</u>	<u>DEMOGRAPHICS</u>	<u>CIRCUIT COURT</u>	<u>YEAR</u>
Johnson, Kenneth L.	BM	Perrott, James A.	WM	Baltimore City	1982
Ward, Thomas	WM	Ward, Peter D.	WM	Baltimore City	1982
Gelfman, Lenore R.	WF	Staton, Donna Hill	BF	Howard	1996
Dugan, Robert N.	WM	Wright, Jr., Alexander	BM	Baltimore County	2000
Cavanaugh, Patrick	WM	Wright, Jr., Alexander	BM	Baltimore County	2002
Goetzke, Paul G.	WM	Bruce, David S.	WM	Anne Arundel	2004
Harris, Jr., Paul F.	WM	Warren, Rodney	BM	Anne Arundel	2004
Asti, Alison L.	WF	Jarashow, Ronald A.	WM	Anne Arundel	2010
Simpson, Jr., Thomas R.	WM	Spencer, Jerome R.	WM	Charles	2014
Rolle, Scott L.	WM	O'Connor, Danny B.	WM	Frederick	2014

**SUCCESSFUL CHALLENGES TO SITTING JUDGES
(1956-2020)**

<u>CHALLENGER</u>	<u>DEMOGRAPHICS</u>	<u>DEFEATED INCUMBENT</u>	<u>DEMOGRAPHICS</u>	<u>CIRCUIT COURT</u>	<u>YEAR</u>
Turner, Ingrid M.	BF	*One of the sitting judges withdrew after the primary.		Prince George's	2016
Oesterreicher, Maria L.	WF	Titus, Richard R.	WM	Carroll	2018
Adkins-Tobin, Diane E.	WF	Kreis, Jr., Lawrence F.	WM	Harford	2018
Gibbs, Makeba	BF	Devine, Patrick J.	WM	Charles	2020
Coleman, Quincy L.	BM	Kuchno, John J.	WM	Howard	2020
Weatherspoon, Gladys M.	BF	McCarthy, Jared M.	WM	Prince George's	2020
Ademiluyi, April T.	BF	*One of the sitting judges withdrew after the primary.		Prince George's	2020

