86R4400 TSS-D

By:  Leach H.B. No. 2120

A BILL TO BE ENTITLED

AN ACT

relating to the operation and administration of and practice in courts in the judicial branch of state government.

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

ARTICLE 1. DISTRICT COURTS

SECTION 1.01.  (a) The heading to Section 24.124, Government Code, is amended to read as follows:

Sec. 24.124.  23RD JUDICIAL DISTRICT ([~~BRAZORIA,~~] MATAGORDA[~~,~~] AND WHARTON COUNTIES).

(b)  Sections 24.124(a) and (b), Government Code, are amended to read as follows:

(a)  The 23rd Judicial District is composed of [~~Brazoria,~~] Matagorda[~~,~~] and Wharton counties.

(b)  The terms of the 23rd District Court begin:

(1)  [~~in Brazoria County on the first Mondays in April and October, and the terms are designated the April-September and October-March terms;~~

[~~(2)~~] in Matagorda County on the first Mondays in June and December, and the terms are designated the June-November and December-May terms; and

(2) [~~(3)~~]  in Wharton County on the first Mondays in July and January, and the terms are designated the July-December and January-June terms.

(c)  Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.6005 to read as follows:

Sec. 24.6005.  461ST JUDICIAL DISTRICT (BRAZORIA COUNTY). (a) The 461st Judicial District is composed of Brazoria County.

(b)  The 461st District Court shall give preference to family law matters.

(d)  The local administrative district judge shall transfer to the 461st District Court all cases from Brazoria County that are pending in the 23rd District Court on the effective date of this Act.

(e)  When a case is transferred as provided by Subsection (d) of this section:

(1)  all processes, writs, bonds, recognizances, or other obligations issued from the 23rd District Court are returnable to the 461st District Court as if originally issued by that court; and

(2)  the obligees on all bonds and recognizances taken in and for the 23rd District Court and all witnesses summoned to appear in the 23rd District Court are required to appear before the 461st District Court as if originally required to appear before that court.

(f)  The 461st Judicial District is created on September 1, 2019.

SECTION 1.02.  (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.600 to read as follows:

Sec. 24.600.  456TH JUDICIAL DISTRICT (GUADALUPE COUNTY). (a) The 456th Judicial District is composed of Guadalupe County.

(b)  The 456th District Court shall give preference to civil cases.

(b)  The 456th Judicial District is created on September 1, 2019.

SECTION 1.03.  (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.6001 to read as follows:

Sec. 24.6001.  457TH JUDICIAL DISTRICT (MONTGOMERY COUNTY). The 457th Judicial District is composed of Montgomery County.

(b)  The 457th Judicial District is created on September 1, 2019.

SECTION 1.04.  (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.60010 to read as follows:

Sec. 24.60010.  466th JUDICIAL DISTRICT (COMAL COUNTY). The 466th Judicial District is composed of Comal County.

(b)  The 466th Judicial District is created on September 1, 2019.

ARTICLE 2. STATUTORY COUNTY COURTS

SECTION 2.01.  (a) Subchapter C, Chapter 25, Government Code, is amended by adding Section 25.0381 to read as follows:

Sec. 25.0381.  CHAMBERS COUNTY. Chambers County has one statutory county court, the County Court at Law of Chambers County.

(b)  The County Court at Law of Chambers County is created on September 1, 2019.

SECTION 2.02.  (a) Section 25.0481, Government Code, is amended to read as follows:

Sec. 25.0481.  COMAL COUNTY. Comal County has the following statutory county courts:

(1)  County Court at Law No. 1 of Comal County; [~~and~~]

(2)  County Court at Law No. 2 of Comal County; and

(3)  County Court at Law No. 3 of Comal County.

(b)  The County Court at Law No. 3 of Comal County is created on September 1, 2019.

SECTION 2.03.  Section 25.0512, Government Code, is amended by adding Subsections (a) and (b) to read as follows:

(a)  In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Cooke County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b)  The district clerk serves as clerk of a 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.

SECTION 2.04.  (a) Section 25.1481, Government Code, is amended to read as follows:

Sec. 25.1481.  LIBERTY COUNTY. (a) Liberty County has the following statutory county courts:

(1)  [~~one statutory county court,~~] the County Court at Law of Liberty County; and

(2)  the County Court at Law No. 2 of Liberty County.

(b)  The county courts at law [~~County Court at Law~~] of Liberty County sit [~~sits~~] in Liberty.

(b)  The County Court at Law No. 2 of Liberty County is created on September 1, 2019.

