

CHAPTER 10
FORMERLY
SENATE BILL NO. 25

AN ACT CONCURRING IN A PROPOSED AMENDMENT TO ARTICLE IV OF THE DELAWARE CONSTITUTION RELATING TO THE APPOINTMENT OF JUDGES.

WHEREAS, an amendment to the Delaware Constitution was proposed in the 148th General Assembly, being Chapter 345, Volume 80, Laws of Delaware, as follows:

“AN ACT PROPOSING AN AMENDMENT TO ARTICLE IV OF THE DELAWARE CONSTITUTION RELATING TO THE APPOINTMENT OF JUDGES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Article IV, § 3 of the Delaware Constitution by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3. Appointment of judges; terms of office; vacancies; political representation; confirmation of appointment.

Section 3. The Chief Justice and Justices of the Supreme Court, the Chancellor and ~~the Vice-Chancellor or~~ Vice-Chancellors of the Court of Chancery , the President Judge and Judges of the Superior Court, the Chief Judge and Judges of the Family Court, the Chief Judge and Judges of the Court of Common ~~Pleas~~ Pleas, and the Chief Magistrate of the Justice of the Peace Court shall be appointed by the Governor, by and with the consent of a majority of all the members elected to the Senate, for the a term of 12 years each, and the persons so appointed shall enter upon the discharge of the duties of their respective offices upon taking the oath of office prescribed by this Constitution. The Governor shall submit his or her appointment within ~~60 days~~ a period from 30 days before to 90 days after the occurrence of a vacancy howsoever caused. If a vacancy shall occur, by expiration of term or otherwise, at a time when the Senate shall not be in session, the Governor shall within ~~60 days~~ a period from 30 days before to 90 days after the happening of any such vacancy convene the Senate for the purpose of confirming his or her appointment to fill said vacancy and the transaction of such other executive business as may come before it. Such vacancy shall be filled as aforesaid for the full term. Notwithstanding a vacancy, whether occurring when the Senate is or is not in session, an incumbent whose term has expired ~~shall~~ may hold over in office until the incumbent, or a new appointee, is confirmed and takes the oath of office for the next term, but in no event shall an incumbent whose term has expired hold over in office for more than ~~60 days~~ 90 days after the expiration of the term. In all ~~instances~~ instances, the term of a new or reappointed Chief Justice or Justice of the Supreme Court, Chancellor or Vice-Chancellor of the Court of Chancery , President Judge or Judge of the Superior Court, Chief Judge or Judge of the Family Court, Chief Judge or Judge of the Court of Common ~~Pleas~~ Pleas, or ~~the~~ Chief Magistrate of the Justice of the Peace Court shall begin after the occurrence of the vacancy and on the date

the oath of office is taken, thus qualifying the individual to serve, but the appointment shall be ~~forfeit~~ forfeited if such oath is not taken within 30 days of confirmation.”; and

WHEREAS, the proposed amendment was adopted by two-thirds of all members elected to each house of the 148th General Assembly and publicized in accordance with Article XVI, § 1 of the Delaware Constitution.

NOW THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Article IV, § 3 of the Delaware Constitution by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3. Appointment of judges; terms of office; vacancies; political representation; confirmation of appointment.

Section 3. The Chief Justice and Justices of the Supreme Court, the Chancellor and ~~the Vice-Chancellor~~ ~~or~~ Vice-Chancellors of the Court of Chancery, the President Judge and Judges of the Superior Court, the Chief Judge and Judges of the Family Court, the Chief Judge and Judges of the Court of Common ~~Pleas~~ Pleas, and the Chief Magistrate of the Justice of the Peace Court shall be appointed by the Governor, by and with the consent of a majority of all the members elected to the Senate, for ~~the~~ a term of 12 years each, and the persons so appointed shall enter upon the discharge of the duties of their respective offices upon taking the oath of office prescribed by this Constitution. The Governor shall submit his or her appointment within ~~60 days~~ a period from 30 days before to 90 days after the occurrence of a vacancy howsoever caused. If a vacancy shall occur, by expiration of term or otherwise, at a time when the Senate shall not be in session, the Governor shall within ~~60 days~~ a period from 30 days before to 90 days after the happening of any such vacancy convene the Senate for the purpose of confirming his or her appointment to fill said vacancy and the transaction of such other executive business as may come before it. Such vacancy shall be filled as aforesaid for the full term. Notwithstanding a vacancy, whether occurring when the Senate is or is not in session, an incumbent whose term has expired ~~shall~~ may hold over in office until the incumbent, or a new appointee, is confirmed and takes the oath of office for the next term, but in no event shall an incumbent whose term has expired hold over in office for more than ~~60 days~~ 90 days after the expiration of the term. In all ~~instances~~ instances, the term of a new or reappointed Chief Justice or Justice of the Supreme Court, Chancellor or Vice-Chancellor of the Court of Chancery, President Judge or Judge of the Superior Court, Chief Judge or Judge of the Family Court, Chief Judge or Judge of the Court of Common ~~Pleas~~ Pleas, or ~~the~~ Chief Magistrate of the Justice of the Peace Court shall begin after the occurrence of the vacancy and on the date the oath of office is taken, thus qualifying the individual to serve, but the appointment shall be ~~forfeit~~ forfeited if such oath is not taken within 30 days of confirmation.

Approved April 6, 2017