

BILL ANALYSIS

C.S.H.B. 2384
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Voters should have access to all pertinent information regarding judicial candidates and be assured that elected judges are the most qualified individuals for the job. To this end, measures have been suggested to implement stricter education and training requirements for those who are elected to judicial offices and to create uniform standards for judges. Another suggestion is to require judicial candidates to disclose any record of sanctions as well as their courtroom experience, with candidates for appellate courts describing previous appellate court briefs and oral arguments. The Office of Court Administration of the Texas Judicial System should develop standards for identifying courts that need additional assistance and include more detailed information in its court statistics report. Finally, there should be a specialty certification for attorneys in judicial administration that is also applicable to judges. C.S.H.B. 2384 seeks to implement these measures.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Supreme Court in SECTIONS 3 and 9 and to the Texas Judicial Council in SECTION 10 of this bill.

ANALYSIS

C.S.H.B. 2384 amends the Election Code and Government Code to set out provisions relating to court administration, including the knowledge, efficiency, training, and transparency requirements for candidates for or holders of judicial offices.

Application for a Place on the Ballot Applicable to Certain Judicial Offices

C.S.H.B. 2384 amends the Election Code to set out provisions requiring the disclosure and inclusion of certain information on the application for a place on the ballot, applicable to the following judicial offices and only to an application filed for an election ordered on or after the bill's effective date:

- chief justice or justice of the Texas Supreme Court;
- presiding judge or judge of the court of criminal appeals (CCA);
- chief justice or justice of a court of appeals;
- district judge, including a criminal district judge; and
- judge of a statutory county court.

Accordingly, in addition to other requirements under the Election Code, such a candidate's application for a place on the ballot must, as specified:

- include the candidate's state bar number for Texas and any other state in which the candidate has been licensed to practice law;
- disclose the following:

- any public sanction or censure issued by the State Commission on Judicial Conduct (SCJC) or a review tribunal against the candidate;
- any public disciplinary sanction imposed by the state bar on the candidate; and
- any public disciplinary sanction issued by an entity in another state responsible for attorney discipline against the candidate;
- include statements describing the nature of the candidate's legal practice, including any area of legal specialization, and the candidate's professional courtroom experience for the preceding five years; and
- disclose any final conviction of a Class A or Class B misdemeanor in the 10 years preceding the date the person would assume the office.

Moreover, the bill sets out additional ballot application requirements applicable to a candidate for the office of chief justice or justice of the supreme court, presiding judge or judge of the CCA, or chief justice or justice of a court of appeals who does not hold or has not previously held any of those judicial offices. Such a candidate must include a description of the following in the ballot application, in addition to the previously mentioned disclosures and inclusions:

- appellate court briefs the candidate has prepared and filed in the preceding five years; and
- oral arguments the candidate has presented before any appellate court in the preceding five years.

C.S.H.B. 2384 requires each officially prescribed form for an application to the applicable judicial offices to include a statement informing candidates that knowingly providing false information on the application constitutes professional misconduct subject to public sanctions or censure by the SCJC or the state bar, in addition to other legally prescribed penalties. The secretary of state must prescribe the form and content of the application materials and may consult with the Office of Court Administration of the Texas Judicial System (OCA), the supreme court, and the CCA when prescribing the materials.

Sanctions for False Declaration

C.S.H.B. 2384 amends the Government Code to establish the following with respect to a false declaration on a ballot application:

- the panel of a district grievance committee of the State Bar of Texas that finds an attorney knowingly made a false declaration on an application for the applicable judicial offices under the bill's Election Code provisions must impose a public sanction against the respondent attorney; and
- the record of any sanction, any withdrawal of sanction, and any records and proceedings related to a sanction issued by the SCJC against a judge for knowingly making a false declaration on a ballot application is a matter of public record.

Judicial Education Requirements

Applicability

C.S.H.B. 2384 sets out judicial education requirements applicable to all the following judges elected, appointed, or holding office on or after the bill's effective date:

- chief justice or justice of the supreme court;
- presiding judge or judge of the court of criminal appeals;
- chief justice or justice of a court of appeals;
- district judge, including a criminal district judge; and
- judge of a statutory county court.

Instruction Requirements

C.S.H.B. 2384 requires the supreme court, in consultation with the CCA, to adopt rules on the judicial training that a person must complete not later than the first anniversary of the date the person assumes an applicable judicial office. The rules must require the person to complete at

least 30 hours of instruction and for judges to annually complete at least 16 hours of judicial instruction after the first year of the judge's term. A person is exempt from the requirement to complete the training by the person's first anniversary of assuming office if the person has been absent from judicial office for less than one year before assuming the office and has previously completed the training requirements. The bill also authorizes the rules to provide for a deferral or exemption for a person who is unable to timely complete the training or instruction due to a medical or physical disability. These provisions do not affect any funds appropriated to or grants administered by the CCA under the judicial and court personnel training fund.

