

BILL ANALYSIS

Senate Research Center

S.B. 690
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State Affairs
4/21/2021
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the pandemic, the Texas judiciary has led the nation in innovation and adaptability by not only holding thousands of online court proceedings, but also being the first state to have its Supreme Court host remote oral arguments, to hold a virtual non-binding civil jury trial, and to hold a virtual criminal jury trial. This would not have been possible, however, without the Governor's Disaster Declaration allowing the Supreme Court to "modify or suspend procedures for the conduct of any court proceeding affected by a disaster declared by the governor" and allowing for courts to host hearings away from their typical locations.

Online proceedings have increase access to justice. Many judges report greater participation from litigants via Zoom due to the platform's convenience—litigants can more efficiently attend court hearings by simply logging in via their computer or mobile device from work or home. Judges also report cost savings from litigants, attorneys, and judges who have not had to travel to courts. Access to interpreters has increased as well.

Although Zoom court hearings have not yet been perfected and are not adequate for some hearings, the progress made during the pandemic in access to justice, accessibility, and efficiency should continue for years to come. Accordingly, the Texas Judicial Council recommended removing statutory or rule barriers to holding remote proceedings outside a disaster declaration. S.B. 690 would implement this recommendation by providing judges and parties to cases with the alternative of using remote court proceedings in civil and criminal matters.

As proposed, S.B. 690 amends current law relating to remotely conducting court proceedings in this state.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

ARTICLE 1. REMOTE PROCEEDINGS

SECTION 1.001. Amends Section 21.009, Government Code, by adding Subdivision (5) to define "remote proceeding" for purposes of Title 2 (Judicial Branch).

SECTION 1.002. Amends Chapter 21, Government Code, by adding Section 21.013, as follows:

Sec. 21.013. OPTION FOR REMOTE PROCEEDING. (a) Authorizes a court in this state on the court's own motion or on the motion of any party, notwithstanding any other law, to:

- (1) conduct a hearing or other proceeding as a remote proceeding without the consent of the parties unless the United States Constitution or Texas Constitution requires consent; and

(2) allow or require a judge, party, attorney, witness, court reporter, juror, or any other individual to participate in a remote proceeding, including a deposition, hearing, trial, or other proceeding.

(b) Requires the prosecutor and defendant, in any criminal proceeding that under the United States Constitution or Texas Constitution requires the consent of the parties for the proceeding to be conducted as a remote proceeding, to each consent for the proceeding to be conducted as a remote proceeding. Prohibits the proceeding from being held as a remote proceeding if the prosecutor or defendant does not consent.

(c) Requires a court, for a jury trial that is to be conducted as a remote proceeding, to:

(1) consider on the record any motion or objection related to proceeding with the trial not later than the seventh day before the trial date, except that if the motion or objection is made later than the seventh day before the trial date, the court is required to consider the motion or objection on the record as soon as practicable; and

(2) ensure all prospective jurors have access to the technology necessary to participate in the remote proceeding.

(d) Requires the court, if a remote proceeding is conducted away from the court's usual location, to provide reasonable notice to the public and an opportunity to observe the proceeding.

(e) Requires the Office of Court Administration of the Texas Judicial System to provide guidance and assistance to the extent possible to a court conducting a remote proceeding.

(f) Provides that, for purposes of any law requiring notice or citation of the time and place for a proceeding, notice of the remote means by which the proceeding will be conducted and the method for accessing the proceeding through that remote means constitutes notice of the place for the proceeding.

ARTICLE 2. CONFORMING CHANGES

SECTION 2.001. Amends Section 30.012(a), Civil Practice and Remedies Code, to make conforming changes.

SECTION 2.002. Amends Article 27.18(a), Code of Criminal Procedure, to make conforming and nonsubstantive changes.

SECTION 2.003. Amends Section 53.102(a), Estates Code, to make conforming changes.

SECTION 2.004. Amends Section 1053.102(a), Estates Code, to make conforming changes.

SECTION 2.005. Amends Section 1055.053, Estates Code, as follows:

Sec. 1055.053. New heading. LOCATION OR MEANS OF HEARING. (a) and (b) Makes conforming changes to these subsections.

SECTION 2.006. Amends Section 51.115(c), Family Code, to make conforming and nonsubstantive changes.

SECTION 2.007. Amends Section 54.012(a), Family Code, to make conforming changes.

SECTION 2.008. Amends Sections 22.202(a) and (g), Government Code, to make conforming and nonsubstantive changes.

SECTION 2.009. Amends Sections 22.203(a) and (b), Government Code, to make conforming and nonsubstantive changes.

