

SUBJECT: Changing eligibility requirements for appellate and district judges

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Leach, Julie Johnson, Krause, Middleton, Schofield, Smith
0 nays
3 absent — Davis, Dutton, Moody

SENATE VOTE: On final passage, April 27 — 30-1 (Gutierrez)

WITNESSES: For — Ed Heimlich, Informed Citizens; Joanne Richards, Texas Fair Courts Network; (*Registered, but did not testify*: Guy Herman, Statutory Probate Courts of Texas; Lee Parsley, Texans for Lawsuit Reform; Thomas Parkinson)
Against — None

BACKGROUND: Texas Constitution Art. 5, sec. 2(b) establishes eligibility requirements to serve as chief justice or justice of the Texas Supreme Court. The eligibility qualifications require that a person:

- be licensed to practice law in Texas;
- be a citizen of the United States and Texas at the time of the election;
- be at least 35 years old; and
- have been a practicing lawyer or a lawyer and judge of a court of record together for at least 10 years.

Sec. 4(a) applies the same qualifications to the Court of Criminal Appeals and sec. 6(a) applies the same qualifications to courts of appeals.

Art. 5, sec. 7 establishes requirements for a candidate for election as a state district judge. The eligibility qualifications require that a person be

licensed to practice law in Texas; be a citizen of the United States and Texas; have been a practicing lawyer or a judge of a court in Texas, or both combined, for four years; have resided in the district in which the person was elected for two years; and reside in the district during the person's term in office.

DIGEST:

SJR 47 would amend the Texas Constitution to change the eligibility requirements to serve on the Texas Supreme Court, the Court of Criminal Appeals, and courts of appeals and for election as a district judge.

Appellate judges. The joint resolution would revise the requirement relating to the 10 years before a person became a justice or judge on certain courts. A practicing lawyer would have to have been licensed in Texas for at least 10 years or have judicial experience from specific Texas courts for a combined total of at least 10 years in order to be eligible.

Under the revisions, to serve as the chief justice or a justice on the Texas Supreme Court or a court of appeals or as a presiding judge or judge on the Court of Criminal Appeals, a person would have to be:

- licensed to practice law in Texas;
- a citizen of the United States and a resident of Texas at the time of the election;
- at least 35 years old; and
- a practicing lawyer licensed in Texas for at least 10 years or a practicing lawyer licensed in Texas and a judge of a state court or county court established by the Legislature by statute for a combined total of at least 10 years.

In addition to these qualifications, the bill would require that during the 10 years the person was licensed and practicing, the person could not have had the person's license to practice law revoked, suspended, or subject to a probated suspension.

District judges. The joint resolution would increase from four to eight the number of years preceding a district judge's election that the judge would

have to have been a practicing lawyer, a judge of a Texas court, or both combined. The resolution would add a new requirement that during that time, the judge's license to practice law could not have been revoked, suspended, or subject to a probated suspension.

Effective dates. A temporary provision in the joint resolution would specify that the resolution's revisions of eligibility requirements for certain justices would take effect January 1, 2022, and would apply only to a chief justice or other justice of the Texas Supreme Court, a presiding judge or other judge of the Court of Criminal Appeals, or a chief justice or other justice of a court of appeals who was first elected for a term that began on or after January 1, 2025, or who was appointed on or after that date.

The amendment relating to district judges would take effect January 1, 2022, and would apply only to a district judge first elected for a term that began on or after January 1, 2025, or who was appointed on or after that date.

The temporary provision would expire January 1, 2026.

Ballot proposal. The ballot proposal would be presented to voters at an election to be held November 2, 2021. The proposal would read: "The constitutional amendment changing the eligibility requirements for a justice of the supreme court, a judge of the court of criminal appeals, a justice of a court of appeals, and a district judge."

**SUPPORTERS
SAY:**

SJR 47 would ensure a higher quality judiciary in Texas by adding to existing eligibility requirements for appellate and district court judges. There have long been bipartisan calls to revise qualifications for judges, an issue separate from the method of judicial selection. Strengthening judicial qualifications would benefit all Texans.

Requiring appellate court justices to have practiced law and been licensed in Texas for at least 10 consecutive years would ensure these judges had the necessary experience in Texas law and avoid a situation in which a

lawyer could move to Texas and within a few years win election to one of the state's highest courts.

Increasing the length of time from four to eight years that a district judge candidate must have practiced law in Texas would ensure that judges had sufficient legal experience to preside over important trials.

The proposed constitutional amendment also would ensure that judicial candidates had not been subject to disciplinary action for violating standards of ethical conduct for practicing law in Texas.

SJR 47 would impact only judicial candidates for appellate courts and district courts where the experience and qualifications are crucial. Only a very small number of current judges, fewer than five, would not meet the qualifications in the resolution, and the resolution would not apply to them because it would apply only to those who would be first elected for a term after January 2025. SJR 47 would not prevent anyone from a judicial appointment or election once the minimum experience level had been reached.

**CRITICS
SAY:**

It is unnecessary to revise qualifications for the judiciary because current constitutional provisions are working to ensure voters can make choices among qualified judicial candidates. More legal experience does not necessarily equate to a better judge, and requiring more experience could reduce voter choice and exclude groups of younger, more diverse lawyers from judicial appointments or races.

NOTES:

According to the Legislative Budget Board, the cost for publishing the resolution would be \$178,333.