

## **BILL ANALYSIS**

C.S.H.B. 2120  
By: Leach  
Judiciary & Civil Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

There is a periodic need to create new courts and to make other changes to ensure efficiency and uniformity in the administration of the judicial branch of government. C.S.H.B. 2120 is an omnibus bill that seeks to accomplish those goals by creating district courts and county courts at law in certain counties, revising certain citation procedures, and creating a public information website for providing citation by publication, among other changes.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Supreme Court in SECTIONS 9.03 and 10.04 of this bill and to the Judicial Branch Certification Commission in SECTIONS 7.09, 7.14, and 7.16 of this bill.

### **ANALYSIS**

C.S.H.B. 2120 relates to the operation and administration of and practice in courts in the judicial branch of state government.

#### **District Courts**

C.S.H.B. 2120 amends the Government Code to change the beginning dates of the terms of the 4th District Court from the first Mondays in January, March, May, July, September, and November to the first Mondays in January and July.

C.S.H.B. 2120 removes Brazoria County from the 23rd Judicial District and creates the 461st Judicial District, composed of Brazoria County, on September 1, 2019. The bill requires the 461st District Court to give preference to family law matters and requires the local administrative district judge to transfer to the 461st District Court all cases from Brazoria County that are pending in the 23rd District Court on the bill's effective date.

C.S.H.B. 2120 removes Medina County from the 38th Judicial District and creates the 454th Judicial District, composed of Medina County, on September 1, 2019. The bill requires the local administrative district judge to transfer to the 454th District Court all cases from Medina County that are pending in the 38th District Court on the bill's effective date.

C.S.H.B. 2120 creates the following judicial districts on September 1, 2019, unless otherwise specified:

- the 455th Judicial District, composed of Travis County, on October 1, 2020;
- the 456th Judicial District, composed of Guadalupe County;
- the 457th Judicial District, composed of Montgomery County;
- the 466th Judicial District, composed of Comal County, on January 1, 2021;
- the 467th Judicial District, composed of Denton County, on January 1, 2021;
- the 468th Judicial District, composed of Collin County; and
- the 471st Judicial District, composed of Collin County.

C.S.H.B. 2120 requires the 455th District Court to give preference to civil and family law matters, the 456th District Court to give preference to civil cases, the 468th District Court to give preference to family law matters, and the 471st District Court to give preference to civil matters.

### **Statutory County Courts**

C.S.H.B. 2120 creates the following statutory county courts on September 1, 2019, unless otherwise specified:

- the County Court at Law of Chambers County on January 1, 2021;
- the County Court at Law No. 3 of Comal County;
- the County Court at Law No. 3 of Ellis County on January 1, 2021;
- the County Court at Law of Gillespie County on October 1, 2019;
- the County Court at Law No. 2 of Liberty County; and
- the County Court at Law No. 2 of Rockwall County.

C.S.H.B. 2120 grants the County Court at Law of Bosque County concurrent jurisdiction with the district court in felony cases transferred from the district court to conduct arraignments, pretrial hearings, and motions to adjudicate or revoke and to accept guilty pleas. The bill authorizes the judge of the county court at law and a district judge, in matters of concurrent jurisdiction, to exchange benches, transfer cases, assign each other to hear cases in accordance with orders signed and approved by the judges, and otherwise manage their respective dockets under local administrative rules.

C.S.H.B. 2120 grants the County Court at Law of Chambers County concurrent jurisdiction with the district court in arraignments, pleas, and pretrial motions for felony cases and in family law cases and proceedings. The bill sets out provisions applicable to the court relating to case transfers, judge salary and expenses, court clerks, employment of deputy sheriffs and bailiffs, juries, court reporter services, and court terms.

C.S.H.B. 2120 grants the County Court at Law of Cooke County concurrent jurisdiction with the district court in family law cases and proceedings and establishes that the district clerk serves as clerk of the county court at law in family law cases and proceedings, and the county clerk serves as clerk of the court in all other cases and proceedings.

