

By Mr. Harrington, a petition of Kevin B. Harrington for legislation relative to temporary service by certain retired chief justices and associate justices of the several courts of the Commonwealth. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO TEMPORARY SERVICE BY CERTAIN RETIRED CHIEF JUSTICES AND ASSOCIATE JUSTICES OF THE SEVERAL COURTS OF THE COMMONWEALTH.

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 32 of the General Laws is hereby
2 amended by inserting after section 65C the following new
3 sections: —

4 *Section 65D.* Retirement Lists of Senior Justices or Judges
5 of the Several Courts of the Commonwealth: — (1) (a) A
6 chief justice, associate justice, chief judge, judge or associate
7 judge or special justice each of which offices is hereinafter
8 called justice, of one of the several courts of the common-
9 wealth who is eligible to resign his office and retire under the
10 provisions of section 65A may notify the governor in writing
11 prior to such proposed retirement or resignation that he
12 wishes to be placed, as of the effective date of his proposed
13 resignation, upon the list of senior justices, of the court upon
14 which he has served, who may be recalled to perform tempor-
15 ary service. Upon the approval of the governor with the
16 advice and consent of the executive council, such justice shall
17 be retired and shall be placed upon said list of senior justices,
18 hereby established, and may thereafter perform judicial duties
19 as provided in section 65F of this act. (b) The governor with
20 the advice and consent of the executive council may at any
21 time place the name of a justice who has resigned or retired
22 prior to the effective date of this act, and with such justice's
23 consent, on the list of senior justices for the court on which

24 he sat prior to such resignation or retirement. (c) Thereafter,
25 notwithstanding any other provision of this chapter, such
26 retired chief justice or associate justice and any widow of
27 such chief justice or associate justice shall be entitled to the
28 same pension and all other benefits which such chief justice
29 or associate justice or widow would have been entitled to re-
30 ceive if such chief justice or associate justice had resigned and
31 had not been placed on such list, at the time of or subsequent
32 to his resignation or retirement. (2) If such senior chief
33 justice or associate justice no longer wishes to be eligible to
34 perform judicial duties pursuant to said sections, as the case
35 may be, he may at any time after being placed upon said list
36 withdraw his name and thereafter he and any widow of his
37 shall be, and shall continue to be, entitled to receive the same
38 pension and all other benefits which such chief justice or
39 associate justice or widow would be entitled to receive if the
40 name of such chief justice or associate justice had never been
41 placed upon such list and had resigned or retired at the time
42 of or before being placed thereon.

43 *Section 65E.* Special provisions applicable to Justices upon
44 the list of senior justices. — A retired chief justice or a
45 retired associate justice while remaining upon a list of senior
46 justices referred to in section sixty-five D (a) shall not
47 engage in the practice of law directly or indirectly, provided,
48 however, that this section shall not prevent him from engaging
49 in the teaching of law, from serving as commissioner, master,
50 or auditor appointed by any court of the commonwealth or
51 another state or by any federal court, or as an arbitrator, or
52 from serving as any type of fiduciary, and (b) shall not hold
53 any office which is incompatible with holding the office of
54 chief justice or associate justice of any court of which he is
55 on the retired list under the provisions of part 2, chapter six,
56 article II of the Constitution of the Commonwealth or of
57 article LVIII of the Amendments thereto.

58 *Section 65F.* Services of Retired Chief Justice or Associate
59 Justice. — (a) A chief justice of one of the several courts
60 who has retired under the provisions of section sixty-five D
61 of chapter thirty-two, may be designated and assigned by the

62 chief justice or acting chief justice of the court on which he
63 served prior to retirement to perform such of the duties of
64 the office of chief justice or an associate justice of such court
65 as may be requested of him and which he is willing to under-
66 take.

67 (b) Any associate justice of one of the several courts who has
68 retired and is on the list of senior justices under the pro-
69 visions of section sixty-five D of chapter thirty-two may be
70 designated and assigned by the chief justice or acting chief
71 justice of the court on which he served prior to retirement
72 to perform such of the duties of the office of associate justice
73 of such court as may be requested of him and which he is
74 willing to undertake.

75 (c) Any chief justice or associate justice of one of the several
76 courts who has retired and is on the list of senior justices
77 under the provisions of section sixty-five D of chapter thirty-
78 two may be designated and assigned by the chief justice or
79 acting chief justice of the Supreme Judicial Court to perform
80 such of the duties of the office of associate justice, justice or
81 judge of any court inferior to the one on which such senior
82 justice sat prior to retirement as may be requested of him and
83 which he is willing to undertake.

84 (d) In performing the services requested of him a senior
85 chief justice or associate justice shall exercise all judicial
86 power and authority pertaining to the office in which he acts,
87 in respect of matters as to which he is designated to act, and
88 the fact of such service shall be stated on the records of the
89 court, but need not be separately stated in the record or
90 docket of any particular cause or proceeding. Service under
91 the provisions of this section shall not be counted in determin-
92 ing the number of offices authorized or required for the court
93 by an applicable statute.

94 (e) A retired chief justice or associate justice so serving shall
95 be paid by the commonwealth in addition to his pension an
96 amount equal to the difference between the then current rate
97 by the day of the compensation of a regular incumbent of the
98 office which he formerly held and the maximum rate by the
99 day of the pension which such senior justice is entitled to

100 receive from the commonwealth by virtue of his prior judicial
101 service. In computing each of such rates by the day, Sundays
102 and holidays shall be excluded. Upon the certificate of the
103 chief justice of the court upon which he formerly sat, he shall
104 be reimbursed for expenses incurred while performing
105 judicial services at any place other than his place of residence.

106 *Section 65H.* None of the limitations upon service of retired
107 officers and employees contained in section ninety-one of
108 chapter thirty-two of the General Laws, as amended, shall
109 apply to the service of senior justices pursuant to section 65F
110 or other provisions of this chapter.

1 SECTION 2. This act shall take effect upon its passage.