



OLR RESEARCH REPORT

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ACTS AFFECTING JUDGES

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You asked us to summarize acts passed this year that affect judges.

We identified seven acts passed this year containing provisions that affect judges. The acts deal with the power and role of judge trial referees, retirement, salaries for certain chief administrative judges, sentencing discretion for drug offenses, the appointment of guardians ad litem, and child support. Following is a summary of those provisions. Each one becomes effective October 1, 2001 except PA 01-99 relating to sentencing discretion, which became effective July 1, 2001.

JUDGE TRIAL REFEREES

PA 01-72 gives judge trial referees the same authority as a Superior Court judge to issue search warrants. It also gives judge trial referees specifically designated by the chief justice for this purpose, the same authority as a Superior Court judge in criminal cases to administer justice and issue:

1. arrest warrants (and set conditions of release),
2. subpoenas for witnesses,

3. a *capias* (order to take someone into custody) for a witness or defendant who does not appear in court, and
4. all other criminal process.

Judges who retire at the mandatory retirement age of 70 can become state referees and may be specifically designated as judge trial referees by the chief justice. They can hear criminal and civil cases and juvenile matters on referral from the Superior Court.

PA 01-186 allows judge trial referees, instead of requiring trial referees, in an appeal by the owner to the Superior Court to review the amount offered by a redevelopment or other agency that wants to obtain property by eminent domain and requires that the owner, instead of the court, notify the agency of the appeal. Finally, it allows, instead of requires, the court to appoint a judge trial referee to reassess damages or benefits when property owners go to court to challenge the Department of Transportation commissioner's assessment of special damages or special benefits for taking property by eminent domain.

PA 01-203 allows the Superior Court to refer cases resulting from a party's demand for a trial after an arbitrator's decision to designated judge trial referees for jury trials without the parties' consent. Under prior law, a judge trial referee could preside in a civil jury case only if both parties consented. These arbitration cases are civil actions referred by courts to arbitration where (1) a party requested a jury trial, (2) the pleadings are closed, and (3) the judgment is reasonably expected to be less than \$50,000. The act specifies that the judge trial referee can issue a judgment that exceeds \$50,000 in these cases.

The act requires the chief justice to designate judge trial referees who can hear the arbitration cases and publish a list of them by October 1 annually. The law authorizes judge trial referees to exercise the powers of the Superior Court for trial, judgment, and appeal when a case is referred to them.

The act also alters the date when the 20-day period to demand a trial after an arbitrator's decision begins. Under the act, the period starts the date the arbitrator's decision is postmarked by the U.S. mail rather than the day it is filed.

RETIREMENT

PA 01-80 allows judges who elect to withdraw from the State Employees Retirement Fund (SERS) to receive interest on their refunded SERS contributions beginning with refunds processed on and after January 1, 2001.

CHIEF ADMINISTRATIVE JUDGES—SALARY INCREASES

PA 01-186 gives an additional \$1,000 a year to each Superior Court judge who is designated a chief administrative judge for administrative appeals, the judicial marshal service, or judge trial referees.

SENTENCING DISCRETION

PA 01-99 allows judges to impose less than the law's mandatory minimum sentence on some drug felons. They can do so when no one was hurt during the crime and the defendant (1) did not use or attempt or threaten to use physical force; (2) was unarmed; and (3) did not use, threaten to use, or suggest that he had a deadly weapon (such as a gun or knife) or other instrument that could cause death or serious injury. Defendants must show good cause and can invoke the act's provisions only once. Judges must state at sentencing hearings their reasons for (1) imposing the sentence and (2) departing from the mandatory minimum. The act covers:

1. manufacture or sale of drugs and related crimes by a person who is not drug-dependent;
2. manufacture or sale of drugs within 1,500 feet of elementary or high schools, public housing, or day care centers;
3. use, possession, or delivery of drug paraphernalia within 1,500 feet of a school by a non-student; and
4. drug possession within 1,500 feet of a school.

APPOINTMENT OF GUARDIAN AD LITEM

PA 01-148 requires Superior Court judges to appoint guardians *ad litem* (people who represent a child's best interests) in all abuse and neglect cases, rather than only those they deem appropriate.

CHILD SUPPORT ENFORCEMENT

PA 01-91 increases the powers of child support enforcement officers by allowing them to order people to attend the Superior Court's Family Support Magistrate Division (FSMD) child support modification hearings. Also, it changes the name of the Judicial Department's "Support Enforcement Division" to "Support Enforcement Services" and makes conforming changes to the child support statutes. This unit provides clerical, administrative, and other nonjudicial support to the FSMD.

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