ARTICLE 3. DISTRICT AND COUNTY ATTORNEYS

SECTION 3.01.  Section 43.105(a), Government Code, is amended to read as follows:

(a)  The voters of Montgomery County elect a district attorney for the 9th Judicial District who represents the state in that district court only in that county. The district attorney also acts as district attorney for the 410th and 457th Judicial Districts [~~District in Montgomery County~~].

SECTION 3.02.  Section 43.108, Government Code, is amended to read as follows:

Sec. 43.108.  21ST JUDICIAL DISTRICT. (a) The voters of Washington County [~~and Burleson counties~~] elect a district attorney for the 21st Judicial District who represents the state in that district court only in that county [~~those counties~~].

(b)  The district attorney also represents the state and performs the duties of district attorney before the 335th District Court in Washington County [~~and Burleson counties~~].

SECTION 3.03.  Subchapter B, Chapter 45, Government Code, is amended by adding Section 45.126 to read as follows:

Sec. 45.126.  BURLESON COUNTY. (a) In Burleson County, the county attorney of Burleson County shall perform the duties imposed on and have the powers conferred on district attorneys by general law and is entitled to be compensated by the state in the manner and amount set by general law relating to the salary paid to district attorneys by the state.

(b)  The county attorney of Burleson County or the Commissioners Court of Burleson County may accept gifts or grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting the operation of the office of county attorney in Burleson County. The county attorney shall account for and report to the commissioners court all gifts or grants accepted under this subsection.

SECTION 3.04.  Section 46.002, Government Code, is amended to read as follows:

Sec. 46.002.  PROSECUTORS SUBJECT TO CHAPTER. This chapter applies to the state prosecuting attorney, all county prosecutors, and the following state prosecutors:

(1)  the district attorneys for Kenedy and Kleberg Counties and for the 1st, 2nd, 8th, 9th, 18th, 21st, 23rd, 24th, 26th, 27th, 29th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th, 42nd, 43rd, 46th, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th, 66th, 69th, 70th, 76th, 79th, 81st, 83rd, 84th, 85th, 88th, 90th, 97th, 100th, 105th, 106th, 109th, 110th, 112th, 118th, 119th, 123rd, 132nd, 142nd, 143rd, 145th, 156th, 159th, 173rd, 196th, 198th, 216th, 220th, 229th, 235th, 253rd, 258th, 259th, 266th, 268th, 271st, 286th, 287th, 329th, 344th, 349th, 355th, 369th, 452nd, and 506th judicial districts;

(2)  the criminal district attorneys for the counties of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Comal, Dallas, Deaf Smith, Denton, Eastland, Fannin, Galveston, Grayson, Gregg, Harrison, Hays, Hidalgo, Jasper, Jefferson, Kaufman, Kendall, Lubbock, McLennan, Madison, Navarro, Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum; and

(3)  the county attorneys performing the duties of district attorneys in the counties of Andrews, Aransas, Burleson, Callahan, Cameron, Castro, Colorado, Crosby, Ellis, Falls, Freestone, Gonzales, Guadalupe, Lamar, Lamb, Lampasas, Lavaca, Lee, Limestone, Marion, Milam, Morris, Ochiltree, Oldham, Orange, Rains, Red River, Robertson, Rusk, Swisher, Terry, Webb, and Willacy.

ARTICLE 4. ELECTRONIC PUBLICATION AND DISPLAY OF

LEGAL DOCUMENTS

SECTION 4.01.  Sections 9.160(a), (b), and (c), Business Organizations Code, are amended to read as follows:

(a)  If process in an action under this subchapter is returned not found, the attorney general shall publish notice on the public information Internet website maintained as required by Section 72.034, Government Code [~~in a newspaper in the county in which the registered office of the foreign filing entity in this state is located~~]. The notice must contain:

(1)  a statement of the pendency of the action;

(2)  the title of the court;

(3)  the title of the action; and

(4)  the earliest date on which default judgment may be entered by the court.

(b)  Notice under this section must be published [~~at least once a week~~] for at least two consecutive weeks beginning at any time after the citation has been returned.

(c)  The attorney general may include in a [~~one~~] published notice the name of each foreign filing entity against which an action for involuntary revocation is pending in the same court.

SECTION 4.02.  Sections 11.310(a) and (b), Business Organizations Code, are amended to read as follows:

(a)  If process in an action under this subchapter is returned not found, the attorney general shall publish notice on the public information Internet website maintained as required by Section 72.034, Government Code [~~in a newspaper in the county in which the registered office of the filing entity in this state is located~~]. The notice must contain:

(1)  a statement of the pendency of the action;

(2)  the title of the court;

(3)  the title of the action; and

(4)  the earliest date on which default judgment may be entered by the court.

