

SUBJECT: Establishing requirements for judicial office candidates and office holders

COMMITTEE: Judiciary & Civil Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Leach, Julie Johnson, Davis, Flores, Murr, Schofield, Slawson, Vasut

0 nays

1 absent — Moody

WITNESSES: For — George Christian, Texas Civil Justice League; Jack Walker, Texas Trial Lawyers Association and Tex-ABOTA (*Registered, but did not testify*); Corbin Van Arsdale, AGC-Texas Building Branch; Ray Sullivan, American Property and Casualty Insurance Association; Geoffrey Tahuahua, Associated Builders and Contractors of Texas; Matt Foster, AT&T; Sam Gammage, Dow; Mark Smith, Hunt Companies Inc; Stephen Scurlock, Independent Bankers Association of Texas; Regan Ellmer, Independent Insurance Agents of Texas; Susan Ross, Johnson & Johnson; Bill Oswald, Koch Companies; Guy Herman, Presiding Judge of the Statutory Probate Courts of Texas; Lee Parsley, Texans for Lawsuit Reform; Ashley Morgan, Texas Alliance for Patient Access; Sandy Hoy, Texas Apartment Association; David Brenner, Texas Association of Defense Counsel; Kyle Bush, Texas Association of Manufacturers; Brittney Baldovinos, Texas Chemical Council; Carol Sims, Fred Shannon, Texas Civil Justice League; Fred Shannon, Texas Medical Liability Trust; Lance Lively, Texas Package Stores Association; Thure Cannon, Texas Pipeline Association; Mike Hodges, Texas Press Association; Dennis Kearns, Texas Railroad Association; Kenneth Besserman, Texas Society of CPAs; Mark Borskey, Texas Trucking Association; Tracey Borders Mittnacht, The Associated General Contractors of Texas - Highway, Heavy, Utilities and Industrial Branch; Brad Schlueter, USAA; Jay Brown, Valero Energy Corporation; Doug Davis, Wholesale Beer Distributors of Texas; Tom Spilman, Wholesale Beer Distributors of Texas; Leticia Van de Putte, Zachry Corp; Pasha Moore; Jeff Rose)

Against — None

On — Alexander Comsudi, Office of Judicial Education; Alfonso Charles (*Registered, but did not testify*: Leo Figueroa, Texas Board of Legal Specialization)

DIGEST: CSHB 2384 would establish additional ballot application requirements for candidates for certain judicial offices, create additional education requirements for sitting judges, and establish provisions to report certain court performance measures. The provisions of the bill would apply to the following judicial offices:

- 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.

Ballot application form. CSHB 2384 would require a judicial candidate's application for a place on the ballot to include a candidate's Texas bar number, in addition to the bar number from any other state in which the candidate was licensed to practice law. Candidates would be required to disclose the nature of the candidate's legal practice and the candidate's professional courtroom experience from the preceding five years.

Candidates also would be required to disclose within the application:

- sanctions or censure issued by the State Commission on Judicial Conduct or a review tribunal;
- disciplinary sanctions imposed by the state bar or an entity responsible for attorney discipline in another state; and
- final convictions of Class A or Class B misdemeanors which had occurred within 10 years preceding the date the person would assume judicial office.

Judicial candidates for the supreme court, court of criminal appeals, or a

court of appeals who did not hold or had not previously held judicial office would be required to provide a description of any appellate court briefs prepared and oral arguments presented before an appellate court in the preceding five years.

The bill would require the ballot application form to include a statement informing candidates that knowingly providing false information would constitute professional misconduct subject to sanctions or censure. The bill would require the panel of a district grievance committee to impose public sanctions against any respondent attorney who made a false declaration on an application. Any sanctions issued for knowingly making a false declaration, withdrawals of sanctions, and all records and proceedings related to sanctions would be a matter of public record.

Judicial education requirements. The bill would require the supreme court, in consultation with the court of criminal appeals, to adopt rules regarding judicial training. These rules would require a judge to complete at least 30 hours of instruction within the first year of assuming office and 16 hours annually in following years.

