

## ELIMINATE AGE LIMIT FOR JUDGES

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**House Joint Resolution O as introduced**  
**Sponsor: Rep. Tommy Brann**  
**Committee: Judiciary**  
**Complete to 12-2-19**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Joint Resolution O would amend section 19 of Article VI of the State Constitution of 1963 to eliminate the age limitation for eligibility for election or appointment to a judicial office. Currently, judges cannot seek reelection once they reach 70 years of age.

The following requirements currently apply to judges and justices in Michigan:

- For justices of the Michigan Supreme Court, or judges on the Court of Appeals, circuit court, probate court, and other courts, one must be licensed to practice law in the state.
- For justices of the Supreme Court or judges on a trial court or the Court of Appeals, one must have been admitted to practice law for at least five years.<sup>1</sup>
- For all judicial offices, one may not be elected or appointed after reaching age 70.

HJR O would remove the final requirement to eliminate the restriction on eligibility for election or appointment based on age.

If adopted by a 2/3 vote of each house of the legislature, the resolution would require voter approval at the next general election. (A general election is held in November of an even-numbered year. The next two general elections will be November 3, 2020, and November 8, 2022.)

### BACKGROUND:

According to the National Center for State Courts, 32 states plus the District of Columbia had a mandatory judicial retirement age in 2016. Michigan is currently one of at least 18 states that require retirement once a judge or justice has reached age 70. Some of the states with a mandatory retirement age require a judge to retire upon reaching that age, while others (including Michigan) allow the judge to finish the term in which he or she reaches the limit age but prohibit him or her from serving on the bench after that.

In 2016, the Michigan Supreme Court declined to hear a lawsuit filed challenging the state's ban on judges over 70 seeking reelection; the case had previously been dismissed by the Court of Claims.

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<sup>1</sup> This provision was added to the Constitution by SJR D (Proposal B), approved by voters in 1996.

## **FISCAL IMPACT:**

HJR O would have an indeterminate, but likely minimal, fiscal impact on the state and on local units of government. Judges remaining on the bench past age 70 would not cost the state additional money because the retiring judge would likely be replaced, and the replacement judge would be paid the same salary amount as the retiring judge. The fiscal impact would occur if the judgeship was slated for elimination upon the retirement of the judge and the sitting judge decided to run for reelection past his or her 70th birthday. In this case of postponing the judgeship elimination, savings that would have been realized by the state from not having to pay the salary, and savings that would have been realized by the local units from not having to pay fringe benefit and staff costs, would also be postponed.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.