

BILL ANALYSIS

Senate Research Center
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H.B. 3531
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

It has been suggested that there is confusion among those in the legal community on the issue of disqualification of prosecutors who are the subject of an investigation for an offense against public administration. H.B. 3531 seeks to alleviate this confusion.

H.B. 3531 amends the Government Code to authorize the judge of a court with jurisdiction over a complaint alleging an offense against public administration in a case investigated by the public integrity unit of the Texas Rangers, to request that the presiding judges of the administrative judicial regions permit the judge to recuse himself or herself for good cause. The judge is then disqualified on submission of the notice of recusal.

H.B. 3531 would also require the public integrity unit to inform the judge of the court with jurisdiction over such a complaint if the prosecuting attorney is disqualified because the prosecuting attorney is the subject of a criminal investigation by the unit based on credible evidence of criminal misconduct. The judge, on showing that the prosecuting attorney is the subject of the investigation, would order the prosecuting attorney disqualified. The public integrity unit of the Texas Rangers would have to inform the presiding judges of the administrative judicial regions of the prosecuting attorney's disqualification if the applicable judge is also disqualified.

Following the disqualification of a judge, the bill requires the presiding judges to appoint by majority vote a judge from a county within the administrative judicial region and grants the judge jurisdiction over the complaint.

H.B. 3531 amends current law relating to the disqualification of a prosecuting attorney or judge in a case investigated by the public integrity unit of the Texas Rangers.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 411.0255, Government Code, to read as follows:

Sec. 411.0255. DISQUALIFICATION OF PROSECUTING ATTORNEY OR JUDGE;
SELECTION OF PROSECUTING ATTORNEY BY PRESIDING JUDGE OF
ADMINISTRATIVE JUDICIAL REGION.

SECTION 2. Amends Section 411.0255, Government Code, by amending Subsections (a) and (c) and adding Subsections (b-1), (b-2), (b-3), (b-4), and (c-1), as follows:

(a) Defines "presiding judges," rather than "judges," for purposes of this section.

(b-1) Authorizes the judge of a court with jurisdiction over a complaint to request that the presiding judges permit the judge to recuse himself or herself for good cause in a case

investigated under this subchapter (Public Integrity Unit), and provides that, on submitting the notice of recusal, the judge is disqualified.

(b-2) Requires the public integrity unit of the Texas Rangers (public integrity unit) to inform the judge of the court with jurisdiction over a complaint if the prosecuting attorney is disqualified for purposes of Article 2.07 (Attorney Pro Tem), Code of Criminal Procedure, because the prosecuting attorney is the subject of a criminal investigation under this subchapter based on credible evidence of criminal misconduct. Requires the judge, on showing that the prosecuting attorney is the subject of the investigation, to order the prosecuting attorney disqualified under Article 2.08 (Disqualified), Code of Criminal Procedure.

(b-3) Requires the public integrity unit, if the judge of the court with jurisdiction over a complaint described by Subsection (b-2) is also disqualified, to inform the presiding judges of the prosecuting attorney's disqualification under that subsection.

(b-4) Requires the public integrity unit to inform the presiding judges if a judge of a court with jurisdiction over a complaint is disqualified because the judge is the subject of a criminal investigation under this subchapter based on credible evidence of criminal misconduct. Requires the presiding judges, on showing that the judge is the subject of the investigation, to order the judge disqualified. Provides that disqualification under this subsection applies only to the judge's access to the criminal investigation pending against the judge and to any prosecution of a criminal charge resulting from that investigation.

(c) Requires the presiding judges, following the disqualification of a prosecuting attorney under this section (Recusal of Prosecuting Attorney; Selection of Prosecuting Attorney by Presiding Judge of Administrative Judicial Region), rather than requiring the judges, following the recusal of a prosecuting attorney under Subsection (b), to appoint a prosecuting attorney from another county in that administrative judicial region by majority vote.

(c-1) Requires the presiding judges by majority vote, following the disqualification of a judge of a court with jurisdiction over a complaint under this section, to appoint a judge from a county within the administrative judicial region. Provides that a judge selected under this subsection has jurisdiction over the complaint.

SECTION 3. Provides that the change in law made by this Act to Section 411.0255, Government Code, applies to a case investigated by the public integrity unit of the Texas Rangers initiated or pending before a court on or after the effective date of this Act.

SECTION 4. Effective date: upon passage or September 1, 2019.