

**SUBJECT:** Reorganization and administration of courts

**COMMITTEE:** Judiciary — committee substitute recommended

**VOTE:** 6 ayes — Hartnett, Hopson, R. Cook, Goolsby, Hughes, Krusee  
2 nays — Alonzo, Gonzales  
1 absent — Homer

**SENATE VOTE:** On final passage, May 2 — 24-6 (Ellis, Eltife, Jackson, Lucio, Shapleigh, Zaffirini)

**WITNESSES:** For — Lee Parsley, Texans for Lawsuit Reform; (*Registered, but did not testify*: Steve Bresnen, Texas Family Law Foundation; Robert Howden, Texas Association of Manufacturers)  
Against — None  
On — Jay Harvey, Texas Trial Lawyers Association; (*Registered, but did not testify*: Glen Karisch, Texas Academy of Probate Lawyers)

**BACKGROUND:** The current structure of the Texas court system was established in 1891 under Art. 5 of the Texas Constitution. Small and localized changes have taken place nearly every legislative session since then.

As of March 2006, there were 432 district courts serving one or more counties. District courts serve as the primary trial courts in the state. Most district courts handle both criminal and civil cases. In metropolitan areas, the state district courts tend to specialize in criminal, civil, or family law matters. In a few locations, courts that serve primarily a criminal function are designated as “criminal district courts.” A limited number of district courts in the state also are assigned jurisdiction over subject matter normally handled by county courts. The state pays the entire \$125,000 salary of state district court judges.

County courts at law are related to the constitutional county courts that sit in each county. These courts have original jurisdiction over certain civil actions, probate, certain misdemeanors, and appeals from lower courts.

The Legislature authorizes statutory county courts at law to relieve the constitutional county judge of some or all of the judicial duties of office. The county courts at law include 218 courts in 84 counties and 17 probate courts in 10 counties. The state pays a percentage of the salary of these judges.

Justice of the peace (JP) courts have original jurisdiction in criminal cases that are punishable by fine or where penalties do not include jail time. They also function as small claims courts and have jurisdiction over forcible entry and eviction cases. The Texas Constitution allows a county to have between one and eight JP courts depending on the county's population. As of March 2006, Texas had 825 JP courts. Counties pay the salary of JP court justices.

There are nine administrative judicial regions in Texas. The presiding judge of an administrative judicial region is appointed by the governor and is responsible for promulgating and implementing regional rules of administration, advising local judges on judicial management, recommending changes to the Supreme Court for the improvement of the judicial administration, and acting for local administrative judges in their absence.

**DIGEST:**

CSSB 1204 would restructure the Texas court system by:

- increasing the Supreme Court's oversight powers over the regional administrative judges;
- standardizing the trial courts and their jurisdictions;
- promulgating rules for small claims courts;
- providing additional resources to courts handling certain cases; and
- providing grants to courts for court enhancements.

**Supreme Court management of the regional administrative judges.**

CSSB 1204 would allow the chief justice of the Supreme Court, rather than the governor, to appoint the regional administrative judges and would allow the Supreme Court to remove a regional administrative judge for good cause by a majority vote of the court after notice and a hearing.

**Reorganization of trial courts and jurisdiction.** CSSB 1204 would provide changes for the operation and jurisdiction of district courts, would convert 45 county courts at law into district courts, and would change the jurisdiction of JP courts.

CSSB 1204 would allow a district court, statutory county court, county court, or justice court to transfer a case to any other of those courts in the county, regardless of whether the court to which the case would be transferred had jurisdiction of the matter and provided that all parties, including the receiving court, agreed to the transfer.

*District courts.* CSSB 1204 would allow an administrative judge to assign a new judge to a district court case when the sitting judge determined on the judge's own motion that the judge was disqualified or should be recused. In counties with one district court, the regional administrative judge would assign another district judge the region to sit in the case. In counties with more than one district judge, the local administrative judge would transfer the case to another district court in the county.

The bill would codify the options for exchanging cases and benches between two district courts in a county. These powers would include:

- transferring a case to another district court in the county;
- hearing a case pending in another district court in the county without transferring the case;
- sitting for another district court in the county in a case pending in that court;
- temporarily exchanging benches with a judge of another district court in the county;
- trying different cases in the same court at the same time; and
- allowing a judge to temporarily sit in a case for another judge who was sick or absent.

