

## **BILL ANALYSIS**

C.S.S.B. 42  
By: Zaffirini  
Judiciary & Civil Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties are concerned about recent findings regarding deficiencies in the state's court security policies and the security of judicial officers. C.S.S.B. 42 seeks to remedy these deficiencies through a variety of means, including establishing local court security committees, requiring specialized training for court security officers, and facilitating the removal of the personal information of judicial officials from certain public documents.

### **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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B. 42 amends the Government Code to require the presiding or municipal judge of a municipality, as applicable, to establish a court security committee composed of the presiding or municipal judge, or the judge's designee, who serves as the presiding officer of the committee; a representative of the law enforcement agency or other entity that provides the primary security for the court; a representative of the municipality; and any other person the committee determines necessary to assist the committee. The bill requires the committee to establish the policies and procedures necessary to provide adequate security to the municipal courts served by the presiding or municipal judge, as applicable. The bill authorizes a committee to recommend to the governing body of a municipality the uses of resources and expenditures of money for courthouse security but prohibits a committee from directing the assignment of those resources or the expenditure of those funds.

C.S.S.B. 42 requires the clerk of a district court, county court, statutory county court, statutory probate court, or justice court to collect, in addition to other fees authorized or required by law, a \$5 fee on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third party action requiring a filing fee to be used as provided under provisions relating to the use of the judicial and court personnel training fund. The bill authorizes a court to waive payment of the fee for an individual the court determines is indigent. The bill requires the fee to be collected in the same manner as other fees, fines, or costs in the case and requires the clerks of such courts to deposit collected court costs and fees in the appropriate local treasury and remit the court costs and fees to the comptroller of public accounts in the manner provided under provisions governing the reporting, collection, and remittance of criminal and civil fees payable to the comptroller. The bill requires the comptroller to deposit the received fees to the credit of the

judicial and court personnel training fund and authorizes the comptroller to audit the records of a county related to such collected costs and fees. The bill subjects money spent from such collected costs and fees to audit by the state auditor.

C.S.S.B. 42 requires the court of criminal appeals to grant legal funds to statewide professional associations and other entities that provide training to individuals responsible for providing court security. The bill includes court security training programs for such individuals among those programs for which the legislature is required to appropriate funds from the judicial and court personnel training fund to the court of criminal appeals to provide.

C.S.S.B. 42 requires the Office of Court Administration of the Texas Judicial System (OCA) to establish a judicial security division to provide guidance to state court personnel on improving security for each court and to appoint a director of security and emergency preparedness to oversee the judicial security division. The bill requires the judicial security division to serve as a central resource for information on local and national best practices for court security and the safety of court personnel, to provide an expert opinion on the technical aspects of court security, and to keep abreast of and provide training on recent court security improvements. The bill requires the director to develop a procedure to regularly notify county registrars, the Department of Public Safety (DPS), the Texas Ethics Commission, and any other state agency the office determines should be notified of the judges, judges' spouses, and related family members whose personal information must be kept from public records, as provided under applicable provisions of the Government Code, Election Code, and Transportation Code.

C.S.S.B. 42 requires a local administrative judge to establish a court security committee to adopt security policies and procedures for the courts served by the local administrative district judge that is composed of the local administrative district judge, or the judge's designee, who serves as the presiding officer of the committee; a representative of the sheriff's office; a representative of the county commissioners court; one judge of each type of court in the county other than a municipal court or a municipal court of record; a representative of any county attorney's office, district attorney's office, or criminal district attorney's office that serves in the applicable courts; and any other person the committee determines necessary to assist the committee. The bill authorizes a court security committee to recommend to the county commissioners court the uses of resources and expenditures of money for courthouse security but prohibits the committee from directing the assignment of those resources or the expenditure of those funds.

