

By: Huffines

S.B. No. 64

A BILL TO BE ENTITLED

AN ACT

1
2 relating to appellate court procedures and deadlines in a civil
3 action.

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

5 SECTION 1. This Act shall be known as the "Appellate Court
6 Accountability Act."

7 SECTION 2. Section 22.001(b), Government Code, is amended
8 to read as follows:

9 (b) A case over which the court has jurisdiction under
10 Subsection (a) may be carried to the supreme court either by a
11 petition for review [~~writ of error~~] or by certificate from the court
12 of appeals, but the court of appeals may certify a question of law
13 arising in any of those cases at any time it chooses, either before
14 or after the decision of the case in that court.

15 SECTION 3. The heading to Section 22.007, Government Code,
16 is amended to read as follows:

17 Sec. 22.007. PETITION FOR REVIEW [~~APPLICATION FOR WRIT OF~~
18 ~~ERROR~~].

19 SECTION 4. Section 22.007, Government Code, is amended by
20 amending Subsections (a) and (e) and adding Subsection (a-1) to
21 read as follows:

22 (a) The supreme court shall [~~may~~] act on petitions for
23 review as provided by this section [~~applications for writs of error~~
24 ~~when the court deems it expedient~~]. The chief justice shall enforce

1 the requirements of this section as provided by Section 22.0072.

2 The supreme court shall pass on a petition for review [~~an~~
3 ~~application for writ of error~~] in a case in which the justices of
4 the courts of appeals have disagreed or have declared void a statute
5 of the state. Subject to Subsection (a-1), the supreme court shall:

6 (1) deny a petition for review not later than the 90th
7 day after the date the petition is filed if the court does not
8 request a response to the petition;

9 (2) deny a petition for review not later than the 180th
10 day after the date the petition is filed if the court does not
11 request briefing on the petition; or

12 (3) grant or deny a petition for review not later than
13 the 300th day after the date the petition is filed if the court
14 requests briefing on the petition.

15 (a-1) The supreme court may place on hold a petition for
16 review if issues presented in the petition are related to the issues
17 presented in another case for which a petition for review has been
18 granted and a decision by the court is pending. The supreme court
19 shall:

20 (1) publish the names of the parties to the petitions
21 and the issues the supreme court has determined to be related; and

22 (2) grant or deny the petition for review placed on
23 hold not later than the 30th day after the date a decision has been
24 issued in the case for which the petition was placed on hold.

25 (e) The granting of a petition for review [~~an application~~
26 ~~for writ of error~~] admits the case into the supreme court, and the
27 supreme court shall proceed with the case as provided by law. The

1 refusal or dismissal of a petition for review [~~an application~~] has
2 the effect of denying the admission of the case into the supreme
3 court, except that a motion for rehearing may be made [~~to the~~
4 ~~designated justices in the same manner that a motion for rehearing~~
5 ~~to the supreme court is made~~]. The denial of a petition for review
6 may [~~refusal or dismissal of an application shall~~] not be regarded
7 as a precedent or authority.

8 SECTION 5. Subchapter A, Chapter 22, Government Code, is
9 amended by adding Sections 22.0071 and 22.0072 to read as follows:

10 Sec. 22.0071. ISSUANCE OF DECISIONS. (a) In this section,
11 "term of court" means a state fiscal year beginning September 1 and
12 ending August 31.

13 (b) The supreme court shall issue a decision for all cases
14 in which the court grants a petition for review during the term of
15 court in which review was granted. Before the court adjourns for an
16 end-of-term recess, the chief justice shall certify that a decision
17 has been issued in all cases in which a petition for review was
18 granted during that term of court.

19 (c) If a petition for review is granted in June or later
20 during a term of court, the supreme court may, under extraordinary
21 circumstances, carry the decision into the next term of court. The
22 supreme court must state in the order granting the petition an
23 explanation of the nature of the extraordinary circumstance and
24 that the supreme court will issue a decision not later than December
25 31 of the next term of court.

26 Sec. 22.0072. ENFORCEMENT OF PROCEDURES AND DEADLINES. (a)
27 The supreme court shall adopt and publish written procedures that

1 allocate responsibilities to individual justices to assure the
2 supreme court's compliance with the procedures and deadlines
3 established by Sections 22.007 and 22.0071.

