

BILL ANALYSIS

Senate Research Center

S.B. 42
By: Zaffirini
State Affairs
6/20/2017
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The assassination attempt against Travis County District Judge Julie Kocurek in the fall of 2015 underscored the urgent need to evaluate the state's court security policies. Shortly after this despicable incident, the Texas Office of Court Administration (OCA) sent a court security survey to judges in the state. This survey revealed that nearly two-thirds of judges do not know of, or do not have, a court security plan; more than 30 percent of judges were aware of a security incident in the year prior to completing the survey; nearly two-thirds of judges report that no court security training has been provided in their courthouse; and nearly two-thirds of judges are unaware of existing statutory security incident reporting requirements. Accordingly, the Texas Judicial Council established a Court Security Committee (CSC). This committee found serious deficiencies in the state's security posture, including a lack of court security best practices, training, and funding.

S.B. 42, named the Judge Julie Kocurek Judicial and Courthouse Security Act of 2017, implements recommendations promulgated by the CSC, including creating the position of Director of Security and Emergency Preparedness at OCA; establishing local court security committees; requiring court security training of judges and court personnel; adding a \$5 filing fee in civil cases to pay for court security training of officers and judges at the request of OCA and to preclude an unfunded mandate; and facilitating removal of judges' personal information from public documents. These changes would improve court safety for judges, employees, and citizens in the state of Texas. (Original Author's / Sponsor's Statement of Intent)

S.B. 42 amends current law relating to the security of courts and judges in the state and establishes a fee.

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. Authorizes this Act to be cited as the Judge Julie Kocurek Judicial and Courthouse Security Act of 2017.

SECTION 2. Amends Article 102.017(f), Code of Criminal Procedure, as follows:

(f) Requires the sheriff, constable, or other law enforcement agency or entity that provides security for a court, rather than requires a local administrative judge, to provide to the Office of Court Administration of the Texas Judicial System (OCA) a written report regarding any security incident involving court security that occurs in or around a building housing a court for which the sheriff, constable, agency, or entity provides security, rather than for which the judge serves as local administrative judge, not later than the third business day after the date the incident occurred. Requires that a copy of the report be provided to the presiding judge of the court in which the incident occurred. Provides that the report is confidential and exempt from disclosure under Chapter 552 (Public Information), Government Code.

SECTION 3. Amends Subchapter A, Chapter 29, Government Code, by adding Section 29.014, as follows:

Sec. 29.014. COURT SECURITY COMMITTEE. (a) Requires the presiding or municipal judge, as applicable, to establish a court security committee (CSC). Sets forth the required composition of the CSC.

(b) Provides that the presiding or municipal judge, or the judge's designee, serves as presiding officer of the CSC.

(c) Requires the CSC to establish the policies and procedures necessary to provide adequate security to the municipal courts served by the presiding or municipal judge, as applicable.

(d) Authorizes a CSC to recommend to the municipality the uses of resources and expenditures of money for courthouse security, but prohibits the CSC from directing the assignment of those resources or the expenditure of those funds.

SECTION 4. Amends Section 30.00007, Government Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Requires the presiding judge, among certain other duties, to establish a CSC to adopt security policies and procedures for the courts served by the presiding judge. Sets forth the required composition of the CSC.

(c) Authorizes a CSC to recommend to the governing body the uses of resources and expenditures of money for courthouse security, but prohibits the CSC from directing the assignment of those resources or the expenditure of those funds.

SECTION 5. Amends Chapter 51, Government Code, by adding Subchapter N, as follows:

SUBCHAPTER N. ADDITIONAL FILING FEE FOR JUDICIAL AND COURT PERSONNEL TRAINING

Sec. 51.971. JUDICIAL AND COURT PERSONNEL TRAINING FEE. (a) Requires the clerk of certain courts, in addition to other fees authorized or required by law, to collect a \$5 fee on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third party action requiring a filing fee to be used as provided under Section 56.003 (Use of Funds).

