

HOUSE BILL 544

By Carter

AN ACT to amend Tennessee Code Annotated, Title 16, Chapter 15 and Title 55, Chapter 10, to enact the “Senior General Sessions and Juvenile Judge Enabling Act”; and to provide a funding mechanism for the act.

WHEREAS, the General Assembly finds that the administration of justice will be better served by developing a group of experienced retired general sessions or juvenile judges who can fill in when an elected or appointed general sessions or juvenile judge cannot hear a docket due to illness, conflict, or any other reason; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 16-15-209, is amended by adding the following new subdivision (a)(2) and renumbering accordingly:

(a)

(2) If the judge is unable to secure a judge under subdivision (a)(1), the judge may apply to the administrative office of the courts to obtain a senior general sessions or senior juvenile judge to sit as a special judge. The senior general sessions or senior juvenile judge shall serve by designation of the chief justice of the supreme court.

SECTION 2. Tennessee Code Annotated, Section 16-15-209, is amended by deleting from subdivision (a)(3), as renumbered, the language “(a)(1)” and substituting instead the language “(a)(1) or (2)”.

SECTION 3. Tennessee Code Annotated, Section 16-15-209, is amended by deleting from subdivision (a)(4), as renumbered, the language “subdivisions (a)(1) and (2)” and substituting instead the language “subdivisions (a)(1), (2), and (3)”.

SECTION 4. Tennessee Code Annotated, Title 16, Chapter 15, is amended by adding the following as a new, appropriately designated part:

16-15-1001.

This part shall be known and may be cited as the “Senior General Sessions and Juvenile Judge Enabling Act.”

16-15-1002.

(a) Any former general sessions or juvenile judge who has at least six (6) years of credible service as a Tennessee general sessions or juvenile judge may request to be designated as a senior general sessions or senior juvenile judge (hereinafter referenced as a “senior judge”).

(b) Requests for senior designation shall be filed with the administrative director of the courts and shall be accompanied by:

(1) Evidence that the judge does not suffer from a permanent physical or mental disability that would substantially interfere with the performance of the judge’s duties;

(2) A written agreement that the judge will be available to perform judicial duties for at least an aggregate period of thirty (30) weeks out of each successive twelve-month period;

(3) A written agreement that the judge will continue to file the disclosure statements required by title 8, chapter 50, part 5, during the judge’s tenure as a senior judge;

(4) A written agreement that the judge will abide by the code of judicial conduct; and

(5) A duly executed oath of office, taken in the manner prescribed in § 17-1-104, stating:

“I, _____, do solemnly swear that I will support the
Constitution of the United States and the Constitution of

Tennessee, and that I will administer justice without respect of persons and impartially discharge to the best of my ability all the duties of the office of senior judge of the state of Tennessee on which I am about to enter.”

16-15-1003.

(a) The supreme court is authorized to appoint senior judges only after it has made an affirmative finding that the effective administration of justice in a general sessions or juvenile court requires additional judicial resources.

(b) If the supreme court, in its discretion, determines that a former judge is physically and mentally capable of performing valuable judicial service on a continuing basis and that the judge’s service will promote the effective administration of justice, then the supreme court shall cause an appropriate commission to be issued under its seal for the period provided in subsection (c); however, no such commission shall be issued to any former judge who, during the judge’s most recent term of judicial service, sought reelection but was defeated in the reelection bid.

(c) The supreme court’s designation shall be for a term of two (2) years.

(d) The supreme court’s decision with regard to the initial designation or the renewal of senior designation is final and cannot be reviewed in any manner.

16-15-1004.

(a) The chief justice may assign the senior judge to any general sessions or juvenile court.

(b) The assignment of a senior judge shall be made by an order that designates the court to which the judge is assigned and the duration of the assignment. Promptly after the assignment of a senior judge, the clerk of the supreme court in the grand division to which the assignment is made shall cause a certified copy of the order to be

sent to the senior judge and another certified copy to the clerk of the court to which the judge is assigned.

(c) A senior judge assigned as provided in this section has all the powers, duties, and immunities while serving under the assignment of a regularly elected and qualified judge of the court to which the judge has been assigned. The senior judge without such an assignment shall not admit to bail any person accused of a crime.

(d) A senior judge who has set by designation and assignment may, notwithstanding the expiration of the assignment, make a final disposition of all matters submitted to the senior judge during the period of assignment.

16-15-1005.

(a)

(1) The senior judge shall be paid a fee rate of one hundred dollars (\$100) per hour for the time the senior judge actually appears in court to hear the docket of cases that the senior judge has been designated to hear. The senior judge shall keep a record of the hours worked for each designation. The senior judge's fee shall be paid from a designated revenue source created in § 55-10-207(e)(1) and administered by the administrative office of the courts; provided, that where a senior judge is receiving a retirement allowance under any retirement program administered by the Tennessee consolidated retirement system, the total combined annual amount of retirement allowance and annual total fees received as a senior judge cannot exceed the current annual compensation of the office from which the judge retired.