4 (b) The chief justice shall enforce the procedures and
5 deadlines established by this section and Sections 22.007 and
6 22.0071 and may:

7 (1) prohibit a justice who fails to comply with any
8 procedure that may result in the supreme court's failure to comply
9 with a requirement of this section or Section 22.007 or 22.0071 from
10 participating in future oral arguments until the justice complies
11 with the procedures and deadlines;

12 (2) reassign opinions to be authored by a noncompliant
13 justice;

14 (3) prohibit a noncompliant justice from
15 participating in a new case until the justice complies with the
16 procedures and deadlines; or

17 (4) refer a noncompliant justice to the State
18 Commission on Judicial Conduct.

19 SECTION 6. Subchapter C, Chapter 22, Government Code, is
20 amended by adding Sections 22.229 and 22.230 to read as follows:

21 Sec. 22.229. PROCESSING CIVIL APPEALS. (a) Not later than
22 the 60th day after the date the final brief allowed by rule is filed
23 in a civil appeal, a court of appeals shall announce whether oral
24 argument has been granted.

25 (b) In a civil appeal in which a court of appeals has granted
26 oral argument, the court shall hold the oral argument not later than
27 the 120th day after the date the final brief allowed by rule is

1 filed.

2 (c) A court of appeals shall issue its decision in a civil
3 appeal not later than the 90th day after:

4 (1) the date of oral argument, if oral argument is
5 granted; or

6 (2) the date the court announces that oral argument is
7 denied.

8 Sec. 22.230. ENFORCEMENT OF CIVIL APPEAL PROCEDURES AND
9 DEADLINES. (a) Each court of appeals shall adopt and publish
10 written procedures that allocate responsibilities to individual
11 justices of the court to assure compliance with the court's
12 procedures and deadlines established by this section and Section
13 22.229.

14 (b) The chief justice of each court of appeals shall enforce
15 the procedures and deadlines established by this section and
16 Section 22.229 and may:

17 (1) prohibit a justice who fails to comply with a
18 requirement of this section or Section 22.229 from participating in
19 future oral arguments until the justice complies with the
20 procedures and deadlines;

21 (2) reassign opinions to be authored by a
22 noncompliant justice; or

23 (3) prohibit a noncompliant justice from
24 participating in a new case until the justice complies with the
25 procedures and deadlines.

26 (c) The chief justice of each court of appeals shall prepare
27 and submit to the chief justice of the supreme court a quarterly

1 report regarding the compliance of the court with the requirements
2 of this section and Section 22.229.

3 (d) The chief justice of the supreme court shall monitor the
4 compliance of each court of appeals with the requirements of this
5 section and Section 22.229 and may:

6 (1) prohibit the filing of additional civil appeals
7 with a court of appeals that is not in substantial compliance; and

8 (2) order the transfer of civil appeals to other
9 courts of appeal.

10 (e) If a court of appeals is prohibited from accepting new
11 civil appeals:

12 (1) the justices of that court of appeals are not
13 credited with state service for the period during which the court
14 may not accept new appeals; and

15 (2) the Legislative Budget Board and the governor
16 shall take action as provided by Chapter 317 to:

17 (A) reduce the budget of that court of appeals in
18 an amount proportional to the number of civil appeals that the court
19 would normally hear during the period the court may not hear new
20 civil appeals and that are transferred to a different court; and

21 (B) increase the budget of each court of appeals
22 to which a civil appeal is transferred in an amount proportional to
23 the number of civil appeals transferred to that court.

24 (f) The chief justice of the supreme court shall prepare an
25 annual report regarding the compliance of the courts of appeals
26 with this section and Section 22.229. Not later than January 31 of
27 each year, the chief justice shall file the report for the preceding

1 year with the governor, lieutenant governor, and speaker of the
2 house of representatives. The report must be made available to the
3 public.

4 SECTION 7. Sections 22.007(b), (c), (d), (f), and (g),
5 Government Code, are repealed.

6 SECTION 8. (a) Section 22.007, Government Code, as amended
7 by this Act, and Sections 22.0071 and 22.0072, Government Code, as
8 added by this Act, apply beginning on the effective date of this
9 Act.

10 (b) Sections 22.229 and 22.230, Government Code, as added by
11 this Act, apply only to a civil appeal filed on or after the
12 effective date of this Act. A civil appeal filed before the
13 effective date of this Act is governed by the law in effect at the
14 time the appeal was filed, and that law is continued in effect for
15 that purpose.

16 SECTION 9. Not later than the 180th day after the effective
17 date of this Act, the supreme court and the courts of appeals shall
18 adopt any changes to the courts' rules of practice and procedure
19 necessary to implement this Act.

20 SECTION 10. This Act takes effect September 1, 2015.