

STATE OF NEW YORK

439

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to making technical corrections to ensure gender neutrality for the admission to practice law and preventing any required disclosure of mental health history

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

1 Section 1. Rule 9401 of the civil practice law and rules is amended to
2 read as follows:
3 Rule 9401. Committee. The appellate division in each judicial depart-
4 ment shall appoint a committee of not less than three practicing lawyers
5 for each judicial district within the department, for the purpose of
6 investigating the character and fitness of every applicant for admission
7 to practice as an attorney and counselor at law in the courts of this
8 state. Each member of such committee shall serve until [~~his~~] the
9 member's death, resignation or the appointment of [~~his~~] the member's
10 successor. A lawyer who has been or who shall be appointed a member of
11 the committee for one district may be appointed a member of the commit-
12 tee for another district within the same department.
13 § 2. The opening paragraph and subdivision 1 of rule 9403 of the civil
14 practice law and rules, as amended by chapter 226 of the laws of 1985,
15 are amended to read as follows:
16 Notwithstanding rule 9402, any application for admission to practice
17 pending before a committee, may be referred to the committee for another
18 judicial district in the same or another department by order or direc-
19 tion of the presiding justice of the appellate division of the depart-
20 ment embracing the district in which the application is pending. Such
21 order or direction may be made only upon the written request of the
22 [~~chairman~~] chairperson or acting [~~chairman~~] chairperson of the committee

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

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1 before which the application is pending and only upon [~~his~~] the chair-
2 person or acting chairperson's written certification either:

3 1. that the applicant, since [~~he~~] they applied to take the bar exam-
4 ination or to dispense with such examination or since [~~he~~] they applied
5 on motion to be admitted to practice, has changed [~~his~~] their actual
6 residence to such other judicial district in the same or other depart-
7 ment, or, if not a resident of the state, has acquired full-time employ-
8 ment in or changed [~~his~~] their place of full-time employment to such
9 other judicial district in the same or other department; or

10 § 3. Rule 9404 of the civil practice law and rules, as amended by
11 judicial conference proposal number 7 for the year 1973, is amended to
12 read as follows:

13 Rule 9404. Certificate of character and fitness. Unless otherwise
14 ordered by the appellate division, no person shall be admitted to prac-
15 tice without a certificate from the proper committee that it has care-
16 fully investigated the character and fitness of the applicant and that,
17 in such respects, [~~he~~] the applicant is entitled to admission. To enable
18 the committee to make such investigation, the justices of the appellate
19 division are authorized to prescribe and from time to time to amend a
20 form of statement or questionnaire to be submitted by the applicant,
21 including specifically [~~his~~] the applicant's present and such past plac-
22 es of actual residence as may be required therein, listing the street
23 and number, if any, and the period of time [~~he~~] the applicant resided at
24 each place. Such questionnaire shall not include any questions requiring
25 the disclosure of the applicant's history, diagnoses or treatment of
26 mental health conditions or impairment, substance abuse or addiction.

27 § 4. Rule 9405 of the civil practice law and rules is amended to read
28 as follows:

29 Rule 9405. Prior application. In the event that any applicant has
30 made a prior application for admission to practice in this state or in
31 any other jurisdiction, then upon said statement or questionnaire or in
32 an accompanying signed statement, [~~he~~] the applicant shall set forth in
33 detail all the facts with respect to such prior application and its
34 disposition. If such prior application had been filed in any appellate
35 division of this state and if the applicant failed to obtain a certif-
36 icate of good character and fitness from the appropriate character
37 committee or if for any reason such prior application was disapproved or
38 rejected either by said committee or said appellate division, [~~he~~] the
39 applicant shall obtain and submit the written consent of said appellate
40 division to the renewal of [~~his~~] their application in that appellate
41 division or in any other appellate division.

42 § 5. Rule 9406 of the civil practice law and rules, as amended by
43 chapter 226 of the laws of 1985, is amended to read as follows:

44 Rule 9406. Proof. No person shall receive said certificate from any
45 committee and no person shall be admitted to practice as an attorney and
46 counselor at law in the courts of this state, unless [~~he~~] they shall
47 furnish satisfactory proof to the effect:

48 1. that [~~he supports~~] they support the constitutions of the United
49 States and of the state of New York; and

50 2. that [~~he has~~] they have complied with all the requirements of the
51 applicable statutes of this state, the applicable rules of the court of
52 appeals and the applicable rules of the appellate division in which
53 [~~his~~] their application is pending, relating to the admission to prac-
54 tice as an attorney and counselor at law.

55 § 6. This act shall take effect on the sixtieth day after it shall
56 have become a law.