

## No. 1978-257

## AN ACT

## SB 1506

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for the election of judges of the Commonwealth Court.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 3131(b) of Title 42, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, amended April 28, 1978 (No.53), is amended to read:

§ 3131. Selection of judicial officers for regular terms.

\* \* \*

(b) Retention election after initial term by transfer or appointment.—Any of the following may file a declaration for candidacy for retention election with the Secretary of the Commonwealth on or before the first Monday of January of the year preceding the year in which his term of office expires:

(1) a person elected to the Philadelphia Municipal Court pursuant to this section, or corresponding provisions of prior law, who becomes a judge of the Community Court of Philadelphia County pursuant to section 3321(b)(1) (relating to establishment of community courts);

(2) a person elected to the Community Court of Philadelphia County pursuant to this section who becomes a judge of the Philadelphia Municipal Court pursuant to section 3322(b) (relating to discontinuance of community courts); or

(3) a person appointed to the Commonwealth Court [pursuant to the former provisions of section 3(a) of the act of January 6, 1970 (1969 P.L.434, No.185), known as "The Commonwealth Court Act."] who:

(i) *shall have held office as an elected judge of a court of common pleas and shall not have been defeated for reelection or retention election;*

(ii) *shall hold an appointive term on the Commonwealth Court which when added to his other service as a judge of a court of common pleas and/or the Philadelphia Municipal Court (whether or not continuously or on the same court and whether by election or appointment) shall aggregate at least ten years as of the date of expiration of such appointive term on the Commonwealth Court; and*

(iii) *shall have been appointed to the Commonwealth Court pursuant to any executive order then in effect relating to the selection and screening of qualified nominees for appointment to the court.*

If no declaration is filed, a vacancy shall exist upon the expiration of the term of office of such judge, to be filled by election under subsection (c). If a judge files a declaration, his name shall be submitted to the electors without party designation, as a separate judicial question or in a separate column or line on voting machines, at the municipal election immediately preceding the expiration of the term of office of the judge, to determine only the question whether he shall be retained in office. If a majority is against retention, a vacancy shall exist upon the expiration of his term of office, to be filled by appointment under section 3132(a) (relating to vacancies in office). If a majority favors retention, the judge shall serve for a regular term of office provided for in section 3152 (relating to tenure of judicial officers), unless sooner removed or retired. At the expiration of such regular term such judge shall be eligible for retention as provided in section 3153 (relating to retention elections after regular term), subject only to the retirement provisions of this part. Section 3133 (relating to Commonwealth Court judges) shall not be applicable to an election conducted pursuant to this subsection.

\* \* \*

Section 2. Section 21, act of July 9, 1976 (P.L.586, No.142), known as the "Judiciary Act of 1976," is repealed.

Section 3. This act shall take effect immediately and shall apply to the primary and municipal elections held in 1979 and thereafter.

APPROVED—The 5th day of October, A. D. 1978.

MILTON J. SHAPP