

BILL ANALYSIS

C.S.S.B. 891
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There is a periodic need to create new courts and to make other changes to ensure efficiency and uniformity in the administration of the judicial branch of government. C.S.S.B. 891 is an omnibus bill that seeks to accomplish those goals by creating district courts and county courts at law in certain counties, revising certain citation procedures, and creating a public information website for providing citation by publication, among other changes.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Supreme Court in SECTIONS 9.03 and 10.04 of this bill and to the Judicial Branch Certification Commission in SECTIONS 7.09, 7.14, and 7.16 of this bill.

ANALYSIS

C.S.S.B. 891 relates to the operation and administration of and practice in and grants provided by courts in the judicial branch of state government.

District Courts

C.S.S.B. 891 amends the Government Code to change the beginning dates of the terms of the 4th District Court from the first Mondays in January, March, May, July, September, and November to the first Mondays in January and July.

C.S.S.B. 891 removes Brazoria County from the 23rd Judicial District and creates the 461st Judicial District, composed of Brazoria County, on September 1, 2019. The bill requires the 461st District Court to give preference to family law matters and requires the local administrative district judge to transfer to the 461st District Court all cases from Brazoria County that are pending in the 23rd District Court on the bill's effective date.

C.S.S.B. 891 removes Medina County from the 38th Judicial District and creates the 454th Judicial District, composed of Medina County, on September 1, 2019. The bill requires the local administrative district judge to transfer to the 454th District Court all cases from Medina County that are pending in the 38th District Court on the bill's effective date.

C.S.S.B. 891 creates the following judicial districts on September 1, 2019, unless otherwise specified:

- the 455th Judicial District, composed of Travis County, on October 1, 2020;
- the 456th Judicial District, composed of Guadalupe County, on January 1, 2021;
- the 457th Judicial District, composed of Montgomery County;
- the 466th Judicial District, composed of Comal County, on January 1, 2021;
- the 467th Judicial District, composed of Denton County, on January 1, 2021;
- the 468th Judicial District, composed of Collin County; and
- the 471st Judicial District, composed of Collin County.

The bill's provisions relating to such districts take effect on the applicable date of the district's creation.

C.S.S.B. 891 requires the 455th District Court to give preference to civil and family law matters, the 456th District Court to give preference to civil cases, the 468th District Court to give preference to family law matters, and the 471st District Court to give preference to civil matters. The bill requires the initial vacancy in the office of judge of the 456th Judicial District to be filled by election. The bill establishes that the office exists for purposes of the primary and general elections in 2020 and that a vacancy after the initial vacancy is filled as provided by the Texas Constitution.

Statutory County Courts

C.S.S.B. 891 creates the following statutory county courts on September 1, 2019, unless otherwise specified:

- the County Court at Law of Chambers County on January 1, 2021;
- the County Court at Law No. 3 of Comal County;
- the County Court at Law No. 3 of Ellis County on January 1, 2021;
- the County Court at Law of Gillespie County on October 1, 2019;
- the County Court at Law No. 9 of Hidalgo County;
- the County Court at Law No. 10 of Hidalgo County;
- the County Court at Law No. 2 of Liberty County; and
- the County Court at Law No. 2 of Rockwall County.

The bill's provisions relating to such courts take effect on the applicable date of the court's creation.

C.S.S.B. 891 grants the County Court at Law of Bosque County concurrent jurisdiction with the district court in felony cases transferred from the district court to conduct arraignments, pretrial hearings, and motions to adjudicate or revoke and to accept guilty pleas. The bill authorizes the judge of the county court at law and a district judge, in matters of concurrent jurisdiction, to exchange benches, transfer cases, assign each other to hear cases in accordance with orders signed and approved by the judges, and otherwise manage their respective dockets under local administrative rules.

C.S.S.B. 891 grants the County Court at Law of Chambers County concurrent jurisdiction with the district court in arraignments, pleas, and pretrial motions for felony cases and in family law cases and proceedings. The bill sets out provisions applicable to the court relating to case transfers, judge salary and expenses, court clerks, employment of deputy sheriffs and bailiffs, juries, court reporter services, and court terms.

C.S.S.B. 891 grants the County Court at Law of Cooke County concurrent jurisdiction with the district court in family law cases and proceedings and establishes that the district clerk serves as clerk of the county court at law in family law cases and proceedings and that the county clerk serves as clerk of the court in all other cases and proceedings.

C.S.S.B. 891 grants the County Court at Law of Gillespie County concurrent jurisdiction with the district court in family and juvenile law cases and proceedings and sets out provisions applicable to the court relating to court clerks, employment of deputy sheriffs and bailiffs, and jury size.

