

HOUSE BILL 1779

D1

CONSTITUTIONAL AMENDMENT

8lr2993

By: **Delegates Vallario, Anderson, Conaway, Haynes, Knotts, and Rosenberg**

Introduced and read first time: February 28, 2018

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Judges – Mandatory Retirement Age**

3 FOR the purpose of proposing an amendment to the Maryland Constitution altering the
4 mandatory retirement age for certain judges under certain circumstances; repealing
5 certain obsolete provisions; making certain technical corrections; making certain
6 stylistic changes; proposing an addition to the Maryland Constitution to provide for
7 the application of certain amendments to the Maryland Constitution; and submitting
8 this amendment to the qualified voters of the State for their adoption or rejection.

9 BY proposing an amendment to the Maryland Constitution
10 Article IV – Judiciary Department
11 Section 3, 3A, 5A(c) through (g), and 41D

12 BY proposing a repeal of the Maryland Constitution
13 Article IV – Judiciary Department
14 Section 18B

15 BY proposing an addition to the Maryland Constitution
16 Article IV – Judiciary Department
17 Section 18B

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
19 (Three-fifths of all the members elected to each of the two Houses concurring), That it be
20 proposed that the Maryland Constitution read as follows:

21 **Article IV – Judiciary Department**

22 3.

23 (A) Except for the Judges of the District Court, the Judges of the several Courts

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 other than the Court of Appeals or any intermediate courts of appeal shall, subject to the
2 provisions of Section 5 of this Article of the Constitution, be elected in Baltimore City and
3 in each county, by the qualified voters of the city and of each county, respectively, all of the
4 said Judges to be elected at the general election to be held on the Tuesday after the first
5 Monday in November, as now provided for in the Constitution.

6 (B) Each of the said Judges shall hold [his] **THE** office for the term of fifteen years
7 from the time of [his] **THE JUDGE'S** election, and until [his] **THE JUDGE'S** successor is
8 elected and qualified, or until [he] **THE JUDGE** shall have attained the age of [seventy]
9 **SEVENTY-THREE** years, whichever may first happen, and be reeligible thereto until [he]
10 **THE JUDGE** shall have attained the age of [seventy] **SEVENTY-THREE** years, and not
11 after.

12 (C) In case of the inability of any of said Judges to discharge [his] **THE JUDGE'S**
13 duties with efficiency, by reason of continued sickness, or of physical or mental infirmity,
14 it shall be in the power of the General Assembly, two-thirds of the members of each House
15 concurring, with the approval of the Governor to retire said Judge from office.

16 3A.

17 (a) (1) Except as provided in paragraph (2) of this subsection, any former
18 judge, except a former judge of the Orphans' Court, may be assigned by the Chief Judge of
19 the Court of Appeals, upon approval of a majority of the court, to sit temporarily in any
20 court of this State, except an Orphans' Court, as provided by law.

21 (2) (i) A retired judge of the Circuit Court for Montgomery County that
22 sits as the Orphans' Court for Montgomery County may be assigned by the Chief Judge of
23 the Court of Appeals, upon approval of a majority of the Court of Appeals, to do an act that
24 a judge of the Orphans' Court for Montgomery County is authorized to perform.

25 (ii) A retired judge of the Circuit Court for Harford County that sits
26 as the Orphans' Court for Harford County may be assigned by the Chief Judge of the Court
27 of Appeals, upon approval of a majority of the Court of Appeals, to do an act that a judge of
28 the Orphans' Court for Harford County is authorized to perform.

29 (b) The provisions of this section apply, notwithstanding provisions appearing
30 elsewhere in this Article pertaining to retirement of judges upon attaining age [70] **73**.

31 5A.

32 (c) The continuance in office of a judge of the Court of Appeals is subject to
33 approval or rejection by the registered voters of the appellate judicial circuit from which
34 [he] **THE JUDGE** was appointed at the next general election following the expiration of one
35 year from the date of the occurrence of the vacancy which [he] **THE JUDGE** was appointed
36 to fill, and at the general election next occurring every ten years thereafter.

1 (d) The continuance in office of a judge of the Court of Special Appeals is subject
2 to approval or rejection by the registered voters of the geographical area prescribed by law
3 at the next general election following the expiration of one year from the date of the
4 occurrence of the vacancy which [he] **THE JUDGE** was appointed to fill, and at the general
5 election next occurring every ten years thereafter.

6 (e) The approval or rejection by the registered voters of a judge as provided for in
7 subsections (c) and (d) shall be a vote for the judge's retention in office for a term of ten
8 years or [his] **THE JUDGE'S** removal. The judge's name shall be on the appropriate ballot,
9 without opposition, and the voters shall vote yes or no for [his] **THE JUDGE'S** retention in
10 office. If the voters reject the retention in office of a judge, or if the vote is tied, the office
11 becomes vacant ten days after certification of the election returns.

12 (f) An appellate court judge shall retire when [he] **THE JUDGE** attains [his
13 seventieth] **THE JUDGE'S SEVENTY-THIRD** birthday.

14 (g) A member of the General Assembly who is otherwise qualified for
15 appointment to judicial office is not disqualified by reason of [his] membership in a General
16 Assembly which proposed or enacted any constitutional amendment or statute affecting the
17 method of selection. Continuance in office, or retirement or removal of a judge, the creation
18 or abolition of a court, an increase or decrease in the number of judges of any court, or an
19 increase or decrease in the salary, pension or other allowances of any judge.

