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BILL NO:	House Bill 75
TITLE:	Judges – Selection and Retention
COMMITTEE:	Judiciary (Ways and Means)
HEARING DATE:	February 24, 2021
POSITION:	<b>Favorable With Amendments</b>

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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 strong connections to the community. They bring with them an understanding of the administrative challenges of the courts, as well as 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.

HB 75 would alter the current law by removing any language related partisan elections from the process. It would allow all registered voters – regardless of party affiliation – to vote for judicial candidates in primary elections and then candidates with the highest number of votes would proceed to the general election. While the WLC appreciates the attempt to remove partisanship from the process, it respectfully does not believe this approach goes far enough, nor would it resolve the issues related to judicial elections. In fact, partisanship is typically not the problem as judicial candidates are barred from making any statements related to partisanship or politics. As such, while the WLC is in favor of reforming the judicial election process, it would prefer the approach proffered in other legislation, including HB 35 and HB 447, requiring 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 supports HB 75 but urges a favorable report with the amendments raised above.

***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.***