

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 25, 2019

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Dennis Bonnen, Speaker of the House, House of Representatives

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

IN RE: SB891 by Huffman (Relating to the operation and administration of and practice in and grants provided by courts in the judicial branch of state government; increasing and imposing fees; creating a criminal offense.), **Conference Committee Report**

Estimated Two-year Net Impact to General Revenue Related Funds for SB891, Conference Committee Report: a positive impact of \$9,145,823 through the biennium ending August 31, 2021.

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	\$4,700,571
2021	\$4,445,252
2022	\$4,362,882
2023	\$4,595,468
2024	\$4,835,870

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from General Revenue Fund 1	Change in Number of State Employees from FY 2019
2020	\$4,660,571	\$40,000	5.0
2021	\$4,405,252	\$40,000	8.9
2022	\$4,322,882	\$40,000	10.0
2023	\$4,555,468	\$40,000	10.0
2024	\$4,795,870	\$40,000	10.0

Fiscal Analysis

The bill would amend the Government Code to create new judicial districts in: Medina County, the 454th Judicial District created September 1, 2019; Travis County, the 455th Judicial District created October 1, 2020; Guadalupe County, the 456th Judicial District created January 1, 2021; Montgomery County, the 457th Judicial District created September 1, 2019; Brazoria County, the 461st 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; and Collin County, the 471st 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; Ellis County Court at Law #3 created January 1, 2021; Gillespie County Court at Law created October 1, 2019; Hidalgo County Court at Law #9 created September 1, 2019; Hidalgo County Court at Law #10 created September 1, 2019; Liberty County Court at Law #2 created September 1, 2019; and Rockwall County Court at Law #2 created September 1, 2019.

The bill would amend the Government Code within the Professional Prosecutors Act to add the state prosecutor of the 24th Judicial District and the county attorney position in Burleson County effective September 1, 2019 and the Medina County Criminal District Attorney effective January 1, 2021. The county attorney of Burleson County would be prohibited from the private practice of law. The bill would abolish the county attorney position for Medina County, would establish the Criminal District Attorney of Medina County, and would include this state prosecutor position within the Professional Prosecutors Act effective January 1, 2021. The bill would also include the state prosecutor of the 293rd Judicial District within the Professional Prosecutors Act effective January 1, 2025.

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 meet certain other criteria, set out the requirements for reciprocity agreements, require 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, require 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, remove "other sufficient cause" and add repeatedly failing to appear for scheduled court reporting services as a reason for a court reporter to be disciplined, and create 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 would require 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, and 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 Office.

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 require 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 amend the Family Code relating to the Title IV-D Annual Child Support service fee.

The bill would amend the Government Code to authorize both the Permanent Judicial Commission for Children, Youth, and Families, or "Children's Commission", and the Judicial Commission on Mental Health to make grants from available funds, which would include state funds.

The bill would amend the Code of Criminal Procedure and Local Government Code to eliminate the Collection Improvement Program.

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 456th District Court in Guadalupe County, 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 \$2,305,695 in General Revenue. The addition of these new district courts would include an increase of 5.0 FTEs in fiscal year 2020, a prorated amount of 8.2 FTEs in fiscal year 2021, and 9.0 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 \$945,000 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 court 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 293rd 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 for each position for each applicable fiscal year.

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 the Burleson county attorney 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 \$27,500 for office expenses.

The state is currently providing a county attorney supplement for the Medina county attorney position of \$23,333; a position which the bill abolishes. These savings would be offset by the state's obligations for creation of the Medina County Criminal District Attorney position and including this position within the Professional Prosecutors Act which would have an annual cost of \$174,044 with an increase of 1.0 FTE each fiscal year. This includes \$27,500 for office expenses. This cost is prorated at \$116,029 in fiscal year 2021 because this provision is effective January 1, 2021.

Total costs for the 2020-21 biennium for these state prosecutor position changes are estimated to be \$507,607 in General Revenue with an additional 1.0 FTE in fiscal year 2020, a prorated 1.7 FTEs in fiscal year 2021, and 2.0 FTEs each subsequent fiscal year.

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 NCSC 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.

Based on information provided by OCA, elimination of the Collection Improvement Program would result in the agency needing 1.0 fewer Auditor position for annual salary savings of \$88,858 in General Revenue funding each fiscal year.

Based on analysis by the Office of the Attorney General, the provisions of the bill increasing the Title Title IV-D Child Support annual service fee from \$25 to \$35 would result in a positive impact to General Revenue during the 2020-21 biennium of \$13.2 million. This estimate is based on avoiding federal fines and increased collections resulting from changing the fee.

According to OCA 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.

This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies. Additional details are provided in the Criminal Justice Impact Statement.

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, 302 Office of

the Attorney General, 304 Comptroller of Public Accounts

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