(b)  Notice under this section must be published [~~at least once a week~~] for at least two consecutive weeks beginning at any time after the citation has been returned.

SECTION 4.03.  Sections 51.054(a) and (b), Estates Code, are amended to read as follows:

(a)  Citation or notice to a person to be served by publication shall be published one time on the public information Internet website maintained as required by Section 72.034, Government Code [~~in a newspaper of general circulation in the county in which the proceeding is pending~~]. The publication must be made at least 10 days before the return day of the service, excluding the date of publication.

(b)  The date of service of citation or notice by publication is the date the citation or notice is published on the public information Internet website under Subsection (a) [~~of publication printed on the newspaper in which the citation or notice is published~~].

SECTION 4.04.  Section 51.103(b), Estates Code, is amended to read as follows:

(b)  Proof of service consists of:

(1)  if the service is made by a sheriff or constable, the return of service;

(2)  if the service is made by a private person, the person's affidavit;

(3)  if the service is made by mail:

(A)  the certificate of the county clerk making the service, or the affidavit of the personal representative or other person making the service, stating that the citation or notice was mailed and the date of the mailing; and

(B)  the return receipt attached to the certificate or affidavit, as applicable, if the mailing was by registered or certified mail and a receipt has been returned; and

(4)  if the service is made by publication, an affidavit:

(A)  made by the Office of Court Administration of the Texas Judicial System [~~publisher of the newspaper in which the citation or notice was published~~] or an employee of that office [~~the publisher~~];

(B)  that contains or to which is attached a copy of the published citation or notice; and

(C)  that states the date of publication on the public information Internet website maintained as required by Section 72.034, Government Code [~~printed on the newspaper in which the citation or notice was published~~].

SECTION 4.05.  Sections 1051.054(a) and (b), Estates Code, are amended to read as follows:

(a)  Citation or notice to a person to be served by publication shall be published one time on the public information Internet website maintained as required by Section 72.034, Government Code [~~in a newspaper of general circulation in the county in which the proceeding is pending~~]. The publication must be made at least 10 days before the return day of the citation or notice, excluding the date of publication.

(b)  The date of service of citation or notice by publication is the date the citation or notice is published on the public information Internet website under Subsection (a) [~~of publication printed on the newspaper in which the citation or notice is published~~].

SECTION 4.06.  Section 1051.153(b), Estates Code, is amended to read as follows:

(b)  Proof of service consists of:

(1)  if the service is made by a sheriff or constable, the return of service;

(2)  if the service is made by a private person, the person's affidavit;

(3)  if the service is made by mail:

(A)  the certificate of the county clerk making the service, or the affidavit of the guardian or other person making the service that states that the citation or notice was mailed and the date of the mailing; and

(B)  the return receipt attached to the certificate, if the mailing was by registered or certified mail and a receipt has been returned; and

(4)  if the service is made by publication, an affidavit that:

(A)  is made by the Office of Court Administration of the Texas Judicial System [~~publisher of the newspaper in which the citation or notice was published~~] or an employee of that office [~~the publisher~~];

(B)  contains or to which is attached a copy of the published citation or notice; and

(C)  states the date of publication on the public information Internet website maintained as required by Section 72.034, Government Code [~~printed on the newspaper in which the citation or notice was published~~].

SECTION 4.07.  Section 3.305, Family Code, is amended to read as follows:

Sec. 3.305.  CITATION BY PUBLICATION. (a) If the residence of the respondent, other than a respondent reported to be a prisoner of war or missing on public service, is unknown, citation shall be published on the public information Internet website maintained as required by Section 72.034, Government Code [~~in a newspaper of general circulation published in the county in which the petition was filed. If that county has no newspaper of general circulation, citation shall be published in a newspaper of general circulation in an adjacent county or in the nearest county in which a newspaper of general circulation is published~~].

(b)  The notice [~~shall be published once a week for two consecutive weeks before the hearing, but the first notice~~] may not be published after the 20th day before the date set for the hearing.

SECTION 4.08.  Section 102.010(e), Family Code, is amended to read as follows:

(e)  In a suit filed under Chapter 161 or 262 in which the last name of the respondent is unknown, the court may order substituted service of citation by publication, including publication by posting the citation at the courthouse door for a specified time, if the court finds and states in its order that the method of substituted service is as likely as citation by publication on the public information Internet website maintained as required by Section 72.034, Government Code, [~~in a newspaper~~] in the manner described by Subsection (b) to give the respondent actual notice of the suit. If the court orders that citation by publication shall be completed by posting the citation at the courthouse door for a specified time, service must be completed on, and the answer date is computed from, the expiration date of the posting period. If the court orders another method of substituted service of citation by publication, service shall be completed as directed by the court.

