



Can Baltimore remove a mayor from office? Without conviction, it's complicated

by YVONNE WENGER

Forcing Baltimore Mayor Catherine Pugh from office — should the calls for her resignation turn to calls for removal — would be tricky and perhaps not possible without a conviction.

Councilman Ryan Dorsey said the city's charter clearly spells out how to remove a member of the council or the comptroller, but "there's no way for the council to remove a mayor." He said he is glad to see Pugh step aside in the midst of a controversy surrounding the no-bid deal she had with the University of Maryland Medical System. And, Dorsey said, he looks forward to her stepping down.

Pugh announced Monday she would take an indefinite leave of absence to recover after being hospitalized with pneumonia. Her decision to step aside came hours after Gov. Larry Hogan called for an investigation into the deal, which paid her hundreds of thousands of dollars for copies of her self-published "Healthy Holly" book series.

Councilwoman Mary Pat Clarke said she also is not familiar with any process in Baltimore's strong-mayor form of government that would allow city officials to remove the chief executive. Clarke's service on the City Council dates to 1975.

"We don't have the power and we're not inclined to do this," Clarke said. "Let the circumstances take their course."

The question about removing a mayor was investigated when then-Mayor Sheila Dixon was facing charges of theft and perjury. Dixon resigned in 2010 as part of a plea deal with the Maryland state prosecutor.

A review of the City Charter, state constitution and legal articles by The Baltimore Sun at that time showed that removing a mayor from office without a conviction would be difficult — and perhaps impossible.

Voters statewide overwhelmingly approved a constitutional amendment in 2012 to close a loophole that allowed Dixon, among other officials in Maryland, to remain in office even after being found guilty by a jury or pleading guilty. Dixon stayed in office weeks after a jury found her guilty of stealing gift cards intended for poor children. She resigned under an agreement with the prosecutor in exchange for keeping her pension that is worth \$83,000 a year.

Even with that change, removing an elected official from office typically takes a conviction, unless the local government has given voters the authority to decide in a recall election.

Under the state constitution, elected officials now become disqualified to serve when they are found guilty of a crime or enter a guilty or no contest plea. The 2012 amendment triggers suspension before their sentencing. If they have not pleaded guilty, the officials are automatically removed when the appeals process is exhausted.

The General Assembly does have the authority to impeach a governor, lieutenant governor and judges, under provisions explicitly stated in the constitution. But it is not clear if the legislature could find a legal path toward removing Baltimore's mayor. The constitution speaks only to the governor's ability to remove the city's mayor in the case of a conviction.

Dorsey said the legislature could amend the constitution or the city charter, opening an alternative avenue to removing a mayor. He has not asked any lawmakers to take such steps.

The council could also go directly to city voters to ask them to amend the charter, but the earliest that could happen is the 2020 general election.

Roger Hartley, dean of the University of Baltimore's college of public affairs, said if the council wants Pugh gone, its power lies in the ability to apply pressure. One way the members could do that is to ask the city's inspector general to investigate. That is a step Dorsey and Councilwoman Shannon Sneed have already taken; they want Inspector General Isabel Mercedes Cumming to examine how a \$48 million contract was awarded to Kaiser Permanente to provide health benefits to city workers. While Kaiser was seeking the contract, the health provider paid Pugh more than \$100,000 to buy about 20,000 copies of her books. Pugh voted to approve that contract through the city's spending panel, a board that she controls.

"If the mayor has done something quite wrong here, there is a shadow over the administration, and the council could make things quite difficult," Hartley said.

Across the country, local and state governments allow for a variety of methods for removal. Some states allow elections to be recalled through a petition process, and roughly a couple dozen mayors are removed each year from their positions by recall, said **Joshua Spivak**, a senior fellow at Wagner College's institute for government reform. Although it's rare, some big cities have forced out their mayors, including Los Angeles and Seattle.

In Maryland, local governments can choose whether to allow elected officials within the jurisdiction to be subject to a recall vote, according to Jim Peck, a researcher with the state's Municipal League. The town of Fairmount Heights in Prince George's County removed Mayor Kathleen Scott in a special recall election in 1998 after she was accused of spending public money without approval to change the locks on the town hall and unilaterally hire a police chief. The mayor of the Eastern Shore's Snow Hill, Craig Johnson, was recalled that same year after he was accused of allowing a squad car to be included in a pornography shoot. Mayor Susan Fauntleroy of Brunswick in Frederick County was removed in a recall election in 1990 after water rates increased to modernize the city's infrastructure.

More recently, the city of Bowie held a special election in December 2017 to remove Councilwoman Diane Polangin from office after some residents argued she cast votes that brought more traffic to their residential streets.

Baltimore Sun research librarian Paul McCardell contributed to this article.