

HB 815

Election Law -Congressional Representatives -Residence Requirement

WAYS AND MEANS COMMITTEE

FEBRUARY 22, 2022

DELEGATE NEIL PARROTT

The lack of residency requirements for representatives is a problem.

- ▶ Prior to 2020 election, 2012 was the last time Maryland's 6th District had a major party nominee from District 6

Year	Candidate	Party	District Resident
2012	Roscoe Bartlett	Republican	Yes
2012	John Delaney	Democratic	No
2014	Dan Bongino	Republican	No
2014	John Delaney	Democratic	No
2016	Amie Hoeber	Republican	No
2016	John Delaney	Democratic	No
2018	Amie Hoeber	Republican	No
2018	David Trone	Democratic	No

What this bill does:

- ▶ Requires a candidate for the U.S. House of Representatives to live in the district they seek to represent
- ▶ We already have a residency requirement for every other geographic based office in the state of Maryland
 - ▶ General Assembly
 - ▶ District-based County Council or County Commissioner seats
 - ▶ District-based Board of Education seats
 - ▶ Even “At Large” County or Board of Education seats
- ▶ It is expected by the people that candidates live in their own constituency

Is this Constitutional?

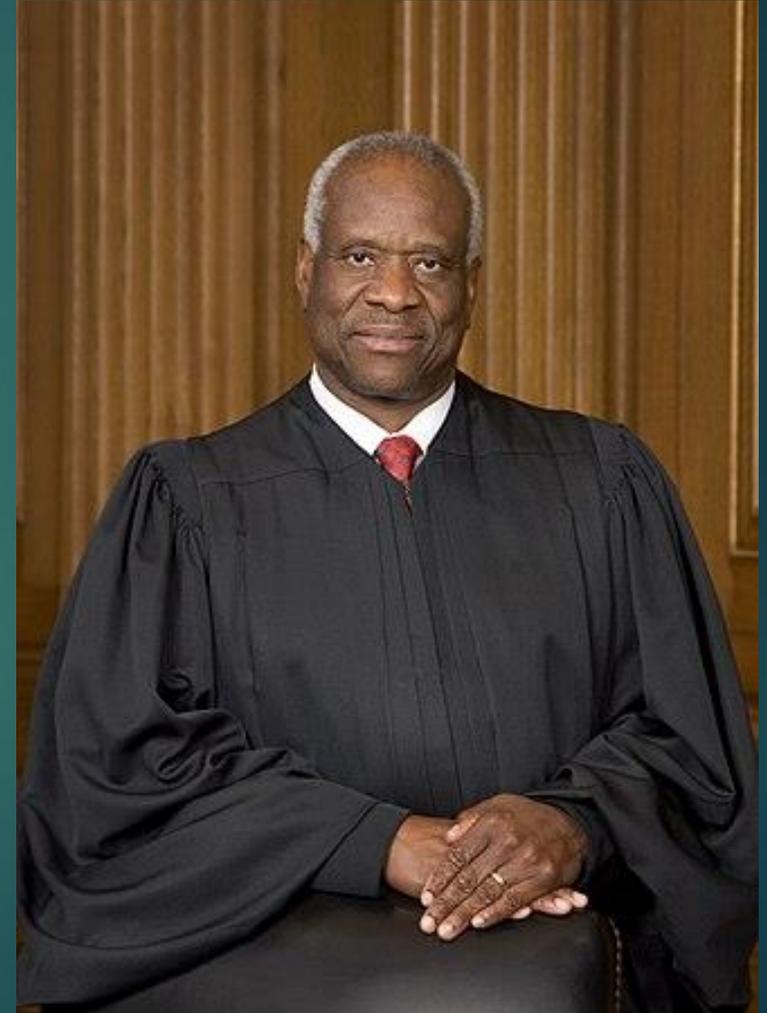
- ▶ The Constitution says Candidates for the House must be
 - ▶ 25+ years of age,
 - ▶ 7+ years as a United States citizen
 - ▶ An Inhabitant of the state they are running for
- ▶ Are these three requirements a minimum or maximum standard?
- ▶ Are states allowed to impose additional qualification requirements on candidates (such as district residency) beyond these three?
 - ▶ The answer is yes, but The Courts have ruled on this principle.

U.S. Term Limits, Inc. v. Thornton (1995)

- ▶ This case occurred in 1995 in response to several states passing federal term limit laws.
- ▶ The Supreme Court ruled that states cannot impose qualifications for prospective members of Congress stricter than those in the Constitution.
 - ▶ This included term limits and residency requirements
- ▶ The Court's decision was 5-4

Justice Thomas was one of the four dissenting to the ruling:

- ▶ “Nothing in the Constitution deprives the people of each state of the power to prescribe eligibility requirements for the candidates who seek to represent them in Congress. The Constitution is simply silent on this question. And where the Constitution is silent, it raises no bar to action by the states or the people.”



Today's Supreme Court is Different

Justice	Position	Still on the Court?
Thomas	In favor of states' right to choose	Yes
Rehnquist	In favor of states' right to choose	No
O'Connor	In favor of states' right to choose	No
Scalia	In favor of states' right to choose	No
Breyer	Against additional requirements	Yes
Stevens	Against additional requirements	No
Kennedy	Against additional requirements	No
Souter	Against additional requirements	No
Ginsburg	Against additional requirements	No

Today's Supreme Court is Different

- ▶ The current Supreme Court favors states' rights more than the 1995 Supreme Court
- ▶ If a case like *U.S. Term Limits, Inc. v. Thornton* were to be heard today, the decision would likely be different.
- ▶ If HB 815 was passed, it would be legally challenged.
 - ▶ This is a good thing! In American Judicial Law, the Supreme Court cannot take on hypothetical cases. Something needs to happen to be appealed up.
 - ▶ HB 815 could trigger the beginning of the process to overturn *U.S. Term Limits, Inc. v. Thornton* ruling.

Argument against the bill

- ▶ We don't have time to incorporate the residency requirement into the election this year.
 - ▶ The Congressional Residency Requirements would not take effect until 2024

Please Vote Favorably For HB 815

- ▶ It's just common sense that a person who represents the area should live in the area, just like every state Delegate and Senator are required to.
- ▶ Questions?