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HOUSE BILL NO. 1753

Offered January 14, 2009

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A *BILL to amend and reenact §§ 16.1-69.9, 16.1-69.9:2, 16.1-69.9:4, and 16.1-69.22 of the Code of Virginia, relating to felonies or misdemeanors by judges; terms of office.*

Patron—Carrico

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-69.9, 16.1-69.9:2, 16.1-69.9:4, and 16.1-69.22 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-69.9. Judges in office continued; terms of judges; how elected or appointed.

Every judge or justice and every associate, assistant and substitute judge or justice of a court not of record in office January 1, 1973, shall continue in office as a judge or substitute judge of such court under its designation as a general district court or juvenile and domestic relations district court until the expiration of the term for which he was appointed or elected, or until a vacancy shall occur in his office or until a successor shall be appointed or elected, whichever is the latter.

Upon the expiration of such terms, or when a vacancy occurs, successors shall be elected only as authorized pursuant to §§ 16.1-69.10 and 16.1-69.14 and for the term and in the manner following:

(a), (a1) —Repealed.]

(b) With respect to terms expiring on or after July 1, 1980, successors to judges shall be elected for a term of six years by the General Assembly as provided in (c) hereof, *and shall be subject to clause (e) hereof.*

Any vacancy in the office of any full-time district court judge shall be filled for a full term of six years in the manner prescribed herein; provided that such vacancy shall not be filled except as provided in § 16.1-69.9:3.

(c) Full-time district court judges shall be elected by the majority of the members elected to each house of the General Assembly. No person shall be elected or reelected to a subsequent term under this section until he has submitted to a criminal history record search and a report of such search has been received by the chairmen of the House and Senate Committees for Courts of Justice. The judges of the circuit court having jurisdiction over the district may nominate a panel of no more than three persons for each judgeship within the district who are deemed qualified to hold the office. The General Assembly may consider such nominations in electing a judge to fill the office but may elect a person not on such panel to fill the office. Nominations shall be forwarded to the clerks of both houses of the General Assembly on or before December 15.

(d) No person with a criminal conviction for a felony shall be appointed as a substitute judge.

If an appointment is to be made by two or more judges and there is a tie vote, then the senior judge of the circuit court having jurisdiction in the district shall make the appointment.

(e) If a full-time district court judge is convicted of a felony or Class 1 misdemeanor during his term of office, such term shall expire 30 days after the commencement of the next regular session of the General Assembly notwithstanding the term for which such judge was elected.

§ 16.1-69.9:2. Vacancies in office of judges; terms of successor judges; appointment while General Assembly not in session.

Whenever a vacancy occurs in the office of a full-time district court judge the successor shall be elected for a full term of six years and upon qualification shall enter at once upon the discharge of the duties of his office, *and shall be subject to the provisions of clause (e) of § 16.1-69.9.* But subject to the provisions of § 16.1-69.9:3, the judges of the circuit having jurisdiction over the district shall have the power while the General Assembly is not in session to fill pro tempore vacancies in the office of full-time district court judges. Appointment to every such vacancy shall be by commission to expire at the end of thirty days after the commencement of the next session of the General Assembly.

§ 16.1-69.9:4. Same; election of successor judges.

Whenever a vacancy occurs or exists in the office of a full-time district judge while the General Assembly is in session, or whenever the term of a full-time judge of a district court will expire or the office will be vacated at a date certain between the adjournment of the General Assembly and the commencement of the next session of the General Assembly, a successor judge may be elected at any time during a session preceding the date of such vacancy, by the vote of a majority of the members elected to each house of the General Assembly, for a full term of six years and, upon qualification, the

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59 successor judge shall enter at once upon the discharge of the duties of his office, *and shall be subject to*
60 *the provisions of clause (e) of § 16.1-69.9.* However, such successor judge shall not enter upon the
61 discharge of his duties prior to the commencement of his term of office. No person shall be elected or
62 reelected to a subsequent term under this section until he has submitted to a criminal history record
63 search and a report of such search has been received by the chairmen of the House and Senate
64 Committees for Courts of Justice.

65 § 16.1-69.22. Removal of judges and substitute judges.

66 Any judge or substitute judge of a district court may be removed from office *under the provisions of*
67 *clause (e) of § 16.1-69.9, or* in the manner and for any of the causes prescribed in Chapter 9 (§ 17.1-900
68 et seq.) of Title 17.1; provided, that substitute judges may be removed from office under the provisions
69 of §§ 24.2-230 through 24.2-238.