Number of Women and Minority Judges Over Time 1981-2021*



Judge Demographics 1981-2021 for Filled Judgeship Positions

Year	White Men	White Women	African American Men	African American Women	Asian/ Pacific Islander Men	Asian/ Pacific Islander Women	American Indian/Alaska Native Men	American Indian/Alaska Native Women	Hispanic Men	Hispanic Women	Multi-racial Men	Multi-racial Women	Minority Men	Minority Women	Total Minorities	Women and Minorities	Total Filled Judgeships*
1981	179	10	14	1									14	1	15	25	204
1982	177	10	14	1									14	1	15	25	202
1983	181	13	17	1									17	1	18	31	212
1984	180	13	17	1	0	0	0	0	0	0			17	1	18	31	211
1985	180	15	19	1	0	0	0	0	0	0			19	1	20	35	215
1986	179	18	18	1	0	0	0	0	0	0			18	1	19	37	216
1987	179	19	18	1	0	0	0	0	0	0			18	1	19	38	217
1988	181	18	16	1	0	0	0	0	0	0			16	1	17	35	216
1989	181	18	19	1	0	0	0	0	0	0			19	1	20	38	219
1990	184	21	20	1	0	0	0	0	0	0			20	1	21	42	226
1991	181	23	20	1	0	0	0	0	0	0			20	1	21	44	225
1992	184	27	20	2	0	0	0	0	0	0			20	2	22	49	233
1993	178	31	22	2	0	0	0	0	0	0			22	2	24	55	233
1994	178	31	23	3	0	0	0	0	0	0			23	3	26	57	235
1995	171	33	24	5	0	0	0	0	0	1			24	6	30	63	234
1996	177	33	24	7	0	0	0	0	0	2			24	9	33	66	243
1997	172	36	26	7	0	0	0	0	0	2			26	9	35	71	243
1998**																	
1999**																	
2000	173	48	31	14	0	0	0	0	0	1			31	15	46	94	267
2001	169	46	30	14	0	0	0	0	0	2			30	16	46	92	261
2002	166	49	28	18	0	0	0	0	0	2	1	0	29	20	49	98	264
2003	167	53	28	19	1	1	0	0	0	2	1	0	30	22	52	105	272
2004	161	53	28	19	2	3	0	0	0	0	0	0	30	22	52	105	266
2005	162	55	27	19	1	1	0	0	0	2	0	0	28	22	50	105	267
2006	167	55	28	24	1	1	0	0	0	2	0	0	29	27	56	111	278
2007	170	58	26	24	1	1	1	0	0	2	0	0	28	27	55	113	283
2008	160	58	25	24	1	1	1	0	0	2	0	0	27	27	54	112	272
2009	163	59	26	27	1	1	1	0	0	2	1	0	29	30	59	118	281
2010	153	62	28	28	1	1	1	0	0	2	1	0	31	31	62	124	277
2011	152	65	25	30	1	1	1	0	1	3	1	0	29	34	63	128	280
2012	146	67	27	30	0	1	1	0	1	3	1	0	30	34	64	131	277
2013	142	68	27	35	0	2	1	0	1	3	1	0	30	40	70	138	280
2014	139	66	27	36	0	2	1	0	1	4	1	0	30	42	72	138	277
2015	138	71	28	40	1	2	1	0	1	3	2	0	33	45	78	149	287
2016	137	74	29	40	1	2	1	0	1	3	2	0	34	45	79	153	290
2017	146	79	32	42	1	2	0	0	2	3	2	0	37	47	84	163	309
2018	140	80	32	48	1	2	0	0	3	2	2	0	38	52	90	170	310
2019	133	79	32	51	1	3	0	0	3	2	2	0	38	56	94	173	306
2020	138	81	29	54	2	3	0	0	4	2	2	0	37	59	96	177	315
2021	130	77	29	57	2	3	0	0	4	2	2	0	37	62	99	176	306

*Filled Judgeships does not include vacancies at time of demographic count; current full complement of judges = 320

** Data not available for 1998 and 1999

Only Black or White reported until 1984

Multiracial reported beginning 2002

Appointments through:

1/8/21

DISTRIBUTION OF JUDGES - RACE AND SEX MARYLAND JUDICIARY

	Auth. Total	Actual	Vacant	White		African- American		Asian/Pacific Islander		Amer. Indian/ Alaskan Native		Hispanic		Multi-Racial	
				Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
						2									
Court of Appeals	7	7	0	3	2		2								
Court of Special Appeals	15	15	0	9	3	1	1							1	
Total Appellate	22	22	0	12	5	1	3	0	0	0	0	0	0	1	0
First Circuit	9	9	0	6	3										
Second Circuit	8	8	0	4	3	1									
Third Circuit	26	25	1	12	8	1	3						1		
Fourth Circuit	9	8	1	5	2									1	
Fifth Circuit	22	20	2	10	7	2	1								
Sixth Circuit	30	29	1	15	9		4		1						
Seventh Circuit	35	34	1	11	2	5	16								
Eighth Circuit	35	35	0	13	5	4	11		1				1		
Total Circuit	174	168	6	76	39	13	35	0	2	0	0	0	2	1	0
						1									
Headquarters	1	1	0	1											
District 1	28	24	4	9	8	3	3		1						
District 2	6	6	0	2	2	2									
District 3	6	5	1	2	3										
District 4	7	7	0	2	3	1	1								
District 5	19	18	1	5	2	2	9								
District 6	13	13	0	2	5	2	1	1				2			
District 7	10	10	0	5	2	2	1								
District 8	15	14	1	6	3	1	3	1							
District 9	4	4	0	1	2	1									
District 10	7	7	0	1	3	1	1					1			
District 11	5	4	1	3								1			
District 12	3	3	0	3											
Total District	124	116	8	42	33	15	19	2	1	0	0	4	0	0	0
GRAND TOTAL	320	306	14	130	77	29	57	2	3	0	0	4	2	2	0

