

PUBLIC COMMENTS

SJR 47

HOUSE COMMITTEE ON JUDICIARY & CIVIL JURISPRUDENCE

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Hearing Date: May 5, 2021 8:00 AM

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Self

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I generally support the substance of the proposed constitutional amendment but have the following concerns regarding the wording:

1. The phrase "the State of Texas" is not currently used in any section of Article V. Instead, the phrase "this state" is consistently used. Consistent phraseology is good drafting practice, especially for text that may be in the state constitution for decades.
2. Does the Supreme Court justice have to be thirty-five years old (or a practicing lawyer or judge for 10 years) on the date of the general election (or alternatively the date of appointment to fill the vacancy), the first day of the term of the relevant judicial office, or when he or she is "sworn in" following election or appointment? Why not make this clear?
3. A "county court established by the Legislature by statute" is literally a "state court." Maybe "state court" is intended to mean a court funded directly by the state. In any event, there is no need for 2(b)(4)(B) to be ambiguous in this regard. (fyi: commentators on the Texas judiciary often distinguish between "constitutional courts" and "legislative courts")
4. "[T]he time required by Subdivision (4)" is at least 10 years. It appears but is not clear that a person is disqualified under 2(b)(5) if "the person's license to practice law [was] revoked, suspended, or subject to a probated suspension" within the last 10 years. But the language could be interpreted to mean a person is disqualified under 2(b)(5) if "the person's license to practice law [was] revoked, suspended, or subject to a probated suspension" at any time during their legal career. Why not make this clear?
5. Attorneys are sometimes admitted in more than one state. What if "the person's license to practice law [was] revoked, suspended, or subject to a probated suspension" within the last 10 years in another state. Is he or she disqualified under this amendment?
6. I'm not an expert regarding the Texas scheme of attorney discipline but a question similar to the one presented in *Satterwhite v. State*, 979 S.W.2d 626 (Tex.Crim.App. 1998) could arise under this amendment. The basic issue is what happens if someone is suspended for a minor violation (entered incorrect MCLE course number) that is subsequently cured and administratively "forgiven" by the State Bar. Someone from State Bar that is expert in attorney discipline should be consulted to confirm that the amendment language does not disqualify someone for such a violation.

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