

# HOUSE JOURNAL

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EIGHTY-SECOND LEGISLATURE, FIRST CALLED SESSION

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## PROCEEDINGS

SEVENTEENTH DAY — WEDNESDAY, JUNE 29, 2011

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 146).

Present — Mr. Speaker; Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Absent, Excused — Driver; Eiland; Giddings; Hernandez Luna; Strama.

The invocation was offered by Representative Sheets.

The speaker recognized Representative Deshotel who led the house in the pledges of allegiance to the United States and Texas flags.

### LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for today because of important business in the district:

Giddings on motion of Deshotel.

The following member was granted leave of absence for today because of personal business:

Eiland on motion of Madden.

The following member was granted leave of absence for today because of important business:

Hernandez Luna on motion of V. Gonzales.

The following member was granted leave of absence for today because of family business:

Strama on motion of Hochberg.

### **BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER**

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 6).

### **MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

### **HB 79 - RULES SUSPENDED**

Representative Lewis moved to suspend all necessary rules to consider **HB 79** with senate amendments at this time.

The motion prevailed by (Record 147): 114 Yeas, 19 Nays, 1 Present, not voting.

Yeas — Aliseda; Alonzo; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Eissler; Farias; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pickett; Pitts; Price; Raymond; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Thompson; Torres; Truitt; Villarreal; Woolley; Workman; Zedler; Zerwas.

Nays — Alvarado; Castro; Davis, S.; Dukes; Dutton; Elkins; Farrar; Hilderbran; Hochberg; King, P.; McClendon; Miles; Peña; Quintanilla; Turner; Vo; Walle; Weber; White.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Driver; Eiland; Giddings; Hernandez Luna; Strama.

Absent — Allen; Anchia; Chisum; Coleman; Hughes; Keffer; Lucio; Martinez Fischer; Reynolds; Taylor, V.; Veasey.

### **HB 79 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Lewis called up with senate amendments for consideration at this time,

**HB 79**, A bill to be entitled An Act relating to fiscal and other matters necessary for implementation of the judiciary budget as enacted by **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011, and to the operation and administration of, and practice and procedures in courts in, the judicial branch of state government.

Representative Lewis moved to concur in the senate amendments to **HB 79**.

The motion to concur in the senate amendments to **HB 79** prevailed by (Record 148): 94 Yeas, 44 Nays, 1 Present, not voting.

Yeas — Aliseda; Alonzo; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Eissler; Fletcher; Frullo; Garza; Geren; Gonzales, V.; Gooden; Guillen; Hancock; Hardcastle; Harper-Brown; Hartnett; Hopson; Howard, C.; Howard, D.; Hunter; Isaac; Jackson; Keffer; King, S.; King, T.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Lewis; Lyne; Madden; Margo; Menendez; Miller, D.; Miller, S.; Morrison; Murphy; Naishtat; Nash; Orr; Otto; Parker; Patrick; Perry; Phillips; Pickett; Pitts; Price; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Villarreal; Woolley; Workman; Zerwas.

Nays — Alvarado; Branch; Burnam; Castro; Christian; Coleman; Davis, S.; Dukes; Dutton; Elkins; Farias; Farrar; Flynn; Gallego; Gonzales, L.; Gonzalez; Gutierrez; Hamilton; Harless; Hilderbran; Hochberg; Huberty; Johnson; King, P.; Kolkhorst; Legler; Lozano; Mallory Caraway; Marquez; Martinez Fischer; McClendon; Miles; Muñoz; Oliveira; Paxton; Peña; Quintanilla; Schwertner; Veasey; Vo; Walle; Weber; White; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Driver; Eiland; Giddings; Hernandez Luna; Strama.

Absent — Allen; Anchia; Hughes; Lucio; Martinez; Turner.

#### STATEMENTS OF VOTE

I was shown voting yes on Record No. 148. I intended to vote no.

Bonnen

I was shown voting no on Record No. 148. I intended to vote yes.

Gallego

#### Senate Committee Substitute

**CSHB 79**, A bill to be entitled An Act relating to fiscal and other matters necessary for implementation of the judiciary budget as enacted by **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011, and to the operation and administration of, and practice and procedures in courts in, the judicial branch of state government.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

## ARTICLE 1. FISCAL NECESSITY

SECTION 1.01. The legislature finds that this Act is necessary to the state to offset the effect of the approximately \$30 million budget reduction for the judiciary. The provisions of this Act are designed to allow the judiciary to operate with the least chance of harm to fulfilling the purpose of the judiciary and to allow the operation of the judiciary in the next state fiscal biennium in an efficient manner.

## ARTICLE 2. APPELLATE COURT PROVISIONS

SECTION 2.01. Subsection (b), Section 22.002, Government Code, is amended to read as follows:

(b) The supreme court or, in vacation, a justice of the supreme court may issue a writ of mandamus to compel a statutory county court judge, a statutory probate court judge, or a district judge to proceed to trial and judgment in a case ~~[agreeable to the principles and usages of law, returnable to the supreme court on or before the first day of the term, or during the session of the term, or before any justice of the supreme court as the nature of the case requires].~~

SECTION 2.02. (a) Section 24.007, Property Code, is amended to read as follows:

Sec. 24.007. APPEAL. (a) ~~[A final judgment of a county court in an eviction suit may not be appealed on the issue of possession unless the premises in question are being used for residential purposes only.]~~ A judgment of a county court in an eviction suit may not under any circumstances be stayed pending appeal unless, within 10 days of the signing of the judgment, the appellant files a supersedeas bond in an amount set by the county court. In setting the supersedeas bond the county court shall provide protection for the appellee to the same extent as in any other appeal, taking into consideration the value of rents likely to accrue during appeal, damages which may occur as a result of the stay during appeal, and other damages or amounts as the court may deem appropriate.

(b) Notwithstanding any other law, an appeal may be taken from a final judgment of a county court, statutory county court, statutory probate court, or district court in an eviction suit.

(b) The change in law made by this section applies to an appeal of a final judgment rendered on or after the effective date of this section. An appeal of a final judgment rendered before the effective date of this section is governed by the law in effect on the date the judgment was rendered, and the former law is continued in effect for that purpose.

## ARTICLE 3. GENERAL PROVISIONS FOR DISTRICT COURTS

SECTION 3.01. Section 24.002, Government Code, is amended to read as follows:

Sec. 24.002. ASSIGNMENT OF JUDGE OR TRANSFER OF CASE ON RECUSAL [SUBSTITUTE JUDGES]. If a district judge determines on the judge's own motion that the judge should not sit in a case pending in the judge's court because the judge is disqualified or otherwise should recuse himself or herself, the judge shall enter a recusal order, request the presiding judge of that administrative judicial region to assign another judge to sit, and take no further action in the case except for good cause stated in the order in which the action is

~~taken. A change of venue is not necessary because of the disqualification of a district judge in a case or proceeding pending in the judge's [his] court[~~], but the judge shall immediately certify his disqualification to the governor. The governor shall designate a district judge of another district to exchange benches with the disqualified judge to try the case. The governor shall notify both judges of his designation, and the judges shall exchange benches. If the judges are prevented from exchanging benches, the parties or their counsels may agree on an attorney of the court for the trial of the case. The district judge or special judge shall certify to the governor the fact of a failure of the parties or their counsels to agree on an attorney, and the governor shall appoint a person legally qualified to act as judge in the trial of the case].~~~~

SECTION 3.02. Sections 24.003 and 24.007, Government Code, are amended to read as follows:

Sec. 24.003. TRANSFER OF CASES; EXCHANGE OF BENCHES [SUBSTITUTE JUDGES IN CERTAIN COUNTIES]. (a) This section applies only to ~~[civil cases in]~~ counties with two ~~[five]~~ or more district courts.

(b) Unless provided otherwise by the local rules of administration, a district judge in the county may:

(1) transfer any civil or criminal case or proceeding on the court's docket to the docket of another district court in the county;

(2) hear and determine any case or proceeding pending in another district court in the county without having the case transferred;

(3) sit for another district court in the county and hear and determine any case or proceeding pending in that court;

(4) temporarily exchange benches with the judge of another district court in the county;

(5) try different cases in the same court at the same time; and

(6) occupy the judge's own courtroom or the courtroom of another district court in the county.

(c) If a district judge in the county is sick or otherwise absent, another district judge in the county may hold court for the judge.

(d) A district judge in the county may hear and determine any part or question of any case or proceeding pending in any of the district courts, and any other district judge may complete the hearing and render judgment in the case or proceeding. A district judge may hear and determine motions, including motions for new trial, petitions for injunction, applications for the appointment of a receiver, interventions, pleas in abatement, dilatory pleas, and all preliminary matters, questions, and proceedings, and may enter judgment or order on them in the court in which the case or proceeding is pending without transferring the case or proceeding. The district judge in whose court the matter is pending may proceed to hear, complete, and determine the matter, or all or any part of another matter, and render a final judgment. A district judge may issue a restraining order or injunction that is returnable to any other district court.

(e) A judgment or order shall be entered in the minutes of the court in which the case is pending.

(f) This section does not limit the powers of a district judge when acting for another judge by exchange of benches or otherwise [If a district judge is disqualified in a case pending in his court and his disqualification is certified to the governor, the governor may require any other district judge in the county to exchange benches with the disqualified judge.]

[e) If a district judge is absent, sick, or disqualified, any of the district judges in the county may hold court for him or may transfer a pending case to the court of any other district judge in the county].

Sec. 24.007. JURISDICTION. (a) The district court has the jurisdiction provided by Article V, Section 8, of the Texas Constitution.

(b) A district court has original jurisdiction of a civil matter in which the amount in controversy is more than \$500, exclusive of interest.

SECTION 3.03. Subsection (a), Section 24.012, Government Code, is amended to read as follows:

(a) Notwithstanding any other law, each [Each] district [and criminal district] court holds in each county in the judicial district [at least two] terms that commence on the first Mondays in January and July of [court] each year [in each county in the district]. To the extent of a conflict between this subsection and a specific provision relating to a particular judicial district, this section controls.

SECTION 3.04. Subchapter A, Chapter 24, Government Code, is amended by adding Sections 24.023, 24.024, 24.025, 24.026, 24.027, 24.028, 24.029, 24.030, and 24.031 to read as follows:

Sec. 24.023. OBLIGATIONS; BONDS. (a) When a case is transferred from one court to another, all processes, writs, bonds, recognizances, and other obligations issued by the transferring court are returnable to the court to which the case is transferred as if originally issued by that court.

(b) The obligees in all bonds and recognizances taken in and for a court from which a case is transferred, and all witnesses summoned to appear in a district court from which a case is transferred, are required to appear before the court to which the case is transferred as if the bond, recognizance, or summons was taken in or for that court.

Sec. 24.024. FILING AND DOCKETING CASES. In a county with two or more district courts, the district judges may adopt rules governing the filing and numbering of cases, the assignment of cases for trial, and the distribution of the work of the courts as in their discretion they consider necessary or desirable for the orderly dispatch of the business of the courts.

Sec. 24.025. SUPPLEMENTAL COMPENSATION. (a) Unless otherwise provided by this subchapter, all district judges in a county are entitled to equal amounts of supplemental compensation from the county.

(b) A district judge is entitled to an amount of supplemental compensation for serving on the juvenile board of a county that is equal to the amount other judges serving on the juvenile board receive.

Sec. 24.026. APPOINTMENT OF INITIAL JUDGE. On the creation of a new judicial district, the initial vacancy in the office of district judge is filled in accordance with Section 28, Article V, Texas Constitution.

Sec. 24.027. GRAND AND PETIT JURORS. All grand and petit jurors selected in a county before a new district court is created or the composition of an existing district court is modified by an amendment to this chapter are considered to be selected for the new or modified district court, as applicable.

Sec. 24.028. CASES TRANSFERRED. If by an amendment to this chapter a county is removed from the composition of an existing judicial district and added to another existing or new judicial district, all cases and proceedings from that county that are pending in the district court of the judicial district from which the county was removed are transferred to the district court of the judicial district to which the county is added. The judge of each affected district court shall sign the proper orders in connection with the transfer.

Sec. 24.029. PROCESSES, WRITS, AND OTHER OBLIGATIONS REMAIN VALID. (a) If by an amendment to this chapter a county is removed from the composition of an existing judicial district and added to another existing or new judicial district, or if an amendment to this chapter changes the time or place at which the terms of court are held, all processes, writs, bonds, recognizances, and other obligations issued from and made returnable to that court before the effective date of the transfer or other change are returnable as provided by this subsection. An obligation issued from the affected court is returnable to another district court in the county on the date that court directs, but may not be made returnable on a date that is earlier than the date on which the obligation was originally returnable. The obligations are legal and valid as if the obligations had been made returnable to the issuing court.

(b) The obligees in all appearance bonds and recognizances taken in and for a district court of a county before the effective date of an amendment to this chapter, and all witnesses summoned to appear before that district court under laws existing before the effective date of an amendment to this chapter, are required to appear at another district court in the county on the date that court directs, but may not be required to appear on a date that is earlier than the date on which the obligees or witnesses were originally required to appear.

Sec. 24.030. LOCATION OF COURT. (a) A district court shall sit in the county seat for a jury trial in a civil case. The commissioners court of the county may authorize a district court to sit in any municipality within the county to hear and determine nonjury trials in civil cases and to hear and determine motions, arguments, and other matters not heard before a jury in a civil case that is within the court's jurisdiction.

(b) The district clerk or the clerk's deputy serves as clerk of the court when a court sits in a municipality other than the municipality that is the county seat and may transfer:

(1) all necessary books, minutes, records, and papers to that municipality while the court is in session there; and

(2) the books, minutes, records, and papers back to the clerk's office in the county seat at the end of each session.

(c) If the commissioners court authorizes a district court to sit in a municipality other than the municipality that is the county seat, the commissioners court shall provide suitable facilities for the court in that municipality.

Sec. 24.031. COURT OFFICERS. The prosecuting attorney, the sheriff, the district clerk, the bailiffs, and the other officers serving the other district courts of the county shall serve in their respective capacities for the courts listed in this chapter.

SECTION 3.05. Subsection (g), Section 25.0362, Government Code, is amended to read as follows:

(g) In matters of concurrent jurisdiction, a judge of a county court at law and a judge of a district court in Cass County may transfer cases between the courts in the same manner that judges of district courts may transfer cases under Section 24.003 [~~24.303~~].

SECTION 3.06. Subsection (w), Section 25.0732, Government Code, is amended to read as follows:

(w) In matters of concurrent jurisdiction, a judge of a statutory county court in El Paso County and a judge of a district court or another statutory county court in El Paso County may transfer cases between the courts in the same manner judges of district courts transfer cases under Section 24.003 [~~24.303~~].

SECTION 3.07. Subsection (c), Section 25.1672, Government Code, is amended to read as follows:

(c) In matters of concurrent jurisdiction, judges of the county courts at law and district courts in the county may exchange benches and courtrooms and may transfer cases between their dockets in the same manner that district court judges exchange benches and transfer cases under Section 24.003 [~~24.303~~].

SECTION 3.08. Subsection (v), Section 25.1862, Government Code, is amended to read as follows:

(v) In matters of concurrent jurisdiction, a judge of a county court at law and a judge of a district court or another county court at law may transfer cases between the courts in the same manner judges of district courts transfer cases under Section 24.003 [~~24.303~~].

SECTION 3.09. Subsection (k), Section 25.2512, Government Code, as effective September 1, 2011, is amended to read as follows:

(k) A judge of a county court at law and a judge of a district court or another county court at law with concurrent jurisdiction may transfer cases between the courts in the same manner judges of district courts transfer cases under Section 24.003 [~~24.303~~].

SECTION 3.10. Subsection (k), Section 25.1932, Government Code, is amended to read as follows:

(k) Notwithstanding Section 74.121(b)(1), in matters of concurrent jurisdiction, the judge of a county court at law and the judges of the district courts in the county may exchange benches and courtrooms and may transfer cases between their dockets in the same manner that judges of district courts exchange benches and transfer cases under Section 24.003 [~~24.303~~].



SECTION 3.11. Subdivision (2), Subsection (b), Section 74.121, Government Code, is amended to read as follows:

(2) Notwithstanding Subdivision (1), in matters of concurrent jurisdiction, a judge of a statutory county court in Midland County and a judge of a district court in Midland County may exchange benches and courtrooms with each other and may transfer cases between their dockets in the same manner that judges of district courts exchange benches and transfer cases under Section 24.003 ~~[24.303]~~.

SECTION 3.12. Subsection (d), Section 659.012, Government Code, is amended to read as follows:

(d) Notwithstanding any other provision in this section or other law, in [H] a county with more than five district courts, a district judge who serves as a local administrative district judge under Section 74.091 is entitled to an annual salary from the state that is \$5,000 more than the salary from the state to which the judge is otherwise entitled ~~[under Subsection (a)(1)]~~.

SECTION 3.13. The following provisions of the Government Code are repealed:

- (1) Section 24.013;
- (2) Section 24.302;
- (3) Section 24.303;
- (4) Section 24.304;
- (5) Section 24.305;
- (6) Section 24.307;
- (7) Section 24.308;
- (8) Section 24.309;
- (9) Section 24.311;
- (10) Section 24.312;
- (11) Section 24.313;
- (12) Section 24.314;
- (13) Section 24.525(b);
- (14) Section 24.526(b);
- (15) Section 24.527(b);
- (16) Sections 24.528(b) and (c); and
- (17) Sections 24.529(b) and (c).

#### ARTICLE 4. STATUTORY COUNTY COURTS

SECTION 4.01. Section 25.0002, Government Code, is amended to read as follows:

Sec. 25.0002. DEFINITIONS ~~[DEFINITION]~~. In this chapter:

(1) "Criminal law cases and proceedings" includes cases and proceedings for allegations of conduct punishable in part by confinement in the county jail not to exceed one year.

(2) "Family[,"family]" law cases and proceedings" includes cases and proceedings under Titles 1, 2, 4, and 5, Family Code [involving adoptions, birth records, or removal of disability of minority or coverture; change of names of persons; child welfare, custody, support and reciprocal support, dependency, neglect, or delinquency; paternity; termination of parental rights; divorce and

~~marriage annulment, including the adjustment of property rights, custody and support of minor children involved therein, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; independent actions involving child support, custody of minors, and wife or child desertion; and independent actions involving controversies between parent and child, between parents, and between spouses].~~

(3) "Juvenile law cases and proceedings" includes all cases and proceedings brought under Title 3, Family Code.

(4) "Mental health cases and proceedings" includes all cases and proceedings brought under Chapter 462, Health and Safety Code, or Subtitle C or D, Title 7, Health and Safety Code.

SECTION 4.02. Subsection (c), Section 25.0003, Government Code, is amended to read as follows:

(c) In addition to other jurisdiction provided by law, a statutory county court exercising civil jurisdiction concurrent with the constitutional jurisdiction of the county court has concurrent jurisdiction with the district court in:

(1) civil cases in which the matter in controversy exceeds \$500 but does not exceed \$200,000 [~~\$100,000~~], excluding interest, statutory or punitive damages and penalties, and attorney's fees and costs, as alleged on the face of the petition; and

(2) appeals of final rulings and decisions of the division of workers' compensation of the Texas Department of Insurance regarding workers' compensation claims, regardless of the amount in controversy.

SECTION 4.03. Section 25.0004, Government Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) The judge of a statutory county court does not have general supervisory control or appellate review of the commissioners court.

(g) A judge of a statutory county court has the judicial immunity of a district judge.

SECTION 4.04. Section 25.0007, Government Code, is amended to read as follows:

Sec. 25.0007. JURIES; PRACTICE AND PROCEDURE. (a) The drawing of jury panels, selection of jurors, and practice in the statutory county courts must conform to that prescribed by law for county courts.

(b) Practice in a statutory county court is that prescribed by law for county courts, except that practice, procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in the statutory county courts, other than the number of jurors, that involve those matters of concurrent jurisdiction with district courts are governed by the laws and rules pertaining to district courts. This section does not affect local rules of administration adopted under Section 74.093.

SECTION 4.05. Section 25.0010, Government Code, is amended by amending Subsection (b) and adding Subsections (c), (d), (e), and (f) to read as follows:

(b) The county attorney or criminal district attorney [~~and sheriff~~] shall serve each statutory county court as required by law.

(c) A county sheriff shall in person or by deputy attend a statutory county court as required by the court.

(d) The county clerk shall serve as clerk of each statutory county court. The court officials shall perform the duties and responsibilities of their offices and are entitled to the compensation, fees, and allowances prescribed by law for those offices.

(e) The judge of a statutory county court may appoint the personnel necessary for the operation of the court, including a court coordinator or administrative assistant, if the commissioners court has approved the creation of the position.

(f) The commissioners court may authorize the employment of as many additional assistant district attorneys, assistant county attorneys, deputy sheriffs, and clerks as are necessary for a statutory county court.

SECTION 4.06. (a) Section 25.0014, Government Code, is amended to read as follows:

Sec. 25.0014. QUALIFICATIONS OF JUDGE. The judge of a statutory county court must:

- (1) be at least 25 years of age;
- (2) be a United States citizen and have resided in the county for at least two years before election or appointment; and
- (3) be a licensed attorney in this state who has practiced law or served as a judge of a court in this state, or both combined, for the four years preceding election or appointment, unless otherwise provided for by law.

(b) The change in law made by this Act to Section 25.0014, Government Code, does not apply to a person serving as a statutory county court judge immediately before the effective date of this Act who met the qualifications of Section 25.0014, Government Code, as it existed on that date, and the former law is continued in effect for determining that person's qualifications to serve as a statutory county court judge.

SECTION 4.07. (a) Subchapter A, Chapter 25, Government Code, is amended by adding Sections 25.0016 and 25.00161 to read as follows:

Sec. 25.0016. TERMS OF COURT. The commissioners court, by order, shall set at least two terms a year for the statutory county court.

Sec. 25.00161. PRIVATE PRACTICE OF LAW. The regular judge of a statutory county court shall diligently discharge the duties of the office on a full-time basis and may not engage in the private practice of law.

(b) Section 25.00161, Government Code, as added by this Act, applies only to a regular judge serving a term to which the judge is elected on or after the effective date of this Act. A judge serving a term to which the judge was elected before the effective date of this Act is governed by the law in effect on the date the judge was elected, and that law is continued in effect for that purpose.