CSSB 1204 also would reorganize current statutes that provide rules for the transfer of a case to another court. These would include making all processes, writs, bonds, and other obligations issued by the transferring court returnable to the court to which the case was transferred as if originally issued by that court. Further, all obligees on bonds and recognizances taken in a court from which a case was transferred would be required to appear before the court to which the case was transferred.

The bill explicitly would allow district judges in counties with more than one district court to adopt rules governing the filing and numbering of cases, the assignment of cases for trial, and the distribution of work as they considered necessary or desirable for the orderly dispatch of the business of the courts.

CSSB 1204 would allow the local board of district judges in a county with more than one district court to designate a court to give preference to certain types of cases. Courts that would be designated to give preference to family law matters would have primary responsibility for litigation surrounding marriage, children, family violence, and the parent-child relationship (Titles 1, 2, 4, and 5 of the Family Code). Designating a court as giving preference to a certain types of cases would not limit the jurisdiction of that court or any other district court in the county.

The bill would standardize district court terms to commence on the first Mondays in January and July.

CSSB 1204 would equalize county-provided supplemental compensation to district judges and require the same amount of supplemental compensation be paid to a district judge serving on a county juvenile board as was provided to other judges serving on the juvenile board.

CSSB 1204 would provide that a district court would sit in the county seat for a jury trial in a civil case, but allow the commissioner's court of the county to authorize a district court to sit in any municipality within the county to hear non-jury trials in civil cases and to hear motions, arguments, and other matters not heard before a jury in a civil case. As part of this provision, the district clerk would be allowed temporarily to transfer all necessary books, minutes, records, and papers to a municipality while the court was in session there. The commissioners court also would be required to provide suitable facilities for the court if it authorized the court to sit in a municipality that was not the county seat.

The bill also would allow parties to agree to try a district court case with fewer than 12 jurors, unless a jury of six or 12 is required by Texas Constitution, Art. 5, sec. 13.

*County courts at law.* CSSB 1204 would amend Government Code, ch. 24 to reform into district courts 45 county courts at law that have civil jurisdiction in amounts in controversy exceeding \$100,000. Except as otherwise indicated, these conversions would take place on January 1, 2011:

- Calhoun — one county court at law would be converted into a district court;

- Cameron — three county courts at law would be converted to district courts;
- Cass — one county court at law would be converted to a district court;
- Dallas — five civil county courts at law would be converted to district courts, and all criminal county courts at law would remain county courts;
- Ellis — two county courts at law would be converted to district courts;
- El Paso — five civil county courts at law would be converted to district courts and two civil and all criminal county courts at law would remain as county courts;
- Galveston — three county courts would be converted to district courts;
- Gregg — two county courts at law would be converted to district courts;
- Hidalgo — five county courts at law would be converted to district courts;
- Hood — one county court at law would be converted to a district court;
- Kaufman — one county court at law would be converted to a district court, and the remaining county court at law's civil jurisdiction would be limited to amounts in controversy of \$100,000 or less;
- Kendall — one county court at law would be converted to a district court;
- Midland — two county courts at law would be converted to district courts;
- Nueces — five county courts at law would be converted to district courts;
- Panola — one county court at law would be converted to a district court;
- Parker — two county courts at law would be converted to district courts, one of which would be converted on January 1, 2009;
- Rockwall — one county court at law would be converted to a district court on January 1, 2009;
- Rusk — one county court at law would be converted to a district court; and
- Smith — three county courts at law would be converted to district courts.

To provide for these conversions, CSSB 1204 would make certain other statutory changes to ensure continuity, including:

- that county courts at law converted to district courts would have original jurisdiction in misdemeanor cases and appellate jurisdiction over criminal cases in which a justice court had original jurisdiction, except in Dallas County, which has criminal county courts at law to handle these cases;
- that county courts at law converted to district courts would have jurisdiction over probate and mental health cases (with some exceptions for counties that already have probate courts);
- that all grand and petit jurors selected in a county before a new district court was created would be considered to be selected for the new court;
- that if a county was moved to a new judicial district, all pending cases and proceedings would be transferred to the new judicial district;
- that the initial vacancy in a newly created district court would be filled by election and subsequent vacancies would be filled as provided by law;
- that, as an exception to the Election Code, a judge in a county court at law converted to a district court would be allowed to run for election as the current judge of that district court; and
- that judges of county courts at law converted to district courts could choose to continue to participate in the county retirement system or to become a member of the state retirement system for state judges.