SECTION 4.09.  Effective September 1, 2019, Subchapter D, Chapter 51, Government Code, is amended by adding Section 51.3032 to read as follows:

Sec. 51.3032.  ELECTRONIC DISPLAY OF OFFICIAL AND LEGAL NOTICES BY DISTRICT CLERK. A district clerk may post an official and legal notice by electronic display, instead of posting a physical document, in the manner provided for a county clerk by Section 82.051, Local Government Code.

SECTION 4.10.  Section 715.006(c), Health and Safety Code, is amended to read as follows:

(c)  If the address or identity of a plot owner is not known and cannot be ascertained with reasonable diligence, service by publication shall be made on the plot owner by publishing notice on the public information Internet website maintained as required by Section 72.034, Government Code [~~at least three times in a newspaper of general circulation in the county in which the cemetery is located. If there is not a newspaper of general circulation in the county in which the cemetery is located, the notice may be published in a newspaper of general circulation in an adjoining county~~].

SECTION 4.11.  Except as otherwise provided by this article, this article takes effect June 1, 2020.

ARTICLE 5. NOTARIZATION REQUIREMENTS

SECTION 5.01.  Section 6.4035(c), Family Code, is amended to read as follows:

(c)  The [~~Notwithstanding Section 132.001, Civil Practice and Remedies Code, the~~] waiver must be sworn before a notary public who is not an attorney in the suit or conform to the requirements for an unsworn declaration under Section 132.001, Civil Practice and Remedies Code. This subsection does not apply if the party executing the waiver is incarcerated.

SECTION 5.02.  Section 31.008(d), Family Code, is amended to read as follows:

(d)  The [~~Notwithstanding Section 132.001, Civil Practice and Remedies Code, the~~] waiver must be sworn before a notary public who is not an attorney in the suit or conform to the requirements for an unsworn declaration under Section 132.001, Civil Practice and Remedies Code. This subsection does not apply if the party executing the waiver is incarcerated.

SECTION 5.03.  Section 45.0031(d), Family Code, is amended to read as follows:

(d)  The [~~Notwithstanding Section 132.001, Civil Practice and Remedies Code, the~~] waiver must be sworn before a notary public who is not an attorney in the suit or conform to the requirements for an unsworn declaration under Section 132.001, Civil Practice and Remedies Code. This subsection does not apply if the party executing the waiver is incarcerated.

SECTION 5.04.  Section 45.107(d), Family Code, is amended to read as follows:

(d)  The [~~Notwithstanding Section 132.001, Civil Practice and Remedies Code, the~~] waiver must be sworn before a notary public who is not an attorney in the suit or conform to the requirements for an unsworn declaration under Section 132.001, Civil Practice and Remedies Code. This subsection does not apply if the party executing the waiver is incarcerated.

SECTION 5.05.  Section 102.0091(d), Family Code, is amended to read as follows:

(d)  The [~~Notwithstanding Section 132.001, Civil Practice and Remedies Code, the~~] waiver must be sworn before a notary public who is not an attorney in the suit or conform to the requirements for an unsworn declaration under Section 132.001, Civil Practice and Remedies Code. This subsection does not apply if the party executing the waiver is incarcerated.

ARTICLE 6. THE OFFICE OF COURT ADMINISTRATION OF THE TEXAS JUDICIAL SYSTEM

SECTION 6.01.  (a)  Section 22A.002(d), Government Code, is amended to read as follows:

(d)  The comptroller [~~Office of Court Administration of the Texas Judicial System~~] shall pay from funds appropriated to the comptroller's judiciary section the travel expenses and other incidental costs related to convening a special three-judge district court under this chapter.

(b)  The change in law made by this section applies only to a travel expense or other incidental cost incurred on or after the effective date of this Act. A travel expense or other incidental cost incurred before the effective date of this Act is governed by the law in effect on the date the travel expense or other incidental cost was incurred, and the former law is continued in effect for that purpose.

SECTION 6.02.  (a)  Sections 51.607(a) and (b), Government Code, are amended to read as follows:

(a)  Following each regular session of the legislature, the Office of Court Administration of the Texas Judicial System [~~comptroller~~] shall identify each law enacted by that legislature, other than a law disapproved by the governor, that imposes or changes the amount of a court cost or fee collected by the clerk of a district, county, statutory county, municipal, or justice court from a party to a civil case or a defendant in a criminal case, including a filing or docketing fee, jury fee, cost on conviction, or fee or charge for services or to cover the expenses of a public official or agency. This subsection does not apply to attorney's fees, civil or criminal fines or penalties, or amounts charged, paid, or collected on behalf of another party to a proceeding other than the state in a criminal case, including restitution or damages.

