

10105866D

HOUSE BILL NO. 293**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee for Courts of Justice
on March 8, 2010)

(Patron Prior to Substitute—Delegate Griffith)

A BILL to amend and reenact §§ 16.1-69.35 and 17.1-501 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 19.2-180.1, relating to the exercise of powers of courts.

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-69.35 and 17.1-501 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 19.2-180.1 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 or when in his opinion 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 *and separate court dockets* 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 *and dockets*. 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 part of the city and exclusive jurisdiction over all other criminal matters

60 arising in that part of the city.

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

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

88 § 17.1-501. Judges of circuit courts; selection, powers and duties of chief judges; exercise of
89 appointive powers.

90 A. There shall be as many judges of the circuit courts as may be fixed by the General Assembly.
91 The judges of each circuit shall select from their number by majority vote a chief judge of the circuit,
92 who shall serve for the term of two years. In the event such judges cannot agree as to who shall be
93 chief judge, the Chief Justice of the Supreme Court shall act as tie breaker.

94 B. The chief judge of the circuit shall ensure that the system of justice in his circuit operates
95 smoothly and efficiently. He shall have *control over court dockets and schedules in the circuit, including*
96 *authority to establish separate court dockets and* assign the work of the circuit among the judges, and in
97 doing so he may consider the nature and categories of the cases to be assigned.

98 C. Unless otherwise provided by law, powers of appointment within a circuit shall be exercised by a
99 majority of the judges of the circuit; however, the order of appointment may be signed by the chief
100 judge or that judge's designee on behalf of the other judges. In case of a tie, the Chief Justice of the
101 Supreme Court shall appoint a circuit judge from another circuit who shall act as tie breaker. Where the
102 power of appointment is to be exercised by a majority of the judges of the Second Judicial Circuit and
103 such appointment is to a local post, board or commission in Accomack or Northampton County, the
104 resident judge or judges of the County of Accomack or Northampton shall exercise such appointment
105 power as if he or they comprise the majority of the judges of the circuit.

106 D. No person shall be appointed or reappointed under this section until he has submitted his
107 fingerprints to be used for the conduct of a national criminal records search and a Virginia criminal
108 history records search. No person with a criminal conviction for a felony shall be appointed as a judge.

109 § 19.2-180.1. *Mental health courts.*

110 A. *For purposes of this section:*

111 "*Mental health court*" means a separate court docket within the existing calendar of a district or
112 circuit court offering judicial monitoring of the treatment and supervision of certain individuals with
113 mental illness who are under the jurisdiction of the criminal court. Any such court shall be required to
114 have (i) identification of eligible individuals; (ii) the provision of services by a willing local community
115 services board or behavioral health authority serving the territorial jurisdiction of the court and which
116 can provide, or contract for the provision of, appropriate treatment and services for the offender; (iii)
117 court-established treatment and compliance terms of participation; and (iv) a process for monitoring the
118 adherence to court requirements.

119 "*Offender*" means an individual with mental illness who is under the jurisdiction of the criminal
120 court and is capable of making, and is provided the opportunity to make, an informed decision as to his
121 participation in the mental health court.

122 *B. Any district court or circuit court may establish a mental health court. Nothing contained in this*
123 *section shall confer a right or an expectation of a right to the establishment of a mental health court in*
124 *any jurisdiction or to treatment for an offender; neither shall it be construed as requiring a mental*
125 *health court to accept for participation every offender.*
126 *Any community services board or behavioral health authority, agency, or organization serving the*
127 *territorial jurisdiction of the court, or any locality sharing, in whole or in part, territorial limits with*
128 *such court, may apply for and accept any grants or funding available to establish or operate such*
129 *mental health court.*