

1-1 By: Raymond (Senate Sponsor - Zaffirini) H.B. No. 2865
1-2 (In the Senate - Received from the House May 3, 2023;
1-3 March 14, 2023, read first time and referred to Committee on
1-4 Jurisprudence; May 21, 2023, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 May 21, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			

1-14 COMMITTEE SUBSTITUTE FOR H.B. No. 2865 By: Hughes

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to the assignment of certain retired and former justices
1-18 and judges.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Section 74.003(b), Government Code, is amended
1-21 to read as follows:

1-22 (b) The chief justice of the supreme court may assign a
1-23 qualified former or retired justice or judge of the supreme court,
1-24 of the court of criminal appeals, or of a court of appeals to a court
1-25 of appeals for active service regardless of whether a vacancy
1-26 exists in the court to which the justice or judge is assigned. To be
1-27 eligible for assignment under this subsection, a former or retired
1-28 justice or judge must:

1-29 (1) have served as an active justice or judge for at
1-30 least 72 [~~96~~] months in a district, statutory probate, statutory
1-31 county, or appellate court, with at least 48 of those months in an
1-32 appellate court;

1-33 (2) not have been removed from office;

1-34 (3) certify under oath to the chief justice of the
1-35 supreme court, on a form prescribed by the chief justice, that:

1-36 (A) the justice or judge has never been publicly
1-37 reprimanded or censured by the State Commission on Judicial
1-38 Conduct; and

1-39 (B) the justice or judge:

1-40 (i) did not resign or retire from office
1-41 after the State Commission on Judicial Conduct notified the justice
1-42 or judge of the commencement of a full investigation into an
1-43 allegation or appearance of misconduct or disability of the justice
1-44 or judge as provided in Section 33.022 and before the final
1-45 disposition of that investigation; or

1-46 (ii) if the justice or judge did resign from
1-47 office under circumstances described by Subparagraph (i), the
1-48 justice or judge was not publicly reprimanded or censured as a
1-49 result of the investigation;

1-50 (4) annually demonstrate that the justice or judge has
1-51 completed in the past state fiscal year the educational
1-52 requirements for active appellate court justices or judges; ~~and~~

1-53 (5) certify to the chief justice of the supreme court a
1-54 willingness not to appear and plead as an attorney in any district,
1-55 statutory county, or statutory probate court in the county in which
1-56 the judge is assigned [~~this state~~] for a period of two years; and

1-57 (6) certify to the chief justice a willingness not to
1-58 hear any matter involving a party who is a current or former client
1-59 of the justice or judge for the duration of the assignment.

1-60 SECTION 2. Section 74.041(6), Government Code, is amended

2-1 to read as follows:

2-2 (6) "Retired judge" means:

2-3 (A) a retiree; or

2-4 (B) a person who served as an active judge for at
2-5 least 72 [~~96~~] months in a statutory probate or statutory county
2-6 court and has retired under the Texas County and District
2-7 Retirement System.

2-8 SECTION 3. Section 74.055(c), Government Code, is amended
2-9 to read as follows:

2-10 (c) To be eligible to be named on the list, a retired or
2-11 former judge must:

2-12 (1) have served as an active judge for at least 72 [~~96~~]
2-13 months in a district, statutory probate, statutory county, or
2-14 appellate court;

2-15 (2) have developed substantial experience in the
2-16 judge's area of specialty;

2-17 (3) not have been removed from office;

2-18 (4) certify under oath to the presiding judge, on a
2-19 form prescribed by the state board of regional judges, that:

2-20 (A) the judge has never been publicly reprimanded
2-21 or censured by the State Commission on Judicial Conduct; and

2-22 (B) the judge:

2-23 (i) did not resign or retire from office
2-24 after the State Commission on Judicial Conduct notified the judge
2-25 of the commencement of a full investigation into an allegation or
2-26 appearance of misconduct or disability of the judge as provided in
2-27 Section 33.022 and before the final disposition of that
2-28 investigation; or

2-29 (ii) if the judge did resign from office
2-30 under circumstances described by Subparagraph (i), was not publicly
2-31 reprimanded or censured as a result of the investigation;

2-32 (5) annually demonstrate that the judge has completed
2-33 in the past state fiscal year the educational requirements for
2-34 active district, statutory probate, and statutory county court
2-35 judges; ~~and~~

2-36 (6) certify to the presiding judge a willingness not
2-37 to appear and plead as an attorney in any district, statutory
2-38 county, or statutory probate court in the county in which the judge
2-39 is assigned [~~this state~~] for a period of two years; and

2-40 (7) certify to the presiding judge a willingness not
2-41 to hear any matter involving a party who is a current or former
2-42 client of the judge for the duration of the assignment.

2-43 SECTION 4. Sections 74.003(b), 74.041(6), and 74.055(c),
2-44 Government Code, as amended by this Act, apply only to the
2-45 assignment of a justice or judge on or after the effective date of
2-46 this Act. The assignment of a justice or judge before the effective
2-47 date of this Act is governed by the law in effect on the date of the
2-48 assignment, and the former law is continued in effect for that
2-49 purpose.

2-50 SECTION 5. This Act takes effect September 1, 2023.

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