

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 1, 2019

TO: Honorable Jeff Leach, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB2120 by Leach (relating to the operation and administration of and practice in courts in the judicial branch of state government; imposing a fee; creating a criminal offense.),
Committee Report 1st House, Substituted

Estimated Two-year Net Impact to General Revenue Related Funds for HB2120, Committee Report 1st House, Substituted: a negative impact of (\$4,173,994) through the biennium ending August 31, 2021.

The Office of Court Administration (OCA) is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the OCA may, but is not required to, implement a provision of this Act using other appropriations available for that purpose.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	(\$1,955,873)
2021	(\$2,218,121)
2022	(\$2,462,126)
2023	(\$2,462,126)
2024	(\$2,462,126)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2019
2020	(\$1,995,873)	\$40,000	7.0
2021	(\$2,258,121)	\$40,000	10.0
2022	(\$2,502,126)	\$40,000	11.0
2023	(\$2,502,126)	\$40,000	11.0
2024	(\$2,502,126)	\$40,000	11.0

Fiscal Analysis

The bill would amend the Government Code to create new judicial districts in: Brazoria County, the 461st Judicial District created September 1, 2019; Travis County, the 455th Judicial District created October 1, 2020; Guadalupe County, the 456th Judicial District created September 1, 2019; Montgomery County, the 457th Judicial District created September 1, 2019; Comal County, the 466th Judicial District created January 1, 2021; Denton County, the 467th Judicial District created January 1, 2021; Collin County, the 468th Judicial District created September 1, 2019; Collin County, the 471st Judicial District created September 1, 2019; and Medina County, the 454th Judicial District created September 1, 2019.

The bill would amend the Government Code to create new statutory courts: Chambers County Court at Law created January 1, 2021; Comal County Court at Law #3 created September 1, 2019; Gillespie County Court at Law created October 1, 2019; Liberty County Court at Law #2 created September 1, 2019; Rockwall County Court at Law #2 created September 1, 2019; and Ellis County Court at Law #3 created January 1, 2021.

The bill would amend the Government Code within the Professional Prosecutors Act effective September 1, 2019 to add the state prosecutor of the 24th Judicial District, the state prosecutor of the 293rd Judicial District, and the county attorney position in Burleson County. The county attorney of Burleson County would be prohibited from the private practice of law. The bill would add a state prosecutor to the 454th Judicial District and abolish the county attorney position in Medina County on January 1, 2021

The bill would amend the Government Code to require the Judicial Branch Certification Commission (JBCC) to develop and periodically update a list of states that have substantially equivalent requirements for the court reporting profession to those of this state and to certify those reporters who hold a license in one of those states and meets certain other criteria, sets out the requirements for reciprocity agreements, requires shorthand reporting firms to pay only a registration or renewal fee in lieu of a separate fee for a certified court reporter if the court reporter owns more than 50 percent of the firm and maintains actual control of the firm, requires the JBCC to require each court reporter and at least one person who has management responsibility for a shorthand reporting firm to complete continuing education, removes "other sufficient cause" and adds repeatedly failing to appear for scheduled court reporting services as a reason for a court reporter to be disciplined, and creates a Class A misdemeanor offense for providing unlicensed court reporting services;

The bill would amend the Business Organizations Code to require the Office of Court Administration (OCA) to develop and maintain a public information website that would allow a person or OCA to publish citations, other public or legal notice that a person, including a party to a cause of action is required to publish under statute or rule, on the website. The bill requires this

website to be easily accessible and searchable by users. The Supreme Court of Texas would be responsible for establishing the procedures for submitting information for publication on the website.

The bill would amend the Government Code to transfer notification requirements for the reporting of specialty courts from the Criminal Justice Division within the Office of the Governor to OCA, require these courts to report certain information as described in the bill to the Texas Judicial Council in addition to the Criminal Justice Division, require OCA to provide certain services to specialty courts and to notify the Criminal Justice Division if a specialty court fails to comply with programmatic best practices.

The bill would amend the Government Code to transfer responsibilities for the payment of travel expenses and other incidental costs related to convening a special three-judge district court from OCA to the Judiciary Section, Comptroller's Department.

The bill would amend the Government Code to transfer responsibilities for the identification and creation of a list of each law enacted by the Legislature and signed by the Governor that imposes or changes a court cost or fee collected by a clerk of a court from the Comptroller of Public Accounts to OCA no later than August 1st after the end of the legislative session in which the change was enacted and requires OCA to prepare and publish a list of new and amended court costs and fees biennially.

The bill would amend the Government Code to require OCA to contract with the National Center for State Courts (NCSC) to provide a weighted caseload study that would determine the need for new district courts and county courts at law. The study would be required to be submitted to OCA by NCSC no later than December 1, 2020 and OCA would be required to provide a report on the study to the Governor and legislature no later than January 1, 2021.

The bill would take effect September 1, 2019.

Methodology

The annual salary provided by the state for a district judge is \$140,000, in addition to benefits (state contributions for group insurance and the Judicial Retirement System) which are estimated to be \$38,505 each fiscal year. The total annual salary and benefits cost for a district judge is estimated to be \$178,505 each fiscal year.

