

CHAPTER 599

H.B. No. 2567

AN ACT

relating to the municipal courts of record in Fort Worth.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 30.144, Government Code, is amended to read as follows:

Sec. 30.144. JUDGE. (a) A municipal court of record is presided over by a municipal judge.

(b) A municipal judge, *including the chief judge*, is *appointed* ~~[elected]~~ by the *governing body* ~~[qualified voters]~~ of the city for a term of two years ~~[unless the city by charter amendment provides for a four-year term as provided by Article XI, Section 11, of the Texas Constitution. The governing body of the city may appoint a qualified person as provided by Subsection (i) to serve in a newly created municipal court of record until the next regular city election].~~

(c) A municipal judge must be a licensed attorney in good standing and must have two or more years of experience in the practice of law in this state and in the county in which the court is located. The judge must be a citizen of the United States and of this state.

The judge must maintain residence in the city during the tenure of office and must be a resident of the city at the time of the *appointment* ~~[election]~~.

(d) ~~[The municipal judge who is senior in length of continuous service is the chief judge of the municipal courts of record.]~~

~~[(e)]~~ If there is more than one municipal court of record in the city, the judges may exchange benches and may sit and act for each other in any proceeding pending in the courts. An act performed by any of the judges is binding on all parties to the proceeding.

(e) ~~[(f)]~~ A municipal judge is entitled to a salary set by the governing body of the city. The salary may not be diminished during the judge's term of office.

(f) ~~[(g)]~~ A municipal judge may be removed only for cause and under the provisions applicable to the removal of a judge of a county court.

(g) ~~[(h)]~~ The judge shall take judicial notice of the city ordinances and the corporate limits of the city in a case tried before a municipal court of record. The judge may grant writs of mandamus, injunction, attachment, and other writs necessary to the enforcement of the jurisdiction of the court and may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court.

(h) ~~[(i)]~~ A majority of the governing body of the city shall appoint a qualified person to fill a vacancy in the office of municipal judge ~~[to serve until the next regular municipal election. An appointee may succeed himself if elected].~~

(i) ~~[(j)]~~ A majority of the governing body may appoint one or more qualified persons to be available to serve for a judge who is temporarily absent due to illness, family death or illness, continuing legal or judicial education programs, or for other reasons. The chief judge shall select one of the persons appointed by the governing body to serve during an absence. The selected judge has all the powers and shall discharge all the duties of a municipal judge. The selected judge is entitled to the same compensation that the regular judge receives.

(j) ~~[(k)]~~ A municipal judge must execute a bond and take the oath of office required by law for county judges.

SECTION 2. Section 30.146, Government Code, is amended to read as follows:

Sec. 30.146. COURT REPORTER. (a) *The governing body of the city* ~~[Each municipal judge]~~ shall *provide* ~~[appoint]~~ an official court reporter for the purpose of preserving a record in cases tried before the municipal courts of record. ~~[The reporter holds office at the pleasure of the judge and is entitled to receive a salary set by the governing body. The judge may appoint more than one deputy reporter for each court if necessary to dispose of the business of the court without delay. A reporter is not required to record testimony in a case in which neither the defendant, the prosecutor, nor the judge demands it. The reporter shall perform the duties of office under the direction and control of the judge.]~~

(b) *The court reporter may use written notes, transcribing equipment, recording equipment, or a combination of these methods to prepare a transcript of the proceedings of the court.*

(c) *The court reporter shall certify the official record. If only an electronic recording is made to preserve the record, the court reporter need not be present at trial to certify the statement of facts.*

(d) *The court reporter is not required to record testimony in a trial unless the judge or one of the parties requests a record.*

SECTION 3. Section 30.152(f), Government Code, is amended to read as follows:

(f) All fines, fees, costs, and cash bonds shall be paid to the clerk, who shall deposit them directly into the city general fund, *except that the official court reporter is entitled to receive the fees for preparing the statement of facts.*

