

SENATE No. 804

By Mr. LoPresti, a petition (accompanied by bill, Senate, No. 804) of Michael LoPresti, Jr., and Samuel E. Zoll for legislation to permit more efficient utilization of the resources of the District Court Department of the Trial Court. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

**AN ACT TO PERMIT MORE EFFICIENT UTILIZATION OF THE RESOURCES OF
THE DISTRICT COURT DEPARTMENT.**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. SITTINGS AND JURISDICTION. Section 1 of chap-
2 ter 218 of the General Laws, as appearing in the 1990 Official
3 Edition, is hereby amended by inserting at the conclusion thereof
4 the following paragraph: —

5 In order to promote the speedy dispatch of the court's business,
6 the administrative justice of the district court department may
7 suspend indefinitely the court's sittings and sessions at any of the
8 places named in this section. The administrative justice may
9 transfer any city or town, ward or territory, in whole or in part,
10 permanently or temporarily, from the jurisdiction of one division
11 to that of another division in the same or an adjoining county.
12 The administrative justice may transfer any case or other matter
13 pending in one division to another division in the same or an
14 adjoining county, and any case or matter so transferred shall
15 thereafter be treated for all purposes as a case or matter of the
16 division to which it has been transferred.

1 SECTION 2. PRESIDING JUSTICES. Section 6 of chapter 218 of
2 the General Laws, as so appearing, is hereby amended by striking
3 the fourth paragraph and inserting in place thereof the following
4 paragraph: —

5 The administrative justice of the district court department shall
6 from time to time designate from among the justices of the
7 department a presiding justice for each division. Each presiding
8 justice shall be the administrative head of that division, shall
9 directly supervise its clerk-magistrate and chief probation officer,
10 and shall exercise overall authority over its sittings and the
11 functioning of its offices. Summonses, warrants and executions
12 issued by the clerk-magistrate of a division shall bear teste of the
13 presiding justice of that division or the administrative justice of
14 the department. The presiding justice of a division shall appoint
15 court officers, probation officers and temporary clerk-
16 magistrates, and shall approve the appointments of assistant
17 clerks and temporary assistant clerks, with all of such
18 appointments subject to rejection by the chief administrative
19 justice for noncompliance as provided in section eight of chapter
20 two hundred and eleven B.

1 SECTION 3. Notwithstanding the provisions of section two of
2 this Act, the senior justice in length of full-time service, whether
3 as justice or special justice, in each division of the district court
4 department on the effective date of this Act shall continue to serve
5 as the first and presiding justice of that division, unless he or she
6 has declined, or does in the future decline, to continue serving in
7 that capacity.

1 SECTION 4. CLERK-MAGISTRATES. Section 8 of chapter 218
2 of the General Laws, as so appearing, is hereby amended by
3 striking said section and inserting in place thereof the following
4 section: —

5 Section 8. Each division of the district court department shall
6 have a clerk-magistrate appointed by the administrative justice of
7 the district court department, after consultation with the presiding
8 justice of the division, and subject to removal for cause by the
9 administrative justice. All such appointments shall be subject to
10 rejection by the chief administrative justice for noncompliance as
11 provided in section eight of chapter two hundred and eleven B.

12 The Boston Municipal Court department shall have two clerk-
13 magistrates, as provided in section fifty-three. They shall be

14 appointed by the governor, with the advice and consent of the
15 council, and shall hold office during good behavior, but subject,
16 however, to retirement under the provisions of any applicable
17 general or special law relative to retirement systems.

18 Clerk-magistrates shall be entitled to vacation leave and sick
19 leave in accordance with the policies and procedures established
20 by the chief administrative justice pursuant to said section eight.

1 SECTION 5. Notwithstanding the provisions of section four
2 of this Act, any clerk-magistrate of a division of the district court
3 department who has been appointed by the governor, with the
4 advice and consent of the council, prior to the effective date of
5 this Act, shall continue to hold said office, subject to removal for
6 cause by the administrative justice. Notwithstanding the
7 provisions of section four of this Act, each clerk-magistrate
8 appointed prior to January first, nineteen hundred and eighty-
9 seven and serving continuously thereafter shall be entitled to thirty
10 days vacation leave and thirty days sick leave in each calendar
11 year, and may accumulate vacation and sick leave not used in any
12 such year; provided, however, that the total amount of vacation
13 days so accumulated shall not exceed sixty and the total amount
14 of sick leave so accumulated shall not exceed one hundred and
15 eighty days; and provided, further that no additional such days
16 shall be accumulated on or after January first, nineteen hundred
17 and eighty-seven except in accordance with the policies and
18 procedures established by the chief administrative justice pursuant
19 to section eight of chapter two hundred and eleven B.

1 SECTION 6. TEMPORARY CLERK-MAGISTRATES. Section 9 of
2 chapter 218 of the General Laws, as so appearing, is hereby
3 amended by inserting at the end of the first paragraph thereof the
4 following sentence: — Such an appointment may be made not-
5 withstanding the absence of such temporary position from the
6 division's personnel schedule as approved by the house and senate
7 committees on ways and means.

1 SECTION 7. ASSISTANT CLERKS. Section 10 of chapter 218 of
2 the General Laws, as so appearing, is hereby amended by striking
3 said section and inserting in place thereof the following section: —

4 Section 10. The clerk-magistrate of a division of the district
5 court department may, with the approval of the presiding justice
6 of the division, appoint assistant clerks in such numbers as is
7 authorized by the administrative justice of the district court
8 department. Such assistant clerks shall be assigned to one or more
9 categories depending on their duties, as established by the
10 administrative justice in consultation with the chief administrative
11 justice, and shall be paid in accordance with the salary plan
12 established by the chief administrative justice pursuant to section
13 eight of chapter two hundred and eleven B. The administrative
14 justice may authorize a clerk-magistrate to appoint one or more
15 assistant clerks who are willing to serve without compensation.

