

SUBJECT: Creating certain court security measures, establishing a filing fee

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Smithee, Farrar, Gutierrez, Laubenberg, Murr, Neave, Rinaldi, Schofield

0 nays

1 absent — Hernandez

SENATE VOTE: On final passage, April 4 — 26-5 (Burton, Hall, Huffines, Nichols, V. Taylor)

WITNESSES: *On House companion bill, HB 1487:*
For — Bill Gravell and Bobby Gutierrez, Justices of the Peace and Constables Association; Richard Carter; Randy Harris; Julie Kocurek; (*Registered, but did not testify:* Carlos Lopez and Jama Pantel, Justices of the Peace and Constables Association; Amy Bresnen, Texas Family Law Foundation; Randall Chapman, Texas Legal Services Center; John (Lin) McCraw, Texas Trial Lawyers Association)

Against — (*Registered, but did not testify:* Ashley Nystrom, City of Waco)

On — Shannon Edmonds, Texas District and County Attorneys Association; Nathan Hecht and David Slayton, Texas Judicial Council; Allen Place, Texas Land Title Association; (*Registered, but did not testify:* Drue Farmer, Office of Court Administration; Gretchen Grigsby, Texas Commission on Law Enforcement)

DIGEST: CSSB 42 would establish a court security committee, a civil action filing fee, and a court security training program, and would make certain information classified or exempt from the Public Information Act.

Court security committee. The bill would require a presiding or

municipal judge to establish a court security committee composed of:

- the presiding or municipal judge, or the judge's designee;
- a representative of the law enforcement agency providing primary security for the court;
- a representative of the municipality; and
- any other person necessary to assist the committee.

The committee would establish the policies and procedures necessary to provide adequate security to the municipal courts served by the judge. The committee could make recommendations for uses of resources and expenditures for courthouse security to the municipality, but could not assign those resources or expenditures.

Additional filing fee. In addition to other fees, the clerk of a district court, county court, statutory county court, statutory probate court, or justice court would collect a \$5 fee on the filing of any civil action or proceeding requiring a filing fee. A court could waive payment of this fee for an indigent individual.

The comptroller would deposit fees to the credit of the judicial and court personnel training fund. Money spent from these fees would be subject to state audit.

Court security certification. The bill would require a constable, sheriff, sheriff's deputy, municipal peace officer, or other person to hold a court security certification to serve as a court security officer for an appellate, district, statutory county, county, municipal, or justice court.

A court security officer would not be required to hold a certification before the first anniversary of the date the officer began providing security for the court.

Court security training program. The Texas Commission on Law Enforcement would be required to consult with the Office of Court Administration (OCA) of the Texas Judicial System to develop a model

court security curriculum for court security officers. The commission would issue a certificate to each court security officer who completed the training program.

The Legislature would be required to appropriate funds from the judicial and court personnel training fund to provide for court security training programs for individuals responsible for providing court security. The court of criminal appeals also would be required to grant legal funds to statewide professional associations and other entities that trained individuals providing court security.

Judicial security division. OCA would be required to establish a judicial security division to provide guidance to state court personnel on improving security for each court. The OCA would appoint a director of security and emergency preparedness to oversee the division.

The judicial security division would serve as a central resource for information on best practices for court security, provide an expert opinion on technical aspects of security, and provide training on recent court security improvements.

The bill would require the director of the division to develop a procedure to regularly notify county registrars, the Department of Public Safety, the Texas Ethics Commission, and any other state agency of the judges, judges' spouses, and related family members whose personal information would have to be kept from public records.

Public records exemptions. The bill would exempt certain information from the Public Information Act, including the home address, phone number, emergency contact information, or Social Security number of a current or former federal or state judge, a judge's spouse, or a current or former district attorney, criminal district attorney, or county attorney whose jurisdiction included criminal law or child protective services.

The personally identifying information of a federal judge, state judge, or judge's spouse also would be confidential or omitted from:

- a financial statement submitted by the Texas Ethics Commission, on receiving notice from OCA of a judge's qualification;
- a voter registration form;
- a deed or deed of trust, on receiving a written request;
- a tax appraisal record; and
- a driver's license, under certain DPS procedures.

A registered district voter could request that the registrar certify the judge lives in the district, but the registrar could not release the address of the judge.

Policy deadlines and effective date. Applicable state agencies, county clerks, registrars, and other county officials would be required to establish policies and procedures to comply with this bill no later than January 1, 2018.

As soon as practicable after the effective date of this bill, OCA would have to establish the judicial security division and each judge would have to establish a court security committee.

A person serving as a court security officer on the effective date of this bill would not be required to receive a court security certification before September 1, 2019.

The bill would take effect September 1, 2017.

**SUPPORTERS
SAY:**

CSSB 42 would implement necessary court safety practices and create a funding mechanism for a security training program. An Office of Court Administration survey revealed that nearly two-thirds of judges in the state do not know of, or do not have, a court security plan. Considering recent violent incidents, such as the assassination attempt against a Travis County district court judge at her home in 2015, court security is imperative to protect judges, employees, and citizens.

The bill also would make the personally identifying information of judges

and judges' spouses confidential on certain tax, voter registration, deed, and other forms, helping to ensure the safety of these individuals.

The bill would work with existing staff and resources, and would add only one new statewide position: the director of security and emergency preparedness. Further, while law enforcement officers do undergo extensive training, it is unrelated to providing security specifically in a courthouse.

The \$5 filing fee for civil cases would pay for court security training and ensure that the weight of this requirement did not fall entirely on the local community. The fee also could be waived if the person was indigent or cannot afford it.

OPPONENTS
SAY:

CSSB 42 would create unnecessary new requirements and programs for court security, which could be achieved with existing infrastructure. There is no need to create another training program for law enforcement officers who already attend extensive training programs.

The bill also would impose a burdensome fee on every civil action filed. This fee would create another barrier for individuals who wish to bring a suit to court.

NOTES:

Fiscal note. According to the Legislative Budget Board's fiscal note, CSSB 42 would have a general revenue related cost of \$242,196 in fiscal 2018-19 to pay for salary and other expenses associated with the new director of security and emergency preparedness. The civil filing fee in the bill would result in an estimated gain of \$10 million to the general revenue dedicated Judicial and Court Personnel Training Fund 540 in fiscal 2018-19. The bill would make no appropriation, but could provide the legal basis for an appropriation of funds to implement its provisions.

According to the Office of Court Administration, local governments might incur costs associated with court security requirements of the bill. The potential costs are unknown and could vary among jurisdictions.

Comparison. CSSB 42 differs from the Senate-passed version of the bill in that the committee substitute would include the judge of a statutory probate court in the definition of "state judge" in provisions of the Public Information Act and the Election Code.

Companion. A companion bill, HB 1487 by Smithee, was left pending in the House Judiciary and Civil Jurisprudence Committee following a public hearing on March 14.