

1-1 By: Huffman S.B. No. 1045
1-2 (In the Senate - Filed February 21, 2023; March 3, 2023,
1-3 read first time and referred to Committee on Jurisprudence;
1-4 March 28, 2023, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 3, Nays 2; March 28, 2023,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10		X		
1-11	X			
1-12		X		
1-13	X			

1-14 COMMITTEE SUBSTITUTE FOR S.B. No. 1045 By: Creighton

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to the creation of the Fifteenth Court of Appeals with
1-18 jurisdiction over certain civil cases, the compensation of the
1-19 justices of that court, and the jurisdiction of the courts of
1-20 appeals in this state.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 ARTICLE 1. FIFTEENTH COURT OF APPEALS

1-23 SECTION 1.01. Section 22.201, Government Code, is amended
1-24 by amending Subsection (a) and adding Subsection (p) to read as
1-25 follows:

1-26 (a) The state is organized [~~divided~~] into 15 [~~14~~] courts of
1-27 appeals districts with a court of appeals in each district.

1-28 (p) The Fifteenth Court of Appeals District is composed of
1-29 all counties in this state.

1-30 SECTION 1.02. Subchapter C, Chapter 22, Government Code, is
1-31 amended by adding Section 22.2151 to read as follows:

1-32 Sec. 22.2151. FIFTEENTH COURT OF APPEALS. (a) The Court of
1-33 Appeals for the Fifteenth Court of Appeals District shall be held in
1-34 the City of Austin.

1-35 (b) The Fifteenth Court of Appeals may transact its business
1-36 in any county in the district as the court determines is necessary
1-37 and convenient.

1-38 SECTION 1.03. Section 22.216, Government Code, is amended
1-39 by adding Subsection (n-1) to read as follows:

1-40 (n-1) The Court of Appeals for the Fifteenth Court of
1-41 Appeals District consists of a chief justice and of four justices
1-42 holding places numbered consecutively beginning with Place 2.

1-43 SECTION 1.04. Section 22.220, Government Code, is amended
1-44 by amending Subsection (a) and adding Subsection (d) to read as
1-45 follows:

1-46 (a) Except as provided by Subsection (d), each [~~Each~~] court
1-47 of appeals has appellate jurisdiction of all civil cases within its
1-48 district of which the district courts or county courts have
1-49 jurisdiction when the amount in controversy or the judgment
1-50 rendered exceeds \$250, exclusive of interest and costs.

1-51 (d) The Court of Appeals for the Fifteenth Court of Appeals
1-52 District has exclusive intermediate appellate jurisdiction over
1-53 the following matters arising out of or related to a civil case:

1-54 (1) matters brought by or against the state or a board,
1-55 commission, department, office, or other agency in the executive
1-56 branch of the state government, including a university system or
1-57 institution of higher education as defined by Section 61.003,
1-58 Education Code, or by or against an officer or employee of the state
1-59 or a board, commission, department, office, or other agency in the
1-60 executive branch of the state government arising out of that