Suspension and Removal from Office

The bill provides the following:

- the SCJC must issue an order suspending any judge who fails to meet the bill's education requirements until the judge demonstrates compliance with the requirements;
- a judge who is noncompliant for more than one year is subject to removal from office under the Texas Constitution; and
- the attorney general must file a petition for a writ of quo warranto against a judge who is subject to removal if presented with evidence by the SCJC establishing probable grounds that the judge is noncompliant for more than a year.

Specialty Certification in Judicial Administration

C.S.H.B. 2384 requires the supreme court to do the following:

- adopt rules establishing a specialty certification for attorneys in the practice area of judicial administration; and
- by rule require an attorney who holds a specialty certification in judicial administration to annually complete 21 hours of continuing legal education on certain judicial duties and laws to maintain the certification.

C.S.H.B. 2384 requires the Texas Board of Legal Specialization to do the following:

- make recommendations to the supreme court for the specialty certification and a proposed examination for obtaining the specialty certification; and
- make the specialty certification for attorneys in judicial administration available to each judge of an appellate court, district court, statutory county court, statutory probate court, or county court performing judicial functions who is a licensed attorney.

C.S.H.B. 2384 provides that a justice or judge who holds a specialty certification in judicial administration or another specialty certification may be entitled to additional compensation if the legislature makes a specific appropriation for that purpose.

Court Needing Additional Assistance

C.S.H.B. 2384 provides the following with respect to a court needing additional assistance:

- the administrative director of OCA must develop standards for identifying courts that need additional assistance to promote the efficient administration of justice; and
- a presiding judge may appoint a judicial mentor or arrange for additional administrative personnel to be assigned to a court identified by OCA as needing additional assistance.

Trial Courts: Performance Measures and Clearance Rates

C.S.H.B. 2384 requires the annual performance report published by OCA to include disaggregated performance measures for each appellate court, district court, statutory county court, statutory probate court, and county court. The bill also provides the following:

- OCA must annually report the clearance rates of cases, the average time a case is before the court from filing to disposition, and the age of the court's active pending caseload for each district court, statutory county court, statutory probate court, and county court; and

- the method for calculating that rate is revised accordingly to specify that the "clearance rate" means the number of cases disposed of by a court divided by the number of cases added to the docket of the court.

C.S.H.B. 2384 requires the Texas Judicial Council to adopt the rules necessary for OCA to collect the information required for the performance reports and other performance measures required by the bill.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2384 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises the applicability of the requirements for the inclusion and disclosure of certain information on an application for judicial offices and for judicial education, as present in the introduced, by omitting from the requirements a candidate for county judge who performs judicial functions and a county judge who performs judicial functions, respectively.

The introduced specified the topics on which instruction must be completed by a person not later than the first anniversary of the date the person assumes a judicial office as being the administrative duties of the judicial office and substantive, procedural, and evidentiary laws. The substitute does not include this specification.

The introduced specified the topics on which the examination for obtaining the specialty certification in judicial administration must test as being:

- the administrative duties of judicial office;
- the substantive, procedural, and evidentiary laws; and
- any other information the supreme court considers necessary and appropriate to prepare a judge to conduct the business of a court.

The substitute does not include this specification.

While both the introduced and substitute provide for the specialty certification for attorneys in judicial administration to be made available to an applicable judge who is a licensed attorney, the substitute includes the condition that the judge must meet eligibility requirements established by the Texas Board of Legal Specialization, which was not in the introduced. While both the introduced and substitute establish that a judge or justice who holds a specialty certification in judicial administration may be entitled to additional compensation if specifically appropriated by the legislature, the substitute includes a specification that a judge who holds another certification may also be entitled to additional compensation if specifically appropriated.

The substitute revises the judges to which the specialty certification for attorneys in judicial administration must be made available by the Texas Board of Legal Specialization by including statutory probate court judges, which were not included in the introduced. The substitute revises the courts whose disaggregated performance measures must be included in the performance report published by OCA by including statutory probate courts, which were not included in the introduced.

The substitute replaces the requirement that appeared in the introduced for OCA to report the annual clearance rate of cases of each district court, statutory county court, and county court with a requirement for OCA to annually report the clearance rate of each such court and makes the following additional revisions:

- includes each statutory probate court among the courts for which reporting is required;

- includes a requirement to annually report the average time a case is before an applicable court from filing to disposition; and
- includes a requirement to annually report the age of the court's active pending caseload.

The substitute includes the following provisions, which were absent in the introduced:

- an authorization for the rules adopted by the supreme court in consultation with the CCA regarding judicial training requirements to provide for a deferral or exemption for a person who is unable to timely complete the training or instruction due to a medical or physical disability;
- a provision establishing that the bill's judicial instruction requirements do not affect any funds appropriated to or grants administered by the CCA appeals under the judicial and court personnel training fund; and
- a requirement for the Texas Judicial Council to adopt the rules necessary for OCA to collect the information required for the performance reports and other performance measures.