

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Joseph M. Getty
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Ways and Means Committee
FROM: Legislative Committee
Sara Elalamy
410-260-1561
RE: House Bill 362
Montgomery County - Voting Methods MC 13-22
DATE: January 31, 2022
(2/8)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes House Bill 362, as drafted. This bill would add a subsection to the Election Law Article regarding voting in Montgomery County. It would allow the Montgomery County Council to adopt a ranked-choice voting system or an approval voting system for elections for any one or more of several listed offices, including County Executive, Member of the County Council, Judge of the Circuit Court, State's Attorney, Clerk of the Circuit Court, Register of Wills, Sheriff, and member of the Board of Education.

A ranked-choice voting system means “a method of casting or tabulating votes in which voters rank candidates in order of voter preference and votes are tabulated in a manner that reflects voter preference.” If no candidate wins most first-preference votes, the candidate with the fewest first-preference votes is eliminated. First preference votes for the failed candidate are eliminated. The second preference choices are elevated on those ballots; a new count is done to reflect the now elevated second preference votes as the first preference, and a further count is done. This continues until a candidate wins the majority of adjusted votes. *See* [https://ballotpedia.org/Ranked-choice_voting_\(RCV\)z](https://ballotpedia.org/Ranked-choice_voting_(RCV)z). Approval voting means “a method of casting and tabulating votes in which voters may choose any number of candidates, and the candidates chosen most often are elected.”

The State Constitution does require a plurality of votes for the Clerks of Court-

- Clerks of Court: Md. Const. art. IV, § 25

There shall be a Clerk of the Circuit Court for each County and Baltimore City, **who shall be elected by a plurality of the qualified voters of said County or City** and shall hold his office for four years from the time of his election, and until his successor is elected and qualified, and be re-eligible, subject to be removed for willful neglect of duty or other misdemeanor in office, on conviction in a Court of Law. In case of a vacancy in

the office of Clerk of a Circuit Court, the Judges of that Court may fill the vacancy until the general election for Delegates to the General Assembly, to be held next thereafter, when a successor shall be elected for the term of four years.

Based on the above, a ranked-choice system for the Clerk of Court would violate the Maryland Constitution, and in some instances, an approval system may as well.

cc. Montgomery County Delegation
Judicial Council
Legislative Committee
Kelley O'Connor