

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1924
By: Nelson
Jurisprudence
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Committee Report (Substituted)

DIGEST

Currently, there are no municipal courts of record in the City of Coppell. Texas law, absence of local statute providing for a municipal court of record, requires appeals from a municipal court to be done by a trial de novo or a new trial. A local statute providing for a municipal court of record, however, may allow the appeal to be based on the recorded errors made during the trial in lieu of a new trial. This bill would authorize the City of Coppell to create municipal courts of record, which do not require trial de novo on appeal.

PURPOSE

As proposed, C.S.S.B. 400 creates municipal courts of record in the City of Coppell.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 30, Government Code, by adding Subchapter LL, as follows:

SUBCHAPTER LL. COPPELL

Sec. 30.01441. APPLICATION. Provides that this subchapter applies to the City of Coppell (city).

Sec. 30.01442. CREATION. Authorizes the governing body of the city to create and determine a number of municipal courts of record, by ordinance. Authorize the governing body by ordinance to determine the number of municipal courts of record. Requires an ordinance establishing municipal courts to give each court number a numerical designation, beginning with "Municipal Court of Record No. 1." Requires the governing body of the city to determine the method of selecting municipal judges by using certain procedures. Prohibits a municipal court of record from existing concurrently with a municipal court that is not of record. Provides that a municipal court of record has no terms and is authorized to sit at any time.

Sec. 30.01443. JURISDICTION. Sets forth the jurisdiction of a municipal court of record.

Sec. 30.01444. WRIT POWER. Authorizes a judge of a municipal court to grant certain writs and to issue administrative search warrants.

Sec. 30.01445. APPLICATION OF OTHER LAWS. Provides that general law regarding justice courts on matters not covered by the law regarding municipal courts, and any charter provision or ordinance of the city relating to the municipal court apply to a municipal court of record, unless the law, charter provision, or ordinance is in conflict or inconsistent with this chapter.

Sec. 30.01446. JUDGE. Sets forth requirements for municipal judges.

Sec. 30.01447. VACANCIES; TEMPORARY REPLACEMENT; REMOVAL. Sets forth requirements for a vacancy, temporary replacement, and removal of a municipal judge.

Sec. 30.01448. CLERK; OTHER PERSONNEL. Requires the city manager to appoint a clerk. Sets forth requirements for recording a proceeding. Sets forth the duties of the clerk and the duties of the clerk's deputies.

Sec. 30.01449. COURT REPORTER. Requires the city to provide a court reporter. Requires the clerk to appoint the court reporter. Authorizes the court reporter to use certain methods of recording. Requires the court reporter to certify the official record.

Sec. 30.01450. PROSECUTIONS BY CITY ATTORNEY. Requires all prosecutions in the municipal court of record to be conducted by the city attorney or the city attorney's designee.

Sec. 30.01451. COMPLAINT; PLEADING. Sets forth the requirements of complaints and pleadings.

Sec. 30.01452. JURY. Provides that a defendant in a municipal court of record is entitled to be tried by a jury of six persons, unless that right is waived. Provides that a juror who serves is to meet the qualifications required by jurors. Provides for compensation to jurors. Requires the clerk to establish a fair and objective juror selection process.

Sec. 30.01453. COURT RULES. Provides that the Code of Criminal Procedure as applied to county courts applies to municipal courts of record. Provides that bonds are to be payable to the state. Authorizes a peace officer to serve process issued by a municipal court of record. Provides that fines and fees paid by the defendant are for the use and benefit of the city. Authorizes the court to require the defendant to remain in custody until payment of fines and fees and shall order that execution issue to collect fines and penalties. Requires fines, fees, and bonds to be paid to the municipal clerk and deposited into the city general fund.

Sec. 30.01454. APPEAL. Sets forth requirements and procedures of an appeal from a municipal court of record.

Sec. 30.01455. APPEAL BOND. Requires the defendant to file an appeal bond with the municipal court of record, if the defendant is not in custody. Sets forth requirements and procedures of the appeal bond.

Sec. 30.01456. RECORD ON APPEAL. Sets forth the requirements and procedures of the record.

Sec. 30.01457. TRANSCRIPT. Sets forth requirements and procedures of the transcript. Requires the defendant to file a copy of written instructions with the clerk and deliver a copy to the city attorney. Requires the city attorney to file written instructions to the clerk if additional portions of the trial proceedings in the transcript are to be included.

Sec. 30.01458. STATEMENTS OF FACTS. Sets forth the required contents of a statement of facts. Requires the court reporter to transcribe any portion of the recorded proceedings at the request of the parties or judge. Requires the defendant to pay for the transcription, unless the defendant is unable to pay, in which case the city is required to pay.

Sec. 30.01459. TRANSFER OF RECORD. Sets forth requirements for transferring the record to the appellate court.

Sec. 30.01460. BRIEF ON APPEAL. Sets forth requirements and deadlines of a brief on appeal.

Sec. 30.01461. PROCEDURE; DISPOSITION ON APPEAL. Sets forth the procedures in disposing an appeal. Authorizes the appellate court to make certain decisions according to law and the nature of the case. Requires an appellate court to presume certain matters unless

the matter was made an issue or appears to the contrary from the transcript.

Sec. 30.01462. CERTIFICATION OF APPELLATE PROCEEDINGS. Sets forth the duties of the clerk of the court when the judgment of the appellate court becomes final. Provides that if the municipal court of record judgment is affirmed, further action to enforce the judgment is not necessary except in certain matters.

Sec. 30.01463. EFFECT OR ORDER OF NEW TRIAL. Provides that if an appellate court awards a new trial to a defendant, the case stands as if a new trial had been granted by the municipal court.

Sec. 30.01464. APPEAL TO COURT OF APPEALS. Sets forth requirements for appeal to the court of appeals.

SECTION 2. Emergency clause.

Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 30.01454, Government Code, to require the appellate court to determine each appeal on the basis of errors set forth in the appellant's, rather than the defendant's motion.

Amends Section 30.01454, Government Code, to provide that if an appellant is the defendant and cannot pay for the record, the court reporter is to prepare the record without charge.

Amends Section 30.01458, Government Code, to make conforming changes.