

By: Vaught

H.B. No. 1353

A BILL TO BE ENTITLED

AN ACT

relating to permitting certain military attorneys to represent military personnel and their dependents in civil proceedings before the courts of this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 81.102(a), Government Code, is amended to read as follows:

(a) Except as provided by Subsection (b) or Subchapter D, Chapter 82, a person may not practice law in this state unless the person is a member of the state bar.

SECTION 2. Section 82.0361, Government Code, is amended by adding Subsection (g) to read as follows:

(g) This section does not apply to an attorney requesting permission to practice law under Subchapter D.

SECTION 3. Chapter 82, Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. PRACTICE OF LAW WITHOUT LICENSE OR STATE BAR

MEMBERSHIP BY CERTAIN MILITARY ATTORNEYS

Sec. 82.101. CERTAIN MILITARY ATTORNEYS: AUTHORIZATION TO PRACTICE LAW WITHOUT LICENSE OR STATE BAR MEMBERSHIP. (a) In accordance with 10 U.S.C. Section 1044 and subject to this subchapter and any rules adopted by the supreme court, an attorney who is admitted to practice law in a state other than Texas, or in a territory of the United States or the District of Columbia, and who

1 is a full-time active duty military officer serving in the office of
2 a staff judge advocate of the air force, army, navy, marines, or
3 coast guard of the United States, a Naval Legal Service Office, or a
4 Trial Service Office that is located in this state may, on
5 application to and approval by the supreme court, represent
6 military personnel and their dependents before the courts of this
7 state in any civil or administrative proceeding.

8 (b) The judge advocate general of the air force, army, or
9 navy, the staff judge advocate of the commandant of the marine
10 corps, or the chief counsel of the coast guard, as appropriate,
11 shall determine the classification of military personnel and their
12 dependents who are eligible to receive representation under this
13 subchapter.

14 (c) The supreme court may by rule limit the types of civil or
15 administrative proceedings in which an attorney may practice law
16 under this subchapter.

17 Sec. 82.102. APPLICATION. To apply for permission to
18 practice law under this subchapter, an applicant must file an
19 application on a form and in the manner prescribed by the supreme
20 court.

21 Sec. 82.103. GRANT OF PERMISSION TO PRACTICE LAW BY SUPREME
22 COURT. The supreme court may grant permission to practice law under
23 this subchapter to an attorney who:

24 (1) submits to the clerk of the supreme court the
25 application required by Section 82.102;

26 (2) presents satisfactory proof of good moral
27 character;

1 (3) presents satisfactory proof of admission to the
2 practice of law and current good standing as a member of the bar in
3 another state or territory of the United States or the District of
4 Columbia;

5 (4) complies with any training requirements that the
6 supreme court by rule may require; and

7 (5) provides any additional information or proof that
8 the supreme court by rule may require.

9 Sec. 82.104. NO BAR MEMBERSHIP OR LICENSE TO PRACTICE;
10 CERTAIN REPRESENTATIONS PROHIBITED. (a) An attorney permitted to
11 practice law under this subchapter is not:

12 (1) licensed to practice law in this state; or

13 (2) a member of the state bar.

14 (b) An attorney permitted to practice law under this
15 subchapter may not represent himself or herself to be:

16 (1) licensed to practice law in this state; or

17 (2) a member of the state bar.

18 Sec. 82.105. TERMINATION OF PERMISSION TO PRACTICE. (a)
19 The supreme court may terminate an attorney's permission to
20 practice law under this subchapter at any time with or without
21 cause.

22 (b) An attorney's permission to practice law under this
23 subchapter shall automatically terminate when the attorney is:

24 (1) no longer a full-time active duty military officer
25 serving in the office of a staff judge advocate of the air force,
26 army, navy, marines, or coast guard of the United States, a Naval
27 Legal Service Office, or a Trial Service Office that is located in

1 this state; or

2 (2) licensed to practice law in this state.

3 (c) An attorney permitted to practice law under this
4 subchapter and the attorney's supervisory staff judge advocate or
5 commanding officer shall immediately inform the clerk of the
6 supreme court of any change in status of the attorney that may
7 affect the attorney's authority to practice law under this
8 subchapter.

9 Sec. 82.106. ATTORNEY CONDUCT AND DISCIPLINE. (a)
10 Notwithstanding any other law or any rule adopted by the supreme
11 court, an attorney granted permission to practice law under this
12 subchapter is subject to the provisions of this subtitle and the
13 rules adopted by the supreme court relating to attorney conduct and
14 discipline, including the Texas Disciplinary Rules of Professional
15 Conduct, to the same extent as a member of the state bar is subject
16 to those provisions or rules.

17 (b) The supreme court shall continue to have jurisdiction to
18 discipline an attorney who was granted permission to practice law
19 under this subchapter regardless of whether that permission
20 terminates.

21 Sec. 82.107. COMPENSATION FROM CLIENTS PROHIBITED. An
22 attorney may not receive compensation from a client who the
23 attorney represents under authority of this subchapter.

24 Sec. 82.108. RULES. The supreme court may adopt rules that
25 the supreme court determines necessary to accomplish the purpose of
26 this subchapter, except that notwithstanding Sections 81.061 and
27 82.036, the supreme court may not amend or adopt rules in conflict

1 with this subchapter.

2 SECTION 4. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2009.