

BILL ANALYSIS

H.B. 2122
By: Lozano
Defense & Veterans' Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties observe that some confusion exists about the status of a county or district attorney who is called to active duty military service. Over the past decade, this situation has become more common because many reserve units have been converted to an operational reserve, which may make a call to duty more likely. Some jurisdictions have treated the call to duty as an absence and others as a vacancy. In either case, interested parties argue that it is unclear who takes over for a state attorney called to active duty.

H.B. 2122 attempts to address this inconsistency and ambiguity by establishing that a district attorney, criminal district attorney, or county attorney who is on active duty or being mobilized or deployed for active duty is not absent from office and has not vacated office if the attorney has complied with certain requirements.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2122 amends the Government Code to require a court to excuse from appearance or attendance during the term of the court an active duty state attorney who has delegated the attorney's responsibilities to the attorney's first assistant or to another state attorney in the attorney's jurisdiction or in a jurisdiction overlapping the attorney's jurisdiction who agrees to accept the delegation of responsibilities; and who has notified the presiding judge of the court's administrative judicial region of the attorney's military duty, mobilization, or deployment and the identity of the attorney to whom responsibilities were delegated. The bill specifies that an active duty state attorney who complies with the delegation and notification requirements is not absent from office and has not vacated office. The bill exempts a district attorney who complies with the requirements from provisions relating to a failure to attend court. The bill defines "active duty state attorney" as a district attorney, criminal district attorney, or county attorney who is on active duty or being mobilized or deployed for active duty as a member of the National Guard, the armed forces of the United States, a reserve component of the armed forces of the United States or the National Guard, or any part of state military forces.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.