SECTION 4.08. Subsection (t), Section 25.0022, Government Code, is amended to read as follows:

(t) To be eligible for assignment under this section, a former or retired judge of a statutory probate court must:

- (1) not have been removed from office;

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

(A) the judge has not been publicly reprimanded or censured by the State Commission on Judicial Conduct; and

(B) the judge:

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

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

(3) annually demonstrate that the judge has completed in the past state fiscal year the educational requirements for an active statutory probate court judge;

(4) have served as an active judge for at least 72 [~~96~~] months in a district, statutory probate, statutory county, or appellate court; and

(5) have developed substantial experience in the judge's area of specialty.

SECTION 4.09. Section 25.00231, Government Code, is amended by amending Subsection (c) and adding Subsection (e) to read as follows:

(c) In lieu of the bond required by Subsection (b), a county may elect to obtain insurance or to self-insure in the amount required by Subsection (b) against losses caused by the statutory probate court judge's gross negligence in performing the duties of office.

(e) This section does not apply to an assigned or visiting judge sitting by assignment in a statutory probate court.

SECTION 4.10. (a) Subchapter B, Chapter 25, Government Code, is amended by adding Sections 25.0033, 25.0034, and 25.0035 to read as follows:

Sec. 25.0033. QUALIFICATIONS OF JUDGE. The judge of a statutory probate court must:

(1) be at least 25 years of age;

(2) be a United States citizen and have resided in the county for at least two years before election or appointment; and

(3) be a licensed attorney in this state who has practiced law or served as a judge of a court in this state, or both combined, for the five years preceding election or appointment, unless otherwise provided for by law.

Sec. 25.0034. PRIVATE PRACTICE OF LAW. The regular judge of a statutory probate court shall diligently discharge the duties of the office on a full-time basis and may not engage in the private practice of law.

Sec. 25.0035. TERMS OF COURT. The commissioners court, by order, shall set at least two terms a year for the statutory probate court.

(b) Section 25.0033, Government Code, as added by this Act, does not apply to a person serving as a statutory probate court judge immediately before the effective date of this Act. The qualifications of a person serving as a statutory

probate court judge on the effective date of this Act are governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 4.11. Subsections (g) and (i), Section 25.0042, Government Code, are amended to read as follows:

(g) The district clerk serves as clerk of a county court at law in all cases arising under the Family Code and Section 23.001 and shall establish a separate docket for a county court at law; the county clerk serves as clerk of the court in all other cases. ~~[The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.]~~

(i) ~~[Practice in a county court at law is that prescribed by law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in a county court at law involving cases under the Family Code and Section 23.001 are governed by this section and the laws and rules pertaining to district courts and county courts.]~~ If a case under the Family Code or Section 23.001 is tried before a jury, the jury shall be composed of 12 members.

SECTION 4.12. Subsection (h), Section 25.0102, Government Code, is amended to read as follows:

(h) ~~[Practice in a county court at law is that prescribed by law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in the county court at law involving family law cases and proceedings shall be governed by this section and the laws and rules pertaining to district courts.]~~ If a family law case or proceeding is tried before a jury, the jury shall be composed of 12 members; in all other cases the jury shall be composed of six members.

SECTION 4.13. Subsections (e) and (f), Section 25.0132, Government Code, are amended to read as follows:

(e) 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. The district clerk shall establish a separate docket for a county court at law. ~~[The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve a county court at law.]~~

(f) ~~[Practice in a county court at law is that prescribed by law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in a county court at law involving family law cases and proceedings is that prescribed by law for district courts and county courts.]~~ If a family law case or proceeding is tried before a jury, the jury shall be composed of 12 members.

SECTION 4.14. Subsection (a), Section 25.0202, Government Code, is amended to read as follows:

(a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Bosque County has concurrent jurisdiction with the district court in:

- (1) family law cases and proceedings;

(2) civil cases in which the matter in controversy exceeds \$500 but does not exceed \$200,000 [~~\$100,000~~], excluding interest, court costs, and attorney's fees; and

(3) contested probate matters under Section 4D [~~5(b)~~], Texas Probate Code.

SECTION 4.15. Subsection (b), Section 25.0212, Government Code, is amended to read as follows:

(b) A county court at law does not have [~~general supervisory control or appellate review of the commissioners court or~~] jurisdiction of:

(1) felony criminal matters;

(2) suits on behalf of the state to recover penalties or escheated property;

(3) misdemeanors involving official misconduct;

(4) contested elections; or

(5) civil cases in which the matter in controversy exceeds \$200,000 [~~\$100,000~~], excluding interest, statutory or punitive damages and penalties, and attorney's fees and costs, as alleged on the face of the petition.

SECTION 4.16. Subsections (a) and (k), Section 25.0222, Government Code, are amended to read as follows:

(a) In addition to the jurisdiction provided by Section 25.0003 and other law, a statutory county court in Brazoria County has concurrent jurisdiction with the district court in:

(1) civil cases in which the matter in controversy exceeds \$500 but does not exceed \$200,000 [~~\$100,000~~], excluding interest, statutory damages and penalties, and attorney's fees and costs, as alleged on the face of the petition;

(2) appeals of final rulings and decisions of the division of workers' compensation of the Texas Department of Insurance regarding workers' compensation claims, regardless of the amount in controversy; and

(3) family law cases and proceedings and juvenile jurisdiction under Section 23.001.

(k) The district clerk serves as clerk of the statutory county courts in cases instituted in the district courts in which the district courts and statutory county courts have concurrent jurisdiction, and the county clerk serves as clerk for all other cases. [~~The commissioners court may employ as many additional assistant criminal district attorneys, deputy sheriffs, and deputy clerks as are necessary to serve the statutory county courts.~~]

SECTION 4.17. Subsections (e) and (f), Section 25.0302, Government Code, are amended to read as follows:

(e) 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. The district clerk shall establish a separate docket for a county court at law. [~~The commissioners court may employ the assistant district attorneys, deputy sheriffs, and bailiffs necessary to serve each county court at law.~~]

(f) ~~[Practice in a county court at law is that prescribed by law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in a county court at law involving family law cases and proceedings shall be governed by this section and the laws and rules pertaining to district courts.]~~ If a family law case or proceeding is tried before a jury, the jury shall be composed of 12 members.

SECTION 4.18. Subsection (b), Section 25.0312, Government Code, is amended to read as follows:

(b) A county court at law does not have ~~[general supervisory control or appellate review of the commissioners court or]~~ jurisdiction of:

- (1) felony cases other than writs of habeas corpus;
- (2) misdemeanors involving official misconduct;
- (3) contested elections; or
- (4) appeals from county court.

SECTION 4.19. Subsection (b), Section 25.0362, Government Code, is amended to read as follows:

(b) A county court at law does not have ~~[general supervisory control or appellate review of the commissioners court or]~~ jurisdiction of:

- (1) misdemeanors involving official misconduct;
- (2) suits on behalf of the state to recover penalties or escheated property;
- (3) contested elections;
- (4) suits in which the county is a party; or
- (5) felony cases involving capital murder.

SECTION 4.20. Subsection (f), Section 25.0482, Government Code, is amended to read as follows:

(f) The district clerk serves as clerk of a county court at law for family law cases and proceedings, and the county clerk serves as clerk for all other cases and proceedings. ~~[The district clerk shall establish a separate docket for a county court at law. The commissioners court may employ as many assistant county attorneys, deputy sheriffs, and bailiffs as are necessary to serve the county courts at law.]~~

SECTION 4.21. Subsection (g), Section 25.0632, Government Code, is amended to read as follows:

(g) ~~[Jurors regularly impaneled for the week by the district courts of Denton County must include sufficient numbers to serve in the statutory county courts and statutory probate courts as well as the district courts. The jurors shall be made available by the district judge as necessary.]~~ The jury in a statutory county court or statutory probate court in all civil or criminal matters is composed of 12 members, except that in misdemeanor criminal cases and any other case in which the court has jurisdiction that under general law would be concurrent with the county court, the jury is composed of six members.

SECTION 4.22. Subsection (r), Section 25.0732, Government Code, is amended to read as follows:

(r) Section [Sections] 25.0006(b) does [and 25.0007 do] not apply to County Court at Law No. 2, 3, 4, 5, 6, or 7 of El Paso County, Texas.

SECTION 4.23. Subsection (a), Section 25.0733, Government Code, is amended to read as follows:

(a) Sections 25.0732(q) and [25.0732(d), (h), (i), (j), (m), (n), (o), (p), (q), (r)[, and (v)], relating to county courts at law in El Paso County, apply to a statutory probate court in El Paso County.

SECTION 4.24. Subsections (i) and (l), Section 25.0862, Government Code, are amended to read as follows:

(i) [~~The clerk of the statutory county courts and statutory probate court shall keep a separate docket for each court.~~] The clerk shall tax the official court reporter's fees as costs in civil actions in the same manner as the fee is taxed in civil cases in the district courts. [~~The district clerk serves as clerk of the county courts in a cause of action arising under the Family Code and an appeal of a final ruling or decision of the division of workers' compensation of the Texas Department of Insurance regarding workers' compensation claims, and the county clerk serves as clerk of the court in all other cases.~~]

(l) Each reporter may be made available when not engaged in proceedings in their court to report proceedings in all other courts. [~~Practice, appeals, and writs of error in a statutory county court are as prescribed by law for county courts and county courts at law.~~] Appeals and writs of error may be taken from judgments and orders of the County Courts Nos. 1, 2, and 3 of Galveston County and the judges, in civil and criminal cases, in the manner prescribed by law for appeals and writs of error. Appeals from interlocutory orders of the County Courts Nos. 1, 2, and 3 appointing a receiver or overruling a motion to vacate or appoint a receiver may be taken and are governed by the laws relating to appeals from similar orders of district courts.

SECTION 4.25. Subsection (f), Section 25.0962, Government Code, is amended to read as follows:

(f) [~~Practice in a county court at law is that prescribed by law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in a county court at law involving cases in the court's concurrent jurisdiction with the district court shall be governed by this section and the laws and rules pertaining to district courts as well as county courts.~~] If a case in the court's concurrent jurisdiction with the district court is tried before a jury, the jury shall be composed of 12 members.

SECTION 4.26. Subsection (a), Section 25.1033, Government Code, is amended to read as follows:

(a) A county criminal court at law in Harris County has the criminal jurisdiction provided by law for county courts, concurrent jurisdiction with civil statutory county courts for Harris County to hear appeals of the suspension of a driver's license and original proceedings regarding occupational driver's licenses, and appellate jurisdiction in appeals of criminal cases from justice courts and municipal courts in the county.



SECTION 4.27. Subsection (g), Section 25.1042, Government Code, is amended to read as follows:

(g) The criminal district attorney is entitled to the same fees prescribed by law for prosecutions in the county court. ~~[The commissioners court may employ as many additional deputy sheriffs and clerks as are necessary to serve a county court at law.]~~

SECTION 4.28. Subsections (e) and (f), Section 25.1072, Government Code, are amended to read as follows:

(e) The county clerk serves as clerk of a county court at law, except that the district clerk serves as clerk of the court in family law cases and proceedings. The district clerk shall establish a separate docket for a county court at law. ~~[The commissioners court may employ as many assistant district attorneys, deputy sheriffs, and bailiffs as are necessary to serve the court.]~~

(f) ~~[Practice in a county court at law is that prescribed by law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and other matters pertaining to the conduct of trials and hearings in a county court at law involving family law cases and proceedings are governed by this section and the laws and rules pertaining to district courts, as well as county courts.]~~ If a family law case or proceeding is tried before a jury, the jury shall be composed of 12 members.

SECTION 4.29. Subsection (b), Section 25.1142, Government Code, is amended to read as follows:

(b) A county court at law does not have ~~[general supervisory control or appellate review of the commissioners court or]~~ jurisdiction of:

- (1) civil cases in which the amount in controversy exceeds \$200,000 ~~[\$100,000]~~, excluding interest;
- (2) felony jury trials;
- (3) suits on behalf of the state to recover penalties or escheated property;
- (4) misdemeanors involving official misconduct; or
- (5) contested elections.

SECTION 4.30. Subsection (b), Section 25.1182, Government Code, is amended to read as follows:

(b) A county court at law's civil jurisdiction concurrent with the district court in civil cases is limited to cases in which the matter in controversy does not exceed \$200,000. A county court at law does not have ~~[general supervisory control or appellate review of the commissioners court or]~~ jurisdiction of:

- (1) suits on behalf of this state to recover penalties or escheated property;
- (2) felony cases involving capital murder;
- (3) misdemeanors involving official misconduct; or
- (4) contested elections.

SECTION 4.31. Subsection (b), Section 25.1312, Government Code, is amended to read as follows:

(b) A statutory county court in Kaufman County does not have [~~general supervisory control or appellate review of the commissioners court or~~] jurisdiction of:

- (1) felony cases involving capital murder;
- (2) suits on behalf of the state to recover penalties or escheated property;
- (3) misdemeanors involving official misconduct; or
- (4) contested elections.

SECTION 4.32. Subsection (m), Section 25.1542, Government Code, is amended to read as follows:

(m) [~~Practice and procedure and rules of evidence governing trials in and appeals from a county court apply to a county court at law, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings involving family law cases and proceedings shall be governed by this section and the laws and rules pertaining to district courts as well as county courts.~~] In family law cases, juries shall be composed of 12 members.

SECTION 4.33. Subsection (g), Section 25.1652, Government Code, is amended to read as follows:

(g) [~~Practice in a county court at law is that prescribed by law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings involving family law matters and proceedings shall be governed by this section and the laws and rules pertaining to district courts.~~] If a family law case is tried before a jury, the jury shall be composed of 12 members.

SECTION 4.34. Subsection (i), Section 25.1762, Government Code, is amended to read as follows:

(i) [~~The laws governing the drawing, selection, service, and pay of jurors for county courts apply to a county court at law. Jurors regularly impaneled for a week by a district court may, at the request of the judge of a county court at law, be made available by the district judge in the numbers requested and shall serve for the week in the county court at law.~~] In matters of concurrent jurisdiction with the district court, if a party to a suit files a written request for a 12-member jury with the clerk of the county court at law at a reasonable time that is not later than 30 days before the date the suit is set for trial, the jury shall be composed of 12 members.

SECTION 4.35. Subsection (b), Section 25.1772, Government Code, is amended to read as follows:

(b) A county court at law does not have [~~general supervisory control or appellate review of the commissioners court or~~] jurisdiction of:

- (1) suits on behalf of this state to recover penalties or escheated property;
- (2) felony cases involving capital murder;
- (3) misdemeanors involving official misconduct; or
- (4) contested elections.

SECTION 4.36. Subsection (e), Section 25.1892, Government Code, is amended to read as follows:

(e) ~~[The county attorney or district attorney serves a county court at law as required by the judge.]~~ The district clerk serves as clerk of a county court at law in cases enumerated in Subsection (a)(2), and the county clerk serves as clerk in all other cases. The district clerk shall establish a separate docket for a county court at law. ~~[The commissioners court may employ as many additional assistant county attorneys, deputy sheriffs, and clerks as are necessary to serve a county court at law.]~~

SECTION 4.37. Subsection (i), Section 25.1932, Government Code, is amended to read as follows:

(i) ~~[Practice in a county court at law is that prescribed by law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in a county court at law involving cases in the court's concurrent jurisdiction with the district court shall be governed by this section and the laws and rules pertaining to district courts as well as county courts.]~~ If a case in the court's concurrent jurisdiction with the district court is tried before a jury, the jury shall be composed of 12 members.

SECTION 4.38. Subsection (b), Section 25.2012, Government Code, is amended to read as follows:

(b) A county court at law does not have ~~[general supervisory control or appellate review of the commissioners court or]~~ jurisdiction of:

- (1) felony cases involving capital murder;
- (2) suits on behalf of the state to recover penalties or escheated property;
- (3) misdemeanors involving official misconduct; or
- (4) contested elections.

SECTION 4.39. Subsection (n), Section 25.2142, Government Code, is amended to read as follows:

(n) ~~[A special judge of a county court at law is entitled to receive for services actually performed the same amount of compensation as the regular judge.]~~ A former judge sitting as a visiting judge of a county court at law is entitled to receive for services performed the same amount of compensation that the regular judge receives, less an amount equal to the pro rata annuity received from any state, district, or county retirement fund. An active judge sitting as a visiting judge of a county court at law is entitled to receive for services performed the same amount of compensation that the regular judge receives, less an amount equal to the pro rata compensation received from state or county funds as salary, including supplements.

SECTION 4.40. (a) Subsection (b), Section 25.2222, Government Code, as amended by Chapter 22 (**SB 124**), Acts of the 72nd Legislature, Regular Session, 1991, and Chapter 265 (**HB 7**), Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(b) A county court at law has concurrent jurisdiction with the district court in:

(1) civil cases in which the matter in controversy exceeds \$500 and does not exceed \$200,000 [~~\$100,000~~], excluding mandatory damages and penalties, attorney's fees, interest, and costs;

(2) nonjury family law cases and proceedings;

(3) final rulings and decisions of the division of workers' compensation of the Texas Department of Insurance regarding workers' compensation claims, regardless of the amount in controversy;

(4) eminent domain proceedings, both statutory and inverse, regardless of the amount in controversy;

(5) suits to decide the issue of title to real or personal property;

(6) suits to recover damages for slander or defamation of character;

(7) suits for the enforcement of a lien on real property;

(8) suits for the forfeiture of a corporate charter;

(9) suits for the trial of the right to property valued at \$200 or more that has been levied on under a writ of execution, sequestration, or attachment; and

(10) suits for the recovery of real property.

(b) Subsection (b), Section 25.2222, Government Code, as amended by Chapter 746 (**HB 66**), Acts of the 72nd Legislature, Regular Session, 1991, is repealed as duplicative of Subsection (b), Section 25.2222, Government Code, as amended by Subsection (a) of this section.

SECTION 4.41. Subsection (a), Section 25.2232, Government Code, is amended to read as follows:

(a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Taylor County has:

(1) concurrent jurisdiction with the county court in the trial of cases involving insanity and approval of applications for admission to state hospitals and special schools if admission is by application; and

(2) concurrent jurisdiction with the district court in civil cases in which the matter in controversy exceeds \$500 but does not exceed \$200,000 [~~\$100,000~~], excluding interest.

SECTION 4.42. Subsection (i), Section 25.2352, Government Code, is amended to read as follows:

(i) [~~Practice in a county court at law is that prescribed by law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings involving family law cases and proceedings shall be governed by this section and the laws and rules pertaining to district courts.~~] If a family law case is tried before a jury, the jury shall be composed of 12 members.

SECTION 4.43. Subsection (i), Section 25.2382, Government Code, is amended to read as follows:

(i) [~~Practice in a county court at law is that prescribed by law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in a county court at law involving matters enumerated in Subsection (a)(2)(B) or (C)~~]

~~shall be governed by this section and the laws and rules pertaining to district courts.]~~ If a family law case [~~in Subsection (a)(2)(B) or (C)~~] is tried before a jury, the jury shall be composed of 12 members.

SECTION 4.44. (a) Subsection (a), Section 25.2421, Government Code, is amended to read as follows:

(a) Webb County has the following statutory county courts:

- (1) the County Court at Law No. 1 of Webb County; ~~and~~
- (2) the County Court at Law No. 2 of Webb County; and
- (3) the County Court at Law No. 3 of Webb County.

(b) Notwithstanding Subsection (a), Section 25.2421, Government Code, as amended by this Act, the County Court at Law No. 3 of Webb County is created January 1, 2031, or on an earlier date determined by the Commissioners Court of Webb County by an order entered in its minutes.

SECTION 4.45. Subsections (g) and (h), Section 25.2422, Government Code, are amended to read as follows:

(g) The district attorney of the 49th Judicial District serves as district attorney of a county court at law, except that the county attorney of Webb County prosecutes all juvenile, child welfare, mental health, and other civil cases in which the state is a party. The district clerk serves as clerk of a county court at law in the cases enumerated in Subsection (a)(2), and the county clerk serves as clerk of a county court at law in all other cases. ~~[The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.]~~

(h) ~~[Practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in a county court at law involving those matters of concurrent jurisdiction enumerated in Subsection (a)(2)(B) or (C) are governed by this section and the laws and rules pertaining to district courts, as well as county courts.]~~ If a family law case [~~enumerated in Subsection (a)(2)(B) or (C)~~] is tried before a jury, the jury shall be composed of 12 members.

SECTION 4.46. Subsections (d) and (k), Section 25.2452, Government Code, are amended to read as follows:

(d) A county court at law does not have jurisdiction of:

(1) a case under:

- (A) the Alcoholic Beverage Code;
- (B) the Election Code; or
- (C) the Tax Code;

(2) a matter over which the district court has exclusive jurisdiction; or

(3) a civil case, other than a case under the Family Code or the Texas Probate Code, in which the amount in controversy is:

(A) less than the maximum amount in controversy allowed the justice court in Wichita County; or

(B) more than \$200,000 [~~\$100,000~~], exclusive of punitive or exemplary damages, penalties, interest, costs, and attorney's fees.

