

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 27, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3774 by Leach (Relating to the operation and administration of and practice and procedure related to proceedings in the judicial branch of state government.), As Passed 2nd House

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3774, As Passed 2nd House : a negative impact of (\$2,523,000) through the biennium ending August 31, 2023.

A state agency subject to this Act 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 agency 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:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2022	(\$941,000)
2023	(\$1,582,000)
2024	(\$1,834,000)
2025	(\$1,834,000)
2026	(\$1,834,000)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from General Revenue Fund 1</i>	<i>Probable Savings/(Cost) from Judicial Fund 573</i>	<i>Change in Number of State Employees from FY 2021</i>
2022	(\$941,000)	(\$314,000)	5.0
2023	(\$1,582,000)	(\$527,000)	10.0
2024	(\$1,834,000)	(\$611,000)	10.0
2025	(\$1,834,000)	(\$611,000)	10.0
2026	(\$1,834,000)	(\$611,000)	10.0

## **Fiscal Analysis**

The bill would amend the Government Code to create the 478th Judicial District of Bell County; 485th Judicial District of Tarrant County; 480th Judicial District of Williamson County; 481st Judicial District of Denton County; 482nd Judicial District of Harris County, which would be required to give preference to criminal cases; 483rd Judicial District of Hays County; 484th Judicial District of Cameron County, which would be required to give preference to juvenile matters; 474th Judicial District of McLennan County; 475th Judicial District of Smith County; 476th Judicial District of Hidalgo County.

The bill would amend the Government Code to create the Probate Court Number 2 of Denton County on January 1, 2022. The bill would give County Court at Law 2 of Denton County jurisdiction over all civil causes and proceedings, regardless of amount in controversy for eminent domain and direct and inverse condemnation cases.

The bill would create the Kendall County Court at Law on October 1, 2022, and would establish the court's jurisdiction and set the salary to be paid to the court's judge.

The bill would create County Court at Law No. 3 of McLennan County on the bill's effective date. The bill would provide that, on the request of a district judge presiding in McLennan County, the regional presiding judge may assign a judge of a county court at law in McLennan County to the requesting judge's court. The bill would limit the jurisdiction of a McLennan County court at law.

The bill would create County Court at Law No. 6 in Montgomery County on the bill's effective date.

The bill would modify the Reeves County Court at Law to provide that the court has jurisdiction in family law cases and proceedings.

The bill would create County Court at Law No. 2 of San Patricio County on January 1, 2023, add provisions for the clerk in the San Patricio County Courts at Law, and modify the jurisdiction of the San Patricio County Courts at Law to be consistent with general law for county courts at law.

The bill would provide that the Tarrant County Criminal Court No. 6 is to give preference to certain cases.

The bill would create County Court at Law No. 5 of Williamson County on October 1, 2022.

The bill would amend the Code of Criminal Procedure to prohibit a judge or justice from accepting a plea of guilty or nolo contendere unless the defendant appears mentally competent, and the plea is free and voluntary.

The bill would amend the Family Code to define “dual status child” and clarify provisions applicable to dual status children. The bill would also amend the Family Code to require attorneys ad litem to report certain items to the court at certain hearings or request that the court find that noncompliance was for good cause in certain instances.

The bill would amend the Government Code to create the Brazoria County Criminal Magistrate Court. Under the bill's provisions, the commissioners court of Brazoria County, upon recommendation of the local administrative district judge, could appoint one or more full or part time criminal magistrate judges to preside over the court for a term designated by the commissioners court. The bill would also authorize the local administrative district judge to make the appointment if the commissioners court is prohibited by law from doing so. The bill would set out the qualifications, powers and duties, and salary of the judges, as well as operating procedures.

The bill would amend the Government Code to provide that the judges of a the district courts of Tom Green shall, with the consent and approval of the commissioners court of Tom Green County, jointly appoint the number of magistrates set by the commissioner's court under the bill's provisions.

The bill would amend the Government Code to allow the Office of Court Administration (OCA) to allow public access to view information or documents in the state court document database and to charge a reasonable fee for additional optional features in the database.

The bill would amend the Family Code to modify various duties of clerks related to the transferring of certain court files using the electronic filing system established under Government Code Section 72.031. The bill would amend the Government Code to require OCA to adopt rules prescribing the documents to be transferred between courts when a transfer of a case or proceeding is ordered under certain Family Code Sections.

The bill would amend the Family Code to require that, in a suit for dissolution of a marriage in which the court grants a divorce, the court shall state the date of the marriage in the decree of divorce.

The bill would amend the Code of Criminal Procedure to allow a habeas corpus applicant to serve a copy of the application for writ of habeas corpus to the state attorney by the secure electronic mail the attorney has on file with the electronic filing system or another form of secure electronic transmission.

The bill would amend the Civil Practice and Remedies Code to remove the requirement that an affidavit be provided by OCA for proof of citation being published on the public information internet website maintained by OCA and instead requires a statement.

