

MEMORANDUM

To: Members of the House Judiciary Committee

From: Maryland State Bar Association (MSBA)
Shaoli Katana, Esq., Director

Subject: House Bill 306 - Election Law - Circuit Court Judges - Nonpartisan
General Elections

Date: February 14, 2022

Position: Oppose

The Maryland State Bar Association (MSBA) respectfully opposes **House Bill 306 - Election Law - Circuit Court Judges - Nonpartisan General Elections**. House Bill 306 requires circuit court judges to be elected on a nonpartisan basis in a general election; and prohibits a candidate for circuit court judge from appearing on the ballot in a primary election or being nominated by a political party or by petition.

MSBA represents more attorneys than any other organization across the State in all practice areas. MSBA serves as the voice of Maryland's legal profession. Through its Laws Committee and various practice-specific sections, MSBA monitors and takes positions on legislation of importance to the legal profession.

While HB 306 seeks to amend the current system of judicial elections for circuit court judges, MSBA opposes the bill. Contested judicial elections for circuit court judges threaten the independence and integrity of the circuit court, and HB 306 does little to improve the process. MSBA has opposed contested judicial elections for over thirty years on ethical, political, campaign, and monetary grounds, as well as concerns about judicial independence:

1. Many of the best-qualified candidates for the circuit court do not apply, because they must leave their practices with the risk of losing their judicial seat in a contested election.

2. The appearance of sitting judges accepting campaign donations from contributors, including those who have cases before them, undermines public trust in an independent judiciary.
3. The Code of Judicial Conduct prohibits a sitting judge from taking positions as to how he or she would decide certain cases. As a consequence, a key element of the contested election process—debating the issues—is removed and the judicial campaign process becomes an inherently unfair process, because a challenger to a sitting judge does not have to comply with these restrictions.
4. The contested election threatens the independence, integrity, and competence of the circuit court.

MSBA has serious concerns with the details of this legislation and respectfully requests an **unfavorable report**. MSBA welcomes an opportunity to discuss alternatives to contested elections with Committee members, such as moving to a merit-based system of judicial selection.

For additional information, please feel free to contact Shaoli Katana at MSBA at shaoli@msba.org.