

## **SB 74 - Sponsor Statement.pdf**

Uploaded by: C. Anthony Muse

Position: FAV



THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

**Sponsor Testimony**

**SB 74: Judges – Mandatory Retirement Age**

Good afternoon, Chairman Smith, Vice Chair and members of Senate Judicial Proceedings Committee. Senate Bill 74 would change the mandatory judicial retirement age in Maryland from 70 to 75.

Maryland's current retirement age for judges was established decades ago, reflecting a different era's understanding of aging and workforce dynamics. Today, this limit is not only outdated but also detrimental to the judiciary and to the citizens it serves.

Modern advancements in healthcare, nutrition, and overall quality of life mean that people are living longer, healthier, and more productive lives. The average life expectancy in the United States has increased significantly since the 20th century, and many individuals in their 70s are fully capable of performing demanding roles, including those in the judiciary.

For judges, whose work relies heavily on intellectual acumen, experience, and wisdom, the capacity to serve effectively often extends well beyond the age of 70. Many esteemed judges report that their late careers are their most productive and insightful periods, enriched by years of legal experience.

Maryland's current mandatory retirement age of 70 is one of the most restrictive in the nation. Many states have recognized the outdated nature of this limit and have already extended their mandatory retirement ages beyond 70, or abolished them altogether. Here are a few examples:

- **South Dakota:** Mandatory retirement age is 80.
- **Utah:** Mandatory retirement age is 75.
- **Wyoming:** Judges serve until 75.
- **Indiana, Vermont, and Rhode Island:** No mandatory retirement age at all.

These states recognize that forcing experienced, capable judges to step down at 70 deprives the judiciary of valuable institutional knowledge and expertise. Maryland risks falling behind this trend.

Mandatory retirement at 70 unnecessarily removes judges at the height of their careers. Judges bring decades of experience to the bench, and the loss of this expertise can disrupt judicial processes and diminish the quality of decisions. Extending the age to 75 would allow Maryland to retain these seasoned professionals, ensuring continuity and stability in our courts.

Furthermore, in nearly every profession, individuals are working longer. Employers increasingly recognize the value of experienced professionals and are adapting retirement policies to reflect this shift. Judges, with their unique skill set and lifetime of legal knowledge, are no exception.

Raising the retirement age to 75 would align Maryland's judiciary with the realities of modern professional life and workforce participation, ensuring our state benefits from the full potential of its judges.

In closing, I respectfully urge a FAVORABLE report for SB 74 to support extending Maryland's mandatory retirement age for judges to 75.

# **SB74 MAJ Position Paper 2025 judge retirement age.**

Uploaded by: Ronald Jarashow

Position: FAV



## 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.<sup>1</sup> 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’ caseloads<sup>2</sup>. 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.

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

<sup>1</sup> *Bernstein v. State*, 422 Md. 36, 58 (2011).

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

# **Judicial Proceedings - SB74 - unfavorable 2025.pdf**

Uploaded by: Debi Jasen

Position: UNF

**Judicial Proceedings - Senate Bill 74 - UNFAVORABLE**

Chair, Vice Chair, and Members of the Judicial Proceedings Committee;

I urge an UNFAVORABLE report for Senate Bill 74, which would raise the mandatory retirement age from 70 to 75 for all judges in the state.

Cognitive decline increases with age. Impaired cognition in a judge could easily lead to poor rulings. We should be able to trust that judges are of sound mind when they're making decisions that could affect the rest of our lives. There's a greater reason to lower the mandatory retirement age than to raise it. Please give SB74 an unfavorable report. Thank you for your consideration.

