

By Mr. McGlynn of Medford, petition of Donna M. Neal that special justices of district courts be authorized to sit in the Superior Court in misdemeanor sessions in criminal cases. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Nine.

AN ACT AUTHORIZING SPECIAL JUSTICES OF THE DISTRICT COURTS TO SIT IN THE SUPERIOR COURT IN MISDEMEANOR SESSION IN CRIMINAL CASES.

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. Chapter 212 of the General Laws as most
2 recently amended by chapter 810 of the acts of 1963, is
3 hereby further amended by striking out section 14B and
4 inserting in place thereof the following section:—

5 *Section 14B.* A justice of special justice of the district
6 courts, including the municipal court of the city of Boston,
7 shall at the written request of the chief justice of the superior
8 court, sit in the superior court at the trial or disposition with
9 or without a jury in any part of the commonwealth or of any
10 violation of a by law, order, ordinance, rule or regulation
11 made by a city or town or public officer, or of any misde-
12 meanor except libel, and during the continuance of such
13 request shall have and exercise all the powers and duties
14 which a justice of the superior court has and may exercise in
15 the trial and disposition of such cases.

16 No justice or special justice so sitting, shall act in a case in
17 which he has either sat or held an inquest in the district court
18 or otherwise has an interest. No justice or special justice of
19 the districts courts shall so sit in the superior court, as
20 aforesaid, unless his name appears on a list submitted to the
21 chief justice of the superior court for the purpose of this
22 section by the chief justice of the district courts.

23 In the event that by reason of his physical or mental
24 disability, death, resignation, retirement or removal any
25 justice or special justice, presiding at a trial pursuant to this
26 section shall fail to sign or return exceptions taken at the
27 trial, to make a report after he has reserved the case for
28 report to the supreme judicial court, to enter a verdict or
29 finding after reserving leave, with the assent of the jury, to do
30 so, to set aside the verdict in a civil action and order a new
31 trial, for a cause for which a new trial may by law be granted,
32 or otherwise to exercise any of the powers and duties granted
33 to him by this section in the disposition of such case, the chief
34 justice of the superior court may assign any other justice or
35 special justice authorized to sit in the superior court pursuant
36 to this action, or any justice of the superior court, to have
37 and exercise such powers and duties.

38 The chief justice of the superior court may arrange for the
39 holding of such sessions for the trial and disposition of cases
40 under the provisions of this section and for the attendance of
41 such numbers of jurors therefor as the interests of justice and
42 the prompt disposition of such cases may in his judgment
43 require. Such sessions may be held simultaneously with other
44 sessions of the superior court or at other times in the
45 discretion of the chief justice.

1 SECTION 2. Chapter five hundred and thirty-five of the acts
2 of nineteen hundred and sixty-one, as amended, is hereby
3 repealed, except that any justice sitting in the superior court
4 pursuant to said chapter five hundred and thirty-five, as
5 amended, at the trial of any case prior to the effective date of
6 this act, shall continue thereafter, upon assignment by the
7 chief justice of the superior court, to have and exercise all the
8 powers and duties granted to him by said chapter five
9 hundred and thirty-five, as amended, in the disposition of
10 such case.

1 SECTION 3. Said chapter 212 of the General Laws is hereby
2 further amended by striking out section 14D, inserted by
3 section 1 of chapter 210 of the acts of 1949, and inserting in
4 place thereof the following section:—

5 *Section 14D.* When a justice or special justice of a district
6 court sits in the superior court as above provided, the fact of
7 his holding court and the request of the chief justice of the
8 superior court shall be entered upon the general records of the
9 court, but need not be stated in the record of any case
10 heard.

1 SECTION 4. Said chapter 212 of the General Laws is hereby
2 further amended by striking out section 14E, as most recently
3 amended, and inserting in place thereof, the following sec-
4 tion:—

5 *Section 14E.* A justice or special justice of a district court
6 when sitting in the superior court, as provided by section
7 fourteen B, shall receive from the commonwealth, in addition
8 to his regular salary, upon certificate of the chief justice of
9 the superior court, the amount of expense incurred by him in
10 the discharge of his duties in connection with such sessions
11 and also such compensation for each court day, while so
12 sitting, as will, when added to the per diem rate of his regular
13 salary, computed as provided in section eighty-four of
14 chapter two hundred and eighteen, amount to seventy-five
15 dollars a day.

