

By: Raymond

H.B. No. 134

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the criminal jurisdiction of the supreme court and the
3 abolishment of the court of criminal appeals.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article 4.01, Code of Criminal Procedure, is
6 amended to read as follows:

7 Art. 4.01. WHAT COURTS HAVE CRIMINAL JURISDICTION. The
8 following courts have jurisdiction in criminal actions:

- 9 1. The Supreme Court [~~of Criminal Appeals~~];
- 10 2. Courts of appeals;
- 11 3. The district courts;
- 12 4. The criminal district courts;
- 13 5. The magistrates appointed by the judges of the
14 district courts of Bexar County, Dallas County, Tarrant County, or
15 Travis County that give preference to criminal cases and the
16 magistrates appointed by the judges of the criminal district courts
17 of Dallas County or Tarrant County;
- 18 6. The county courts;
- 19 7. All county courts at law with criminal
20 jurisdiction;
- 21 8. County criminal courts;
- 22 9. Justice courts;
- 23 10. Municipal courts; and
- 24 11. The magistrates appointed by the judges of the

1 district courts of Lubbock County.

2 SECTION 2. Article 4.04, Code of Criminal Procedure, is
3 amended to read as follows:

4 Art. 4.04. SUPREME COURT [~~OF CRIMINAL APPEALS~~]

5 Sec. 1. The Supreme Court [~~of Criminal Appeals~~] and each
6 justice of the court [~~judge thereof shall~~] have [~~, and is hereby~~
7 ~~given,~~] the power and authority to grant and issue and cause the
8 issuance of:

9 (1) writs of habeas corpus;

10 (2) [~~, and,~~] in criminal law matters, the writs of
11 mandamus, procedendo, prohibition, and certiorari; and

12 (3) any [~~. The court and each judge thereof shall~~
13 ~~have, and is hereby given, the power and authority to grant and~~
14 ~~issue and cause the issuance of such~~] other writs [~~as may be~~]
15 necessary to protect its jurisdiction or enforce its judgments.

16 Sec. 2. The Supreme Court has [~~of Criminal Appeals shall~~
17 ~~have, and is hereby given,~~] final appellate and review jurisdiction
18 in criminal cases coextensive with the limits of the state, and its
19 determinations are [~~shall be~~] final. [~~The appeal of all cases in~~
20 ~~which the death penalty has been assessed shall be to the Court of~~
21 ~~Criminal Appeals. In addition, the Court of Criminal Appeals may,~~
22 ~~on its own motion, with or without a petition for such discretionary~~
23 ~~review being filed by one of the parties, review any decision of a~~
24 ~~court of appeals in a criminal case. Discretionary review by the~~
25 ~~Court of Criminal Appeals is not a matter of right, but of sound~~
26 ~~judicial discretion.~~]

27 Sec. 3. A reference in this code or other state law to the

1 Court of Criminal Appeals means the Supreme Court, a reference to a
2 judge of the Court of Criminal Appeals means a justice of the
3 Supreme Court, and a reference to the presiding judge of the Court
4 of Criminal Appeals means the chief justice of the Supreme Court.

5 SECTION 3. Section 52.092(c), Election Code, is amended to
6 read as follows:

7 (c) Statewide offices of the state government shall be
8 listed in the following order:

- 9 (1) governor;
- 10 (2) lieutenant governor;
- 11 (3) attorney general;
- 12 (4) comptroller of public accounts;
- 13 (5) commissioner of the General Land Office;
- 14 (6) commissioner of agriculture;
- 15 (7) railroad commissioner;
- 16 (8) chief justice, supreme court;
- 17 (9) justice, supreme court[→
- 18 [~~(10) presiding judge, court of criminal appeals,~~
- 19 [~~(11) judge, court of criminal appeals~~].

20 SECTION 4. Section 172.021(g), Election Code, is amended to
21 read as follows:

22 (g) A candidate for the office of chief justice or justice,
23 supreme court, [~~or presiding judge or judge, court of criminal~~
24 ~~appeals,~~] who chooses to pay the filing fee must also accompany the
25 application with a petition that complies with the requirements
26 prescribed for a petition authorized by Subsection (b), except that
27 the minimum number of signatures that must appear on the petition

1 required by this subsection is 50 from each court of appeals
2 district.

3 SECTION 5. Section 22.001(a), Government Code, is amended
4 to read as follows:

5 (a) The supreme court has appellate jurisdiction [~~except~~
6 ~~in criminal law matters,~~] coextensive with the limits of the state
7 and extending to all questions of law arising in the following cases
8 when they have been brought to the courts of appeals from appealable
9 judgment of the trial courts:

10 (1) a case in which the justices of a court of appeals
11 disagree on a question of law material to the decision;

12 (2) a case in which one of the courts of appeals holds
13 differently from a prior decision of another court of appeals or of
14 the supreme court on a question of law material to a decision of the
15 case;

16 (3) a case involving the construction or validity of a
17 statute necessary to a determination of the case;

18 (4) a case involving state revenue;

19 (5) a case in which the railroad commission is a party;
20 and

21 (6) any other case in which it appears that an error of
22 law has been committed by the court of appeals, and that error is of
23 such importance to the jurisprudence of the state that, in the
24 opinion of the supreme court, it requires correction, but excluding
25 those cases in which the jurisdiction of the court of appeals is
26 made final by statute.

