

SENATE BILL NO. 369
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee for Courts of Justice
on _____)
(Patron Prior to Substitute—Senator Carroll Foy)

A BILL to amend and reenact § 17.1-105 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3 of Title 8.01 an article numbered 20.1, consisting of sections numbered 8.01-217.1 and 8.01-217.2, relating to civil actions; assignment as business or complex litigation action; requirements.

Be it enacted by the General Assembly of Virginia:

1. That § 17.1-105 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 8.01 an article numbered 20.1, consisting of sections numbered 8.01-217.1 and 8.01-217.2, as follows:

Article 20.1.

Business or Complex Litigation Actions.

§ 8.01-217.1. Request for action to be assigned as business or complex litigation action; request for assignment.

In any civil action that is eligible to be assigned a business or complex litigation action under § 8.01-217.2, counsel for any party or the judge of the circuit court initially assigned to such action may submit a request on a form provided by the Office of the Executive Secretary of the Supreme Court of Virginia to have such action assigned by the Chief Justice of the Supreme Court of Virginia as a business or complex litigation action. The Chief Justice of the Supreme Court of Virginia shall review such request, and, if such request is approved, designate an active circuit court judge of any jurisdiction to preside over such action.

§ 8.01-217.2. Eligible actions; requirements; what actions ineligible.

A. An action may be assigned as a business or complex litigation docket only if such action (i) has an amount in controversy of not less than \$100,000; (ii) presents special complexity, including specialized issues or acute litigation management needs; and (iii) falls into one or more of the following categories:

- 1. Corporate governance disputes;*
- 2. Derivative actions;*
- 3. Merger or acquisition litigation;*
- 4. Intellectual property disputes;*

5. Trade secret litigation;
6. Antitrust litigation;
7. Environmental litigation;
8. Franchise actions;
9. Actions arising from the Uniform Commercial Code; or
10. Any matter in which a business entity has brought an action against another business entity.
- B. The following civil actions shall be ineligible for assignment as a business or complex litigation action:
1. Medical malpractice;
2. Domestic relations;
3. Personal injury and wrongful death;
4. Premises liability;
5. Negligence;
6. Virginia Freedom of Information Act (§ 2.2-3700 et seq.) actions;
7. Claims brought under the Federal Employers' Liability Act, 45 U.S.C. § 51 et seq.;
8. Legal malpractice;
9. Defamation;
10. Real property actions;
11. Virginia Consumer Protection Act (§ 59.1-196 et seq.) claims; or
12. Contempt of court.

§ 17.1-105. Designation of judges to hold courts and assist other judges.

A. If a judge of any court of record is absent, sick or disabled or for any other reason unable to hold any regular or special term of the court, or any part thereof, or to perform or discharge any official duty or function authorized or required by law, a judge or retired judge of any court of record may be obtained by personal request of the disabled judge, or another judge of the circuit to hold the court for the whole or any part of such regular or special term and to discharge during vacation such duty or function, or, if the circumstances require, to perform all the duties and exercise all the powers and jurisdiction as judges of such circuit until the judge is again able to attend his duties. The designation of such judge shall be entered in the civil order book of the court, and a copy thereof sent to the Chief Justice of the Supreme Court. The Chief Justice shall be notified forthwith at the time any disabled judge is able to return to his duties.

B. If all the judges of any court of record are so situated in respect to any case, civil or criminal, pending

in their court as to render it improper, in their opinion, for them to preside at the trial, unless the cause or proceeding is removed, as provided by law, they shall enter the fact of record and the clerk of the court shall at once certify the same to the Chief Justice of the Supreme Court, who shall designate a judge of some other court of record or a retired judge of any such court to preside at the trial of such case.

C. If a vacancy occurs in the office of a judge of a court of record that fact shall be immediately certified by the clerk of such court to the Governor, who may, instead of appointing a successor at once, request the Chief Justice to designate a judge of some other court of record or a retired judge of any such court to carry out the duties of the office, if there are insufficient judges in the circuit to carry out the work of the court, until the office has been filled in the mode prescribed by law. If any judge so designated shall be prevented by the duties of his court, or by sickness, from performing the duties required, he shall so inform the Chief Justice, who may designate another judge in his place.

D. Due to congestion in the work of any court of record or when in his opinion the administration of justice so requires, the Chief Justice may, upon his own initiative or upon application of the judge desiring assistance, designate a judge or retired judge of any court of record to assist the judge in the performance of his duties and every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as the judge whom he is designated to assist.

D1. Upon approval of a request for assignment of any civil action as a business or complex litigation action pursuant to § 8.01-817.1, the Chief Justice may designate an active judge of any circuit court to preside over such action and the judge so designated shall have the same powers and jurisdiction and shall be authorized to perform the same duties as the judge initially assigned to such action.

E. Any judge or retired judge sitting under any provision of this section or sitting by designation on any three-judge court shall receive from the state treasury actual expenses for the time he is actually engaged in holding court, except in those cases where the payment of such expenses is otherwise specifically provided by law.

F. The powers and duties herein conferred and imposed upon the Chief Justice may be exercised and performed by any justice, or any committee of justices, of the Court, designated by the Chief Justice for such purpose.

G. If the chief judge of any circuit is unable to perform the duties required by law, he shall notify the Chief Justice, who shall designate another judge of the same circuit to perform such duties.

92 H. If any judge refuses unreasonably to serve as requested under the provisions of this section, the chief
93 judge may report his refusal to the Judicial Inquiry and Review Commission.

94 I. As used in this section, "retired judge" means a judge eligible for recall pursuant to § 17.1-106.

95 **2. That the Office of the Executive Secretary of the Supreme Court of Virginia shall identify no fewer**
96 **than four active circuit court judges who are located, to the extent possible, in different regions of the**
97 **Commonwealth and who are willing to be designated by the Chief Justice of the Supreme Court of**
98 **Virginia to preside over matters assigned by the Chief Justice as business and complex litigation**
99 **actions.**

100 **3. That the provisions of this act shall become effective on July 1, 2027.**