

SENATE No. 870

By Mr. Morrissey, a petition (accompanied by bill, Senate, No. 870) of Michael W. Morrissey and Robert S. Bloom for legislation to clarify recall and to allow active and retired judges to serve on the Appeals Court. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT CLARIFYING RECALL AND TO ALLOW ACTIVE AND RETIRED JUDGES TO SERVE ON THE APPEALS COURT.

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 65E of Chapter 32 of the General Laws is
2 hereby amended by striking out the first sentence of paragraph (a),
3 as appearing in lines 1 to 5, inclusive, of the 1996 Official
4 Edition, and inserting in place thereof the following:—

5 A chief justice or any associate justice of the supreme judicial
6 court, who is retired or who has resigned from his office and who
7 is entitled to receive a pension or retirement allowance from the
8 commonwealth, may notify the chief justice of the supreme judi-
9 cial court in writing that he wishes his name to be placed upon the
10 list of retired justices of the supreme judicial court.

1 SECTION 2. Section 14 of Chapter 211B of the General Laws
2 is hereby amended by striking out paragraph (a), as appearing in
3 lines 1 to 7, inclusive, of the 1996 Official Edition, and inserting
4 in place thereof the following:—

5 (a) A retired justice of the trial court whose name has been
6 placed on the list of retired justices pursuant to section sixty-
7 five G of chapter thirty-two may be assigned by the chief justice
8 for administration and management to perform during his term of
9 eligibility, such of the duties of a trial court justice or an appeals
10 court justice as may be requested of him and which he is willing
11 to undertake, provided that no such single assignment shall be for

12 a term longer than ninety days. A retired justice of the trial court
13 shall not be assigned the duties of a justice of the appeals court
14 without the written approval of the chief justice of the appeals
15 court and the chief justice of the supreme judicial court.

1 SECTION 3. Chapter 211B of the General Laws is hereby
2 amended by inserting the following new section 21:—

3 Section 21. Upon written certification of the chief justice of the
4 appeals court and the chief justice of the supreme judicial court,
5 the chief justice for administration and management may assign a
6 justice appointed to the trial court, subject to the consent of such
7 justice, to perform the duties of the office of associate justice of
8 the appeals court, provided that no such single assignment shall be
9 for a term longer than ninety days. A justice of the trial court
10 assigned to the appeals court shall continue to receive the salary
11 and benefits of a trial court justice and shall be entitled to receive
12 reimbursement for expenses incurred in the discharge of duties as
13 provided in section two of chapter two hundred and eleven A.