16 All such appointments shall be subject to rejection by the chief
17 administrative justice for noncompliance as provided in section
18 eight of chapter two hundred and eleven B. Assistant clerks shall
19 be entitled to vacation leave and sick leave in accordance with
20 the policies and procedures established by the chief administrative
21 justice pursuant to said section eight. Any assistant clerk may be
22 removed for cause by the clerk-magistrate, under procedures
23 authorized by section eight of chapter two hundred and eleven B.

1 SECTION 8. Notwithstanding the provisions of section eight
2 of this Act, any assistant clerk appointed to a division of the
3 district court department prior to the effective date of this Act
4 and who is paid by the commonwealth shall not suffer any
5 decrease in compensation, and if he or she has held such
6 appointment for three consecutive years, shall continue to hold
7 such position, subject to removal for cause by the clerk-magistrate
8 under procedures authorized by section eight of chapter two
9 hundred and eleven B. Notwithstanding the provisions of section
10 eight, each assistant clerk appointed prior to January first,
11 nineteen hundred and eighty-seven and serving continuously in
12 such appointment thereafter shall be entitled to thirty days
13 vacation leave and thirty days sick leave in each calendar year,
14 and may accumulate vacation and sick leave not used in any such
15 year; provided, however, that the total amount of vacation days
16 so accumulated shall not exceed sixty and the total amount of
17 sick leave so accumulated shall not exceed one hundred and eighty

18 days; and provided, further that no additional such days shall be
19 accumulated on or after January first, nineteen hundred and
20 eighty-seven except in accordance with the policies and
21 procedures established by the chief administrative justice pursuant
22 to section eight of chapter two hundred and eleven B.

1 SECTION 9. TEMPORARY ASSISTANT CLERKS. Section 11 of
2 chapter 218 of the General Laws, as so appearing, is hereby
3 amended by inserting after the first sentence thereof the following
4 sentence: — Such an appointment may be made notwithstanding
5 the absence of such temporary position from the division's
6 personnel schedule as approved by the house and senate
7 committees on ways and means.

1 SECTION 10. DUTIES OF CLERKS, ASSISTANT CLERKS AND
2 SESSION CLERKS. Section 12 of chapter 218 of the General Laws,
3 as so appearing, is hereby amended by striking the second and
4 fourth sentences and inserting in place of the second sentence the
5 following two sentences: — They may make and issue writs and
6 processes, shall make returns of the court, tax bills of costs and
7 receive fines, forfeitures, assessments, fees and costs accruing from
8 the civil and criminal business of the court, including fees for
9 blanks and copies, and shall perform such additional duties as may
10 be assigned by the administrative justice of the district court
11 department or the presiding justice of the division. One of them
12 or a subordinate employee under their supervision shall attend
13 all sittings and sessions of the court and shall keep a record of
14 all its proceedings.

1 SECTION 11. TRANSFER OF PERSONNEL OR POSITIONS. Sec-
2 tion 43A of chapter 218 of the General Laws, as so appearing,
3 is hereby amended by inserting after the first paragraph thereof
4 the following two paragraphs: —

5 When the needs of the district court department so require, the
6 administrative justice may transfer, on a temporary or permanent
7 basis, any employee or any officer of said department other than
8 a justice from one division to another division, provided that no
9 such transfer shall be more than a reasonable distance from the

10 place where such person was originally appointed. Nothing in the
11 foregoing sentence shall limit any powers conferred upon the
12 administrative justice by section six of this chapter or by section
13 ten of chapter two hundred eleven B.

14 When a vacancy occurs in a division in any position other than
15 the position of justice, the administrative justice may transfer such
16 position to another division of the district court department if he
17 or she determines that the need for such position is greater in such
18 division. The administrative justice shall give notice of any action
19 taken under this paragraph to the house and senate committees
20 on ways and means, and to the chief administrative justice.

1 SECTION 12. COURT OFFICERS. Section 62 of chapter 218 of
2 the General Laws, as so appearing, is hereby amended by striking
3 said section and inserting in place thereof the following two
4 sections: —

5 Section 62. The presiding justice of a division of the district
6 court department may appoint court officers to attend upon the
7 court, in such numbers as is authorized by the administrative
8 justice of the district court department. In those divisions with
9 more than one court officer, the presiding justice may appoint a
10 chief court officer and, where authorized by the administrative
11 justice, one or more assistant chief court officers, who shall be
12 paid in accordance with the salary schedules, policies and
13 procedures established by the chief administrative justice pursuant
14 to section eight of chapter two hundred and eleven B. All such
15 appointments shall be subject to rejection by the chief
16 administrative justice for noncompliance as provided in section
17 eight of chapter two hundred and eleven B.

18 Section 62B. The divisions of the juvenile court department
19 shall have as many court officers as are designated for each of
20 them in the following clauses: —

21 (1) Eight court officers: —

22 Boston division

23 (2) Two court officers: —

24 Bristol County division

25 Springfield division

26 (3) One court officer: —

27 Each of the other divisions not hereinbefore listed.

28 In the Boston division one court officer shall be designated by
29 the justice of said court as chief court officer, and two as assistant
30 chief court officers.

1 SECTION 13. TEMPORARY COURT OFFICERS. Section 65 of
2 chapter 218 of the General Laws, as so appearing, is hereby
3 amended by inserting at the end of said section the following
4 sentence: — Where such appointment is due to the absence of a
5 court officer, it may be made notwithstanding the absence of such
6 temporary position from the division's personnel schedule as
7 approved by the house and senate committees on ways and means.

