

BILL ANALYSIS

Senate Research Center

H.B. 103
By: Murr; Spiller (Sparks)
State Affairs
5/10/2023
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A recent opinion by the attorney general stated that a former constitutional county judge does not meet the definition of a retired judge under Section 74.041(6), Government Code, and cannot be appointed as a visiting judge under Section 26.023, Government Code. A constitutional county judge from another county may be appointed to serve in the absence of the county judge, but it is difficult for a neighboring county judge to schedule and serve due to the duties in their own county.

Retired judges who are qualified to serve as a visiting judge in a district or statutory court are in very high demand throughout the state and are better utilized to address the backlog in those courts brought on by COVID. H.B. 103 seeks to address this issue by allowing constitutional county judges to be appointed as visiting judges due to the elected county judge being absent from the county or absent because of physical incapacity.

H.B. 103 will define the term "retired judge" as a person who meets the requirements of Section 74.041(6), Government Code, and a person who served as an active judge for at least 96 months in a constitutional county court or who served at least 48 months in a constitutional county court and who is a licensed attorney in the state.

This change would satisfy Section 74.041(6) and allow a constitutional county judge to be eligible to be appointed as a visiting judge under Section 26.023(a), Government Code.

H.B. 103 amends current law relating to the appointment of a retired or former judge as a visiting judge in certain counties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 26.012, Government Code, as follows:

Sec. 26.012. ASSIGNMENT OF VISITING JUDGE FOR PROBATE, GUARDIANSHIP, AND MENTAL HEALTH MATTERS. (a) Creates this subsection from existing text.

(b) Authorizes a visiting judge, notwithstanding Section 25.0022(t)(4) (relating to requiring a former or retired judge of a statutory probate court to have served as an active judge for at least 72 months in a district, statutory probate, statutory county, or appellate court to be eligible for a certain assignment), to be assigned under this section if the judge has served as an active judge for at least 48 months in a statutory probate court.

SECTION 2. Amends Subchapter C, Chapter 26, Government Code, by adding Section 26.020, as follows:

Sec. 26.020. DEFINITION. Defines "former constitutional county judge."

SECTION 3. Amends Section 26.023(a), Government Code, to authorize a county judge to appoint certain judges, including a former constitutional county judge, as a visiting judge when the county judge is absent from the county or absent because of physical incapacity.

SECTION 4. Amends Section 26.024(a), Government Code, to authorize a county judge to appoint certain judges, including a former constitutional county judge, as a visiting judge to share the bench if the county judge finds that the dockets of the county court reflect a case load that the county judge considers to be in excess of that which can be disposed of properly in a manner consistent with the efficient administration of justice.

SECTION 5. Repealer: Section 25.0022(t-1) (relating to requiring a former or retired judge of a statutory probate court to have served as an active judge for at least 72 months in a district, statutory probate, statutory county, or appellate court to be eligible for a certain assignment), Government Code.

SECTION 6. Effective date: September 1, 2023.