By:  Huffman S.B. No. 1529

(In the Senate - Filed March 11, 2021; March 18, 2021, read first time and referred to Committee on Jurisprudence; April 6, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 3, Nays 2; April 6, 2021, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Huffman           X

Hinojosa                 X

Creighton            X

Hughes               X

Johnson                  X

COMMITTEE SUBSTITUTE FOR S.B. No. 1529 By:  Huffman

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Texas Court of Appeals to hear certain cases; authorizing fees.

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

ARTICLE 1. TEXAS COURT OF APPEALS

SECTION 1.01.  Section 22.201(a), Government Code, is amended to read as follows:

(a)  The state is divided into 14 courts of appeals districts with a court of appeals of general jurisdiction in each district. The state has one statewide court of appeals district for the Texas Court of Appeals.

SECTION 1.02.  Subchapter C, Chapter 22, Government Code, is amended by adding Section 22.2155 to read as follows:

Sec. 22.2155.  TEXAS COURT OF APPEALS. (a) The Texas Court of Appeals has exclusive appellate jurisdiction over all cases or any matters arising out of or related to a civil case:

(1)  brought by or against the state or a state agency, board, or commission, or by or against an officer of the state or a state agency, board, or commission, other than:

(A)  a proceeding brought under Title 5, Family Code;

(B)  a proceeding brought against an elected official of a political subdivision or the judge of a trial court arising from an act or omission made in the official's or judge's official capacity;

(C)  a proceeding relating to a mental health commitment or a civil asset forfeiture;

(D)  a juvenile case;

(E)  a proceeding brought under Chapter 125, Civil Practice and Remedies Code, to enjoin a common nuisance; or

(F)  a quo warranto proceeding; or

(2)  in which a party to the proceeding files a petition, motion, or other pleading challenging the constitutionality of a statute of this state.

(b)  The court is composed of five justices elected by the qualified voters of the state.

(c)  The court shall sit in the City of Austin, but may transact its business in any county in the state as the court determines is necessary and convenient.

(d)  Except as otherwise provided by this section or a rule adopted by the supreme court under Subsection (e), the following apply to the court in the same manner as to other courts of appeals:

(1)  provisions of this code, including Sections 22.217 through 22.228, or other law;

(2)  rules of procedure and appeal; and

(3)  standards of practice relating to precedent and authority from the supreme court and other courts of appeals.

(e)  The supreme court shall adopt rules to:

(1)  provide for the administration of the Texas Court of Appeals as a subject matter jurisdiction court of appeals and assist the court in processing appeals filed from the district courts, statutory county courts, and county courts of the state; and

(2)  set court costs and fees for the court.

SECTION 1.03.  Section 22.216, Government Code, is amended by adding Subsection (n-1) to read as follows:

(n-1)  The Texas Court of Appeals consists of a chief justice and of four justices holding places numbered consecutively beginning with Place 2.

SECTION 1.04.  Section 22.220(a), Government Code, is amended to read as follows:

(a)  Each court of appeals of general jurisdiction has appellate jurisdiction of all civil cases within its district of which the district courts or county courts have jurisdiction when the amount in controversy or the judgment rendered exceeds $250, exclusive of interest and costs, other than cases over which the Texas Court of Appeals has exclusive appellate jurisdiction under Section 22.2155.

SECTION 1.05.  (a) Except as otherwise provided by this Act, the Texas Court of Appeals is created January 1, 2023.

(b)  If the Texas Court of Appeals is created, the initial vacancies in the offices of chief justice and justice of the court shall be filled by election, and the offices exist for purposes of the primary and general elections in 2022.

SECTION 1.06.  (a) On the date the Texas Court of Appeals is created, all cases pending in courts of appeals of general jurisdiction filed on or after January 1, 2021, and of which the Texas Court of Appeals has exclusive jurisdiction are transferred to the Texas Court of Appeals.

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

(1)  all processes, writs, bonds, recognizances, or other obligations issued from the court of appeals of general jurisdiction are returnable to the Texas Court of Appeals as if originally issued by that court; and

(2)  the obligees on all bonds and recognizances taken in and for a court of appeals of general jurisdiction and all witnesses summoned to appear in a court of appeals of general jurisdiction are required to appear before the Texas Court of Appeals as if originally required to appear before that court.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01.  Article 4.01, Code of Criminal Procedure, is amended to read as follows:

Art. 4.01.  WHAT COURTS HAVE CRIMINAL JURISDICTION. The following courts have jurisdiction in criminal actions:

1.  The Court of Criminal Appeals;

2.  Courts of appeals of general jurisdiction;

3.  The district courts;

4.  The criminal district courts;

5.  The magistrates appointed by the judges of the district courts of Bexar County, Dallas County, Tarrant County, or Travis County that give preference to criminal cases and the magistrates appointed by the judges of the criminal district courts of Dallas County or Tarrant County;

6.  The county courts;

7.  All county courts at law with criminal jurisdiction;

8.  County criminal courts;

9.  Justice courts;

10.  Municipal courts;

11.  The magistrates appointed by the judges of the district courts of Lubbock County; and

12.  The magistrates appointed by the El Paso Council of Judges.

SECTION 2.02.  Article 4.03, Code of Criminal Procedure, is amended to read as follows:

Art. 4.03.  COURTS OF APPEALS. The Courts of Appeals of general jurisdiction shall have appellate jurisdiction coextensive with the limits of their respective districts in all criminal cases except those in which the death penalty has been assessed. This Article shall not be so construed as to embrace any case which has been appealed from any inferior court to the county court, the county criminal court, or county court at law, in which the fine imposed or affirmed by the county court, the county criminal court or county court at law does not exceed one hundred dollars, unless the sole issue is the constitutionality of the statute or ordinance on which the conviction is based.

SECTION 2.03.  Article 44.25, Code of Criminal Procedure, is amended to read as follows:

Art. 44.25.  CASES REMANDED. The courts of appeals of general jurisdiction or the Court of Criminal Appeals may reverse the judgment in a criminal action, as well upon the law as upon the facts.

SECTION 2.04.  Section 612.004(f)(2), Government Code, is amended to read as follows:

(2)  "State agency" means:

(A)  a department, board, commission, committee, council, agency, office, or other entity in the executive, legislative, or judicial branch of state government, the jurisdiction of which is not limited to a geographical portion of the state;

(B)  an institution of higher education as defined by Section 61.003, Education Code; and

(C)  a court of appeals as described by Subchapter C, Chapter 22 [~~Section 22.201~~].

ARTICLE 3. SPECIFIC APPROPRIATION REQUIRED; EFFECTIVE DATE

SECTION 3.01.  (a) Notwithstanding Section 22.201(a), Government Code, as amended by this Act, and Section 22.2155, Government Code, as added by this Act, the Texas Court of Appeals is not created unless the legislature makes a specific appropriation of money for that purpose. For purposes of this subsection, a specific appropriation is an appropriation identifying the Texas Court of Appeals or an Act of the 87th Legislature, Regular Session, 2021, relating to the creation of the Texas Court of Appeals.

(b)  Notwithstanding Section 22.220(a), Government Code, as amended by this Act, a court of appeals of general jurisdiction has the same jurisdiction the court had on December 31, 2021, if the Texas Court of Appeals is not created as a result of Subsection (a) of this section.

SECTION 3.02.  This Act takes effect January 1, 2022.

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