In addition, the costs for creation of the following district courts are prorated due to creation dates that fall within a fiscal year: the 455th District Court in Travis County is prorated for 11 months in fiscal year 2021 because this court would be created on October 1st; the 466th District Court in Comal County and the 467th District Court in Denton County are prorated for 8 months in fiscal year 2021 because these courts would be created on January 1st. Total costs for the 2020-21 biennium for creation of these district courts is estimated to be \$2,543,703 in General Revenue. The addition of these new district courts would include an increase of 6 FTEs in fiscal year 2020, a prorated amount of 8.5 FTEs in fiscal year 2021, and 9 FTEs beginning in 2022 and for each subsequent year.

For county courts at law, the annual recurring cost to the state would be \$84,000 from General Revenue due to the state providing a county court-at-law judge a salary supplement up to 60 percent of the state salary of a district judge. Total costs for the 2020-21 biennium for creation of these county courts at law are estimated to be \$777,000 in General Revenue. In addition, the costs for creation of the Chambers County Court at Law and Ellis County Court at Law #3 are prorated

for 8 months in fiscal year 2021 because these courts would be created on January 1st and the Gillespie County Court at Law is prorated for 11 months in fiscal year 2020 because this court would be created on October 1st.

The annual salary for a district attorney listed in the Professional Prosecutors Act is \$140,000 from the state plus benefits which are estimated to be \$29,877 each fiscal year, or \$169,877 in total. According to the Comptroller of Public Accounts, the state is currently compensating the district attorneys for the 24th and 393rd Judicial Districts an annual salary of \$112,000 plus \$24,466 in benefits for a total of \$136,466. Therefore, the state's obligations for listing these positions in the Professional Prosecutors Act would be \$33,411 each fiscal year for each position. In addition, the state is currently providing a county attorney supplement for the Burleson county attorney position of \$35,000. Therefore, the state's obligations for listing this position in the Professional Prosecutors Act would be \$162,377 each fiscal year with an increase of 1.0 FTE each fiscal year. This includes \$134,877 and \$27,500 for an office expenses. The bill would create a district attorney position and abolish the county attorney position in Medina County beginning January 1, 2021. The salary for the new district attorney position in Medina County would be prorated 8 months in fiscal year 2021 because the position would be created January 1st. In addition, the state is currently providing a county attorney supplement for the Medina county attorney position of \$35,000. Therefore, the state's obligations for listing this position in the Professional Prosecutors Act would be \$108,251 in fiscal year 2021 with an increase of 1.0 FTE. This includes \$89,908 and \$27,500 for an office expenses. Total costs for the 2020-21 biennium for listing these four positions in the Professional Prosecutors Act are estimated to be \$566,652 in General Revenue.

These costs are traditionally met through a mix of General Revenue Fund and Judicial Fund No. 573 funding, however for the past several fiscal years Judicial Fund No. 573 revenues have not been sufficient to meet all judicial salary obligations. Due to this, General Revenue funding has been used to meet the remaining obligations. Therefore, this estimate assumes General Revenue funding would be needed to cover the full state obligations for any additional new courts created by the 86th Legislature.

Based on information provided by OCA, this estimate assumes that OCA would be required to contract for the services of a programmer and project manager to develop and maintain the public website for the inventorying of public citations and other legal notices with one-time costs estimated to be \$66,640 in General Revenue in fiscal year 2020.

Based on a comparison of costs for similar studies previously developed by OCA, this estimate assumes that \$300,000 in General Revenue in fiscal year 2020 would be necessary to contract with the National Center for State Courts for development of a weighted caseload study within timeframes identified in the bill.

Under current law, the JBCC collects a \$200 fee on 315 court reporting businesses, or \$63,000, for a two year registration. Since the bill would prohibit the collection of those fees, this analysis assumes there would be a similar revenue reduction realized in every subsequent two year period. The table above does not reflect the reduction in revenue because the JBCC is statutorily required to generate revenue in amounts sufficient to cover all of its operating costs each fiscal year. In addition, OCA estimates that additional technology costs of \$40,000 would be required each fiscal year in licensing fees for the software utilized by the JBCC to add two additional license classifications to the current system. Accordingly, this analysis assumes that fees would be adjusted as necessary to reflect revenue losses and cover additional costs.

According to the Office of Court Administration and the Comptroller of Public Accounts, duties

and responsibilities associated with implementing the remaining provisions of the bill could be accomplished by utilizing existing resources.

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Technology

OCA estimates that additional technology costs of \$40,000 each fiscal year would be required for the software utilized by the JBCC to add two additional license classifications to the current system. In addition, OCA would be required to contract for the services of a programmer and project manager to develop and maintain the public website for the inventorying of public citations and other legal notices with one-time costs estimated to be \$66,640 in fiscal year 2020.

Local Government Impact

The bill would establish new courts, which would require annual costs for personnel and operating expenses and may require one-time costs, such as furniture, to establish.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304
Comptroller of Public Accounts, 302 Office of the Attorney General

LBB Staff: WP, SLE, MW, DA, CMa, GDz, AF, LCO