

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 319 Session of
1991

INTRODUCED BY BOYES, JAROLIN, BUNT, PESCI, CAPPABIANCA, DALEY,
DeLUCA, HALUSKA, MERRY, PRESTON, CAWLEY, LEVDANSKY, ANGSTADT,
KENNEY, SCRIMENTI, FARGO, GEIST, BILLOW, WOZNIAK, VROON AND
SAURMAN, FEBRUARY 6, 1991

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 6, 1991

A JOINT RESOLUTION

1 Proposing an amendment to the Constitution of the Commonwealth
2 of Pennsylvania, abolishing judicial retention.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby resolves as follows:

5 Section 1. The following amendment to the Constitution of
6 Pennsylvania is proposed in accordance with Article XI:

7 That sections 13 and 15 of Article V be amended to read:

8 § 13. Election of justices, judges and justices of the peace;
9 vacancies.

10 (a) Justices, judges and justices of the peace shall be
11 elected at the municipal election next preceding the
12 commencement of their respective terms of office by the electors
13 of the Commonwealth or the respective districts in which they
14 are to serve.

15 (b) A vacancy in the office of justice, judge or justice of
16 the peace shall be filled by appointment by the Governor. The

1 appointment shall be with the advice and consent of two-thirds
2 of the members elected to the Senate, except in the case of
3 justices of the peace which shall be by a majority. The person
4 so appointed shall serve for a term ending on the first Monday
5 of January following the next municipal election more than ten
6 months after the vacancy occurs or for the remainder of the
7 unexpired term whichever is less, except in the case of persons
8 selected as additional judges to the Superior Court, where the
9 General Assembly may stagger and fix the length of the initial
10 terms of such additional judges by reference to any of the
11 first, second and third municipal elections more than ten months
12 after the additional judges are selected. The manner by which
13 any additional judges are selected shall be provided by this
14 section for the filling of vacancies in judicial offices.

15 (c) [The provisions of section 13(b) shall not apply either
16 in the case of a vacancy to be filled by retention election as
17 provided in section 15(b), or in the case of a vacancy created
18 by failure of a justice or judge to file a declaration for
19 retention election as provided in section 15(b).] In the case of
20 a vacancy occurring at the expiration of an appointive term
21 under [section 13(b)] subsection (b), the vacancy shall be
22 filled by election as provided in [section 13(a)] subsection
23 (a).

24 (d) At the primary election in 1969, the electors of the
25 Commonwealth may elect to have the justices and judges of the
26 Supreme, Superior, Commonwealth and all other statewide courts
27 appointed by the Governor from a list of persons qualified for
28 the offices submitted to him by the Judicial Qualifications
29 Commission. If a majority vote of those voting on the question
30 is in favor of this method of appointment, then whenever any

1 vacancy occurs thereafter for any reason in such court, the
2 Governor shall fill the vacancy by appointment in the manner
3 prescribed in this subsection. Such appointment shall not
4 require the consent of the Senate.

5 (e) Each justice or judge appointed by the Governor under
6 [section 13(d)] subsection (d) shall hold office for an initial
7 term ending the first Monday of January following the next
8 municipal election more than 24 months following the
9 appointment.

10 § 15. Tenure of justices, judges and justices of the peace.

11 [(a)] The regular term of office of justices and judges
12 shall be ten years and the regular term of office for judges of
13 the municipal court and traffic court in the City of
14 Philadelphia and of justices of the peace shall be six years.
15 The tenure of any justice or judge shall not be affected by
16 changes in judicial districts or by reduction in the number of
17 judges.

18 [(b) A justice or judge elected under section 13(a),
19 appointed under section 13(d) or retained under this section
20 15(b) may file a declaration of candidacy for retention election
21 with the officer of the Commonwealth who under law shall have
22 supervision over elections on or before the first Monday of
23 January of the year preceding the year in which his term of
24 office expires. If no declaration is filed, a vacancy shall
25 exist upon the expiration of the term of office of such justice
26 or judge, to be filled by election under section 13(a) or by
27 appointment under section 13(d) if applicable. If a justice or
28 judge files a declaration, his name shall be submitted to the
29 electors without party designation, on a separate judicial
30 ballot or in a separate column on voting machines, at the

1 municipal election immediately preceding the expiration of the
2 term of office of the justice or judge, to determine only the
3 question whether he shall be retained in office. If a majority
4 is against retention, a vacancy shall exist upon the expiration
5 of his term of office, to be filled by appointment under section
6 13(b) or under section 13(d) if applicable. If a majority favors
7 retention, the justice or judge shall serve for the regular term
8 of office provided herein, unless sooner removed or retired. At
9 the expiration of each term a justice or judge shall be eligible
10 for retention as provided herein, subject only to the retirement
11 provisions of this article.]