

# STATE OF NEW YORK

6044

2021-2022 Regular Sessions

## IN ASSEMBLY

March 5, 2021

Introduced by M. of A. DINOWITZ -- read once and referred to the Committee on Judiciary

AN ACT to amend the judiciary law, in relation to making technical changes to provisions providing for certification for service as a retired judge of the court of appeals or a retired justice of the supreme court

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 114 of the judiciary law, as added by chapter 704  
2 of the laws of 1962, subdivision 1 as amended by chapter 751 of the laws  
3 of 1981, is amended to read as follows:

4 § 114. Retired judges of the court of appeals. 1. Any judge of the  
5 court of appeals, retired pursuant to subdivision b of section twenty-  
6 five of article six of the constitution, [~~may~~] shall, upon his or her  
7 application, be certified by the administrative board for service as a  
8 justice of the supreme court upon findings (a) that he or she has the  
9 mental and physical capacity to perform the duties of such office and  
10 (b) that his or her services are necessary to expedite the business of  
11 the supreme court. A copy of such certificate shall be filed with the  
12 appellate division of the department in which such retired judge resides  
13 and in the office of court administration.

14 2. Any such certification shall be valid for a term of two years  
15 beginning on the date of filing the certificate. At the expiration of  
16 such term, the retired judge [~~may~~] shall be certified for additional  
17 terms of two years each by the administrative board upon findings of  
18 continued mental and physical capacity and need for his or her services.  
19 No retired judge may serve under any such certification beyond the last  
20 day of December in the year in which he or she reaches the age of seven-  
21 ty-six.

22 3. A retired judge so certified shall for all purposes, other than  
23 determining the number of justices in a judicial district for the

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 purposes of subdivision d of section six of article six of the constitu-  
2 tion and section one hundred forty-a of this chapter, but including  
3 powers, duties, salary, status and rights, be a justice of the supreme  
4 court in the district in which he or she resides when so certified. A  
5 retired judge shall be subject to assignment by the appellate division  
6 of the supreme court of the judicial department of his or her residence.

7 4. The provisions of this section shall also be applicable to a judge  
8 who has not yet reached the age of seventy-six and who reached the age  
9 of seventy and retired as a judge of the court of appeals prior to the  
10 effective date of this section.

11 § 2. Section 115 of the judiciary law, as added by chapter 704 of the  
12 laws of 1962, subdivision 1 as amended by chapter 751 of the laws of  
13 1981, is amended to read as follows:

14 § 115. Retired justices of the supreme court. 1. Any justice of the  
15 supreme court, retired pursuant to subdivision b of section twenty-five  
16 of article six of the constitution, [~~may~~ shall], upon his or her appli-  
17 cation, be certified by the administrative board for service as a  
18 retired justice of the supreme court upon findings (a) that he or she  
19 has the mental and physical capacity to perform the duties of such  
20 office and (b) that his or her services are necessary to expedite the  
21 business of the supreme court. A copy of such certificate shall be filed  
22 with the appellate division of the department in which such retired  
23 justice resides and in the office of court administration.

24 2. Any such certification shall be valid for a term of two years  
25 beginning on the date of filing the certificate. At the expiration of  
26 such term the retired justice [~~may~~ shall] be certified for additional  
27 terms of two years each by the administrative board upon findings of  
28 continued mental and physical capacity and need for his or her services.  
29 No retired justice may serve under any such certification beyond the  
30 last day of December in the year in which he or she reaches the age of  
31 seventy-six.

32 3. A retired justice so certified shall for all purposes, other than  
33 determining the number of justices in a judicial district for the  
34 purposes of subdivision d of section six of article six of the constitu-  
35 tion and section one hundred forty-a of this chapter, but including  
36 powers, duties, salary, status and rights, be a justice of the supreme  
37 court in the district in which he or she resides when so certified. A  
38 retired justice shall be subject to assignment by the appellate division  
39 of the supreme court of the judicial department of his or her residence.

40 4. The provisions of this section shall also be applicable to a  
41 justice of the supreme court, a judge of the county court of a county  
42 within the city of New York, and a judge of the court of general  
43 sessions of the county of New York who has not yet reached the age of  
44 seventy-six and who reached the age of seventy and retired as such  
45 justice or judge prior to the effective date of this section.

46 § 3. This act shall take effect immediately.