

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:

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

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

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

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

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

15 § 2. Section 115 of the judiciary law, as added by chapter 704 of the
16 laws of 1962, subdivision 1 as amended by chapter 751 of the laws of
17 1981, is amended to read as follows:

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

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

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

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

50 § 3. This act shall take effect immediately.