

Supreme Court of Kentucky

2015-21

AMENDED ORDER

RE: Guidelines for the Temporary Assignment of Retired Judges Program

Under Section 110(5)(b) of the Kentucky Constitution, the Chief Justice is granted authority to assign “temporarily any justice or judge of the Commonwealth, active or retired, to sit in any court other than the Supreme Court when he deems such assignment necessary for the prompt disposition of causes.” The Supreme Court has determined that the need exists for qualified, retired justices and judges (hereafter referred to collectively as “judge” or “judges”) to be available on a temporary basis for active recall to judicial service throughout the state. This Order shall not limit the constitutional authority of the Chief Justice to appoint any retired judge to serve, without that judge being required to participate in this Program. Accordingly, the following guidelines are hereby adopted to facilitate the prompt disposition of cases throughout the Commonwealth:

1. Name of Program

The Program will be called the Temporary Assignment of Retired Judges Program (“Program”).

2. Program Participation

- a. The initial Program membership will be limited to 21 judges, representing diversity in judicial experience and geography. The Chief Justice may increase the number of participants in the Program when necessary for the prompt disposition of cases.
- b. A judge wishing to apply for the Program must submit a completed application to the Program Selection Committee within 3 years after his or her retirement date or within 120 days of the effective date of this Order, whichever is later.
- c. A judge may be placed on a waiting list once membership in the Program reaches capacity.

3. Program Eligibility

- a. Participation in the Program is limited to those judges who retire on or after February 1, 2009.

- b. A judge must have at least 8 years of actual judicial experience in a court of the Commonwealth to qualify for participation in the Program.
- c. A judge participating in the Program must be willing to take assignments from any level of court.
- d. To be eligible for the Program, a judge must have voluntarily resigned or retired from his or her incumbent seat. A judge who has been defeated for reelection to his or her incumbent seat or has been removed from office by the Supreme Court will not be eligible to participate in the Program.
- e. Any judge who previously served in the Senior Status Program for Special Judges is ineligible to participate in the Program, even if subsequently reelected to active judicial service.
- f. To participate in the Program, a judge shall be a member in good standing of the Kentucky Bar Association.

4. Program Selection Committee

- a. Participants in the Program (hereafter referred to as “Program judge or judges”) will be selected by the Program Selection Committee (“Committee”).
- b. The Committee will consist of the following members, selected by the Chief Justice:
 - 1. One justice of the Supreme Court of Kentucky;
 - 2. One judge of the Kentucky Court of Appeals;
 - 3. One general-jurisdiction circuit judge;
 - 4. One family circuit judge; and
 - 5. One district judge.
- c. The Committee will meet quarterly, unless there are no issues currently pending before the Committee.
- d. The Committee will review applications and make recommendations to the Chief Justice for appointments to the Program.
- e. At least once per year, the Committee will conduct a performance evaluation for current Program judges. The Committee may recommend to the Chief Justice that a Program judge be removed from the Program based on the annual evaluation.

4. Confidentiality

- a. Meetings of the Committee will be closed.
- b. All papers and information obtained by or on behalf of the Committee and inquiries and investigations conducted by the Committee will be confidential, except as provided by order of the Supreme Court.

5. Service Commitment

- a. The initial service commitment to the Program is for a period of three years. A Program judge may commit to an additional three-year term upon application and recommendation by the Committee.
- b. A Program judge must commit to work a minimum of 60 service days and a maximum of 120 service days for each year he or she is in the Program. Service days may be completed in either half-day (four hours or less) or full-day (more than four hours) increments. Any exceptions to this rule must be approved in writing by the Chief Justice.
- c. A Program judge who fails to complete the minimum number of service days each year may be removed from the Program, upon recommendation by the Committee and approval by the Chief Justice.

6. Compensation

- a. Program judges will be paid actual expenses and compensation on a per diem basis in accordance with Supreme Court Rule (SCR) 1.070 and Administrative Procedures of the Court of Justice Part VII, Reimbursement for Official Travel.
- b. Program judges will not be eligible for benefits nor will they accrue additional service credits towards retirement.

7. Practice of Law, Mediation, and Elected Office

- a. A Program judge may not practice law while actively participating in the Program.
- b. A Program judge may not participate in private mediation services while actively participating in the Program.
- c. A Program judge may not run for any elected partisan or non-partisan office while actively participating in the Program.

8. Continuing Judicial Education

- a. To remain eligible to participate in the Program, a Program judge must comply with all applicable Continuing Judicial Education requirements and must remain current with relevant statutes, rules, and case law.
- b. Program judges will be permitted to attend judicial colleges sponsored by the Administrative Office of the Courts and will not be required to pay the costs of the colleges. Attendance at a judicial college may count toward a participant's required service days, but the Program judge will not be compensated for his or her attendance.

9. Judicial Conduct Commission

Program judges must comply with the Code of Judicial Conduct (SCR 4.300, et seq.), and they will be subject to discipline by the Judicial Conduct Commission and the Supreme Court.

10. Withdrawal or Removal from the Program

- a. A Program judge may withdraw from the Program at any time without penalty. No leave of absence from the Program will be permitted, unless the leave is for good cause as determined by the Chief Justice with consideration of any recommendation or report from the Committee. Once a Program judge withdraws or is removed from the Program, he or she is not eligible to reapply.
- b. A Program judge may be suspended or removed from the Program by the Chief Justice with consideration of any recommendation or report from the Committee for any of the following reasons:
 1. Refusal without cause to take a judicial assignment on three different occasions;
 2. Failure to complete the minimum number of service days during one or more years of the Program, without good cause;
 3. Any public discipline by the Judicial Conduct Commission;
 4. Upon a showing of a mental or physical disability, as described under KRS 21.410;
 5. For non-compliance with this Order or unacceptable performance as documented by annual evaluation.

11. Eligible Reasons for Assignment of Program Judges

a. A Program judge may be assigned to serve for any of the following reasons:

1. Vacancies resulting from death, retirement, resignation, or suspension;
2. Illness, injury, or emergency causing a sitting judge to be unavailable;
3. Docket congestion or conflict;
4. To conduct felony mediation;
5. Any other circumstance satisfying the Chief Justice that the certifying court is in need of assistance.

b. Assignment of a Program judge shall require certification pursuant to the Regional Administrative Program Charter that assignment of a sitting judge is not reasonably practical in the circumstances. This determination shall include consideration of the requirement for sitting judges to serve within their respective regions pursuant to the Regional Administrative Program Charter.

These guidelines shall be effective July 15, 2015, *nunc pro tunc*.

Entered this 2nd day of November 2015.


CHIEF JUSTICE