Sincerely,  
Debi Jasen

# **SB0074 - MSBA Info Letter (2025.01.21).pdf**

Uploaded by: Shaoli Sarkar

Position: INFO



<sup>1</sup> National Center for State Courts, Mandatory Retirement Age Tracker (December 2023). <https://www.ncsc.org/salarytracker/special-reports/retirement-map-and-states>

According to the Bureau of Labor Statistics, employment of individuals aged 65 and above has grown by 117% within 20 years (from 1994-2014). The Bureau expects an increase of over 96% of the labor force for individuals 75 and older by 2030. All other labor force age groups are projected to decline or remain steady by 2023.<sup>2</sup>

## **Recent Ballot Measures and Legislative Action**

As people work later into life and longer-serving judges bring experience to the bench, some states have tried to raise or repeal the mandatory retirement age. Recent attempts have mostly focused on raising the mandatory retirement age above age 70 and have had mixed results, mostly through ballot measures. Voters have rejected the measures in the majority of cases.

- Rejected an increase in retirement age: New Hampshire (2024), Texas (2023), Wyoming (2022), Hawaii (2014), New York (2013), Arizona (2012), Ohio (2011).
- Approved an increase in retirement age: Florida (2018), Pennsylvania (2016), Virginia (2015 through Legislature).

Recent attempts by states to repeal the retirement age by amendment have failed: Oregon (2016), Louisiana (2014).

## **How Raising the Retirement Age May Impact the State and Courts**

Given increased life expectancy and the institutional memory that older judges may provide, some argue to increase the retirement age. They note that the existing judicial discipline system serves as an appropriate check to remove those from the bench who are unable to serve for various reasons, including age-related declines, and that a higher retirement age can help remedy judicial shortages and allow experienced judges to move through dockets and case backlogs. Raising the retirement age may allow those who enter the legal profession later in life or lawyers who have a wide range of professional experiences an opportunity at a judgeship in their mid to late sixties. Additionally, the state may save financially in pension contributions if the retirement age is extended. Advocates also note that neither federal judges nor any other Maryland elected officials face similar age restrictions on holding office.

Opponents of an increase in the retirement age look to the declining public perception of judges and the legal profession, and voice concerns that increasing the retirement age may keep judges on the bench who may have improper biases, political influence, or other disqualifiers that are not mitigated through the current judicial discipline system. By maintaining the current retirement age, judicial diversity (including race, gender, age, and professional background) may expand to allow new viewpoints and younger lawyers an earlier opportunity to fill judicial vacancies. Opponents of an age increase highlight Maryland's senior judges system, available to both state and federal retired judges, where they may continue to sit as senior judges after they retire, with no age restrictions. This system allows judges to continue serving while creating a judicial vacancy for the President or Governor to appoint a new judge.

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<sup>2</sup> Bureau of Labor Statistics, "Number of People 75 and Older In the Labor Force Is Expected to Grow 96.5% by 2030" (November 4, 2021).

<https://www.bls.gov/opub/ted/2021/number-of-people-75-and-older-in-the-labor-force-is-expected-to-grow-96-5-percent-by-2030.htm>

Recent retirement data for Maryland state justices and judges from 2021-2024 shows a slightly higher number of judges retiring prior to age 70 than those that retire at 70, outside of election years. The number of judges retiring before 70 increases before judicial election years. The highest category of judges who retire before 70 is circuit court judges. The majority of retired judges at all levels returned as senior judges in this time frame, with 100% of judges from the district, circuit and intermediate appellate court returning to senior status after retiring at age 70.<sup>3</sup>

<b>Maryland Justices and Judges Retirement Statistics for the period of January 1, 2021 - August 20, 2024</b>					
	<b>Number of Justices/Judges Retiring Prior to Age 70</b>	<b>Number of Justices/Judges Returning As Senior Judges</b>		<b>Number of Justices/Judges Retiring At Age 70</b>	<b>Number of Justices/Judges Returning As Senior Judges</b>
<b>Court of Appeals</b>	0	0		4	3
<b>Court of Special Appeals</b>	0	0		1	1
<b>Circuit Courts</b>	25	20		17	17
<b>District Court</b>	10	8		6	6
<b>TOTAL</b>	<b>35</b>	<b>28</b>		<b>28</b>	<b>27</b>

MSBA is committed to supporting an efficient, fair, and impartial judiciary, representative of the profession, and thanks the Committee for considering this issue and other reforms to the judicial selection and retention system.

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<sup>3</sup> Maryland Judiciary data (August 27, 2024).