CSSB 1204 also would grant criminal county courts at law in Harris County concurrent jurisdiction with county civil courts in that county to hear appeals of the suspension of driver's licenses and original proceedings regarding occupational driver's licenses as well as existing appellate jurisdiction in appeals of criminal cases from JP and municipal courts in the county.

*JP Courts.* The bill would increase the maximum amount in controversy for general civil jurisdiction from \$5,000 to \$10,000, exclusive of interest and costs of court, and would allow for an appeal of commercial eviction cases to the intermediate appellate court.

**Small claims courts.** CSSB 1204 would create a uniform system for small claims to be adjudicated by justice of the peace courts. The bill

would eliminate the current designation of some JP courts as “small claims courts” and would direct all JP courts to adjudicate small claims.

CSSB 1204 would direct the Supreme Court to define “small claims” and establish rules and procedures for the fair, expeditious, and inexpensive resolution of small civil cases with the advice of a committee of JPs and public members.

CSSB 1204 would transfer all pending small claims cases to a JP court in the same county immediately before the date the small claims court was abolished.

**Additional resources for handling certain complex cases.** CSSB 1204 would establish a committee, chaired by the chief justice of the Supreme Court and the nine presiding judges of the administrative judicial regions, to allocate additional resources to courts presiding over certain complex cases. The additional resources could take the form of:

- the assignment of an active or retired judge, subject to the consent of the judge presiding over the case;
- additional legal, administrative, or clerical personnel;
- computer hardware or software, including specially designed courtroom presentation hardware or software to facilitate presentation of the evidence;
- specialized continuing legal education;
- the assignment of a special master;
- special accommodations or furnishings for the parties;
- other items determined necessary to try the case; or
- any other resources the committee considered appropriate.

The judicial committee for additional resources would not provide additional resources for more than 10 cases each year.

The additional resources would be awarded based on criteria adopted by the Supreme Court and would include the following considerations:

- whether there likely would be a large number of separately represented parties;
- if coordination with related actions pending in other courts would be necessary;

- whether it was likely that there would be numerous pretrial motions or novel legal issues to resolve;
- if there likely would be a large number of witnesses or a substantial amount of documentary evidence;
- whether there likely would be a substantial post-judgment judicial supervision;
- whether the trial would last more than four weeks; and
- whether the case would place a substantial burden on the trial court's docket and the resources available to the trial court to hear it.

CSSB 1204 would establish procedures for a court to request additional resources from the administrative regional judge after determining, on the motion of a party or its own motion, that under the rules adopted by the Supreme Court a case required additional resources to ensure efficient judicial management. If the administrative regional judge found the request to be appropriate, the request would be forwarded to the additional resources committee.

Additional resources would not be allocated to a case that had been transferred to the judicial panel on multidistrict litigation or in which judicial review was sought under the federal Administrative Procedure Act. The additional resources would originate from state funds and would not be charged against any party in the case. A request for additional resources would not stay the proceedings of a case.

**Development grants.** CSSB 1204 would direct certain state agencies to develop guidelines and award grants to enhance the court system. The Task Force on Indigent Defense would develop and administer a program to provide grants to counties for enhancing the local court system. These grants would not be case specific but would be for the improvement of the courts. CSSB 1204 would require grant applicants to apply in accordance with procedures established by the task force, use the funds to implement initiatives that would enhance the county's court system, and match the amount of the grant with local funds. The Supreme Court would determine whether to award a grant to a county that met the eligibility requirements. The comptroller would distribute the grant money and monitor the county's use of the grant money.

CSSB 1204 also would direct the Supreme Court to develop and administer a program for awarding grants to counties for programs to alleviate backlogs of child protection cases.

The bill would take effect September 1, 2007.

**SUPPORTERS  
SAY:**

CSSB 1204 would bring simplicity and rationality to the legal process by reforming the organization and administration of the court system. Ever since the current court system was established in 1891, it has been amended and restructured on a piecemeal and ad hoc basis resulting in an outdated system of irregularities, inconsistencies, and overlapping jurisdictions.

