

By Mr. Delahunt of Quincy, petition of William D. Delahunt for legislation to provide for full time service for special justices of the district courts. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Five.

AN ACT PROVIDING FOR FULL TIME SERVICE FOR SPECIAL JUSTICES OF THE 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. Chapter 218 of the General Laws is hereby
2 amended by striking out section 6 and inserting in place thereof
3 the following section: —

4 *Section 6.* Each district court, other than the municipal court
5 of the city of Boston, shall have one justice, except that the
6 district court of Brockton, the third district court of Bristol, the
7 district court of Springfield, the municipal court of the
8 Dorchester district, the first district court of eastern Middlesex
9 and the first district court of southern Middlesex shall have two
10 justices each, and the municipal court of the Roxbury district,
11 the third district court of eastern Middlesex and the central
12 district court of Worcester shall have three justices each. The
13 senior justice in time of service shall be the first justice of the
14 court. Citations, orders of notice, writs, executions and all other
15 processes issued by the clerk of the court shall bear the teste of
16 the first justice thereof. The first justice shall be the ad-
17 ministrative head of the court, and without limiting the
18 foregoing, shall appoint temporary clerks, court officers and
19 probation officers, and shall approve the appointments of
20 assistant clerks and of temporary assistant clerks. If the first
21 justice is absent and delay would injure the public interest, the
22 justice next in seniority shall act in his place, and if no justice of
23 the court is available, the chief justice of the district courts shall
24 act.

25 The governor with the advice and consent of the council shall
26 nominate and appoint a justice of a district court, other than the
27 municipal court of the city of Boston, who is required by law to
28 devote full time to his duties, to the office of chief justice of the
29 district courts, who shall, in addition to his powers and duties as
30 such chief justice, continue to have and perform the powers and
31 duties as such justice. He shall receive a salary of thirty-one
32 thousand seven hundred and thirty-eight dollars for his
33 combined services as chief justice and as justice of the court of
34 which he was appointed. In case of a vacancy in the office of
35 chief justice of the district courts, or of his illness or absence, his
36 duties as chief justice shall be performed by the senior justice on
37 the administrative committee.

1 SECTION 2. Said chapter 218 is hereby further amended by
2 inserting after section 6 the following section: —

3 *Section 6A.* In every district court except the municipal court
4 of the city of Boston there shall be the same number of special
5 justices as there are justices. No vacancy in the office of special
6 justice shall be filled unless and until the number of special
7 justices for such court shall be less than the number provided
8 therefor in this section.

9 Said special justice shall be paid the salary provided in section
10 seventy-seven A. The county treasurer shall deduct from the
11 salary of a special justice, who absents himself for more than
12 thirty days in any one year from said court, one day's
13 compensation at the rate by the day of the salary of said special
14 justice, provided, however, that if a special justice is absent, due
15 to illness or physical disability, for a period not exceeding thirty
16 days in any year, in addition to said thirty days he shall be
17 deemed to be on sick leave and no such deduction shall be
18 made; such thirty-day sick leave or any portion thereof not used
19 in any year may be acculated but shall, in any event, not exceed
20 one hundred and eighty days in any consecutive six year priod;
21 and provided, further, that if a justice is absent on Saturday or
22 absent due to an assignment on the administrative committee or
23 an assignment by the chief justice of the district courts, no such
24 deduction shall be made therefor; and provided, further, that

25 during the calendar year of the taking office of a justice no such
26 deduction shall be made for the absence of the justice on that
27 proportion of thirty days corresponding to the proportion of
28 said calendar year remaining after his taking office as justice,
29 nor in addition for the absence of the justice by reason of illness
30 or physical disability for the said proportion of thirty days.

1 SECTION 3. Section 77A of said chapter 218 is hereby
2 amended by inserting after the first paragraph the following
3 paragraph: —

4 A special justice serving subject to the provisions of section
5 six A shall receive the same salary as the justices of said courts.

1 SECTION 4. Said section 77A of said chapter 218 is hereby
2 further amended by striking out the second paragraph, as most
3 recently amended by chapter 247 of the acts of 1970, and
4 inserting in place thereof the following paragraph: —

5 The justices of said courts and the special justices serving
6 subject to the provisions of section six A shall devote their entire
7 time during ordinary business hours to their duties and shall
8 not, directly or indirectly, engage in the practice of law. Each of
9 such justices and special justices shall sit in his own court and in
10 addition shall perform such other duties as a justice or judge in
11 such other courts other than the supreme judicial court and on
12 such occasions as shall be ordered by the chief justice of the
13 district courts for district courts or shall be ordered by the chief
14 justice of the supreme judicial court for other courts after
15 conferring with the said chief justice of the district court and the
16 presiding justice of the court to which said justice is to be
17 assigned.

1 SECTION 5. Section one of this act shall take effect on July
2 first, nineteen hundred and eighty-five and, except as provided
3 in section six of this act, the provisions of section six of chapter
4 two hundred and eighteen of the General Laws, in effect upon
5 the effective date of this act, shall continue to apply to special
6 justices until said date.

1 SECTION 6. The provisions of section six A of chapter two
2 hundred and eighteen of the General Laws, inserted by section
3 two of this act, shall take effect upon the passage of this act and
4 shall apply to special justices appointed on and after said
5 effective date. Said section six A shall also apply to any special
6 justice who certifies to the governor, the chief justice of the
7 supreme court and the chief justice of the district court that he
8 wishes to serve subject to said section. Any special justice wh
9 continues to serve after July first, nineteen hundred and eight
10 five, shall, notwithstanding the date of his appointment, be
11 subject to the provisions of said section six A.