

§ 7A-45.2. Emergency special judges of the superior court; qualifications, appointment, removal, and authority.

(a) Any justice or judge of the appellate division of the General Court of Justice that meets each of the following requirements may apply to the Governor for appointment as an emergency special superior court judge in the same manner as is provided for application as an emergency superior court judge in G.S. 7A-53:

- (1) Retires under the provisions of the Consolidated Judicial Retirement Act, Article 4 of Chapter 135 of the General Statutes, or who is eligible to receive a retirement allowance under that act.
- (2) Has not reached the mandatory retirement age specified in G.S. 7A-5(b).
- (3) Has served at least five years as a superior court judge or five years as a justice or judge of the appellate division of the General Court of Justice, or any combination thereof, whether or not eligible to serve as an emergency justice or judge of the appellate division of the General Court of Justice.
- (4) Whose judicial service ended within the preceding 10 years.

If the Governor is satisfied that the applicant meets the requirements of this section and is physically and mentally able to perform the duties of a superior court judge, the Governor shall issue a commission appointing the applicant as an emergency special superior court judge until the applicant reaches the mandatory retirement age for superior court judges specified in G.S. 7A-40.1.

(b) Any emergency special superior court judge appointed as provided in this section shall:

- (1) Have the same powers and duties, when duly assigned to hold court, as provided for an emergency superior court judge by G.S. 7A-48.
- (2) Be subject to assignment in the same manner as provided for an emergency superior court judge by G.S. 7A-46 and G.S. 7A-52(a).
- (3) Receive the same compensation, expenses, and allowances, when assigned to hold court, as an emergency superior court judge as provided by G.S. 7A-52(b).
- (4) Be subject to the provisions and requirements of the Canons of Judicial Conduct.
- (5) Not engage in the practice of law during any period for which the emergency special superior court judgeship is commissioned. However, this subdivision shall not be construed to prohibit an emergency special superior court judge appointed pursuant to this section from serving as a referee, arbitrator, or mediator, during service as an emergency special superior court judge when the service does not conflict with or interfere with the emergency special superior court judge's judicial service in emergency status.

(c) Upon reaching mandatory retirement age for superior court judges as set forth in G.S. 7A-40.1, any emergency special superior court judge appointed pursuant to this section, whose commission has expired, may be recalled as a recalled emergency special superior court judge to preside over any regular or special session of the superior court if each of the following requirements is satisfied:

- (1) The judge shall consent to the recall.
- (2) The Chief Justice may order the recall.
- (3) Prior to ordering recall, the Chief Justice shall be satisfied that the recalled judge is capable of efficiently and promptly discharging the duties of the office to which recalled.
- (4) Jurisdiction of a recalled emergency special superior court judge is as set forth in G.S. 7A-48.

- (5) Orders of recall and assignment shall be in writing and entered upon the minutes of the court to which the judge is assigned.
- (6) Compensation, expenses, and allowances of recalled emergency special superior court judges are the same as for recalled emergency superior court judges under G.S. 7A-52(b).
- (7) The emergency special superior court judge is listed as active on the list described in G.S. 7A-52(a).

(d) Any former justice or judge of the appellate division of the General Court of Justice who otherwise meets the requirements of subsection (a) of this section to be appointed an emergency special superior court judge but has already reached the mandatory retirement age for superior court judges set forth in G.S. 7A-40.1 on retirement may, in lieu of serving as an emergency judge of the court from which he retired, apply to the Governor to be appointed as an emergency special superior court judge as provided in this section. If the Governor issues a commission to the applicant, the retired justice or judge is subject to recall as an emergency special superior court judge as provided in subsection (c) of this section.

(e) No justice or judge appointed as an emergency special superior court judge or subject to recall as provided in this section shall, during the period so appointed or subject to recall, contemporaneously serve as an emergency justice or judge of the appellate division of the General Court of Justice. (1993, c. 321, s. 199; 2017-57, s. 18B.11(a); 2023-134, s. 16.14(g).)