

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1435
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Jurisprudence
5/14/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law imposes various notice and report requirements on court and county clerks. In some cases clerks are unable to comply with such requirements because they do not have access to the necessary information. C.S.H.B. 1435 seeks to address this situation by revising the duties of court and county clerks with respect to certain notices, reports, and descriptions.

C.S.H.B. 1435 amends current law relating to certain notices, reports, and descriptions provided by or filed with court and county clerks.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 46C.003, Code of Criminal Procedure, to authorize a victim assistance coordinator, on request, to provide a clerk of the court with information or other assistance necessary for the clerk to comply with this article.

SECTION 2. Amends Section 58.110(c), Family Code, to delete existing text providing that a clerk of the court who violates this subsection commits an offense and that an offense under this subsection is a Class C misdemeanor.

SECTION 3. Amends Section 85.042(a-1), Family Code, to provide that this subsection applies only if the respondent, at the time of issuance of an original or modified protective order under this subtitle, is a member of the state military forces or is serving in the armed forces of the United States in an active-duty status and the applicant or the applicant's attorney provides to the clerk of the court the mailing address of the staff judge advocate or provost marshal, as applicable.

SECTION 4. Amends Sections 402.010, Government Code, by amending Subsections (a) and (c) and adding Subsection (a-1), as follows:

(a) Requires a party to file the form required by Subsection (a-1) in an action in which the party to the litigation files a petition, motion, or other pleading challenging the constitutionality of a statute of this state. Requires the court, if the attorney general is not a party to or counsel involved in the litigation, to serve notice of the constitutional challenge, rather than the constitutional question, and a copy of the petition, motion, or other pleading that raises the challenge on the attorney general either by certified or registered mail or electronically to an e-mail address designated by the attorney general for the purposes of this section (Legal Challenges to Constitutionality of State Statutes). Deletes existing text requiring that notice under this section identify the statute in question, state the basis for the challenge, and specify the petition, motion, or other pleading that raises the challenge.

(a-1) Requires the Office of Court Administration of the Texas Judicial System to adopt the form that a party challenging the constitutionality of a statute of this state is required

to file with the court in which the action is pending indicating which pleading should be served on the attorney general in accordance with this section.

(c) Provides that a party's failure to file as required by Subsection (a) or a court's failure to serve notice as required by Subsection (a), rather than a court's failure to file or serve notice as required by Subsection (a), does not deprive the court of jurisdiction or forfeit an otherwise timely filed claim or defense based on the challenge to the constitutionality of a statute of this state.

SECTION 5. Amends Sections 363.064(b) and (c), Health and Safety Code, as follows:

(b) Requires that the notice to the county clerk include a description of the exact boundaries of the former landfill unit or, if the exact boundaries are not known, the best approximation of each unit's boundaries; a legal description of the parcel or parcels of land in which the former landfill unit is located; notice of the former landfill unit's former use; and notice of the restrictions on the land imposed by this subchapter (Regional and Local Solid Waste Management Plans). Deletes existing text providing that the notice requirements of this subsection do not apply if the exact boundaries of a former landfill unit are not known.

(c) Requires the county clerk to record the descriptions and notices submitted by a council of governments under Subsection (b). Authorizes the county clerk to prescribe the method of arranging and indexing the descriptions and notices. Requires the county clerk to make the descriptions and notices, rather than the records, available for public inspection. Deletes existing text requiring the county clerk to record certain information on the deed records of land formerly used as a municipal solid waste landfill.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Provides that the changes in law made by this Act apply only to a notice, report, or description provided or filed on or after the effective date of this Act.

SECTION 8. Effective date: September 1, 2013.