

SUPREME COURT OF PENNSYLVANIA

Amendment of Rules 701 and 706 of Rules of Judicial Administration

Amendment of Rules 701 and 706 · Decided January 12, 2018

OPINION

Amendment of Rules 701 and 706 of Rules of Judicial Administration

PER CURIAM.

Rule 701. Assignment of judges to courts. (A) Conditions Applicable for the Certification of Senior Magisterial District Judges, Judges or Justices.

(1) To be eligible for senior certification, a magisterial district judge, judge or justice:

(a) shall have served as a magisterial district judge, judge or justice, whether or not continuously or on the same court, by election or appointment for an aggregate period equaling ten years; (b) shall not have been defeated for reelection or retention; and (c) shall be at least sixty-five years of age on the date on which he or she begins senior service, or have a combination of years of judicial service plus age that totals at least seventy for magisterial district judges or at least eighty for judges and justices. However, this subsection (c) shall not apply to those serving in senior status as of the effective date of this rule.

(2) In addition to paragraph (1), any duly elected magisterial district judge, judge or justice, having an aggregate of five years of judicial service, who is required to retire due to mandatory retirement age [at age seventy], shall be eligible for certification.

(3) Senior status shall end on the last day of the calendar year in which a magisterial district judge, judge or justice attains age seventy-eight; however, those serving in senior status as of the effective date of this rule who were previously excepted from the age seventy-five limitation pursuant to the amendment of January 1, 1999 may continue to serve until the last day of the calendar year in which they attain age eighty.

(4) For certification of senior status, a magisterial district judge, judge or justice shall verify such additional information as required by the application for certification forms authorized under paragraph (B) below.

(5) A magisterial district judge, judge or justice may only be certified for senior status for a maximum of ten years, absent extraordinary circumstances, as determined by the Chief Justice. However, those serving in senior status as of the effective date of this rule may continue to serve until subject to the age limit of paragraph (3) above.

(6) Certification of a magisterial district judge, judge or justice for senior status shall be subject to the pleasure of the Supreme Court. The Supreme Court at any time, in the exercise of its sole discretion, may rescind or revoke a senior certification. **** (B) Certification of Senior Magisterial District Judges, Judges and Justices. The Administrative Office shall promulgate

application forms, as approved by the Supreme Court, for certification of senior magisterial district judges, judges and justices. A former or retired magisterial district judge, judge or justice who requests assignment to temporary judicial service shall file the application for certification form with the Administrative Office, and, upon approval, shall be eligible for judicial assignment. Failure to comply with the provisions contained in the application form may result in the immediate revocation of senior certification. (C) Request for the Assignment of Additional Magisterial District Judges or Judges.

(1) Request for Assignment. Whenever a president judge deems additional judicial assistance necessary for the prompt and proper disposition of court business, he or his proxy shall transmit a formal request for judicial assistance to the Administrative Office. The request may be made in writing or it may be transmitted electronically. An electronic request for judicial assistance shall be accomplished through a secure program developed by the Administrative Office for this purpose.

(2) Recommendation by the Court Administrator of Pennsylvania and Action by Chief Justice.

Upon the recommendation of the Court Administrator, the Chief Justice may, by order, assign any retired, former, or active magisterial district judge, judge or justice to temporary judicial service on any court to fulfill a request by a president judge, or to reduce case inventories, or to serve the interest of justice. The order entered by the Chief Justice may be electronically transmitted to the Administrative Office of Pennsylvania Courts for processing. Orders entered pursuant to this chapter may be transmitted by the Administrative Office to the Supreme Court prothonotary in hard copy or electronically. Electronically transmitted orders shall be docketed by the Supreme Court prothonotary in the same manner as hard copy orders. Electronically transmitted orders need not be printed by the Supreme Court prothonotary unless a request for public review is made.

(3) Duration of Assignment. Unless otherwise provided in the order of assignment, the order shall continue in effect after its stated expiration date until unfinished business pending before the assigned judge is completed.

(4) Certification of Service. The president judge of a district to which a magisterial district judge or judge has been temporarily assigned under this rule shall certify to the Administrative Office, on a certificate completed and signed by the assigned magisterial district judge or judge, the number of days of temporary judicial service and the amount of any compensation to which the assigned judge is entitled.

(5) Expenses of Assigned Judges. All judges assigned to duties outside of their judicial districts may, in addition to any per diem payment authorized by law, be reimbursed with the approval of the Court Administrator for necessary expenses, including hotel accommodations and meals, incident to such duties.