Ltr RHJ 2 Testimony Judge Election 012221.pdf

Uploaded by: Jarashow, Ron

Position: FAV

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RONALD H. JARASHOW
ADMITTED MARYLAND AND D.C. BARS

EMAIL: RJARASHOW@GJBLAWFIRM.COM
WWW.GJBLAWFIRM.COM

WRITTEN COMMENTS SUPPORTING RETENTION ELECTION FOR JUDGES
Former Judge Position in Support of SB295 Circuit Court Judges – Election
and HB35 Judges – Selection and Retention

FROM: Ronald H. Jarashow, Former Anne Arundel County Circuit Court Judge

Background. I am a former Anne Arundel County Circuit Court Judge that lost my judicial appointment in the November 2010 election after being appointed by Gov. Martin O'Malley. I am personally familiar with the judicial election process, its burdens, difficulties, and ethical considerations as detailed below. I support changing the current contested election which is a **partisan** election by law – see the discussion below.

Candidate Forums. Organizers give politicians speaking time (e.g., General Assembly, Governor, County Executive, etc.). Judge candidates seldom are permitted to speak to attendees.

Judges Not Like Other Politicians. Circuit Court Judges are elected for 15 years and not a 4-year term like other offices. Every 4 years, voters evaluate whether to keep other elected officials in office. Seldom do judges appear on the ballot again.

County-Wide Election. Judge candidates run county-wide. It is hard to raise sufficient money to inform all citizens about the judge's selection process and qualifications versus a challenger.


Voters Do Not Know Judicial Candidates. In my 2010 election, Governor 202,000 votes were cast and only about 100,000 votes were cast for Judge. I lost my appointment by about 7% to a candidate who supported by a political party and whom, reportedly, never tried a court case before.

Voter Confusion. Judges are designated "Judicial" party. The public often asks if the judge-candidate is a Democrat or Republican. As a sitting judge, I thought it questionable to answer. Non-judge judicial candidates are not restricted in declaring a party affiliation. And no distinction is made with Orphans Court Judges who have party affiliation and are elected for 4-years terms.

Lawsuits by Judicial Candidates. Some judicial candidates file lawsuits. *See, e.g., Rickey Nelson Jones v. Mary E. Barbera*, Jones v. Barbera, 2020 Md. App. LEXIS 65, 2020 WL 405452 (Md. Ct. Spec. App., Jan. 24, 2020, *cert. denied* 2019) (unreported) (the unsuccessful judicial candidate sued the Court of Appeals Chief Judge). Lawsuit threats were made during my 2010 election.

Candidate Misconduct Has No Penalty. Judicial elections are overseen by a volunteer committee known as the Maryland Judicial Campaign Conduct Committee (MJCCC). This group has no authority to punish misconduct by a judicial candidate. They regularly analyze misconduct complaints and issue "sanction" reports. In 2010, the Anne Arundel County challenger was found to have violated judicial campaign rules by distributing misleading campaign literature on election day that mischaracterized her as being an appointed judge along with my co-appointee to the bench. That literature used our black and yellow campaign colors (instead of her blue and white campaign colors) with her photograph and my running mate that made it appear as if they were the two appointed judges. The law imposes no penalties for misleading judicial campaign conduct. Attached is part of the 75-page MJCCC finding that the 2010 A.A. County challenger violated campaign standards.

I request a **FAVORABLE** Committee Report.




Alison Asti *for* Circuit Court Judge

The Maryland Constitution provides that our judges should be lawyers who are "most distinguished for integrity, wisdom and sound legal knowledge." I believe that I am the candidate who best meets those requirements. I am a lifelong resident of the County, a former President of the Maryland State Bar Association, a board member of the Maryland School of Law, and the past General Counsel of the Maryland Stadium Authority. I am most proud of my role in relocating the NFL Ravens to Baltimore and building Camden Yards and Ravens Stadium.