The established training requirements would not apply to individuals who had previously completed the training and were absent from their judicial office for less than one year before assuming judicial office. The bill would allow for rules to be adopted to permit deferrals or exemptions for reasons related to medical or physical disabilities. The commission would be required to suspend judges who failed to meet the education requirements until such time that the judge was in compliance. The bill would consider judges who remained noncompliant for more than one year as subject to removal from office under the Texas Constitution.

If presented with evidence by the commission establishing probable grounds that a judge had been noncompliant for more than one year, the attorney general would be required to file a petition against the judge.

These provisions would not affect any funds appropriated to or grants administered by the court of criminal appeals related to the judicial and

court personnel training fund.

Standards and performance. The bill would require the administrative director of the office of court administration to develop standards for identifying courts that need additional assistance to promote the efficient administration of justice.

The bill would allow presiding judges of judicial administrative regions to appoint a judicial mentor or allocate more administrative personnel to courts that have been identified as requiring additional assistance by the office of court administration.

The bill also would require the office to include disaggregated performance measures in their performance report regarding the efficiency of each appellate, district, statutory county, statutory probate, and county court. For district courts, statutory county courts, statutory probate courts, and county courts, the office would be required to report certain performance measures including the court's clearance rate, the average time a case is before the court from filing to disposition, and the age of the court's active pending caseload.

Specialty certifications for attorneys. The supreme court would be required to adopt rules establishing a specialty certification for attorneys in the practice area of judicial administration.

The Texas Board of Legal Specialization would make recommendations regarding this specialty certificate and a proposed examination to obtain the certificate. Specialty certificates would be available to judges of appellate courts, district courts, statutory county courts, statutory probate courts, and county courts meeting certain criteria.

The supreme court would be required by rule to mandate that an attorney holding specialty certification annually complete 21 hours of continuing legal education to maintain the certification.

A justice or judge holding a specialty certification in judicial

administration or another specialty certification could be entitled to additional compensation if the Legislature made a specific appropriation for that purpose.

The bill would take effect September 1, 2023. The provisions of the bill would apply to all judges elected, appointed, or holding office on or after the effective date of the bill. The provisions regarding ballot application forms would only apply to elections ordered on or after the effective date of the bill.

The bill would require the Texas Supreme Court and the Texas Judicial Council to adopt the necessary rules as soon as practicable after the effective date of the bill.

**SUPPORTERS
SAY:**

HB 2384 would institute better transparency measures to allow voters to make more informed choices at the ballot box and increase public trust in the judiciary. The bill would ensure that critical personal information, such as bar numbers, disciplinary actions, and certain criminal convictions were disclosed to the public. It also would help ensure that voters were informed of candidates' courtroom experience and legal specializations, allowing voters to make comparisons of judicial competency. The bill would require the collection of certain metrics that would help the public to understand how well their judges were performing within the judges' elected positions.

HB 2384 would help to improve the skills and competency of sitting judges through robust judicial education and training. This training would be specialized towards improving a judge's administrative abilities, an area in which many first-time elected judges do not possess prior experience. This could help judge's throughout the state to maintain a more efficient case docket. Similar programs have been helpful in other states and implementing such training in Texas could help the state rise to a higher level of judicial excellence.

While the court of criminal appeals currently operates a judicial education program, the Texas Constitution requires disciplinary action against

judges to be premised on violations of supreme court rules. Given that HB 2384 would institute a judicial education program that includes disciplinary action for failure to comply with training requirements, the responsibility of developing the training program and its rules should be given to the supreme court in order to avoid a constitutional conflict.

CRITICS
SAY:

While HB 2384 proposes valuable transparency measures and judicial education, but responsibility of developing the judicial education program should be assigned to the court of criminal appeals as opposed to the supreme court. Current statute already assigns this responsibility to the court of criminal appeals, and the bill could create a contradiction in the law. Giving the responsibility of judicial education to the court of criminal appeals also would leverage the court's existing training program and expertise, which could make it a better choice for this responsibility.

NOTES:

According to the Legislative Budget Board, HB 2384 would have a negative impact to general revenue related funds of \$6 million through the biennium ending August 31, 2025.