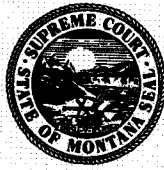


The Supreme Court of Montana
Office of the Court Administrator

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June 27, 2014

TO: Law and Justice Interim Committee

FROM: Beth McLaughlin
Court Administrator

RE: Requested Legislation – Clarify Call of Retired District Court Judge

The Supreme Court is requesting a bill draft clarifying when a retired District Court judge may be called to service. Retired judges are called to preside over cases when a sitting judge may be ill, unavailable or a case requires immediate attention. In some situations the order recalling the judge allows the retired judge to preside over all elements of the case including final disposition.

The clarification ensures the orders comply with statute in the event a retired judge takes over a case. We appreciate the committee's consideration of the request.

The necessary change is detailed below:

19-5-103. Call of retired judges and justices and inactive vested members for duty. (1) (a) If physically and mentally able, a retired judge or justice who has voluntarily retired after at least 8 years of service is subject to call for duty by the chief justice to aid and assist any district court or any water court under directions that the chief justice may give or to serve as water judge.

(b) When called, a retired judge's or justice's duties include the examination of the facts, cases, and authorities cited and the preparation of opinions for and on behalf of the court to which the judge or justice is called to serve. The opinions, when and if and to the extent approved by the court, may be ordered by the court to constitute the opinion of the court. The court and the retired judge or justice may, subject to any rule that the supreme court may adopt, perform any duties ~~preliminary to the final disposition of cases~~ that are not inconsistent with the constitution of the state.

(2) (a) A retired judge or justice, when called to duty, must be reimbursed for actual expenses, if any, in responding to the call.

(b) In addition, a retired judge or justice is entitled to receive compensation in an amount

equal to:

(i) the daily salary then currently applicable to the judicial position in which the duty is rendered for each day of duty rendered, up to a total of 180 days in a calendar year; and

(ii) for each day of duty after 180 days in a calendar year, one-twentieth of the monthly salary then currently applicable to the judicial position in which the duty is rendered minus an amount equal to one-twentieth of the monthly retirement benefit that the retired judge or justice is receiving, if any.

(3) A judge or justice who is an inactive vested member, who has voluntarily discontinued service as an active judge after 8 years of service, and who, by reason of age, is not eligible to receive a retirement benefit under this chapter may be called for duty as provided in subsection (1). A judge or justice called to duty under this subsection must be reimbursed as provided in subsection (2)(a) and compensated as provided in subsection (2)(b)(i) regardless of the number of days served in a calendar year.