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Public Law
124th Legislature
First Regular Session

Chapter 136
S.P. 311 - L.D. 803

An Act To Authorize an Active Retired Justice or Judge To Conduct Arbitration and Chair Medical Malpractice Screening Panels

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 4 MRSA §104, as amended by PL 1983, c. 853, Pt. C, §§9 and 18, is further amended to read:

§ 104. Active retired justices

Any Justice of the Superior Court who has retired from the court under this chapter in effect prior to December 1, 1984, or any Justice of the Superior Court who retires or terminates ~~his~~ that justice's service on the court in accordance with chapter 27, except for a disability retirement, is eligible for appointment as an Active Retired Justice of the Superior Court. The Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters and to confirmation by the Legislature, may appoint any eligible justice as an Active Retired Justice of the Superior Court for a term of 7 years, unless sooner removed. That justice may be reappointed for a like term. Any justice so appointed and designated ~~shall thereupon constitute~~ constitutes a part of the court from which ~~he~~ that justice has retired and ~~shall have~~ has the same jurisdiction and ~~be is~~ subject to the same restrictions therein as before retirement, ~~except that he shall~~ . An Active Retired Justice of the Superior Court may serve as an arbitrator and conduct arbitration in accordance with rules that may be adopted by the Supreme Judicial Court, except that nothing in this section requires the Supreme Judicial Court to adopt those rules. An Active Retired Justice of the Superior Court may chair screening panels in accordance with Title 24, chapter 21, subchapter 4-A. An Active Retired Justice of the Superior Court may act only in the cases and matters and hold court only at the terms and times as he may be that justice is directed and assigned to by the Chief Justice of the Supreme Judicial Superior Court. Any Active Retired Justice of the Superior Court may be directed by the Chief Justice to hold any term of the Superior Court in any county and when so directed shall have has authority and jurisdiction therein the same as if he that justice were the regular justice of that court. Whenever the Chief Justice of the Supreme Judicial Superior Court so orders, that justice may hear all matters and issue all orders, notices, decrees and judgments in vacation that any Justice justice of that Superior Court is authorized to hear and issue. An Active Retired Justice of the Superior Court receives reimbursement for expenses actually and reasonably incurred in the performance of that justice's duties.

Sec. 2. 4 MRSA §157-B, as amended by PL 1983, c. 853, Pt. C, §§12 and 18, is further amended to read:

§ 157-B. Active retired judges; appointment

Any Judge of the District Court who has retired from the court under this chapter prior to December 1, 1984, or any Judge of the District Court who retires or terminates his that judge's service on the court in accordance with chapter 27, except for a disability retirement, is eligible for appointment as an Active Retired Judge of the District Court as provided. The Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters and to confirmation by the Legislature, may appoint any eligible judge to be an Active Retired Judge of the District Court for a term of 7 years, unless sooner removed. That judge may be reappointed for a like term. Any judge so appointed and designated shall thereupon ~~constitute~~ constitutes a part of the court from which he ~~that judge~~ has retired and ~~shall have~~ has the same jurisdiction and ~~be is~~ subject to the same restrictions therein as before retirement, ~~except that he shall~~ . An Active Retired Judge of the District Court may serve as an arbitrator and conduct arbitration in accordance with rules that may be adopted by the Supreme Judicial Court, except that nothing in this section requires the Supreme Judicial Court to adopt those rules. An Active Retired Judge of the District Court may chair screening panels in accordance with Title 24, chapter 21, subchapter 4-A. An Active Retired Judge of the District Court may act only in those cases and matters and hold court only at those sessions and times as he may be that judge is directed and assigned to by the Chief Judge of the District Court. Any Active Retired Judge of the District Court may be directed by the Chief Judge to hold any session of the District Court in any district and when so directed shall have has authority and jurisdiction therein the same as if he that judge were the regular judge of that court; and, whenever the Chief Judge of the District Court so orders, may hear all matters and issue all orders, notices, decrees and judgments that any Judge of that District Court is authorized to hear and issue. An Active Retired Judge shall receive of the District Court receives reimbursement for his expenses actually and reasonably incurred in the performance of his that judge's duties.

Sec. 3. 24 MRSA §2852, sub-§1, as amended by PL 1991, c. 130, §1, is further amended to read:

1. Creation of panel lists. The Chief Justice of the Superior Court shall recommend to each clerk of the Superior Court the names of retired or active retired justices and judges, persons with judicial experience and other qualified persons to serve on screening panels under this subchapter. The clerk shall place these names on a list from which the Chief Justice of the Superior Court will choose a panel chair under subsection 2.

Each clerk of the Superior Court shall maintain lists of health care practitioners, health care providers and attorneys recommended by the professions involved to serve on screening panels under this subchapter.

Sec. 4. 24 MRSA §2852, sub-§2, ¶A, as amended by PL 1991, c. 130, §2, is further amended to read:

A. Upon receipt of a notice of claim under section 2853, the clerk of the Superior Court who receives the notice shall notify the Chief Justice of the Superior Court. The Chief Justice shall choose a retired or active retired justice or judge, a person with judicial experience or other qualified person from the list maintained by the clerk to serve as chair of the panel to screen the claim. If at any time a chair chosen under this paragraph is unable or unwilling to serve, the Chief Justice shall appoint a replacement following the procedure in this paragraph for the initial appointment of a chair. Persons other than retired or active retired justices and judges or those with judicial experience may be appointed as chair based on appropriate trial experience. In the event that the Chief Justice seeks

to appoint as chair a person who is not a retired or active retired justice or judge or does not have judicial experience, each side is entitled to exercise one challenge to the appointment of a chair by the Chief Justice.

Effective September 12, 2009