

BILL ANALYSIS

Senate Research Center

S.B. 400
By: Nelson
Jurisprudence
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As Filed

DIGEST

Currently, there are no municipal courts of record in the City of Lewisville. Texas law, absence of local statute providing for a municipal court of record, requires appeals from a municipal court to be done by a trial de novo or a new trial. A local statute providing for a municipal court of record, however, may allow the appeal to be based on the recorded errors made during the trial in lieu of a new trial. This bill would authorize the City of Lewisville to create municipal courts of record, which do not require trial de novo on appeal.

PURPOSE

As proposed, S.B. 400 creates municipal courts of record in the City of Lewisville.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 30, Government Code, by adding Subchapter II, as follows:

SUBCHAPTER II. LEWISVILLE

Sec. 30.01321. APPLICATION. Provides that this subchapter applies to the City of Lewisville (city).

Sec. 30.01322. CREATION. Authorizes the governing body of the city to create and determine a number of municipal courts of record, by ordinance. Requires an ordinance establishing municipal courts to give each court number a numerical designation, beginning with "Municipal Court of Record No. 1." Requires the governing body of the city to determine the method of selecting municipal judges by using certain procedures. Prohibits a municipal court of record from existing concurrently with a municipal court not that is of record. Provides that a municipal court of record has no terms and is authorized to sit at any time.

Sec. 30.01323. JURISDICTION. Sets forth the jurisdiction of a municipal court of record.

Sec. 30.01324. WRIT POWER. Authorizes a judge of a municipal court to grant certain writs and to issue administrative search warrants.

Sec. 30.01325. APPLICATION OF OTHER LAWS. Provides that general law regarding justice courts on matters not covered by the law regarding municipal courts, and any charter provision or ordinance of the city relating to the municipal court apply to a municipal court of record, unless the law, charter provision, or ordinance is in conflict or inconsistent with this chapter.

Sec. 30.01326. JUDGE. Sets forth requirements for municipal judges.

Sec. 30.01327. VACANCIES; TEMPORARY REPLACEMENT; REMOVAL. Sets forth

requirements for a vacancy, temporary replacement, and removal of a municipal judge.

Sec. 30.01328. CLERK; OTHER PERSONNEL. Requires the city manager to appoint a clerk to be known as "Lewisville Municipal Court Clerk." Sets forth the duties of the clerk and the duties of the clerk's deputies.

Sec. 30.01329. COURT REPORTER. Requires the city to provide a court reporter. Requires the clerk to appoint the court reporter. Requires the city to compensate the court reporter. Authorizes the court reporter to use certain methods of recording. Sets forth requirements for recording testimony. Authorizes the governing board of the city to have good quality recording devices instead of a court reporter. Sets forth how long a recording is to be kept and stored. Provides that appealed proceedings are to be transcribed. Requires the court reporter to certify the official record.

Sec. 30.01330. PROSECUTIONS BY CITY ATTORNEY. Requires all prosecutions in the municipal court of record to be conducted by the city attorney or an assistant or deputy attorney.

Sec. 30.01331. COMPLAINT; READING. Sets forth the requirements of a complaint.

Sec. 30.01332. JURY. Provides that a defendant in a municipal court of record is entitled to be tried by a jury of six persons, unless that right is waived. Sets forth the duties of the jury. Requires the court to determine all matters of law and to charge the jury on the law. Provides that a juror who serves is to meet the qualifications required by jurors. Provides for compensation to jurors. Requires the clerk to establish a fair and objective juror selection process.

Sec. 30.01333. COURT RULES. Provides that the Code of Criminal Procedure as applied to county courts applies to municipal courts of record. Provides that bonds are to be payable to the state. Prohibits the court from assessing costs other than warrant fees, capias fees, and other fees authorized for municipal courts. Authorizes a peace officer to serve process issued by a municipal court of record. Requires fines, fees, and bonds to be paid to the county clerk and deposited into the city general fund.

Sec. 30.01334. APPEAL. Sets forth requirements and procedures of an appeal from a municipal court of record.

Sec. 30.01335. APPEAL BOND; RECORD ON APPEAL. Requires the defendant to file an appeal bond with the municipal court of record, if the defendant is not in custody. Sets forth requirements and procedures of the appeal bond. Sets forth the requirements and procedures of the record.

Sec. 30.01336. TRANSCRIPT. Sets forth requirements and procedures of the transcript. Requires the defendant to file a copy of written instructions with the clerk and deliver a copy to the city attorney. Requires the city attorney to file a written direction to the clerk if additional portions of the trial proceedings in the transcript are to be included.

Sec. 30.01337. BILLS OF EXCEPTION. Sets forth requirements of bills of exception.

Sec. 30.01338. STATEMENT OF FACTS. Sets forth the required contents of a statement of facts. Requires the court reporter to transcribe any portion of the recorded proceedings at the request of the parties or judge. Requires the defendant to pay for the transcription, unless the defendant is unable to pay.

Sec. 30.01339. COMPLETION, APPROVAL, AND TRANSFER OF RECORD. Requires parties to file certain materials with the municipal court clerk within a certain period of time. Sets forth procedures for completion, approval, and transfer of the record.

Sec. 30.01340. BRIEF ON APPEAL. Sets forth requirements and deadlines of a brief on appeal.

Sec. 30.01341. DISPOSITION ON APPEAL. Authorizes the appellate court to make certain decisions according to law and the nature of the case. Requires an appellate court to presume certain matters unless the matter was made an issue or appears to the contrary from the transcript. Sets forth the procedures in disposing an appeal.

Sec. 30.01342. CERTIFICATION OF APPELLATE PROCEEDINGS. Sets forth the duties of the clerk of the court when the judgment of the appellate court becomes final. Provides that if the municipal court of record judgment is affirmed, further action to enforce the judgment is not necessary except in certain matters.

Sec. 30.01343. EFFECT OR ORDER OF NEW TRIAL. Provides that if an appellate court awards a new trial to a defendant, the case stands as if a new trial had been granted by the municipal court.

Sec. 30.01344. APPEAL TO COURT OF APPEALS. Sets forth requirements for appeal to the court of appeals.

Sec. 30.01345. SEAL. Sets forth the required format of the seal of the municipal court of record and when it is to be used.

SECTION 2. Emergency clause.
Effective date: upon passage.