

Recall of Retired Judges Under Age Seventy

Issued by: July 17, 1991
Chief Justice Robert N. Wilentz

Attached is the new policy of the Court allowing for the recall of voluntarily retired judges, with certain conditions. Please note that applications for recall may not be made and will not be considered by the Court until one year from the effective date of retirement. The Court has the power to waive that requirement, but no application for such waiver may be made, nor will it be considered by the Court, until the judge has actually retired. One of my concerns about this new policy is its potential in encouraging judges who are now sitting to retire early when they ordinarily would not. The purpose of both the one-year waiting period and the refusal to consider its waiver until the judge has actually retired is to make it less likely that judges will retire on the assurance that they will be recalled. Would assignment judges please make it clear to any judge who may inquire that no one is going to be given any advance notice, any indication, any commitment, any assurance, or any encouragement. The purpose of this new policy is to get more judges on the bench, not fewer.

Recall of Retired Judges Under Age Seventy

Because of the immediate critical need for additional judges, the Supreme Court has decided to consider applications for recall from judges who retired prior to age 70. The previous policy of the Court allowed for recall only of judges whose retirement had been mandatory at age 70 or more years old. Because the appointment of the 36 newly authorized judges may take a considerable amount of time, the Court has concluded that additional judges should be recalled now in order to meet the present pressing need.

Recall of retired judges is intended to increase judicial resources at those times when the number of sitting judges is insufficient to meet judicial needs. The Court will administer this new policy so as to achieve that purpose. As the need for additional recall judges diminishes, the Court will review both the policy and the need to continue the recall of voluntarily retired judges.

The policy for recall of judges who retire or have retired prior to age 70 (and have not yet reached age 70) is as follows:

1. Only judges age 65 or older will be considered.
2. No application for recall shall be made or considered by the Court until one year from the date of the judge's retirement.
3. The Court will recall a judge only if it determines, upon consultation with the Chief Justice, that the judge is well-qualified for recall and that the effect of such recall will be to add a judge to a vicinage where the need is clear.
4. The judge must also have met all conditions of the existing recall program, including successful completion of a physical examination.
5. Recall shall be for one year, subject to renewal upon a finding by the Court of continuing need.
6. The recall judge shall agree to serve for at least 120 days per year.
7. Per diem compensation shall be at the same rate as that presently

- provided for retired judges on recall.
8. The Court, upon application, may waive or modify provisions No. 2 and No. 6 (see above) under circumstances warranting such action. Such application shall not be made and will not be considered until the judge has retired.

EDITOR=S NOTE

The only changes have been the deletion of all references to Assignment Judges as "you" and the insertion of assignment judges.