C.S.S.B. 891 repeals a provision establishing that the County Court at Law No. 2 of Kaufman County does not have jurisdiction of civil cases in which the amount in controversy exceeds \$200,000. The bill requires a jury to be composed of 12 members in the following cases in a county court at law of Kaufman County: civil cases in which the amount in controversy is \$200,000 or more, family law cases and proceedings, and felony cases.

C.S.S.B. 891 grants the County Court at Law No. 1 of Potter County concurrent jurisdiction with the district court in felony cases to conduct arraignments, conduct pretrial hearings, and accept pleas in uncontested matters.

Municipal Courts

C.S.S.B. 891 exempts the municipal court of record of the City of Lubbock from statutory provisions requiring the clerk and other court personnel to perform their duties under the direction and control of the presiding judge and requiring the governing body by ordinance to provide for the hiring, direction, supervision, and removal of personnel authorized in the annual budget for the clerk's office.

Senior District Judges

C.S.S.B. 891 repeals provisions establishing a system by which senior district judges will be made available in the first administrative judicial region to serve in cases in which the regularly elected judges are not available to sit or need assistance because of the caseload.

Masters and Magistrates

C.S.S.B. 891 amends the Code of Criminal Procedure to establish that the magistrates appointed by the El Paso Council of Judges are magistrates with jurisdiction in criminal cases.

C.S.S.B. 891 amends the Government Code to authorize the Commissioners Court of Bell County to select masters to serve the justice courts of Bell County having jurisdiction in truancy matters and sets out related provisions.

C.S.S.B. 891 authorizes the Commissioners Court of Collin County to appoint by majority vote one or more part-time or full-time magistrates to perform specified duties and sets out related provisions, including provisions specifying the proceedings that may be referred to such a magistrate.

C.S.S.B. 891 authorizes the Commissioners Court of Kerr County to authorize the judges of the district and statutory county courts in Kerr County to appoint one or more part-time or full-time magistrates to perform specified duties and sets out related provisions, including provisions relating to the jurisdiction, responsibility, and powers of such a magistrate.

C.S.S.B. 891 authorizes the Commissioners Court of Fort Bend County to appoint by majority vote one or more part-time or full-time magistrates to perform specified duties and sets out related provisions, including provisions specifying the proceedings that may be referred to such a magistrate.

District and County Attorneys

C.S.S.B. 891 designates the district attorney elected for the 9th Judicial District as the district attorney for the 457th Judicial District created by the bill.

C.S.S.B. 891 removes Burleson County as a county in which the district attorney for the 21st Judicial District and the 335th Judicial District performs duties and removes the voters of Burleson County from among the voters who elect the district attorney. The bill requires the county attorney of Burleson County to perform in that county the duties imposed on district attorneys, grants the county attorney the powers conferred on district attorneys, and entitles the county attorney to be compensated by the state in the same manner and amount as a district attorney. The bill subjects the county attorney of Burleson County and the district attorney for the 24th Judicial District to the professional prosecutors law. The bill repeals provisions relating to the supplemental compensation of the district attorney for the 24th Judicial District.

C.S.S.B. 891 adds a temporary provision set to expire January 1, 2021, establishing that the district attorney of the 38th Judicial District also represents the state and performs the duties of the district attorney before the 454th Judicial District. Effective January 1, 2021, the bill abolishes the office of county attorney of Medina County, establishes the office of criminal district attorney of Medina County, sets out provisions governing that established office, and subjects the criminal district attorney to the professional prosecutors law. The bill requires the voters of the county to elect a criminal district attorney of Medina County beginning with the general election in 2020 and provides for the criminal district attorney to retain all powers, duties, and privileges in Medina County that were previously held by the office of the district attorney of the 38th Judicial District and the office of the county attorney of Medina County.

C.S.S.B. 891, effective January 1, 2025, subjects the district attorney for the 293rd Judicial District to the professional prosecutors law.

Court Reporters and Bailiffs

C.S.S.B. 891 authorizes the judge of the 397th District Court to appoint a bailiff. The bill requires the bailiff to be a U.S. citizen and entitles the bailiff to receive from the county a salary set by the judge. The bill removes residency in Grayson County as a qualification to serve as a bailiff in the 15th or 59th district court or in a statutory county court in Grayson County. The bill changes the county salary that such a bailiff is entitled to receive from a salary equal to the salary of a jailer employed by the Grayson County sheriff to a salary set by the appointing judge.

