

# Supreme Court of Kentucky

2018-02

## 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 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 one year of the effective date of this Order, whichever is later.

#### **3. Program Eligibility**

- a. 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.
- b. A judge participating in the Program must be willing to take assignments from any level of court.
- c. 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 removed from office by the Supreme Court will not be eligible to participate in the Program. A judge who has been

defeated for reelection to his or her incumbent seat may be eligible for the Program but will not be assigned to serve in the county or counties in which he or she was defeated.

- d. Subject to the Chief Justice's authority under Section 110(5)(b) of the Kentucky Constitution, judges who retired after February 1, 2009, will be given preference for assignments made pursuant to the Program guidelines.
- e. 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:
  - i. One justice of the Supreme Court of Kentucky;
  - ii. One judge of the Kentucky Court of Appeals;
  - iii. One general-jurisdiction circuit judge;
  - iv. One family circuit judge; and
  - v. 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. The Committee may consider the applicant's disciplinary history when making recommendations for appointments to the Program.
- e. The Committee may 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 evaluation.

#### **5. 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.

## **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 Program judge may not be assigned in any district or circuit where he or she is currently practicing law; conducting private mediation; or is a candidate for any elected partisan or non-partisan office.

## **8. Continuing Legal Education**

- a. To remain eligible to participate in the Program, a Program judge must comply with all applicable Continuing Legal Education requirements under SCR 3.645 and must remain current with relevant statutes, rules, and case law.
- b. Program judges will be permitted to attend one judicial college sponsored by the Administrative Office of the Courts and will not be required to pay the costs of the college during their initial year of service in the Program.
- c. Following the initial year of service, Program judges who serve more than 30 days in a calendar year will be permitted to attend one judicial college sponsored by the Administrative Office of the Courts and will not be required to pay the costs of the college. Program judges who serve less than 30 days in a calendar year will be permitted to attend one judicial college but will be required to pay the cost of attendance, including meals and lodging.
- d. Program judges will not be compensated for their attendance at a judicial college.

## **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 with right to reapply at a later date.

- 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:
  - i. Any public discipline by the Judicial Conduct Commission or the Kentucky Bar Association;
  - ii. Upon a showing of a mental or physical disability, as described under KRS 21.410;
  - iii. For non-compliance with this Order or unacceptable performance as documented by a performance evaluation.

**11. Eligible Reasons for Assignment of Program Judges**

- a. A Chief Regional Judge may request the assignment of a Program judge for any of the following reasons:
  - i. Vacancies resulting from death, retirement, resignation, or suspension;
  - ii. Illness, injury, or emergency causing a sitting judge to be unavailable;
  - iii. Docket congestion or judicial disqualification; or
  - iv. To conduct felony mediation;
- b. Under 110(5)(b), the Chief Justice may assign a Program judge for any other circumstance if he or she is satisfied that the certifying court is in need of assistance.
- c. 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.

Entered this 10th day of January 2018.

  
CHIEF JUSTICE