2-1 officer's or employee's official conduct, other than:
 2-2 (A) a proceeding brought under the Family Code
 2-3 and any related motion or proceeding;
 2-4 (B) a proceeding brought under Chapter 7B or
 2-5 Article 17.292, Code of Criminal Procedure;
 2-6 (C) a proceeding brought against a district
 2-7 attorney, a criminal district attorney, or a county attorney with
 2-8 criminal jurisdiction;
 2-9 (D) a proceeding relating to a mental health
 2-10 commitment;
 2-11 (E) a proceeding relating to civil asset
 2-12 forfeiture;
 2-13 (F) a condemnation proceeding for the
 2-14 acquisition of land or a proceeding related to eminent domain;
 2-15 (G) a proceeding brought under Chapter 125, Civil
 2-16 Practice and Remedies Code, to enjoin a common nuisance;
 2-17 (H) a proceeding brought under Chapter 55, Code
 2-18 of Criminal Procedure;
 2-19 (I) a proceeding under Chapter 22A, Government
 2-20 Code;
 2-21 (J) a proceeding brought under Subchapter E-1,
 2-22 Chapter 411, Government Code;
 2-23 (K) a proceeding brought under Chapter 21, Labor
 2-24 Code;
 2-25 (L) a removal action under Chapter 87, Local
 2-26 Government Code; or
 2-27 (M) a proceeding brought under Chapter 841,
 2-28 Health and Safety Code;
 2-29 (2) matters in which a party to the proceeding files a
 2-30 petition, motion, or other pleading challenging the
 2-31 constitutionality or validity of a state statute or rule and the
 2-32 attorney general is a party to the case; and
 2-33 (3) any other matter as provided by law.
 2-34 SECTION 1.05. Section 22.221, Government Code, is amended
 2-35 by amending Subsection (b) and adding Subsections (c) and (c-1) to
 2-36 read as follows:
 2-37 (b) Subject to Subsection (c-1), each [Each] court of
 2-38 appeals for a court of appeals district may issue all writs of
 2-39 mandamus, agreeable to the principles of law regulating those
 2-40 writs, against[+]
 2-41 [~~(1)~~] a judge of a district, statutory county,
 2-42 statutory probate county, or county court in the court of appeals
 2-43 district[+]
 2-44 [~~(2)~~] a judge of a district court who is acting as a
 2-45 magistrate at a court of inquiry under Chapter 52, Code of Criminal
 2-46 Procedure, in the court of appeals district; or
 2-47 [~~(3)~~] an associate judge of a district or county court
 2-48 appointed by a judge under Chapter 201, Family Code, in the court of
 2-49 appeals district for the judge who appointed the associate judge].
 2-50 (c) Each court of appeals for a court of appeals district,
 2-51 other than the Court of Appeals for the Fifteenth Court of Appeals
 2-52 District, may issue all writs of mandamus, agreeable to the
 2-53 principles of law regulating those writs, against:
 2-54 (1) a judge of a district court who is acting as a
 2-55 magistrate at a court of inquiry under Chapter 52, Code of Criminal
 2-56 Procedure, in the court of appeals district; or
 2-57 (2) an associate judge of a district or county court
 2-58 appointed by a judge under Chapter 201, Family Code, in the court of
 2-59 appeals district for the judge who appointed the associate judge.
 2-60 (c-1) The original jurisdiction of the Court of Appeals for
 2-61 the Fifteenth Court of Appeals District to issue writs is limited to
 2-62 writs arising out of matters over which the court has exclusive
 2-63 intermediate appellate jurisdiction under Section 22.220(d).
 2-64 SECTION 1.06. Section 22.229(a), Government Code, is
 2-65 amended to read as follows:
 2-66 (a) An appellate judicial system fund is established for
 2-67 each court of appeals, other than the Court of Appeals of the
 2-68 Fifteenth Court of Appeals District, to:
 2-69 (1) assist the court of appeals in the processing of

3-1 appeals filed with the court of appeals from the county courts,
3-2 statutory county courts, statutory probate courts, and district
3-3 courts in the counties the court of appeals serves; and

3-4 (2) defray costs and expenses incurred in the
3-5 operation of the court of appeals.

3-6 SECTION 1.07. Section 73.001, Government Code, is amended
3-7 to read as follows:

3-8 Sec. 73.001. AUTHORITY TO TRANSFER. (a) Except as provided
3-9 by Subsection (b), the ~~[The]~~ supreme court may order cases
3-10 transferred from one court of appeals to another at any time that,
3-11 in the opinion of the supreme court, there is good cause for the
3-12 transfer.

3-13 (b) The supreme court may not transfer any case or
3-14 proceeding properly filed in the Court of Appeals for the Fifteenth
3-15 Court of Appeals District to another court of appeals for the
3-16 purpose of equalizing the dockets of the courts of appeals.

3-17 (c) The supreme court shall adopt rules for:

3-18 (1) transferring an appeal inappropriately filed in
3-19 the Fifteenth Court of Appeals to a court of appeals with
3-20 jurisdiction over the appeal; and

3-21 (2) transferring to the Fifteenth Court of Appeals
3-22 from another court of appeals the appeals over which the Fifteenth
3-23 Court of Appeals has exclusive intermediate appellate jurisdiction
3-24 under Section 22.220(d).