SECTION 4. Section 30.153(b), Government Code, is amended to read as follows:

(b) To perfect an appeal, the defendant must file a *written* motion for new trial *with the clerk of the municipal courts of record* not later than the fifth day after the date on which the judgment is ~~[and sentence are]~~ rendered. *The motion may be amended by*

leave of court at any time before action on the motion is taken, but not later than the 20th day after the date on which the original or amended motion is filed. The court may extend the time for filing or amending for good cause. If the court does not act on the motion before the expiration of the 20 days allowed for determination of the motion, the original or amended motion is overruled by operation of law. The motion must set forth the points of error of which the defendant complains. ~~The motion must be in writing and must be filed with the clerk of the municipal courts of record. The motion constitutes the assignments of error on appeal.~~ A point [ground] of error not set forth in the motion is waived.

SECTION 5. Sections 30.156(c) and (d), Government Code, are amended to read as follows:

(c) ~~The judge does not need to approve the statement of facts if it is agreed to by the defendant or the defendant's attorney and the city attorney or assistant city attorney.~~

(d) The party requesting a statement of facts, other than the state or city, shall pay the cost of preparation of the statement of facts. *If the case is reversed on appeal, the court shall promptly refund the cost to the defendant.*

(d) *Within the time prescribed for perfecting the appeal, an appellant unable to pay for the statement of facts may, by motion and affidavit, move the trial court to have the statement of facts furnished without charge. After hearing the motion, if the court finds the appellant is unable to pay for or give security for the statement of facts, the court shall order the reporter to furnish the statement of facts, and when the court certifies that the statement of facts has been furnished to the appellant, the court reporter shall be paid from the funds of the city the amount set by the trial judge. ~~The defendant recovers the costs he paid for the statement of facts if the case is overturned or dismissed on appeal.~~*

SECTION 6. Section 30.157, Government Code, is amended to read as follows:

Sec. 30.157. TRANSFER OF RECORD; FEE. The parties must file the transcript and the statement of facts with the clerk of the municipal court of record not later than the 60th day after the date on which the transcript preparation fee was paid or the date on which the court finds that the appellant is unable to pay for or give security for the statement of facts pursuant to Section 30.156(d). The clerk shall promptly forward them to the appellate court clerk. *Any inaccuracies may be corrected by agreement of the parties. If, after the filing in the appellate court, a dispute arises as to whether the transcript or statement of facts accurately discloses what occurred in the trial court, the appellate court shall submit the matter to the trial court, and the trial court shall, after notice to the parties and hearing, settle the dispute and make the transcript or statement of facts conform to what occurred in the trial court.*

SECTION 7. Section 30.158, Government Code, is amended to read as follows:

Sec. 30.158. BRIEF ON APPEAL. (a) *A defendant's appellate brief must present points of error in the manner required by law for a brief on appeal to the court of appeals. However, the points shall be confined to those set forth in the motion for new trial.*

(b) *The defendant [A party] must file the [a] brief [on appeal] with the appellate court clerk not later than the 15th [10th] day after the date on which the transcript and statement of facts are filed with that clerk. The clerk shall notify the prosecuting attorney of the filing. ~~On filing, each party shall deliver a copy of the brief to the opposing counsel.~~*

~~(b) Because of the crowded conditions of the dockets, the record and briefs on appeal shall be limited as far as possible to the questions relied on for reversal.]~~

(c) *The prosecuting attorney must file the appellee's brief with the appellate court clerk not later than the 15th day after the date on which the defendant's brief is filed.*

(d) *Each party, on filing the party's brief with the appellate court clerk, shall deliver a copy of the brief to the opposing party by certified mail or by hand delivery.*

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the

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constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 22, 1987, by the following vote: Yeas 148, Nays 0, 1 present, not voting. Passed by the Senate on May 29, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 18, 1987.

Effective June 18, 1987.

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