

# Senate Judiciary Committee

*Jennifer Horgan 271-7875*

**CACR 12**, relating to the retirement age for judges. Providing that the mandatory retirement age for judges is repealed.

**Hearing Date:** January 19, 2021

**Time Opened:** 5:17 p.m.

**Time Closed:** 5:35 p.m.

**Members of the Committee Present:** Senators Carson, Gannon, French, Whitley and Kahn

**Members of the Committee Absent :** None

**Bill Analysis:** This constitutional amendment concurrent resolution repeals the mandatory retirement age for judges.

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**Sponsors:**

Sen. D'Allesandro

Sen. Prentiss

Sen. Kahn

Sen. Cavanaugh

Sen. Soucy

Sen. Sherman

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**Who supports the bill:** Senator D'Allesandro; Senator Soucy; Senator Sherman; Representative Horrigan

**Who opposes the bill:** Nicole Fordey

**Summary of testimony presented in support:**

**Senator D'Allesandro**

- This bill repeals the mandatory retirement age for judges.
- When the NH Constitution was created the average life expectancy was around 50 years, now it is 80 and beyond.
- Has seen wonderful judges have to leave once they reach the age of 70.
- We are losing the experience, insight and judicial temperament of these judges that they get from being on the bench for an extended period of time.
- NH has judges that get appointed later in life and as a result their time on the bench is quite limited.
- Having a retirement age has been thrown out nationally.
- NH has had two chief justices retire because of age; one is now a member of the House, believes he has a companion piece of legislation to this.
- Senator French asked if at Senator D'Allesandro's age, does he now look at 70-year-olds as a bunch of kids.
  - Treats them as if they are children.

- Senator Kahn asked if the intent of the legislation is to cover all judges in NH.
  - Correct.
- Senator Whitley asked what other states are doing with this.
  - Does not have a good answer to that. NH is unique. In many other states they elect judges, with no age restrictions. NH appoints judges and we have the mandatory retirement. Will get that information for her.
- Senator Gannon asked if there is a shortage of judges or lawyers applying to be judges in NH.
  - Does not know how many people have applied to be judges, but knows that we have many vacancies, including on the Supreme Court. We need more people in the judicial branch, as attorneys have a hard time getting court dates.
- Senator Gannon stated that there are a lot of attorneys chomping at the bit to move up as judges. Raised the concern of older judges having lost a few mental steps over the years and individuals not feeling like they can tell a judge that it might be time to step down.
  - We used to retire pilots at a certain age, and we have extended that now. What we have done in the past decades is recognize that older people have a much better grasp than before and are not limited in their thought processes as they were in the past. Thinks 70 should not mean someone must retire. We can gain a lot by this. There is judicial review in NH.

**Representative Horrigan**

- Thinks it should go farther and include sheriffs.
- There is the ability to remove a judge if it becomes necessary; the House did that about 10 years ago and it was pretty painful.
- There is a similar bill to this coming through on the House side.
- Senator Gannon raised the concern of having to tell judges that they need to step down.
  - That can happen before the age of 70. Maybe the legislature needs to look at reviewing that process. From what he has seen it is not that easy to fill a judicial appointment.

**Summary of testimony presented in opposition:**

None