(6) Restrictions on Temporary Assignments. No judge shall be assigned under this rule to any court while any judge thereof is assigned to another court under this rule, except when required to take the place of a judge who is recused or disqualified, or is otherwise unavailable, or under

other appropriate circumstances.

(7) Reserved.

**** (D) Judicial Assignment Records. The Administrative Office shall maintain records of certification applications and assignments to temporary judicial service. (E) Regional Administrative Units.

(1) Judicial districts through their president judges may petition the Supreme Court for approval to combine with other districts to form regional administrative units that provide for the assignment of magisterial district judges and judges to any other judicial district in the unit. Upon annual approval by the Supreme Court, magisterial district judges and judges, when so assigned, shall exercise the same power and authority as vested in a magisterial district judge or judge of that judicial district.

(2) In cases where a judge has disqualified him or herself for any of the reasons specified in Rule 2.11 of the Code of Judicial Conduct or Rule 2.11 of the Rules Governing Standards of Conduct of Magisterial District Judges, the assignment of another judge to the case shall be made through the Administrative Office. In other instances of recusal, the assignment may be made through the Regional Unit, but in no case shall a recusing judge select his or her replacement.

(3) Each regional unit shall file with the Administrative Office a quarterly report of all assignments that occurred within the unit for that period. (F) Suitable Facilities and Staffing for Senior Common Pleas Judges. Suitable facilities and adequate staff are to be provided for senior judges, the parameters of which are to be determined and promulgated by the Administrative Office. Directive: In accordance with Rule of Judicial Administration 701(F), the Administrative Office of Pennsylvania Courts promulgates this directive establishing minimum standards for suitable facilities and adequate staff for the senior judges of the courts of common pleas. The president judge of a judicial district, in consultation with the Court Administrator of Pennsylvania as needs may require, shall provide from available resources for each senior judge formerly of the judicial district who is regularly or periodically assigned in that district and for each visiting senior judge the following facilities and staff for matters arising under the appointment:

(1) the use of judicial chambers which shall be of adequate size and appropriately furnished, afford a measure of privacy, and include office equipment and supplies as are necessary to conduct judicial business; 3

(2) services of a law clerk who shall provide customary assistance including legal research and drafting of legal documents; and

(3) services of a secretary who shall provide customary assistance including typing correspondence, orders and opinions, answering phone calls and taking messages, receiving and sending mail and deliveries. 4 Rule 706. Determination or selection of Chief Justice and president and administrative judges. (a) Courts of seven or less judges. Except as provided in subdivision (e) of this rule, the Chief Justice of Pennsylvania and the president judges of all courts with seven or less judges shall be the judge longest in continuous service on their respective courts. (b)

Courts of eight or more judges. The president judge of all courts with eight or more judges shall be selected for five-year terms by the members of their respective courts. In the event of a tie vote for the office of president judge, the Supreme Court shall appoint as president judge for a five-year term one of the judges receiving the highest number of votes. Upon the occurrence of a vacancy in the office of president judge of a court subject to this subdivision by reason of death, resignation, removal, retirement or otherwise, his successor shall be selected for a five-year term. No president judge may succeed himself or herself after a full elected term without an intervening full elected term. [(1)] Upon the vacation of the office of President Judge or Administrative Judge by death, resignation, termination of term of office or removal by the Supreme Court, all personal staff members of said judge shall be reassigned to a general pool for a period of sixty (60) days to be assigned to other judges or terminated, except as follows: ([a]1) Those employees (i.e., secretary, tipstaff, law clerk) retained by the outgoing judge who continues serving as a trial or appellate court judge shall be compensated at a level commensurate with other trial and appellate court staff members, taking into consideration their total years of service, where applicable; ([b]2) Those employees of the outgoing judge chosen by other judges of the same court to serve on their staffs may be retained and shall be compensated at a level commensurate with that staff position, taking into consideration their total years of service, where applicable. (c) Change in size of court. Where there is a change in the size of a court to a court of eight or more judges, or to a court of seven or less:

(1) An incumbent president judge, if theretofore determined pursuant to subdivision (a) of this rule, shall continue in office as president judge of the court for a period of five years from the date on which the authorized increase in the size of the court becomes effective, whereupon the term of such president judge under subdivision (a) of this rule shall expire. Subdivision (b) of this rule shall become applicable to such court whenever such incumbent president judge shall cease for any reason to be president judge.

