

CHAPTER 157

S.B. No. 340

AN ACT

relating to the municipal courts of record in Dallas.

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

SECTION 1. Section 30.383, Government Code, is amended to read as follows:

Sec. 30.383. JURISDICTION. (a) A municipal court of record created under this subchapter has ~~[exclusive original]~~ jurisdiction *within the territorial limits of the city* in all criminal cases ~~[other than traffic offenses,]~~ arising under the ordinances of the city and has the jurisdiction granted to municipal courts by state law.

(b) *The court has concurrent jurisdiction with a justice court in any precinct in which the city is located in criminal cases within the justice court jurisdiction that:*

- (1) *arise within the territorial limits of the city; and*
- (2) *are punishable by fine only.*

(c) *The court has jurisdiction over cases arising outside the territorial limits of the city under ordinances authorized by Subdivision 19, Article 1175, Revised Statutes.*

SECTION 2. Subsection (d), Section 30.384, Government Code, is amended to read as follows:

(d) The administrative municipal judge shall:

(1) provide for the distribution of cases ~~[from the central docket]~~ among the individual municipal judges to equalize the distribution of business in the courts; ~~and~~

(2) ~~[temporarily]~~ assign municipal judges to exchange benches and to sit and act for each other in a proceeding pending in a court if necessary for the expeditious disposition of business in the courts; *and*

(3) *promulgate work rules for the administration of the municipal courts.*

SECTION 3. Section 30.384, Government Code, is amended by adding Subsection (f) to read as follows:

(f) *The administrative municipal judge has the powers and duties granted under city charter or ordinance.*

SECTION 4. Subsection (a), Section 30.388, Government Code, is amended to read as follows:

(a) The governing body shall provide for the appointment of a clerk of the municipal courts of record, who shall be known as the municipal clerk. The municipal clerk shall perform for the municipal courts of record, as applicable, the duties prescribed by law for the county clerk of a county court at law. In addition, the clerk shall:

(1) maintain central docket records for all cases filed in the municipal courts of record;

(2) cause all public records of the municipal courts and the municipal courts of record to be ~~[permanently]~~ *kept as required by the governing body and made available for inspection at all reasonable times by any interested party; and*

(3) ~~[maintain an index of all court judgments in the same manner as county clerks are required by law to prepare for criminal cases arising in county courts; and~~

[4] if necessary for the proper functioning of the courts, provide for the preservation of records by microfilming.

SECTION 5. Section 30.389, Government Code, is amended to read as follows:

Sec. 30.389. RECORDING OF PROCEEDINGS; COURT REPORTER. (a) *To preserve a record in cases before a municipal court of record, the governing body of the city may provide one or more court reporters. The reporter must meet the qualifications provided by law for official court reporters. The reporter shall be compensated by the city in the manner determined by the governing body of the city. [All proceedings in a municipal court of record shall be recorded by a good quality electronic recording device and the recording kept and stored for not less than 20 days. The proceedings that are appealed shall be transcribed from the recording by a court reporter.]*

(b) *The court reporter may use written notes, transcribing equipment, recording equipment, or a combination of those methods to record the proceedings of the court. The court reporter shall keep the record for the 20-day period beginning the day after the last day of the court proceeding, trial, or denial of motion for new trial, whichever occurs last.*

(c) *The court reporter is only required to record trial testimony and motions before the court, and a record is not required unless the judge or one of the parties requests a record. A party's request for a record must be in writing and filed with the court prior to trial.*

(d) *The governing body may provide that, in lieu of providing a court reporter, proceedings in a municipal court of record may be recorded by a good quality electronic recording device. The recording shall be kept and stored for the 20-day period beginning the day after the last day of the proceeding, trial, or denial of motion for new trial, whichever occurs last. The proceedings that are appealed shall be transcribed from the recording by a court reporter. [A municipal judge may appoint a court reporter for a particular case to transcribe the trial proceedings, including testimony, voir dire examinations, objections, and final arguments. Each reporter must be a sworn officer of the court. The reporter shall be compensated by the city in the manner determined by the governing body of the city.]*

SECTION 6. Section 30.390, Government Code, is amended to read as follows:

Sec. 30.390. SEAL. The governing body of the city shall provide each municipal court of record with a seal to be used to authenticate the official acts of the clerk and the municipal judge. The impress of the seal must be attached to all papers issued by the court except subpoenas. The seal must include a five-pointed star and must be engraved with the words "Municipal Court in the City [of Record] of Dallas, Texas."

