

# HOUSE BILL 726

D1

CONSTITUTIONAL AMENDMENT

4lr2069

---

By: **Delegates Frush, Barnes, Hubbard, and Pena-Melnyk**

Introduced and read first time: January 31, 2014

Assigned to: Judiciary

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Judges – Mandatory Retirement Age**

3 FOR the purpose of proposing amendments to the Maryland Constitution altering the  
4 mandatory retirement age for judges under certain circumstances; making  
5 certain technical corrections; and submitting this amendment to the qualified  
6 voters of the State for their adoption or rejection.

7 BY proposing an amendment to the Maryland Constitution

8 Article IV – Judiciary Department

9 Section 3, 3A, 5A(f), 18B, and 41D

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

13 **Article IV – Judiciary Department**

14 3.

15 (A) Except for the Judges of the District Court, the Judges of the several  
16 Courts other than the Court of Appeals or any intermediate courts of appeal shall,  
17 subject to the provisions of Section 5 of this Article of the Constitution, be elected in  
18 Baltimore City and in each county, by the qualified voters of the city and of each  
19 county, respectively, all of the said Judges to be elected at the general election to be  
20 held on the Tuesday after the first Monday in November, as now provided for in the  
21 Constitution.

22 (B) Each of the said Judges shall hold his office for the term of fifteen years  
23 from the time of his election, and until his successor is elected and qualified, or until  
24 he shall have attained the age of [seventy] SEVENTY-FIVE years, whichever may first

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 happen, and be reeligible thereto until he shall have attained the age of [seventy]  
2 SEVENTY-FIVE years, and not after.

3 (C) In case of the inability of any of said Judges to discharge his duties with  
4 efficiency, by reason of continued sickness, or of physical or mental infirmity, it shall  
5 be in the power of the General Assembly, two-thirds of the members of each House  
6 concurring, with the approval of the Governor to retire said Judge from office.

7 3A.

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

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

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

21 (b) The provisions of this section apply, notwithstanding provisions  
22 appearing elsewhere in this Article pertaining to retirement of judges upon attaining  
23 age [70] 75.

24 5A.

25 (f) An appellate court judge shall retire when he attains his [seventieth]  
26 SEVENTY-FIFTH birthday.

27 18B.

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

31 (b) Each judge of an appellate court who is in office for an elected term on  
32 the effective date of these amendments, unless he dies, resigns, retires, or is otherwise  
33 lawfully removed, shall continue in office until the general election next after the end  
34 of his elected term, or until his [seventieth] SEVENTY-FIFTH birthday, whichever  
35 first occurs. His continuance in office is then subject to the provisions of section 5A(c)

1 and (d) of this article, applicable to judges of that court, but in no event shall any judge  
2 continue in office after his [~~seventieth~~] ~~SEVENTY-FIFTH~~ birthday.

3 (c) Each judge of a court specified in subsection (b) who is in office on the  
4 effective date of these amendments, but who has not been elected to that office by the  
5 voters, shall, within fifteen days after the effective date of these amendments, be  
6 reappointed to that office. His continuance in office is then subject to the provisions of  
7 section 5A(c) and (d) of this article, applicable to judges of that court, but in no event  
8 shall any judge continue in office after his [~~seventieth~~] ~~SEVENTY-FIFTH~~ birthday.

9 41D.

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

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

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

19 (4) A judge appointed by the Governor may take office upon  
20 qualification and before confirmation by the Senate, but shall cease to hold office at  
21 the close of the regular annual session of the General Assembly next following his  
22 appointment or during which he shall have been appointed by the Governor, if the  
23 Senate shall not have confirmed his appointment before then.

24 (B) (1) Each judge appointed by the Governor and confirmed by the  
25 Senate shall hold the office for a term of ten years or until he shall have attained the  
26 age of [~~seventy~~] ~~SEVENTY-FIVE~~ years whichever may first occur.

27 (2) If the ten year term of a judge shall expire before that judge shall  
28 have attained the age of [~~seventy~~] ~~SEVENTY-FIVE~~ years, that judge shall be  
29 reappointed by the Governor, with the Senate's consent, for another ten year term or  
30 until he shall have attained the age of [~~seventy~~] ~~SEVENTY-FIVE~~ years, whichever  
31 may first occur.

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

34 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly  
35 determines that the amendment to the Maryland Constitution proposed by this Act  
36 affects multiple jurisdictions and that the provisions of Article XIV, § 1 of the

1 Maryland Constitution concerning local approval of constitutional amendments do not  
2 apply.

3       SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section  
4 proposed as an amendment to the Maryland Constitution shall be submitted to the  
5 qualified voters of the State at the next general election to be held in November 2014  
6 for their adoption or rejection pursuant to Article XIV of the Maryland Constitution.  
7 At that general election, the vote on this proposed amendment to the Constitution  
8 shall be by ballot, and upon each ballot there shall be printed the words "For the  
9 Constitutional Amendment" and "Against the Constitutional Amendment," as now  
10 provided by law. Immediately after the election, all returns shall be made to the  
11 Governor of the vote for and against the proposed amendment, as directed by Article  
12 XIV of the Maryland Constitution, and further proceedings had in accordance with  
13 Article XIV.