

BILL ANALYSIS

Senate Research Center
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S.B. 891
By: Huffman
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The State of Texas is experiencing both an increase in population and a shift in where the majority of the residents live. As the state's population grows in some areas while declining in others the judicial needs of the various regions change. These shifting demographics can significantly impact the caseload of the existing courts. Historically, the Texas Legislature has compensated for changes in population by establishing new courts or changing existing judicial boundaries. Several factors are analyzed in the evaluation process, including increased caseloads, case backlogs, substantial population growth, and county support. In order to ensure that the creation of new courts and the modification of judicial jurisdictions is conducted in an orderly manner, S.B. 891 consolidates these changes into a single omnibus bill.

As proposed, S.B. 891 amends current law relating to the operation and administration of and practice in courts in the judicial branch of state government.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the supreme court of Texas in SECTION 6.03 (Section 72.033, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. DISTRICT COURTS.

SECTION 1.01. (a) Amends the heading to Section 24.124, Government Code, to read as follows:

Sec. 24.124. 23RD JUDICIAL DISTRICT (MATAGORDA AND WHARTON COUNTIES).

(b) Amends Sections 24.124(a) and (b), Government Code, as follows:

(a) deletes existing text including Brazoria County in the 23rd Judicial District;

(b) makes a conforming change by deleting existing text in Subdivision (1) and renumbers subsequent subdivisions accordingly.

(c) Amends Subchapter C, Chapter 24, Government Code, by adding Section 24.6005, as follows:

Sec. 24.6005. 461ST JUDICIAL DISTRICT (BRAZORIA COUNTY). (a) Provides that the 461st Judicial District is composed of Brazoria County.

(b) Requires the 461st District Court to give preference to family law matters.

(d) Requires the local administrative district judge to transfer to the 461st District Court all cases from Brazoria County that are pending in the 23rd District Court on the effective date of this Act.

(e) Provides that when a case is transferred as provided by Subsection (d) of this section all processes, writs, bonds, recognizances, or other obligations issued from the 23rd District Court are returnable to the 461st District Court as if originally issued by that court, and the obligees on all bonds and recognizances taken in and for the 23rd District Court and all witnesses summoned to appear in the 23rd District Court are required to appear before the 461st District Court as if originally required to appear before that court.

(f) Provides that the 461st Judicial District is created on September 1, 2019.

SECTION 1.02. (a) Amends Subchapter C, Chapter 24, Government Code, by adding Section 24.600, as follows:

Sec. 24.600. 456TH JUDICIAL DISTRICT (GUADALUPE COUNTY). (a) Provides that the 456th Judicial District is composed of Guadalupe County.

(b) Requires the 456th District Court to give preference to civil cases.

(b) Provides that the 456th Judicial District is created on September 1, 2019.

SECTION 1.03. (a) Amends Subchapter C, Chapter 24, Government Code, by adding Section 24.6001, as follows:

Sec. 24.6001. 457TH JUDICIAL DISTRICT (MONTGOMERY COUNTY). Provides that the 457th Judicial District is composed of Montgomery County.

(b) Provides that the 457th Judicial District is created on September 1, 2019.

SECTION 1.04. (a) Amends Subchapter C, Chapter 24, Government Code, by adding Section 24.60010, as follows:

Sec. 24.60010. 466th JUDICIAL DISTRICT (COMAL COUNTY). Provides that the 466th Judicial District is composed of Comal County.

(b) Provides that the 466th Judicial District is created on September 1, 2019.

ARTICLE 2. STATUTORY COUNTY COURTS

SECTION 2.01. (a) Amends Subchapter C, Chapter 25, Government Code, by adding Section 25.0381, as follows:

Sec. 25.0381. CHAMBERS COUNTY. Provides that Chambers County has one statutory county court, the County Court at Law of Chambers County.

(b) Provides that the County Court at Law of Chambers County is created on September 1, 2019.

SECTION 2.02. (a) Amends Section 25.0481, Government Code, as follows:

Sec. 25.0481. COMAL COUNTY. Provides that Comal County has the following statutory county courts:

(1) and (2) makes nonsubstantive changes; and

(3) County Court at Law No. 3 of Comal County.

