

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 638
Judiciary

(Delegate Cardin, *et al.*)

Judicial Proceedings

Judges - Mandatory Retirement Age

This proposed constitutional amendment, if approved by the voters at the next general election, would raise the mandatory retirement age, from 70 to 73, for justices of the Supreme Court of Maryland and judges of the Appellate Court of Maryland, circuit courts, and the District Court. It would also establish a mandatory retirement age of 73 for judges of the orphans’ court. However, any justice or non-orphans’ court judge who is in office or elected to a term on or before November 3, 2026, must still retire at age 70, and each orphan’s court judge elected on or before the same date may serve the entirety of the term, regardless of age.

Fiscal Summary

State Effect: As the bill does not affect any current members of the Judges’ Retirement System (JRS), it has no effect on State pension liabilities or contribution rates during the five-year period covered by this fiscal and policy note. State pension liabilities may *decrease* minimally beyond the timeframe covered by this analysis to the extent that the bill allows JRS members to delay their retirement, but a reliable estimate is not feasible, as discussed below. No effect on revenues.

Local Effect: The bill has no material effect on local finances or operations.

Small Business Effect: None.

Analysis

Current Law/Background: Article IV of the Maryland Constitution institutes mandatory retirement for all circuit, District, and appellate court judges at age 70. However, retired judges, except retired orphans’ court judges, may be appointed on a temporary basis by the

Chief Justice of the Supreme Court of Maryland to serve as a judge on any court except an orphans' court, regardless of age. Exceptions allow former circuit court judges in Harford and Montgomery counties to perform acts that a judge of the orphans' court in their respective counties is authorized to perform.

Most judges within the State are appointed and retained through a hybrid process. At all four court levels (the Supreme Court of Maryland, the Appellate Court of Maryland, circuit courts, and the District Court), the Governor appoints a qualified member of the Maryland Bar in the case of a vacancy or the creation of a new judgeship. For both appellate courts, these appointments must be confirmed by the Maryland Senate and the judge or justice holds the office until the first general election following the expiration of 1 year from the date of the occurrence of the vacancy. At the general election, the incumbent judge's or justice's name is placed on the ballot without opposition and citizens vote for or against the retention of the judge for a 10-year term. For the District Court, judges are appointed by the Governor and serve 10-year terms upon confirmation by the Senate; when they reach the end of their term, they must be reappointed by the Governor with the Senate's consent.

Circuit court judges are also appointed by the Governor and must stand for election at the first general election following the expiration of 1 year after the occurrence of the vacancy. However, unlike the justices/judges on the appellate courts, they are elected to 15-year terms (which begin following their election) and may face a contested election in which any member of the Maryland Bar who meets the minimum constitutional requirements may challenge the incumbent judges by filing as a candidate.

There is no salary scale for judges or justices; rather, their compensation is dictated by the court on which they sit, not their tenure in that position.

Orphans' court judges are elected to four-year terms. In the case of a vacancy, the Governor appoints (subject to confirmation or rejection by the Senate) a suitable person to fill the vacancy for the remainder of the term. Harford, Howard, and Montgomery counties do not have orphans' court judges. Instead, the function of the orphans' court is carried out by circuit court judges sitting as the orphans' court.

Judges' Retirement System

All circuit, District, and appellate court judges and justices are members of JRS as a condition of their employment. The employee contribution for JRS members is 8% of compensation, but after 16 years of service members cease making employee contributions and earning service credit.

Eligibility requirements for normal service retirements under JRS differ for members who joined before July 1, 2012, and those who joined on or after that date. Members who joined prior to that date vest immediately and are eligible to retire at age 60. Members who joined on or after that date vest after 5 years and are also eligible to retire at age 60. A full-service retirement is equal to two-thirds of the salary of a judge sitting in a similar position as the retiree at the time of termination of employment or retirement; retirees with fewer than 16 years of service in JRS receive a prorated benefit based on their years of service. As of June 30, 2025, there were 315 active members of JRS with an average age of 57.7. At that time, the average age at retirement for JRS retirees was 65.8 years.

Compensation and Pensions for Orphans' Court Judges

Orphans' court judges are local employees whose compensation is paid by local governments; they are not members of JRS. In roughly half of the counties, compensation for orphans' court judges is established in statute, but in Baltimore City and the remaining counties (Allegany, Anne Arundel, Baltimore, Caroline, Dorchester, Garrett, Kent, Prince George's, Queen Anne's, Talbot, Washington, and Worcester) compensation is established locally. For orphans' court judges for whom compensation is set in statute, the salary levels are all less than \$20,000 annually.

Except in Montgomery, Frederick, Carroll, Talbot, Cecil, Kent, Queen Anne's, Garrett, and Harford counties and Baltimore City, a county (unless otherwise specified) must pay a pension to each judge of the orphans' court who (1) has terminated active service; (2) has reached at least age 60; and (3) has completed at least two terms of office. Generally, the amount of the pension must be the greater of \$1,200 annually or an annual amount calculated at the rate of 4% of the last annual amount of compensation multiplied by the number of years or partial years of service, not exceeding 12 years. However, statute establishes higher payments for some counties. The pension may be suspended during any month that an orphans' court judge is a full-time employee of any county or of the State, and the judge may not receive a pension if the judge is receiving any other State pension based on service as an orphans' court judge.

State Expenditures: The proposed constitutional amendment does not apply to any current JRS members, for whom the mandatory retirement age remains 70. Therefore, there is no fiscal effect during the five years covered by this fiscal and policy note.

If the constitutional amendment is approved by the voters, future appointees to State courts may elect to delay their retirement until age 73. JRS members earn maximum pension benefits after 16 years, and most current members complete 16 years of service before reaching age 70. To the extent that future JRS members do not complete 16 years of service by age 70 and elect to continue working for up to three more years, they earn additional service credit toward retirement. However, prior actuarial analyses for similar versions of

this proposed amendment have found that the cost of additional service credit earned by JRS members is more than offset by the effects of delaying their retirement for up to three years. Therefore, State pension liabilities may decrease minimally in the future, but a reliable estimate is not feasible until retirement patterns for future judicial appointees can be observed.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 74 and HB 1490 of 2025.

Designated Cross File: None.

Information Source(s): Bolton; Judiciary (Administrative Office of the Courts); State Retirement Agency; Department of Legislative Services

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