(b) Authorizes a court to waive payment of a fee due for an individual the court determines is indigent.

(c) Requires that fees due be collected in the same manner as other fees, fines, or costs in the case.

(d) Requires the clerk of certain courts to deposit the court costs and collected fees in the appropriate local treasury and remit the court costs and fees to the Texas comptroller of public accounts (comptroller) in the manner provided under Subchapter B (Reporting, Collection, and Remittance of Fees), Chapter 133 (Criminal and Civil Fees Payable to the Comptroller), Local Government Code.

(e) Requires the comptroller to deposit the received fees to the credit of the judicial and court personnel training fund established under Section 56.001.

(f) Authorizes the comptroller to audit the records of a county related to collected costs and fees.

(g) Provides that money spent from collected costs and fees is subject to audit by the state auditor.

SECTION 6. Amends Section 56.003, Government Code, by adding Subsection (h), to require that the court of criminal appeals grant legal funds to statewide professional associations and other entities that provide training to individuals responsible for providing court security.

SECTION 7. Amends Section 56.004(b), Government Code, to require the legislature to appropriate funds from the judicial and court personnel training fund to the court of criminal appeals to provide for, among certain programs, court security training programs for individuals responsible for providing court security.

SECTION 8. Amends Subchapter B, Chapter 72, Government Code, by adding Sections 72.015 and 72.016, as follows:

Sec. 72.015. JUDICIAL SECURITY DIVISION. (a) Requires OCA to establish a judicial security division to provide guidance to state court personnel on improving security for each court.

(b) Requires OCA to appoint a director of security and emergency preparedness to oversee the judicial security division.

(c) Requires the judicial security division to serve as a central resource for information on local and national best practices for court security and the safety of court personnel, to provide an expert opinion on the technical aspects of court security, and to keep abreast of and provide training on recent court security improvements.

Sec. 72.016. NOTIFICATION PROCEDURE FOR JUDICIAL PRIVACY. Requires the administrative director of the courts to develop a procedure to regularly notify county registrars, the Texas Department of Public Safety (DPS), the Texas Ethics Commission (TEC), and any other state agency OCA determines should be notified of the judges, judges' spouses, and related family members whose personal information must be kept from public records, as provided under Sections 552.117 (Exception: Confidentiality of Certain Addresses, Telephone Numbers, Social Security Numbers, and Personal Family Information) and 572.035 of this code, Sections 13.0021 (Additional Registration Information from Certain Federal and State Judges) and 15.0215, Election Code, and Section 521.121 (General Information on Driver's License), Transportation Code.

SECTION 9. Amends Section 74.092, Government Code, as follows:

(a) Creates this subsection from existing text. Includes in certain required duties of a local administrative judge the establishment of a CSC to adopt security policies and procedures for the courts served by the local administrative district judge, and sets forth the composition of the CSC.

(b) Authorizes a CSC to recommend to the county commissioners court the uses of resources and expenditures of money for courthouse security, but prohibits a CSC from directing the assignment of those resources or the expenditure of those funds.

SECTION 10. Amends Subchapter D, Chapter 101, Government Code, by adding Section 101.06111, as follows:

Sec. 101.06111. ADDITIONAL DISTRICT COURT FEES: GOVERNMENT CODE. Requires the clerk of a district court to collect an additional filing fee of \$5 under Section 51.971 in civil cases to fund judicial and court personnel training.

SECTION 11. Amends Subchapter E, Chapter 101, Government Code, by adding Section 101.08111, as follows:

Sec. 101.08111. ADDITIONAL STATUTORY COUNTY COURT FEES: GOVERNMENT CODE. Requires the clerk of a statutory county court to collect an additional filing fee of \$5 under Section 51.971 in civil cases to fund judicial and court personnel training.

SECTION 12. Amends Subchapter F, Chapter 101, Government Code, by adding Section 101.10111, as follows:

Sec. 101.10111. ADDITIONAL STATUTORY PROBATE COURT FEES: GOVERNMENT CODE. Requires the clerk of a statutory probate court to collect an additional filing fee of \$5 under Section 51.971 in civil cases to fund judicial and court personnel training.

