

BILL ANALYSIS

Senate Research Center
82R2440 KFF-D

S.B. 480
By: Hegar
Jurisprudence
2/9/2011
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There are two types of municipal courts: municipal courts of record and non-record municipal courts. Appeals from decisions of both types of municipal courts are handled by county-level courts. Generally, decisions of the county-level courts concerning appeals from municipal courts can be further appealed to a state court of appeals.

However, a municipal court defendant who is fined \$100 or less cannot make a further appeal to a state court of appeals, unless the issue to be appealed is a challenge to the constitutionality of the statute on which the defendant's conviction is based. This exception only applies in non-record municipal courts and does not apply in municipal courts of record. In other words, individuals in municipal courts of record, who are fined \$100 or less, cannot challenge the constitutionality of the statute upon which their conviction is based, while individuals in non-record municipal courts, who are fined \$100 or less, can challenge the constitutionality of the statute upon which their conviction is based.

The difference between the two types of municipal courts with regard to the ability of certain defendants to pursue an appeal to a state court of appeals was recognized by the Third Court of Appeals in Austin in the 2007 case of *Alexander v. State*. In that case, the court of appeals suggested that the legislature amend the law to give defendants in both kinds of municipal courts the ability to appeal the constitutionality of the statutes upon which their convictions are based.

The proposed amendment to the law in Senate bill 480 would create consistency between the two types of municipal courts by giving defendants in municipal courts of record, who are fined \$100 or less, the right to make an appeal to a state court of appeals if the issue to be appealed is a challenge to the constitutionality of the statute on which the defendant's conviction is based.

As proposed, S.B. 480 amends current law relating to certain appeals from judgments of municipal courts of record.

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 4.03, Code of Criminal Procedure, as follows:

Art. 4.03. COURTS OF APPEALS. Provides that the Courts of Appeals shall have appellate jurisdiction coextensive with the limits of their respective districts in all criminal cases except those in which the death penalty has been assessed. Provides that this Article shall not be so construed as to embrace any case which has been appealed from any inferior court to the county court, the county criminal court, or county court at law, in which the fine imposed or affirmed by the county court, the county criminal court or county court at law does not exceed one hundred dollars, unless the sole issue is the constitutionality of the statute or ordinance on which the conviction is based.

SECTION 2. Amends Section 30.00027(a), Government Code, as follows:

(a) Provides that the appellant has the right to appeal to the court of appeals if:

(1) the fine assessed against the defendant exceeds \$100 and the judgment is affirmed by the appellate court; or

(2) the sole issue is the constitutionality of the statute or ordinance on which a conviction is based.

Makes nonsubstantive changes.

SECTION 3. Provides that the changes in law made by this Act apply to an appeal pending or filed on or after the effective date of this Act, regardless of the date the judgment being appealed was entered.

SECTION 4. Effective date: upon passage or September 1, 2011.