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SENATE BILL NO. 843

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary
on January 25, 2023)

(Patron Prior to Substitute—Senator Petersen)

A BILL to amend and reenact §§ 16.1-69.22:1 and 17.1-106 of the Code of Virginia, relating to retired circuit court and district court judges; recall; evaluation; qualification by Senate Committee on the Judiciary and House Committee for Courts of Justice.

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-69.22:1 and 17.1-106 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-69.22:1. Temporary recall of retired district court judges; evaluation.

A. The Chief Justice of the Supreme Court may call upon any judge of a district court who is retired under the Judicial Retirement System (§ 51.1-300 et seq.) and who has been found qualified within the preceding three years by the Senate Committee on the Judiciary and the House Committee for Courts of Justice to (i) hear a specific case or cases pursuant to the provisions of § 16.1-69.35 with such designation to continue in effect for the duration of the case or cases or (ii) perform, for a period not to exceed 90 days at any one time, such judicial duties in any district court as the Chief Justice of the Supreme Court shall deem in the public interest for the expeditious disposition of the business of such courts.

B. It shall be the obligation of any retired judge who is recalled to temporary service under this section and who has not attained age 70 to accept the recall and perform the duties assigned. It shall be within the discretion of any judge who has attained age 70 to accept such recall.

C. Any judge recalled to duty under this section shall have all the powers, duties, and privileges attendant on the position he is recalled to serve.

D. Notwithstanding the provisions of subsection A, the Chief Justice may call upon and authorize any judge of a district court whose retirement becomes effective during the interim period between regularly scheduled sessions of the General Assembly to sit in recall either to (i) hear a specific case or cases pursuant to the provisions of § 16.1-69.35, which designation shall continue in effect for the duration of the case or cases, or (ii) perform, for a period of time not to exceed 90 days at any one time, such judicial duties in any district court as the Chief Justice shall deem in the public interest for the expeditious disposition of the business of the courts.

E. All retired district court judges who have requested to sit in recall shall be evaluated during the final year of the three-year period following qualification by the Senate Committee on the Judiciary and the House Committee for Courts of Justice, using an evaluation form prepared and distributed by the Office of the Executive Secretary of the Supreme Court of Virginia. An annual report containing the results of such evaluations conducted that year shall be prepared and transmitted to the Senate Committee on the Judiciary and the House Committee for Courts of Justice by the first day of the next regular session of the General Assembly.

F. No retired judge shall be authorized or eligible for recall under subsection A if such judge, prior to submitting a notice of retirement, sought reelection to a subsequent term but was not reelected by a majority of the members elected to each house of the General Assembly.

§ 17.1-106. Temporary recall of retired judges; evaluation.

A. The Chief Justice of the Supreme Court may call upon any judge of a circuit court who is retired under the Judicial Retirement System (§ 51.1-300 et seq.) and who has been found qualified within the preceding three years by the House Committee for Courts of Justice and the Senate Committee on the Judiciary to sit in recall either to (i) hear a specific case or cases pursuant to the provisions of § 17.1-105, such designation to continue in effect for the duration of the case or cases, or (ii) perform for a period of time not to exceed 90 days at any one time such judicial duties in any circuit court as the Chief Justice shall deem in the public interest for the expeditious disposition of the business of the courts.

B. It shall be the obligation of any retired judge who is recalled to temporary service under this section and who has not attained age 70 to accept the recall and perform the duties assigned. It shall be within the discretion of any judge who has attained age 70 to accept such recall.

C. Any judge recalled to duty under this section shall have all the powers, duties, and privileges attendant on the position he is recalled to serve.

D. Notwithstanding the provisions of subsection A, the Chief Justice may call upon and authorize any judge of a circuit court whose retirement becomes effective during the interim period between regularly scheduled sessions of the General Assembly to sit in recall either to (i) hear a specific case or

60 cases pursuant to the provisions of § 17.1-105, and such designation shall continue in effect for the
61 duration of the case or cases, or (ii) perform, for a period of time not to exceed 90 days at any one
62 time, such judicial duties in any circuit court as the Chief Justice shall deem in the public interest for
63 the expeditious disposition of the business of the courts.

64 E. All retired circuit court judges who have requested to sit in recall shall be evaluated during the
65 final year of the three-year period following qualification by the Senate Committee on the Judiciary and
66 the House Committee for Courts of Justice, using an evaluation form prepared and distributed by the
67 Office of the Executive Secretary of the Supreme Court of Virginia. An annual report containing the
68 results of such evaluations conducted that year shall be prepared and transmitted to the Senate
69 Committee on the Judiciary and the House Committee for Courts of Justice by the first day of the next
70 regular session of the General Assembly.

71 *F. No retired judge shall be authorized or eligible for recall under subsection A if such judge, prior*
72 *to submitting a notice of retirement, sought reelection to a subsequent term but was not reelected by a*
73 *majority of the members elected to each house of the General Assembly.*