

**February 12, 2025**

**Testimony on HB 778  
Circuit Court Judges – Selection and Retention Elections  
Judicial Proceedings**

**Position:** Favorable

Common Cause Maryland is in favor of HB 778, which would alter the process for the selection and retention of circuit court judges.

Our system of vetting and appointing Maryland’s judges was implemented by executive order in 1970 by then Governor Marvin Mandel. Under this framework, all judicial applicants are thoroughly vetted by a nominating commission, with help from local bar associations. The most qualified candidates are put on a list for consideration by the Governor, who will review and make the final appointment decision.

Currently, however, only circuit court judges are subject to contested elections. Once the Governor appoints the judge to a fifteen-year term on the circuit court, any lawyer within the county who is at least thirty years old, has resided in Maryland for six years, and is a member of the Maryland Bar may file against the newly seated judge in a contested election. This challenger bypasses the strict vetting process that all appointed judges are subject to, making it very possible that a less qualified judge is ultimately elected to the position. In fact, this has occurred nearly a dozen times since the year 200, with a third of those races occurring in 2020.

When it comes to casting a ballot for judicial office, voters are not generally well-informed. On the ballot, the names of all the candidates appear in alphabetical order, with nothing to denote the sitting judge from the challengers. The average voter is usually unaware of who their sitting state delegates and senators are, let alone keeping up with and understanding the work of the sitting judges within their counties – this often leads voters to a cast a vote at random, or to vote based on immaterial factors like the order the names appear, race, or gender. Many times, it leads to a voter choosing not to cast a vote in the race at all.

On the rare occasion that a voter has heard of a judicial candidate, it is most likely due to fundraising that allows for print and tv ads, yard signs, snail mailers. As we heard in workgroup sessions, in Maryland - as in many other states - the overwhelming majority of funds raised by circuit court judges on the contested election campaign trail were raised from local lawyers who will go on to try cases before the same judges they give money to. This obviously raises serious ethical concerns about the transparency judicial independence of the circuit court.

HB 778 seeks to remedy these issues with our current circuit court election process. Under the bill, rather than standing for re-election every fifteen years in a contested election, circuit court judges would instead face a retention election every ten years – ensuring the voters still have a say in whether to keep a judge on the bench or not. This revised process – agreed upon after two years of

study by the Maryland Workgroup to Study Judicial Selection - would be in line with the process currently used for Maryland's appellate judges.

Even with the proposed switch from contested to retention elections, there is definitely an opportunity here for increased public education, community outreach and public participation within the process. The Workgroup heard testimony about how other states handle public education around judicial elections. Colorado, for example, provides a public, searchable, county-specific, database with biographical information on judges currently running in a retention election. Making resources like this available in Maryland would go a long way towards ensuring voters are able to make informed choices and that retention elections are meaningful.

This legislation will be a step towards standardization of the judicial election and retention process. It will also address transparency and ethical issues around campaign finance in the selection process.

For these reasons, we request a favorable report on HB 778.