

HOUSE BILL 761

E2
HB 434/15 – JUD

CONSTITUTIONAL AMENDMENT

8lr2192

By: **Delegates Impallaria, Folden, Grammer, McComas, and McDonough**

Introduced and read first time: February 1, 2018

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Courts – Aggravated Murder Court**

3 FOR the purpose of proposing an amendment to the Maryland Constitution to authorize
4 the General Assembly to create an Aggravated Murder Court that shall have original
5 and exclusive jurisdiction over all presentments or indictments for offenses
6 previously punishable by death; vesting the judicial power of the State in the
7 Aggravated Murder Court as the General Assembly may create by law; providing
8 that the judges of the Aggravated Murder Court that may be created may not be
9 elected in a certain manner; requiring certain presentments or indictments to be
10 transmitted to the Aggravated Murder Court that may be created; requiring the
11 Attorney General to prosecute certain presentments or indictments pending in the
12 Aggravated Murder Court that may be created; and submitting this amendment to
13 the qualified voters of the State for their adoption or rejection.

14 BY proposing an amendment to the Maryland Constitution
15 Article IV – Judiciary Department
16 Section 1, 3, and 8(b)

17 BY proposing an addition to the Maryland Constitution
18 Article IV – Judiciary Department
19 Section 27 to be under the new part “Part IV – Aggravated Murder Court”

20 BY proposing an amendment to the Maryland Constitution
21 Article V – Attorney–General and State’s Attorneys
22 Section 3(a)

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

26 **Article IV – Judiciary Department**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 1.

2 The Judicial power of this State is vested in a Court of Appeals, such intermediate
3 courts of appeal as the General Assembly may create by law, **AN AGGRAVATED MURDER**
4 **COURT AS THE GENERAL ASSEMBLY MAY CREATE BY LAW**, Circuit Courts, Orphans'
5 Courts, and a District Court. These Courts shall be Courts of Record, and each shall have
6 a seal to be used in the authentication of all process issuing from it.

7 3.

8 Except for the Judges of the District Court **AND THE AGGRAVATED MURDER**
9 **COURT**, the Judges of the several Courts other than the Court of Appeals or any
10 intermediate courts of appeal shall, subject to the provisions of Section 5 of this Article of
11 the Constitution, be elected in Baltimore City and in each county, by the qualified voters of
12 the city and of each county, respectively, all of the said Judges to be elected at the general
13 election to be held on the Tuesday after the first Monday in November, as now provided for
14 in the Constitution. Each of the said Judges shall hold his office for the term of fifteen years
15 from the time of his election, and until his successor is elected and qualified, or until he
16 shall have attained the age of seventy years, whichever may first happen, and be reeligible
17 thereto until he shall have attained the age of seventy years, and not after. In case of the
18 inability of any of said Judges to discharge his duties with efficiency, by reason of continued
19 sickness, or of physical or mental infirmity, it shall be in the power of the General Assembly,
20 two-thirds of the members of each House concurring, with the approval of the Governor to
21 retire said Judge from office.

22 8.

23 (b) In all cases of presentments or indictments for offenses that are punishable
24 by death, on suggestion in writing under oath of either of the parties to the proceedings
25 that the party cannot have a fair and impartial trial in the court in which the proceedings
26 may be pending, the court shall order and direct the record of proceedings in the
27 presentment or indictment to be transmitted to some other court having jurisdiction in such
28 case for trial, **OR, IF AN AGGRAVATED MURDER COURT HAS BEEN CREATED BY THE**
29 **GENERAL ASSEMBLY, ANY SUCH CASE SHALL BE IMMEDIATELY TRANSMITTED TO**
30 **THE AGGRAVATED MURDER COURT.**

31 **PART IV – AGGRAVATED MURDER COURT**

32 **27.**

33 **(A) THE GENERAL ASSEMBLY MAY CREATE BY LAW A STATEWIDE TRIAL**
34 **COURT WITH ORIGINAL AND EXCLUSIVE JURISDICTION OVER PRESENTMENTS OR**
35 **INDICTMENTS FOR OFFENSES ARISING IN THE STATE THAT WERE PUNISHABLE BY**
36 **DEATH UNDER FORMER § 2–303 OF THE CRIMINAL LAW ARTICLE.**

1 **(B) THE AGGRAVATED MURDER COURT SHALL HAVE JURISDICTION THAT**
2 **IS UNIFORM THROUGHOUT THE STATE.**

3 **Article V – Attorney–General and State’s Attorneys**

4 3.

5 (a) The Attorney General shall:

6 (1) Prosecute and defend on the part of the State all cases pending in the
7 appellate courts of the State, in the Supreme Court of the United States or the inferior
8 Federal Courts, by or against the State, or in which the State may be interested, except
9 those criminal appeals otherwise prescribed by the General Assembly.

10 (2) Investigate, commence, and prosecute or defend any civil or criminal
11 suit or action or category of such suits or actions in any of the Federal Courts or in any
12 Court of this State, or before administrative agencies and quasi legislative bodies, on the
13 part of the State or in which the State may be interested, which the General Assembly by
14 law or joint resolution, or the Governor, shall have directed or shall direct to be
15 investigated, commenced and prosecuted or defended.

16 (3) When required by the General Assembly by law or joint resolution, or
17 by the Governor, aid any State’s Attorney or other authorized prosecuting officer in
18 investigating, commencing, and prosecuting any criminal suit or action or category of such
19 suits or actions brought by the State in any Court of this State.

20 (4) Give his opinion in writing whenever required by the General Assembly
21 or either branch thereof, the Governor, the Comptroller, the Treasurer or any State’s
22 Attorney on any legal matter or subject.

23 **(5) PROSECUTE ON THE PART OF THE STATE ALL PRESENTMENTS OR**
24 **INDICTMENTS FOR OFFENSES THAT WERE PUNISHABLE BY DEATH UNDER FORMER**
25 **§ 2–303 OF THE CRIMINAL LAW ARTICLE THAT ARE PENDING IN THE AGGRAVATED**
26 **MURDER COURT AS THE GENERAL ASSEMBLY MAY CREATE BY LAW.**

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

31 SECTION 3. AND BE IT FURTHER ENACTED, That the amendment to the
32 Maryland Constitution proposed by Section 1 of this Act shall be submitted to the qualified
33 voters of the State at the next general election to be held in November 2018 for adoption or
34 rejection pursuant to Article XIV of the Maryland Constitution. At that general election,
35 the vote on the proposed amendment to the Constitution shall be by ballot, and on each
36 ballot there shall be printed the words “For the Constitutional Amendment” and “Against

1 the Constitutional Amendment”, as now provided by law. Immediately after the election,
2 all returns shall be made to the Governor of the vote for and against the proposed
3 amendment, as directed by Article XIV of the Maryland Constitution, and further
4 proceedings had in accordance with Article XIV.