C.S.S.B. 891 amends the Business & Commerce Code to exempt from the applicability of the Uniform Electronic Transactions Act the transmission, preparation, completion, enforceability, or admissibility of a document in any form that is governed by rules adopted by the Texas Supreme Court or produced by an appointed court reporter, a certified court reporter, or a registered shorthand reporting firm for use in the state or federal judicial system.

C.S.S.B. 891 amends the Civil Practice and Remedies Code to require notice of appeal from a county or district court, including an interlocutory appeal, to be served on each court reporter responsible for preparing the reporter's record. The bill prohibits the supreme court from amending or adopting rules in conflict with this requirement.

C.S.S.B. 891 amends the Government Code to require a court reporting firm, on request of a court reporter who reported a deposition, to provide the court reporter a copy of the document related to the deposition, known as the further certification, that the reporter has signed or to which the reporter's signature has been applied.

C.S.S.B. 891 authorizes the Judicial Branch Certification Commission (JBCC) by rule to provide for the certification of an apprentice court reporter and for the provisional certification of a court

reporter and imposes certain conditions on a person's practice of court reporting under such certifications. The rules may allow for the issuance of a court reporter certification to a certified apprentice court reporter who satisfactorily completes the apprenticeship and passes Part A of the shorthand reporting examination or to a court reporter who holds a provisional certification on the reporter's completion of the terms of conditional approval set by the JBCC. The bill requires the JBCC, in developing the rules, to establish a stakeholder work group and solicit comments from certain interested parties. The bill requires the JBCC to certify to the supreme court the name of each applicant who meets the qualifications for certification as an apprentice court reporter or a provisional court reporter.

C.S.S.B. 891 authorizes the JBCC to waive any prerequisite to obtaining a court reporter certification or a shorthand reporting firm registration for an applicant after reviewing the applicant's credentials and determining the applicant holds a certification, registration, or license issued by another jurisdiction that has certification, registration, or licensing requirements substantially equivalent to those of Texas. The bill requires the JBCC to develop, not later than June 1, 2020, and periodically update on a schedule established by the JBCC a list of states that have certification, registration, or licensing requirements for court reporters and shorthand reporting firms substantially equivalent to those of Texas. The bill requires the JBCC to certify to the supreme court the name of each qualified applicant holding a certification, registration, or license to engage in court reporting issued by another state who satisfies certain criteria prescribed by the bill.

C.S.S.B. 891 requires a reciprocity agreement approved by the supreme court regarding certification, registration, and licensing of court professionals to require an applicant who holds a certification, registration, or license to engage in court reporting issued by another state and who applies for certification as a court reporter in Texas to satisfy certain criteria specified by the bill. The bill authorizes the JBCC to adopt rules requiring the issuance to certain applicants who performed court reporting in another jurisdiction of a provisional certification that authorizes the applicant to serve as a court reporter in Texas for a limited time and under conditions the JBCC considers reasonably necessary to protect the public interest.

C.S.S.B. 891 requires the JBCC, not later than January 1, 2020, to communicate with the appropriate regulatory officials in each state to inquire whether that state desires to enter into a reciprocity agreement with Texas and, not later than April 1, 2020, to submit a report on the results of the inquiry to the supreme court or the court's designee.

C.S.S.B. 891 requires a shorthand reporting firm to pay a registration or renewal fee in an amount equal to the fee for court reporter certification in lieu of the fee required for a shorthand reporting firm registration if a certified court reporter of the firm has an ownership interest in the firm of more than 50 percent and maintains actual control of the firm.

C.S.S.B. 891 requires the JBCC by rule to require each court reporter who holds a certification issued by the JBCC and at least one person who has management responsibility for a shorthand reporting firm registered in Texas to complete continuing professional education.

C.S.S.B. 891 makes certain revisions to the grounds on which the JBCC is required to take disciplinary actions against a certified shorthand reporter or a shorthand reporting firm or affiliate office and requires the JBCC by rule to define the conditions under which a shorthand reporting firm's or affiliate office's repeated failure to fulfill a commitment to provide court reporting services is considered unprofessional conduct and grounds for disciplinary action. The bill requires the JBCC, in developing those rules, to establish a stakeholder work group and solicit comments from certain interested parties.

C.S.S.B. 891 creates a Class A misdemeanor offense for a person who provides shorthand reporting firm services in Texas in violation of firm registration requirements and establishes that each day of violation constitutes a separate offense.

C.S.S.B. 891 subjects a contract for court reporting services for a court, agency, or instrumentality of the United States or Texas to the prohibitions against a court reporter entering into or providing services under a contractual agreement that undermines the impartiality of the reporter or gives or appears to give an exclusive advantage to any party.