(b)  The Office of Court Administration of the Texas Judicial System [~~comptroller~~] shall prepare a list of each court cost or fee covered by Subsection (a) to be imposed or changed and shall publish the list in the Texas Register not later than August 1 after the end of the regular session of the legislature at which the law imposing or changing the amount of the cost or fee was enacted. The office [~~comptroller~~] shall include with the list a statement describing the operation of this section and stating the date the imposition or change in the amount of the court cost or fee will take effect under Subsection (c).

(b)  The change in law made by this section applies only to a law imposing or changing the amount of a court cost or fee that takes effect on or after the effective date of this Act.

SECTION 6.03.  Subchapter C, Chapter 72, Government Code, is amended by adding Sections 72.033 and 72.034 to read as follows:

Sec. 72.033.  LIST OF NEW OR AMENDED COURT COSTS AND FEES. The office biennially shall prepare and publish a list of new or amended court costs and fees as required by Section 51.607.

Sec. 72.034.  PUBLIC INTERNET WEBSITE. (a) In this section:

(1)  "Public information" means citation, other public or legal notice that a person, including a party to a cause of action, is required to publish under a statute or rule, and any other information that the person submits for publication on the public information Internet website.

(2)  "Public information Internet website" means the official statewide Internet website developed and maintained by the office under this section for the purpose of providing citation by publication.

(b)  The office shall develop and maintain a public information Internet website that allows a person to easily publish public information on the Internet website or the office to post public information on the Internet website on receipt from the person.

(c)  The public information Internet website shall allow the public to easily access, search, and sort the public information.

(d)  The supreme court by rule shall establish procedures for the submission of public information to the public information Internet website by a person who is required to publish the information.

SECTION 6.04.  (a) The Texas Supreme Court shall adopt the rules necessary to implement Section 72.034, Government Code, as added by this Act, not later than June 1, 2020.

(b)  The Office of Court Administration of the Texas Judicial System shall develop the public information Internet website for the purposes of providing citation by publication as required by Section 72.034, Government Code, as added by this Act, not later than June 1, 2020.

SECTION 6.05.  (a) The Office of Court Administration of the Texas Judicial System shall contract with the National Center for State Courts to conduct a study of the caseloads of the district and statutory county courts in this state. The study must concentrate on the weighted caseload of each court, considering the nature and complexity of the cases heard.

(b)  Not later than December 1, 2020, the National Center for State Courts shall report the results of the study required by Subsection (a) of this section to the Office of Court Administration of the Texas Judicial System. Not later than January 1, 2021, the office shall 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.

ARTICLE 7. SENIOR DISTRICT JUDGES

SECTION 7.01.  Section 832.101, Government Code, is amended to read as follows:

Sec. 832.101.  INELIGIBILITY FOR MEMBERSHIP. A retiree who makes an election under Subchapter C of Chapter 74 [~~or who is appointed under Subchapter C of Chapter 75~~] may not rejoin the retirement system or receive credit in the retirement system for the period of an appointment or for any service performed under assignment.

SECTION 7.02.  Section 836.006, Government Code, is amended to read as follows:

Sec. 836.006.  DIVERSION OF MONEY PROHIBITED. Except as provided by Sections 840.101(b) and 840.305(c), no part of the money contributed to the retirement system under Section 840.102 [~~or 840.104~~] and no part of the contribution described by Section 840.103(b)(2) may be used for or diverted to any purpose other than the exclusive benefit of members, their beneficiaries, and annuitants of the retirement system.

SECTION 7.03.  Section 837.101, Government Code, is amended to read as follows:

Sec. 837.101.  JUDICIAL ASSIGNMENT. A retiree who makes an election under Subchapter C of Chapter 74 [~~or who is appointed under Subchapter C of Chapter 75~~] may not rejoin or receive credit in the retirement system for the period of an appointment or for any service performed under assignment.

ARTICLE 8. REPEALERS

SECTION 8.01.  The following provisions of the Estates Code are repealed:

(1)  Section 51.054(c); and

(2)  Section 1051.054(c).

SECTION 8.02.  The following provisions of the Government Code are repealed:

(1)  Section 43.111(c);

(2)  Subchapter C, Chapter 75;

(3)  Section 832.001(b);

(4)  Section 835.103;

(5)  Section 837.001(b); and

(6)  Section 840.104.

ARTICLE 9. EFFECTIVE DATE

SECTION 9.01.  Except as otherwise provided by this Act, this Act takes effect September 1, 2019.