



## TESTIMONY TO THE WORK GROUP TO STUDY JUDICIAL SELECTION

**BY: Nancy Soreng – President**

**Date: November 28, 2022**

The League of Women Voters of Maryland works to promote informed and active participation in government. As a result of its own study of the process of selecting judges in Maryland, the League of Women Voters of Maryland has long supported the elimination of contested election of judges of the Circuit Court. Although candidates for positions such as the General Assembly and Governor appropriately appeal to voters based on their views on issues, this type of campaigning does not promote confidence that judges would decide questions based on the law rather than their personal views. The political pressures common to campaigning are antithetical to a fair judicial process. No person on trial should have concern that the judge in their case will be tempted to consider how any ruling would be construed by a political opponent in a pending election.

We understand that there are concerns that eliminating contested judicial elections will take away a “safety valve” to guard against discrimination in judicial appointments. The League strongly supports eliminating discrimination in appointments so that the judiciary reflects the diversity of our population. We assume that the appointment of judges will continue to be vested in the Governor and, if so, we urge the Workgroup to develop an effective check against the abuse of that power, particularly with respect to discrimination based on race, sex, or political affiliation.

In the past, judicial elections have been one means of correcting imbalance in the appointments process. As members of the Workgroup are aware, the League is intensely involved in educating voters through our *Voters’ Guide* and its online component VOTE411. In our *Voters’ Guide*, we ask candidates to respond to questions on a range of issues and the responses from candidates are presented without endorsement or ratings. We are proud to provide this service to voters in every county of Maryland and we know that many voters rely on the *Voters’ Guide* as their principal source of information about candidates.

Our *Voters’ Guide* provides a description of each office and how the official is elected. With regard to judges of the Circuit Court, the description includes a brief description of the nominating commissions:

When there is a vacancy, the Governor appoints a person to fill the office from a list recommended by a judicial nominating commission. The nominating commission reviews each applicant's experience as an attorney before making recommendations to the Governor. Each newly appointed judge must stand for election at the first election that occurs at least one year after the vacancy happened. Sitting judges must also run for re-election after serving for 15 years. Attorneys who are members of the Maryland Bar may also run to challenge a newly appointed or sitting judge. All candidates run on both the Democratic and Republican primary ballots.

Providing a more detailed description of the process used by the nominating commissions would be difficult in the limited amount of space in a *Voters' Guide*. Given the large number of offices and candidates on a ballot in an election year, we feel that we are nearing the limits of how much information voters are willing to read.

Presenting information about candidates for Circuit Court Judge is challenging because of the need to focus on personal qualities essential to the role of a judge. In 2022, the League asked candidates for judge to describe not only their qualifications but also to address questions about the needs of Maryland's judicial system and their own judicial philosophy. In previous years, the League also asked what steps the courts could take to prevent bias from affecting the outcome of litigation. Statements by a candidate in response to these questions, while of some use to voters, are not particularly revealing of essential character traits of a judge.

The characteristics desired in judges that are identified in the constitution and executive orders are inherently best known by colleagues in the legal profession. The state constitution states that candidates for judgeships should be "most distinguished for integrity, wisdom and sound legal knowledge." Similar criteria for evaluating candidates have been included in executive orders setting guidelines for Maryland's judicial nominating commissions, such as "maturity, temperament, and diligence." These characteristics are most clearly revealed in a person's dealings with clients, witnesses, and opposing counsel. Accordingly, a selection process seeking reliable information about such characteristics should give greater weight to professional colleagues' assessments than to statements from the candidates themselves.

Thank you for your consideration of our views.