27 SECTION 6. Section 22.002(a), Government Code, is amended

1 to read as follows:

2 (a) The supreme court or a justice of the supreme court may
3 issue writs of procedendo and certiorari and all writs of quo
4 warranto and mandamus agreeable to the principles of law regulating
5 those writs, against a statutory county court judge, a statutory
6 probate court judge, a district judge, a court of appeals or a
7 justice of a court of appeals, or any officer of state government
8 except the governor[, the court of criminal appeals, or a judge of
9 ~~the court of criminal appeals~~].

10 SECTION 7. The heading to Subchapter B, Chapter 22,
11 Government Code, is amended to read as follows:

12 SUBCHAPTER B. SUPREME COURT: [~~OF~~] CRIMINAL APPEALS

13 SECTION 8. Subchapter B, Chapter 22, Government Code, is
14 amended by adding Section 22.1011 to read as follows:

15 Sec. 22.1011. REFERENCE TO COURT OF CRIMINAL APPEALS. A
16 reference in this code or other state law to the court of criminal
17 appeals means the supreme court, a reference to a judge of the court
18 of criminal appeals means a justice of the supreme court, and a
19 reference to the presiding judge of the court of criminal appeals
20 means the chief justice of the supreme court.

21 SECTION 9. Sections 22.102 and 22.103, Government Code, are
22 amended to read as follows:

23 Sec. 22.102. MANDATE. When the court from which an appeal
24 is taken is deprived of jurisdiction over the case pending the
25 appeal and the case is determined by a court of appeals or the
26 supreme court [~~of criminal appeals~~], the mandate of the appellate
27 court that determined the case shall be directed to the court that

1 had jurisdiction over the case, as also provided by Section 22.226.

2 Sec. 22.103. ASCERTAINMENT OF FACTS. The supreme court [~~of~~
3 ~~criminal appeals~~] may ascertain, on affidavit or otherwise, the
4 matters of fact that are necessary to the exercise of its
5 jurisdiction.

6 SECTION 10. Section 22.105(a), Government Code, is amended
7 to read as follows:

8 (a) The fact that a justice [~~judge~~] of the supreme court [~~of~~
9 ~~criminal appeals~~] is disqualified under the constitution and laws
10 of this state to hear and determine a case shall be certified to the
11 governor.

12 SECTION 11. The heading to Section 22.106, Government Code,
13 is amended to read as follows:

14 Sec. 22.106. COMMISSIONERS OF SUPREME COURT [~~OF CRIMINAL~~
15 ~~APPEALS~~].

16 SECTION 12. Sections 22.106(a), (c), and (d), Government
17 Code, are amended to read as follows:

18 (a) The chief justice [~~presiding judge~~] of the supreme court
19 [~~of criminal appeals~~], with the concurrence of a majority of the
20 justices [~~judges~~] of the supreme court [~~of criminal appeals~~], may
21 designate and appoint a retired appellate judge or district judge
22 who has consented to be subject to appointment, or an active
23 appellate judge or district judge, to sit as a commissioner of the
24 supreme court [~~of criminal appeals~~]. A designated judge must
25 consent to the designation and appointment. The chief justice
26 [~~presiding judge~~] may designate and appoint as many commissioners
27 as the chief justice considers [~~he deems~~] necessary to aid the court

1 in disposing of its business.

2 (c) The opinions of a commissioner shall be submitted to the
3 supreme court [~~of criminal appeals~~] for approval. When approved by
4 a majority of the court, an opinion of a commissioner has the same
5 weight and legal effect as an opinion originally prepared by the
6 supreme court [~~of criminal appeals~~].

7 (d) The compensation of a judge while sitting as a
8 commissioner of the supreme court [~~of criminal appeals~~] shall be
9 paid out of money appropriated from the general revenue fund for
10 that purpose in an amount equal to the salary of the justices
11 [~~judges~~] of the supreme court [~~of criminal appeals~~] and shall be in
12 lieu of the retirement allowance that the judge receives or in lieu
13 of the compensation the judge [~~he~~] receives as an active judge of
14 another court. In addition to the compensation, a judge sitting as
15 a commissioner of the court is entitled to receive the judge's [~~his~~]
16 actual travel expenses to and from Austin and a \$25 per diem while
17 the judge [~~he~~] is assigned to the supreme court [~~of criminal~~
18 ~~appeals~~] in Austin.

19 SECTION 13. Sections 22.107, 22.108, 22.109, and 22.1095,
20 Government Code, are amended to read as follows:

21 Sec. 22.107. COMMISSION IN AID OF SUPREME COURT [~~OF~~
22 ~~CRIMINAL APPEALS~~]. (a) In addition to the authority granted by
23 Section 22.106 [~~of this code~~], the supreme court [~~of criminal~~
24 ~~appeals~~] may appoint a commission for the aid of the court in
25 disposing of the business before the court. The commission in aid
26 of the court shall discharge the duties that are assigned it by the
27 supreme court [~~of criminal appeals~~].