20 **[18B.**

21 (a) For the purpose of implementing the amendments to this article, dealing with
22 the selection and tenure of appellate court judges, the following provisions shall govern.

23 (b) Each judge of an appellate court who is in office for an elected term on the
24 effective date of these amendments, unless he dies, resigns, retires, or is otherwise lawfully
25 removed, shall continue in office until the general election next after the end of his elected
26 term, or until his seventieth birthday, whichever first occurs. His continuance in office is
27 then subject to the provisions of section 5A(c) and (d) of this article, applicable to judges of
28 that court, but in no event shall any judge continue in office after his seventieth birthday.

29 (c) Each judge of a court specified in subsection (b) who is in office on the effective
30 date of these amendments, but who has not been elected to that office by the voters, shall,
31 within fifteen days after the effective date of these amendments, be reappointed to that
32 office. His continuance in office is then subject to the provisions of section 5A(c) and (d) of
33 this article, applicable to judges of that court, but in no event shall any judge continue in
34 office after his seventieth birthday.]

35 **18B.**

36 (A) **THE AMENDMENTS TO §§ 3, 3A, 5A, AND 41D OF THIS ARTICLE**
37 **ALTERING THE MANDATORY RETIREMENT AGE OF JUDGES SHALL APPLY TO EACH**

1 **JUDGE WHO:**

2 (1) IS FIRST ELECTED OR APPOINTED TO OFFICE ON OR AFTER THE
 3 DATE ON WHICH THE GOVERNOR ISSUES A PROCLAMATION UNDER ARTICLE XIV, §
 4 1 OF THIS CONSTITUTION DECLARING THE AMENDMENTS TO BE ADOPTED; OR

5 (2) (I) IS IN OFFICE ON THE DATE ON WHICH THE GOVERNOR
 6 ISSUES A PROCLAMATION UNDER ARTICLE XIV, § 1 OF THIS CONSTITUTION
 7 DECLARING THE AMENDMENTS TO BE ADOPTED;

8 (II) WILL REACH THE AGE OF SEVENTY YEARS BEFORE THE
 9 JUDGE COMPLETES THE END OF THE JUDGE'S TERM; AND

10 (III) APPLIES FOR, AND IS GRANTED, AN EXTENSION BY THE
 11 GOVERNOR TO SERVE UNTIL THE JUDGE COMPLETES THE JUDGE'S TERM OR
 12 ATTAINS THE AGE OF SEVENTY-THREE YEARS, WHICHEVER OCCURS FIRST.

13 (B) THE GOVERNOR MAY EXTEND A JUDGE'S TERM FOR THE PURPOSE OF
 14 IMPLEMENTING SUBSECTION (A)(2) OF THIS SECTION.

15 41D.

16 (A) (1) The Governor, by and with the advice and consent of the Senate, shall
 17 appoint each judge of the District Court whenever for any reason a vacancy shall exist in
 18 the office.

19 (2) All hearings, deliberations, and debate on the confirmation of
 20 appointees of the Governor shall be public, and no hearings, deliberations or debate thereon
 21 shall be conducted by the Senate or any committee or subcommittee thereof in secret or
 22 executive session.

23 (3) Confirmation by the Senate shall be made upon a majority vote of all
 24 members of the Senate.

25 (4) A judge appointed by the Governor may take office upon qualification
 26 and before confirmation by the Senate, but shall cease to hold office at the close of the
 27 regular annual session of the General Assembly next following [his] **THE JUDGE'S**
 28 appointment or during which [he] **THE JUDGE** shall have been appointed by the Governor,
 29 if the Senate shall not have confirmed [his] **THE JUDGE'S** appointment before then.

30 (B) (1) Each judge appointed by the Governor and confirmed by the Senate
 31 shall hold the office for a term of ten years or until [he] **THE JUDGE** shall have attained
 32 the age of [seventy] **SEVENTY-THREE** years, whichever may first occur.

33 (2) If the ten year term of a judge shall expire before that judge shall have

1 attained the age of [seventy] ~~SEVENTY-THREE~~ years, that judge shall be reappointed by
2 the Governor, with the Senate's consent, for another ten year term or until [he] ~~THE JUDGE~~
3 shall have attained the age of [seventy] ~~SEVENTY-THREE~~ years, whichever may first
4 occur.

5 (C) To the extent inconsistent herewith, the provisions of Sections 3 and 5 of this
6 Article shall not apply to judges of the District Court.

7 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
8 determines that the amendment to the Maryland Constitution proposed by Section 1 of this
9 Act affects multiple jurisdictions and that the provisions of Article XIV, § 1 of the Maryland
10 Constitution concerning local approval of constitutional amendments do not apply.

11 SECTION 3. AND BE IT FURTHER ENACTED, That the amendment to the
12 Maryland Constitution proposed by Section 1 of this Act shall be submitted to the qualified
13 voters of the State at the next general election to be held in November 2018 for adoption or
14 rejection pursuant to Article XIV of the Maryland Constitution. At that general election,
15 the vote on the proposed amendment to the Constitution shall be by ballot, and on each
16 ballot there shall be printed the words "For the Constitutional Amendment" and "Against
17 the Constitutional Amendment", as now provided by law. Immediately after the election,
18 all returns shall be made to the Governor of the vote for and against the proposed
19 amendment, as directed by Article XIV of the Maryland Constitution, and further
20 proceedings had in accordance with Article XIV.