3-25 SECTION 1.08. Section 659.012(a), Government Code, is
3-26 amended to read as follows:

3-27 (a) Notwithstanding Section 659.011 and subject to
3-28 Subsections (b) and (b-1):

3-29 (1) a judge of a district court is entitled to an
3-30 annual base salary from the state as set by the General
3-31 Appropriations Act in an amount equal to at least \$140,000, except
3-32 that the combined base salary of a district judge from all state and
3-33 county sources, including compensation for any extrajudicial
3-34 services performed on behalf of the county, may not exceed the
3-35 amount that is \$5,000 less than the maximum combined base salary
3-36 from all state and county sources for a justice of a court of
3-37 appeals other than a chief justice as determined under this
3-38 subsection;

3-39 (2) except as provided by Subdivision (3), a justice
3-40 of a court of appeals other than the chief justice is entitled to an
3-41 annual base salary from the state in the amount equal to 110 percent
3-42 of the state base salary of a district judge as set by the General
3-43 Appropriations Act, except that the combined base salary of a
3-44 justice of the court of appeals other than the chief justice from
3-45 all state and county sources, including compensation for any
3-46 extrajudicial services performed on behalf of the county, may not
3-47 exceed the amount that is \$5,000 less than the base salary for a
3-48 justice of the supreme court as determined under this subsection;

3-49 (3) a justice of the Court of Appeals for the Fifteenth
3-50 Court of Appeals District other than the chief justice is entitled
3-51 to an annual base salary from the state in the amount equal to
3-52 \$5,000 less than 120 percent of the state base salary of a district
3-53 judge as set by the General Appropriations Act;

3-54 (4) a justice of the supreme court other than the chief
3-55 justice or a judge of the court of criminal appeals other than the
3-56 presiding judge is entitled to an annual base salary from the state
3-57 in the amount equal to 120 percent of the state base salary of a
3-58 district judge as set by the General Appropriations Act; and

3-59 (5) ~~(4)~~ the chief justice or presiding judge of an
3-60 appellate court is entitled to an annual base salary from the state
3-61 in the amount equal to \$2,500 more than the state base salary
3-62 provided for the other justices or judges of the court, except that
3-63 the combined base salary of the chief justice of a court of appeals
3-64 from all state and county sources may not exceed the amount equal to
3-65 \$2,500 less than the base salary for a justice of the supreme court
3-66 as determined under this subsection.

3-67 SECTION 1.09. Section 2001.038(f), Government Code, is
3-68 amended to read as follows:

3-69 (f) A Travis County district court in which an action is

4-1 brought under this section, on its own motion or the motion of any
 4-2 party, may request transfer of the action to the Court of Appeals
 4-3 for the Fifteenth [~~Third~~] Court of Appeals District if the district
 4-4 court finds that the public interest requires a prompt,
 4-5 authoritative determination of the validity or applicability of the
 4-6 rule in question and the case would ordinarily be appealed. After
 4-7 filing of the district court's request with the court of appeals,
 4-8 transfer of the action may be granted by the court of appeals if it
 4-9 agrees with the findings of the district court concerning the
 4-10 application of the statutory standards to the action. On entry of
 4-11 an order by the court of appeals granting transfer, the action is
 4-12 transferred to the court of appeals for decision, and the validity
 4-13 or applicability of the rule in question is subject to judicial
 4-14 review by the court of appeals. The administrative record and the
 4-15 district court record shall be filed by the district clerk with the
 4-16 clerk of the court of appeals. The court of appeals may direct the
 4-17 district court to conduct any necessary evidentiary hearings in
 4-18 connection with the action.

4-19 SECTION 1.10. Section 2001.176(c), Government Code, is
 4-20 amended to read as follows:

4-21 (c) A Travis County district court in which an action is
 4-22 brought under this section, on its own motion or on motion of any
 4-23 party, may request transfer of the action to the Court of Appeals
 4-24 for the Fifteenth [~~Third~~] Court of Appeals District if the district
 4-25 court finds that the public interest requires a prompt,
 4-26 authoritative determination of the legal issues in the case and the
 4-27 case would ordinarily be appealed. After filing of the district
 4-28 court's request with the court of appeals, transfer of the action
 4-29 may be granted by the court of appeals if it agrees with the
 4-30 findings of the district court concerning the application of the
 4-31 statutory standards to the action. On entry of an order by the
 4-32 court of appeals granting transfer, the action is transferred to
 4-33 the court of appeals for decision, and the agency decision in the
 4-34 contested case is subject to judicial review by the court of
 4-35 appeals. The administrative record and the district court record
 4-36 shall be filed by the district clerk with the clerk of the court of
 4-37 appeals. The court of appeals may direct the district court to
 4-38 conduct any necessary evidentiary hearings in connection with the
 4-39 action.

