

By: Goodman

H.B. No. 1157

A BILL TO BE ENTITLED

AN ACT

relating to records on appeal in municipal courts of record.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 30.00010(d), Government Code, is amended to read as follows:

(d) Instead of providing a court reporter, the governing body may provide that the proceedings may be recorded by a good quality electronic recording device. If the governing body authorizes the electronic recording, the court reporter is not required to be present to certify the reporter's record [~~statement of facts~~]. The recording shall be kept for the 20-day period beginning the day after the last day of the court proceeding, trial, or denial of motion for new trial, whichever occurs last. If a case is appealed, the proceedings shall be transcribed from the recording by an official court reporter.

SECTION 2. Sections 30.00014(b), (f) and (g), Government Code, are amended to read as follows:

(b) The appellate court shall determine each appeal from a municipal court of record conviction and each appeal from the state on the basis of the errors that are set forth in the appellant's motion for new trial and that are presented in the clerk's record and reporter's record [~~transcript and statement of facts~~] prepared from the proceedings leading to the conviction or appeal. An appeal from the municipal court of record may not be by trial de novo.

1 (f) A municipality shall by ordinance establish a  
2 [~~transcript preparation~~] fee for the preparation of the clerk's  
3 record in the amount of \$25. The [~~transcript~~] preparation fee does  
4 not include the fee for an actual transcription [~~transcript~~] of the  
5 proceedings. The clerk shall note the payment of the fee on the  
6 docket of the court. If the case is reversed on appeal, the fee  
7 shall be refunded to the defendant.

8 (g) The defendant shall pay the [~~transcript preparation~~]  
9 fee for the preparation of the clerk's record and the fee for an  
10 actual transcription [~~transcript~~] of the proceedings.

11 SECTION 3. Section 30.00017, Government Code, is amended to  
12 read as follows:

13 Sec. 30.00017. CLERK'S RECORD [~~TRANSCRIPT~~]. The clerk's  
14 record [~~transcript~~] must substantially conform to the provisions  
15 relating to the preparation of a clerk's record [~~transcript~~] in the  
16 Texas Rules of Appellate Procedure and the Code of Criminal  
17 Procedure.

18 SECTION 4. Section 30.00019, Government Code, is amended to  
19 read as follows:

20 Sec. 30.00019. REPORTER'S RECORD [~~STATEMENT OF~~  
21 ~~FACTS~~]. (a) A reporter's record [~~statement of facts~~] included in  
22 the record on appeal must substantially conform to the provisions  
23 relating to the preparation of a reporter's record [~~statement of~~  
24 ~~facts~~] in the Texas Rules of Appellate Procedure and the Code of  
25 Criminal Procedure.

26 (b) The appellant shall pay for the reporter's record  
27 [~~statement of facts~~].

1 SECTION 5. Section 30.00020(a), Government Code, is amended  
2 to read as follows:

3 (a) Not later than the 60th day after the date on which the  
4 notice of appeal is given or filed, the parties must file with the  
5 municipal clerk:

6 (1) the reporter's record [~~statement of facts~~];

7 (2) a written description of material to be included  
8 in the clerk's record [~~transcript~~] in addition to the required  
9 material; and

10 (3) any material to be included in the clerk's record  
11 [~~transcript~~] that is not in the custody of the clerk.

12 SECTION 6. Section 30.00021(b), Government Code, is amended  
13 to read as follows:

14 (b) The appellant must file the brief with the appellate  
15 court clerk not later than the 15th day after the date on which the  
16 clerk's record and reporter's record [~~transcript and statement of~~  
17 ~~facts~~] are filed with that clerk. The appellant or the appellant's  
18 attorney must certify that the brief has been properly mailed to the  
19 appellee.

20 SECTION 7. Section 30.00024(b), Government Code, is amended  
21 to read as follows:

22 (b) Unless the matter was made an issue in the trial court or  
23 it affirmatively appears to the contrary from the clerk's record or  
24 reporter's record [~~transcript or the statement of facts~~], the  
25 appellate court shall presume that:

26 (1) venue was proven in the trial court;

27 (2) the jury, if any, was properly impaneled and

1 sworn;

2 (3) the defendant was arraigned and pleaded to the  
3 complaint; and

4 (4) the municipal judge certified the charge before it  
5 was read to the jury.

6 SECTION 8. The heading to Section 30.00130, Government  
7 Code, is amended to read as follows:

8 Sec. 30.00130. COURT REPORTER; USE OF CLERK'S RECORDS  
9 [~~TRANSCRIPTS~~].

10 SECTION 9. Section 30.00162(b), Government Code, is amended  
11 to read as follows:

12 (b) Unless the following matters were made an issue in the  
13 trial court or it affirmatively appears to the contrary from the  
14 clerk's record or reporter's record [~~transcript or statement of the~~  
15 ~~facts~~], the appellate court shall presume that:

- 16 (1) venue was proven in the court below;
- 17 (2) the jury was properly impaneled and sworn;
- 18 (3) the defendant was arraigned;
- 19 (4) the defendant pleaded to the complaint; and
- 20 (5) the court's charge was certified by the municipal  
21 court judge before it was read to the jury.

22 SECTION 10. Section 30.00306(a), Government Code, is  
23 amended to read as follows:

24 (a) The city manager shall appoint an official court  
25 reporter under Section 30.00010 for the purpose of preserving a  
26 record in cases tried before the municipal courts of record. The  
27 reporter holds office at the pleasure of the city manager. The city

1 manager may appoint more than one reporter for each court if  
2 necessary to dispose of the business of the court without delay. If  
3 a reporter is not demanded, a reporter's record [~~statement of~~  
4 ~~facts~~] may be prepared from mechanical, audio, or video recordings  
5 of the proceedings.

6 SECTION 11. Section 101.181, Government Code, is amended to  
7 read as follows:

8 Sec. 101.181. MUNICIPAL COURTS OF RECORD FEES AND COSTS.  
9 The clerk of a municipal court of record shall collect the following  
10 fees and costs:

11 (1) from an appellant, a [~~transcript preparation~~] fee  
12 for preparation of the clerk's record (Sec. 30.00014, Government  
13 Code) . . . \$25;

14 (2) from an appellant in the City of El Paso, an  
15 appellate court docket fee (Sec. 30.00147, Government Code) . . .  
16 \$25; and

17 (3) fee for hearing on probable cause for removal of a  
18 vehicle and placement in a storage facility if assessed by the court  
19 (Sec. 685.008, Transportation Code) . . . \$10.

20 SECTION 12. Section 102.141, Government Code, is amended to  
21 read as follows:

22 Sec. 102.141. ADDITIONAL COURT COSTS IN MUNICIPAL COURT OF  
23 RECORD. The clerk of a municipal court of record shall collect the  
24 following fees and costs:

25 (1) from a defendant on conviction, a fee for  
26 technology fund on a misdemeanor offense (Art. 102.0172, Code of  
27 Criminal Procedure) . . . not to exceed \$4;

1           (2) from an appellant, a [~~transcript preparation~~] fee  
2 for preparation of the clerk's record (Sec. 30.00014, Government  
3 Code) . . . \$25; and

4           (3) from an appellant in the City of El Paso, an  
5 appellate court docket fee (Sec. 30.00147, Government Code) . . .  
6 \$25.

7           SECTION 13. This Act takes effect immediately if it  
8 receives a vote of two-thirds of all the members elected to each  
9 house, as provided by Section 39, Article III, Texas Constitution.  
10 If this Act does not receive the vote necessary for immediate  
11 effect, this Act takes effect September 1, 2005.