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To: Members of the House Judiciary Committee
From: Maryland State Bar Association (MSBA)
Subject: HB 778 – Circuit Court Judges – Selection and Retention Elections
Date: February 10, 2025
Position: **Support**

The Maryland State Bar Association (MSBA) **supports** House Bill 778 – Circuit Court Judges – Selection and Retention Elections. HB 778 proposes amendments to the Maryland Constitution relating to the selection and tenure of circuit court judges; alters the method of filling vacancies in the office of a judge of a circuit court; provides for retention elections following an appointment to fill a vacancy in the office of a judge of a circuit court; provides for a transitional period during which the terms of certain amendments are to become effective; and submits this amendment to the qualified voters of the State for their adoption or rejection.

MSBA represents more attorneys than any other organization across the state in all practice areas. Through its advocacy committees and various practice-specific sections, MSBA monitors and takes positions on legislation that protects the legal profession, preserves the integrity of the judicial system, and ensures access to justice for Marylanders.

MSBA Opposes Contested Elections, Supports Sitting Judges and Bar Association Input

For over thirty years, the MSBA has opposed the contested election of Maryland’s circuit court judges. The association has supported sitting circuit judges every election season, as those individuals have been properly vetted and gone through a rigorous process based on their judicial qualities and merits. Each sitting judge has undergone thorough evaluation processes and was appointed by the Governor, after being recommended by a Judicial Nominating Commission for their qualifications, judicial abilities, and merit, with input from state, local, and specialty bar associations, including the MSBA.

In 2022, the MSBA began serving on the Judiciary’s Judicial Selection Workgroup that studied the judicial selection process. The MSBA appreciates the Workgroup’s comprehensive, holistic approach, and for the Report and Recommendations to the General Assembly and the public.

HB 778 would incorporate the recommendation to standardize the selection process for circuit court judges with appellate judges by holding retention elections and removing contested elections. Circuit and appellate judges would have a uniform appointment and retention process as well as the same term of office, a process that has served appellate judges for decades.

Contested Elections May Intensify Negative Perceptions, Raise Fundraising and Security Concerns, and Attract Fewer Applicants

Several factors justify an end to contested elections for circuit court judges:

- The appearance of sitting judges accepting campaign donations from contributors, including those who have cases before them, undermines public trust in an independent judiciary.
- Sitting judges may face additional security challenges as they campaign in neighborhoods, attend regular fundraising events, and go to polls, and may interact with litigants who appeared before them and were dissatisfied with a case outcome. Sitting judges may not feel they have a choice to opt-out of these activities in order to protect their safety.
- 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.
- 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.
- The contested election threatens the independence, integrity, and competence of the circuit court.

For these reasons, MSBA respectfully urges a **favorable report on House Bill 778**.

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