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**GOVERNMENT CODE - GOV**

**TITLE 8. THE ORGANIZATION AND GOVERNMENT OF COURTS [68070 - 77655]** ( Title 8 added by Stats. 1953, Ch. 206. )

**CHAPTER 11. Judges' Retirement Law [75000 - 75111]** ( Chapter 11 added by Stats. 1953, Ch. 206. )

**ARTICLE 3. Disability Retirement [75060 - 75064]** ( Article 3 added by Stats. 1953, Ch. 206. )

**75060.** (a) Any judge who is unable to discharge efficiently the duties of his or her office by reason of mental or physical disability that is or is likely to become permanent may, with his or her consent and with the approval of the Chief Justice or Acting Chief Justice and the Commission on Judicial Performance, be retired from office. The consent of the judge shall be made on a written application to the Commission on Judicial Performance. The retirement shall be effective upon approval by the designated officers, except as provided in subdivision (b). A certificate evidencing the approval shall be filed with the Secretary of State. Upon the filing of the certificate, a successor shall be appointed to fill the vacancy.

(b) Any judge who dies after executing an application evidencing his or her consent that has been received in the office of the commission and before the approval of both of the designated officers has been obtained shall be deemed to have retired on the date of his or her death if the designated officers, prior to the filling of the vacancy created by the judge's death, file with the Secretary of State their certificate of approval.

(c) No retirement under this section may be approved unless a written statement by a physician or psychiatrist that he or she has personally examined the judge applying for retirement under this section and that he or she is of the opinion that the judge is unable to discharge efficiently the duties of the judge's office by reason of a mental or physical disability that is or is likely to become permanent is presented to the persons having the responsibility to approve or disapprove the retirement.

(Amended by Stats. 1987, Ch. 56, Sec. 98.)

**75060.1.** Notwithstanding any provision of law to the contrary, every judge retired for disability before or after the effective date of this section shall receive a retirement allowance in an amount that he or she would have received had he or she retired after the effective date of this section. This section does not give any retired judge a claim against the state for any increase in retirement allowance or other benefit for time prior to the effective date of this section.

(Amended by Stats. 2002, Ch. 664, Sec. 127.5. Effective January 1, 2003.)

**75060.5.** Every judge retired under Section 75060, who on the ninetieth day after the final adjournment of the 1957 Regular Session of the Legislature is receiving a retirement allowance computed pursuant to Section 75061, shall, notwithstanding the repeal of Section 75061, continue to receive such allowance pursuant to the terms of Section 75061 as if such section were not repealed and shall not receive the retirement allowance provided for by Section 75060.6.

(Added by Stats. 1957, Ch. 2065.)

**75060.6.** The Commission on Judicial Performance, in its discretion, but not more often than once every two years, may require any judge who is receiving an allowance under this section and who is under the age of 65 years to undergo medical examination. The examination shall be made by one or more physicians or surgeons, appointed by the Commission on Judicial Performance, at the place of residence of the judge or other place mutually agreed upon. Upon the basis of the examination the commission shall determine whether he or she is still incapacitated, physically or mentally, for service as a judge. If the commission determines, on the basis of the results of the medical examination, that he or she is not so incapacitated, he or she shall be a judicial officer of the state, but shall not exercise any of the powers of a justice or judge except while under assignment to a court by the Chairman of the Judicial Council. The allowance of the judge shall cease if he or she refuses an assignment while he or she is not so incapacitated. The provisions of Section 68543.5 are applicable to such a judge. The provisions of this section and of Section 75060 are applicable to all judges of courts of record in this state.

(Amended by Stats. 1988, Ch. 993, Sec. 3.)

**75061.** (a) Any person who becomes a judge during the period of January 1, 1980, through December 31, 1988, shall not be eligible to be retired for disability unless the judge is credited with at least two years of judicial service or unless the disability is a result of injury or disease arising out of and in the course of judicial service.

(b) Any person who becomes a judge on or after January 1, 1989, shall not be eligible to be retired for disability unless the judge is credited with at least four years of judicial service or unless the disability is a result of injury or disease arising out of and in the course of judicial service.

*(Amended by Stats. 1989, Ch. 986, Sec. 1.)*

**75062.** A judge who applies for disability retirement and against whom there is pending a criminal charge of the commission of, or who has been convicted of, a felony under California or federal law (allegedly committed or committed while holding judicial office), prior to the approval of the application:

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75060 from each of at least two physicians or two psychiatrists.

*(Added by Stats. 1988, Ch. 993, Sec. 5.)*

**75063.** A judge against whom there is pending a disciplinary proceeding which could lead to his or her removal from office or who has been removed from office for judicial misconduct, prior to the approval of his or her application for disability retirement:

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75060 from each of at least two physicians or two psychiatrists.

*(Added by Stats. 1988, Ch. 993, Sec. 6.)*

**75064.** A member who is defeated at an election and who either had submitted, prior to the date of the election, an application for disability retirement or submits, on or after the date of the election, an application for disability retirement:

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75060 from each of at least two physicians or two psychiatrists.

*(Added by Stats. 1988, Ch. 993, Sec. 7.)*