I have been recognized by Leadership in Law, Maryland Super Lawyers and Maryland's Top 100 Women. I have also been President of many state, local and national legal organizations.

I believe that the citizens of Anne Arundel County deserve to have judges they select – not judges who were selected by Martin O'Malley as a result of a compromised partisan process.

— Alison Asti



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SAMPLE BALLOT
NOVEMBER 2, 2010
STATE OF MARYLAND, ANNE ARUNDEL COUNTY

JUDGE OF THE CIRCUIT COURT JUDICIAL CIRCUIT 5 Vote for No More Than Two	
<input checked="" type="checkbox"/>	Alison Asti
<input type="checkbox"/>	
<input checked="" type="checkbox"/>	Laura S. Kiessling



Laura Kiessling



Ron Jarashow & Laura Kiessling

CIRCUIT COURT JUDGES

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MARYLAND STATE BAR ASSOCIATION
MEMBERS OF THE JUDICIAL NOMINATING COMMISSIONS OF BOTH GOVERNORS
EHRlich AND O'MALLEY
ADVOCATES FOR VICTIMS RIGHTS • CITIZENS FOR JESSICA'S LAW

LEARN MORE: Visit us at www.AnneArundelJudges.com or on Facebook at Anne Arundel Judges State



Ron Jarashow

- 35 year career attorney with real courtroom experience
- In 2009, selected as one of the best courtroom and business lawyers in Anne Arundel County
- Represented police, victims, community groups, individuals and small businesses
- Volunteered for children through coaching and the Optimist Club, which supports a home that protects battered women and children, and other youth programs
- Wife, Nun, and he raised three sons in Anne Arundel County



Laura Kiessling

- Two decades as a tough prosecutor in our County
- Promoted to become first female Deputy State Attorney in Anne Arundel County
- Prosecuted child predators, rapists, and murderers
- Volunteered for children through organizations such as Annapolis and Anne Arundel County Boys and Girls Club and Cal Ripken Sr. Foundation
- Husband, Trevor, and she are raising their two children in Anne Arundel County

OUR JUDGES • HONEST • FAIR • IMPARTIAL

MAJ Position Paper Judge Retention election 012221

Uploaded by: Jarashow, Ronald

Position: FAV



Maryland Association for Justice, Inc.

2021 Position Paper

MAJ Position In Support of SB295 Circuit Court Judges – Election and HB35 Judges – Selection and Retention

Ethical Considerations. Judge candidates raise money from lawyers who appear before the judge-candidate which might be perceived as a conflict of interest or favoritism for contributors. Non-judge candidates have no direct ethical fundraising restraints. Attached is a summary of some amounts raised by judicial election candidates (from Maryland filed finance reports). \$200,000-\$400,000 must be raised.

Judge Elections Differ from Other Elections. All other election candidates choose to run, organize life and work to make campaigning time, and prepare financing and campaign infrastructure **before filing**. It is impossible for an appointed judge to plan these steps.

Discourages Highly Qualified Applicants. The current process discourages successful lawyers from seeking appointment and abandoning practice because he or she may lose in the election.

Quality and Vetting Process. The judicial application includes a lengthy application, interviews by up to 14 different law related interest groups such as the County Bar Association, Maryland State Bar Association, Women's Bar Association, etc. Interviews conclude with the County judicial nominating commission that nominates at least three applicants to the Governor. Any lawyer who files to run in the election does not go through this evaluation. Voters seldom know or understand the application or vetting process to select the appointed judge. On the ballot, there is no indication of who is an "incumbent" or sitting judge versus a challenger.

Voter Misunderstanding. Judge elections are a unique -- for 15-year terms. Other elected officials are reviewed and elected every 4 years. Yet, judge elections on the ballot look like and other offices. Where there are checks and balances between the Executive and Legislative government branches, judges have largely unlimited power to render decisions affecting people.

