

BILL ANALYSIS

Senate Research Center
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S.B. 1903
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DIGEST

Currently, there are no municipal courts of record in the City of Live Oak. Because no record exists, appeals from the Live Oak Municipal Court require new trials in Bexar County courts of law. Due to crowded dockets, a substantial amount of time may elapse before the new trials are conducted. This bill would establish a municipal court of record in Live Oak.

PURPOSE

As proposed, S.B. 1903 sets forth requirements for the creation of a municipal court of record in Live Oak.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the municipal court of record of Live Oak in SECTION 1 (Section 30.0737(a), Government Code) of this bill.

SECTION BY SECTION ANALYSIS

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

SUBCHAPTER SS. LIVE OAK

Sec. 30.01721. APPLICATION. Provides that this subchapter applies to the city of Live Oak.

Sec. 30.01722. CREATION. Authorizes the governing body of the city of Live Oak to create a municipal court of record (court) or multiple courts if necessary. Sets forth the required designation of the courts. Prohibits a court from existing concurrently with municipal courts that are not courts of record in Live Oak (city). Provides that a municipal court has no terms and is authorized to sit at any time for the transaction of the business of the court.

Sec. 30.01723. APPLICATION OF OTHER LAWS. Provides that the general law regarding municipal courts, the general law regarding justice courts, and any provision or ordinance of the city applies to a court unless such laws, provisions, or ordinances are in conflict with this subchapter.

Sec. 30.01724. JUDGE. Provides that a court is presided over by a municipal judge. Requires the city to appoint a chief judge if there is more than one municipal judge in the city. Provides that all municipal judges are appointed by the city for a term of two years. Sets forth eligibility requirements for being a municipal judge. Authorizes municipal judges to exchange benches, and provides that actions performed by any judge are binding. Entitles a municipal judge to a salary. Authorizes a municipal judge to be removed any time under certain circumstances. Requires a municipal judge to take judicial notice of city ordinances and the corporate city limits. Authorizes a judge to grant writs of mandamus, injunction, attachment and other writs of habeas corpus in which the offense charged is within the jurisdiction of the court. Sets forth requirements for the appointment of persons as municipal judges.

Sec. 30.01725. CLERK; OTHER PERSONNEL. Requires the city secretary to be the clerk of the court (clerk) and is authorized to staff the court. Sets forth required duties of the clerk.

Sec. 30.01726. COURT REPORTER. Requires the city to provide the court a court reporter.

Sets forth eligibility requirements for appointment as a court reporter. Requires the court reporter to be compensated by the city. Authorizes the court reporter to use certain equipment. Sets forth required duties of the court reporter. Establishes requirements for the authorized use of good quality electronic recording devices in proceedings of the court.

Sec. 30.01727. PROSECUTIONS BY CITY ATTORNEY. Requires all prosecutions in the court to be conducted by the city attorney or an assistant or deputy city attorney.

Sec. 30.01728. JURY. Entitles a person brought before the court to a trial by jury, unless waived according to law. Requires the jury to decide all questions of fact or credibility of witnesses. Requires the court to determine all matters of law and to charge the jury on the law. Requires a juror who serves in the municipal court of record to meet the qualifications provided by Chapter 62.

Sec. 30.01729. APPEAL. Sets forth procedures for appealing a judgment or conviction of a court.

Sec. 30.01730. APPEAL BOND. Prohibits a defendant from taking an appeal until the defendant files an appeal bond with the court, if the defendant is not in custody. Sets forth requirements of the appeal bond.

Sec. 30.01731. RECORD ON APPEAL. Provides that a record on appeal consists of a transcript and statement of facts. Requires the court reporter to prepare the record on appeal for the records of the court proceedings. Requires the defendant to pay the cost of the transcription, unless the defendant is unable to do so.

Sec. 30.01732. TRANSCRIPT. Requires the clerk to prepare a transcript of the municipal court of record proceedings, on the request of the defendant or the defendant's attorney. Requires the transcript to include copies of certain documents.

Sec. 30.01733. BILLS OF EXCEPTION. Authorizes either party to include bills of exception (exceptions) in the transcript subject to the applicable provisions of the Texas Rules of Appellate Procedure. Requires the bills of exception to be filed with the court not later than the 60th day after the date on which the notice of appeal is given or filed.

Sec. 30.01734. STATEMENTS OF FACTS. Requires a statement of fact included on the record on appeal to contain certain transcripts or statements.

Sec. 30.01735. COMPLETION, APPROVAL, AND TRANSFER OF RECORD. Requires the parties to file with the clerk certain materials and the statement of facts, not later than the 60th day after the date on which the notice of appeal is given or filed. Requires the judge to approve the record in the manner provided for record completion, approval, and notification in the court of appeals, on completion of the record.

Sec. 30.01736. BRIEF ON APPEAL. Sets forth requirements relating to a defendant's brief on appeal.

Sec. 30.01737. COURT RULES. Provides that the Code of Criminal Procedure governs the trial of cases before the court, except as provided by this subchapter. Authorizes the court to make and enforce all rules of practice and procedure necessary to expedite the trial of cases before the court that are not inconsistent with general law. Authorizes the appellate court to make and enforce all rules of practice and procedure necessary to expedite the trial of cases before the court that are not inconsistent with general law.

Sec. 30.01738. DISPOSITION ON APPEAL. Authorizes an appellate court to: affirm the judgement of the court; reverse and remand for a new trial; reverse and dismiss the case; or reform and correct the judgment. Requires the appellate court to presume that: venue was proven in the trial court; the jury was properly impaneled and sworn; the defendant was arraigned and pleaded to the complaint; and the judge certified the charge before it was read to the jury, unless the matter was made an issue in the trial court or it affirmatively appears to the contrary from the transcript or statement of facts. Requires the appellate court to deliver a written opinion, with reasons, regarding each error presented. Requires the appellate court judge to mail copies of such decisions

to all parties involved.

Sec. 30.01739. CERTIFICATE OF APPELLATE PROCEEDINGS. Sets forth procedures for the transmission and filing of an appellate court judgment to the court.

Sec. 30.01740. EFFECT OF ORDER ON NEW TRIAL. Provides that a case stands as if a new trial had been granted by the court, if the appellate court awards a new trial to the defendant.

Sec. 30.01741. APPEAL TO COURT OF APPEALS. Provides that a defendant has a right to appeal to the court of appeals if the fine assessed against the defendant exceeds \$100 and if the judgment is affirmed by the appellate court. Provides that the provisions of the Code of Criminal Procedure relating to direct appeals from a county or a district court of appeals apply to the appeal, with certain exceptions.

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