(b) Provides that the County Court at Law No. 3 of Comal County is created on September 1, 2019.

SECTION 2.03. Amends Section 25.0512, Government Code, by adding Subsections (a) and (b), as follows:

(a) Provides that a county court at law in Cook County, in addition to the jurisdiction provided by Section 25.0003 (Jurisdiction) and other law, has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) Provides that the district clerk serves as clerk of a county court at law in family law cases and proceedings, and the county clerk serves as clerk of the court in all other cases and proceedings.

SECTION 2.04. (a) Amends Section 25.1481, Government Code, as follows:

Sec. 25.1481. LIBERTY COUNTY. (a) Provides that Liberty County has the following statutory county courts:

(1) deletes text including one statutory county court and makes a nonsubstantive change; and

(2) the County Court at Law No. 2 of Liberty County.

(b) Makes conforming changes.

(b) Provides that the County Court at Law No. 2 of Liberty County is created on September 1, 2019.

ARTICLE 3. DISTRICT AND COUNTY ATTORNEYS

SECTION 3.01. Amends Section 43.105(a), Government Code, as follows:

(a) Provides that the district attorney also acts as district attorney for the 410th and 457th Judicial Districts, rather than for the 410th Judicial District in Montgomery County.

SECTION 3.02. Amends Section 43.108, Government Code, as follows:

Sec. 43.108. 21ST JUDICIAL DISTRICT. (a) Deletes existing text including the voters of Burleson county to elect a district attorney for the 21st Judicial District and makes conforming changes.

(b) Makes conforming changes.

SECTION 3.03 Amends Subchapter B, Chapter 45, Government Code, by adding Section 45.126, as follows:

Sec. 45.126. BURLESON COUNTY. (a) Requires the county attorney of Burleson County, in Burleson County, to perform the duties imposed on and have the powers conferred on district attorneys by general law and provides that the county attorney of Burleson County is entitled to be compensated by the state in the manner and amount set by general law relating to the salary paid to district attorneys by the state.

(b) Authorizes the county attorney of Burleson County or the Commissioners Court of Burleson County to accept gifts or grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting the operation of the office of county attorney in Burleson County. Requires the county attorney to account for and report to the commissioners court all gifts or grants accepted under this subsection.

SECTION 3.04. Amends Section 46.002, Government Code, as follows:

Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. Provides that this chapter applies to the state prosecuting attorney, all county prosecutors, and the following state prosecutors:

- (1) includes the district attorneys for the 24th judicial district;
- (2) makes no changes to this subdivision; and
- (3) includes the county attorneys performing the duties of district attorneys in Burleson county.

ARTICLE 4. ELECTRONIC PUBLICATION AND DISPLAY OF LEGAL DOCUMENTS

SECTION 4.01. Amends Sections 9.160(a), (b), and (c), Business Organizations Code, as follows:

- (a) Requires the Texas attorney general (attorney general), if process in an action under this subchapter is returned not found, to publish notice on the public information Internet website maintained as required by Section 72.034, Government Code, rather than publish notice in a newspaper in the county in which the registered office of the foreign filing entity in this state is located.
- (b) Requires notice under this section to be published for at least two consecutive weeks beginning at any time after the citation has been returned and deletes existing text requiring the notice to be published at least once a week.
- (c) Makes a nonsubstantive change.

SECTION 4.02. Amends Sections 11.310(a) and (b), Business Organizations Code, as follows:

- (a) Requires the attorney general, if process in an action under this subchapter is returned not found, to publish notice on the public information Internet website maintained as required by Section 72.034, Government Code, rather than in a newspaper in the county in which the registered office of the foreign filing entity in this state is located.
- (b) Requires notice under this section to be published for at least two consecutive weeks beginning at any time after the citation has been returned and deletes existing text requiring the notice to be published at least once a week.

