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**HOUSE BILL NO. 1978**

Offered January 12, 2011

Prefiled January 11, 2011

A *BILL to amend and reenact § 16.1-69.21 of the Code of Virginia, relating to substitute judges.*

Patron—Greason

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That § 16.1-69.21 of the Code of Virginia is amended and reenacted as follows:**

§ 16.1-69.21. When substitute to serve; his powers and duties.

A. In the event of the inability of the judge to perform the duties of his office or any of them by reason of sickness, absence, vacation, interest in the proceeding or parties before the court, or otherwise, such judge or a person acting on his behalf shall promptly notify the appropriate chief district judge of such inability. If the chief district judge determines that the provisions of § 16.1-69.35 have been complied with or cannot reasonably be done within the time permitted and that no other full-time or retired judge is reasonably available to serve, the chief district judge may direct a substitute judge to serve as a judge of the court, which substitute may serve concurrently with one or more of the judges of the court or alone. In designating a substitute judge to serve, the chief district judge shall, whenever possible, select a substitute judge who does not regularly practice law in the court requiring the substitute. Where reasonably available, the chief district judge may designate a substitute judge from another district within the Commonwealth. The committee on district courts may adopt policies and procedures governing the utilization of substitute judges. In such event, those policies and procedures will, where applicable, control. While acting as judge, a substitute judge shall perform the same duties, exercise the same power and authority, and be subject to the same obligations as prescribed herein for the judge. While serving as judge of the court, the judge or the substitute judge may perform all acts with respect to the proceedings, judgments and acts of any other judge in connection with any action or proceeding then pending or theretofore disposed of in the court except as otherwise provided in this chapter in the same manner and with the same force and effect as if they were his own.

B. *Notwithstanding the provisions of § 16.1-69.9:1, any assistant attorney for the Commonwealth may be appointed to serve as a substitute judge in any locality other than the one in which he presently serves as an assistant attorney for the Commonwealth. Such appointment shall not occur without the written concurrence of the attorney for the Commonwealth employing such assistant and the chief general and juvenile and domestic relations district court judges of the judicial district to be served. Under no circumstance shall an assistant attorney for the Commonwealth serve more than two days per calendar month, and he shall not be compensated as a substitute judge. The provisions of this subsection shall have no impact on, and shall be in addition to, the number of substitute judges as set forth in § 16.1-69.14.*

INTRODUCED

HB1978