The bill would grant additional administrative powers to the Supreme Court and the chief justice. These would include the power to appoint regional administrative judges and to remove these judges for good cause on a majority vote of the court after a notice and a hearing. Because these judges are acting in an administrative capacity, it would be appropriate to allow the Supreme Court, which already has extensive powers to set administrative rules for the state's courts, to oversee who executes these administrative rules.

County courts at law were intended to provide quick resolution to simple cases. Overlapping subject matter jurisdictions have prevented many county courts at law from carrying out this function. The bill would restore the original functions to county courts at law by converting 45 of them into district courts and limiting the rest to no more than \$100,000 in controversy in civil cases.

The judges of county courts at law would choose between the county's or the state's retirement systems. Each judge would make a comparison of the county's and the state's retirement plans, considering their years of service and amounts already paid into the system, and determine under which system they would do better. Judges who switched to the state's retirement system would be allowed to count their years as county court at law judges toward vesting in the state's retirement system. In addition, any contributions placed with the county still would be paid out to the judge upon retirement. CSSB 1204 is designed so that judges would come out ahead financially.

The bill also would create mechanisms to strengthen local control of courts. These would include allowing the judges in a county to designate preference to specific kinds of case law to certain courts. This reform would allow judges to build specializations that also would improve the efficiency of the other district courts countywide. In addition, district court judges would receive new powers to exchange cases and benches. These new efficiencies would speed up dockets. CSSB 1204 would create grants to courts for additional resources in certain cases, and funding for improvements in a county's court system and in child protection cases.

CSSB 1204 would increase the jurisdiction amounts in controversy that could be adjudicated by JP courts to reflect the changing nature of litigation. As more cases are filed each year, one method of providing relief to district courts and county courts at law is to allow JP courts to adjudicate cases with higher amounts in controversy. This would allow district and county courts at law to give more attention to higher value and often more complex cases.

CSSB 1204 represents an investment the court system of Texas. As the population and economy of Texas grows, so will its needs for an efficient and rational system of courts. The bill's reforms and investments are geared towards creating more efficient and uniform justice across the state.

**OPPONENTS  
SAY:**

CSSB 1204 would attempt to fix what is not broken. The court system in each county is a reflection of carefully worked out compromises between the local judiciary, the commissioners court, and the Legislature to address local needs for civil and criminal courts. The number and kinds of courts and the jurisdiction of each reflects the individual needs of each locality. Streamlining these courts, for the sake of streamlining, would disrupt this local balance. Texas is too diverse a state to demand uniformity of the court system, especially when there never can be uniformity of local needs for types and kinds of courts. Any problems should be addressed on a local basis, as Texas historically has done.

The bill further would interfere with local interests by changing the jobs of county court at law judges. These judges specifically sought to preside in county courts at law. Becoming district court judges would mean different jobs for many of them because their courts would have expanded jurisdictions and thus would hear new kinds of cases.

CSSB 1204 would increase the subject matter jurisdiction of JP courts to include amounts in controversy of up to \$10,000. Increasing the dollar amount would allow for more complex cases that could require additional legal and factual analysis, even though most justices of the peace are not attorneys. JP courts traditionally have had relatively limited jurisdictions in order to ensure that they only disposed of relatively small and simple cases.

CSSB 1204 would allow trial courts in a county to transfer cases between each other on agreement of the parties and the courts. Theoretically, this broad authority could result in a JP court hearing a murder trial.

NOTES:

The committee substitute differs from the Senate-passed version of SB 1204 in that it would remove the following district courts from the list of county courts that would have had jurisdiction over probate matters and proceedings under the Health and Safety Code, Title 7, subtitle C:

- the 469th, 470th, and 471st (Galveston County); and
- the 474th, 475th, 476th, 477th, and 478th (Hidalgo County).

According to the Legislative Budget Board, the bill would create a net cost to the state of \$132,631 in general revenue-related funds in fiscal 2008-09. This would result from salary and benefits paid to district judges, minus the cost savings gained from abolishing county courts at law. In fiscal 2011, the remaining 43 courts would open, resulting in a net cost of \$3.1 million in that year and \$4.6 million in fiscal 2012.