(2) The fees shall be payable in monthly installments by the administrative office of the courts; provided, no payments shall be made unless

sufficient funds exist in the designated revenue source created in § 55-10-207(e)(1).

(b) Senior judges shall not be entitled to participate in the state's insurance and benefit programs.

(c) Senior judges shall not be provided office space or equipment by the state. However, the local county or municipal government shall provide quarters, personnel, or other support for the senior judge and cooperate with and assist the administrative director of the courts in providing for the reasonable needs of any senior judge assigned to work in the local government's courts.

(d) A senior judge assigned to a court located outside of the senior judge's county of residence shall receive the same reimbursement for travel expenses that is provided to active judges. The expenses shall be paid by the administrative office of the courts from the designated revenue source created in § 55-10-207(e)(1) upon the presentation of an itemized statement certified by the senior judge to be correct.

16-15-1006.

(a) Certification as a senior judge terminates upon the expiration of the commission issued by the supreme court, except that the certification shall terminate earlier when any of the following occurs:

- (1) The senior judge requests termination of the status;
- (2) The board of judicial conduct so orders;
- (3) The senior judge declines more than three (3) assignments without good cause within any calendar year; or
- (4) The supreme court, after affording the senior judge notice and an opportunity to respond, determines that the senior judge has failed to meet or to

abide by any of the requirements of the Senior General Sessions and Juvenile Judge Enabling Act of 2015.

(b) The decision by the supreme court to terminate a senior judge is final.

Termination of senior status for any reason shall not affect the amount of any retirement or other benefit to which the senior judge would be otherwise entitled.

16-15-1007.

A senior judge appointed under this act may continue to practice law and serve as a mediator under Tennessee Supreme Court Rule 31 or other applicable authority so long as that practice or service as a mediator does not create any conflict of interest for the senior judge.

16-15-1008.

(a) This part is intended to be in addition to and supplemental to this chapter and §§ 8-36-806 and 16-3-502(2) and shall not be construed to supersede these provisions as they exist on July 1, 2015.

(b) In the case of conflict between this part and any other statute, this part will control and shall not be used to supplant or replace an existing judge or an additional judge who is to be elected pursuant to § 16-15-202.

16-15-1009.

(a) The supreme court shall advise and consult with the chairs of the civil justice and finance, ways and means committees of the house of representatives and the judiciary and finance, ways and means committees of the senate and with the commissioner of finance and administration whenever it has reason to believe that the effective administration of justice requires the appointment of one (1) or more senior judges.

(b) If, following these consultations, the supreme court appoints a senior judge, the administrative director of the courts shall file a report with the commissioner of finance and administration and with the civil justice and finance, ways and means committees of the house of representatives and the judiciary and finance, ways and means committees of the senate stating the number of judges to be appointed and the reasons for the appointment.

(c) By no later than February 1 of each year, the administrative director of the courts shall file a report concerning the utilization of the senior judges with the civil justice and finance, ways and means committees of the house of representatives and the judiciary and finance, ways and means committees of the senate and with the commissioner of finance and administration. The report shall identify the:

- (1) Persons serving as senior judges during the prior calendar year and the date and length of their appointments;
- (2) Court or courts on which each judge worked during the prior calendar year;
- (3) Number of weeks and total hours each judge worked during the prior calendar year; and
- (4) Total expenses for the program during the prior calendar year showing the:
 - (A) Total personnel expenses for the senior judges; and
 - (B) Total expenditures for travel and related items.

SECTION 5. Tennessee Code Annotated, Section 55-10-207(e)(1), is amended by deleting the language "five dollars (\$5.00)" and substituting instead the language "six dollars (\$6.00)" and adding the following sentence before the last sentence of Section 55-10-207(e)(1):

One dollar (\$1.00) of this fee shall be remitted monthly by the court clerk to the administrative office of the courts as a designated revenue source to be used to pay for the implementation of the Senior General Sessions and Juvenile Judge Enabling Act of 2015. Ten percent (10%) of the funds from this designated revenue source shall be used by the administrative office of the courts to partially offset its expenses in administering the act, with the remaining ninety percent (90%) used to pay all other expenses generated by the act. Any funds remaining in this designated revenue source at the end of a fiscal year shall be preserved for these purposes and shall not revert to the general fund at the end of a budget year if unexpended.

SECTION 6. Section 5 of this act shall take effect July 1, 2015, the public welfare requiring it, and the remaining sections of this act shall take effect January 1, 2016, the public welfare requiring it.