The bill would amend the Code of Criminal Procedure to require the Forensic Science Commission to adopt a code of professional responsibility to regulate the conduct of certain persons, laboratories, facilities, and other entities. The bill would expand what allegations the Commission must investigate related to professional negligence or misconduct. Then bill would also permit the Commission to use appropriated funds for training and education of forensic analysts.

The bill would amend the Government Code to give jurors an option to donate a specified amount of a person's daily jury reimbursement to a veterans county service office. The bill would place certain limitations on how the donations may be spent. The bill would also modify the amount a judge may spend on jury meals from \$3 per meal to a reasonable amount.

The bill would amend the Government Code to permit a judge or magistrate of a district court or statutory county court authorized to hear criminal cases to be appointed to preside over a regional specialty court program in certain circumstances. The bill would also amend the Government Code to allow a veterans treatment court program to transfer responsibility for supervising the defendant's participation in the program to an adjacent county where the defendant works or resides and allows a court to place the defendant in a veterans treatment court program located in a county adjacent to the county where the defendant works or resides, if the county where the defendant is charged does not operate a veterans treatment court program.

The bill would amend the Government Code to clarify and add protective orders that must be included in the protective order registry maintained by OCA to include those issued by a court under Subchapter A, Chapter 7B, Code of Criminal Procedure. The bill would also require OCA to remove certain records of protective orders that have been vacated as detailed by the bill.

The bill would amend the Government Code to provides that the Ector County District Attorney is responsible for representing the state in all criminal matters, juvenile matters, and child termination suits involving CPS in Ector County.

The bill would amend the Code of Criminal Procedure to provide that a court reporter may comply with Texas Rules of Appellate Procedure Rule 13.6 by electronically filing with the trial court clerk, within a certain amount of time, the un-transcribed notes created by the court reporter using computer-aided software.

The bill would require the Texas Legislative Council, with the assistance OCA, to prepare for consideration by the 88th Legislature a non-substantive revision of the statutes as necessary to reflect the changes in law.

The bill would take effect September 1, 2021. The 480th Judicial District would be created on October 1, 2022. The 485th Judicial District would be created on January 1, 2022. The 483rd Judicial District of Hays County would be created on September 1, 2022. The 475th Judicial District of Smith County would be created January 1, 2023. The Kendall County Court at Law would be created October 1, 2022. The County Court of Law No. 2 of San Patricio County would be created January 1, 2023. The County Court at Law No. 5 of Williamson County would be created October 1, 2022.

**Methodology**

Costs reflected in the tables above are based on analysis provided by OCA and the Comptroller of Public Accounts.

Biennial costs for the bill include salaries for ten district judges and related benefit costs. Personnel costs for the judicial districts created by the bill are based on the current base salary for a district judge (\$140,000) as set forth in the General Appropriations Act, Article IV. The bill would create three new district courts as of the effective date; two as of January 1, 2022; two as of September 1, 2022; two as of October 1, 2022; and one as of January 1, 2023.

The state contributes \$40,000 per year for each statutory probate court. The bill would create one statutory probate court on January 1, 2022. State costs for this contribution would total \$26,667 in fiscal year 2022 and \$40,000 in subsequent years.

The state also contributes 60 percent of a district judge's base pay of \$140,000 (\$84,000) for a county court at law judge. The bill would create two county courts at law as of the effective date of the bill; two as of October 1, 2022; and one as of January 1, 2023.

Fiscal year 2022 is prorated for 8 months due to the 481st Judicial District court, 485th Judicial District, and Probate Court No. 2 of Denton County court creation date falling on January 1, 2022. Fiscal year 2023 is also prorated for 8 months due to the 475th Judicial District court and County Court at Law No. 2 of San Patricio County's creation date falling on January 1, 2023 and 474th & 480th Judicial District courts, County Court at Law of Kendall County and County Court at Law No. 5 of Williamson County creation date falling on October 1, 2022.

Based on information provided by OCA, this analysis assumes that the remaining duties and responsibilities assigned to OCA and the Forensic Science Commission to implement the provisions of the bill could be accomplished utilizing existing resources.

**Local Government Impact**

According to OCA, local governments pay operating costs associated with district courts and CCLs, such as office space, computer equipment, furniture, and court staff. The appointment of the Brazoria County Criminal Law Magistrates is discretionary with the commissioners court, and OCA assumes that the county will only do so if sufficient resources are available.

According to Tom Green County, the bill's provisions pertaining to Tom Green County is expected to have a moderate positive fiscal impact. The only anticipated costs will be the magistrate's salary and expenses. The bill's provisions will allow expedited processing of the Courts' dockets, potentially reduced jail time for defendants pre-indictment from faster processing.

Hidalgo County anticipates a fiscal impact of \$719,113 in fiscal year 2022, \$702,569 in FY 23, \$737,697 in FY 24, \$774,582 in FY 25, and \$813,311 in FY 26. These costs are not anticipated to be significant after the first fiscal year.

**Source Agencies:** 212 Office of Court Admin, 215 Ofc of Capital and Forensic Writs, 304 Comptroller of Public Accounts

**LBB Staff:** JMc, LBO, MW, BH, CMA, SLE, AF