C.S.S.B. 42 prohibits a person from serving as a court security officer for an appellate, district, statutory county, county, municipal, or justice court in Texas unless the person holds a court security certification issued by a training program approved by the Texas Commission on Law Enforcement (TCOLE) but establishes that a court security officer is not required to hold such a certification to provide security to such a court before the first anniversary of the date the officer begins providing security for the court. The bill requires the sheriff, constable, law enforcement agency, or other entity that provides security for a court to verify that each court security officer holds such a certification. The bill authorizes any commissioned peace officer in Texas, including a commissioned DPS officer, to provide personal security to a state judge at any location in Texas, regardless of the location of the law enforcement agency or department that employs or commissions the peace officer.

C.S.S.B. 42 excepts from the public-availability requirement of state public information law information that relates to the home address, home telephone number, emergency contact information, or social security number of the following persons, or information that reveals whether the person has family members, with certain exceptions: a current, former, or retired judge of a United States court of appeals, United States district court, or United States bankruptcy court; a current, former, or retired magistrate judge of a United States district court; a current, former, or retired judge of a state appellate court, district court, constitutional county court, county court at law, or statutory probate court; a current, former, or retired associate judge appointed under applicable Family Code provisions; a magistrate or associate judge appointed

under applicable Government Code provisions; a justice of the peace; a municipal court judge; a spouse of such an individual; and a current or former district attorney, criminal district attorney, or county attorney whose jurisdiction includes any criminal law or child protective services matter.

C.S.S.B. 42 requires the Texas Ethics Commission, on receiving notice from OCA of a judge's qualification for the judge's office, to remove or redact from any financial statement, or information derived from a financial statement, that is available to the public the residence address of a federal judge, a state judge, or the spouse of a federal or state judge. The bill defines "state judge" for purposes of provisions governing such financial disclosure statements, standards of conduct, and conflicts of interest as a current, former, or retired judge of a state appellate court, district court, constitutional county court, county court at law, or a statutory probate court; a current, former, or retired associate judge appointed under applicable Family Code provisions; a magistrate or associate judge appointed under applicable Government Code provisions; a justice of the peace; or a municipal court judge.

C.S.S.B. 42 amends the Election Code to replace a requirement that certain federal or state judges, former judges, retired judges, or a spouse of such a person who is a voter registration applicant and who seeks to have the applicant's residence address omitted from the voter registration list include a specified affidavit with the application with a requirement that the voter registrar of the county omit such an applicant's residence address from the voter registration list. The bill replaces an authorization for certain federal or state judges, or the spouse of such a judge, who is registered to vote to at any time submit a specified affidavit regarding the status of such a person as such a judge or spouse of such a judge to the registrar of the county in which the judge resides with a requirement that such registrar omit from the registration list the residence address of the judge and the spouse of the judge on receiving notice from OCA of the judge's qualification for office and of the name of the judge's spouse, if applicable. The bill authorizes a registered district voter who wishes to verify that an elected judge whose personal identifying information is confidential under state public information law resides in the district to request in writing that the registrar certify the judge lives in the district. The bill requires the registrar to exercise due diligence in determining the residence of the judge and respond to the voter in writing not later than the 10th business day after the date the request is received on whether the judge resides in the district. The bill prohibits the registrar from releasing the address of the judge, establishes that the registrar is not required to certify the residence of the same judge more than once in a calendar year, and requires the registrar to provide copies of the certification to subsequent requestors.

C.S.S.B. 42 amends the Local Government Code to prohibit a county from retaining a service fee on the collection of a fee under the bill to be used for purposes of the judicial and court personnel training fund.

C.S.S.B. 42 amends the Property Code to require a county clerk, on receipt of a written request from a federal judge, a state judge as defined by the bill's Government Code provisions, or a spouse of such a federal or state judge, to omit or redact from a deed or deed of trust that is available in an online database made public by the county clerk, or by a provider with which the county commissioners court contracts to provide the online database, the social security number, driver's license number, and residence address of such an individual.

C.S.S.B. 42 amends the Tax Code to specify that provisions relating to the confidentiality of certain home address information in local property appraisal records of a federal judge, a state judge as defined by the bill's Government Code provisions, or a spouse of such a federal or state judge apply beginning on the date OCA notifies the appraisal district of the judge's qualification for the judge's office.

