

By: Raymond

H.B. No. 2865

A BILL TO BE ENTITLED

AN ACT

relating to the assignment of certain retired and former justices and judges.

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

SECTION 1. Section 74.003(b), Government Code, is amended to read as follows:

(b) The chief justice of the supreme court may assign a qualified former or retired justice or judge of the supreme court, of the court of criminal appeals, or of a court of appeals to a court of appeals for active service regardless of whether a vacancy exists in the court to which the justice or judge is assigned. To be eligible for assignment under this subsection, a former or retired justice or judge must:

(1) have served as an active justice or judge for at least 72 [~~96~~] months in a district, statutory probate, statutory county, or appellate court, with at least 48 of those months in an appellate court;

(2) not have been removed from office;

(3) certify under oath to the chief justice of the supreme court, on a form prescribed by the chief justice, that:

(A) the justice or judge has never been publicly reprimanded or censured by the State Commission on Judicial Conduct; and

(B) the justice or judge:

1 (i) did not resign or retire from office  
2 after the State Commission on Judicial Conduct notified the justice  
3 or judge of the commencement of a full investigation into an  
4 allegation or appearance of misconduct or disability of the justice  
5 or judge as provided in Section 33.022 and before the final  
6 disposition of that investigation; or

7 (ii) if the justice or judge did resign from  
8 office under circumstances described by Subparagraph (i), the  
9 justice or judge was not publicly reprimanded or censured as a  
10 result of the investigation;

11 (4) annually demonstrate that the justice or judge has  
12 completed in the past state fiscal year the educational  
13 requirements for active appellate court justices or judges; ~~and~~

14 (5) certify to the chief justice of the supreme court a  
15 willingness not to appear and plead as an attorney in any court in  
16 this state to which the judge is assigned for a period of two years;  
17 and

18 (6) certify to the chief justice a willingness not to  
19 hear any matter involving a party who is a current or former client  
20 of the justice or judge for the duration of the assignment.

21 SECTION 2. Section 74.041(6), Government Code, is amended  
22 to read as follows:

23 (6) "Retired judge" means:

24 (A) a retiree; or

25 (B) a person who served as an active judge for at  
26 least 72 ~~[96]~~ months in a statutory probate or statutory county  
27 court and has retired under the Texas County and District

1 Retirement System.

2 SECTION 3. Section 74.055(c), Government Code, is amended  
3 to read as follows:

4 (c) To be eligible to be named on the list, a retired or  
5 former judge must:

6 (1) have served as an active judge for at least 72 [~~96~~]  
7 months in a district, statutory probate, statutory county, or  
8 appellate court;

9 (2) have developed substantial experience in the  
10 judge's area of specialty;

11 (3) not have been removed from office;

12 (4) certify under oath to the presiding judge, on a  
13 form prescribed by the state board of regional judges, that:

14 (A) the judge has never been publicly reprimanded  
15 or censured by the State Commission on Judicial Conduct; and

16 (B) the judge:

17 (i) did not resign or retire from office  
18 after the State Commission on Judicial Conduct notified the judge  
19 of the commencement of a full investigation into an allegation or  
20 appearance of misconduct or disability of the judge as provided in  
21 Section 33.022 and before the final disposition of that  
22 investigation; or

23 (ii) if the judge did resign from office  
24 under circumstances described by Subparagraph (i), was not publicly  
25 reprimanded or censured as a result of the investigation;

26 (5) annually demonstrate that the judge has completed  
27 in the past state fiscal year the educational requirements for

1 active district, statutory probate, and statutory county court  
2 judges; ~~and~~

3 (6) certify to the presiding judge a willingness not  
4 to appear and plead as an attorney in any court in this state to  
5 which the judge is assigned for a period of two years; and

6 (7) certify to the presiding judge a willingness not  
7 to hear any matter involving a party who is a current or former  
8 client of the judge for the duration of the assignment.

9 SECTION 4. Sections 74.003(b), 74.041(6), and 74.055(c),  
10 Government Code, as amended by this Act, apply only to the  
11 assignment of a justice or judge on or after the effective date of  
12 this Act. The assignment of a justice or judge before the effective  
13 date of this Act is governed by the law in effect on the date of the  
14 assignment, and the former law is continued in effect for that  
15 purpose.

16 SECTION 5. This Act takes effect September 1, 2023.