SECTION 4.03. Amends Sections 51.054(a) and (b), Estates Code, as follows:

- (a) Requires a citation or notice to a person to be served by publication to be published one time on the public information Internet website maintained as required by Section 72.034, Government Code, rather than in a newspaper of general circulation in the county in which the proceeding is pending.
- (b) Provides that the date of service of citation or notice by publication is the date the citation or notice is published on the public information Internet website under Subsection (a), rather than the date of publication printed on the newspaper in which the citation or notice is published.

SECTION 4.04. Amends Section 51.103(b), Estates Code, as follows:

- (b) Provides that proof of service consists of:
 - (1)–(3) makes no changes to these subdivisions; and
 - (4) if the service is made by publication, an affidavit:

(A) made by the Office of Court Administration of the Texas Judicial System (OCA) or an employee of OCA, rather than made by the publisher of the newspaper in which the citation or notice was published or an employee of the publisher;

(B) makes no changes to this paragraph; and

(C) that states the date of publication on the public information Internet website maintained as required by Section 72.034, Government Code, rather than the date of publication printed on the newspaper in which the citation or notice is published.

SECTION 4.05. Amends Sections 1051.054(a) and (b), Estates Code, as follows:

(a) Requires citation or notice to a person to be served by publication to be published one time on the public information Internet website maintained as required by Section 72.034, Government Code, rather than in a newspaper of general circulation in the county in which the proceeding is pending.

(b) Provides that the date of service of citation or notice by publication is the date the citation or notice is published on the public information Internet website under Subsection (a), rather than the date of publication printed on the newspaper in which the citation or notice is published.

SECTION 4.06. Amends Section 1051.153(b), Estates Code, as follows:

(b) Proof of service consists of:

(1)–(3) makes no changes to these subdivisions; and

(4) if the service is made by publication, an affidavit:

(A) OCA or an employee of OCA, rather than made by the publisher of the newspaper in which the citation or notice was published or an employee of the publisher;

(B) makes no changes to this paragraph; and

(C) that states the date of publication on the public information Internet website maintained as required by Section 72.034, Government Code, rather than the date of publication printed on the newspaper in which the citation or notice is published.

SECTION 4.07. Amends Section 3.305, Family Code, as follows:

Sec. 3.305. CITATION BY PUBLICATION. (a) Requires citation, if the residence of the respondent, other than a respondent reported to be a prisoner of war or missing on public service, is unknown, to be published on the public information Internet website maintained as required by Section 72.034, Government Code, rather than in a newspaper of general circulation published in the county in which the petition was filed. Deletes existing text requiring citation, if that county has no newspaper of general circulation, to be published in a newspaper of general circulation in an adjacent county or in the nearest county in which a newspaper of general circulation is published.

(b) Deletes existing text requiring the notice to be published once a week for two consecutive weeks before the hearing.

SECTION 4.08. Amends Section 102.010(e), Family Code, as follows:

(e) Authorizes the court, in a suit filed under Chapter 161 (Termination of the Parent-Child Relationship) or 262 (Procedures in Suit by Governmental Entity to Protect Health and Safety of Child) in which the last name of the respondent is unknown, to order substituted service of citation by publication, including publication by posting the citation at the courthouse door for a specified time, if the court finds and states in its order that the method of substituted service is as likely as citation by publication on the public information Internet website maintained as required by Section 72.034, Government Code, in the manner described by Subsection (b) to give the respondent actual notice of the suit, rather than citation by publication in a newspaper in the manner described by Subsection (b) to give the respondent actual notice of the suit.

SECTION 4.09. Amends Subchapter D, Chapter 51, Government Code, by adding Section 51.3032, effective September 1, 2019, as follows:

Sec. 51.3032. ELECTRONIC DISPLAY OF OFFICIAL AND LEGAL NOTICES BY DISTRICT CLERK. Authorizes a district clerk to post an official and legal notice by electronic display, instead of posting a physical document, in the manner provided for a county clerk by Section 82.051 (Electronic Display of Official and Legal Notices by County Clerk), Local Government Code.