(k) Except as otherwise required by law, if a case is tried before a jury, the jury shall be composed of six members and may render verdicts by a five to one margin in civil cases and a unanimous verdict in criminal cases. ~~[The laws~~

~~governing the drawing, selection, service, and pay of jurors for county courts apply to the county courts at law. Jurors regularly impaneled for a week by a district court may, on request of the county judge exercising the jurisdiction provided by this section or a county court at law judge, be made available and shall serve for the week in the county court or county court at law.]~~

SECTION 4.47. Subsection (h), Section 25.2462, Government Code, is amended to read as follows:

(h) ~~[The county attorney and the county sheriff shall attend a county court at law as required by the judge.]~~ 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 4.48. Subsection (i), Section 25.2482, Government Code, is amended to read as follows:

(i) ~~[The county attorney and the county sheriff shall attend a county court at law as required by the judge.]~~ 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 4.49. Subsection (e), Section 25.2512, Government Code, as effective September 1, 2011, is amended to read as follows:

(e) In addition to the qualifications required by Section 25.0014, a regular judge of a county court at law must have the qualifications of a district judge as required by Section 7, Article V, Texas Constitution. ~~[A special judge of a county court at law with the same qualifications as the regular judge may be appointed in the manner provided by law for the appointment of a special county judge. A special judge is entitled to the same rate of compensation as the regular judge.]~~

SECTION 4.50. (a) The following provisions of the Government Code are repealed:

- (1) Subsections (b), (d), (f), and (j), Section 25.0042;
- (2) Subsections (b), (f), (g), and (h), Section 25.0052;
- (3) Subsections (b), (d), (f), and (i), Section 25.0102;
- (4) Subsections (d), (g), and (h), Section 25.0132;
- (5) Subsections (c) and (e), Section 25.0152;
- (6) Subsections (b), (f), (g), (h), and (i), Section 25.0162;
- (7) Subsections (d), (k), (l), (m), (n), (o), (q), (s), and (t), Section 25.0172;
- (8) Subsections (c), (d), (h), (i), and (k), Section 25.0173;
- (9) Subsections (c), (d), and (g), Section 25.0202;
- (10) Subsections (c), (e), and (g), Section 25.0212;
- (11) Subsections (d), (e), (i), (j), and (n), Section 25.0222;
- (12) Subsections (b), (d), (f), (h), and (i), Section 25.0232;
- (13) Subsections (b), (c), and (e), Section 25.0272;
- (14) Subsections (b), (c), (g), (h), and (i), Section 25.0292;
- (15) Subsections (b), (d), and (g), Section 25.0302;
- (16) Subsections (c), (e), and (j), Section 25.0312;
- (17) Subsections (e), (g), (i), (k), (l), and (m), Section 25.0332;
- (18) Subsection (c), Section 25.0362;

- (19) Subsections (b), (d), (f), (i), (j), and (k), Section 25.0392;
- (20) Subsections (b), (c), and (d), Section 25.0452;
- (21) Subsections (a), (c), (d), and (e), Section 25.0453;
- (22) Subsections (b), (d), (e), (g), and (h), Section 25.0482;
- (23) Subsections (a), (b), (d), (g), and (h), Section 25.0512;
- (24) Subsections (b), (d), (f), and (g), Section 25.0522;
- (25) Subsections (b), (h), (i), (j), and (k), Section 25.0592;
- (26) Subsections (d), (f), (g), (h), (i), and (j), Section 25.0593;
- (27) Subsections (d), (e), (g), (h), (i), (j), and (k), Section 25.0594;
- (28) Subsections (c), (d), (f), and (g), Section 25.0595;
- (29) Section 25.0596;
- (30) Subsections (a), (b), and (d), Section 25.0632;
- (31) Subsections (b), (g), (h), (j), (k), and (l), Section 25.0702;
- (32) Subsections (b), (d), (f), (j), and (k), Section 25.0722;
- (33) Subsections (d), (g), (h), (i), (j), (m), (n), (o), (p), (s), and (v),  
Section 25.0732;
- (34) Subsections (c), (d), and (f), Section 25.0733;
- (35) Subsection (b), Section 25.0742;
- (36) Subsections (d), (f), (h), (j), and (l), Section 25.0812;
- (37) Subsections (f) and (j), Section 25.0862;
- (38) Subsections (e), (f), and (i), Section 25.0932;
- (39) Subsections (c), (f), (g), (j), and (k), Section 25.0942;
- (40) Subsections (d), (e), and (g), Section 25.0962;
- (41) Subsections (d), (e), (g), (h), and (k), Section 25.1032;
- (42) Subsections (d), (e), (f), (m), and (o), Section 25.1033;
- (43) Subsections (c), (h), (k), and (l), Section 25.1034;
- (44) Subsections (b), (d), (f), (h), and (i), Section 25.1042;
- (45) Subsections (b), (d), (g), and (h), Section 25.1072;
- (46) Subsections (e), (f), (l), and (o), Section 25.1092;
- (47) Subsections (d), (e), (h), (i), (j), and (l), Section 25.1102;
- (48) Section 25.1103;
- (49) Subsections (b), (c), (f), and (k), Section 25.1112;
- (50) Subsections (f), (g), (h), (j), (l), (m), and (p), Section 25.1132;
- (51) Subsections (c), (e), and (g), Section 25.1142;
- (52) Subsections (b), (e), (f), (h), and (i), Section 25.1152;
- (53) Subsections (c), (e), and (h), Section 25.1182;
- (54) Subsections (c), (g), and (i), Section 25.1252;
- (55) Subsections (b), (d), (f), (h), and (i), Section 25.1282;
- (56) Subsections (d), (e), (i), (k), (l), and (n), Section 25.1312;
- (57) Subsections (d), (e), (f), (i), and (j), Section 25.1322;
- (58) Subsections (d) and (h), Section 25.1352;
- (59) Subsections (e), (g), and (i), Section 25.1392;
- (60) Subsections (b), (c), (e), (h), (i), and (k), Section 25.1412;
- (61) Subsections (d), (g), (h), (l), and (m), Section 25.1482;
- (62) Subsections (f), (i), (k), and (n), Section 25.1542;
- (63) Subsections (e), (f), and (g), Section 25.1572;

- (64) Subsections (d), (f), and (h), Section 25.1652;
- (65) Subsections (b) and (f), Section 25.1672;
- (66) Subsections (b), (c), and (g), Section 25.1722;
- (67) Subsections (d), (e), (f), (h), and (i), Section 25.1732;
- (68) Subsections (b), (e), (f), and (h), Section 25.1762;
- (69) Subsections (c), (e), and (h), Section 25.1772;
- (70) Subsections (e), (f), (h), (i), and (j), Section 25.1792;
- (71) Subsections (c), (h), (i), (j), (k), (l), and (q), Section 25.1802;
- (72) Subsections (b), (d), and (j), Section 25.1832;
- (73) Subsections (e), (f), and (i), Section 25.1852;
- (74) Subsections (c), (f), (h), (i), (j), (m), (n), (p), (q), and (u), Section 25.1862;
- (75) Subsection (d), Section 25.1892;
- (76) Subsections (e), (g), (i), (j), and (k), Section 25.1902;
- (77) Subsections (b), (c), (f), (h), and (j), Section 25.1932;
- (78) Subsections (b), (d), (f), (h), and (j), Section 25.1972;
- (79) Subsections (d), (e), (i), (k), (l), and (n), Section 25.2012;
- (80) Subsections (c), (e), and (h), Section 25.2032;
- (81) Subsections (c), (e), (f), (h), and (i), Section 25.2072;
- (82) Subsections (c), (e), (i), (r), (t), and (u), Section 25.2142;
- (83) Subsections (d), (f), (h), (j), and (k), Section 25.2162;
- (84) Subsections (c), (g), (h), (i), (k), and (n), Section 25.2222;
- (85) Subsections (c), (e), (g), and (h), Section 25.2223;
- (86) Subsections (b), (c), (f), (g), (i), and (j), Section 25.2224;
- (87) Subsections (b), (e), (f), and (g), Section 25.2232;
- (88) Subsections (b), (d), (f), (g), (i), and (j), Section 25.2282;
- (89) Subsections (b), (e), (i), (k), and (l), Section 25.2292;
- (90) Subsections (e), (f), (g), (k), and (l), Section 25.2293;
- (91) Subsections (b), (d), (f), (g), and (j), Section 25.2352;
- (92) Subsections (c), (e), and (h), Section 25.2362;
- (93) Subsections (c), (f), (g), (h), and (i), Section 25.2372;
- (94) Subsections (b), (d), (f), and (j), Section 25.2382;
- (95) Subsections (b), (d), (f), and (j), Section 25.2392;
- (96) Subsections (b), (d), (f), (i), and (k), Section 25.2412;
- (97) Subsections (b), (d), (f), (i), and (j), Section 25.2422;
- (98) Subsections (f), (h), and (j), Section 25.2452;
- (99) Subsections (c), (d), (e), (g), (i), and (j), Section 25.2462;
- (100) Subsections (d), (e), (f), (h), (j), and (k), Section 25.2482; and
- (101) Subsections (b) and (i), Section 25.2512.

(b) The repeal of Subsection (d), Section 25.1042, and Subsection (d), Section 25.2162, Government Code, apply only to a regular judge serving a term for which the judge is elected on or after the effective date of this Act. A judge serving a term for which the judge was elected before the effective date of this Act is governed by the law in effect on the date the judge was elected, and that law is continued in effect for that purpose.



ARTICLE 5. PROVISIONS RELATING TO JUSTICE AND SMALL CLAIMS  
COURTS

SECTION 5.01. (a) Subsection (a), Section 27.005, Government Code, is amended to read as follows:

(a) For purposes of removal under Chapter 87, Local Government Code, "incompetency" in the case of a justice of the peace includes the failure of the justice to successfully complete:

(1) within one year after the date the justice is first elected, an 80-hour course in the performance of the justice's duties; and

(2) each following year, a 20-hour course in the performance of the justice's duties, including not less than 10 hours of instruction regarding substantive, procedural, and evidentiary law in civil matters.

(b) Subsection (a), Section 27.005, Government Code, as amended by this section, applies to a justice of the peace serving on or after the effective date of this article, regardless of the date the justice was elected or appointed.

SECTION 5.02. Subchapter C, Chapter 27, Government Code, is amended by adding Section 27.060 to read as follows:

Sec. 27.060. SMALL CLAIMS. (a) A justice court shall conduct proceedings in a small claims case, as that term is defined by the supreme court, in accordance with rules of civil procedure promulgated by the supreme court to ensure the fair, expeditious, and inexpensive resolution of small claims cases.

(b) Except as provided by Subsection (c), rules of the supreme court must provide that:

(1) if both parties appear, the judge shall proceed to hear the case;

(2) formal pleadings other than the statement are not required;

(3) the judge shall hear the testimony of the parties and the witnesses that the parties produce and shall consider the other evidence offered;

(4) the hearing is informal, with the sole objective being to dispense speedy justice between the parties;

(5) discovery is limited to that considered appropriate and permitted by the judge; and

(6) the judge shall develop the facts of the case, and for that purpose may question a witness or party and may summon any party to appear as a witness as the judge considers necessary to a correct judgment and speedy disposition of the case.

(c) The rules of the supreme court must provide specific procedures for an action by:

(1) an assignee of a claim or other person seeking to bring an action on an assigned claim;

(2) a person primarily engaged in the business of lending money at interest; or

(3) a collection agency or collection agent.

(d) The rules adopted by the supreme court may not:

(1) require that a party in a case be represented by an attorney;

(2) be so complex that a reasonable person without legal training would have difficulty understanding or applying the rules; or

(3) require that discovery rules adopted under the Texas Rules of Civil Procedure or the Texas Rules of Evidence be applied except to the extent the justice of the peace hearing the case determines that the rules must be followed to ensure that the proceeding is fair to all parties.

(e) A committee established by the supreme court to recommend rules to be adopted under this section must include justices of the peace.

SECTION 5.03. Subchapter C, Chapter 27, Government Code, is amended by adding Section 27.061 to read as follows:

Sec. 27.061. RULES OF ADMINISTRATION. The justices of the peace in each county shall, by majority vote, adopt local rules of administration.

SECTION 5.04. Subchapter E, Chapter 15, Civil Practice and Remedies Code, is amended by adding Section 15.0821 to read as follows:

Sec. 15.0821. ADMINISTRATIVE RULES FOR TRANSFER. The justices of the peace in each county shall, by majority vote, adopt local rules of administration regarding the transfer of a pending case from one precinct to a different precinct.

SECTION 5.05. Article 4.12, Code of Criminal Procedure, is amended by adding Subsection (e) to read as follows:

(e) The justices of the peace in each county shall, by majority vote, adopt local rules of administration regarding the transfer of a pending misdemeanor case from one precinct to a different precinct.

SECTION 5.06. (a) Chapter 28, Government Code, is repealed.

(b) On the effective date of this section, each small claims court under Chapter 28, Government Code, is abolished.

SECTION 5.07. Not later than May 1, 2013, the Texas Supreme Court shall promulgate:

- (1) rules to define cases that constitute small claims cases;
- (2) rules of civil procedure applicable to small claims cases as required by Section 27.060, Government Code, as added by this article; and
- (3) rules for eviction proceedings.

SECTION 5.08. (a) Immediately before the date the small claims court in a county is abolished in accordance with this article, the justice of the peace sitting as judge of that court shall transfer all cases pending in the court to a justice court in the county.

(b) When a case is transferred as provided by Subsection (a) of this section, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court. The obligees on all bonds and recognizances taken in and for the transferring court and all witnesses summoned to appear in the transferring court are required to appear before the court to which the case is transferred as if originally required to appear before that court.

SECTION 5.09. Sections 5.02 and 5.06 of this article take effect May 1, 2013.

## ARTICLE 6. ASSOCIATE JUDGES

SECTION 6.01. Subtitle D, Title 2, Government Code, is amended by adding Chapter 54A to read as follows:

CHAPTER 54A. ASSOCIATE JUDGESSUBCHAPTER A. CRIMINAL ASSOCIATE JUDGES

Sec. 54A.001. APPLICABILITY. This subchapter applies to a district court or a statutory county court that hears criminal cases.

Sec. 54A.002. APPOINTMENT. (a) A judge of a court subject to this subchapter may appoint a full-time or part-time associate judge to perform the duties authorized by this subchapter if the commissioners court of the county in which the court has jurisdiction has authorized the creation of an associate judge position.

(b) If a court has jurisdiction in more than one county, an associate judge appointed by that court may serve only in a county in which the commissioners court has authorized the appointment.

(c) If more than one court in a county is subject to this subchapter, the commissioners court may authorize the appointment of an associate judge for each court or may authorize one or more associate judges to share service with two or more courts.

(d) If an associate judge serves more than one court, the associate judge's appointment must be made as established by local rule, but in no event by less than a vote of two-thirds of the judges under whom the associate judge serves.

Sec. 54A.003. QUALIFICATIONS. To qualify for appointment as an associate judge under this subchapter, a person must:

(1) be a resident of this state and one of the counties the person will serve;

(2) have been licensed to practice law in this state for at least four years;

(3) not have been removed from office by impeachment, by the supreme court, by the governor on address to the legislature, by a tribunal reviewing a recommendation of the State Commission on Judicial Conduct, or by the legislature's abolition of the judge's court; and

(4) not have resigned from office after having received notice that formal proceedings by the State Commission on Judicial Conduct had been instituted as provided by Section 33.022 and before final disposition of the proceedings.

Sec. 54A.004. COMPENSATION. (a) An associate judge shall be paid a salary determined by the commissioners court of the county in which the associate judge serves.

(b) If an associate judge serves in more than one county, the associate judge shall be paid a salary as determined by agreement of the commissioners courts of the counties in which the associate judge serves.

(c) The associate judge's salary is paid from the county fund available for payment of officers' salaries.

Sec. 54A.005. TERMINATION. (a) An associate judge who serves a single court serves at the will of the judge of that court.

(b) The employment of an associate judge who serves more than two courts may only be terminated by a majority vote of all the judges of the courts the associate judge serves.

(c) The employment of an associate judge who serves two courts may be terminated by either of the judges of the courts the associate judge serves.

(d) To terminate an associate judge's employment, the appropriate judges must sign a written order of termination. The order must state:

- (1) the associate judge's name and state bar identification number;
- (2) each court ordering termination; and
- (3) the date the associate judge's employment ends.

Sec. 54A.006. PROCEEDINGS THAT MAY BE REFERRED. (a) A judge may refer to an associate judge any matter arising out of a criminal case involving:

- (1) a negotiated plea of guilty or no contest before the court;
- (2) a bond forfeiture;
- (3) a pretrial motion;
- (4) a writ of habeas corpus;
- (5) an examining trial;
- (6) an occupational driver's license;
- (7) an appeal of an administrative driver's license revocation hearing;
- (8) a civil commitment matter under Subtitle C, Title 7, Health and

Safety Code;

(9) setting, adjusting, or revoking bond;

(10) the issuance of search warrants, including a search warrant under Article 18.02(10), Code of Criminal Procedure, notwithstanding Article 18.01(c), Code of Criminal Procedure; and

(11) any other matter the judge considers necessary and proper.

(b) An associate judge may accept an agreed plea of guilty or no contest from a defendant charged with misdemeanor, felony, or both misdemeanor and felony offenses and may assess punishment if a plea agreement is announced on the record between the defendant and the state.

(c) An associate judge has all of the powers of a magistrate under the laws of this state and may administer an oath for any purpose.

(d) An associate judge may select a jury. Except as provided in Subsection (b), an associate judge may not preside over a trial on the merits, whether or not the trial is before a jury.

Sec. 54A.007. ORDER OF REFERRAL. (a) To refer one or more cases to an associate judge, a judge must issue a written order of referral that specifies the associate judge's duties.

(b) An order of referral may:

(1) limit the powers of the associate judge and direct the associate judge to report only on specific issues, do particular acts, or receive and report on evidence only;

(2) set the time and place for the hearing;

(3) prescribe a closing date for the hearing;

(4) provide a date for filing the associate judge's findings;

(5) designate proceedings for more than one case over which the associate judge shall preside;

(6) direct the associate judge to call the court's docket; and

(7) set forth general powers and limitations or authority of the associate judge applicable to any case referred.

Sec. 54A.008. POWERS. (a) Except as limited by an order of referral, an associate judge to whom a case is referred may:

(1) conduct hearings;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on the admissibility of evidence;

(5) issue summons for the appearance of witnesses;

(6) examine a witness;

(7) swear a witness for a hearing;

(8) make findings of fact on evidence;

(9) formulate conclusions of law;

(10) rule on pretrial motions;

(11) recommend the rulings, orders, or judgment to be made in a case;

(12) regulate proceedings in a hearing;

(13) order the attachment of a witness or party who fails to obey a subpoena;

(14) accept a plea of guilty from a defendant charged with misdemeanor, felony, or both misdemeanor and felony offenses;

(15) select a jury;

(16) notwithstanding Article 18.01(c), Code of Criminal Procedure, issue a search warrant, including a search warrant under Article 18.02(10), Code of Criminal Procedure; and

(17) take action as necessary and proper for the efficient performance of the duties required by the order of referral.

(b) An associate judge may not enter a ruling on any issue of law or fact if that ruling could result in dismissal or require dismissal of a pending criminal prosecution, but the associate judge may make findings, conclusions, and recommendations on those issues.

(c) Except as limited by an order of referral, an associate judge who is appointed by a district or statutory county court judge and to whom a case is referred may accept a plea of guilty or nolo contendere in a misdemeanor case for a county criminal court. The associate judge shall forward any fee or fine collected for the misdemeanor offense to the county clerk.

(d) An associate judge may, in the interest of justice, refer a case back to the referring court regardless of whether a timely objection to the associate judge hearing the trial on the merits or presiding at a jury trial has been made by any party.

Sec. 54A.009. ATTENDANCE OF BAILIFF. A bailiff shall attend a hearing by an associate judge if directed by the referring court.

Sec. 54A.010. COURT REPORTER. At the request of a party, the court shall provide a court reporter to record the proceedings before the associate judge.

Sec. 54A.011. WITNESS. (a) A witness appearing before an associate judge is subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the court.

Sec. 54A.012. PAPERS TRANSMITTED TO JUDGE. At the conclusion of the proceedings, an associate judge shall transmit to the referring court any papers relating to the case, including the associate judge's findings, conclusions, orders, recommendations, or other action taken.

Sec. 54A.013. JUDICIAL ACTION. (a) Not later than the 30th day after the date an action is taken by an associate judge, a referring court may modify, correct, reject, reverse, or recommit for further information the action taken by the associate judge.

(b) If the court does not modify, correct, reject, reverse, or recommit an action to the associate judge, the action becomes the decree of the court.

Sec. 54A.014. JUDICIAL IMMUNITY. An associate judge has the same judicial immunity as a district judge.

[Sections 54A.015-54A.100 reserved for expansion]

#### SUBCHAPTER B. CIVIL ASSOCIATE JUDGES

Sec. 54A.101. APPLICABILITY. This subchapter applies to a district court or a statutory county court that is assigned civil cases.

Sec. 54A.102. APPOINTMENT. (a) A judge of a court subject to this subchapter may appoint a full-time or part-time associate judge to perform the duties authorized by this subchapter if the commissioners court of the county in which the court has jurisdiction has authorized the creation of an associate judge position.

(b) If a district court has jurisdiction in more than one county, an associate judge appointed by that court may serve only in a county in which the commissioners court has authorized the appointment.

(c) If more than one court in a county is subject to this subchapter, the commissioners court may authorize the appointment of an associate judge for each court or may authorize one or more associate judges to share service with two or more courts.

(d) If an associate judge serves more than one court, the associate judge's appointment must be made as established by local rule, but in no event by less than a vote of two-thirds of the judges under whom the associate judge serves.

Sec. 54A.103. QUALIFICATIONS. To qualify for appointment as an associate judge under this subchapter, a person must:

(1) be a resident of this state and one of the counties the person will serve;

(2) have been licensed to practice law in this state for at least four years;

(3) not have been removed from office by impeachment, by the supreme court, by the governor on address to the legislature, by a tribunal reviewing a recommendation of the State Commission on Judicial Conduct, or by the legislature's abolition of the judge's court; and

(4) not have resigned from office after having received notice that formal proceedings by the State Commission on Judicial Conduct had been instituted as provided in Section 33.022 and before final disposition of the proceedings.

Sec. 54A.104. COMPENSATION. (a) An associate judge shall be paid a salary determined by the commissioners court of the county in which the associate judge serves.

(b) If an associate judge serves in more than one county, the associate judge shall be paid a salary as determined by agreement of the commissioners courts of the counties in which the associate judge serves.

(c) The associate judge's salary is paid from the county fund available for payment of officers' salaries.

Sec. 54A.105. TERMINATION. (a) An associate judge who serves a single court serves at the will of the judge of that court.

(b) The employment of an associate judge who serves more than two courts may only be terminated by a majority vote of all the judges of the courts the associate judge serves.

(c) The employment of an associate judge who serves two courts may be terminated by either of the judges of the courts the associate judge serves.

(d) To terminate an associate judge's employment, the appropriate judges must sign a written order of termination. The order must state:

(1) the associate judge's name and state bar identification number;

(2) each court ordering termination; and

(3) the date the associate judge's employment ends.

Sec. 54A.106. CASES THAT MAY BE REFERRED. (a) Except as provided by this section, a judge of a court may refer any civil case or portion of a civil case to an associate judge for resolution.

(b) Unless a party files a written objection to the associate judge hearing a trial on the merits, the judge may refer the trial to the associate judge. A trial on the merits is any final adjudication from which an appeal may be taken to a court of appeals.

(c) A party must file an objection to an associate judge hearing a trial on the merits or presiding at a jury trial not later than the 10th day after the date the party receives notice that the associate judge will hear the trial. If an objection is filed, the referring court shall hear the trial on the merits or preside at a jury trial.