SECTION 7. Section 30.391, Government Code, is amended to read as follows:

Sec. 30.391. APPELLATE COURTS. (a) A defendant *who pleads not guilty* has the right of appeal from a judgment of conviction in a municipal court of record under the procedures prescribed by this subchapter. *A defendant who pleads guilty or nolo contendere waives the right of appeal from a judgment in a municipal court of record under this subchapter.*

(b) The county court and a county court at law of Dallas County have jurisdiction of appeals from a municipal court of record.

(c) *The appellate court shall determine each appeal from a municipal court of record conviction on the basis of the errors that are alleged in the defendant's motion for new trial and are presented in the transcript and statement of facts prepared from the municipal court of record proceedings leading to the conviction. An appeal from the municipal court of record may not be by trial de novo. [Appeals from convictions of the municipal courts that are not of record are do novo. This subchapter does not affect the procedure for an appeal from a municipal court that is not of record.]*

SECTION 8. Subsection (a), Section 30.393, Government Code, is amended to read as follows:

(a) To perfect an appeal, the defendant must give notice of the appeal. The notice of appeal ~~must [may be given orally in or out of court, or it may]~~ be given in writing and filed with the municipal court of record *on the appeal form provided by the municipal clerk.* The notice is sufficient if it shows the desire of the defendant to appeal from the municipal court of record conviction.

SECTION 9. Section 30.395, Government Code is amended by adding Subsection (c) to read as follows:

(c) *The form of the transcript must be in accordance with uniform rules established by the appellate courts.*

SECTION 10. Subsection (b), Section 30.397, Government Code, is amended to read as follows:

(b) The court reporter ~~the clerk or deputy clerk of the court, or a notary public~~ shall transcribe in duplicate any portion of the recorded proceedings or the notes of the court proceedings in the case at the request of either party or the judge. The defendant shall pay for the transcriptions unless the court finds, after hearing in response to an affidavit by the defendant, that the defendant is unable to pay or give security for the transcriptions. On certification by the court that the ~~transcriber [court reporter]~~ has rendered the service without charge to the defendant, the ~~transcriber [court reporter]~~ shall be paid for the services by the city. *If the case is reversed on appeal, the court shall promptly refund the cost to the defendant.*

SECTION 11. Subsection (a), Section 30.398, Government Code, is amended to read as follows:

(a) Not later than the 60th day after the date the notice of appeal is given or filed, the parties must file with the clerk of the municipal court of record:

- (1) the statement of facts;
- (2) a written designation of material to be included in the transcript in addition to the material required under Section 30.395(a); and
- (3) any matter to be included in the transcript that is not in the custody of the municipal clerk. *If a defendant fails to submit all the material required by this subsection within the 60-day period or fails to submit a designation that only the material required under Section 30.395(a) is to be included, the appeal is dismissed.*

SECTION 12. Subsection (c), Section 30.398, Government Code, is amended to read as follows:

(c) At the time of requesting the clerk to prepare a record on appeal from the transcript and statement of facts, the defendant must pay to the clerk a record preparation fee of \$25 [~~\$10~~]. *The court shall waive the record preparation fee if the court finds after a hearing that the defendant is unable to pay the fee. The defendant must file and personally sign an affidavit that he is unable to pay. The defendant must file the affidavit at the time the notice of appeal is given or filed. The affidavit of inability to pay must contain reasonable information as the court may require by rules. The prosecutor may oppose, under time limits and conditions set by the rules of the municipal court of record, the affidavit of inability to pay the fee and may call the appellant as a witness on that issue. If the case is reversed upon appeal, the clerk shall refund the record preparation [~~\$10~~] fee to the defendant.*

SECTION 13. Subsection (d), Section 30.398, Government Code, is amended to read as follows:

(d) On completion of the record, the clerk shall notify the parties, and the municipal judge shall approve the record in the manner provided by the Code of Criminal Procedure or the Rules of Appellate Procedure, whichever is applicable, [1965,] for record completion notification and approval to the court of appeals, *except that notice of completion of the record made by the clerk to the city attorney's office shall not be required to be accomplished by certified or registered mail.*

SECTION 14. Subsection (a), Section 30.399, Government Code, is amended to read as follows:

(a) A defendant's brief on appeal from a municipal court of record must present points of error in the manner required by the Code of Criminal Procedure *or the Rules of Appellate Procedure, whichever is applicable*, [1965,] for a brief on appeal to the court of criminal appeals.

