

HOUSE No. 5904

The Commonwealth of Massachusetts

House of Representatives, July 6, 1970.

The committee on the Judiciary, to whom was recommitted so much of the message from His Honor the Lieutenant-Governor, Acting Governor, recommending legislation for the elimination of special justices in district courts, providing ten additional justices in the Superior Court and creating the permanent advisory commission on the needs of the judiciary (House, No. 5733) as relates to providing for the elimination of special justices of district courts as vacancies occur therein, and for their replacement with a smaller number of positions of full-time circuit justices of district courts (App. A), report the accompanying bill (House, No. 5904).

For the committee,

CORNELIUS F. KIERNAN.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy.

AN ACT PROVIDING FOR THE ELIMINATION OF POSITIONS OF SPECIAL JUSTICES OF DISTRICT COURTS AS VACANCIES OCCUR THEREIN, AND FOR THEIR REPLACEMENT WITH A SMALLER NUMBER OF POSITIONS OF FULL TIME CIRCUIT JUSTICES OF DISTRICT COURTS.

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. Section 6 of Chapter 218 of the General Laws is
2 hereby amended by striking out the third and fourth paragraphs,
3 as appearing in Section 1 of Chapter 810 of the acts of 1963, and
4 inserting in place thereof the following two paragraphs:—

5 A circuit justice of the district courts shall devote full time
6 during ordinary business hours to the duties of his office, and
7 shall not engage directly or indirectly in the practice of law. He
8 shall be paid by the commonwealth a salary equal to that paid
9 full-time justices of district courts other than the chief justice of
10 the district courts, and the commonwealth shall pay him travel
11 and expense allowances to the same extent as the law provides
12 for other district court justices. He shall receive his assignments
13 from the chief justice of the district courts, and shall have the
14 same powers and duties as a justice of a district court in any
15 court or courts to which he may be assigned, subject to such
16 limitations as may be prescribed by rule or order of the said chief
17 justice. The chief justice may by rule or order divide the
18 commonwealth into circuits for the rotation of justices on a
19 regular basis.

20 Special justices of the district courts other than the municipal
21 court of the city of Boston, and special justices of the Boston

22 juvenile court shall be paid by the county twenty-five dollars for
23 each day's services, or one two hundred fiftieth of the salary of
24 the justices of the same court, whichever is the greater amount.
25 For each day's service so paid for in excess of thirty days in any
26 court in any one year, there shall be deducted by the county
27 treasurer from the salary of the justice who absents himself from
28 said court one two hundred fiftieth of the salary of said justice,
29 except for services of the special justice in holding simultaneous
30 sessions; provided, however, that if a justice is absent, due to his
31 illness or physical disability, for a period not exceeding thirty
32 days in any year, in addition to said thirty days, he shall be
33 deemed to be on sick leave and no such deduction shall be made;
34 such thirty-day sick leave or any portion thereof not used in any
35 year may be accumulated, but shall, in any event, not exceed
36 ninety days in any consecutive three-year period; and provided,
37 further, that if a justice is absent due to an assignment on the
38 administrative committee or an assignment by the chief justice of
39 the district courts, no such deduction shall be made therefor.

1 SECTION 2. Any vacancy occurring in a position of special
2 justice of a district court on or after August first, nineteen
3 hundred and seventy, shall not be filled; but for every two such
4 vacancies which occur, whether or not such vacancy could have
5 been filled prior to the effective date of this act, there shall be
6 created one position of circuit justice of the district courts which
7 shall be filled in the same manner as any vacancy in a judicial
8 position. The words "special justice of a district court" as used in
9 this section shall include a special justice of a juvenile court and a
10 municipal court, including the municipal court of the city of
11 Boston.

1 SECTION 3. Notwithstanding the provisions of sections one
2 and two of this act, special justices of district courts on the
3 effective date of this act shall continue in office and shall sit in
4 accordance with all provisions of law in effect prior to the
5 effective date of this act.

6 No circuit justice shall be assigned to sit in a criminal session in
7 a district court unless a special justice of that court is unavailable
8 for such sitting. A circuit justice shall not be assigned to sit in a
9 district court if the presiding justice of such court certifies to the
10 chief justice his preference for the services of a special justice,
11 and said special justice is available for such services. A special
12 justice shall receive in addition to his actual earnings as a special
13 justice during each twelve month period from August first,
14 nineteen hundred and seventy, and each year thereafter, to July
15 thirty-first of the following year a sum equal to his average yearly
16 earnings as special justice for any three years of service in said
17 office, prior to the year nineteen hundred and seventy whether
18 consecutive or not, for which such earnings were the highest,
19 after subtracting from said average (1) his actual earnings as
20 special justice during said twelve-month period, (2) such
21 additional earnings as he would have received for sittings in his
22 own court which he declined after being requested by the
23 presiding justice so to sit, and (3) such additional earnings as he
24 would have received for sittings in any court which he declined
25 after being requested by the chief justice so to sit. The sum so
26 calculated for each such twelve-month period shall be paid on or
27 before September thirtieth following said twelve-month period,
28 from the same source and in the same manner as the salary of the
29 justice of his court is paid.

1 SECTION 4. This act shall take effect on August first,
2 nineteen hundred and seventy.