SECTION 13. Amends Subchapter G, Chapter 101, Government Code, by adding Section 101.12121, as follows:

Sec. 101.12121. ADDITIONAL COUNTY COURT FEES: GOVERNMENT CODE. Requires the clerk of a county court to collect an additional filing fee of \$5 under Section 51.971 in civil cases to fund judicial and court personnel training.

SECTION 14. Amends Subchapter H, Chapter 101, Government Code, by adding Section 101.1411, as follows:

Sec. 101.1411. ADDITIONAL JUSTICE COURT FEES: GOVERNMENT CODE. Requires the clerk of a justice court to collect an additional filing fee of \$5 under Section 51.971 in civil cases to fund judicial and court personnel training.

SECTION 15. Amends Subtitle L, Title 2, Government Code, by adding Chapter 158, as follows:

CHAPTER 158. COURT SECURITY OFFICERS

Sec. 158.001. DEFINITION. Defines "court security officer."

Sec. 158.002. COURT SECURITY CERTIFICATION. (a) Prohibits a person, except as provided by Subsection (b), from serving as a court security officer for an appellate, district, statutory county, county, municipal, or justice court in this state unless the person holds a court security certification (certification) issued by a training program approved by the Texas Commission on Law Enforcement (TCOLE).

(b) Provides that a court security officer is not required to hold certification to provide security to a court described by Subsection (a) before the first anniversary of the date the officer begins providing security for the court.

Sec. 158.003. VERIFICATION. Requires the sheriff, constable, law enforcement agency, or other entity that provides security for a court to verify that each court security officer holds the required certification.

SECTION 16. Amends Subchapter D, Chapter 411, Government Code, by adding Section 411.0485, as follows:

Sec. 411.0485. PROTECTION FOR JUDGES. Authorizes any commissioned peace officer in this state, including a commissioned officer of DPS, to provide personal security to a state judge at any location in this state, regardless of the location of the law enforcement agency or department that employs or commissions the peace officer.

SECTION 17. Amends Section 552.117(a), Government Code, to include a current or former federal judge or state judge, as those terms are defined by Section 13.0021(a), Election Code, or a spouse of a current or former federal judge or state judge or a current or former district attorney, criminal district attorney, or county attorney whose jurisdiction includes any criminal

law or child protective services matter, as persons whose information is excepted from the requirements of Section 552.021 (Availability of Public Information) if it is information that relates to certain personal information.

SECTION 18. Amends Section 572.002, Government Code, by adding Subdivision (11-a), to define "state judge."

SECTION 19. Amends Subchapter B, Chapter 572, Government Code, by adding Section 572.035, as follows:

Sec. 572.035. REMOVAL OF PERSONAL INFORMATION FOR FEDERAL JUDGES, STATE JUDGES, AND SPOUSES. Requires TEC, on receiving notice from OCA of the judge's qualification for the judge's office, to remove or redact from any financial statement, or information derived from a financial statement, that is available to the public the residence address of a federal judge, a state judge, or the spouse of a federal or state judge.

SECTION 20. Amends Section 13.0021(a)(2), Election Code, to redefine "state judge."

SECTION 21. Amends Section 13.0021(b), Election Code, as follows:

(b) Requires the registrar of the county, if the registration applicant is a federal judge, a state judge, or the spouse of a state judge or federal judge, to omit the applicant's residence address from the registration list, rather than requiring the applicant, if the registration applicant is a federal judge, a state judge, or the spouse of a state judge or a federal judge who seeks to have the applicant's residence address omitted from the registration list, to include with the application an affidavit stating that the applicant is a federal judge or state judge or the spouse of a federal judge or state judge.

SECTION 22. Amends Section 15.0215, Election Code, as follows:

Sec. 15.0215. New heading: OMISSION OF ADDRESS FOR FEDERAL JUDGE OR STATE JUDGE AND SPOUSE. (a) Defines "federal judge" and "state judge."

