STATE OF NEW YORK

3339

2023-2024 Regular Sessions

IN ASSEMBLY

February 2, 2023

Introduced by M. of A. DINOWITZ, BICHOTTE HERMELYN, REYES, TAYLOR, EICHENSTEIN, SIMON, J. A. GIGLIO, BLANKENBUSH, D. ROSENTHAL, FALL, SEAWRIGHT, RAJKUMAR, L. ROSENTHAL, TANNOUSIS, ROZIC, JONES, BURGOS, RIVERA, DAVILA, JACKSON, BURDICK, BRAUNSTEIN, MORINELLO, NORRIS -- 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:

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

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

2. Any such certification shall be valid for a term of two years beginning on the date of filing the certificate. At the expiration of such term, the retired judge [~~may~~] **shall** be certified for additional terms of two years each by the administrative board upon findings of continued mental and physical capacity and need for his **or her** services. No retired judge may serve under any such certification beyond the last

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

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day of December in the year in which he **or she** reaches the age of seventy-six.

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

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

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

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

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

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

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

§ 3. This act shall take effect immediately.