Sec. 54A.107. METHODS OF REFERRAL. (a) A case may be referred to an associate judge by an order of referral in a specific case or by an omnibus order.

(b) The order of referral may limit the powers or duties of an associate judge.

Sec. 54A.108. POWERS. (a) Except as limited by an order of referral, an associate judge may:

(1) conduct hearings;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on the admissibility of evidence;

- (5) issue summons for the appearance of witnesses;
- (6) examine a witness;
- (7) swear a witness for a hearing;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) rule on pretrial motions;
- (11) recommend the rulings, orders, or judgment to be made in a case;
- (12) regulate proceedings in a hearing;
- (13) order the attachment of a witness or party who fails to obey a subpoena; and
- (14) take action as necessary and proper for the efficient performance of the duties required by the order of referral.

(b) An associate judge may, in the interest of justice, refer a case back to the referring court regardless of whether a timely objection to the associate judge hearing the trial on the merits or presiding at a jury trial has been made by any party.

Sec. 54A.109. WITNESS. (a) A witness appearing before an associate judge is subject to the penalties for perjury provided by law.

- (b) A referring court may fine or imprison a witness who:
- (1) failed to appear before an associate judge after being summoned; or
  - (2) improperly refused to answer questions if the refusal has been certified to the court by the associate judge.

Sec. 54A.110. COURT REPORTER; RECORD. (a) A court reporter may be provided during a hearing held by an associate judge appointed under this subchapter. A court reporter is required to be provided when the associate judge presides over a jury trial.

(b) A party, the associate judge, or the referring court may provide for a reporter during the hearing if one is not otherwise provided.

(c) Except as provided by Subsection (a), in the absence of a court reporter or on agreement of the parties, the record may be preserved by any means approved by the associate judge.

(d) The referring court or associate judge may assess the expense of preserving the record under Subsection (c) as costs.

(e) On appeal of the associate judge's report or proposed order, the referring court may consider testimony or other evidence in the record if the record is taken by a court reporter.

Sec. 54A.111. NOTICE OF DECISION; APPEAL. (a) After hearing a matter, an associate judge shall notify each attorney participating in the hearing of the associate judge's decision. An associate judge's decision has the same force and effect as an order of the referring court unless a party appeals the decision as provided by Subsection (b).

(b) To appeal an associate judge's decision, other than the issuance of a temporary restraining order or temporary injunction, a party must file an appeal in the referring court not later than the seventh day after the date the party receives notice of the decision under Subsection (a).



(c) A temporary restraining order issued by an associate judge is effective immediately and expires on the 15th day after the date of issuance unless, after a hearing, the order is modified or extended by the associate judge or referring judge.

(d) A temporary injunction issued by an associate judge is effective immediately and continues during the pendency of a trial unless, after a hearing, the order is modified by a referring judge.

(e) A matter appealed to the referring court shall be tried de novo and is limited to only those matters specified in the appeal. Except on leave of court, a party may not submit on appeal any additional evidence or pleadings.

Sec. 54A.112. NOTICE OF RIGHT TO DE NOVO HEARING; WAIVER.

(a) Notice of the right to a de novo hearing before the referring court shall be given to all parties.

(b) The notice may be given:

(1) by oral statement in open court;

(2) by posting inside or outside the courtroom of the referring court; or

(3) as otherwise directed by the referring court.

(c) Before the start of a hearing by an associate judge, a party may waive the right of a de novo hearing before the referring court in writing or on the record.

Sec. 54A.113. ORDER OF COURT. (a) Pending a de novo hearing before the referring court, a proposed order or judgment of the associate judge is in full force and effect and is enforceable as an order or judgment of the referring court, except for an order providing for the appointment of a receiver.

(b) If a request for a de novo hearing before the referring court is not timely filed or the right to a de novo hearing before the referring court is waived, the proposed order or judgment of the associate judge becomes the order or judgment of the referring court only on the referring court's signing the proposed order or judgment.

(c) An order by an associate judge for the temporary detention or incarceration of a witness or party shall be presented to the referring court on the day the witness or party is detained or incarcerated. The referring court, without prejudice to the right to a de novo hearing provided by Section 54A.115, may approve the temporary detention or incarceration or may order the release of the party or witness, with or without bond, pending a de novo hearing. If the referring court is not immediately available, the associate judge may order the release of the party or witness, with or without bond, pending a de novo hearing or may continue the person's detention or incarceration for not more than 72 hours.

Sec. 54A.114. JUDICIAL ACTION ON ASSOCIATE JUDGE'S PROPOSED ORDER OR JUDGMENT. Unless a party files a written request for a de novo hearing before the referring court, the referring court may:

(1) adopt, modify, or reject the associate judge's proposed order or judgment;

(2) hear additional evidence; or

(3) recommit the matter to the associate judge for further proceedings.

Sec. 54A.115. DE NOVO HEARING. (a) A party may request a de novo hearing before the referring court by filing with the clerk of the referring court a written request not later than the seventh working day after the date the party receives notice of the substance of the associate judge's decision as provided by Section 54A.111.

(b) A request for a de novo hearing under this section must specify the issues that will be presented to the referring court. The de novo hearing is limited to the specified issues.

(c) Notice of a request for a de novo hearing before the referring court shall be given to the opposing attorney in the manner provided by Rule 21a, Texas Rules of Civil Procedure.

(d) If a request for a de novo hearing before the referring court is filed by a party, any other party may file a request for a de novo hearing before the referring court not later than the seventh working day after the date the initial request was filed.

(e) The referring court, after notice to the parties, shall hold a de novo hearing not later than the 30th day after the date the initial request for a de novo hearing was filed with the clerk of the referring court.

(f) In the de novo hearing before the referring court, the parties may present witnesses on the issues specified in the request for hearing. The referring court may also consider the record from the hearing before the associate judge, including the charge to and verdict returned by a jury, if the record was taken by a court reporter.

(g) The denial of relief to a party after a de novo hearing under this section or a party's waiver of the right to a de novo hearing before the referring court does not affect the right of a party to file a motion for new trial, a motion for judgment notwithstanding the verdict, or other posttrial motions.

(h) A party may not demand a second jury in a de novo hearing before the referring court if the associate judge's proposed order or judgment resulted from a jury trial.

Sec. 54A.116. APPELLATE REVIEW. (a) A party's failure to request a de novo hearing before the referring court or a party's waiver of the right to request a de novo hearing before the referring court does not deprive the party of the right to appeal to or request other relief from a court of appeals or the supreme court.

(b) Except as provided by Subsection (c), the date an order or judgment by the referring court is signed is the controlling date for the purposes of appeal to or request for other relief from a court of appeals or the supreme court.

(c) The date an agreed order or a default order is signed by an associate judge is the controlling date for the purpose of an appeal to, or a request for other relief relating to the order from, a court of appeals or the supreme court.

Sec. 54A.117. JUDICIAL ACTION. (a) Not later than the 30th day after the date an action is taken by an associate judge, a referring court may modify, correct, reject, reverse, or recommit for further information the action taken by the associate judge.

(b) If the court does not modify, correct, reject, reverse, or recommit an action to the associate judge, the action becomes the decree of the court.

Sec. 54A.118. JUDICIAL IMMUNITY. An associate judge appointed under this subchapter has the judicial immunity of a district judge.

SECTION 6.02. Subchapter G, Chapter 54, Government Code, is transferred to Chapter 54A, Government Code, as added by this Act, redesignated as Subchapter C, Chapter 54A, Government Code, and amended to read as follows:

SUBCHAPTER C [G]. STATUTORY PROBATE COURT ASSOCIATE JUDGES

Sec. 54A.201 [54.604]. DEFINITION. In this subchapter, "statutory probate court" has the meaning assigned by Section 3, Texas Probate Code.

Sec. 54A.202. APPLICABILITY. This subchapter applies to a statutory probate court.

Sec. 54A.203 [54.603]. APPOINTMENT. (a) After obtaining the approval of the commissioners court to create an associate judge position, the judge of a statutory probate court by order may appoint one or more full-time or part-time ~~person to act as~~ associate judges to perform the duties authorized by this subchapter ~~[judge for the statutory probate court].~~

(b) If a statutory probate court has jurisdiction in more than one county, an associate judge appointed by that court may serve only in a county in which the commissioners court has authorized the appointment.

(c) The commissioners court may authorize the appointment of an associate judge for each court or may authorize one or more associate judges to share service with two or more courts, if more than one statutory probate court exists in a county.

(d) [(e)] If an associate judge serves more than one court, the associate judge's appointment must be made with the unanimous approval of all the judges under whom the associate judge serves.

[(d) An associate judge must meet the qualifications to serve as a judge of the court to which the associate judge is appointed.]

(e) An associate judge appointed under this subchapter may serve as an associate judge appointed under Section 574.0085, Health and Safety Code.

Sec. 54A.204. QUALIFICATIONS. To qualify for appointment as an associate judge under this subchapter, a person must:

(1) be a resident of this state and one of the counties the person will serve;

(2) have been licensed to practice law in this state for at least five years;

(3) not have been removed from office by impeachment, by the supreme court, by the governor on address to the legislature, by a tribunal reviewing a recommendation of the State Commission on Judicial Conduct, or by the legislature's abolition of the judge's court; and

(4) not have resigned from office after having received notice that formal proceedings by the State Commission on Judicial Conduct had been instituted as provided in Section 33.022 and before final disposition of the proceedings.

Sec. 54A.205 [~~54.605~~]. COMPENSATION. (a) An associate judge is entitled to the compensation set by the appointing judge and approved by the commissioners court or commissioners courts of the counties in which the associate judge serves. [~~The salary of the associate judge may not exceed the salary of the appointing judge.~~]

(b) If an associate judge serves in more than one county, the associate judge shall be paid a salary as determined by agreement of the commissioners courts of the counties in which the associate judge serves.

(c) Except as provided by Subsection (d) [~~(e)~~], the compensation of the associate judge shall be paid by the county from the county general fund. The compensation must be paid in the same manner that the appointing judge's salary is paid.

(d) [~~(e)~~] On the recommendation of the statutory probate court judges in the county and subject to the approval of the county commissioners court, the county may pay all or part of the compensation of the associate judge from the excess contributions remitted to the county under Section 25.00212 and deposited in the contributions fund created under Section 25.00213.

Sec. 54A.206 [~~54.604~~]. TERMINATION OF ASSOCIATE JUDGE. (a) An associate judge who serves a single court serves at the will of the judge of that court.

(b) The employment of an associate judge who serves more than two courts may only be terminated by a majority vote of all the judges of the courts that the associate judge serves.

(c) The employment of an associate judge who serves two courts may be terminated by either of the judges of the courts that the associate judge serves.

(d) The appointment of the associate judge terminates if:

(1) the associate judge becomes a candidate for election to public office; or

(2) the commissioners court does not appropriate funds in the county's budget to pay the salary of the associate judge.

(e) If an associate judge serves a single court and the appointing judge vacates the judge's office, the associate judge's employment continues, subject to Subsections (d) and (h), unless the successor appointed or elected judge terminates that employment.

(f) If an associate judge serves two courts and one of the appointing judges vacates the judge's office, the associate judge's employment continues, subject to Subsections (d) and (h), unless the successor appointed or elected judge terminates that employment or the judge of the other court served by the associate judge terminates that employment as provided by Subsection (c).

(g) If an associate judge serves more than two courts and an appointing judge vacates the judge's office, the associate judge's employment continues, subject to Subsections (d) and (h), unless:

(1) if no successor judge has been elected or appointed, the majority of the judges of the other courts the associate judge serves vote to terminate that employment; or

(2) if a successor judge has been elected or appointed, the majority of the judges of the courts the associate judge serves, including the successor judge, vote to terminate that employment as provided by Subsection (b).

(h) Notwithstanding the powers of an associate judge provided by Section 54A.209 ~~[54.610]~~, an associate judge whose employment continues as provided by Subsection (e), (f), or (g) after the judge of a court served by the associate judge vacates the judge's office may perform administrative functions with respect to that court, but may not perform any judicial function, including any power prescribed by Section 54A.209 ~~[54.610]~~, with respect to that court until a successor judge is appointed or elected.

Sec. 54A.207 ~~[54.608]~~. CASES THAT MAY BE REFERRED. (a) Except as provided by this section, a judge of a court may refer to an associate judge any aspect of a suit over which the probate court has jurisdiction, including any matter ancillary to the suit.

(b) Unless a party files a written objection to the associate judge hearing a trial on the merits, the judge may refer the trial to the associate judge. A trial on the merits is any final adjudication from which an appeal may be taken to a court of appeals.

(c) A party must file an objection to an associate judge hearing a trial on the merits or presiding at a jury trial not later than the 10th day after the date the party receives notice that the associate judge will hear the trial. If an objection is filed, the referring court shall hear the trial on the merits or preside at a jury trial.

Sec. 54A.2071 ~~[54.606]~~. OATH. An associate judge must take the constitutional oath of office required of appointed officers of this state.

~~[Sec. 54.607. MAGISTRATE. An associate judge appointed under this subchapter is a magistrate.]~~

Sec. 54A.208 ~~[54.609]~~. METHODS ~~[ORDER]~~ OF REFERRAL. (a) A case may be referred to an associate judge by an order of referral in a specific case or by an omnibus order ~~[In referring a case to an associate judge, the judge of the referring court shall render:~~

~~[(1) an individual order of referral; or~~

~~[(2) a general order of referral]~~ specifying the class and type of cases to be referred ~~[heard by the associate judge]~~.

(b) The order of referral may limit the power or duties of an associate judge.

Sec. 54A.209 ~~[54.610]~~. POWERS OF ASSOCIATE JUDGE. (a) Except as limited by an order of referral, an associate judge may:

- (1) conduct a hearing;
- (2) hear evidence;
- (3) compel production of relevant evidence;
- (4) rule on the admissibility of evidence;
- (5) issue a summons for the appearance of witnesses;
- (6) examine a witness;
- (7) swear a witness for a hearing;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) rule on pretrial motions;

(11) recommend the rulings, orders, or judgment ~~[an order]~~ to be made ~~[rendered]~~ in a case;

(12) ~~[(11)]~~ regulate all proceedings in a hearing before the associate judge;

(13) ~~[(12)]~~ take action as necessary and proper for the efficient performance of the ~~[associate judge's]~~ duties required by the order of referral;

(14) ~~[(13)]~~ order the attachment of a witness or party who fails to obey a subpoena;

(15) ~~[(14)]~~ order the detention of a witness or party found guilty of contempt, pending approval by the referring court as provided by Section 54A.214 ~~[54.616]~~;

(16) ~~[(15)]~~ without prejudice to the right to a de novo hearing under Section 54A.216 ~~[54.618]~~, render and sign:

(A) a final order agreed to in writing as to both form and substance by all parties;

(B) a final default order;

(C) a temporary order;

(D) a final order in a case in which a party files an unrevoked waiver made in accordance with Rule 119, Texas Rules of Civil Procedure, that waives notice to the party of the final hearing or waives the party's appearance at the final hearing;

(E) an order specifying that the court clerk shall issue:

(i) letters testamentary or of administration; or

(ii) letters of guardianship; or

(F) an order for inpatient or outpatient mental health, mental retardation, or chemical dependency services or an order authorizing psychoactive medications; and

(17) ~~[(16)]~~ sign a final order that includes a waiver of the right to a de novo hearing in accordance with Section 54A.216 ~~[54.618]~~.

(b) An associate judge may, in the interest of justice, refer a case back to the referring court regardless of whether a timely objection to the associate judge hearing the trial on the merits or presiding at a jury trial has been made by any party.

(c) An order described by Subsection (a)(16) ~~[(a)(15)]~~ that is rendered and signed by an associate judge constitutes an order of the referring court. The judge of the referring court shall sign the order not later than the 30th day after the date the associate judge signs the order.

(d) An answer filed by or on behalf of a party who previously filed a waiver described in Subsection (a)(16)(D) ~~[(a)(15)(D)]~~ revokes that waiver.

Sec. 54A.2091 ~~[54.611]~~. ATTENDANCE OF BAILIFF. A bailiff shall attend a hearing conducted by an associate judge if directed to attend by the referring court.

~~[Sec. 54.612. COURT REPORTER. (a) A court reporter may be provided during a hearing held by an associate judge appointed under this subchapter unless required by other law. A court reporter is required to be provided when the associate judge presides over a jury trial.]~~

~~[(b) A party, the associate judge, or the referring court may provide for a reporter during the hearing, if one is not otherwise provided.~~

~~[(e) Except as provided by Subsection (a), in the absence of a court reporter or on agreement of the parties, the record may be preserved by any means approved by the referring court.~~

~~[(d) The referring court or associate judge may impose on a party the expense of preserving the record as a court cost.~~

~~[(e) On a request for a de novo hearing, the referring court may consider testimony or other evidence in the record, if the record is taken by a court reporter, in addition to witnesses or other matters presented under Section 54.618.]~~

Sec. 54A.210 [54.613]. WITNESS. (a) A witness appearing before an associate judge is subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure ~~[who:~~

~~[(1) fails] to appear [before an associate judge] after being summoned or whose refusal to answer questions has been certified to the court[; or~~

~~[(2) improperly refuses to answer a question if the refusal has been certified to the court by the associate judge].~~

Sec. 54A.211. COURT REPORTER; RECORD. (a) A court reporter may be provided during a hearing held by an associate judge appointed under this subchapter. A court reporter is required to be provided when the associate judge presides over a jury trial.

(b) A party, the associate judge, or the referring court may provide for a reporter during the hearing if one is not otherwise provided.

(c) Except as provided by Subsection (a), in the absence of a court reporter or on agreement of the parties, the record may be preserved by any means approved by the associate judge.

(d) The referring court or associate judge may assess the expense of preserving the record as court costs.

(e) On appeal of the associate judge's report or proposed order, the referring court may consider testimony or other evidence in the record if the record is taken by a court reporter.

Sec. 54A.212 [54.614]. REPORT. (a) The associate judge's report may contain the associate judge's findings, conclusions, or recommendations and may be in the form of a proposed order.

(b) The associate judge shall prepare a ~~[written]~~ report in the form directed by the referring court, including in the form of:

(1) a notation on the referring court's docket sheet or in the court's jacket; or

(2) a proposed order.

(c) ~~[(b)]~~ After a hearing, the associate judge shall provide the parties participating in the hearing notice of the substance of the associate judge's report, including any proposed order.

(d) ~~[(c)]~~ Notice may be given to the parties:

(1) in open court, by an oral statement, or by providing a copy of the associate judge's written report, including any proposed order;

(2) by certified mail, return receipt requested;

(3) by facsimile transmission; or

(4) by electronic mail.

(e) [(d)] There is a rebuttable presumption that notice is received on the date stated on:

(1) the signed return receipt, if notice was provided by certified mail;

(2) the confirmation page produced by the facsimile machine, if notice was provided by facsimile transmission; or

(3) a printout evidencing submission of the electronic mail message, if notice was provided by electronic mail.

(f) [(e)] After a hearing conducted by an associate judge, the associate judge shall send the associate judge's signed and dated report, including any proposed order, and all other papers relating to the case to the referring court.

Sec. 54A.213 [~~54.615~~]. NOTICE OF RIGHT TO DE NOVO HEARING BEFORE REFERRING COURT. (a) An associate judge shall give all parties notice of the right to a de novo hearing before the referring court.

(b) The notice may be given:

(1) by oral statement in open court;

(2) by posting inside or outside the courtroom of the referring court; or

(3) as otherwise directed by the referring court.

(c) Before the start of a hearing by an associate judge, a party may waive the right to a de novo hearing before the referring court in writing or on the record.

Sec. 54A.214 [~~54.616~~]. ORDER OF COURT. (a) Pending a de novo hearing before the referring court, the decisions and recommendations of the associate judge or a proposed order or judgment of the associate judge has the full force and effect, and is enforceable as, an order or judgment of the referring court, except for an order providing for the appointment of a receiver.

(b) Except as provided by Section 54A.209(c) [~~54.610(e)~~], if a request for a de novo hearing before the referring court is not timely filed or the right to a de novo hearing before the referring court is waived, the decisions and recommendations of the associate judge or the proposed order or judgment of the associate judge becomes the order or judgment of the referring court at the time the judge of the referring court signs the proposed order or judgment.

(c) An order by an associate judge for the temporary detention or incarceration of a witness or party shall be presented to the referring court on the day the witness or party is detained or incarcerated. The referring court, without prejudice to the right to a de novo hearing provided by Section 54A.216, may approve the temporary detention or incarceration or may order the release of the party or witness, with or without bond, pending a de novo hearing. If the referring court is not immediately available, the associate judge may order the release of the party or witness, with or without bond, pending a de novo hearing or may continue the person's detention or incarceration for not more than 72 hours.



Sec. 54A.215 ~~[54.617]~~. JUDICIAL ACTION ON ASSOCIATE JUDGE'S PROPOSED ORDER OR JUDGMENT. (a) Unless a party files a written request for a de novo hearing before the referring court, the referring court may:

(1) adopt, modify, or reject the associate judge's proposed order or judgment;

(2) hear further evidence; or

(3) recommit the matter to the associate judge for further proceedings.

(b) The judge of the referring court shall sign a proposed order or judgment the court adopts as provided by Subsection (a)(1) not later than the 30th day after the date the associate judge signed the order or judgment.

Sec. 54A.216 ~~[54.618]~~. DE NOVO HEARING BEFORE REFERRING COURT. (a) A party may request a de novo hearing before the referring court by filing with the clerk of the referring court a written request not later than the seventh working day after the date the party receives notice of the substance of the associate judge's report as provided by Section 54A.212 ~~[54.614]~~.

(b) A request for a de novo hearing under this section must specify the issues that will be presented to the referring court. The de novo hearing is limited to the specified issues.

(c) In the de novo hearing before the referring court, the parties may present witnesses on the issues specified in the request for hearing. The referring court may also consider the record from the hearing before the associate judge, including the charge to and verdict returned by a jury, if the record was taken by a court reporter.

(d) Notice of a request for a de novo hearing before the referring court must be given to the opposing attorney in the manner provided by Rule 21a, Texas Rules of Civil Procedure.

(e) If a request for a de novo hearing before the referring court is filed by a party, any other party may file a request for a de novo hearing before the referring court not later than the seventh working day after the date of filing of the initial request.

(f) The referring court, after notice to the parties, shall hold a de novo hearing not later than the 30th day after the date on which the initial request for a de novo hearing was filed with the clerk of the referring court ~~[, unless all of the parties agree to a later date].~~

(g) Before the start of a hearing conducted by an associate judge, the parties may waive the right of a de novo hearing before the referring court. The waiver may be in writing or on the record.