C.S.S.B. 42 amends the Transportation Code to remove a requirement that DPS require certain documentary evidence from a federal judge, state judge, or a spouse of such a judge in

establishing a procedure for such a person to omit the person's residence address on the person's driver's license and to specify that DPS is required to establish a procedure to so omit on a license holder's qualification for office as a federal judge or a state judge as defined by the bill's Government Code provisions.

C.S.S.B. 42 amends the Code of Criminal Procedure to replace a requirement that a local administrative judge provide to OCA a written report regarding certain security incidents involving court security with a requirement that the sheriff, constable, or other law enforcement agency or entity that provides security for a court provide such a report. The bill requires a copy of the report to be provided to the presiding judge of the court in which the incident occurred, makes the report confidential, and exempts the report from disclosure under state public information law.

C.S.S.B. 42 amends the Occupations Code to require TCOLE, in consultation with OCA, to develop a model court security curriculum for court security officers as required by the bill and to provide the curriculum to any training program TCOLE approves to provide training to court security officers. The bill requires TCOLE to issue a certificate to each court security officer who completes such a training program.

C.S.S.B. 42 requires OCA, DPS, the Texas Ethics Commission, each county clerk, each registrar, and any other county official responsible for county records to establish the policies and procedures necessary to comply with the bill's provisions not later than January 1, 2018. The bill requires OCA to establish the judicial security division as soon as practicable after the bill's effective date and requires each judge required to establish a court security committee under the bill's provisions to establish the committee as soon as practicable after the bill's effective date.

C.S.S.B. 42 establishes that Government Code provisions relating to the implementation of new or amended court costs and fees do not apply to the imposition of a fee assessed under the bill's provisions for purposes of the judicial and court personnel training fund.

C.S.S.B. 42 establishes that a person serving as a court security officer on the bill's effective date is not required to receive the certification required under the bill's provisions before September 1, 2019.

#### **EFFECTIVE DATE**

September 1, 2017.

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

While C.S.S.B. 42 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. This Act may be cited as the Judge Julie Kocurek Judicial and Courthouse Security Act of 2017.	SECTION 1. Same as engrossed version.
SECTION 2. Article 102.017(f), Code of Criminal Procedure, is amended.	SECTION 2. Same as engrossed version.
SECTION 3. Subchapter A, Chapter 29, Government Code, is amended.	SECTION 3. Same as engrossed version.

SECTION 4. Section 30.00007, Government Code, is amended.

SECTION 4. Same as engrossed version.

SECTION 5. Chapter 51, Government Code, is amended.

SECTION 5. Same as engrossed version.

SECTION 6. Section 56.003, Government Code, is amended.

SECTION 6. Same as engrossed version.

SECTION 7. Section 56.004(b), Government Code, is amended.

SECTION 7. Same as engrossed version.

SECTION 8. Subchapter B, Chapter 72, Government Code, is amended.

SECTION 8. Same as engrossed version.

SECTION 9. Section 74.092, Government Code, is amended.

SECTION 9. Same as engrossed version.

SECTION 10. Subchapter D, Chapter 101, Government Code, is amended.

SECTION 10. Same as engrossed version.

SECTION 11. Subchapter E, Chapter 101, Government Code, is amended.

SECTION 11. Same as engrossed version.

SECTION 12. Subchapter F, Chapter 101, Government Code, is amended.

SECTION 12. Same as engrossed version.

SECTION 13. Subchapter G, Chapter 101, Government Code, is amended.

SECTION 13. Same as engrossed version.

SECTION 14. Subchapter H, Chapter 101, Government Code, is amended.

SECTION 14. Same as engrossed version.

SECTION 15. Subtitle L, Title 2, Government Code, is amended.

SECTION 15. Same as engrossed version.

SECTION 16. Subchapter D, Chapter 411, Government Code, is amended.

SECTION 16. Same as engrossed version.

SECTION 17. Section 552.117(a), Government Code, is amended.

SECTION 17. Same as engrossed version.

