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By: **Delegates Kelly, Arnick, Kullen, Shank, and Vallario**

Introduced and read first time: February 11, 2005

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Marriage Ceremonies - Former Judges**

3 FOR the purpose of altering the definition of "judge" in a provision of law authorizing  
4 a judge to perform a marriage ceremony in this State; and generally relating to  
5 marriage ceremonies performed by judges.

6 BY repealing and reenacting, without amendments,  
7 Article - Courts and Judicial Proceedings  
8 Section 1-302  
9 Annotated Code of Maryland  
10 (2002 Replacement Volume and 2004 Supplement)

11 BY repealing and reenacting, with amendments,  
12 Article - Family Law  
13 Section 2-406(a)  
14 Annotated Code of Maryland  
15 (2004 Replacement Volume)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Courts and Judicial Proceedings**

19 1-302.

20 (a) In this section, "former judge" means a judge who previously served in a  
21 court.

22 (b) Except as provided in subsection (c) of this section, the Chief Judge of the  
23 Court of Appeals may assign any former judge to sit temporarily in any court if the  
24 temporary assignment is approved by the administrative judge of the circuit in which  
25 the former judge is to be assigned and if the former judge:

1 (1) Has served in the aggregate at least 2 years as a judge, except that in  
2 Baltimore City and Charles, Prince George's, and Harford counties the former judge  
3 shall have served in the aggregate at least 3 years as a judge;

4 (2) Has been approved for assignment by a majority of the judges of the  
5 Court of Appeals;

6 (3) Meets the standards established by this section as well as any  
7 additional standards established by rule of the Court of Appeals; and

8 (4) Has consented to the assignment.

9 (c) A former judge may not be recalled for temporary assignment if the judge:

10 (1) Was removed or involuntarily retired from judicial office pursuant to  
11 the Constitution or laws of this State;

12 (2) Voluntarily retired by reason of disability;

13 (3) Had the most recent service as a judge terminated by reason of defeat  
14 for election to judicial office or by rejection of confirmation by the Senate;

15 (4) Was censured by the Court of Appeals upon recommendation of the  
16 Commission on Judicial Disabilities; or

17 (5) Is engaged in the practice of law.

18 (d) A former judge recalled under this section may not be temporarily assigned  
19 for more than 180 working days in any calendar year. However, if the case which the  
20 former judge is hearing at the end of the 180-day period is not concluded, the time  
21 may be extended until that case is concluded.

22 (e) A former judge temporarily assigned under this section has all the power  
23 and authority of a judge of the court to which he is assigned.

24 (f) (1) Whether or not he is receiving a retirement allowance, a former judge  
25 temporarily assigned under this section shall receive a per diem compensation for  
26 each day he is actually engaged in the discharge of judicial duties based on the  
27 current annual salary of the court in which he served immediately prior to his  
28 resignation or retirement. The per diem shall be computed on the basis of 246  
29 working days a year. If the sum of the per diem payments received by a former judge  
30 in any one calendar year, when added to the retirement allowance he is entitled to  
31 receive during that calendar year, equals the annual salary of a judge of the court in  
32 which the former judge served immediately prior to the termination of his active  
33 service, no further per diem is payable to the former judge in that calendar year.

34 (2) A deduction may not be withheld for health benefits or retirement  
35 purposes from the compensation paid to a former judge during temporary judicial  
36 service. The performance of temporary judicial service does not provide additional  
37 service for retirement credit purposes.

1 (3) In addition to the per diem compensation provided for in paragraph  
2 (1), he shall be reimbursed for reasonable expenses actually incurred by reason of the  
3 assignment, in accordance with State joint travel regulations.

4 (g) Preference for temporary assignment shall be given to retired judges from  
5 the circuit in which the temporary assignment is to take place.

6 **Article - Family Law**

7 2-406.

8 (a) (1) In this subsection, "judge" means:

9 (i) a SITTING judge of the District Court, a circuit court, the Court  
10 of Special Appeals, or the Court of Appeals;

11 [(ii) a judge approved under Article IV, § 3A of the Maryland  
12 Constitution and § 1-302 of the Courts Article for recall and assignment to the  
13 District Court, a circuit court, the Court of Special Appeals, or the Court of Appeals;]

14 (II) A FORMER JUDGE OF THE DISTRICT COURT, A CIRCUIT COURT,  
15 THE COURT OF SPECIAL APPEALS, OR THE COURT OF APPEALS, UNLESS THE JUDGE:

16 1. WAS REMOVED OR INVOLUNTARILY RETIRED FROM  
17 JUDICIAL OFFICE PURSUANT TO THE CONSTITUTION OR LAWS OF THIS STATE;

18 2. VOLUNTARILY RETIRED BY REASON OF DISABILITY,  
19 EXCEPT FOR PHYSICAL DISABILITY;

20 3. HAD THE MOST RECENT SERVICE AS A JUDGE  
21 TERMINATED BY REASON OF DEFEAT FOR ELECTION TO JUDICIAL OFFICE OR BY  
22 REJECTION OF CONFIRMATION BY THE SENATE; OR

23 4. WAS CENSURED BY THE COURT OF APPEALS UPON  
24 RECOMMENDATION OF THE COMMISSION ON JUDICIAL DISABILITIES;

25 (iii) a judge of a United States District Court or a United States  
26 Court of Appeals; or

27 (iv) a SITTING judge of a [state] court OF ANOTHER STATE OR A  
28 FORMER JUDGE OF A COURT OF ANOTHER STATE if the judge is [active or retired  
29 but] eligible for recall.

30 (2) A marriage ceremony may be performed in this State by:

31 (i) any official of a religious order or body authorized by the rules  
32 and customs of that order or body to perform a marriage ceremony;

33 (ii) any clerk;

1 (iii) any deputy clerk designated by the county administrative judge  
2 of the circuit court for the county; or

3 (iv) a judge.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2005.