(h) The denial of relief to a party after a de novo hearing under this section or a party's waiver of the right to a de novo hearing before the referring court does not affect the right of a party to file a motion for new trial, motion for judgment notwithstanding the verdict, or other post-trial motion.

(i) A party may not demand a second jury in a de novo hearing before the referring court if the associate judge's proposed order or judgment resulted from a jury trial.

Sec. 54A.217 ~~[54.619]~~. APPELLATE REVIEW. (a) A party's failure to request a de novo hearing before the referring court or a party's waiver of the right to request a de novo hearing before the referring court does not deprive the party of the right to appeal to or request other relief from a court of appeals or the supreme court.

(b) Except as provided by Subsection (c), the date the judge of a referring court signs an order or judgment is the controlling date for the purposes of appeal to or request for other relief from a court of appeals or the supreme court.

(c) The date an order described by Section 54A.209(a)(16) ~~[54.610(a)(15)]~~ is signed by an associate judge is the controlling date for the purpose of an appeal to, or a request for other relief relating to the order from, a court of appeals or the supreme court.

Sec. 54A.218 ~~[54.620]~~. IMMUNITY. An associate judge appointed under this subchapter has the judicial immunity of a probate judge. All existing immunity granted an associate judge by law, express or implied, continues in full force and effect.

SECTION 6.03. Chapter 201, Family Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. ASSOCIATE JUDGE FOR JUVENILE MATTERS

Sec. 201.301. APPLICABILITY. This subchapter applies only to an associate judge appointed under this subchapter and does not apply to a juvenile court master appointed under Subchapter K, Chapter 54, Government Code.

Sec. 201.302. APPOINTMENT. (a) A judge of a court that is designated as a juvenile court may appoint a full-time or part-time associate judge to perform the duties authorized by this chapter if the commissioners court of a county in which the court has jurisdiction has authorized creation of an associate judge position.

(b) If a court has jurisdiction in more than one county, an associate judge appointed by that court may serve only in a county in which the commissioners court has authorized the appointment.

(c) If more than one court in a county has been designated as a juvenile court, the commissioners court may authorize the appointment of an associate judge for each court or may authorize one or more associate judges to share service with two or more courts.

(d) If an associate judge serves more than one court, the associate judge's appointment must be made as established by local rule, but in no event by less than a vote of two-thirds of the judges under whom the associate judge serves.

Sec. 201.303. QUALIFICATIONS. To qualify for appointment as an associate judge under this subchapter, a person must:

(1) be a resident of this state and one of the counties the person will serve;

(2) have been licensed to practice law in this state for at least four years;

(3) not have been removed from office by impeachment, by the supreme court, by the governor on address to the legislature, by a tribunal reviewing a recommendation of the State Commission on Judicial Conduct, or by the legislature's abolition of the judge's court; and

(4) not have resigned from office after having received notice that formal proceedings by the State Commission on Judicial Conduct had been instituted as provided in Section 33.022, Government Code, and before final disposition of the proceedings.

Sec. 201.304. COMPENSATION. (a) An associate judge shall be paid a salary determined by the commissioners court of the county in which the associate judge serves.

(b) If an associate judge serves in more than one county, the associate judge shall be paid a salary as determined by agreement of the commissioners courts of the counties in which the associate judge serves.

(c) The associate judge's salary is paid from the county fund available for payment of officers' salaries.

Sec. 201.305. TERMINATION. (a) An associate judge who serves a single court serves at the will of the judge of that court.

(b) The employment of an associate judge who serves more than two courts may only be terminated by a majority vote of all the judges of the courts which the associate judge serves.

(c) The employment of an associate judge who serves two courts may be terminated by either of the judges of the courts which the associate judge serves.

(d) To terminate an associate judge's employment, the appropriate judges must sign a written order of termination. The order must state:

(1) the associate judge's name and state bar identification number;

(2) each court ordering termination; and

(3) the date the associate judge's employment ends.

Sec. 201.306. CASES THAT MAY BE REFERRED. (a) Except as provided by this section, a judge of a juvenile court may refer to an associate judge any aspect of a juvenile matter brought:

(1) under this title or Title 3; or

(2) in connection with Rule 308a, Texas Rules of Civil Procedure.

(b) Unless a party files a written objection to the associate judge hearing a trial on the merits, the judge may refer the trial to the associate judge. A trial on the merits is any final adjudication from which an appeal may be taken to a court of appeals.

(c) A party must file an objection to an associate judge hearing a trial on the merits or presiding at a jury trial not later than the 10th day after the date the party receives notice that the associate judge will hear the trial. If an objection is filed, the referring court shall hear the trial on the merits or preside at a jury trial.

(d) The requirements of Subsections (b) and (c) apply when a judge has authority to refer the trial of a suit under this title, Title 1, or Title 4 to an associate judge, master, or other assistant judge regardless of whether the assistant judge is appointed under this subchapter.

Sec. 201.307. METHODS OF REFERRAL. (a) A case may be referred to an associate judge by an order of referral in a specific case or by an omnibus order.

(b) The order of referral may limit the power or duties of an associate judge.

Sec. 201.308. POWERS OF ASSOCIATE JUDGE. (a) Except as limited by an order of referral, an associate judge may:

(1) conduct a hearing;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on the admissibility of evidence;

(5) issue a summons for:

(A) the appearance of witnesses; and

(B) the appearance of a parent who has failed to appear before an agency authorized to conduct an investigation of an allegation of abuse or neglect of a child after receiving proper notice;

(6) examine a witness;

(7) swear a witness for a hearing;

(8) make findings of fact on evidence;

(9) formulate conclusions of law;

(10) recommend an order to be rendered in a case;

(11) regulate proceedings in a hearing;

(12) order the attachment of a witness or party who fails to obey a subpoena;

(13) order the detention of a witness or party found guilty of contempt, pending approval by the referring court; and

(14) take action as necessary and proper for the efficient performance of the associate judge's duties.

(b) An associate judge may, in the interest of justice, refer a case back to the referring court regardless of whether a timely objection to the associate judge hearing the trial on the merits or presiding at a jury trial has been made by any party.

Sec. 201.309. REFEREES. (a) An associate judge appointed under this subchapter may serve as a referee as provided by Sections 51.04(g) and 54.10.

(b) A referee appointed under Section 51.04(g) may be appointed to serve as an associate judge under this subchapter.

Sec. 201.310. ATTENDANCE OF BAILIFF. A bailiff may attend a hearing by an associate judge if directed by the referring court.

Sec. 201.311. WITNESS. (a) A witness appearing before an associate judge is subject to the penalties for perjury provided by law.

(b) A referring court may fine or imprison a witness who:

(1) failed to appear before an associate judge after being summoned; or

(2) improperly refused to answer questions if the refusal has been certified to the court by the associate judge.

Sec. 201.312. COURT REPORTER; RECORD. (a) A court reporter may be provided during a hearing held by an associate judge appointed under this subchapter. A court reporter is required to be provided when the associate judge presides over a jury trial or a contested final termination hearing.

(b) A party, the associate judge, or the referring court may provide for a reporter during the hearing if one is not otherwise provided.

(c) Except as provided by Subsection (a), in the absence of a court reporter or on agreement of the parties, the record may be preserved by any means approved by the associate judge.

(d) The referring court or associate judge may assess the expense of preserving the record as costs.

(e) On a request for a de novo hearing, the referring court may consider testimony or other evidence in the record, if the record is taken by a court reporter, in addition to witnesses or other matters presented under Section 201.317.

Sec. 201.313. REPORT. (a) The associate judge's report may contain the associate judge's findings, conclusions, or recommendations and may be in the form of a proposed order. The associate judge's report must be in writing and in the form directed by the referring court.

(b) After a hearing, the associate judge shall provide the parties participating in the hearing notice of the substance of the associate judge's report, including any proposed order.

(c) Notice may be given to the parties:

(1) in open court, by an oral statement or by providing a copy of the associate judge's written report, including any proposed order;

(2) by certified mail, return receipt requested; or

(3) by facsimile.

(d) A rebuttable presumption exists that notice is received on the date stated on:

(1) the signed return receipt, if notice was provided by certified mail; or

(2) the confirmation page produced by the facsimile machine, if notice was provided by facsimile.

(e) After a hearing conducted by an associate judge, the associate judge shall send the associate judge's signed and dated report, including any proposed order, and all other papers relating to the case to the referring court.

Sec. 201.314. NOTICE OF RIGHT TO DE NOVO HEARING; WAIVER.

(a) An associate judge shall give all parties notice of the right to a de novo hearing to the judge of the referring court.

(b) The notice may be given:

(1) by oral statement in open court;

(2) by posting inside or outside the courtroom of the referring court; or

(3) as otherwise directed by the referring court.

(c) Before the start of a hearing by an associate judge, a party may waive the right of a de novo hearing before the referring court in writing or on the record.

Sec. 201.315. ORDER OF COURT. (a) Pending a de novo hearing before the referring court, a proposed order or judgment of the associate judge is in full force and effect and is enforceable as an order or judgment of the referring court, except for an order providing for the appointment of a receiver.

(b) If a request for a de novo hearing before the referring court is not timely filed or the right to a de novo hearing before the referring court is waived, the proposed order or judgment of the associate judge becomes the order or judgment of the referring court only on the referring court's signing the proposed order or judgment.

(c) An order by an associate judge for the temporary detention or incarceration of a witness or party shall be presented to the referring court on the day the witness or party is detained or incarcerated. The referring court, without prejudice to the right to a de novo hearing provided by Section 201.317, may approve the temporary detention or incarceration or may order the release of the party or witness, with or without bond, pending a de novo hearing. If the referring court is not immediately available, the associate judge may order the release of the party or witness, with or without bond, pending a de novo hearing or may continue the person's detention or incarceration for not more than 72 hours.

Sec. 201.316. JUDICIAL ACTION ON ASSOCIATE JUDGE'S PROPOSED ORDER OR JUDGMENT. Unless a party files a written request for a de novo hearing before the referring court, the referring court may:

(1) adopt, modify, or reject the associate judge's proposed order or judgment;

(2) hear additional evidence; or

(3) recommit the matter to the associate judge for further proceedings.

Sec. 201.317. DE NOVO HEARING. (a) A party may request a de novo hearing before the referring court by filing with the clerk of the referring court a written request not later than the seventh working day after the date the party receives notice of the substance of the associate judge's report as provided by Section 201.313.

(b) A request for a de novo hearing under this section must specify the issues that will be presented to the referring court. The de novo hearing is limited to the specified issues.

(c) Notice of a request for a de novo hearing before the referring court shall be given to the opposing attorney in the manner provided by Rule 21a, Texas Rules of Civil Procedure.

(d) If a request for a de novo hearing before the referring court is filed by a party, any other party may file a request for a de novo hearing before the referring court not later than the seventh working day after the date the initial request was filed.

(e) The referring court, after notice to the parties, shall hold a de novo hearing not later than the 30th day after the date the initial request for a de novo hearing was filed with the clerk of the referring court.

(f) In the de novo hearing before the referring court, the parties may present witnesses on the issues specified in the request for hearing. The referring court may also consider the record from the hearing before the associate judge, including the charge to and verdict returned by a jury, if the record was taken by a court reporter.

(g) The denial of relief to a party after a de novo hearing under this section or a party's waiver of the right to a de novo hearing before the referring court does not affect the right of a party to file a motion for new trial, a motion for judgment notwithstanding the verdict, or other posttrial motions.

(h) A party may not demand a second jury in a de novo hearing before the referring court if the associate judge's proposed order or judgment resulted from a jury trial.

Sec. 201.318. APPELLATE REVIEW. (a) A party's failure to request a de novo hearing before the referring court or a party's waiver of the right to request a de novo hearing before the referring court does not deprive the party of the right to appeal to or request other relief from a court of appeals or the supreme court.

(b) Except as provided by Subsection (c), the date an order or judgment by the referring court is signed is the controlling date for the purposes of appeal to or request for other relief from a court of appeals or the supreme court.

(c) The date an agreed order or a default order is signed by an associate judge is the controlling date for the purpose of an appeal to, or a request for other relief relating to the order from, a court of appeals or the supreme court.

Sec. 201.319. JUDICIAL IMMUNITY. An associate judge appointed under this subchapter has the judicial immunity of a district judge.

Sec. 201.320. VISITING ASSOCIATE JUDGE. (a) If an associate judge appointed under this subchapter is temporarily unable to perform the judge's official duties because of absence or illness, injury, or other disability, a judge of a court having jurisdiction of a suit under this title or Title 1 or 4 may appoint a visiting associate judge to perform the duties of the associate judge during the period of the associate judge's absence or disability if the commissioners court of a county in which the court has jurisdiction authorizes the employment of a visiting associate judge.

(b) To be eligible for appointment under this section, a person must have served as an associate judge for at least two years.

(c) Sections 201.001 through 201.017 apply to a visiting associate judge appointed under this section.

SECTION 6.04. Subsection (b), Section 22.110, Government Code, is amended to read as follows:

(b) The court of criminal appeals shall adopt the rules necessary to accomplish the purposes of this section. The rules must require each district judge, judge of a statutory county court, associate judge appointed under Chapter 54A [54] of this code or Chapter 201, Family Code, master, referee, and magistrate to complete at least 12 hours of the training within the judge's first term of office or the judicial officer's first four years of service and provide a method for certification of completion of that training. At least four hours of the training must be dedicated to issues related to child abuse and neglect and must

cover at least two of the topics described in Subsections (d)(8)-(12). At least six hours of the training must be dedicated to the training described by Subsections (d)(5), (6), and (7). The rules must require each judge and judicial officer to complete an additional five hours of training during each additional term in office or four years of service. At least two hours of the additional training must be dedicated to issues related to child abuse and neglect. The rules must exempt from the training requirement of this subsection each judge or judicial officer who files an affidavit stating that the judge or judicial officer does not hear any cases involving family violence, sexual assault, or child abuse and neglect.

SECTION 6.05. Section 602.002, Government Code, is amended to read as follows:

Sec. 602.002. OATH MADE IN TEXAS. An oath made in this state may be administered and a certificate of the fact given by:

- (1) a judge, retired judge, or clerk of a municipal court;
- (2) a judge, retired judge, senior judge, clerk, or commissioner of a court of record;
- (3) a justice of the peace or a clerk of a justice court;
- (4) an associate judge, magistrate, master, referee, or criminal law hearing officer;

(5) a notary public;

(6) ~~(5)~~ a member of a board or commission created by a law of this state, in a matter pertaining to a duty of the board or commission;

(7) ~~(6)~~ a person employed by the Texas Ethics Commission who has a duty related to a report required by Title 15, Election Code, in a matter pertaining to that duty;

(8) ~~(7)~~ a county tax assessor-collector or an employee of the county tax assessor-collector if the oath relates to a document that is required or authorized to be filed in the office of the county tax assessor-collector;

(9) ~~(8)~~ the secretary of state or a former secretary of state;

(10) ~~(9)~~ an employee of a personal bond office, or an employee of a county, who is employed to obtain information required to be obtained under oath if the oath is required or authorized by Article 17.04 or by Article 26.04(n) or (o), Code of Criminal Procedure;

(11) ~~(10)~~ the lieutenant governor or a former lieutenant governor;

(12) ~~(11)~~ the speaker of the house of representatives or a former speaker of the house of representatives;

(13) ~~(12)~~ the governor or a former governor;

(14) ~~(13)~~ a legislator or retired legislator;

(15) ~~(14)~~ the attorney general or a former attorney general;

(16) ~~(15)~~ the secretary or clerk of a municipality in a matter pertaining to the official business of the municipality; or

(17) ~~(16)~~ a peace officer described by Article 2.12, Code of Criminal Procedure, if:

(A) the oath is administered when the officer is engaged in the performance of the officer's duties; and

(B) the administration of the oath relates to the officer's duties.



SECTION 6.06. Article 2.09, Code of Criminal Procedure, is amended to read as follows:

Art. 2.09. WHO ARE MAGISTRATES. Each of the following officers is a magistrate within the meaning of this Code: The justices of the Supreme Court, the judges of the Court of Criminal Appeals, the justices of the Courts of Appeals, the judges of the District Court, the magistrates appointed by the judges of the district courts of Bexar County, Dallas County, or Tarrant County that give preference to criminal cases, the criminal law hearing officers for Harris County appointed under Subchapter L, Chapter 54, Government Code, the criminal law hearing officers for Cameron County appointed under Subchapter BB, Chapter 54, Government Code, the magistrates or associate judges appointed by the judges of the district courts of Lubbock County, Nolan County, or Webb County, the magistrates appointed by the judges of the criminal district courts of Dallas County or Tarrant County, the associate judges ~~[masters]~~ appointed by the judges of the district courts and the county courts at law that give preference to criminal cases in Jefferson County, the associate judges ~~[magistrates]~~ appointed by the judges of the district courts and the statutory county courts of Brazos County, Nueces County, or Williamson County, the magistrates appointed by the judges of the district courts and statutory county courts that give preference to criminal cases in Travis County, the criminal magistrates appointed by the Brazoria County Commissioners Court, the criminal magistrates appointed by the Burnet County Commissioners Court, the county judges, the judges of the county courts at law, judges of the county criminal courts, the judges of statutory probate courts, the associate judges appointed by the judges of the statutory probate courts under ~~[Subchapter G,]~~ Chapter 54A ~~[54]~~, Government Code, the associate judges appointed by the judge of a district court under Chapter 54A ~~[Subchapter H, Chapter 54]~~, Government Code, the magistrates appointed under Subchapter JJ, Chapter 54, Government Code, as added by **HB 2132**, Acts of the 82nd Legislature, Regular Session, 2011, the justices of the peace, and the mayors and recorders and the judges of the municipal courts of incorporated cities or towns.

SECTION 6.07. Subsection (d), Article 102.017, Code of Criminal Procedure, is amended to read as follows:

(d) Except as provided by Subsection (d-2), the clerks of the respective courts shall collect the costs and pay them to the county or municipal treasurer, as appropriate, or to any other official who discharges the duties commonly delegated to the county or municipal treasurer, as appropriate, for deposit in a fund to be known as the courthouse security fund or a fund to be known as the municipal court building security fund, as appropriate. Money deposited in a courthouse security fund may be used only for security personnel, services, and items related to buildings that house the operations of district, county, or justice courts, and money deposited in a municipal court building security fund may be used only for security personnel, services, and items related to buildings that house the operations of municipal courts. For purposes of this subsection, operations of a district, county, or justice court include the activities of associate judges, masters, magistrates, referees, hearing officers, criminal law magistrate court judges, and masters in chancery appointed under:

- (1) Section 61.311, Alcoholic Beverage Code;
- (2) Section 51.04(g) or Chapter 201, Family Code;
- (3) Section 574.0085, Health and Safety Code;
- (4) Section 33.71, Tax Code;
- (5) Chapter 54A [~~Chapter 54~~], Government Code; or
- (6) Rule 171, Texas Rules of Civil Procedure.

SECTION 6.08. Subsection (a), Section 54.10, Family Code, is amended to read as follows:

(a) Except as provided by Subsection (e), a hearing under Section 54.03, 54.04, or 54.05, including a jury trial, a hearing under Chapter 55, including a jury trial, or a hearing under the Interstate Compact for Juveniles (Chapter 60) may be held by a referee appointed in accordance with Section 51.04(g) or an associate judge [~~a master~~] appointed under Chapter 54A [~~54~~], Government Code, provided:

(1) the parties have been informed by the referee or associate judge [~~master~~] that they are entitled to have the hearing before the juvenile court judge; and

(2) after each party is given an opportunity to object, no party objects to holding the hearing before the referee or associate judge [~~master~~].

SECTION 6.09. A magistrate, master, referee, associate judge, or hearing officer appointed as provided by Subchapters A, B, C, E, F, I, O, P, S, T, U, V, X, CC, FF, and II, Chapter 54, Government Code, before the effective date of this Act, continues to serve as an associate judge under Chapter 54A, Government Code, as added by this article, with the powers and duties provided by that chapter, provided the court for which the magistrate, master, referee, associate judge, or hearing officer serves has authority to appoint an associate judge under Chapter 54A, Government Code.

SECTION 6.10. The changes in law made by this article apply to a matter referred to an associate judge on or after the effective date of this article. A matter referred to an associate judge before the effective date of this article is governed by the law in effect on the date the matter was referred to the associate judge, and the former law is continued in effect for that purpose.

SECTION 6.11. The following subchapters of Chapter 54, Government Code, are repealed:

- (1) Subchapter A;
- (2) Subchapter B;
- (3) Subchapter C;
- (4) Subchapter E;
- (5) Subchapter F;
- (6) Subchapter I;
- (7) Subchapter O;
- (8) Subchapter P;
- (9) Subchapter S;
- (10) Subchapter T;
- (11) Subchapter U;
- (12) Subchapter V;

- (13) Subchapter X;
- (14) Subchapter CC;
- (15) Subchapter FF; and
- (16) Subchapter II.

#### ARTICLE 7. COURT ADMINISTRATION

SECTION 7.01. Section 74.005, Government Code, is amended to read as follows:

Sec. 74.005. APPOINTMENT OF [REGIONAL] PRESIDING JUDGES OF ADMINISTRATIVE JUDICIAL REGIONS. (a) The governor, with the advice and consent of the senate, shall appoint one judge in each administrative judicial region as presiding judge of the region.

(b) On the death, resignation, removal, or expiration of the term of office of a presiding judge, the governor immediately shall appoint or reappoint a presiding judge.

SECTION 7.02. Section 74.050, Government Code, is amended to read as follows:

Sec. 74.050. SUPPORT STAFF [ADMINISTRATIVE ASSISTANT]. (a) The presiding judge may employ, directly or through a contract with another governmental entity, a full-time or part-time administrative assistant.

(b) An administrative assistant ~~[must have the qualifications established by rule of the supreme court.~~

~~[(c) An administrative assistant]~~ shall aid the presiding judge in carrying out the judge's duties under this chapter. The administrative assistant shall:

- (1) perform the duties that are required by the presiding judge and by the rules of administration;
- (2) conduct correspondence for the presiding judge;
- (3) under the direction of the presiding judge, make an annual report of the activities of the administrative region and special reports as provided by the rules of administration to the supreme court, which shall be made in the manner directed by the supreme court; and
- (4) attend to other matters that are prescribed by the council of judges.