C.S.H.B. 2120 grants the County Court at Law of Gillespie County concurrent jurisdiction with the district court in family law cases and proceedings, including juvenile matters, and sets out provisions applicable to the court relating to court clerks, employment of deputy sheriffs and bailiffs, and jury size.

C.S.H.B. 2120 repeals a provision establishing that the County Court at Law No. 2 of Kaufman County does not have jurisdiction of civil cases in which the amount in controversy exceeds \$200,000. The bill requires a jury to be composed of 12 members in the following cases in a

county court at law of Kaufman County: civil cases in which the amount in controversy is \$200,000 or more, family law cases and proceedings, and felony cases.

C.S.H.B. 2120 grants the County Court at Law No. 1 of Potter County concurrent jurisdiction with the district court in felony cases to conduct arraignments, conduct pretrial hearings, and accept pleas in uncontested matters.

### **Municipal Courts**

C.S.H.B. 2120 exempts the municipal court of record of the City of Lubbock from statutory provisions requiring the clerk and other court personnel to perform their duties under the direction and control of the presiding judge and requiring the governing body by ordinance to provide for the hiring, direction, supervision, and removal of personnel authorized in the annual budget for the clerk's office.

### **Senior District Judges**

C.S.H.B. 2120 repeals provisions establishing a system by which senior district judges will be made available in the first administrative judicial region to serve in cases in which the regularly elected judges are not available to sit or need assistance because of the caseload.

### **Masters and Magistrates**

C.S.H.B. 2120 authorizes the Commissioners Court of Bell County to select masters to serve the justice courts of Bell County having jurisdiction in truancy matters and sets out related provisions.

C.S.H.B. 2120 authorizes the Commissioners Court of Collin County to appoint by majority vote one or more part-time or full-time magistrates to perform specified duties and sets out related provisions, including provisions specifying the proceedings that may be referred to such a magistrate.

C.S.H.B. 2120 authorizes the Commissioners Court of Kerr County to authorize the judges of the district and statutory county courts in Kerr County to appoint one or more part-time or full-time magistrates to perform specified duties and sets out related provisions, including provisions relating to the jurisdiction, responsibility, and powers of such a magistrate.

### **District and County Attorneys**

C.S.H.B. 2120 designates the district attorney elected for the 9th Judicial District as the district attorney for the 457th Judicial District created by the bill.

C.S.H.B. 2120 removes Burleson County as a county in which the district attorney for the 21st Judicial District and the 335th Judicial District performs duties and removes the voters of Burleson County from among the voters who elect the district attorney. The bill requires the county attorney of Burleson County to perform in that county the duties imposed on district attorneys, grants the county attorney the powers conferred on district attorneys, and entitles the county attorney to be compensated by the state in the same manner and amount as a district attorney. The bill subjects the county attorney of Burleson County, the district attorney for the 24th Judicial District, and the district attorney for the 293rd Judicial District to the professional prosecutors law. The bill repeals provisions relating to the supplemental compensation of the district attorney for the 24th Judicial District.

C.S.H.B. 2120 adds a temporary provision set to expire January 1, 2021, establishing that the district attorney of the 38th Judicial District also represents the state and performs the duties of the district attorney before the 454th Judicial District. Effective January 1, 2021, the bill

abolishes the office of county attorney of Medina County, establishes the office of criminal district attorney of Medina County, sets out provisions governing that established office, and subjects the criminal district attorney to the professional prosecutors law. The bill requires the voters of the county to elect a criminal district attorney of Medina County beginning with the general election in 2020 and provides for the criminal district attorney to retain all powers, duties, and privileges in Medina County that were previously held by the office of the district attorney of the 38th Judicial District and the office of the county attorney of Medina County.

