

A
BILL
FOR AN ACT

To amend the Judiciary Act 1983, 27 MIRC Chp. 2, for the following four purposes: to amend §210(2) the Judiciary Act to expressly provide that associate justices of the High Court can be part-time justices; to amend §219 of the Judiciary Act to expressly mandate Court Rules for continuing legal education; to amend §219 of the Judiciary Act to expressly mandate Court Rules for the provision of pro bono and reduced-fee legal services; and to amend the Judiciary Act to add a new Section 279 that expressly provides for a code of judicial conduct.

BE IT ENACTED BY THE NITIJELA OF THE MARSHALL ISLANDS:

Section 1. Short Title.

This Act may be cited as the Judiciary (Amendment) Act 2016.

Section 2. Amendment.

1. §210(2) of the Judiciary Act 1983, 27 MIRC Chp. 2 (“Judiciary Act”), is amended to read as follows:

(2) The High Court shall consist of a Chief Justice and one or more other judges who shall be designated as Associate Justices of the High Court. An Associate Justice may be employed to work full time or part time. An Associate Justice employed to work part time shall be paid such amounts as may be agreed upon by the Chief Justice and such judge; provided, however, that the amount of paid shall not exceed the pro rated salary of an Associate Justice based upon the highest salary payable, and, if the judge is resident in the

1 air fare and per diem.

2 2. §219 of the Judiciary Act is amended to read as follows:

3 **§219. Admission rules.**

4 Subject to this Chapter and any other law the Chief Justice of the
5 Supreme Court, with the concurrence of the Chief Justice of the High
6 Court, or if the position of the Chief Justice of the High Court is
7 vacant, then the Chief Justice of the Supreme Court acting alone,
8 shall adopt rules that:

9 (a) regulate the admission of persons to practice as an
10 attorney at law or trial assistant before any court and their
11 continuing qualification to practice, including requirements
12 for continuing legal education and requirements for pro bono
13 or reduced-fee work in the Marshall Islands for the people of
14 the Marshall Islands who cannot afford legal counsel or
15 obtain free legal counsel;

16 (b) establish the standards of professional
17 responsibility and conduct for any person practicing law in the
18 Republic; and

19 (c) provide for the discipline, including suspension or
20 disbarment, of any person practicing law in the Republic.

3. A new §279 is added to the Judiciary Act that reads as follows:

§279. Code of Judicial Conduct.

Consistent with the Constitution and any Act, the Chief Justice of the Supreme Court and the Chief Justice of the High Court shall adopt a code of judicial conduct for all courts, with provisions for the Judicial Service Commission to handle complaints.

Section 3. Effective Date.

This Act shall take effect on the date of certification in accordance with Article IV, Section 21 of the Constitution.

Date: 09.17.10

Introduced by: Thomas Hein
PRINT NAME

THH
Signature

BILL SUMMARY

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3 The purpose of this bill is to amend the Judiciary Act 1983 for four reasons.

4 First, the bill amends Section 210(2) of the Judiciary Act to expressly provide for part-time associate
5 justices of the High Court. It is not enough to have an acting associate justice to cover conflict cases
6 and temporary vacancies, as the statute now reads. Even when the High Court is staffed with a full-
7 time chief justice and a full-time associate justice, there are times when a third or more justices are
8 needed to move cases without undue delay. The High Court's caseload is uneven. A part-time
9 justice, would be employed as needed and as the budget permits. For example, former justices, like
10 Justice Plasman, who for family reasons have chosen not to live and work full time in the Republic,
11 could be hired as part-time judges.

12 Second, the bill amends Section 219 of the Judiciary Act to expressly mandate Court Rules
13 for continuing legal education ("CLE"). For decades now, courts around the world have recognized
14 that the law changes so rapidly that legal counsel must be required to update their knowledge and
15 skills. This would include CLE (i) in substantive law areas, such as customary law, (ii) in rules, such
16 as ethics, evidence, procedure, and the like, and (iii) in new skills, such as mediation. The people
17 of the Marshall Islands deserve well-trained legal counsel. See Const., Art. II, Sec. 14.

18 Third, the bill amends Section 219 of the Judiciary Act to expressly mandate Court Rules for
19 the provision of pro bono and reduced-fee legal services. Consistent with Article II, Section 14, of
20 the Constitution, wherein the Government of the Republic of the Marshall Islands recognizes the
21 right of the people to legal services and the obligation to take every step reasonable and necessary

1 to provide such services, the Nitijela has over the years appropriated to the Judiciary the Legal Aid
2 Fund to complement existing and available institutions for delivery of legal aid service in the
3 Republic of the Marshall Islands. The Legal Aid Fund provides the means by which the people of
4 the Marshall Islands (who, for one reason or another, are unable to utilize any of the existing
5 institutions for legal aid delivery, and/or are otherwise unable to afford the cost of legal
6 representation) may secure legal representation in the enforcement and/or protection of their rights.

7 Further to the Nitijela's appropriations for the Legal Aid Fund, the amendments to Section
8 219 expressly mandate Court Rules to require that licensed legal counsel to provide pro bono or
9 reduced-fee legal services to those who cannot afford to pay. Such Court Rules would compliment
10 the Nitijela's efforts to discharge its obligation to the people of the Marshall Islands under Article
11 II, Section 14, of the Constitution. The license to practice as an attorney or trial assistant is a
12 privilege, not a right. With the privilege to practice law comes the responsibility to the public.

13 Fourth, the bill amends the Judiciary Act to add a new Section 279 to expressly mandate that,
14 consistent with the Constitution and any Act, the Chief Justice of the Supreme Court and the Chief
15 Justice of the High adopt a code of judicial conduct for the courts of the Marshall Islands, with
16 provisions for the Judicial Service Commission to handle complaints. This amendment is consistent
17 with existing practice and best practices.

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