

Rule 76. Military Service of Judges

(a) Military Service During War. A judge or associate judge may serve for a period of no more than 12 months in the state militia or the armed forces of the United States when called into active military service during war between the United States and a foreign government. The judge or associate judge's military pay may be supplemented for the first 30 days with full pay and, thereafter, in an amount necessary to bring his or her total salary, inclusive of base military pay, to the level earned at the time he or she was called to service. After the 12-month period, a judge or associate judge who remains on active duty may request from the Supreme Court of Illinois an extension of the 12-month period.

(b) Reserve or Guard Training. A judge or associate judge who is a commissioned reserve officer or a reserve enlisted in the United States military or naval service or a member of the National Guard may serve on all days during which they are engaged in training ordered under the provisions of the United States military or naval training regulations for such personnel when assigned to active or inactive duty. Training shall be with full pay, not to exceed 30 days in each year.

(c) Benefits During Military Service. During periods of active military service, a judge or associate judge may be entitled to continued health insurance and other existing benefits, including retirement privileges. For purposes of computing whether a judge or associate judge may be entitled to retirement, a period of active military service shall be deemed continuous service in the office of said judge or associate judge.

(d) Resumption of Judicial Duties. A judge or associate judge terminating active military service shall immediately enter upon his or her judicial duties for the unexpired portion of the term for which he or she was elected or appointed.

(e) Term of Office. In the event that the term of office of a judge or associate judge shall expire during such period of active military service, the office shall be filled by election or appointment as may be required by law; provided, however, that a supreme, appellate or circuit judge in active military service shall have the right to file a declaration of candidacy and run for retention of his or her judicial seat, and an associate judge in active military service shall have the right to file a request for reappointment to his or her judicial seat.

(f) Definitions.

(1) The term "active military service" as used in this rule shall signify active duty in the Illinois defense force or federal service in training or on active duty with any branch of the Army of the United States, the United States Navy, the United States Air Force, the Marine Corps of the United States, the Coast Guard of the United States, and service of all officers of the United States Public Health Service detailed by proper authority for duty either with the army or the navy, and shall include the period during which a judge or associate judge in military service is absent from duty on account of sickness, wounds, leave, or other lawful causes.

(2) The term "period of active military service" as used in this rule shall begin with the date of entering upon active military service and shall terminate with death or the date immediately next succeeding the date of release or discharge from active military service or upon return from active military service, whichever shall occur first.

Effective July 1, 1971; amended May 28, 2003, effective immediately, amended June 6, 2003, effective immediately.

Committee Comments

(July 1,1971)

This rule was adopted pursuant to the authority granted in section 13(b) of article VI of the new Illinois Constitution to prescribe the periods of time that a judge or associate judge may serve in the State militia or armed forces of the United States without becoming disqualified from serving as a judge or associate judge.