MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 1192

S.P. 488

In Senate, March 14, 2023

An Act Regarding the Composition of the Judiciary

Reference to the Committee on Judiciary suggested and ordered printed.

DAREK M. GRANT Secretary of the Senate

Presented by Senator BENNETT of Oxford.

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

Sec. 1. 4 MRSA §1, first ¶, as amended by PL 2009, c. 213, Pt. QQ, §1, is further amended to read:

The Supreme Judicial Court, as heretofore established, consists of a Chief Justice and $6\underline{4}$ associate justices and such Active Retired Justices as may be appointed and serving on said court, learned in the law and of sobriety of manners.

Sec. 2. 4 MRSA §101, as amended by PL 2005, c. 519, Pt. III §1, is further amended to read:

§101. Constitution of court

42.

The Superior Court, as established, consists of 47 18 justices and such Active Retired Justices as may be appointed and serving on the court, learned in the law and of sobriety of manners. The Chief Justice of the Superior Court shall assign the Justices of the Superior Court to preside at various locations of the court. Whenever it becomes necessary, the Chief Justice of the Supreme Judicial Court may designate a Justice of the Supreme Judicial Court or any Active Retired Justice of the Superior Court may, when necessary, assign an Active Retired Justice of the Superior Court to hold a term of Superior Court. The Chief Justice of the Superior Court may designate any Justice of the Superior Court and the Chief Justice of the Supreme Judicial Court may designate any Justice of the Supreme Judicial Court to hold one or more sessions of the Superior Court, separate from the session presided over by the justice holding the regular trial term.

Sec. 3. 4 MRSA §157, sub-§1, ¶A, as amended by PL 2015, c. 460, §2, is further amended to read:

A. The Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters and to confirmation by the Legislature, shall appoint to the District Court 39 40 judges. At least one judge must be appointed from each district who is a resident of a county in which the district lies, except that in District 3 there must be 2 judges appointed who are residents of a county in which the district lies; in District 6 there must be 2 judges appointed who are residents of a county in which the district lies; and in District 9 there must be 2 judges appointed who are residents of a county in which the district lies. Each District Court Judge has a term of office of 7 years.

To be eligible for appointment as a District Judge, a person must be a member of the bar of the State. The term "District Judge" includes the Chief Judge and Deputy Chief Judge.

- **Sec. 4. Transition.** Notwithstanding the Maine Revised Statutes, Title 4, sections 1, 101 and 157, the following provisions govern the process for reducing by 2 the number of associate justices on the Supreme Judicial Court and for increasing by one both the number of Justices of the Superior Court and the number of Judges of the District Court.
- 1. Each associate justice of the Supreme Judicial Court appointed prior to the effective date of this Act may continue to serve as an associate justice of the Supreme Judicial Court until the expiration of the term to which the associate justice was appointed.

- 2. The first time after the effective date of this Act that the term of an associate justice of the Supreme Judicial Court expires or an associate justice's term ends due to the justice's death or resignation, the Governor shall, instead of reappointing that associate justice or appointing a new associate justice, appoint a Justice of the Superior Court. When a Justice of the Superior Court is appointed under this subsection, the judicial branch shall transfer at least 2 judicial support positions, which may include a Deputy Marshal position, an Associate Clerk position, a Judicial Administrative Assistant position or a Law Clerk position, from the Supreme Judicial Court to the Superior Court. Prior to the date that a Justice of the Superior Court is appointed by the Governor under this subsection, the Superior Court may not consist of more than 17 justices who are not Active Retired Justices
- 3. The 2nd time after the effective date of this Act that the term of an associate justice of the Supreme Judicial Court expires or an associate justice's term ends due to the justice's death or resignation, the Governor shall, instead of reappointing that associate justice or appointing a new associate justice, appoint a Judge of the District Court. When a Judge of the District Court is appointed under this subsection, the judicial branch shall transfer at least 2 judicial support positions, which may include a Deputy Marshal position, an Associate Clerk position, a Judicial Administrative Assistant position or a Law Clerk position, from the Supreme Judicial Court to the District Court. Prior to the date that a Judge of the District Court is appointed by the Governor under this subsection, the District Court may not consist of more than 39 judges who are not Active Retired Judges.

22 SUMMARY

This bill reduces from 6 to 4 the number of associate justices on the Supreme Judicial Court and increases by one both the number of Justices of the Superior Court and the number of Judges of the District Court. To effectuate a smooth transition, the bill directs the Governor to appoint the new Superior Court Justice when the term of the first associate justice of the Supreme Judicial Court ends after the effective date of this legislation due to the associate justice's death or resignation or the expiration of the associate justice's current term. The Governor shall appoint the new District Court Judge when the term of the 2nd associate justice of the Supreme Judicial Court ends after the effective date of this legislation due to the associate justice's death or resignation or the expiration of the associate justice's current term.

The bill also provides for the transfer of 2 judicial support positions, which may include Deputy Marshal positions, Assistant Clerk positions, Judicial Administrative Assistant positions or Law Clerk positions, from the Supreme Judicial Court to the Superior Court when the first associate justice of the Supreme Judicial Court's term of office ends and that justice is replaced by a Superior Court Justice. The bill similarly provides for the transfer of 2 judicial support positions from the Supreme Judicial Court to the District Court when the 2nd associate justice of the Supreme Judicial Court's term of office ends and that justice is replaced by a District Court Judge.