4-40 SECTION 1.11. Section 2301.751(a), Occupations Code, is
 4-41 amended to read as follows:

4-42 (a) A party to a proceeding affected by a final order, rule,
 4-43 or decision or other final action of the board with respect to a
 4-44 matter arising under this chapter or Chapter 503, Transportation
 4-45 Code, may seek judicial review of the action under the substantial
 4-46 evidence rule in:

- 4-47 (1) a district court in Travis County; or
- 4-48 (2) the court of appeals for the Fifteenth [~~Third~~]
 4-49 Court of Appeals District.

4-50 SECTION 1.12. Section 39.001(e), Utilities Code, is amended
 4-51 to read as follows:

4-52 (e) Judicial review of competition rules adopted by the
 4-53 commission shall be conducted under Chapter 2001, Government Code,
 4-54 except as otherwise provided by this chapter. Judicial review of
 4-55 the validity of competition rules shall be commenced in the Court of
 4-56 Appeals for the Fifteenth [~~Third~~] Court of Appeals District and
 4-57 shall be limited to the commission's rulemaking record. The
 4-58 rulemaking record consists of:

- 4-59 (1) the notice of the proposed rule;
- 4-60 (2) the comments of all interested persons;
- 4-61 (3) all studies, reports, memoranda, or other
 4-62 materials on which the commission relied in adopting the rule; and
- 4-63 (4) the order adopting the rule.

4-64 SECTION 1.13. (a) Except as otherwise provided by this Act,
 4-65 the Court of Appeals for the Fifteenth Court of Appeals District is
 4-66 created September 1, 2024.

4-67 (b) If the Court of Appeals for the Fifteenth Court of
 4-68 Appeals District is created, the initial vacancies in the offices
 4-69 of chief justice and justices of the court shall be filled by

5-1 appointment.

5-2 SECTION 1.14. (a) The changes in law made by this Act apply
5-3 to appeals perfected on or after September 1, 2024.

5-4 (b) On September 1, 2024, all cases pending in other courts
5-5 of appeal that were filed on or after September 1, 2023, and of
5-6 which the Court of Appeals for the Fifteenth Court of Appeals
5-7 District has exclusive intermediate appellate jurisdiction are
5-8 transferred to the Court of Appeals for the Fifteenth Court of
5-9 Appeals District.

5-10 (c) When a case is transferred as provided by Subsection (b)
5-11 of this section:

5-12 (1) all processes, writs, bonds, recognizances, or
5-13 other obligations issued from the other courts of appeal are
5-14 returnable to the Court of Appeals for the Fifteenth Court of
5-15 Appeals District as if originally issued by that court; and

5-16 (2) the obligees on all bonds and recognizances taken
5-17 in and for the other courts of appeal and all witnesses summoned to
5-18 appear in another court of appeals are required to appear before the
5-19 Court of Appeals for the Fifteenth Court of Appeals District as if
5-20 originally required to appear before the Court of Appeals for the
5-21 Fifteenth Court of Appeals District.