SECTION 15. Section 30.404, Government Code, is amended to read as follows:

Sec. 30.404. APPEALS TO COURT OF APPEALS. Appeals to the court of appeals from the decision of the appellate court, if permitted by law, are governed by the provisions of the Code of Criminal Procedure *or the Rules of Appellate Procedure, whichever is applicable*, [1965,] relating to direct appeals from a county or a district court to the court of appeals except that:

(1) the record and briefs on appeal in the appellate court constitute the record and briefs on appeal to the court of appeals unless the rules of the court of criminal appeals provide otherwise; and

(2) the record and briefs shall be filed directly with the court of appeals.

SECTION 16. Subchapter M, Chapter 30, Government Code, is amended by adding Section 30.405, 30.406, 30.407, 30.408, and 30.409 to read as follows:

*Sec. 30.405. WRIT POWER. The judge of a municipal court of record created under this subchapter may grant writs of mandamus, injunction, attachment, and other writs necessary for 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.*

*Sec. 30.406. APPLICATION OF OTHER LAWS REGARDING MUNICIPAL COURTS. The general law regarding municipal courts and justice courts and the charter provisions and ordinances of the city relating to the municipal courts apply to a municipal court of record created under this subchapter, unless the law, charter provision, or ordinance is in conflict or inconsistent with this subchapter. Except as modified by this subchapter, the Code of Criminal Procedure and the Rules of Appellate Procedure apply to the municipal court of record.*

*Sec. 30.407. JUDICIAL NOTICE. The municipal court of record shall take judicial notice of city ordinances and of the corporate limits of the city. The appellate courts shall take judicial notice of the city charter and of ordinances that created municipal courts but may not take judicial notice of other ordinances of the city. In appeals from the municipal court of record to an appellate court, the municipal court of record shall provide the appellate court with all city ordinances that relate to the conviction and punishment in the municipal court of record. If the appellate court has not been provided with a city ordinance that may be necessary for a proper decision on the appeal, the appellate court may abate the appeal and direct the municipal court of record to supplement the record on appeal with the city ordinance. The prosecutor and appellant shall be given notice of the supplementation of the record under rules set by the municipal court of record so that each party to the appeal is afforded due process of law. The appellate courts and the court of criminal appeals shall presume that judicial notice of all ordinances of the city was taken in the court below unless the matter was made an issue in the court below or unless it otherwise affirmatively appears to the contrary from the record.*

*Sec. 30.408. COURT RULES. The municipal and appellate courts may make and enforce all rules of practice and procedure that are not inconsistent with general law and that are necessary to expedite appeals from the municipal court of record.*

*Sec. 30.409. APPEAL BOND. (a) If the defendant is not in custody, the defendant may not appeal until the defendant files an appeal bond with the municipal court of record. The bond must be approved by the court and must be filed not later than the 10th day after the date on which the motion or amended motion for new trial is overruled or, if there is no motion for new trial, not later than the 10th day after the rendition of the judgment of conviction. If the defendant is in custody, the defendant shall be committed to jail unless the defendant posts the appeal bond.*

*(b) The appeal bond must be in the amount of \$50 or double the amount of the fines and costs adjudged against the defendant, whichever is greater. The bond must state that the defendant was convicted in the case and has appealed, and it must be conditioned on the defendant's appearance, upon notice, in the court to which the appeal is taken.*

SECTION 17. 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 constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 2, 1987, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 12, 1987, by a viva-voce vote.

Passed the House, with amendment, on May 8, 1987, by a non-record vote.

Approved May 25, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.