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HOUSE BILL NO. 1237

Offered January 11, 2006

Prefiled January 11, 2006

A BILL to amend and reenact §§ 16.1-69.35 and 17.1-105 of the Code of Virginia, relating to the designation for administration of justice by the chief judge.

Patron—Melvin

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That §§ 16.1-69.35 and 17.1-105 of the Code of Virginia are amended and reenacted as follows:**

§ 16.1-69.35. Administrative duties of chief district judge.

The chief judge of each district shall have the following administrative duties and authority with respect to his district:

1. When any district court judge is under any disability or for any other cause is unable to hold court and the chief judge determines that assistance is needed:

a. The chief district judge shall designate a judge within the district or a judge of another district court within the Commonwealth, if one is reasonably available, to hear and dispose of any action or actions properly coming before such district court for disposition;

b. If unable to designate a judge as provided in subdivision 1 a, the chief district judge may designate a retired district judge for such hearing and disposition if such judge consents; or

c. If unable to assign a retired district court judge, the chief district judge may designate a retired circuit court judge if such judge consents or the chief district judge may request that the Chief Justice of the Supreme Court designate a circuit judge if such judge consents.

If no judges are available under subdivision a, b or c, then a substitute judge shall be designated pursuant to § 16.1-69.21.

While acting, any judge so designated shall have all the authority and power of the judge of the court, and his order or judgment shall, to all intents and purposes, be the judgment of the court. A general district court judge designated pursuant to subdivision 1 a, may, with his consent, substitute for or replace a juvenile and domestic relations district court judge, and vice versa. The names of the judges designated under subdivisions b and c shall be selected from a list provided by the Executive Secretary and approved by the Chief Justice of the Supreme Court.

2. The chief general district court judge of a district may designate any juvenile and domestic relations district court judge of the district, with the judge's consent, for an individual case or to sit and hear cases for a period of not more than one year, in any of the general district courts within the district. The chief juvenile and domestic relations district court judge of a district may designate any general district court judge of the district, with the judge's consent, for an individual case or to sit and hear cases for a period of not more than one year, in any of the juvenile and domestic relations district courts within the district. Every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as any judge of the district for which he is designated to assist, and, while so acting, his order or judgment shall be, for all purposes, the judgment of the court to which he is assigned.

3. If on account of congestion in the work of any district court ~~there is or when~~ in his opinion ~~need~~ ~~therefor~~ ~~the administration of justice so requires~~, the Chief Justice of the Supreme Court may, upon his own initiative or upon written application of the chief district court judge desiring assistance, designate a judge from another district or any circuit court judge, if such circuit court judge consents, or a retired judge to provide judicial assistance to such district. Every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as any judge of the district for which he is designated to assist and while so acting his order or judgment shall be, to all intents and purposes, the judgment of the court to which he is assigned.

4. Subject to such rules as may be established pursuant to § 16.1-69.32, the chief judge may establish special divisions of any general district court when the work of the court may be more efficiently handled thereby such as through the establishment of special civil, criminal or traffic divisions, and he may assign the judges of the general district court with respect to serving such special divisions. In the City of Richmond the general district court shall, in addition to any specialized divisions, maintain a separate division of such court in that part of Richmond south of the James River with concurrent jurisdiction in civil matters whenever one or more of the defendants reside or the cause of action or any part thereof arises in that part of the city, concurrent jurisdiction over all traffic matters arising in that

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59 part of the city and exclusive jurisdiction over all other criminal matters arising in that part of the city.

60 5. Subject to such rules as may be established pursuant to § 16.1-69.32, the chief judge shall
61 determine when the district courts or divisions of such courts shall be open for the transaction of
62 business. The chief judge or presiding judge of any district court may authorize the clerk's office to
63 close on any date when the chief judge or presiding judge determines that operation of the clerk's office,
64 under prevailing conditions, would constitute a threat to the health or safety of the clerk's office
65 personnel or the general public. Closing of the clerk's office pursuant to this subsection shall have the
66 same effect as provided in subsection B of § 1-210. In determining whether to close because of a threat
67 to the health or safety of the general public, the chief judge or the presiding judge of the district court
68 shall coordinate with the chief judge or presiding judge of the circuit court so that, where possible and
69 appropriate, both the circuit and district courts take the same action. He shall determine the times each
70 such court shall be held for the trial of civil, criminal or traffic matters and cases. He shall determine
71 whether, in the case of district courts in counties, court shall be held at any place or places in addition
72 to the county seat. He shall determine the office hours and arrange a vacation schedule of the judges
73 within his district, in order to ensure the availability of a judge or judges to the public at normal times
74 of business. A schedule of the times and places at which court is held shall be filed with the Executive
75 Secretary of the Supreme Court and kept posted at the courthouse, and in any county also at any such
76 other place or places where court may be held, and the clerk shall make such schedules available to the
77 public upon request. Any matter may, in the discretion of the judge, or by direction of the chief district
78 judge, be removed from any one of such designated places to another, or to or from the county seat, in
79 order to serve the convenience of the parties or to expedite the administration of justice; however, any
80 town having a population of over 15,000 as of July 1, 1972, having court facilities and a court with
81 both general criminal and civil jurisdiction prior to July 1, 1972, shall be designated by the chief judge
82 as a place to hold court.

83 6. Subject to the provisions of § 16.1-69.38, the chief judge of a general district court or the chief
84 judge of a juvenile and domestic relations district court may establish a voluntary civil mediation
85 program for the alternate resolution of disputes. The costs of the program shall be paid by the local
86 governing bodies within the district or by the parties who voluntarily participate in the program.

87 § 17.1-105. Designation of judges to hold courts and assist other judges.

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

98 B. If all the judges of any court of record are so situated in respect to any case, civil or criminal,
99 pending in their court as to render it improper, in their opinion, for them to preside at the trial, unless
100 the cause or proceeding is removed, as provided by law, they shall enter the fact of record and the clerk
101 of the court shall at once certify the same to the Chief Justice of the Supreme Court, who shall
102 designate a judge of some other court of record or a retired judge of any such court to preside at the
103 trial of such case.

104 C. If a vacancy occurs in the office of a judge of a court of record that fact shall be immediately
105 certified by the clerk of such court to the Governor, who may, instead of appointing a successor at once,
106 request the Chief Justice to designate a judge of some other court of record or a retired judge of any
107 such court to carry out the duties of the office, if there are insufficient judges in the circuit to carry out
108 the work of the court, until the office has been filled in the mode prescribed by law. If any judge so
109 designated shall be prevented by the duties of his court, or by sickness, from performing the duties
110 required, he shall so inform the Chief Justice, who may designate another judge in his place.

111 D. Due to congestion in the work of any court of record *or when in his opinion the administration of*
112 *justice so requires*, the Chief Justice may, upon his own initiative or upon application of the judge
113 desiring assistance, designate a judge or retired judge of any court of record to assist the judge in the
114 performance of his duties and every judge so designated shall have the same powers and jurisdiction and
115 be authorized to perform the same duties as the judge whom he is designated to assist.

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

120 F. The powers and duties herein conferred and imposed upon the Chief Justice may be exercised and

121 performed by any justice, or any committee of justices, of the Court, designated by the Chief Justice for
122 such purpose.
123 G. If the chief judge of any circuit is unable to perform the duties required by law, he shall notify
124 the Chief Justice, who shall designate another judge of the same circuit to perform such duties.
125 H. If any judge refuses unreasonably to serve as requested under the provisions of this section, the
126 chief judge may report his refusal to the Judicial Inquiry and Review Commission.

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