SECTION 18. Section 572.002, Government Code, is amended by adding Subdivision (11-a) to read as follows:  
(11-a) "State judge" means:  
(A) a judge, former judge, or retired judge of an appellate court, a district court, a constitutional county court, or a county court at law of this state;  
(B) an associate judge appointed under Chapter 201, Family Code, or a retired associate judge or former associate judge appointed under that chapter;

SECTION 18. Section 572.002, Government Code, is amended by adding Subdivision (11-a) to read as follows:  
(11-a) "State judge" means:  
(A) a judge, former judge, or retired judge of an appellate court, a district court, a constitutional county court, a county court at law, or a statutory probate court of this state;  
(B) an associate judge appointed under Chapter 201, Family Code, or a retired associate judge or former associate judge appointed under that chapter;

(C) a magistrate or associate judge appointed under Chapter 54 or 54A;  
(D) a justice of the peace; or  
(E) a municipal court judge.

SECTION 19. Subchapter B, Chapter 572, Government Code, is amended.

SECTION 20. Section 13.0021(a)(2), Election Code, is amended to read as follows:

- (2) "State judge" means:
- (A) a judge, former judge, or retired judge of an appellate court, a district court, a constitutional county court, or a county court at law of this state;
  - (B) an associate judge appointed under Chapter 201, Family Code, or a retired associate judge or former associate judge appointed under that chapter; [ø]
  - (C) a magistrate or associate judge appointed under Chapter 54 or 54A, Government Code;
  - (D) a justice of the peace; or
  - (E) a municipal court judge.

SECTION 21. Section 13.0021(b), Election Code, is amended.

SECTION 22. Section 15.0215, Election Code, is amended.

SECTION 23. Section 133.058(d), Local Government Code, is amended.

SECTION 24. Subchapter F, Chapter 1701, Occupations Code, is amended.

SECTION 25. Section 11.008, Property Code, is amended.

SECTION 26. Section 25.025(b), Tax Code, is amended.

SECTION 27. Section 521.121(c), Transportation Code, is amended.

SECTION 28. (a) Not later than January 1, 2018, the Office of Court Administration of the Texas Judicial System, the Department of Public Safety, the Texas Ethics Commission, each county clerk, each registrar, and any other county official

(C) a magistrate or associate judge appointed under Chapter 54 or 54A;  
(D) a justice of the peace; or  
(E) a municipal court judge.

SECTION 19. Same as engrossed version.

SECTION 20. Section 13.0021(a)(2), Election Code, is amended to read as follows:

- (2) "State judge" means:
- (A) a judge, former judge, or retired judge of an appellate court, a district court, a constitutional county court, [ø] a county court at law, or a statutory probate court of this state;
  - (B) an associate judge appointed under Chapter 201, Family Code, or a retired associate judge or former associate judge appointed under that chapter; [ø]
  - (C) a magistrate or associate judge appointed under Chapter 54 or 54A, Government Code;
  - (D) a justice of the peace; or
  - (E) a municipal court judge.

SECTION 21. Same as engrossed version.

SECTION 22. Same as engrossed version.

SECTION 23. Same as engrossed version.

SECTION 24. Same as engrossed version.

SECTION 25. Substantially the same as engrossed version.

SECTION 26. Same as engrossed version.

SECTION 27. Same as engrossed version.

SECTION 28. Same as engrossed version.

responsible for county records shall establish the policies and procedures necessary to comply with the changes in law made by this Act.

(b) As soon as practicable after the effective date of this Act:

(1) the Office of Court Administration of the Texas Judicial System shall establish the judicial security division; and

(2) each judge required to establish a court security committee under this Act shall establish the committee.

SECTION 29. Section 51.607, Government Code, does not apply to the imposition of a fee assessed under Section 51.971(a), Government Code, as added by this Act.

SECTION 30. A person serving as a court security officer as defined under Section 158.001, Government Code, as added by this Act, on the effective date of this Act is not required to receive the certification required under Section 158.002, Government Code, as added by this Act, before September 1, 2019.

SECTION 31. This Act takes effect September 1, 2017.

SECTION 29. Same as engrossed version.

SECTION 30. Same as engrossed version.

SECTION 31. Same as engrossed version.