### **Court Reporters and Bailiffs**

C.S.H.B. 2120 authorizes the judge of the 397th District Court to appoint a bailiff. The bill requires the bailiff to be a U.S. citizen and entitles the bailiff to receive from the county a salary set by the judge. The bill removes residency in Grayson County as a qualification to serve as a bailiff in the 15th or 59th district court or in a statutory county court in Grayson County. The bill changes the county salary that such a bailiff is entitled to receive from a salary equal to the salary of a jailer employed by the Grayson County sheriff to a salary set by the appointing judge.

C.S.H.B. 2120 amends the Business & Commerce Code to exempt from the applicability of the Uniform Electronic Transactions Act the transmission, preparation, completion, enforceability, or admissibility of a document in any form that is governed by rules adopted by the Texas Supreme Court or produced by an appointed court reporter, a certified court reporter, or a registered shorthand reporting firm for use in the state or federal judicial system.

C.S.H.B. 2120 amends the Civil Practice and Remedies Code to require notice of appeal from a county or district court, including an interlocutory appeal, to be served on each court reporter responsible for preparing the reporter's record. The bill prohibits the supreme court from amending or adopting rules in conflict with this requirement.

C.S.H.B. 2120 amends the Government Code to require a court reporting firm, on request of a court reporter who reported a deposition, to provide the court reporter a copy of the document related to the deposition, known as the further certification, that the reporter has signed or to which the reporter's signature has been applied.

C.S.H.B. 2120 authorizes the Judicial Branch Certification Commission (JBCC) by rule to provide for the certification of an apprentice court reporter and for the provisional certification of a court reporter and imposes certain conditions on a person's practice of court reporting under such certifications. The rules may allow for the issuance of a court reporter certification to a certified apprentice court reporter who satisfactorily completes the apprenticeship and passes Part A of the shorthand reporting examination or to a court reporter who holds a provisional certification on the reporter's completion of the terms of conditional approval set by the JBCC. The bill requires the JBCC, in developing the rules, to establish a stakeholder work group and solicit comments from certain interested parties. The bill requires the JBCC to certify to the supreme court the name of each applicant who meets the qualifications for certification as an apprentice court reporter or a provisional court reporter.

C.S.H.B. 2120 authorizes the JBCC to waive any prerequisite to obtaining a court reporter certification for an applicant after reviewing the applicant's credentials and determining the applicant holds a certification or license issued by another jurisdiction that has certification or licensing requirements substantially equivalent to those of Texas. The bill requires the JBCC to develop, not later than June 1, 2020, and periodically update on a schedule established by the JBCC a list of states that have certification or licensing requirements for court reporters substantially equivalent to those of Texas. The bill requires the JBCC to certify to the supreme court the name of each qualified applicant holding a certification or license issued by another state who satisfies certain criteria prescribed by the bill.

C.S.H.B. 2120 requires a reciprocity agreement approved by the supreme court regarding certification and licensing of court professionals to require an applicant who holds a certification

or license to engage in court reporting issued by another state and who applies for certification as a court reporter in Texas to satisfy certain criteria specified by the bill. The bill authorizes the JBCC to adopt rules requiring the issuance to certain applicants who performed court reporting in another jurisdiction of a provisional certification that authorizes the applicant to serve as a court reporter in Texas for a limited time and under conditions the JBCC considers reasonably necessary to protect the public interest.

C.S.H.B. 2120 requires the JBCC, not later than January 1, 2020, to communicate with the appropriate regulatory officials in each state to inquire whether that state desires to enter into a reciprocity agreement with Texas and, not later than April 1, 2020, to submit a report on the results of the inquiry to the supreme court or the court's designee.

C.S.H.B. 2120 requires a shorthand reporting firm to pay a registration or renewal fee in an amount equal to the fee for court reporter certification in lieu of the fee required for a shorthand reporting firm registration if a certified court reporter of the firm has an ownership interest in the firm of more than 50 percent and maintains actual control of the firm.