(c) [(d)] An administrative assistant, with the approval of the presiding judge, may purchase the necessary office equipment, stamps, stationery, and supplies and employ additional personnel as authorized by the presiding judge.

(d) [(e)] An administrative assistant is entitled to receive the compensation from the state provided by the General Appropriations Act, from county funds, or from any public or private grant.

SECTION 7.03. Subsection (c), Section 74.093, Government Code, is amended to read as follows:

(c) The rules may provide for:

(1) the selection and authority of a presiding judge of the courts giving preference to a specified class of cases, such as civil, criminal, juvenile, or family law cases;

(2) other strategies for managing cases that require special judicial attention;

(3) [(2)] a coordinated response for the transaction of essential judicial functions in the event of a disaster; and

(4) [(3)] any other matter necessary to carry out this chapter or to improve the administration and management of the court system and its auxiliary services.

SECTION 7.04. Chapter 74, Government Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. ADDITIONAL RESOURCES FOR CERTAIN CASES

Sec. 74.251. APPLICABILITY OF SUBCHAPTER. This subchapter does not apply to:

(1) a criminal matter;

(2) a case in which judicial review is sought under Subchapter G, Chapter 2001; or

(3) a case that has been transferred by the judicial panel on multidistrict litigation to a district court for consolidated or coordinated pretrial proceedings under Subchapter H.

Sec. 74.252. RULES TO GUIDE DETERMINATION OF WHETHER CASE REQUIRES ADDITIONAL RESOURCES. (a) The supreme court shall adopt rules under which courts, presiding judges of the administrative judicial regions, and the judicial committee for additional resources may determine whether a case requires additional resources to ensure efficient judicial management of the case.

(b) In developing the rules, the supreme court shall include considerations regarding whether a case involves or is likely to involve:

(1) a large number of parties who are separately represented by counsel;

(2) coordination with related actions pending in one or more courts in other counties of this state or in one or more United States district courts;

(3) numerous pretrial motions that present difficult or novel legal issues that will be time-consuming to resolve;

(4) a large number of witnesses or substantial documentary evidence;

(5) substantial postjudgment supervision;

(6) a trial that will last more than four weeks; and

(7) a substantial additional burden on the trial court's docket and the resources available to the trial court to hear the case.

Sec. 74.253. JUDICIAL DETERMINATION. (a) On the motion of a party in a case, or on the court's own motion, the judge of the court in which the case is pending shall review the case and determine whether, under rules adopted by the supreme court under Section 74.252, the case will require additional resources to ensure efficient judicial management. The judge is not required to conduct an evidentiary hearing for purposes of making the determination but may, in the judge's discretion, direct the attorneys for the parties to the case and the parties to appear before the judge for a conference to provide information to assist the judge in making the determination.

(b) On determining that a case will require additional resources as provided by Subsection (a), the judge shall:

(1) notify the presiding judge of the administrative judicial region in which the court is located about the case; and

(2) request any specific additional resources that are needed, including the assignment of a judge under this chapter.

(c) If the presiding judge of the administrative judicial region agrees that, in accordance with the rules adopted by the supreme court under Section 74.252, the case will require additional resources to ensure efficient judicial management, the presiding judge shall:

(1) use resources previously allotted to the presiding judge; or

(2) submit a request for specific additional resources to the judicial committee for additional resources.

Sec. 74.254. JUDICIAL COMMITTEE FOR ADDITIONAL RESOURCES. (a) The judicial committee for additional resources is composed of:

(1) the chief justice of the supreme court; and

(2) the nine presiding judges of the administrative judicial regions.

(b) The chief justice of the supreme court serves as presiding officer. The office of court administration shall provide staff support to the committee.

(c) On receipt of a request for additional resources from a presiding judge of an administrative judicial region under Section 74.253, the committee shall determine whether the case that is the subject of the request requires additional resources in accordance with the rules adopted under Section 74.252. If the committee determines that the case does require additional resources, the committee shall make available the resources requested by the trial judge to the extent funds are available for those resources under the General Appropriations Act and to the extent the committee determines the requested resources are appropriate to the circumstances of the case.

(d) Subject to Subsections (c) and (f), additional resources the committee may make available under this section include:

(1) the assignment of an active or retired judge under this chapter, subject to the consent of the judge of the court in which the case for which the resources are provided is pending;

(2) additional legal, administrative, or clerical personnel;

(3) information and communication technology, including case management software, video conferencing, and specially designed courtroom presentation hardware or software to facilitate presentation of the evidence to the trier of fact;

(4) specialized continuing legal education;

(5) an associate judge;

(6) special accommodations or furnishings for the parties;

(7) other services or items determined necessary to try the case; and

(8) any other resources the committee considers appropriate.

(e) Notwithstanding any provision of Subchapter C, a justice or judge to whom Section 74.053(d) applies may not be assigned under Subsection (d).

(f) The judicial committee for additional resources may not provide additional resources under this subchapter in an amount that is more than the amount appropriated for this purpose.

Sec. 74.255. COST OF ADDITIONAL RESOURCES. The cost of additional resources provided for a case under this subchapter shall be paid by the state and may not be taxed against any party in the case for which the resources are provided or against the county in which the case is pending.

Sec. 74.256. NO STAY OR CONTINUANCE PENDING DETERMINATION. The filing of a motion under Section 74.253 in a case is not grounds for a stay or continuance of the proceedings in the case in the court in which the case is pending during the period the motion or request is being considered by:

- (1) the judge of that court;
- (2) the presiding judge of the administrative judicial region; or
- (3) the judicial committee for additional resources.

Sec. 74.257. APPELLATE REVIEW. A determination made by a trial court judge, the presiding judge of an administrative judicial region, or the judicial committee for additional resources under this subchapter is not appealable or subject to review by mandamus.

SECTION 7.05. (a) The Texas Supreme Court shall request the president of the State Bar of Texas to appoint a task force to consider and make recommendations regarding the rules for determining whether civil cases pending in trial courts require additional resources for efficient judicial management required by Section 74.252, Government Code, as added by this article. The president of the State Bar of Texas shall ensure that the task force has diverse representation and includes judges of trial courts and attorneys licensed to practice law in this state who regularly appear in civil cases before courts in this state. The task force shall provide recommendations on the rules to the Texas Supreme Court not later than March 1, 2012.

(b) The Texas Supreme Court shall:

- (1) consider the recommendations of the task force provided as required by Subsection (a) of this section; and
- (2) adopt the rules required by Section 74.252, Government Code, as added by this article, not later than May 1, 2012.

SECTION 7.06. The changes in law made by this article apply to cases pending on or after May 1, 2012.

#### ARTICLE 8. GRANT PROGRAMS

SECTION 8.01. Subchapter C, Chapter 72, Government Code, is amended by adding Section 72.029 to read as follows:

Sec. 72.029. GRANTS FOR COURT SYSTEM ENHANCEMENTS. (a) The office shall develop and administer, except as provided by Subsection (c), a program to provide grants from available funds to counties for initiatives that will enhance their court systems or otherwise carry out the purposes of this chapter.

- (b) To be eligible for a grant under this section, a county must:

(1) use the grant money to implement initiatives that will enhance the county's court system, including initiatives to develop programs to more efficiently manage cases that require special judicial attention, or otherwise carry out the purposes of this chapter; and

(2) apply for the grant in accordance with procedures developed by the office and comply with any other requirements of the office.

(c) The judicial committee for additional resources shall determine whether to award a grant to a county that meets the eligibility requirements prescribed by Subsection (b).

(d) If the judicial committee for additional resources awards a grant to a county, the office shall:

(1) direct the comptroller to distribute the grant money to the county;  
and

(2) monitor the county's use of the grant money.

(e) The office may accept gifts, grants, and donations for purposes of this section. The office may not use state funds to provide a grant under this section or to administer the grant program.

SECTION 8.02. Subchapter A, Chapter 22, Government Code, is amended by adding Section 22.017 to read as follows:

Sec. 22.017. GRANTS FOR CHILD PROTECTION. (a) In this section, "commission" means the Permanent Judicial Commission for Children, Youth and Families established by the supreme court.

(b) The commission shall develop and administer a program to provide grants from available funds for initiatives that will improve safety and permanency outcomes, enhance due process, or increase the timeliness of resolution in child protection cases.

(c) To be eligible for a grant under this section, a prospective recipient must:

(1) use the grant money to improve safety or permanency outcomes, enhance due process, or increase timeliness of resolution in child protection cases; and

(2) apply for the grant in accordance with procedures developed by the commission and comply with any other requirements of the supreme court.

(d) If the commission awards a grant, the commission shall:

(1) direct the comptroller to distribute the grant money; and

(2) monitor the use of the grant money.

(e) The commission may accept gifts, grants, and donations for purposes of this section. The commission may not use state funds to provide a grant under this section or to administer the grant program.

#### ARTICLE 9. VEXATIOUS LITIGANTS

SECTION 9.01. Subdivision (3), Section 11.001, Civil Practice and Remedies Code, is amended to read as follows:

(3) "Local administrative judge" means a local administrative district judge, a local administrative statutory probate court judge, or a local administrative statutory county court judge.

SECTION 9.02. Section 11.101, Civil Practice and Remedies Code, is amended by adding Subsection (c) to read as follows:

(c) A litigant may appeal from a prefiling order entered under Subsection (a) designating the person a vexatious litigant.

SECTION 9.03. Section 11.102, Civil Practice and Remedies Code, is amended by adding Subsection (c) to read as follows:

(c) A decision of a local administrative judge denying a litigant permission to file a litigation under Subsection (a), or conditioning permission to file a litigation on the furnishing of security under Subsection (b), is not grounds for appeal, except that the litigant may apply for a writ of mandamus with the court of appeals not later than the 30th day after the date of the decision. The denial of a writ of mandamus by the court of appeals is not grounds for appeal to the supreme court or court of criminal appeals.

SECTION 9.04. Section 11.103, Civil Practice and Remedies Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsection (d), a [A] clerk of a court may not file a litigation, original proceeding, appeal, or other claim presented by a vexatious litigant subject to a prefiling order under Section 11.101 unless the litigant obtains an order from the local administrative judge permitting the filing.

(d) A clerk of a court of appeals may file an appeal from a prefiling order entered under Section 11.101 designating a person a vexatious litigant or a timely filed writ of mandamus under Section 11.102(c).

SECTION 9.05. Section 11.104, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 11.104. NOTICE TO OFFICE OF COURT ADMINISTRATION; DISSEMINATION OF LIST. (a) A clerk of a court shall provide the Office of Court Administration of the Texas Judicial System a copy of any prefiling order issued under Section 11.101 not later than the 30th day after the date the prefiling order is signed.

(b) The Office of Court Administration of the Texas Judicial System shall post on the agency's Internet website [maintain] a list of vexatious litigants subject to prefiling orders under Section 11.101 [and shall annually send the list to the clerks of the courts of this state]. On request of a person designated a vexatious litigant, the list shall indicate whether the person designated a vexatious litigant has filed an appeal of that designation.

SECTION 9.06. The posting, before the effective date of this article, of the name of a person designated a vexatious litigant under Chapter 11, Civil Practice and Remedies Code, on a list of vexatious litigants on the Internet website of the Office of Court Administration of the Texas Judicial System is not:

- (1) grounds for a cause of action;
- (2) a defense against a finding that a plaintiff is a vexatious litigant under Chapter 11, Civil Practice and Remedies Code; or
- (3) grounds for relief or appeal from a stay, order, or dismissal or any other action taken by a court or a clerk of a court under Chapter 11, Civil Practice and Remedies Code.



ARTICLE 10. STUDY BY OFFICE OF COURT ADMINISTRATION OF  
TEXAS JUDICIAL SYSTEM

SECTION 10.01. In this article, "office of court administration" means the Office of Court Administration of the Texas Judicial System.

SECTION 10.02. (a) The office of court administration shall study the district courts and statutory county courts of this state to determine overlapping jurisdiction in civil cases in which the amount in controversy is more than \$200,000. The study must determine the feasibility, efficiency, and potential cost of converting to district courts those statutory county courts with jurisdiction in civil cases in which the amount in controversy is more than \$200,000.

(b) Not later than January 1, 2013, the office of court administration shall submit a report regarding the determinations made by the office relating to statutory county courts to the governor, the lieutenant governor, the speaker of the house of representatives, the chairs of the standing committees of the senate and house of representatives with primary jurisdiction over the judicial system, and the commissioners court of any county with a statutory county court with jurisdiction in civil cases in which the amount in controversy is more than \$200,000.

(c) The office of court administration may accept gifts, grants, and donations to conduct the study under this section. The office of court administration may not use state funds to conduct the study and, notwithstanding Subsection (a) of this section, is required to conduct the study only to the extent gifts, grants, and donations are available for that purpose.

ARTICLE 11. SUITS AFFECTING THE PARENT-CHILD RELATIONSHIP

SECTION 11.01. Section 263.601, Family Code, is amended by amending Subdivision (1) and adding Subdivision (3-a) to read as follows:

(1) "Foster care" means a voluntary residential living arrangement with a foster parent or other residential child-care provider that is:

(A) licensed or approved by the department or verified by a licensed child-placing agency; and

(B) paid under a contract with the department.

(3-a) "Trial independence period" means a period of not less than six months, or a longer period as a court may order not to exceed 12 months, during which a young adult exits foster care with the option to return to foster care under the continuing extended jurisdiction of the court.

SECTION 11.02. Section 263.602, Family Code, is amended to read as follows:

Sec. 263.602. EXTENDED JURISDICTION. (a) A court that had continuing, exclusive jurisdiction over a young adult on the day before [may, at] the young adult's 18th birthday continues to have extended [request, render an order that extends the court's] jurisdiction over the young adult and shall retain the case on the court's docket while the young adult remains in extended foster care and during a trial independence period described [as provided] by this section [subchapter].

(b) A court with extended jurisdiction over a young adult who remains in extended foster care shall conduct extended foster care review hearings every six months for the purpose of reviewing and making findings regarding:

(1) whether the young adult's living arrangement is safe and appropriate and whether the department has made reasonable efforts to place the young adult in the least restrictive environment necessary to meet the young adult's needs;

(2) whether the department is making reasonable efforts to finalize the permanency plan that is in effect for the young adult, including a permanency plan for independent living;

(3) whether, for a young adult whose permanency plan is independent living:

(A) the young adult participated in the development of the plan of service;

(B) the young adult's plan of service reflects the independent living skills and appropriate services needed to achieve independence by the projected date; and

(C) the young adult continues to make reasonable progress in developing the skills needed to achieve independence by the projected date; and

(4) whether additional services that the department is authorized to provide are needed to meet the needs of the young adult [~~The extended jurisdiction of the court terminates on the earlier of:~~

~~(1) the young adult's 21st birthday; or~~

~~(2) the date the young adult withdraws consent to the extension of the court's jurisdiction in writing or in court].~~

(c) Not later than the 10th day before the date set for a hearing under this section, the department shall file with the court a copy of the young adult's plan of service and a report that addresses the issues described by Subsection (b).

(d) Notice of an extended foster care review hearing shall be given as provided by Rule 21a, Texas Rules of Civil Procedure, to the following persons, each of whom has a right to present evidence and be heard at the hearing:

(1) the young adult who is the subject of the suit;

(2) the department;

(3) the foster parent with whom the young adult is placed and the administrator of a child-placing agency responsible for placing the young adult, if applicable;

(4) the director of the residential child-care facility or other approved provider with whom the young adult is placed, if applicable;

(5) each parent of the young adult whose parental rights have not been terminated and who is still actively involved in the life of the young adult;

(6) a legal guardian of the young adult, if applicable; and

(7) the young adult's attorney ad litem, guardian ad litem, and volunteer advocate, the appointment of which has not been previously dismissed by the court.

(e) If, after reviewing the young adult's plan of service and the report filed under Subsection (c), and any additional testimony and evidence presented at the review hearing, the court determines that the young adult is entitled to additional services, the court may order the department to take appropriate action to ensure that the young adult receives those services.

(f) A court with extended jurisdiction over a young adult as described in Subsection (a) shall continue to have jurisdiction over the young adult and shall retain the case on the court's docket until the earlier of:

(1) the last day of the:

(A) sixth month after the date the young adult leaves foster care; or

(B) 12th month after the date the young adult leaves foster care if specified in a court order, for the purpose of allowing the young adult to pursue a trial independence period; or

(2) the young adult's 21st birthday.

(g) A court with extended jurisdiction described by this section is not required to conduct periodic hearings for a young adult during a trial independence period and may not compel a young adult who has exited foster care to attend a court hearing.

SECTION 11.03. Subchapter G, Chapter 263, Family Code, is amended by adding Section 263.6021 to read as follows:

Sec. 263.6021. VOLUNTARY EXTENDED JURISDICTION FOR YOUNG ADULT RECEIVING TRANSITIONAL LIVING SERVICES.

(a) Notwithstanding Section 263.602, a court that had continuing, exclusive jurisdiction over a young adult on the day before the young adult's 18th birthday may, at the young adult's request, render an order that extends the court's jurisdiction beyond the end of a trial independence period if the young adult receives transitional living services from the department.

(b) The extended jurisdiction of the court under this section terminates on the earlier of:

(1) the young adult's 21st birthday; or

(2) the date the young adult withdraws consent to the extension of the court's jurisdiction in writing or in court.

(c) At the request of a young adult who is receiving transitional living services from the department and who consents to voluntary extension of the court's jurisdiction under this section, the court may hold a hearing to review the services the young adult is receiving.

(d) Before a review hearing scheduled under this section, the department must file with the court a report summarizing the young adult's transitional living services plan, services being provided to the young adult under that plan, and the young adult's progress in achieving independence.

(e) If, after reviewing the report and any additional testimony and evidence presented at the hearing, the court determines that the young adult is entitled to additional services, the court may order the department to take appropriate action to ensure that the young adult receives those services.

SECTION 11.04. Subsections (a) and (c), Section 263.603, Family Code, are amended to read as follows:

(a) Notwithstanding Section 263.6021 ~~[263.602]~~, if the court believes that a young adult may be incapacitated as defined by Section 601(14)(B), Texas Probate Code, the court may extend its jurisdiction on its own motion without the young adult's consent to allow the department to refer the young adult to the Department of Aging and Disability Services for guardianship services as required by Section 48.209, Human Resources Code.

(c) If the Department of Aging and Disability Services determines a guardianship is not appropriate, or the court with probate jurisdiction denies the application to appoint a guardian, the court under Subsection (a) may continue to extend its jurisdiction over the young adult only as provided by Section 263.602 or 263.6021.

SECTION 11.05. Section 263.609, Family Code, is repealed.

SECTION 11.06. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect on the 91st day after the last day of the legislative session.

## ARTICLE 12. INMATE LITIGATION

SECTION 12.01. Subsection (a), Section 14.002, Civil Practice and Remedies Code, is amended to read as follows:

(a) This chapter applies only to an action, including an appeal or original proceeding, [a-suit] brought by an inmate in a district, county, justice of the peace, or small claims court or an appellate court, including the supreme court or the court of criminal appeals, in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate.

SECTION 12.02. Subsections (a) and (b), Section 14.004, Civil Practice and Remedies Code, are amended to read as follows:

(a) An inmate who files an affidavit or unsworn declaration of inability to pay costs shall file a separate affidavit or declaration:

(1) identifying each action [suit], other than an action [a-suit] under the Family Code, previously brought by the person and in which the person was not represented by an attorney, without regard to whether the person was an inmate at the time the action [suit] was brought; and

(2) describing each action [suit] that was previously brought by:

(A) stating the operative facts for which relief was sought;

(B) listing the case name, cause number, and the court in which the action [suit] was brought;

(C) identifying each party named in the action [suit]; and

(D) stating the result of the action [suit], including whether the action or a claim that was a basis for the action [suit] was dismissed as frivolous or malicious under Section 13.001 or Section 14.003 or otherwise.

(b) If the affidavit or unsworn declaration filed under this section states that a previous action or claim [suit] was dismissed as frivolous or malicious, the affidavit or unsworn declaration must state the date of the final order affirming the dismissal.

SECTION 12.03. Subsection (a), Section 14.007, Civil Practice and Remedies Code, is amended to read as follows:

(a) An order of a court under Section 14.006(a) shall include the costs described by Subsection (b) if the court finds that:

(1) the inmate has previously filed an action to which this chapter applies ~~[in a district, county, justice of the peace, or small claims court]~~; and

(2) a final order has been issued that affirms that the action was dismissed as frivolous or malicious under Section 13.001 or Section 14.003 or otherwise.

SECTION 12.04. The change in law made by this article applies only to an action brought on or after the effective date of this Act. An action brought before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

#### ARTICLE 13. PROVISIONS RELATED TO EXEMPTING CERTAIN JUDICIAL OFFICERS FROM CERTAIN CONCEALED HANDGUN LICENSING REQUIREMENTS

SECTION 13.01. Subdivision (1), Subsection (a), Section 411.201, Government Code, is amended to read as follows:

(1) "Active judicial officer" means:

(A) a person serving as a judge or justice of the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court; ~~[or]~~

(B) a federal judge who is a resident of this state; or

(C) a person appointed and serving as an associate judge under Chapter 201, Family Code.

SECTION 13.02. Subsection (a), Section 46.15, Penal Code, is amended to read as follows:

(a) Sections 46.02 and 46.03 do not apply to:

(1) peace officers or special investigators under Article 2.122, Code of Criminal Procedure, and neither section prohibits a peace officer or special investigator from carrying a weapon in this state, including in an establishment in this state serving the public, regardless of whether the peace officer or special investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon;

(2) parole officers and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) in compliance with policies and procedures adopted by the Texas Department of Criminal Justice regarding the possession of a weapon by an officer while on duty;

(3) community supervision and corrections department officers appointed or employed under Section 76.004, Government Code, and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) authorized to carry a weapon under Section 76.0051, Government Code;

(4) an active judicial officer as defined by Section 411.201, Government Code, ~~[a judge or justice of a federal court, the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court]~~ who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code;

(5) an honorably retired peace officer or federal criminal investigator who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification that:

(A) verifies that the officer honorably retired after not less than 15 years of service as a commissioned officer; and

(B) is issued by a state or local law enforcement agency;

(6) a district attorney, criminal district attorney, county attorney, or municipal attorney who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code;

(7) an assistant district attorney, assistant criminal district attorney, or assistant county attorney who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code;

(8) a bailiff designated by an active judicial officer as defined by Section 411.201, Government Code, who is:

(A) licensed to carry a concealed handgun under Chapter 411, Government Code; and

(B) engaged in escorting the judicial officer; or

(9) a juvenile probation officer who is authorized to carry a firearm under Section 142.006, Human Resources Code.