(2) An incumbent president judge, if theretofore selected pursuant to subdivision (b) of this rule, shall continue in office as president judge of the court for the remainder of the unexpired portion of his term as president judge. Subdivision (a) of this rule shall become applicable to such court whenever such incumbent president judge shall cease for any reason to be president judge. 5

(d) Divisions of a court. Each division of a court having three or more judges shall be presided over and administered by an administrative judge, who shall be one of the judges of the court of which the division is a part and shall be selected by the Supreme Court to serve for a term of three years or at the pleasure of the Court. Upon the occurrence of a vacancy in the office of administrative judge, the president judge shall notify the Supreme Court immediately. (e) Resignation and temporary inability. The Chief Justice or a president or administrative judge may resign such position and remain a member of the court or division. If the Chief Justice or a president judge of a court subject to subdivision (a) of this rule is temporarily unable to perform his duties as such, they shall be performed by the next senior judge of the court as determined by

Rule 705 who is able to perform such duties. If the president judge of a court subject to subdivision (b) of this rule is temporarily unable to perform his duties as such, they shall be performed by:

(1) In the case of a court having three or more divisions, the senior judge of the court, as determined by Rule 705, who is an administrative judge and who is able to perform such duties.

(2) In the case of any other such court, by an acting president judge:

(i) designated from such court for a period of not more than 30 calendar days by the president judge; or (ii) selected by such court pursuant to subdivision (f) of this rule. If the administrative judge of a division of such a court is temporarily unable to perform his duties as such, they shall be performed by an acting administrative judge designated from such division for a period of not more than 30 calendar days by the Supreme Court. Where a president judge designates an acting president judge pursuant to this subdivision, the president judge or the Supreme Court, respectively, shall forthwith execute a statement of such designation on a form provided by the Administrative Office, file a copy of such certificate in the office of the clerk or prothonotary of the court, and transmit the original thereof, showing evidence of such filing, to the Administrative Office. (f) Selection procedures.

(1) Each court selecting a president judge pursuant to this rule shall do so at a meeting held pursuant to this subdivision. Except as otherwise prescribed in this paragraph, the court shall meet for such purpose in the chambers of the commissioned [senior] judge with the greatest seniority, as determined by Rule 705, who is [under age 70 and] entitled to participate in the selection, or in a courtroom designated by him, at noon on the tenth day (Sundays excepted) preceding the expiration of the term of office of the incumbent president judge, or on the tenth day (Sundays excepted) next following the death, resignation, removal, retirement or reassignment of the president judge for whom a successor is to be selected. A majority of the judges entitled to participate in the selection of a president judge may fix another time and place for the selection of a president judge consistent with the requirements of this paragraph, upon giving all other judges entitled to participate therein at least 72 hours' prior written notice of the time and place fixed for the meeting. Whenever a vacancy occurs or will occur in the office of president judge between February 1 of any odd-numbered year and the first Monday of January next following, the meeting for the purpose of selecting a president judge shall not be held before noon on such first Monday of January, but a meeting may be held during such period for the purpose of selecting an acting president judge.

(2) At the meeting the commissioned [senior] judge with the greatest seniority, as determined by Rule 705, who is [under age 70 and] present, shall preside. Ballots shall be prepared and distributed containing the name of each judge of the court. Voting shall be by secret ballot and the judge receiving a plurality of the votes cast shall be declared selected.

(3) The judge presiding at the meeting, or in default thereof, any two judges present at the meeting, shall forthwith execute a certificate of the results of the balloting on a form provided by

the Administrative Office. The judge or judges executing the certificate shall forthwith file a copy thereof in the office of the clerk or prothonotary of the court and shall at the same time transmit the original thereof, showing evidence of such filing, to the Administrative Office.

(4) Upon receipt of a certificate reflecting a tie vote for the selection of a president judge the Administrative Office shall forward the certificate to the Supreme Court, which will indicate its selection of president judge thereon and will return the certificate to the Administrative Office. The Administrative Office shall thereupon forthwith transmit a copy of the completed certificate to the office of the appropriate clerk or prothonotary for filing as provided in paragraph (3) of this subdivision. (g) Maintenance of central personnel records. The Administrative Office shall record the determination or selection of the Chief Justice and all president and administrative judges, any term for which they may be selected, and all other pertinent information relating thereto, in a book to be kept for that purpose and shall:

(1) Notify the judges of a court at least 30 days prior to the expiration of the term of office of the president judge of the fact of such expiration.

(2) Furnish the Department of State with such information as may be required in order to enable the Governor to duly commission a Chief Justice or president judges in the manner provided by the Constitution of Pennsylvania and this rule. (h) Traffic Court of Philadelphia. Subdivisions (a) through (g) of this rule are not applicable to the Traffic Court of Philadelphia. 7