SECTION 2.010. Amends Sections 22.204(a) and (b), Government Code, to make conforming and nonsubstantive changes.

SECTION 2.011. Amends Section 22.205, Government Code, to make conforming and nonsubstantive changes.

SECTION 2.012. Amends Sections 22.206(a) and (b), Government Code, to make conforming changes.

SECTION 2.013. Amends Section 22.207, Government Code, to make conforming and nonsubstantive changes.

SECTION 2.014. Amends Section 22.208, Government Code, to make conforming changes.

SECTION 2.015. Amends Section 22.209, Government Code, to make conforming and nonsubstantive changes.

SECTION 2.016. Amends Sections 22.210(a) and (c), Government Code, to make conforming changes.

SECTION 2.017. Amends Section 22.211(a), Government Code, to make conforming changes.

SECTION 2.018. Amends Sections 22.212(a) and (c), Government Code, to make conforming changes.

SECTION 2.019. Amends Sections 22.213(a) and (c), Government Code, to make conforming and nonsubstantive changes.

SECTION 2.020. Amends Sections 22.214(a) and (c), Government Code, to make conforming and nonsubstantive changes.

SECTION 2.021. Amends Sections 22.215(a) and (c), Government Code, to make conforming changes.

SECTION 2.022. Amends Subchapter A, Chapter 24, Government Code, by adding Section 24.0301, as follows:

Sec. 24.0301. REMOTE PROCEEDINGS. Authorizes a district court, notwithstanding Section 24.030 (Location of Court) or any other provision of Chapter 24 (District Courts) requiring a district court to sit and conduct the court's proceedings in a specified county or municipality, to conduct the court's proceedings as provided by Section 21.013. Makes a nonsubstantive change.

SECTION 2.023. Amends Section 25.0001(a), Government Code, as follows:

(a) Provides that Subchapter A (General Provisions) applies to each statutory county court in this state. Specifies that, except as provided by Section 25.00105, if a provision of Subchapter A conflicts with a specific provision for a particular court or county, the specific provision controls.

SECTION 2.024. Amends Subchapter A, Chapter 25, Government Code, by adding Section 25.00105, as follows:

Sec. 25.00105. REMOTE PROCEEDINGS. Authorizes a statutory county court, notwithstanding any other law, including a specific provision in Chapter 25 (Statutory County Courts) for a particular court or county that requires a statutory county court to sit and conduct the court's proceedings at the county seat, to conduct the court's proceedings as provided by Section 21.013.

SECTION 2.025. Amends Subchapter B, Chapter 25, Government Code, by adding Section 25.00305, as follows:

Sec. 25.00305. REMOTE PROCEEDINGS. Authorizes a statutory probate court, notwithstanding any other law, including a specific provision in Chapter 25 for a particular court or county that requires a statutory probate court to sit and conduct the court's proceedings at the county seat, to conduct the court's proceedings as provided by Section 21.013.

SECTION 2.026. Amends Section 26.002(c), Government Code, to require that all terms of court be held at the county seat, except that the court is authorized to conduct the court's proceedings as provided by Section 21.013.

SECTION 2.027. Amends Section 27.051(b), Government Code, to make conforming and nonsubstantive changes.

SECTION 2.028. Amends Section 30.00001(c), Government Code, to create an exception under Section 30.00138(b)(2).

SECTION 2.029. Amends Section 30.00138, Government Code, to make conforming and nonsubstantive changes.

SECTION 2.030. Amends Sections 573.012(a) and (h), Health and Safety Code, to make conforming changes and to authorize a judge or magistrate to permit an applicant, rather than an applicant who is a physician, to present an application by certain electronic means.

SECTION 2.031. Amends Sections 574.031(a) and (b), Health and Safety Code, to make conforming changes.

SECTION 2.032. Amends Section 574.203(a), Health and Safety Code, to make conforming and nonsubstantive changes. Deletes existing text authorizing that a hearing be conducted in accordance with a certain chapter but conducted by a certain secure electronic means if written consent to the use of a secure electronic communication method for the hearing is filed with the court by the proposed patient or the attorney representing the proposed patient; and the county or district attorney, as appropriate.

SECTION 2.033. Amends Section 292.001(d), Local Government Code, to make conforming changes.

SECTION 2.034. Repealer: Section 30.012(b) (relating to instances in which witness testimony at trial may be conducted by electronic means), Civil Practice and Remedies Code.

Repealer: Section 54.012(b) (relating to two-way audio and video communication between certain parties during a detention hearing), Family Code.

ARTICLE 3. EFFECTIVE DATE

SECTION 3.001. Effective date: September 1, 2021.