Confusion, NOT Non-Partisan. Judicial candidates are designated "judicial" party and not Democrat or Republican. In campaigning, people often ask judicial candidates for their party affiliation. An appointed judge might be considered unethical to identify as one or the other. A challenger, however, is not restricted from answering that question. Notwithstanding the designation "judicial" party, the judicial election is PARTISAN and NOT non-partisan according to *Suessmann v. Lamone*, 383 Md. 697, 729, 862 A.2d 1, 19 (2004) ("... judicial elections for the circuit courts, ... remain, despite appellants assertions to the contrary, partisan affairs.").

Retention Election Makes Sense. Changing to a retention election avoids almost all the above issues. No substantial money must be raised. No risk of a popular or name-recognized candidate displacing an appointed judge who was vetted and selected. Challenger misconduct would be largely eliminated. Ethical considerations (as those above) would no longer exist since there would be limited fundraising or comments about other candidates. Public misunderstanding would be eliminated without a contested partisan judicial election. A greater number of highly qualified lawyers would likely seek judicial appointment and abandon successful law practices since the chance of losing that appointment in a judicial election would be substantially eliminated.

Retention elections acknowledge that the selection process leads to judges independently deemed qualified. The MAJ requests a **FAVORABLE** Committee Report.

Summary of Selected Judicial Elections					
From Review of Selected Judicial Campaign reports					
By Ron Jarashow review of campaign reports					
		Judicial	Amount Contrib		
<u>Amount raised</u>	<u>Yr Election</u>	<u>Candidate</u>	<u>by Candidate</u>	<u>County</u>	<u>NOTES</u>
\$168,334	2018	Mark Crooks	\$27,000	AA	Only through Primary.
\$200,898	2010	Jarashow / Kiessling		AA	
\$260,677	2016	Vitale, Schaeffer, Klavans, McCormack		AA	
\$261,780	2008	Baltimore City Slate		Balt. City	
\$159,082	2014	Baltimore City Slate		Balt. City	
\$372,370	2016	Baltimore City Slate		Balt. City	
\$167,985	2010	Alison Asti	\$121,000	AA	BEFORE NOV 2 vote
\$161,463	2010	Alison Asti		AA	AFTER NOV 2 vote

LWVMD testimony - SB 295 - Circuit Court Judges -

Uploaded by: Millenson, Janet

Position: FAV



TESTIMONY TO THE SENATE COMMITTEE ON JUDICIAL PROCEEDINGS

SB 295 Circuit Court Judges – Election

POSITION: Support

BY: Lois Hybl and Richard Wilson, Co-Presidents

DATE: January 26, 2021

Since 1964 the League of Women Voters has supported the appointment of judges by the Governor based on recommendations of judicial nominating commissions with voter confirmation in nonpartisan merit retention elections. In subsequent studies of the judiciary, this position was reaffirmed in 1967, 1970, and 2009.

The League opposes requiring sitting judges and new appointees to face self-selected candidates in elections. Sitting judges have been evaluated by a rigorous judicial nominating commission process. Challengers to circuit court judges do not face such vetting and voters have little information about their qualifications and judicial temperament.

The election of Circuit Court judges has become increasingly politicized with special interest groups backing candidates of their choice. State law does not allow sitting judges to make the same kind of public statements that politicians can make, creating an unlevel playing field and confusing voters. There is also the troubling influence of campaign financing for both the sitting judges and challengers as money is required to run in a contested election.

This proposed constitutional amendment makes Circuit Court judges subject to the same election process that is used for the selection of Maryland's appellate judges, eliminating contested elections.

This bill does not require the use of a nominating commission, which the League supports and has been established by Executive Order by every Governor since 1970. The membership of the commission should reflect the demographic diversity of the state or the judicial circuit district.