C.S.H.B. 2120 requires the JBCC by rule to require each court reporter who holds a certification issued by the JBCC and at least one person who has management responsibility for a shorthand reporting firm registered in Texas to complete continuing professional education.

C.S.H.B. 2120 makes certain revisions to the grounds on which the JBCC is required to take disciplinary actions against a certified shorthand reporter or a shorthand reporting firm or affiliate office and requires the JBCC by rule to define the conditions under which a shorthand reporting firm's or affiliate office's repeated failure to fulfill a commitment to provide court reporting services is considered unprofessional conduct and grounds for disciplinary action. The bill requires the JBCC, in developing those rules, to establish a stakeholder work group and solicit comments from certain interested parties.

C.S.H.B. 2120 creates a Class A misdemeanor offense for a person who provides shorthand reporting firm services in Texas in violation of firm registration requirements and establishes that each day of violation constitutes a separate offense.

C.S.H.B. 2120 subjects a contract for court reporting services for a court, agency, or instrumentality of the United States or Texas to the prohibitions against a court reporter entering into or providing services under a contractual agreement that undermines the impartiality of the reporter or gives or appears to give an exclusive advantage to any party.

### **Juvenile Boards**

C.S.H.B. 2120 amends the Human Resources Code to subject the juvenile board of Goliad County and the juvenile board of Victoria County to certain statutory provisions relating to the required designation of a fiscal officer, juvenile board duties, and juvenile board personnel. The bill authorizes the juvenile board of Goliad County and the juvenile boards of one or more counties that are adjacent to or in close proximity to Goliad County to agree to operate together with respect to all matters, or with respect to certain matters specified by the juvenile boards, and provides the same authority with regard to Victoria County. The bill authorizes juvenile boards operating together to appoint one fiscal officer to receive and disburse funds for the boards.

C.S.H.B. 2120 changes the chairman of the juvenile board of Victoria County from the juvenile court judge to a board member elected by the board and removes the designation of the juvenile court judge as the board's chief administrative officer.

C.S.H.B. 2120 includes among the members of the juvenile board of Grimes County the judge of each county court at law in the county.

## **The Office of Court Administration of the Texas Judicial System**

C.S.H.B. 2120 amends the Government Code to transfer from the Office of Court Administration of the Texas Judicial System (OCA) to the comptroller of public accounts the duty to pay the travel expenses and other incidental costs related to convening a special three-judge district court on petition by the attorney general in certain suits involving a claim that challenges the finances or operations of the state's public school system or that involves the apportionment of districts. The bill specifies that the payment is from funds appropriated to the comptroller's judiciary section.

C.S.H.B. 2120 transfers from the comptroller to OCA the duty to identify each law enacted by the legislature, other than a law disapproved by the governor, that imposes or changes the amount of court costs or fees collected from a party to a civil case or a defendant in a criminal case and the duty to prepare and publish a list of such costs and fees biennially.

C.S.H.B. 2120 requires OCA to develop, not later than June 1, 2020, and maintain a public information website that allows a person to easily publish public information on the website or OCA to post such information on the website on receipt from the person. The bill defines "public information" as citation, other related public or legal notice that a person is required to publish under a statute or rule, and any other information that the person submits for publication on the website to effectuate service of citation by publication. The bill requires the website to allow the public to easily access, search, and sort the public information. The bill requires the supreme court by rule to establish procedures for the submission of public information to the website by a person who is required to publish the information. The bill requires the supreme court to adopt the rules necessary to implement these provisions not later than June 1, 2020.

C.S.H.B. 2120 changes from the criminal justice division of the governor's office to OCA the entity to which a specialty court program is required to provide certain notice and documentation to operate. The bill requires a specialty court program to report to the Texas Judicial Council (TJC) any information required by the TJC regarding the performance of the program. The bill requires OCA to coordinate with and provide information to the criminal justice division on request of the division and to take the following actions:

- provide technical assistance to the specialty court programs on request;
- coordinate with an entity funded by the division that provides services to specialty court programs;
- monitor the specialty court programs for compliance with programmatic best practices recommended by the Specialty Courts Advisory Council and approved by the TJC; and
- notify the division about each specialty court program that is not in compliance with the programmatic best practices.