(b) Requires the registrar of the county in which the judge resides, on receiving notice from OCA of the person's qualification for office as a federal judge or state judge and of the name of the judge's spouse, if applicable, to omit from the registration list the residence address of the judge and the spouse of the judge, rather than authorizes a federal judge, a state judge, or the spouse of a federal judge or state judge who is registered to vote, to at any time submit to the registrar of the county in which the judge resides an affidavit stating that the voter is a federal judge or state judge or the spouse of a federal judge or state judge.

(c) Authorizes a registered district voter who wishes to verify that an elected judge whose personal identifying information is confidential under Section 552.1175, Government Code, resides in the district to request in writing that the registrar certify the judge lives in the district. Requires the registrar to exercise due diligence in determining the residence of the judge and respond to the voter in writing not later than a certain date. Prohibits the registrar from releasing the address of the judge. Provides that the registrar is not required to certify the residence of the same judge more than once in a calendar year, but is required to provide copies of the certification to subsequent requestors.

SECTION 23. Amends Section 133.058(d), Local Government Code, to prohibit a county from retaining a service fee on the collection of a fee under certain sections, including, among others, under Section 51.971, Government Code.

SECTION 24. Amends Subchapter F, Chapter 1701, Occupations Code, by adding Section 1701.267, as follows:

Sec. 1701.267. TRAINING PROGRAM FOR COURT SECURITY OFFICERS. (a) Requires TCOLE, in consultation with OCA, to develop a model court security curriculum for court security officers, as required by Chapter 158, Government Code, and provide the curriculum to any training program TCOLE approves to provide training to court security officers.

(b) Requires TCOLE to issue a certificate to each court security officer who completes the training program.

SECTION 25. Amends Section 11.008, Property Code, by adding Subsection (j), to require the county clerk to omit or redact, on receipt of a written request from certain individuals, from a described instrument that is available in an online database made public by the county clerk, or by a provider with which the county commissioners court contracts to provide the online database, certain personal information of the federal judge, state judge, or spouse of the federal judge or state judge.

SECTION 26. Amends Section 25.025(b), Tax Code, as follows:

(b) Provides that information in appraisal records under Section 25.02 (Form and Content) is confidential and is available only for the official use of certain state entities if:

(1) makes no changes to this subdivision;

(2) the individual:

(A) creates this paragraph from existing text and makes no further changes to this paragraph; or

(B) is a federal or state judge as defined by Section 572.002, Government Code, or the spouse of a federal or state judge, beginning on the date OCA notifies the appraisal district of the judge's qualification for the judge's office.

SECTION 27. Amends Section 521.121(c), Transportation Code, as follows:

(c) Requires DPS, on a license holder's qualification for office as a federal or state judge, as defined by Section 572.002, Government Code, to establish a procedure to omit the residence address of the judge and the spouse of the judge on the license holder's license and to include, in lieu of that address, the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or state judge. Deletes existing text requiring DPS, in establishing the procedure, to require sufficient documentary evidence to establish the license holder's status as a federal judge, a state judge, or the spouse of a federal or state judge.

SECTION 28. (a) Requires OCA, DPS, TEC, each county clerk, each registrar, and any other county official responsible for county records to establish, not later than January 1, 2018, the policies and procedures necessary to comply with the changes in law made by this Act.

(b) Requires that, as soon as practicable after the effective date of this Act, OCA establish the judicial security division, and that each judge required to establish a CSC under this act establish the CSC.

SECTION 29. Provides that Section 51.607 (Implementation of New or Amended Court Costs and Fees), Government Code, does not apply to the imposition of a fee assessed under Section 51.971(a), Government Code, as added by this Act.

SECTION 30. Provides that a person serving as a court security officer as defined under Section 158.001, Government Code, as added by this Act, on the effective date of this Act is not required to receive the certification required under Section 158.002, Government Code, as added by this Act, before September 1, 2019.

SECTION 31. Effective date: September 1, 2017.