We urge a favorable report on SB 295

Testimony_SB295_CircCt Judges_Election_Judge Mark

Uploaded by: Scurti, Judge Mark

Position: FAV

To: Members of the Senate Judicial Proceedings Committee

From: Hon. Mark F. Scurti, President, Maryland State Bar Association

Date: January 26, 2021

Subject: **Senate Bill 295 - Circuit Court Judges - Election**

Position: **Support**

The **Maryland State Bar Association (MSBA)** supports **Senate Bill 295 - Circuit Court Judges – Election**, which would abolish Maryland’s current contested election method of selecting circuit court judges. The bill proposes an amendment to the Maryland Constitution to move Maryland forward from a contested election process to a merit-based system of judicial selection.

For over 30 years, the MSBA has opposed the contested election of Maryland’s circuit court judges principally on ethical grounds. While a judicial contender may freely assert how they might rule from the Bench, sitting judges may not. We believe that partisan, electoral politics have no rightful place in our judicial selection process, principally because elections transform judges into politicians and immerse them into the arena of partisan politics. Increasing campaign costs force sitting judges and contenders to raise money to fund media campaigns – often those dollars come from the large corporations, and more often, the very lawyers most likely to appear before them once on the bench. The end result of our current election process is the gradual erosion of the public’s confidence in the impartiality of our legal system.

Finally, we find that many qualified attorneys and District Court judges are discouraged from seeking a circuit court judicial seat because of contested elections, narrowing the pool of qualified judicial candidates. The MSBA believes that fewer judicial candidates are willing to risk leaving private practice to accept a judicial appointment, for fear of having to face a contested election, perhaps only after a year on the bench. Moreover, the expense associated with campaigning to serve as a circuit court judge, the time investment in campaigning, and the possibility of losing one’s seat to a contender shortly after beginning service on the bench, are all major deterrents. These concerns have led to decreased diversity in practice background, as more judicial candidates are coming from the government sector.



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410-685-7878 | 800-492-1964
fax 410-685-1016 | tdd 410-539-3186
msba.org

For all the reasons stated above, the MSBA strongly urges your support for legislation abolishing contested judicial elections, and we **urge a Favorable Report on Senate Bill 295.**

Should you have any questions, please contact Richard Montgomery, MSBA Director of Legislative Relations at (410) 269-6464 or richard@msba.org.

SB 295 - Circuit Court Judges - Elections.pdf

Uploaded by: Siri, Michelle

Position: FAV

BILL NO:	Senate Bill 295
TITLE:	Circuit Court Judges - Election
COMMITTEE:	Judicial Proceedings
HEARING DATE:	January 26, 2021
POSITION:	SUPPORT

The Women's Law Center of Maryland (WLC) is a statewide, non-profit legal services provider, dedicated to ensuring the physical safety, the economic security, and the bodily autonomy of women across Maryland. Established in 1971 with a mission of improving and protecting the legal rights of women, particularly regarding gender discrimination, employment law, family law and reproductive rights, the WLC advances its work not only through direct legal representation, but also through statewide educational hotlines and advocacy.

An integral part of our advocacy work includes working to ensure that our judiciary is free of gender and race bias and representative of the communities it serves. We advance that goal by participating in the judicial selection process, where our Judicial Selections Committee interviews candidates for all trial and appellate courts, in every county. **In the past two decades we have conducted well over one thousand interviews of candidates. In the past year alone, the WLC conducted interviews and submitted letters to the Governor's office and Judicial Nominating Commissions for 70 applicants in 8 different jurisdictions.** Our Judicial Selections Committee is comprised of board members and other practicing attorneys who have a strong connections to the community. They bring with them an understanding of not only the administrative challenges of the courts, but also the challenges attorneys and litigants face within the courthouses. We evaluate the candidates not only on their written applications, but also on their reputations as practitioners, their demeanor, their experience, and their understanding of the importance of access to justice for the public. Other local and specialty bars contribute to the process as well, including the Monumental Bar Association, Asian-Pacific American Bar Association, the Hispanic Bar Association, and the LGBTQ Bar Association of Maryland. Our collective opportunity to vet these individuals, and provide valuable feedback to the Governor's office, has had a tangible impact on the diversity of the bench.