Juvenile Boards

C.S.S.B. 891 amends the Human Resources Code to subject the juvenile board of Goliad County and the juvenile board of Victoria County to certain statutory provisions relating to the required designation of a fiscal officer, juvenile board duties, and juvenile board personnel. The bill authorizes the juvenile board of Goliad County and the juvenile boards of one or more counties that are adjacent to or in close proximity to Goliad County to agree to operate together with respect to all matters, or with respect to certain matters specified by the juvenile boards, and provides the same authority with regard to Victoria County. The bill authorizes juvenile boards operating together to appoint one fiscal officer to receive and disburse funds for the boards.

C.S.S.B. 891 changes the chairman of the juvenile board of Victoria County from the juvenile court judge to a board member elected by the board and removes the designation of the juvenile court judge as the board's chief administrative officer.

C.S.S.B. 891 includes among the members of the juvenile board of Grimes County the judge of each county court at law in the county.

The Office of Court Administration of the Texas Judicial System

C.S.S.B. 891 amends the Government Code to transfer from the Office of Court Administration of the Texas Judicial System (OCA) to the comptroller of public accounts the duty to pay the travel expenses and other incidental costs related to convening a special three-judge district court on petition by the attorney general in certain suits involving a claim that challenges the finances or operations of the state's public school system or that involves the apportionment of districts. The bill specifies that the payment is from funds appropriated to the comptroller's judiciary section.

C.S.S.B. 891 transfers from the comptroller to OCA the duty to identify each law enacted by the legislature, other than a law disapproved by the governor, that imposes or changes the amount of court costs or fees collected from a party to a civil case or a defendant in a criminal case and the duty to prepare and publish a list of such costs and fees biennially.

C.S.S.B. 891 requires OCA to develop, not later than June 1, 2020, and maintain a public information website that allows a person to easily publish public information on the website or OCA to post such information on the website on receipt from the person. The bill defines "public information" as citation, other related public or legal notice that a person is required to publish under a statute or rule, and any other information that the person submits for publication on the website to effectuate service of citation by publication. The bill requires the website to allow the public to easily access, search, and sort the public information. The bill requires the supreme court by rule to establish procedures for the submission of public information to the website by a person who is required to publish the information. The bill requires the supreme court to adopt the rules necessary to implement these provisions not later than June 1, 2020.

C.S.S.B. 891 changes from the criminal justice division of the governor's office to OCA the entity to which a specialty court program is required to provide certain notice and documentation to operate. The bill requires a specialty court program to report to the Texas Judicial Council (TJC) any information required by the TJC regarding the performance of the program. The bill requires OCA to coordinate with and provide information to the criminal justice division on request of the division and to take the following actions:

- provide technical assistance to the specialty court programs on request;

- coordinate with an entity funded by the division that provides services to specialty court programs;
- monitor the specialty court programs for compliance with programmatic best practices recommended by the Specialty Courts Advisory Council and approved by the TJC; and
- notify the division about each specialty court program that is not in compliance with the programmatic best practices.

C.S.S.B. 891 requires OCA to contract with the National Center for State Courts to conduct a study of the caseloads of the district and statutory county courts in Texas that must concentrate on the weighted caseload of each court considering the nature and complexity of the cases heard. The bill requires the center to report the results of the study to OCA not later than December 1, 2020, and requires OCA to file a report on those results with the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the standing committees of the senate and house of representatives with jurisdiction over the judicial system not later than January 1, 2021.

Electronic Publication, Service, and Display of Legal Documents

C.S.S.B. 891 amends the Business Organizations Code, Estates Code, Family Code, and Health and Safety Code, as applicable and effective June 1, 2020, to require certain types of notice and citation published in a newspaper for certain legal proceedings to also be published on the public information website maintained by OCA and to make related revisions to provisions relating to the timing of service of citation or notice and proof of service.

C.S.S.B. 891 amends the Civil Practice and Remedies Code, effective June 1, 2020, to authorize a person, with respect to a citation or notice that is required by statute or rule to be published on the OCA's public information website and in a newspaper of general circulation, to publish the citation or notice only on the public information website if:

- the person files a statement of inability to afford payment of court costs under the Texas Rules of Civil Procedure;
- the total cost of the required publication exceeds the greater of \$200 each week or an amount set by the supreme court after adjusting for inflation, as required by the bill; or
- the county in which the publication of the citation or notice is required does not have any newspaper published, printed, or generally circulated in the county.

C.S.S.B. 891 authorizes a court, if substituted service of citation is authorized under the Texas Rules of Civil Procedure, to prescribe as a method of service an electronic communication sent to the defendant through a social media presence. The bill requires the supreme court to adopt rules to provide for such a method of substituted service not later than December 31, 2020, and the authorization applies only to an action commenced on or after the effective date of the rules. These provisions take effect June 1, 2020.

