

## Reforming Texas Courts

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**T**exas has made great strides in reforming its civil justice system in the last decade and its citizens are reaping the benefits. Tort reform brought much needed change to an often abusive system that slowed economic growth and undermined respect for the law. But additional reforms are needed if the state's civil justice system is to function effectively.

One area that is ripe for reform is the modernization of the organizational structure of the court system. This structure was originally laid out in Article V of the State Constitution adopted in 1891. Piecemeal and ad hoc restructuring over the intervening years has resulted in an antiquated system full of irregularities, inconsistencies, and overlapping jurisdictions.

In order to bring simplicity and rationality to the legal process, the system's organization and administration should be reformed. A number of jurisdictional and area of specialization issues also need to be addressed.

Legislation has been introduced that would reform the organization and operation of the court system. Texans would benefit from a just and coherent civil justice system that effectively adjudicates disputes in an efficient and timely manner.

### SB 1204/HB 2906

SB 1204 and its companion HB 2906 seek to modernize, simplify, and rationalize the court system in four main ways:

- Improve the Supreme Court's Ability to Manage the Judicial System
- Rationalize Trial Courts and Clarify Subject Matter Jurisdiction
- Create a True Small Claims System
- Assign Complex Cases to Judges Most Capable of Handling Them

### *The Supreme Court*

If the state is to have a coherent and consistent body of case law it will need to give the Texas Supreme Court a greater ability to clarify important points of law and to communicate effectively with the various tiers of courts.

There are certain trial judge decisions that deserve immediate appellate review but currently the Texas Supreme Court is unable to hear all of these appeals. SB 1204/HB 2906 address this problem by giving the Supreme Court discretionary jurisdiction in all appeals of final judgments and appealable interlocutory trial court orders.

It also gives the Supreme Court, rather than the Governor, the power to appoint regional administrative judges. This will improve communication and coordination between the various courts.

### *Trial Courts and Subject Matter Jurisdiction*

County courts at law were intended to provide quick resolution to simple cases. Overlapping jurisdictions, however, have prevented the system from operating effectively. In a number of counties, statutory county courts at law have concurrent jurisdiction with

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district courts in civil cases no matter the dollar amount involved. If someone wanted to file suit over a \$600 claim, for example, they could do so in the justice of the peace court, the small claims court (really the justice sitting as a “small claims” court), probate court, constitutional county court, statutory county court at law or a state district court.

In order to simplify and rationalize this process, SB 1204/HB 2906 would standardize jurisdictions. County courts at law would be given jurisdiction to handle civil matters with amounts up to \$100,000. Statutory county courts-at-law that currently handle controversies over \$100,000 would be converted into district courts. In the case of general civil jurisdiction in justice of the peace courts, the bills would increase the maximum amount involved from \$5,000 to \$10,000 while allowing for an appeal of all eviction cases to the intermediate appellate court.

### *The Small Claims System*

As noted above, the current small claims court is really a justice of the peace acting as a “small claims” judge. To simplify and rationalize this area of law, the bills direct the Supreme Court to define “small claims” and to establish rules and procedures for the handling of small civil cases.

### *Complex Cases*

In today’s complex and technology driven economy, the court system is increasingly forced to deal with difficult issues that require a high level of knowledge and expertise in diverse areas such as science, medicine, and, of course, law. These cases should be assigned to judges that have the necessary expertise and experience.

SB 1204/HB 2906 accomplish this by establishing a Judicial Panel on Complex Cases to assign complex cases to trial judges with the appropriate expertise and resources. The panel would be comprised of five judges chosen by the Supreme Court.

The bills give the Supreme Court the authority to consider the following factors in defining a “complex case” if:

- there are a large number of separately represented parties;
- coordination with related actions pending in other courts will be necessary;

- the case will benefit from assignment to a judge who is knowledgeable in a specific area of the law;
- it is likely that there will be numerous pretrial motions or novel legal issues to resolve;
- there will be a large number of witnesses or a substantial amount of documentary evidence;
- substantial post-judgment judicial supervision will be required;
- there is a large amount in controversy; and
- it is likely that there will be scientific, technical, medical, or other evidence that requires specialized knowledge.

In this way the panel would determine whether a case is “complex” and assign these cases to trial court judges who have the relevant experience and knowledge in addition to the time and resources to manage these types of lawsuits. The bills require the panel to assign a designated complex case to an active judge from the administrative region where the lawsuit is pending. They also allow cases to be assigned to a retired, or former, judge from any region provided the judge will travel to the location of the pending lawsuit.

In complex or multidistrict cases the bills allow for the immediate appeal of an interlocutory trial court order if the order would resolve a controlling question of law on which there is a substantial ground for difference of opinion and could help resolve the litigation.

### **CONCLUSION**

Texas has led the nation in successful tort reform, recently having been ranked as the number one tort system in the country. Modernizing the court system will bring the clarity and rationality necessary for the state to build on the reforms of the last decade.

SB 1204/HB 2906 will bring greater simplicity and fairness to an often Byzantine and confusing system, allowing the system to function more efficiently and reducing the cost to those who must interact with the courts. As a result it will not only spur economic growth, but further rebuild citizens’ faith in the court system. ★

