

1-1 By: Harris S.B. No. 1014
1-2 (In the Senate - Filed March 4, 2005; March 14, 2005, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; March 23, 2005, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; March 23, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to records on appeal in municipal courts of record.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Subsection (d), Section 30.00010, Government
1-11 Code, is amended to read as follows:

1-12 (d) Instead of providing a court reporter, the governing
1-13 body may provide that the proceedings may be recorded by a good
1-14 quality electronic recording device. If the governing body
1-15 authorizes the electronic recording, the court reporter is not
1-16 required to be present to certify the reporter's record [~~statement~~
1-17 ~~of facts~~]. The recording shall be kept for the 20-day period
1-18 beginning the day after the last day of the court proceeding, trial,
1-19 or denial of motion for new trial, whichever occurs last. If a case
1-20 is appealed, the proceedings shall be transcribed from the
1-21 recording by an official court reporter.

1-22 SECTION 2. Subsections (b), (f), and (g), Section 30.00014,
1-23 Government Code, are amended to read as follows:

1-24 (b) The appellate court shall determine each appeal from a
1-25 municipal court of record conviction and each appeal from the state
1-26 on the basis of the errors that are set forth in the appellant's
1-27 motion for new trial and that are presented in the clerk's record
1-28 and reporter's record [~~transcript and statement of facts~~] prepared
1-29 from the proceedings leading to the conviction or appeal. An appeal
1-30 from the municipal court of record may not be by trial de novo.

1-31 (f) A municipality shall by ordinance establish a
1-32 [~~transcript preparation~~] fee for the preparation of the clerk's
1-33 record in the amount of \$25. The [~~transcript~~] preparation fee does
1-34 not include the fee for an actual transcription [~~transcript~~] of the
1-35 proceedings. The clerk shall note the payment of the fee on the
1-36 docket of the court. If the case is reversed on appeal, the fee
1-37 shall be refunded to the defendant.

1-38 (g) The defendant shall pay the [~~transcript preparation~~]
1-39 fee for the preparation of the clerk's record and the fee for an
1-40 actual transcription [~~transcript~~] of the proceedings.

1-41 SECTION 3. Section 30.00017, Government Code, is amended to
1-42 read as follows:

1-43 Sec. 30.00017. CLERK'S RECORD [~~TRANSCRIPT~~]. The clerk's
1-44 record [~~transcript~~] must substantially conform to the provisions
1-45 relating to the preparation of a clerk's record [~~transcript~~] in the
1-46 Texas Rules of Appellate Procedure and the Code of Criminal
1-47 Procedure.

1-48 SECTION 4. Section 30.00019, Government Code, is amended to
1-49 read as follows:

1-50 Sec. 30.00019. REPORTER'S RECORD [~~STATEMENT OF~~
1-51 ~~FACTS~~]. (a) A reporter's record [~~statement of facts~~] included in
1-52 the record on appeal must substantially conform to the provisions
1-53 relating to the preparation of a reporter's record [~~statement of~~
1-54 ~~facts~~] in the Texas Rules of Appellate Procedure and the Code of
1-55 Criminal Procedure.

1-56 (b) The appellant shall pay for the reporter's record
1-57 [~~statement of facts~~].

1-58 SECTION 5. Subsection (a), Section 30.00020, Government
1-59 Code, is amended to read as follows:

1-60 (a) Not later than the 60th day after the date on which the
1-61 notice of appeal is given or filed, the parties must file with the
1-62 municipal clerk:

- 1-63 (1) the reporter's record [~~statement of facts~~];
1-64 (2) a written description of material to be included

2-1 in the clerk's record [~~transcript~~] in addition to the required
2-2 material; and

2-3 (3) any material to be included in the clerk's record
2-4 [~~transcript~~] that is not in the custody of the clerk.

2-5 SECTION 6. Subsection (b), Section 30.00021, Government
2-6 Code, is amended to read as follows:

2-7 (b) The appellant must file the brief with the appellate
2-8 court clerk not later than the 15th day after the date on which the
2-9 clerk's record and reporter's record [~~transcript and statement of~~
2-10 ~~facts~~] are filed with that clerk. The appellant or the appellant's
2-11 attorney must certify that the brief has been properly mailed to the
2-12 appellee.