SECTION 13.03. The change in law made by this article to Section 46.15, Penal Code, applies only to an offense committed on or after the effective date of this article. An offense committed before the effective date of this article is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this article if any element of the offense occurred before that date.

SECTION 13.04. This article takes effect on the 91st day after the last day of the legislative session.

ARTICLE 14. COURT COSTS

SECTION 14.01. Subsection (b), Section 51.005, Government Code, is amended to read as follows:

(b) The fees are:

(1) application for petition for review ~~[writ of error]~~ . . . . . \$ 50

(2) additional fee if application for petition for review ~~[writ of error]~~ is granted . . . . . \$ 75

- (3) motion for leave to file petition for writ of mandamus, prohibition, injunction, and other similar proceedings originating in the supreme court . . . \$ 50
- (4) additional fee if a motion under Subdivision (3) is granted. . . . \$ 75
- (5) certified question from a federal court of appeals to the supreme court . . . . . \$ 75
- (6) case appealed to the supreme court from the district court by direct appeal . . . . . \$100
- (7) any other proceeding filed in the supreme court . . . . . \$ 75.

SECTION 14.02. Subsection (a), Section 51.207, Government Code, is amended to read as follows:

(a) The clerk of a court of appeals shall collect the fees described in Subsection (b) in a civil case before the court for the following services:

- (1) filing records, applications, motions, briefs, and other necessary and proper papers;
- (2) docketing and making docket and minute book entries;
- (3) issuing notices, citations, processes, and mandates;
- (4) preparing transcripts on application for petition for review [~~writ of error~~] to the supreme court; and
- (5) performing other necessary clerical duties.

SECTION 14.03. Section 101.021, Government Code, is amended to read as follows:

Sec. 101.021. SUPREME COURT FEES AND COSTS: GOVERNMENT CODE. The clerk of the supreme court shall collect fees and costs as follows:

- (1) application for petition for review [~~writ of error~~] (Sec. 51.005, Government Code) . . . . . \$50;
- (2) additional fee if application for petition for review [~~writ of error~~] is granted (Sec. 51.005, Government Code) . . . . . \$75;
- (3) motion for leave to file petition for writ of mandamus, prohibition, injunction, and other similar proceedings originating in the supreme court (Sec. 51.005, Government Code) . . . . . \$50;
- (4) additional fee if a motion under Subdivision (3) is granted (Sec. 51.005, Government Code) . . . . . \$75;
- (5) certified question from a federal court of appeals to the supreme court (Sec. 51.005, Government Code) . . . . . \$75;
- (6) case appealed to the supreme court from the district court by direct appeal (Sec. 51.005, Government Code) . . . . . \$100;
- (7) any other proceeding filed in the supreme court (Sec. 51.005, Government Code) . . . . . \$75;
- (8) administering an oath and giving a sealed certificate of the oath (Sec. 51.005, Government Code) . . . . . \$5;
- (9) making certain copies, including certificate and seal (Sec. 51.005, Government Code) . . . \$5, or \$0.50 per page if more than 10 pages;
- (10) any official service performed by the clerk for which a fee is not otherwise provided (Sec. 51.005, Government Code) . . . reasonable amount set by order or rule of supreme court;

(10-a) supreme court support account filing fee (Sec. 51.0051, Government Code) . . . amount set by the supreme court, not to exceed \$50;

(11) issuance of attorney's license or certificate (Sec. 51.006, Government Code) . . . \$10; and

(12) additional filing fee to fund civil legal services for the indigent (Sec. 51.941, Government Code) . . . \$25.

#### ARTICLE 15. COMPOSITION OF CERTAIN COUNTY JUVENILE BOARDS

SECTION 15.01. Subsection (a), Section 152.2051, Human Resources Code, is amended to read as follows:

(a) The Rockwall County Juvenile Board is composed of:

(1) the judge of the County Court at Law of Rockwall County;

(2) the district judges [~~judge~~] in Rockwall County;

(3) one county commissioner appointed by the commissioners court;

(4) one member of the board of trustees of the Rockwall Independent School District selected by the board of trustees of the Rockwall Independent School District; and

(5) one member of the board of trustees of the Royse City Independent School District selected by the board of trustees of the Royse City Independent School District.

#### ARTICLE 16. NO APPROPRIATION; EFFECTIVE DATE

SECTION 16.01. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

SECTION 16.02. Except as otherwise provided by this Act, this Act takes effect January 1, 2012.

#### HB 41 - REMARKS

REPRESENTATIVE SIMPSON: I'd like to make a motion to suspend the rules to reconsider the vote on **HB 41**, and in this motion I also want to include the normal waiting, for the sake of the body, one hour's time. If there's no objection, then we'll include that in the motion.

REPRESENTATIVE PHILLIPS: Mr. Simpson, from what I understand you're doing, you're going to reconsider the vote by which we passed it on second reading, correct?

SIMPSON: That's correct.

PHILLIPS: And so what that will mean, that will bring it back before us on second reading, and then you could call up the senate bill—

SIMPSON: That's right.

PHILLIPS: —which has already passed over there. You're going to accept the senate version—the senate version will be what we're voting for, and you would move to lay the house bill on the table subject to call, which we probably wouldn't get to, and then pass the senate bill. I just wanted to know—



SIMPSON: Thank you, that's correct. That's exactly where we're headed.

PHILLIPS: And so that will afford us the opportunity to vote on that bill.

SIMPSON: Yes, **SB 29**.

PHILLIPS: And again—

SIMPSON: And we're not waiting one hour.

PHILLIPS: Right, we don't want to wait an hour just to do what we could do in an hour. There's no other business to take care of, in other words.

SIMPSON: That's right.

PHILLIPS: As far as you know, there's no remaining business? This is the only remaining business.

SIMPSON: That's correct.

REPRESENTATIVE KEFFER: All right, yesterday we were talking—you heard my conversation with Chairman Gallego. We had, on your bill, on the day before, had an attorney general's letter saying that with the amendments that had been included in **HB 41**, that they were comfortable with the bill as it was amended. Now we are not going to be—we are going to be accepting the senate version now, and in the negotiation and the evolution of this senate bill, has the attorney general's office also accepted the senate language as defensible, as they did **HB 41**?

SIMPSON: I wasn't there in all the debates. There was much debate about the wisdom of incorporating the AG's suggestions. That's what they termed them. I worked with the attorney general from the very beginning, prior to even filing this legislation. I've included language that they've asked for at every step of the way—

KEFFER: Now, I'm not talking about what you have done. I know what you have done. I'm talking about now that the senate has sent over a bill that we have to take or leave, and I want to be sure, and this house needs to be sure, that when we were having to do that, now, that we have the same effect, that the attorney general has the same comfort with this bill as they did with **HB 41**, as amended.

SIMPSON: I can't speak for them. I can say this: I've consulted them and worked with them, and this is very close to the original bill, although it only applies to the TSA. The lieutenant governor, who had requested these suggestions from the attorney general, was there during the debate, to my knowledge. I wasn't there myself, but I did learn—

KEFFER: But you can understand there's a little angst and concern about what the senate and lieutenant governor have done in this regard, and it's put us in the situation here of having to accept this bill that—

SIMPSON: One thing I want to make very clear is that this is the legislature. This is not the judiciary.

KEFFER: No, no, no. You understand what I'm saying? I'm not saying anything about that. I'm saying now we've been put into a position to accept a bill, coming over from the senate, that we did not have full debate on, as we did on yours, and we were all comfortable with **HB 41**, and now we have to accept this senate bill. I want to be sure, and the house needs to be sure, that the attorney general is comfortable with the wording in this bill.

SIMPSON: I do believe the AG—the attorney general—is comfortable with this bill. I do not have a formal letter, but we have consulted with them throughout this whole process—

KEFFER: Did I ask you yesterday to get a letter—that it would be good to get a letter from the attorney general on this senate bill version?

SIMPSON: Well, I don't have a letter, but I do believe they approve of this bill and will defend it.

KEFFER: Can we have Chairman Gallego come up and go through what we did yesterday in the committee? He said he was going to converse with the attorney general's office. Can we have Chairman Gallego come up?

REPRESENTATIVE GALLEGO: I'm sorry, Mr. Keffer, I was—

KEFFER: You remember our conversation yesterday when you were going to be bringing up the senate bill in your committee for consideration?

GALLEGO: Yes, sir.

KEFFER: And our conversation was that one of the major things we had on **HB 41** was a letter from the attorney general's office saying that, as amended, **HB 41** met their criteria of defense. Now we don't have that bill before us in the house anymore. We are forced to look at a senate bill that was sent over to us because of the way they did their business yesterday, and now I was wondering—you said you were going to contact the attorney general's office and go over the wording in this senate bill that was brought over to us. And I was just wondering if you were able to do that, and what you found in your conversation.

GALLEGO: I spent some time yesterday, Chairman Keffer, with three groups of folks. The attorney general's office had two of its representatives talk to me as we went through the bill. In the final analysis, the Office of the Attorney General indicated to me that it was their position that they would have to defend the statute either way, so they weren't going to take a position, pro or con, on the bill. Their conversation with me was—there was some stuff in the bill that they had put in that was still there, and there was stuff in the bill that they'd asked for that wasn't in there. And so, their position was that they would defend the statute either way, so they were not going to opine in advance as to whether this was good policy or bad policy, or whether it was defensible or indefensible. My next conversation was with some of the district attorneys.

KEFFER: That was another group—on the amendments on **HB 41** that we worked on to relieve a concern—

GALLEGO: Well, I will tell you that my conversation with the district attorneys is—they're still opposed to the bill. Their perception is that it would still be very difficult to prosecute, and it puts them in a bad spot where, essentially, the argument is that you're potentially punishing a line employee for doing something he was ordered to do by somebody else way on high. The idea that you'd have to do this—the proof problems and those kinds of things—they were uncomfortable with. The third group that I spoke with was the law enforcement—essentially, the police officers. Mr. Fletcher had indicated to me that there was some concern, and the police officers came to me and said, "Look, if an officer, for example, makes a mistake when he executes a warrant, and the warrant turns out to be a bad warrant, you don't put that officer in jail for a year because he executed a bad warrant." In this case, you're potentially putting an officer in jail for a year for doing something wrong that he didn't necessarily know was wrong, but he was told to do it. And so the law enforcement community, the police officers, are still uncomfortable with the idea. It did come out of committee. It had not quite unanimous support, and the theory was that it was narrowly tailored in scope, so that it just applied to, essentially, actual or contractual employees of the federal government. I had anticipated that because it was only now aimed at federal agencies that the state law enforcement community would not be opposed. That was incorrect because they're still opposed. They feel like it's still not good for the law enforcement community.

KEFFER: So we had a bill, **HB 41**, that we amended here on this floor to alleviate concerns of these three important groups to a bill such as this—

GALLEGO: Yes, and as you know, I had an amendment on that.

KEFFER: I realize that. You had an amendment also, and now we are looking at a senate bill that was forced over here because they sine die'd, they wouldn't work with the house sponsor—

GALLEGO: Yes, they put us in a take it or leave it spot.

KEFFER: A take it or leave it situation on a bill that two of those three—well, actually, three of those three, because the attorney general is going to have to defend, as you said—so three of the three groups that we tried to work with, for whom we did amend Representative Simpson's bill, **HB 41**, are against this senate bill that we are having to look at and vote on later today. But because of the situation we have to have in this state, or the situation we are looking at nationally, we're going to have to take action on a bill that is less than what we had on a good house bill that we would have sent over to the senate if they had not sine die'd yesterday.

GALLEGO: Well, Chairman Keffer, obviously, if you give me the choice between the house bill or the senate bill, I would take the house bill every time. We don't have, as you indicated, we don't have that opportunity. There is only the senate bill. It was an issue that Mr. Simpson, as you know, as I think all of us know, is very passionate about, so that's why we find ourselves in this posture. But it is—this is a situation where you take it or leave it, and the amendments that the house put on are not on this bill.

KEFFER: Well, it's insulting to this house.

### LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

V. Taylor on motion of Lewis.

### HB 41 - RULES SUSPENDED

Representative Simpson moved to suspend all necessary rules to reconsider the vote by which **HB 41**, as amended, passed to engrossment at this time.

REPRESENTATIVE COLEMAN: I appreciate the questions that the chairman just asked. I believe, if I'm not mistaken, that there are probably more than 100 people who will be voting for this bill on—voting to suspend the rules to take it to second reading. Maybe eight more than that, maybe there are 108 that will be doing that, but I still want to rise to ask people who understand that playing politics and playing gamesmanship between two chambers is not the way to end our special session, and I just request that you vote no on this motion to suspend.

SIMPSON: I don't want to keep you long here. I just want to make very clear that I respect greatly Representative Coleman and the reason why he's not going to support this motion or vote for the bill. And I want to make it very clear that this was not promoted to bash our president. It was intended to protect the dignity and the liberty of our citizens here and those who travel and come into this state. These practices actually began under a republican president, President Bush, and many of these policies have been protected and promulgated by the Patriot Act, which I think is very unpatriotic. But I will leave that for right now. I don't think this is a partisan issue. This is an issue about dignity. It's about freedom of every individual. Man, woman, child, infant, grandmother, that they might not fear being molested when they seek access to public transportation and buildings. I encourage you to vote in favor of the suspension of the rules and to waive the hour wait.

The motion to suspend rules prevailed by (Record 149): 100 Yeas, 23 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Eissler; Elkins; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Raymond; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Taylor, L.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alonzo; Alvarado; Castro; Coleman; Deshotel; Dukes; Farias; Farrar; Gonzales, V.; Gonzalez; Hochberg; Howard, D.; Lozano; Mallory Caraway; McClendon; Muñoz; Naishtat; Quintanilla; Rodriguez; Thompson; Veasey; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Driver; Eiland; Giddings; Hernandez Luna; Strama; Taylor, V.

Absent — Allen; Anchia; Burnam; Chisum; Davis, Y.; Dutton; Gutierrez; Harper-Brown; Johnson; Lucio; Marquez; Martinez; Martinez Fischer; Menendez; Miles; Oliveira; Reynolds; Solomons; Turner; Villarreal.

### STATEMENT OF VOTE

When Record No. 149 was taken, I was temporarily out of the house chamber. I would have voted no.

Marquez

### HB 41 - VOTE RECONSIDERED

Representative Simpson moved to reconsider the vote by which **HB 41**, as amended, was passed to engrossment on June 27.

The motion to reconsider prevailed.

### SB 29 ON SECOND READING (Simpson - House Sponsor)

**SB 29**, A bill to be entitled An Act relating to prosecution and punishment for the offense of official oppression by the intrusive touching of persons seeking access to public buildings and transportation; providing penalties.

**SB 29** was considered in lieu of **HB 41**.

**SB 29** was read second time.

### SB 29 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE ISAAC: Mr. Simpson, I have a couple of questions for legislative intent. Are TSA agents law enforcement officials?

REPRESENTATIVE SIMPSON: Not to my knowledge. There may be some that are.

ISAAC: If someone doesn't want their private parts touched, will that provide reasonable suspicion or probable cause for a search?

SIMPSON: This law makes it very clear that the reasonable suspicion must be for an object either unknown, or unlawful, or prohibited to allow that to go on—where they could touch those areas. They could touch the other areas of the body in a pat down, but this prohibits it, without reasonable suspicion, that an object exists in those places.

ISAAC: So pat downs will still be allowed?

SIMPSON: It does not stop all pat downs, just the touching of private parts without reasonable suspicion—an unknown, prohibited, or unlawful object would be in those places.

ISAAC: Which is in line with the Fourth Amendment of the United States Constitution?

SIMPSON: I think it certainly is.

### **REMARKS ORDERED PRINTED**

Representative Isaac moved to print remarks between Representative Simpson and Representative Isaac.

The motion prevailed.

REPRESENTATIVE BONNEN: Mr. Simpson, I've had calls into my office about this bill, and with the parliamentary moves you just made, I'm very concerned, because of the calls I've received in my office. This bill is very important to people, but they believe the senate version is very watered down. And when I asked those individuals specifically, or my staff did, would you soon pass this version or not, the answer was no. So what would you say to that, Mr. Simpson?

SIMPSON: Actually, the senate version is the strongest version. It's the closest to the very bill that we passed out of this house during the regular session unanimously on second and third reading.

BONNEN: So, you would tell those grassroots individuals that have been calling into my office saying they are upset about the senate version—I imagine they may have been a part of the groups protesting outside the senate doors earlier this week.

SIMPSON: I think they were actually those people—I don't know, but this is my understanding. From what's been reported to me, they were protesting our bill that was loaded up with the AG's amendments that they thought really gutted the prosecution of the bill. The senate actually took those out after they heard consideration from many people, the District and County Attorneys Association.

BONNEN: So, you think those protestors and those calls to my office were confused as to whether the senate bill was weakened, or our bill was weakened?

SIMPSON: I can't say, but I've heard those people came to this house thinking it was the senate one time, and so I'm not sure. I can tell you the grassroots supporters that I've been involved with were very concerned about the house bill that I passed. And I had to work very hard to say that I thought this was the only way we could get it through the senate, because the lieutenant governor had requested these, and so I added them.

BONNEN: I want to be clear. So, Mr. Simpson, you feel strongly about this bill. You feel this is a strong bill, and for those of us who choose to support it, you believe it is appropriate. And for those who may have told us this isn't the best action, you believe this is the best that could have been done?

SIMPSON: I do.

BONNEN: And you believe frankly, not to put words in your mouth, it's not simply the best that could have been done, you actually think it's pretty darn good, is that fair to say?

SIMPSON: I do. It will stop the routine touching of people's private parts for merely refusing to go through a scanner, because they don't want to be irradiated, don't want to be viewed naked. And those are the only alternatives people are receiving instead of sending them back to the metal detector. And that is my hope of what will happen. Most, about 97 percent, of the people go through the metal detectors anyway.

REPRESENTATIVE LARSON: David, I know you've worked on this throughout the session, and you've been very diligent about trying to get all the stakeholders together. I'm going to ask you some questions regarding how do you think this will affect what's going on in airports in Texas, in reality? I mean, I voted for it the first time. I intend to vote for it, but I'd like to know, once this bill passes and then the governor signs it, do you think the federal government is going to stop, cease, and desist all their activities at Texas airports?

SIMPSON: That is my hope. We've begun to see some movement about that already just by the debate that's been going on not only here in Texas, but across the United States. I can't tell you what they're going to do. What we did in this bill that's different from the regular session is delay the enactment of this legislation until the 91st day, so that will give the federal government and others in the state time to work through it. Hopefully, they'll change their procedures. That would be the best outcome.

LARSON: Have you had any indication of it? Have you talked directly to the TSA folks or the U.S. Attorney General about what we're trying to get accomplished here?

SIMPSON: No, they have never contacted my office. I've heard reports, but the first time that the DOJ and the TSA showed up was during the regular session when the bill came up over there, and they made their threat to either make a stay of the legislation or to cancel a flight or series of flights.

LARSON: Okay, so I'm just trying to figure out the logistics of this. So, once we pass this, then who is going to go inform TSA that they've got to stop the activities that is laid out in your bill?

SIMPSON: I think they're keenly aware of this legislation. They've already begun to change their practices. And speaking of the individual, I think the best thing now is just to explain without reasonable suspicion that an object was present, an unknown object, unlawful, or prohibited—they wouldn't touch those private parts.

LARSON: In federal preemption, is there anything that we can do to circumvent—

SIMPSON: There's language in the bill that the attorney general gave us that would preserve any part of the bill that was found unconstitutional, and that would preserve its spacial challenge, and our ability to prosecute as much as we could under the—

LARSON: This current bill, is it using reasonable suspicion or probable cause?

SIMPSON: It's using reasonable suspicion.

LARSON: Okay, explain to me your take on that, because I've heard a number of folks in my community who have asked that. They felt like it was a watering down versus the probable cause.

SIMPSON: Well, I do think it is, and I did resist that. I was going to have us, last Friday, lay it up before the will of the house, and let y'all make that decision. I wasn't given that opportunity. Then it became clear that the senate wouldn't accept that. There was some lobbying from here in the house to do that. I do think it will change the routine groping of private parts.

LARSON: Overall, you support the bill, whether it be probable cause or reasonable suspicion?

SIMPSON: That's right. Some have said that to convict someone, it would be like 99 percent certainty, beyond reasonable doubt, and the probable cause would be like 51 percent. And reasonable suspicion would be anywhere between 10 to 25 percent that a criminal act is taking place, or could be taking place, enough to give suspicious—to interrogate and to talk to people.

REPRESENTATIVE WORKMAN: David, I got a call from one of my more elderly constituents last night who asked me to vote against this because the only time he gets groped is when he goes to the airport now. Would you consider an opt-in provision to this bill?

SIMPSON: Within a covenant relationship at home.

REPRESENTATIVE FARRAR: Mr. Simpson, in this version of the bill, is it true that local and state police are exempted?

SIMPSON: This applies only to federal employees and contracted officers. That portion of the bill was taken out.

FARRAR: So, you're saying that it's okay for state and local police to do this groping, but it's—

SIMPSON: No.

FARRAR: Why is it okay for them and not the feds?

SIMPSON: It's not okay, in my judgment, but right now, they are covered, the peace officers of this state, with reasonable suspicion already. They don't do it, like here at the Capitol. And that was the main reason why the senate took it—

FARRAR: But they could.

SIMPSON: They could, and that's why I left it in there. I would have preferred that.



FARRAR: I'm just wondering why there's a different standard for federal agents.

SIMPSON: I don't believe there should be.

FARRAR: But in the bill there is, as you've just said.

SIMPSON: Well, it's not a different standard. We didn't address that in this version of the bill.

FARRAR: The effect is an inconsistency by not addressing it, correct?

SIMPSON: Well, no. I don't think so, because the police officers in this state have to have reasonable suspicion before they can do those things.

### **LEAVES OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of family business:

Solomons on motion of Truitt.

The following member was granted leave of absence for the remainder of today because of illness in the family:

Menendez on motion of Pickett.

The following member was granted leave of absence for the remainder of today because of important business in the district:

Miles on motion of Farrar.

### **SB 29 - (consideration continued)**

REPRESENTATIVE COLEMAN: I ask people to vote no on this legislation.