SECTION 4.10. Amends Section 715.006(c), Health and Safety Code, as follows:

(c) Requires service by publication, if the address or identity of a plot owner is not known and cannot be ascertained with reasonable diligence, to be made on the plot owner by publishing notice on the public information Internet website maintained as required by Section 72.034, Government Code, rather than by publishing notice at least three times in a newspaper of general circulation in the county in which the cemetery is located. Deletes existing text authorizing the notice, if there is not a newspaper of general circulation in the county in which the cemetery is located, to be published in a newspaper of general circulation in an adjoining county.

SECTION 4.11. Provides that this article, except as otherwise provided by this article, takes effect June, 1, 2020.

ARTICLE 5. NOTARIZATION REQUIREMENTS

SECTION 5.01. Amends Section 6.4035(c), Family Code, as follows:

(c) Requires the waiver to be sworn before a notary public who is not an attorney in the suit or conform to the requirements for an unsworn declaration under Section 132.001 (Unsworn Declaration), Civil Practice and Remedies Code, rather than requires the waiver to be sworn before a notary public who is not an attorney in the suit. Deletes existing text creating an exception to the requirement under Section 132.001, Civil Practice and Remedies Code.

SECTION 5.02. Amends Section 31.008(d), Family Code to make conforming changes.

SECTION 5.03. Amends Section 45.0031(d), Family Code, to make conforming changes.

SECTION 5.04. Amends Section 45.107(d), Family Code, to make conforming changes.

SECTION 5.05. Amends Section 102.0091(d), Family Code, to make conforming changes.

ARTICLE 6. THE OFFICE OF COURT ADMINISTRATION OF THE TEXAS JUDICIAL SYSTEM

SECTION 6.01. (a) Amends Section 22A.002(d), Government Code, as follows:

(d) Requires the comptroller of public accounts of the State of Texas (comptroller), rather than OCA, to pay from funds appropriated to the

comptroller's judiciary section, the travel expenses and other incidental costs related to convening a special three-judge district court under this chapter.

(b) Provides that the changes in law made by this section are prospective.

SECTION 6.02. (a) Amends Sections 51.607(a) and (b), Government Code, as follows:

(a) Requires OCA, rather than the comptroller, following each regular session of the legislature, to identify each law enacted by that legislature, other than a law disapproved by the governor, that imposes or changes the amount of a court cost or fee collected by the clerk of certain courts from a party to a civil case or a defendant in a criminal case, including certain fees and costs.

(b) Makes conforming changes.

(b) Provides that the change in law made by this section applies only to a law imposing or changing the amount of a court cost or fee that takes effect on or after the effective date of this Act.

SECTION 6.03. Amends Subchapter C, Chapter 72, Government Code, by adding Sections 72.033 and 72.034, as follows:

Sec. 72.033. LIST OF NEW OR AMENDED COURT COSTS AND FEES. Requires OCA biennially to prepare and publish a list of new or amended court costs and fees as required by Section 51.607 (Implementation of New or Amended Court Costs and Fees).

Sec. 72.034. PUBLIC INTERNET WEBSITE. (a) Defines "public information" and "public information Internet website."

(b) Requires OCA to develop and maintain a public information Internet website that allows a person to easily publish public information on the Internet website or the office to post public information on the Internet website on receipt from the person.

(c) Requires the public information Internet website to allow the public to easily access, search, and sort the public information.

(d) Requires the supreme court of the state of Texas (supreme court) by rule to establish procedures for the submission of public information to the public information Internet website by a person who is required to publish the information.

SECTION 6.04. (a) Requires the supreme court to adopt the rules necessary to implement Section 72.034, Government Code, as added by this Act, not later than June 1, 2020.

(b) Requires OCA to develop the public information Internet website for the purposes of providing citation by publication as required by Section 72.034, Government Code, as added by this Act, not later than June 1, 2020.

SECTION 6.05. (a) Requires OCA to contract with the National Center for State Courts to conduct a study of the caseloads of the district and statutory county courts in this state. Requires the study to concentrate on the weighted caseload of each court, considering the nature and complexity of the cases heard.

