

SENATE No. 1703

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to a modified judicial merit-retention system..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. A modified judicial merit-retention system shall be established in such a
2 manner so as to each year conduct a referendum survey wherein each individual who has
3 accepted in a District Court or Superior Court courtroom wherein judicial proceedings have
4 transpired may participate in a survey wherein he or she may offer to the administrating agency a
5 written system and signed statement of reasons as to why any given judge should not hold office.

6 That any survey shall be written on forms supplied by the administrating agency and shall
7 set forth that the participant has personal knowledge of the Code of Judicial Ethics and has no
8 bias as standards in setting forth the above mentioned statement of reasons.

9 That said tabulation shall be referred to a committee of ultimate authority composed of
10 the judges of the Supreme Judicial Court to be known as the Supreme Court of Judicial Conduct
11 based on a basis of one judge vote, who shall in turn issue a statement of reasons as to why any
12 given judge who the attitude survey reveals has compiled 150 negative responses herein defined
13 as an expression that the judge ought not to retain his office, has in fact been retained.

14 That the survey shall take place on the first of May every year and embrace each judge
15 who has held office for six months.

16 That the entire procedure shall be complete by the first Tuesday after the first Monday in
17 November of every year embodied in a report signed by each justice of the Supreme Court of
18 Judicial Conduct.

19 SECTION 2. That this act also encompasses a judicial attitude survey wherein such
20 person who has appeared in a courtroom where judicial proceedings have transpired may register
21 his or her opinion based on the canons of judicial ethics is to merit attainment of the specific
22 presiding judge that such opinion be reflected on the following scale: (1) outstanding; (2) very
23 good; (3) good; (4) fair; (5) see statement attached.

24 Any judge who receives a plurality of 50 or more designations of outstanding for two
25 consecutive years shall receive additional compensation of \$7,500 per year for each year of such
26 designation retroactive to the first year of such designation.

27 SECTION 3. That any justice who has compiled 150 negative responses which is in fact
28 affirmed by the Supreme Court of Judicial Conduct may retain the title and compensation of
29 hitherto held provided that said justice assume and discharge administrative matters under the
30 aegis of the Chief Administrative Justice of both the Superior and District Courts who, at their
31 discretion at the expiration of two years by majority vote, reassign said justice to courtroom
32 activity or at any time for substantial cause discharge said justice from the judicial system in the
33 entirety provided said discharge is affirmed by both the Supreme Court of Judicial Conduct and
34 Executive Council who shall act within ninety days of notice of discharge. Failure to act within
35 the specified time of either body shall be construed as affirmance in such a manner that any

36 discharge becomes final on the ninety-first day after the issuance of this notice of discharge by
37 the Chief Administrative Justice.

38 SECTION 4. All attorneys duly licensed by the Commonwealth and residing herein who
39 have

40 appeared in a courtroom proceeding shall participate in such survey. Any activity on the
41 part said

42 attorneys deemed frivolous or in bad faith by a majority of the Chief Administrative
43 Justice, Chief Justice of the Superior Court or District Court may be grounds for a disciplinary
44 hearing by the board of bar overseers.

45 SECTION 5. The administrative arraignment for the bill shall be attended by the
46 Commission on

47 Judicial conduct who shall at all times be accountable to the Chief Administrative Justice
48 of the trial courts.