

Bradley S. Farrar
President

Shaundricka M. Ranel
Immediate Past President

Raymond L. Gambrell
Treasurer



Alishia F. Tidwell
Corresponding Secretary

Stenise L. Rolle
Recording Secretary

Lynndolynn T. Mitchell
Executive Officer

Vanita M. Taylor
Executive Officer

J. FRANKLYN BOURNE BAR ASSOCIATION, INC.
P.O. Box 1121, Upper Marlboro, Maryland 20772
www.bournebar.org

January 6, 2023

Hon. Alexander Williams, Jr. and Hon. Kathleen M. Dumais
The Workgroup to Study Judicial Selection
Maryland Judicial Center
187 Harry S. Truman Parkway, Room 236
Annapolis, MD 21401

Dear Judges Williams and Dumais:

The J. Franklyn Bourne Bar Association appreciates the opportunity to assist the Judicial Selection Workgroup in its goal of improving the process for selecting individuals to fill judicial vacancies throughout the State. After robust discussion, the Executive Board concluded that it could not take an official position on filling vacancies through partisan/nonpartisan elections. However, we did agree that the following revisions to the selection process would prove an improvement to Maryland's judicial selection process:

A. Reform of Judicial Nominating Commission's ("JNC") Judicial Selection and Process:

1. The procedures, composition, and operation of the JNCs should be codified and made available to the public.
 - A) Procedures should require transparency in the JNC decisions to nominate a candidate. While we appreciate the need for confidential deliberations, judicial candidates should be able to ascertain the basis for not being included on the list of nominees sent to the Governor.
 - B) Copies of all letters, emails, or memos received by the JNC should be forwarded to the judicial candidates. The authors' names can be redacted if the JNC believes that is necessary.
 - C) Judicial candidates should be able to speak with the JNC members as opposed to the current practice of only allowing 3rd party intermediaries to speak with the JNC members.
 - D) JNC should create a ranking process for judicial candidates and the criteria for each ranking should be published.
2. JNC membership qualifications should require diversity in the membership (racial, ethnic, gender, and geographic diversity, specialty bar association membership, and diversity in practice areas of the law) to ensure each reflects those that appear before the Judiciary as well as those that practice law in a particular jurisdiction. Currently, the Governor's Executive Order requires the Maryland State Bar Association's President to "give appropriate consideration to the racial, ethnic, gender, and geographic diversity of

Maryland” in submitting names for appointment to the appellate courts and the same consideration is required of the presidents of local bar associations when submitting names for the trial court judicial nominating commissions. The Governor should be urged to include similar language for his/her appointments to the respective nominating commissions. The members would be subject to selection by the Governor and the General Assembly and the MSBA and all local/specialty bar associations would be represented, with the same caveat that appropriate consideration be given to the racial, ethnic, gender, and geographic diversity of Maryland in making selections.

3. All members of the JNC should have term limits. Furthermore, the Chair of each respective JNC should rotate. The appointment to the JNC should not be a lifetime appointment.
4. JNC members cannot be an applicant for a judicial vacancy unless at least one year has elapsed since the completion of their service on the JNC.
5. Local/Specialty Bar Associations should encourage members to submit comments or recommendations to committee chairs regarding an applicant’s fitness to hold judicial office. We strongly feel that there should not be any election or ballot process for determining nominations for judicial selection, because it introduces bias into the process. If there is a process for members to vote on an applicant’s qualifications held by the local/specialty bar association, its members should be urged to select a category noting an unfamiliarity with an applicant’s qualifications if that is indeed the case.
6. There should be no monetary costs or Bar membership required for a candidate to be interviewed by a Specialty or Local Bar Association.
7. The Governor’s Executive Order or the statute (if one is enacted to address Judicial Selection) should add language that the Commission considers the applicant’s years of practice when evaluating his/her qualifications, or the Workgroup should recommend that the Constitution of Maryland be revised to require that the candidate be an attorney admitted to practice in Maryland for at least 10 years prior to filing.

B. Proposed recommendations if Circuit Court Judicial Elections continue:

1. All candidates should be required to go through the judicial application process and be interviewed by the JNC to be on the ballot for the judicial position they are seeking. The individual need not have been recommended to the Governor but going through the process would ensure that the community has some knowledge about the individual seeking an appointment. Judicial applications should be available to the public, with personal information redacted, as noted below.
2. Judges seeking retention should be permitted to address and/or respond to any question or criticism concerning their ruling if the case is closed and the appeals process is complete.

3. Judicial candidates should have their qualifications outlined and available for the public to review. A repository should be created for judicial candidate information where the public can review their background and qualifications. In the alternative, qualifications and/or the candidate's resume should be on the Board of Elections and Judiciary websites for the community to review.
4. Campaign financing prohibitions (fundraising and limitations on spending) should be reviewed and revised for Judges since each must raise money to compete with non-judges running for election.

C. Proposed recommendations if Circuit Court Judicial Elections do not continue:

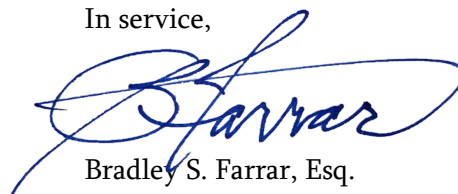
1. The law should be revised to impose a 10-year term for Circuit Court judges, similar to the District Court/appellate court terms.
2. The law should be revised to require that the judicial officer be placed on the ballot in a nonpartisan merit retention election after the expiration of his/her term.

D. Reform of Judicial Disabilities Commission:

1. There should be an intermediary step before a matter is referred to the Judicial Disability Commission. We propose the establishment of a complaint system/process with the local Administrative or Chief Judge. The local Chief or Administrative Judge should be given the authority to require a judge to receive additional training, mentorship, counseling and any other remedial programs to help address the complaint – and if the problem persists he/she should be required to refer the matter to the Judicial Disabilities Commission.
2. The Workgroup should review the feasibility of encouraging all judges to appoint an “alter ego” attorney to contact when others would like to anonymously discuss concerns with a particular judge. If the alter ego and the judge find merit to any complaints it would possibly reduce any complaints to the Chief Judge or the Judicial Disability Commission.

Again, we thank you for the opportunity to present our member's ideas to reform the Maryland Judicial selection process. Should you have any questions, or require additional information, please do not hesitate to contact me at president@bournebar.org.

In service,



Bradley S. Farrar, Esq.
President