2-13 SECTION 7. Subsection (b), Section 30.00024, Government
2-14 Code, is amended to read as follows:

2-15 (b) Unless the matter was made an issue in the trial court or
2-16 it affirmatively appears to the contrary from the clerk's record or
2-17 reporter's record [~~transcript or the statement of facts~~], the
2-18 appellate court shall presume that:

2-19 (1) venue was proven in the trial court;
2-20 (2) the jury, if any, was properly impaneled and
2-21 sworn;

2-22 (3) the defendant was arraigned and pleaded to the
2-23 complaint; and

2-24 (4) the municipal judge certified the charge before it
2-25 was read to the jury.

2-26 SECTION 8. The heading to Section 30.00130, Government
2-27 Code, is amended to read as follows:

2-28 Sec. 30.00130. COURT REPORTER; USE OF CLERK'S RECORDS
2-29 [~~TRANSCRIPTS~~].

2-30 SECTION 9. Subsection (b), Section 30.00162, Government
2-31 Code, is amended to read as follows:

2-32 (b) Unless the following matters were made an issue in the
2-33 trial court or it affirmatively appears to the contrary from the
2-34 clerk's record or reporter's record [~~transcript or statement of the~~
2-35 ~~facts~~], the appellate court shall presume that:

2-36 (1) venue was proven in the court below;
2-37 (2) the jury was properly impaneled and sworn;
2-38 (3) the defendant was arraigned;
2-39 (4) the defendant pleaded to the complaint; and
2-40 (5) the court's charge was certified by the municipal
2-41 court judge before it was read to the jury.

2-42 SECTION 10. Subsection (a), Section 30.00306, Government
2-43 Code, is amended to read as follows:

2-44 (a) The city manager shall appoint an official court
2-45 reporter under Section 30.00010 for the purpose of preserving a
2-46 record in cases tried before the municipal courts of record. The
2-47 reporter holds office at the pleasure of the city manager. The city
2-48 manager may appoint more than one reporter for each court if
2-49 necessary to dispose of the business of the court without delay. If
2-50 a reporter is not demanded, a reporter's record [~~statement of~~
2-51 ~~facts~~] may be prepared from mechanical, audio, or video recordings
2-52 of the proceedings.

2-53 SECTION 11. Section 101.181, Government Code, is amended to
2-54 read as follows:

2-55 Sec. 101.181. MUNICIPAL COURTS OF RECORD FEES AND COSTS.
2-56 The clerk of a municipal court of record shall collect the following
2-57 fees and costs:

2-58 (1) from an appellant, a [~~transcript preparation~~]
2-59 for preparation of the clerk's record (Sec. 30.00014, Government
2-60 Code) . . . \$25;

2-61 (2) from an appellant in the City of El Paso, an
2-62 appellate court docket fee (Sec. 30.00147, Government
2-63 Code) . . . \$25; and

2-64 (3) fee for hearing on probable cause for removal of a
2-65 vehicle and placement in a storage facility if assessed by the court
2-66 (Sec. 685.008, Transportation Code) . . . \$10.

2-67 SECTION 12. Section 102.141, Government Code, is amended to
2-68 read as follows:

2-69 Sec. 102.141. ADDITIONAL COURT COSTS IN MUNICIPAL COURT OF

3-1 RECORD. The clerk of a municipal court of record shall collect the
3-2 following fees and costs:
3-3 (1) from a defendant on conviction, a fee for
3-4 technology fund on a misdemeanor offense (Art. 102.0172, Code of
3-5 Criminal Procedure) . . . not to exceed \$4;
3-6 (2) from an appellant, a [~~transcript preparation~~] fee
3-7 for preparation of the clerk's record (Sec. 30.00014, Government
3-8 Code) . . . \$25; and
3-9 (3) from an appellant in the City of El Paso, an
3-10 appellate court docket fee (Sec. 30.00147, Government
3-11 Code) . . . \$25.
3-12 SECTION 13. This Act takes effect immediately if it
3-13 receives a vote of two-thirds of all the members elected to each
3-14 house, as provided by Section 39, Article III, Texas Constitution.
3-15 If this Act does not receive the vote necessary for immediate
3-16 effect, this Act takes effect September 1, 2005.

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