STATE OF NEW YORK

1646

2023-2024 Regular Sessions

IN SENATE

January 13, 2023

Introduced by Sen. HOYLMAN-SIGAL -- 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 prior interaction with law enforcement or the criminal justice system under certain circumstances

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

Section 1. Rule 9401 of the civil practice law and rules is amended to read as follows:

Rule 9401. Committee. The appellate division in each judicial department shall appoint a committee of not less than three practicing lawyers for each judicial district within the department, for the purpose of investigating the character and fitness of every applicant for admission to practice as an attorney and counselor at law in the courts of this state. Each member of such committee shall serve until [~~his~~] the member's death, resignation or the appointment of [~~his~~] the member's successor. A lawyer who has been or who shall be appointed a member of the committee for one district may be appointed a member of the committee for another district within the same department.

§ 2. The opening paragraph and subdivision 1 of rule 9403 of the civil practice law and rules, as amended by chapter 226 of the laws of 1985, are amended to read as follows:

Notwithstanding rule 9402, any application for admission to practice pending before a committee, may be referred to the committee for another judicial district in the same or another department by order or direction of the presiding justice of the appellate division of the department embracing the district in which the application is pending. Such order or direction may be made only upon the written request of the [~~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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before which the application is pending and only upon [~~his~~] **the chairperson or acting chairperson's** written certification either:

1. that the applicant, since [~~he~~] **they** applied to take the bar examination or to dispense with such examination or since [~~he~~] **they** applied on motion to be admitted to practice, has changed [~~his~~] **their** actual residence to such other judicial district in the same or other department, or, if not a resident of the state, has acquired full-time employment in or changed [~~his~~] **their** place of full-time employment to such other judicial district in the same or other department; or

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

Rule 9404. Certificate of character and fitness. Unless otherwise ordered by the appellate division, no person shall be admitted to practice without a certificate from the proper committee that it has carefully investigated the character and fitness of the applicant and that, in such respects, [~~he~~] **the applicant** is entitled to admission. To enable the committee to make such investigation, the justices of the appellate division are authorized to prescribe and from time to time to amend a form of statement or questionnaire to be submitted by the applicant, including specifically [~~his~~] **the applicant's** present and such past places of actual residence as may be required therein, listing the street and number, if any, and the period of time [~~he~~] **the applicant** resided at each place. **Such questionnaire shall not include any questions requiring the disclosure of the applicant's history of interaction with law enforcement or the criminal justice system if such interaction (i) is no longer pending and did not result in a conviction, (ii) resulted in a juvenile proceeding or youthful offender adjudication, or (iii) resulted in a conviction which is now sealed.**

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

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

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

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

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

2. that [~~he has~~] **they have** complied with all the requirements of the applicable statutes of this state, the applicable rules of the court of appeals and the applicable rules of the appellate division in which

[~~his~~] **their** application is pending, relating to the admission to practice as an attorney and counselor at law.

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