Under current law, all judges are appointed by the Governor, after vetting from the various legal organizations and the Judicial Nominating Commissions. District court judges receive a 15 year commission. Appellate judges must participate in a retention election, but are otherwise appointed for the full term. Only Circuit Court judges must face a general election following the first year of their appointment in order to retain their position. This places those judges, and the entire bar, in the improper and unfortunate situation of campaigning when their entire role is dedicated to not taking a position. This process injects politics, and financing, into the courtroom – a space which is sacred to the rule of law and should not be involved with either. It also leads to confusion amongst voters, who do not understand the process and have no meaningful way of evaluating the candidates.

SB295 would alter the current law by allowing circuit court judges to face a retention election, same as the appellate court judges, rather than a contested one. This would still allow the public an opportunity to remove a judge it finds objectionable, while maintaining the integrity of the judicial selections process and the bench.

The WLC has seen firsthand exceptional judges who have lost their appointments following general elections to individuals who have never been part of the interview process, or worse, who had attempted to obtain a position through the interview process but were deemed not competent to be a judge by the various organizations. Even more unfortunate, the number of quality candidates for circuit court positions is dwindling as more and more experienced litigators and judges express a strong aversion to participating in the election process. This is a loss for the judiciary, the bar, and the state as a whole.

For these reasons, the WLC strongly supports SB295 and urges a favorable report.

The Women's Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.

Testimony of Judge AWilliams for Senate Bill 295 (

Uploaded by: Williams, Jr., Alexander

Position: FAV



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"The hallmark of any great society is measured by the extent and degree of involvement or engagement in activities and projects benefitting the community and advancing the public good." —Hon. Alexander

January 22, 2021

Honorable Williams C. Smith, Jr.
Chair, Senate Proceedings Committee
and Members of the Committee
Maryland Senate

Re: Senate Bill 295

Dear Senator Smith and Members of the Senate Proceedings Committee:

I write to express my support of Senate Bill 295 (An Act Concerning Circuit Court Judges-Election).

My comments in no way are meant to cast any aspersions on the election of the candidates who won election in the 2020 elections across our state. The candidates prevailed and I wish them all successful careers on the circuit court bench. My reason for supporting Senate Bill 295 is my hope to see some revision of the election process so that sitting and appointed circuit court judges be spared of having to run in contested elections.

By way of history, in 1965 a constitutional amendment passed eliminating contested elections for the court of appeals and the court of special appeals in favor of retention elections -- leaving-circuit judges as lone level of judges required to run. while judicial elections at one time were an important check on a governor's appointment, circumstances have changed. Many years as a young attorney, I complained to governors and to legislators about the lack of African American and female judges on our (the Prince George's County) circuit court.

But today, there IS MUCH MORE DIVERSITY ON THE BENCH, particularly in BALTIMORE CITY AND PRINCE GEORGE'S COUNTY where there has been a big shift in the demographic of circuit court judges. We are proud of the diversity on the 24 member George's County bench which presently includes 14 Black women, 5 Black males, 3 White males and 2 White females. Yet, we are now seeing around the state many outstanding District Court Judges and practitioners electing not to seek or put in for Circuit Court judgeships because of fear of not being able to survive a judicial election. In fact, several highly regarded sitting judges were recently ousted in contested elections in Prince George's, Charles and Howard counties. Moreover, in some of the counties where Black and other minorities are underrepresented, judicial elections stand in the way of diversity on the bench.

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No system of appointing and confirming judgeships is perfect yet the vetting process in our State [where candidates meet with the nominating commissions and names are submitted to the governor] has resulted in the appointment of exceptionally qualified judges to our circuit court bench and to all levels of the judiciary. I am, of course, mindful of the criticism over the years that the nominating commissions have included trappings of politics and often has been viewed of making nominating decisions in favor of friends or popularity. But overall, I believe that the system in Maryland for the vetting and appointment of judges is effective and reasonable.

