

## **BILL ANALYSIS**

C.S.S.B. 1045  
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Judiciary & Civil Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Civil cases of statewide significance frequently involve the state, a state agency, or a state employee, sued in connection with their official capacity, as a party. These cases require courts to address complex areas of law including sovereign immunity, administrative law, and constitutional law. Under the current judicial system, these cases of statewide significance are heard by one of the state's 14 intermediate appellate courts. These courts have varying levels of experience with the complex legal issues involved in cases, which may lead to inconsistent results across the state. C.S.S.B. 1045 seeks to address this issue by establishing the Fifteenth Court of Appeals, which has exclusive jurisdiction over appeals of certain civil cases to which the state, a state agency, or a state employee is a party, appeals of cases when the constitutionality or validity of a statute or rule is challenged and the attorney general is a party, and appeals of other matters as provided by law.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Supreme Court in SECTION 1.07 of this bill.

### **ANALYSIS**

C.S.S.B. 1045 amends the Government Code to create the Fifteenth Court of Appeals District, composed of all counties in Texas, and the Fifteenth Court of Appeals on September 1, 2024, subject to legislative appropriation. The court is held in the City of Austin but may transact its business in any county in Texas as the court determines is necessary and convenient. The court consists of a chief justice and four justices. If the court is created, the initial vacancies of the justices must be filled by appointment. If the court is not created, a court of appeals has the same jurisdiction that court had on August 31, 2023.

C.S.S.B. 1045 establishes that the Fifteenth Court of Appeals has exclusive intermediate appellate jurisdiction over the following matters arising out of or related to a civil case:

- matters brought by or against the state or a board, commission, department, office, or other agency in the executive branch of the state government, including a university system or institution of higher education, or by or against an officer or employee of the state or a board, commission, department, office, or other agency in the executive branch of the state government arising out of that officer's or employee's official conduct, other than:
  - a proceeding brought under the Family Code and any related motion or proceeding;

- a proceeding brought under statutory provisions governing protective orders or a magistrate's order for emergency protection;
- a proceeding brought against a district attorney, a criminal district attorney, or a county attorney with criminal jurisdiction;
- a proceeding relating to a mental health commitment;
- a proceeding relating to civil asset forfeiture;
- a condemnation proceeding for the acquisition of land or a proceeding related to eminent domain;
- a proceeding brought under statutory provisions governing common and public nuisances for purposes of enjoining a common nuisance;
- a proceeding brought under statutory provisions governing expunction of criminal records;
- a proceeding under statutory provisions governing the use of a special three-judge district court;
- a proceeding brought under statutory provisions governing orders of nondisclosure of criminal history record information;
- a proceeding brought under statutory provisions governing employment discrimination;
- a removal action for a county officer; or
- a proceeding brought under statutory provisions governing the civil commitment of sexually violent predators;
- matters in which a party to the proceeding files a petition, motion, or other pleading challenging the constitutionality or validity of a state statute or rule and the attorney general is a party to the case; and
- any other matter as provided by law.

The bill establishes that the original jurisdiction of the court to issue writs is limited to writs arising out of matters over which the court has exclusive intermediate appellate jurisdiction.

C.S.S.B. 1045 prohibits the Texas Supreme Court from transferring any case or proceeding properly filed in the Fifteenth Court of Appeals to another court of appeals for the purpose of equalizing the dockets of the courts of appeals. The bill requires the supreme court to adopt rules for the following:

- transferring an appeal inappropriately filed in the Fifteenth Court of Appeals to a court of appeals with jurisdiction over the appeal; and
- transferring to the Fifteenth Court of Appeals from another court of appeals the appeals over which the Fifteenth Court of Appeals has exclusive intermediate appellate jurisdiction.

C.S.S.B. 1045 entitles a Fifteenth Court of Appeals justice other than the chief justice to an annual state base salary in the amount equal to \$5,000 less than 120 percent of the state base salary of a district judge as set by the General Appropriations Act. The bill clarifies that the appellate judicial system fund is established for each court of appeals, other than the Fifteenth Court of Appeals.

C.S.S.B. 1045 changes from the Third Court of Appeals to the Fifteenth Court of Appeals the court to which a Travis County district court may request transfer of an action for the following:

- declaratory judgment about the validity or applicability of a rule adopted by a state agency and the district court finds that the public interest requires a prompt, authoritative determination of the validity or applicability of the rule and the case would ordinarily be appealed; and
- judicial review of a state agency decision in a contested case and the district court finds that the public interest requires a prompt, authoritative determination of the legal issues in the case and the case would ordinarily be appealed.

C.S.S.B. 1045 amends the Occupations Code, with respect to the judicial review of a final order, rule, decision, or other action of the board of the Texas Department of Motor Vehicles relating

to the sale or lease of motor vehicles or to dealer's and manufacturer's vehicle license plates by a Travis County district court or the Third Court of Appeals, to change from the Third Court of Appeals to the Fifteenth Court of Appeals a court to which a party to the proceeding affected by the final action may seek judicial review of the action under the substantial evidence rule.

C.S.S.B. 1045 amends the Utilities Code to change from the Third Court of Appeals to the Fifteenth Court of Appeals the court in which judicial review of rules for fair competition among electricity providers, as adopted by the Public Utility Commission of Texas, must be commenced.

C.S.S.B. 1045 transfers to the Fifteenth Court of Appeals on September 1, 2024, all cases pending in other courts of appeal that were filed on or after September 1, 2023, and of which the Fifteenth Court of Appeals has exclusive intermediate appellate jurisdiction. With respect to transferred cases, the bill provides the following:

- all processes, writs, bonds, recognizances, or other obligations issued from the other courts of appeal are returnable to the Fifteenth Court of Appeals as if originally issued by that court; and
- the obligees on all bonds and recognizances taken in and for the other courts of appeal and all witnesses summoned to appear in another court of appeals are required to appear before the Fifteenth Court of Appeals as if originally required to appear before that court.

C.S.S.B. 1045 establishes that the supreme court has exclusive and original jurisdiction over a challenge to the constitutionality of the bill's provisions and authorizes the supreme court to issue injunctive or declaratory relief in connection with the challenge.

C.S.S.B. 1045 amends the Code of Criminal Procedure to make conforming changes.

C.S.S.B. 1045 applies to appeals perfected on or after September 1, 2024.

#### **EFFECTIVE DATE**

September 1, 2023.

#### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 1045 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes provisions absent from the engrossed that do the following:

- establish that the supreme court has exclusive and original jurisdiction over a challenge to the constitutionality of the bill's provisions; and
- authorize the supreme court to issue injunctive or declaratory relief in connection with such a challenge.