C.S.S.B. 891 amends the Government Code to give a district clerk the option to post an official and legal notice by electronic display in the manner provided for a county clerk as an alternative to posting a physical document.

Notarization Requirements

C.S.S.B. 891 amends the Family Code to provide the option for a waiver of citation in a suit that involves removal of the disabilities of minority or a name change of an adult to conform to the requirements for an unsworn declaration as an alternative to being sworn before a notary public who is not an attorney in the suit.

Court Grant Programs

C.S.S.B. 891 amends the Government Code to revise the requirement for the Permanent Judicial Commission for Children, Youth and Families to develop and administer a grant program for certain initiatives to make an initiative eligible for such a grant if it will improve well-being, safety, and permanency outcomes in child protection cases or enhance due process for the parties or the timeliness of resolution in cases involving the welfare of a child. The bill removes the prohibition against the children's commission using state funds to provide a grant or to administer the grant program. The bill authorizes the children's commission to develop and administer a program to provide grants from available funds for:

- initiatives designed to prevent or minimize the involvement of children in the juvenile justice system or promote the rehabilitation of children involved in that system; and
- any other initiatives identified by the children's commission or the supreme court to improve the administration of justice for children.

C.S.S.B. 891 authorizes the mental health commission to develop and administer a program to provide grants from available funds for initiatives that will improve the administration of justice for individuals with mental health needs or an intellectual or developmental disability and sets out eligibility requirements to receive a grant under the program. The bill requires the mental health commission, if it awards a grant, to monitor the use of the grant money and to direct the comptroller to distribute the grant money. The bill authorizes the mental health commission to accept gifts, grants, and donations for purposes of implementing the program.

Repealers and Transitions

C.S.S.B. 891 establishes that OCA is required to implement a provision of the bill only if the legislature appropriates money specifically for that purpose and that, if the legislature does not make such an appropriation, OCA is authorized but not required to implement the provision using other appropriations available for that purpose.

C.S.S.B. 891 repeals Sections 51.054(c) and 1051.054(c), Estates Code.

C.S.S.B. 891 repeals the following provisions of the Government Code:

- Section 25.1312(b-1)
- Section 43.111(c)
- Subchapter C, Chapter 75
- Section 832.001(b)
- Section 835.103
- Section 837.001(b)
- Section 840.104

EFFECTIVE DATE

Except as otherwise provided, September 1, 2019.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 891 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes a provision requiring the initial vacancy in the office of judge of the

456th Judicial District to be filled by election and changes the date of creation for that judicial district from September 1, 2019, to January 1, 2021.

The substitute includes provisions creating the following county courts at law:

- the County Court at Law No. 3 of Ellis County;
- the County Court at Law No. 9 of Hidalgo County; and
- the County Court at Law No. 10 of Hidalgo County.

The substitute does not include juvenile matters among the matters for which the district clerk serves as clerk of the County Court at Law of Gillespie County.

The substitute repeals a certain limitation on the jurisdiction of the County Court at Law No. 2 of Kaufman County and requires a 12-member jury in certain cases in a statutory county court in that county.

The substitute establishes that the magistrates appointed by the El Paso Council of Judges are magistrates with criminal jurisdiction.

The substitute includes provisions authorizing the Commissioners Court of Collin County and the Commissioners Court of Fort Bend County to appoint magistrates.

The substitute postpones the effective date of the bill's provision subjecting the district attorney for the 293rd Judicial District to the professional prosecutors law from September 1, 2019, to January 1, 2025.

The substitute does not include a requirement for a court reporting firm, on request, to provide to a court reporter who prepares a deposition transcript an itemized statement of certain charges that the court clerk must tax as costs.

The substitute includes a requirement for a court reporting firm, on request of a court reporter who reported a deposition, to provide the court reporter a copy of the document related to the deposition, known as the further certification, that the reporter has signed or to which the reporter's signature has been applied.

The substitute includes provisions authorizing a court to prescribe a method of substituted service of citation by electronic communication through social media and requiring the supreme court to adopt related rules.

The substitute includes provisions relating to court grant programs that:

- revise the types of initiatives that are eligible for a grant under the program required to be developed and administered by the Permanent Judicial Commission for Children, Youth and Families;
- authorize the children's commission to develop and administer a program to provide grants for certain other initiatives;
- remove a prohibition against the use of state funds for grant purposes; and
- authorize the Texas Judicial Commission on Mental Health to develop and administer a grant program for specified initiatives.