



2025 POSITION PAPER

SB 74, Judges – Mandatory Retirement Age FAVORABLE

In 1851, Maryland first adopted the seventy (70) year old mandatory judge retirement age. Md. Const. of 1851 art. IV, §4.¹ In 174 years, life expectancy increased from about 40 years old in 1850 to almost 80 years old in 2025. Increasing the judge mandatory retirement age is long overdue.

Federal judges are lifetime appointees eligible to retire at age 65 and can choose to take senior status. The average age of a federal judge is 69 years old. In 1850, it was 58 years old. See The Federal Judicial Center 2020 chart, “Demography of Article III Judges, 1789-2020.” The Administrative Office of the U.S. Courts for the Federal Judiciary, 2023 Federal Bench Annual Report, states that there are 520 United States senior judges and that between 20% and 27% of all federal court cases were handled by senior judges.

A 2023 University of Maryland study states that the federal judge median age was 70 years old and 10% of federal judges are 85 years or older (one is 100). K. Shih, *America’s Graying Judiciary*, 2024.

Many states impose mandatory judge retirement at age 70, but some states are higher. Vermont's mandatory judicial retirement is 90 years old. New York permits 70 year old judges to apply for three additional two-year terms, raising the effective retirement age to 76. Even where 70 is the mandatory retirement age, many states permit older judges to continue serving in “senior status.” A. Ehrenhalt, “When It Comes to Judges, How Old Is Too Old?”, 2021. In 2015, in New Jersey, despite the retirement age 70, many retired judges carry much of the courts’ caseloads². In Maryland, retired judges are often certified by the Maryland Supreme Court to continue judicial service without any age limit.

Many Maryland senior certified judges exceed 75 years old. Retired judges continue quasi-judicial service as mediators and arbitrators. For example, The Platt Group, Inc., lists 20 retired Maryland judges; The McCammon Group lists 59 retired judges; and JAMS Mediation, Arbitration and ADR Services lists 5 retired Maryland judges. Even though older than age 70, they still decide cases.

Ehrenhalt points out that Oliver Wendell Holmes, Jr., was appointed to the United States Supreme Court at age 61 and many of his most important opinions were decided close to age 90.

In reality, Maryland judges continue handling cases after age 70. Retired judges hear cases at all Maryland court levels. Some are older than 75 years old. Governments invest in training judges. Forcing retirement at age 70 deprives the judiciary of experienced jurists capable of efficiently and effectively resolving matters. They bring respect to the judicial system and help mentor newer judges. Permitting judges to serve until age 75 is still a lower age than permitted in federal courts and only a small increased retirement age since 1851 when life expectancy was 40 years lower than today.

The Maryland Association for Justice urges a FAVORABLE Report on SB 74

About Maryland Association for Justice

The Maryland Association for Justice (MAJ) represents over 1,250 trial attorneys throughout the state of Maryland. MAJ advocates for the preservation of the civil justice system, the protection of the rights of consumers and the education and professional development of its members.

10440 Little Patuxent Parkway, Suite 250
Columbia, MD 21044

(410) 872-0990 | FAX (410) 872-0993
info@mdforjustice.com

mdforjustice.com

By MAJ member, Hon. Ronald Jarashow, former A.A. County Circuit Court judge, age 75, who returned to practice in 2011.

¹ *Bernstein v. State*, 422 Md. 36, 58 (2011).

² M. Reddick, “Mandatory Retirement Ages for Judges: How Old Is Too Old to Judge?”, 2015.