

House Bill 764
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 25.0022(t), Government Code, is amended to read as follows:

(t) To be eligible for assignment under this section, a former or retired judge of a statutory probate court must:

(1) not have been removed from office; ~~and~~

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

(A) the judge has **not** been publicly reprimanded or censured by the State Commission on Judicial Conduct;
and

(B) the judge;

(i) did not resign or retire from office after the State Commission on Judicial Conduct notified the judge of the commencement of a full investigation into an allegation or appearance of misconduct or disability of the judge [having received notice that formal proceedings by the State Commission on Judicial Conduct had been instituted] as provided in Section 33.022 and before the final disposition of that investigation; or

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

(3) annually demonstrate that the judge has completed in the past state fiscal year the educational requirements for an active statutory probate court judge;

(4) have served as an active judge for at least 96 months in a district, statutory probate, statutory county, or appellate court; and

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SECTION 1. Subsection (t), Section 25.0022, Government Code, is amended to read as follows:

(t) To be eligible for assignment under this section, a former or retired judge of a statutory probate court must:

(1) not have been removed from office; ~~and~~

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

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

(B) the judge;

(i) did not resign or retire from office after the State Commission on Judicial Conduct notified the judge of the commencement of a full investigation into an allegation or appearance of misconduct or disability of the judge [having received notice that formal proceedings by the State Commission on Judicial Conduct had been instituted] as provided in Section 33.022 and before the final disposition of that investigation; or

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

(3) annually demonstrate that the judge has completed in the past state fiscal year the educational requirements for an active statutory probate court judge;

(4) have served as an active judge for at least 96 months in a district, statutory probate, statutory county, or appellate court; and

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(5) have developed substantial experience in the judge's area of specialty [the proceedings].

SECTION 2. (a) The change in law made by Chapter 315 (H.B. 3306), Acts of the 78th Legislature, Regular Session, 2003, to Section 74.055(c)(1), Government Code, does not apply to a person who:

(1) was serving a term as an active judge described by Section 74.054(a)(1), Government Code, on August 31, 2003; and

(2) on completion of that term, met the eligibility requirements, other than the requirement of Section 74.055(c)(6), Government Code, to be named on a list of retired and former judges under Section 74.055(c), Government Code, as that law existed on August 31, 2003.

(b) Section 74.055(c), Government Code, as it existed on August 31, 2003, is continued in effect for determining the eligibility of a person described by Subsection (a) of this section to be named on the list of retired and former judges subject to assignment.

SECTION 3. (a) The change in law made by this Act by amending Section 25.0022(t)(2), Government Code, and by adding Sections 25.0022(t)(4) and (5), Government Code, applies only to an assignment of a visiting judge appointed under Chapter 25, Government Code, made on or after September 1, 2009. An assignment made before

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(5) have developed substantial experience in the judge's area of specialty [the proceedings].

No equivalent provision.

SECTION 2. (a) The change in law made by this Act by amending Subdivision (2), Subsection (t), Section 25.0022, Government Code, and by adding Subdivisions (4) and (5), Subsection (t), Section 25.0022, Government Code, applies only to an assignment of a visiting judge appointed under Chapter 25, Government Code, made on

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September 1, 2009, is governed by Section 25.0022(t), Government Code, as it exists on the date of the assignment, and that law is continued in effect for that purpose.

(b) The change in law made by this Act by amending Section 25.0022(t)(2), Government Code, and by adding Sections 25.0022(t)(4) and (5), Government Code, does not apply to a person who immediately before the effective date of this Act meets the eligibility requirements to be assigned by the presiding judge under Section 25.0022(h), Government Code, and the former law is continued in effect for determining that person's eligibility for that purpose.

(c) The change in law made by this Act by adding Section 25.0022(t)(3), Government Code, applies only to an assignment of a visiting judge appointed under Chapter 25, Government Code, made on or after September 1, 2010. Except as provided by Subsection (b) of this section, an assignment made before September 1, 2010, is governed by Section 25.0022(t), Government Code, as it exists on the date of the assignment, and that law is continued in effect for that purpose.

(d) Section 25.0022(t)(2)(A), Government Code, as added by this Act, applies only to a reprimand or censure issued by the State Commission on Judicial Conduct on or after the effective date of this Act.

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or after September 1, 2009. An assignment made before September 1, 2009, is governed by Subsection (t), Section 25.0022, Government Code, as it exists on the date of the assignment, and that law is continued in effect for that purpose.

(b) The change in law made by this Act by amending Subdivision (2), Subsection (t), Section 25.0022, Government Code, and by adding Subdivisions (4) and (5), Subsection (t), Section 25.0022, Government Code, does not apply to a person who immediately before the effective date of this Act meets the eligibility requirements to be assigned by the presiding judge under Subsection (h), Section 25.0022, Government Code, and the former law is continued in effect for determining that person's eligibility for that purpose.

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SECTION 4. This Act takes effect September 1, 2009.

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SECTION 3. Same as House version.

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