C.S.H.B. 2120 requires OCA to contract with the National Center for State Courts to conduct a study of the caseloads of the district and statutory county courts in Texas that must concentrate on the weighted caseload of each court considering the nature and complexity of the cases heard. The bill requires the center to report the results of the study to OCA not later than December 1, 2020, and requires OCA to file a report on those results with the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the standing committees of the senate and house of representatives with jurisdiction over the judicial system not later than January 1, 2021.

## **Electronic Publication, Service, and Display of Legal Documents**

C.S.H.B. 2120 amends the Business Organizations Code, Estates Code, Family Code, and Health and Safety Code, as applicable and effective June 1, 2020, to require certain types of notice and citation published in a newspaper for certain legal proceedings to also be published on the public

information website maintained by OCA and to make related revisions to provisions relating to the timing of service of citation or notice and proof of service.

C.S.H.B. 2120 amends the Civil Practice and Remedies Code, effective June 1, 2020, to authorize a person, with respect to a citation or notice that is required by statute or rule to be published on the OCA's public information website and in a newspaper of general circulation, to publish the citation or notice only on the public information website if:

- the person files a statement of inability to afford payment of court costs under the Texas Rules of Civil Procedure;
- the total cost of the required publication exceeds the greater of \$200 each week or an amount set by the supreme court after adjusting for inflation, as required by the bill; or
- the county in which the publication of the citation or notice is required does not have any newspaper published, printed, or generally circulated in the county.

C.S.H.B. 2120 authorizes a court, if substituted service of citation is authorized under the Texas Rules of Civil Procedure, to prescribe as a method of service an electronic communication sent to the defendant through a social media presence. The bill requires the supreme court to adopt rules to provide for such a method of substituted service not later than December 31, 2020, and the authorization applies only to an action commenced on or after the effective date of the rules. These provisions take effect June 1, 2020.

C.S.H.B. 2120 amends the Government Code to give a district clerk the option to post an official and legal notice by electronic display in the manner provided for a county clerk as an alternative to posting a physical document.

### **Notarization Requirements**

C.S.H.B. 2120 amends the Family Code to provide the option for a waiver of citation in a suit that involves removal of the disabilities of minority or a name change of an adult to conform to the requirements for an unsworn declaration as an alternative to being sworn before a notary public who is not an attorney in the suit.

### **Repealers and Transitions**

C.S.H.B. 2120 establishes that OCA is required to implement a provision of the bill only if the legislature appropriates money specifically for that purpose and that, if the legislature does not make such an appropriation, OCA is authorized but not required to implement the provision using other appropriations available for that purpose.

C.S.H.B. 2120 amends the Code of Criminal Procedure to make a conforming change.

C.S.H.B. 2120 repeals Sections 51.054(c) and 1051.054(c), Estates Code.

C.S.H.B. 2120 repeals the following provisions of the Government Code:

- Section 25.1312(b-1)
- Section 43.111(c)
- Subchapter C, Chapter 75
- Section 832.001(b)
- Section 835.103
- Section 837.001(b)
- Section 840.104

## **EFFECTIVE DATE**

Except as otherwise provided, September 1, 2019.

## **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2120 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions creating the following judicial districts and county courts at law:

- the 454th Judicial District;
- the 455th Judicial District;
- the 467th Judicial District;
- the 468th Judicial District;
- the 471st Judicial District;
- the County Court at Law No. 3 of Ellis County;
- the County Court at Law of Gillespie County; and
- the County Court at Law No. 2 of Rockwall County.

The substitute changes the date of creation for the 466th Judicial District and the County Court at Law of Chambers County. The substitute includes provisions revising the terms of the 4th District Court and removing Medina County from the 38th Judicial District.