REPRESENTATIVE BERMAN: Once again, the eyes of every state in the United States is on Texas. This bill has been in every major newspaper in the United States, and as a result of David bringing this bill, the TSA has already drastically reduced touching children. I think children can go through now unmolested. So I think by the passage of this bill Texas will lead the states again, and I urge you to vote for the bill. It was unfortunate, the language that came out of the senate. This has nothing to do with politics. It has nothing to do with the president of the United States. As David indicated, it just has to do with our own freedom, freedom from being groped and touched by people who are actively working for the federal government. Please vote for the bill.

**SB 29** was passed to third reading by (Record 150): 106 Yeas, 27 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Eissler; Elkins; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender;

Legler; Lewis; Lozano; Lyne; Madden; Margo; Martinez; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Raymond; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Taylor, L.; Torres; Truitt; Villarreal; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alonzo; Alvarado; Castro; Coleman; Deshotel; Dukes; Dutton; Farias; Farrar; Gonzales, V.; Gonzalez; Gutierrez; Howard, D.; Johnson; Mallory Caraway; Marquez; Martinez Fischer; McClendon; Muñoz; Naishtat; Oliveira; Quintanilla; Rodriguez; Thompson; Veasey; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Driver; Eiland; Giddings; Hernandez Luna; Menendez; Miles; Solomons; Strama; Taylor, V.

Absent — Allen; Anchia; Burnam; Davis, Y.; Lucio; Reynolds; Turner.

### LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today because of important business in the district:

Marquez on motion of Gonzalez.

Oliveira on motion of Lozano.

The following member was granted leave of absence for the remainder of today because of important business:

Martinez on motion of Gallego.

### SB 29 - MOTION TO SUSPEND CONSTITUTIONAL RULE

SIMPSON: I'd like to make a motion that we suspend the constitutional rule that requires third reading being on another day. As a freshman, I'd just like to explain. The first several times when I voted on that, I didn't know that the constitution made for a provision for suspending that rule. And so I actually thought it was—because all it says up here is "suspending the constitution," and I didn't think that was a good thing to do, but it does make for a provision to do that, and we've often done that on circumstances such as this.

REPRESENTATIVE GEREN: So, Mr. Simpson, what you're telling us is that it is only okay to suspend the constitution if you want to suspend it? Because I've got your votes here. You have not voted to suspend the constitution.

SIMPSON: I thought I had, at least once or twice.

GEREN: So when it fits your needs, it's okay to do it, is that what—

SIMPSON: I just explained, Mr. Geren—

GEREN: Thank you, Mr. Simpson.

SIMPSON: —what my original votes were, because I—when it said up there we're suspending the constitution, that's what we're doing. I didn't want to be like the senate. And so when I read there that it didn't make—that the constitution

made for a provision for suspending that rule—there are times to do that, and so I thought I had done that, and there is an appropriate time.

REPRESENTATIVE HARTNETT: David, we all learn as we work here, don't we?

SIMPSON: We certainly do. I've learned a lot.

HARTNETT: And lots of us have misunderstandings that get cleared up, right?

SIMPSON: That's exactly right.

HARTNETT: A good part of this process is that we become wiser.

SIMPSON: Members, this is essentially a vote on the bill, because if we don't pass this, to suspend the constitutional rule, we will not have the opportunity to pass this legislation, which the people of Texas have repeatedly asked for in the regular session and the special session. So much so that the governor ultimately added it to the call.

One thing I want to point out, too, is that we could have taken the second reading vote last night after the bill—the senate bill was voted out of the committee. But the decision of the leadership of this house, I believe, deliberately adjourned so that we would be forced into this situation. And I would ask that you seriously consider voting in favor of this bill so that we can get it to third reading.

REPRESENTATIVE HOCHBERG: Mr. Speaker, if a bill is read the first time, when it is referred to committee, doesn't the same constitutional provision, that requires four-fifths now, wouldn't it also require four-fifths if you attempt to do a second reading on the same day that the bill is first read and referred to committee?

SPEAKER STRAUS: Mr. Simpson would have had the same vote requirement yesterday as he does today.

SIMPSON: I apologize, I misunderstood.

COLEMAN: I'm going to be very brief. I understand wanting to change the world because I'd like to do that every day. And Mr. Simpson came to this legislature bringing what he believed was extremely important to this house. And then he brought it twice. He even got the governor to put it on the call. And then Lieutenant Governor Dewhurst decided he wanted to turn this senate bill—whatever it is, 29, 28—into a political issue, and that's the reason this bill is going to go down. The reason why everyone else supported this bill, and why I signed on, it still exists. But the reality of it is that this shouldn't be how we're conducting ourselves when it comes to our national security, that the president of the United States is using TSA to intimidate Americans, and I think that's a good reason why we should vote no on this senate bill.

KEFFER: Mr. Speaker, I would suggest that the author of this bill give the house—know his message and know the rules before he starts popping off and making accusations. I think that's very insulting, as insulting as the senate sending this stupid bill over here in the damn first place.

Representative Simpson moved to suspend the constitutional rule requiring bills to be read on three several days and to place **SB 29** on its third reading and final passage.

The motion was lost (not receiving the necessary four-fifths vote) by (Record 151): 96 Yeas, 26 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Eissler; Elkins; Fletcher; Flynn; Frullo; Gallego; Garza; Gonzales, L.; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Margo; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Raymond; Riddle; Schwertner; Scott; Sheets; Sheffield; Simpson; Smith, T.; Smith, W.; Smithee; Taylor, L.; Torres; Truitt; Weber; White; Workman; Zedler.

Nays — Alonzo; Alvarado; Castro; Coleman; Deshotel; Dukes; Dutton; Farias; Farrar; Gonzales, V.; Gonzalez; Hochberg; Howard, D.; Mallory Caraway; McClendon; Muñoz; Naishtat; Quintanilla; Reynolds; Ritter; Rodriguez; Thompson; Veasey; Vo; Walle; Zerwas.

Present, not voting — Mr. Speaker(C); Miller, D.

Absent, Excused — Driver; Eiland; Giddings; Hernandez Luna; Marquez; Martinez; Menendez; Miles; Oliveira; Solomons; Strama; Taylor, V.

Absent — Allen; Anchia; Bohac; Burnam; Davis, Y.; Geren; Gutierrez; Johnson; Lucio; Martinez Fischer; Shelton; Turner; Villarreal; Woolley.

### STATEMENT OF VOTE

When Record No. 151 was taken, I was temporarily out of the house chamber. I would have voted yes.

Bohac

### ADDRESS BY REPRESENTATIVE SIMPSON ON A MATTER OF PERSONAL PRIVILEGE

The chair recognized Representative Simpson who addressed the house on a matter of personal privilege, speaking as follows:

Mr. Speaker and members, I offered to give this speech last night to save this body time after it was explained that it would be extremely doubtful that the anti-groping bill would get passed out of this house and sent to the governor. However, now that this legislation can go no farther, I believe it important to leave an honest assessment of what has occurred on the record. I want to set everyone at ease. The goal of this speech is to speak the truth in love. I want to begin with a quotation from Winston Churchill. He said 70 years ago, "Never give in—never, never, never, never, in nothing great or small, large or petty, never

give in except to convictions of honor and good sense. Never yield to force; never yield to the apparently overwhelming might of the enemy." This is not the last of the effort to stop unreasonable searches of our person. I am not giving up, and even if I did, I do not think the people are going to allow the violating of their rights to persist.

Providence and the people brought me to the legislature. My race started without me. I was sought out by the people when they wanted a representative who would not only represent their values, but endeavor to keep the oath to the constitution of the U.S. and of this state, which as Jefferson once said, are like chains that bind down elected officials to keep them from mischief. I came to do what is right for the people—the people of my district and the people of the State of Texas. I did not come for special interests. I have sought to do what former Speaker Pete Laney told me early in the session: "Do what's right, explain it, and you will be okay." He also said, "Don't do anything you don't want your wife or your mother to know about."

Today, ladies and gentlemen, our greatest enemy is not terrorists that may lurk and destroy from time to time; our greatest enemy is ourselves. It is the seeds of anarchy and tyranny that reside in each of our own hearts that, if given opportunity and left unchecked, like weeds, will overtake and destroy the garden of the rule of law. We must restrain ourselves from using the law for ourselves or our team rather than for the general welfare of our citizens. What I am getting at is the idea that it is wrong to cheat, unless of course you are cheating for yourself or for the team. We all no doubt were aware that when we came to these grand halls that there also would be within them duplicity and deceit. The challenge though is not to succumb to it; not to go along to get along in order to be re-elected; not to be complicit with its corruption.

To apply this to the legislature let me give you several examples: In one sense this first example is insignificant, but in another it is symptomatic and indicative of why the people do not trust politicians. Now, all of us freshman have learned that we do not have to hurry to the chamber because it is likely time will stand still. I had never seen a legislative clock before so this amazed me as a freshman. It stands still every morning until the speaker calls the house to order. Sometimes it's a few minutes and sometimes it is a great while. Why is that? It is because the house rules dictate that the speaker shall take the chair on each calendar day precisely at the hour to which the house adjourned or recessed at its last sitting and shall immediately call the members to order. So, because of this special legislative clock, the journal records that we all come to order precisely at the appointed time. We appear to be keeping the rules by stopping the clock. However, in order to appear to keep the rule, we bear false witness and break the ninth commandment. Which is more important?

I am not only fed up with the TSA and its humiliation of travelers. I am also fed up with phonies, especially phony politicians who seek to take credit for legislation that they are at the same time seeking to kill. As a second illustration, the most disappointing day of the session for me was when I heard the ruling from the parliamentarian and speaker concerning the local and consent rule restricting the placement of items on the calendar which involve the expenditure

of state funds. A bill that grows government by 14 full-time equivalents was purported to not expend state funds. At that moment, I thought I was in D.C. You could, by this ruling, and the Legislative Budget Boards' statement of "no fiscal impact" because the cost is covered by fees, place the whole budget on the local and consent calendar, because it has to be balanced and bring in as much as we spend.

Closely aligned with this is our rhetoric about our "conservative budget." Now, I wholeheartedly support not raising taxes and shrinking the size and scope of civil government. But let's tell the truth about the budget. Methinks we boast too much. Some are touting that we have not raised taxes and have not used the rainy day fund. But let's be honest about it. Is deferring \$4 billion to the next biennium conservative? Is using tax speedups conservative? On a normalized basis, we actually increased the budget. How can it be right to preserve approximately one or \$2 billion of handouts to special interests, including commercials for Fortune 500 companies, and decrease the funding on a per capita basis for students?

When I supported the abolishment of the Emerging Technology Fund, I was scolded and told that, if I wanted to come back, that I better keep taking pork back to my district. Well, the majority in my district do not want handouts. They want us to enforce the rules on a level playing field, punish the wrongdoer, and get out of the way of individual freedom and responsibility.

As long as there is tyranny, we must never cease to oppose it—first in ourselves, then our own state government, and finally, our federal government. Let's tell the truth about the budget, about the bills on the local and consent calendar, about the funding of commercials instead of our teachers and students. Laws should be difficult to pass. I am not dismayed at the failure of this bill to become law. I am grateful to have gotten to know many of you as I have knelt beside your desk to talk to you about the need for protecting the dignity of individuals as they travel. I think most of you are thoroughly convinced that this tyranny needs to stop. Let me pause here to say, you know my heart on this matter. Tyranny is not a political issue. It is unfortunate this legislation has been used as political fodder by anybody to attack the Obama Administration. The Patriot Act, which I don't think is very patriotic, and the TSA with its policies that were initiated by the Bush Administration, and without restraint, they are likely to be in place in any administration that follows.

Now, I would like to talk about a story simple enough for children to understand. It is the story of *The Emperor's New Clothes*. Our "emperors" in Texas still have clothes. However, I think they may be going through a body scan. Politics has a lot in common with fairy tales. In both arenas, you have to suspend your rational faculties in order to comprehend what is going on. What is portrayed and what is actually happening are often very different.

On Friday, after calling the Texas House of Representatives to order, declaring a quorum, and making a few brief announcements, the house was adjourned without opportunity to lay before the house its scheduled business, specifically the legislation, **HB 41**, recently added by the governor to the call for the special session that prohibits the intrusive touching of persons seeking access

to public buildings and transportation. This is the same legislation requested by the lieutenant governor, the State Republican Executive Committee, and a deluge of grassroots activists to be added to the call. A nearly identical bill, **HB 1937**, was passed unanimously through the house during the regular session. The bill has had over 100 coauthors in the house. It was passed out of committee, and was placed again on the house calendar by the leadership team the speaker has chosen.

What is the objection of some? They object to the words used in the legislation to describe the private parts of the body. Specifically, the legislation prohibits the touching of the anus, the sexual organ, the breasts, or the buttocks of an individual as part of a screening search without probable cause. There is a specific reason those words are in the legislation. They happen to be those sensitive and private body parts of a traveler that the Transportation Security Administration agents are routinely groping, and sometimes in retaliation for simply opting out of a virtual naked body scan. The bill could prohibit the touching of your nose, ear, or kneecap, and those would be easier body parts to discuss in public, but it wouldn't solve the problem. I fear the emperors in our state government, at least at times, are people who would rather allow despicable behavior to continue than speak out loud the necessary words to describe it. In the name of security, travelers are being required to submit to a virtual naked strip by use of a scanner. Should one oppose the scanner based on modesty or for health reasons, then the result is a humiliating groping hand search which includes touching, and sometimes hitting or hard pressing, of the most private parts of an individual's body. But will it stop here? The TSA claims in public records to have the authority to require a strip search as a condition of travel. In fulfillment of that belief, this last week the TSA forced a 95-year-old cancer-stricken woman to remove her diaper in an extensive and extremely intrusive search.

Fifteen years ago, would you have believe that allowing a government agent to put their hand inside your underwear would ever be a condition of travel? If we do not stop now, what will our children be required to endure? A delicate matter? Yes, certainly, but is it better to define what is indecent government behavior and to prohibit it by legislation, or to be "discreet" and allow the official oppression of travelers to continue?

Rarely in the history of this legislature has the state's leadership so masterfully worked against the will of its members and the people they represent. Leadership managed to arrange it so that every member could cast a vote in support of a bill which they ensured would not pass. No doubt this deception will confound many Texans. But the people of Texas should not be confused. The explanation is simple and clear. The defeat of this bill can only be laid at the feet of the leadership of this state.

However, this is a victory speech. The people in support of this bill have succeeded in shining the light on those who collaborate with the growing tyranny of our federal government. I am grateful to my colleagues, my constituents, and the people all over this state, and even the nation, that providence has used to bring this bill this far. It's defeat only propels the liberty movement in this state.

The people now know that it is possible to fight back. In this sense, there was a great victory at Goliad and the Alamo. In this sense, there is a great victory today. May God help us to restore the Texas that Sam Houston fought for and governed, a Texas that will not submit to any tyranny, come from what source it may. Not to the tyranny of an out of control republican or democrat federal bureaucracy such as the TSA, and not to the subtle or overt violations of the rules of morality in its own state government. We need a Texas that will lead by example. May God grant us another San Jacinto, first in our own hearts and families, then in our state and nation.

**REMARKS ORDERED PRINTED**

Representative Simpson moved to print his remarks and debate regarding **SB 29**.

The motion prevailed.

**ADDRESS BY REPRESENTATIVE BROWN  
ON A MATTER OF PERSONAL PRIVILEGE**

The chair recognized Representative Brown who addressed the house on a matter of personal privilege, speaking as follows:

This is real difficult for me because I love this chamber. I love the fact that we all come in here every session to stand up for our constituents in this very diverse state. Even though Mr. Simpson says that there are a lot of problems, it's still the best system in the world, and I've been proud to be a part of it. For the last twelve and a half years, I've been very fortunate to have the best chief of staff that I could possibly have, and I've had the smartest legislative director that I think is out there. But as all of you know, when we come here, we have to make great sacrifices. We sacrifice seeing our families, and we sacrifice financially. The financial sacrifice can be great, and it's because of this that my former partner in the car business has offered me a position, and my wife and I have bought a home in Salado. We're moving back to Salado, and I'll be working in Temple. And it's with a lot of sadness that tomorrow, I'm going to resign from the Texas House.

I didn't want to do this until I had the chance to come and thank all of you for your friendship, for your kindness to me, for the respect that you've shown me, and for the support that you've given me. I just want you to know that I'll be forever grateful, because you've given me an education I could get nowhere else, and I love you for it. I'll be praying for you in the future. God bless you, and God bless Texas.

**REMARKS ORDERED PRINTED**

Representative Gallego moved to print remarks by Representative Brown.

The motion prevailed.



**PARLIAMENTARY INQUIRY**

REPRESENTATIVE KOLKHORST: I want to kind of just go back to chair Gallego's comments. This bill was very important to my district, and I want to ask another question because it seemed very fluid. Yesterday, we had **HB 41** on the floor for third reading, correct?

SPEAKER STRAUS: That is correct.

KOLKHORST: We could have passed that bill and it could have gone to the senate?

SPEAKER: That's correct.

KOLKHORST: Then they could have taken that bill up, am I correct?

SPEAKER: Yesterday, yes, they could have.

KOLKHORST: When did they sine die?

SPEAKER: Yesterday afternoon, I'm not sure what time.

KOLKHORST: Was that the 29th day?

SPEAKER: That was the 29th day.

KOLKHORST: Are there 30 days in a special session?

SPEAKER: Today would be the 30th day.

KOLKHORST: So, when we lay blame at the feet of people, and we are all elected—I want to ask another parliamentary inquiry.

SPEAKER: State your inquiry.

KOLKHORST: Today, Judge Lewis had a bill that Leo Berman had a very important amendment to, I think it dealt with Sharia law. Am I correct in saying that that amendment was stripped by the senate and was not allowed into the bill? Is that what Judge Lewis said, Mr. Speaker?

SPEAKER: That is correct, Ms. Kolkhorst.

KOLKHORST: May I continue to **SB 1**, which at one point had inserted in it sanctuary cities, which was a part of the call—that language was inserted, and was agreed on, as I understand it, by the speaker of the house, the lieutenant governor, and the governor of the State of Texas?

SPEAKER: That's correct.

KOLKHORST: When that bill came to this floor, it was no longer in the bill. Am I correct?

SPEAKER: That's correct.

KOLKHORST: Am I proper in saying that the governor has done a press release saying that that was taken out because of senate members?

SPEAKER: He has.

KOLKHORST: So, I think that I'm seeing something very systemic here. That I would just like to point out, if we are going to start getting into a circular firing squad, I think we ought to point our guns a little bit east, here.

### REMARKS ORDERED PRINTED

Representative Morrison moved to print remarks by Representative Kolkhorst.

The motion prevailed.

### RESOLUTIONS ADOPTED

Representative Pitts moved to suspend all necessary rules to take up and consider at this time **HR 287, HR 288, HR 291 - HR 295,** and **SCR 6.**

The motion prevailed.

The following congratulatory resolutions were laid before the house:

**HR 288** (by Hughes), Honoring the Wood County Airport for being named the 2010 General Aviation Airport of the Year by the Texas Department of Transportation.

**HR 292** (by Branch), Commemorating the 15th anniversary of Pinnacle Technical Resources of Dallas.

**HR 295** (by Weber, Gallego, S. King, Morrison, and Zerwas), Congratulating the Texas community colleges that were named among the top 120 community colleges in the nation by the Aspen Institute.

**SCR 6** (Pitts - House Sponsor), Congratulating Melba Glyn Hill Cook on her 80th birthday.

The resolutions were adopted.

The following memorial resolutions were laid before the house:

**HR 287** (by Hughes), In memory of David Coulter Templeton of Mineola.

**HR 291** (by Gallego), In memory of former Kinney County judge Oscar Thomas "Tommy" Sargeant.

**HR 293** (by Workman), In memory of Bowie High School band director Bruce Dinkins of Austin.

**HR 294** (by Huberty), In memory of Evelyn Walters of Kingwood.

The resolutions were unanimously adopted by a rising vote.

On motion of Representative Gallego, the names of all the members of the house were added to **HR 291** as signers thereof.

### PROVIDING FOR ADJOURNMENT SINE DIE

Representatives Aycock and Huberty moved that, at the conclusion of the signing of bills and resolutions, the house stand adjourned sine die.

The motion prevailed.

**BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER**

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 3 and Senate List No. 7).

**ADJOURNMENT SINE DIE**

In accordance with a previous motion, Speaker Straus, at 3:19 p.m., pronounced the House of Representatives of the First Called Session of the Eighty-Second Legislature adjourned sine die.

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**ADDENDUM**

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**SIGNED BY THE SPEAKER**

The following bills and resolutions were today signed in the presence of the house by the speaker:

**House List No. 3****HB 79, HCR 15, HCR 20, HCR 21, HCR 23, HCR 24, HCR 26****Senate List No. 6****SB 1, SCR 5****Senate List No. 7****SCR 6****MESSAGES FROM THE SENATE**

The following messages from the senate were today received by the house:

**Message No. 1****MESSAGE FROM THE SENATE****SENATE CHAMBER**

Austin, Texas

Wednesday, June 29, 2011

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

**THE SENATE HAS PASSED THE FOLLOWING MEASURES:****HCR 15**

Coleman

SPONSOR: Uresti

In memory of Pete A. Gallego, Jr., of Alpine.

**HCR 21**

Branch

SPONSOR: West

Congratulating the Dallas Mavericks on winning the 2011 NBA championship.

**HCR 23** Cain SPONSOR: Seliger  
In memory of Susan Ann Cassidy of Amarillo.

**HCR 24** Cain SPONSOR: Seliger  
In memory of Joseph Patrick Cassidy of Panhandle.

Respectfully,  
Patsy Spaw  
Secretary of the Senate

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## APPENDIX

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### STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

**June 28**

Criminal Jurisprudence - **SB 29**

### ENROLLED

**June 28 - HB 3, HCR 18, HCR 19, HCR 22, HCR 25**

**June 29 - HB 79, HCR 15, HCR 20, HCR 21, HCR 23, HCR 24, HCR 26**

### SENT TO THE GOVERNOR

**June 29 - HB 3, HB 79, HCR 15, HCR 18, HCR 19, HCR 20, HCR 21, HCR 22, HCR 23, HCR 24, HCR 25, HCR 26**

### SIGNED BY THE GOVERNOR

**July 19 - HB 3, HB 79, HCR 15, HCR 18, HCR 19, HCR 20, HCR 21, HCR 22, HCR 23, HCR 24, HCR 25, HCR 26**