(b) Requires the National Center for State Courts, not later than December 1, 2020, to report the results of the study required by Subsection (a) of this section to OCA. Requires OCA, not later than January 1, 2021, to file a report on those results with the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the standing committees of the senate and house of representatives with jurisdiction over the judicial system.

ARTICLE 7. SENIOR DISTRICT JUDGES

SECTION 7.01. Amends Section 832.101, Government Code, as follows:

Sec. 832.101. **INELIGIBILITY FOR MEMBERSHIP.** Prohibits a retiree who makes an election under Subchapter C (Administrative Judicial Regions) of Chapter 74 from rejoining the Judicial Retirement System of Texas Plan One (JRS One) or receiving credit in JRS One for the period of an appointment or for any service performed under assignment. Deletes existing text including a retiree who is appointed under Subchapter C of Chapter 75 (Senior District Judges for the First Administrative Judicial Region).

SECTION 7.02. Amends Section 836.006, Government Code, as follows:

Sec. 836.006. **DIVERSION OF MONEY PROHIBITED.** Provides that, except as provided by Sections 840.101(b) and 840.305(c) (relating to authorizing the retirement system to transfer assets from one account, except from one member's individual account to another's, to another to pay benefits and administrative expenses as needed), no part of the money contributed to JRS One under Section 840.102 (Collection of Member Contributions), rather than under Sections 840.102 or 840.104 (Collection of Contributions for Senior District Court Judges), and no part of the contribution described by Section 840.103(b)(2) (relating to requiring JRS One to certify to the Legislative Budget Board and to the budget division of the governors office for review an estimate of the amount necessary to pay the state's contribution under Subdivision (1) for the following biennium), is authorized be used for or diverted to any purpose other than the exclusive benefit of members, their beneficiaries, and annuitants of the retirement system.

SECTION 7.03. Amends Section 837.101, Government Code, as follows:

Sec. 837.101. **JUDICIAL ASSIGNMENT.** Prohibits a retiree who makes an election under Subchapter C of Chapter 74 from rejoining or receiving credit in JRS One for the period of an appointment or for any service performed under assignment. Deletes existing text including a retiree who is appointed under Subchapter C of Chapter 75.

ARTICLE 8. REPEALERS

SECTION 8.01. Repealer: Section 51.054(c) (relating to requiring a citation or notice under Subsection (a) to be served by posting if no newspaper is published, printed, or of general circulation in the county in which the citation or notice is to be published), Estates Code.

Repealer: Section 1051.054(c) (relating to requiring a citation or notice under Subsection (a) to be served by posting if no newspaper is published, printed, or of general circulation in the county in which the citation or notice is to be published), Estates Code.

SECTION 8.02. Repealer: Section 43.111(c) (relating the authorizing the commissioners courts of DeWitt, Goliad, and Refugio counties to supplement the state salary of the district attorney in the amount they consider proper and requiring the supplemental compensation to be paid in equal monthly installments in proportion to the population of those counties.), Government Code.

Repealer: Subchapter C (Senior District Judges for the First Administrative Judicial Region), Chapter 75, Government Code.

Repealer: Section 832.001(b) (relating to providing that, except as provided by Section 832.101 (Ineligibility for Membership), membership in JRS One includes persons who are appointed under Subchapter C of Chapter 75, and who have never been members of JRS Two and providing that a member appointed under that Act is a judicial officer for purposes of this subtitle), Government Code.

Repealer: Section 835.103 (Contributions for Senior District Court Judges), Government Code.

Repealer: Section 837.001(b) (relating to providing that, except as provided by Section 832.101, membership in JRS One includes persons who are appointed under Subchapter C of Chapter 75, and who have never been members of JRS Two and providing that a member appointed under that Act is a judicial officer for purposes of this subtitle), Government Code.

Repealer: Section 840.104 (Collection of Contributions for Senior District Court Judges), Government Code.

ARTICLE 9. EFFECTIVE DATE

SECTION 9.01. Effective date, except as otherwise provided by this Act: September 1, 2019.