The other challenge to judicial elections is that judges are not and should not be politicians; but on the contrary, should be free to rule and make bold, independent and correct decisions without fear of reprisal from an electorate which may disagree with a correct but unpopular decision. In all candor, the most significant persons interested in contributing financially to the judicial campaign are lawyers, some of whom may feel pressured to not contribute.

Ethically, judges should not be trying to compete for votes, raise money, attend fundraisers, coffees and teas, and then be uncomfortable if there are sensitive questions asked which would be inappropriate for the judicial candidate to give any substantive response(s). Neither should prevailing in a judicial election depend on who has the most money, on who is the most popular, or on the alphabetical position one occupies on the ballot.

While the ideal situation would be for all or most of the voters to be knowledgeable and familiar with the background, experiences and records of the judicial candidates, many citizens, unfortunately, do not do the research or pay a lot of attention to the judicial candidates or to the sitting judges in order to make sound decisions as to whether they warrant being elected or returned to the bench. Many voters call folks to ask who to vote for. Also in a number of counties some citizens only vote for the executive and legislative candidates, and do not bother to scroll down to other offices such as the judicial candidates or referendum questions.

I hope that these comments are helpful.

Sincerely,

A handwritten signature in dark ink, appearing to read "Alexander Williams, Jr.", with a stylized flourish at the end.

Alexander Williams, Jr.
Executive Director and Retired Judge
Judge Alexander Williams Center for Education,
Justice and Ethics
301-509-3371

SB 295 - Circuit Court Judges - Election.pdf

Uploaded by: Antoine, Joanne

Position: FWA

January 26, 2021

**Testimony on SB 295
Circuit Court Judges-Election
Judicial Proceedings**

Position: Favorable with Amendment

Common Cause Maryland is in support of SB 295, which would alter the selection of circuit court judges by requiring that when a vacancy occurs, the Governor appoints a successor who holds the office until the next general election following the expiration of one year from the date of the vacancy.

Circuit court judges face a different process than other judges in the state. Because any eligible candidates may challenge the incumbent judges by filing as a candidate, judges at the circuit court level are the only judges in the State who may face a contested election in order to retain their appointment. It is also only at the circuit court level where an individual may become a judge without a gubernatorial appointment and without being screened and recommended by a judicial nominating commission.

The issue is that Circuit Court judgeships in Maryland can have candidates. Just like in other elections, candidates have to run campaigns and campaigns are subject to external influence. The election of judges has become a major issue nationwide. Numerous states in the nation are sure to utilize a merit system for judge selection so that judges can be screened for experience, intellect, and judicial temperament. This is because states around the country have analyzed how the changing nature of elections are impacting judicial elections and the merits of the current system. Research has increasingly found that judicial elections are mirroring any other election – with big money from special interests playing an increasing role. Research by national experts including the Brennan Center for Justice, the National Institute on Money in State Politics, and Justice at Stake has found that “the boundaries that keep money and political pressure from interfering with the rule of law have become increasingly blurred.”¹

While we support this legislation, there are some reforms that could make it even stronger. We encourage the committee to consider amendments, including:

- The legislation should establish and require the advice of a nominating committee to vet potential candidates. The nominating committee must itself be diverse.
- The nominating committee and Governor must be charged to find candidates that reflect the demographic and political diversity of the jurisdiction.

Currently, Maryland circuit judges are put in a bind when they are required to run a campaign. Under these circumstances, judges are motivated to raise contributions and seek the approval of voters. Therefore, interest groups could occasionally influence judges and cause them to weigh decisions on a political balance. This set up is not conducive to a just and objective legal system.

¹ <http://newpoliticsreport.org>

SB 295 is a good bill that will keep special interest and external influence out of our justice system. As such, we urge a favorable report.



TESTIMONY2021 BEFORE THE SENATEJUDPROCEEDINGSSB295

Uploaded by: Barber, Claudia

Position: UNF

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.