The substitute includes provisions relating to statutory county courts that:

- grant the County Court at Law of Bosque County certain concurrent jurisdiction with the district court and provide for the managing of dockets in matters of concurrent jurisdiction;
- relate to the operation of the Chambers County Court at Law;
- relate to the operation of the Gillespie County Court at Law;
- repeal a certain limitation on the jurisdiction of the County Court at Law No. 2 of Kaufman County and require a 12-member jury in certain cases in a statutory county court in that county; and
- grant the County Court at Law No. 1 of Potter County certain concurrent jurisdiction with the district court.

The substitute includes a provision exempting the municipal court of record of the City of Lubbock from certain statutory provisions.

The substitute includes provisions relating to certain court personnel that:

- authorize the Commissioners Court of Bell County to select masters to serve the justice courts of Bell County having jurisdiction in truancy matters;
- authorize the Commissioners Court of Collin County to appoint magistrates;
- authorize the Commissioners Court of Kerr County to authorize the judges of the district and statutory county courts in Kerr County to appoint magistrates;
- authorize the judge of the 397th District Court to appoint a bailiff; and
- revise the qualifications and salary for a bailiff in the 15th and 59th district courts and in a statutory county court in Grayson County.

The substitute includes provisions relating to district and county attorneys that:

- provide for the district attorney of the 38th Judicial District to temporarily represent the state before the 454th Judicial District;
- abolish the office of county attorney of Medina County and establish the office of criminal district attorney of Medina County; and
- subject the criminal district attorney for Medina County and the district attorney for the 293rd Judicial District to the professional prosecutors law.

The substitute does not include an authorization for the county attorney of Burleson County or the Commissioners Court of Burleson County to accept gifts or grants for the purpose of financing or assisting the operation of the office of county attorney.

The substitute includes provisions relating to court reporters and shorthand reporting firms that:

- provide a certain exemption from the Uniform Electronic Transactions Act;
- require certain notice of appeal to be served on court reporters;
- require a court reporting firm to provide certain signed certification to a court reporter who reported a deposition on request;
- provide for the certification of apprentice court reporters and the provisional certification of court reporters;
- establish certain reciprocity procedures;
- require a shorthand reporting firm to pay a registration or renewal fee in an amount equal to the fee for court reporter certification in lieu of the fee required for firm registration under certain circumstances;
- require the JBCC by rule to require certified court reporters and certain shorthand reporting firm management personnel to complete continuing professional education;
- revise the grounds for disciplinary action against a shorthand reporter or a shorthand reporting firm or affiliate office;
- create a Class A misdemeanor offense for a person who provides shorthand reporting firm services in Texas in violation of firm registration requirements; and
- subject a contract for court reporting services for a court, agency, or instrumentality of the United States or Texas to certain prohibitions.

The substitute does not change the publication method for certain types of notice and citation from publication in a newspaper to publication on the public information website maintained by OCA. The substitute requires instead that such notice and citation published in a newspaper also be published on the public information website and authorizes certain notice or citation to be published only on the public information website under specified conditions.

The substitute includes provisions that:

- authorize a court to prescribe a method of substituted service of citation by electronic communication through social media;
- relate to the operation of the juvenile board of Goliad County and the juvenile board of Victoria County;
- expand the membership of the juvenile board of Grimes County; and
- change to OCA the entity to which a specialty court program must provide certain notice and documentation to operate and set out certain duties of OCA with regard to specialty court programs.

The substitute does not provide the option for a waiver of citation in a suit that affects the parent-child relationship or that involves the dissolution of a marriage or a name change of a child to conform to the requirements for an unsworn declaration as an alternative to being sworn before a notary public who is not an attorney in the suit.

The substitute includes a provision establishing that OCA is required to implement a provision of the bill only if the legislature appropriates money specifically for that purpose.