5-22 ARTICLE 2. CONFORMING AMENDMENTS

5-23 SECTION 2.01. Article 4.01, Code of Criminal Procedure, is
5-24 amended to read as follows:

5-25 Art. 4.01. WHAT COURTS HAVE CRIMINAL JURISDICTION. The
5-26 following courts have jurisdiction in criminal actions:

5-27 1. The Court of Criminal Appeals;
5-28 2. Courts of appeals, other than the Court of Appeals
5-29 for the Fifteenth Court of Appeals District;

5-30 3. The district courts;

5-31 4. The criminal district courts;

5-32 5. The magistrates appointed by the judges of the
5-33 district courts of Bexar County, Dallas County, Tarrant County, or
5-34 Travis County that give preference to criminal cases and the
5-35 magistrates appointed by the judges of the criminal district courts
5-36 of Dallas County or Tarrant County;

5-37 6. The county courts;

5-38 7. All county courts at law with criminal
5-39 jurisdiction;

5-40 8. County criminal courts;

5-41 9. Justice courts;

5-42 10. Municipal courts;

5-43 11. The magistrates appointed by the judges of the
5-44 district courts of Lubbock County;

5-45 12. The magistrates appointed by the El Paso Council
5-46 of Judges;

5-47 13. The magistrates appointed by the Collin County
5-48 Commissioners Court;

5-49 14. The magistrates appointed by the Brazoria County
5-50 Commissioners Court or the local administrative judge for Brazoria
5-51 County; and

5-52 15. The magistrates appointed by the judges of the
5-53 district courts of Tom Green County.

5-54 SECTION 2.02. Article 4.03, Code of Criminal Procedure, is
5-55 amended to read as follows:

5-56 Art. 4.03. COURTS OF APPEALS. The Courts of Appeals, other
5-57 than the Court of Appeals for the Fifteenth Court of Appeals
5-58 District, shall have appellate jurisdiction coextensive with the
5-59 limits of their respective districts in all criminal cases except
5-60 those in which the death penalty has been assessed. This article
5-61 [~~Article~~] shall not be so construed as to embrace any case which has
5-62 been appealed from any inferior court to the county court, the
5-63 county criminal court, or county court at law, in which the fine
5-64 imposed or affirmed by the county court, the county criminal court
5-65 or county court at law does not exceed one hundred dollars, unless
5-66 the sole issue is the constitutionality of the statute or ordinance
5-67 on which the conviction is based.

5-68 SECTION 2.03. Article 44.25, Code of Criminal Procedure, is
5-69 amended to read as follows:

6-1 Art. 44.25. CASES REMANDED. The courts of appeals, other
6-2 than the Court of Appeals of the Fifteenth Court of Appeals
6-3 District, or the Court of Criminal Appeals may reverse the judgment
6-4 in a criminal action, as well upon the law as upon the facts.

6-5 SECTION 2.04. Section 31.001, Government Code, is amended
6-6 to read as follows:

6-7 Sec. 31.001. AUTHORITY FOR COUNTY PAYMENT OF COMPENSATION.
6-8 The commissioners courts in the counties of each of the 15 [~~14~~]
6-9 courts of appeals districts may pay additional compensation in an
6-10 amount that does not exceed the limitations of Section 659.012 to
6-11 each of the justices of the courts of appeals, other than a justice
6-12 of the Court of Appeals of the Fifteenth Court of Appeals District,
6-13 residing within the court of appeals district that includes those
6-14 counties. The compensation is for all extrajudicial services
6-15 performed by the justices.

6-16 ARTICLE 3. SPECIFIC APPROPRIATION REQUIRED; EFFECTIVE DATE

6-17 SECTION 3.01. (a) Notwithstanding Section 22.201(a),
6-18 Government Code, as amended by this Act, and Sections 22.201(p) and
6-19 22.2151, Government Code, as added by this Act, the Court of Appeals
6-20 for the Fifteenth Court of Appeals District is not created unless
6-21 the legislature makes a specific appropriation of money for that
6-22 purpose. For purposes of this subsection, a specific appropriation
6-23 is an appropriation identifying the Court of Appeals for the
6-24 Fifteenth Court of Appeals District or an Act of the 88th
6-25 Legislature, Regular Session, 2023, relating to the creation of the
6-26 Court of Appeals for the Fifteenth Court of Appeals District.

6-27 (b) Notwithstanding Section 22.220(a), Government Code, as
6-28 amended by this Act, a court of appeals has the same jurisdiction
6-29 the court had on August 31, 2023, if the Court of Appeals for the
6-30 Fifteenth Court of Appeals District is not created as a result of
6-31 Subsection (a) of this section.

6-32 SECTION 3.02. This Act takes effect September 1, 2023.

6-33 * * * * *