

LD1663607

SENATE BILL NO. 106

Offered January 18, 1994

A BILL to amend and reenact § 17-7 of the Code of Virginia, relating to ability of judge to hear certain cases.

Patron—Barry

Referred to the Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 17.7 of the Code of Virginia is amended and reenacted as follows:**

§ 17-7. Designation of judges to hold courts and assist other judges.

(1) Absence, etc. If a judge of any court of record be absent or be unable through sickness or other disability, or any other reason to hold any regular or special term of the court, or any part thereof, or to perform or discharge any official duty or function authorized or required by law, a judge of any other court of record or a retired judge of any such court may be obtained by personal request of the disabled judge, or another judge of the circuit to hold the court for the whole of such regular or special term or for any part thereof and to discharge during vacation such duty or function, or, if the circumstances require, to perform all the duties and exercise all the powers and jurisdiction as judges of such circuit until the judge shall again be able to attend his duties as such. The designation of such judge shall be entered in the common-law order book of the court, and a copy thereof sent to the Chief Justice of the Supreme Court. The Chief Justice shall be notified forthwith at the time any disabled judge is able to return to his duties.

(2) Interest, etc. If all the judges of any court of record are so situated in respect to any case, civil or criminal, pending in their court as to render it improper, in their opinion, for them to preside at the trial, unless the cause or proceeding is removed, as provided by law, *or if a local governing body is a party in a civil case and such local government provides direct operating funds, except capital costs, to the judges of such court*, they shall enter the fact of record ~~and the~~. The clerk of the court shall at once certify the same to the Chief Justice of the Supreme Court, who shall designate a judge of some other court of record or a retired judge of any such court to preside at the trial of such case.

(3) [Repealed.]

(4) Vacancy. If a vacancy occur from any cause in the office of a judge of a court of record that fact shall at once be certified by the clerk of such court to the Governor, who may, instead of appointing a successor at once, request the Chief Justice of the Supreme Court to designate a judge of some other court of record or a retired judge of any such court to carry out the duties of the office, if it is made to appear that there are insufficient judges in the circuit to carry out the work of the court, until the office shall have been filled in the mode prescribed by law. If any judge so designated shall be prevented by the duties of his court, or by sickness, from performing the duties required, he shall so inform the Governor, who may thereupon request the Chief Justice of the Supreme Court to designate another such judge in his place.

(5) Congestion. If on account of congestion in the work of any court of record there is in his opinion need therefor, the Chief Justice of the Supreme Court may, upon his own initiative or upon application of the judge desiring assistance, designate the judge of any court of record or a retired judge of a court of record to assist the judge in the performance of his duties and every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as the judge whom he is designated to assist.

(6) Expenses. Any judge or retired judge sitting under any provision of this section or sitting by designation on any three-judge court shall receive from the state treasury actual expenses for the time he is actually engaged in holding court, except in those cases where the payment of such expenses is otherwise specifically provided by law.

(7) [Repealed.]

(8) Exercise of powers of Chief Justice by other Justices. The powers and duties herein conferred and imposed upon the Chief Justice of the Supreme Court may be exercised and performed by any Justice, or any committee of Justices, of the Court, designated by the Chief Justice for such purpose.

(9) If the chief judge of any circuit be unable to perform the duties required by law, he shall notify the Chief Justice of the Supreme Court, who shall designate another judge of the same circuit to perform such duties.

(10) If any judge refuses unreasonably to serve as requested under the provisions of this section, the chief judge may report his refusal to the Judicial Inquiry and Review Commission.

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