1 (b) The commission shall be composed of two attorneys having
2 the qualifications fixed by the constitution and laws of this state
3 for a justice [~~judge~~] of the supreme court [~~of criminal appeals~~].
4 Commissioners serve two-year terms that expire September 1 of each
5 odd-numbered year.

6 (c) The opinions of the commissioners in aid of the court
7 shall be submitted to the supreme court [~~of criminal appeals~~] for
8 approval. When approved by a majority of the court and handed down
9 as an opinion of the court, an opinion of a commissioner in aid of
10 the court has the same weight and legal effect as an opinion
11 originally prepared and handed down by the supreme court [~~of~~
12 ~~criminal appeals~~].

13 (d) Each member of the commission is entitled to receive for
14 the member's [~~his~~] services the salary that is provided by law.

15 (e) The supreme court [~~of criminal appeals~~] by appointment
16 may fill a vacancy on the commission in aid of the court that is
17 created by the death, resignation, or removal of a member of the
18 commission. A person appointed to fill a vacancy continues in
19 office for the unexpired portion of the term for which the
20 commissioner vacating the office was appointed.

21 (f) The supreme court [~~of criminal appeals~~] shall appoint
22 two stenographers for the commission.

23 Sec. 22.108. RULES OF APPELLATE PROCEDURE IN CRIMINAL
24 CASES. (a) The supreme court [~~of criminal appeals~~] is granted
25 rulemaking power to promulgate rules of posttrial, appellate, and
26 review procedure in criminal cases except that its rules may not
27 abridge, enlarge, or modify the substantive rights of a litigant.

1 (b) The supreme court [~~of criminal appeals~~] may promulgate a
2 comprehensive body of rules of posttrial, appellate, and review
3 procedure in criminal cases and from time to time may promulgate a
4 specific rule or rules of posttrial, appellate, or review procedure
5 in criminal cases or an amendment or amendments to a specific rule
6 or rules. Rules and amendments adopted under this subsection are
7 effective at the time the supreme court [~~of criminal appeals~~]
8 considers expedient in the interest of a proper administration of
9 justice. The rules and amendments to rules remain in effect unless
10 and until disapproved, modified, or changed by the legislature.
11 The clerk of the supreme court [~~of criminal appeals~~] shall file with
12 the secretary of state the rules or amendments to rules promulgated
13 by the supreme court [~~of criminal appeals~~] under this subsection.

14 (c) The rules of posttrial, appellate, and review procedure
15 in criminal cases shall be published in the Texas Register and in
16 the Texas Bar Journal. The supreme court [~~of criminal appeals~~] may
17 adopt the method it considers expedient for the printing and
18 distribution of the rules.

19 Sec. 22.109. RULES OF EVIDENCE IN CRIMINAL CASES. (a) The
20 supreme court [~~of criminal appeals~~] has the full rulemaking power
21 in the promulgation of rules of evidence in the trials of criminal
22 cases, except that its rules may not abridge, enlarge, or modify the
23 substantive rights of a litigant.

24 (b) The supreme court [~~of criminal appeals~~] may promulgate a
25 comprehensive body of rules of evidence in the trials of criminal
26 cases and from time to time may promulgate a specific rule or rules
27 of evidence or an amendment or amendments to a specific rule or

1 rules. Rules and amendments adopted under this subsection are
2 effective at the time the supreme court [~~of criminal appeals~~]
3 considers expedient in the interest of a proper administration of
4 justice. The rules and amendments to rules remain in effect unless
5 and until disapproved by the legislature. The secretary of state
6 shall report the rules or amendments to rules to the next regular
7 session of the legislature by mailing a copy of the rules or
8 amendments to rules to each elected member of the legislature on or
9 before December 1 immediately preceding the session.

10 (c) The rules of evidence in the trials of criminal cases
11 shall be published in the Texas Register and in the Texas Bar
12 Journal. The supreme court [~~of criminal appeals~~] may adopt the
13 method it considers expedient for the printing and distribution of
14 the rules.

15 Sec. 22.1095. RULES ON ELECTRONIC FILING OF DOCUMENTS FOR
16 CAPITAL CASES IN SUPREME COURT [~~OF CRIMINAL APPEALS~~].

17 [~~(a)~~] Notwithstanding Subchapter I, Chapter 51, or any other law,
18 the supreme court [~~of criminal appeals~~] may adopt rules and
19 procedures providing for and governing the electronic filing of
20 briefs, pleadings, and other documents for capital cases in that
21 court.

22 [~~(b) In the adoption of rules and procedures under~~
23 ~~Subsection (a), the court of criminal appeals shall coordinate with~~
24 ~~the supreme court and the rules and procedures adopted by that~~
25 ~~court.~~]

26 SECTION 14. Sections 22.110(a), (b), (c), and (e),
27 Government Code, are amended to read as follows:

1 (a) The supreme court [~~of criminal appeals~~] shall assure
2 that judicial training related to the problems of family violence,
3 sexual assault, and child abuse and neglect is provided.

4 (b) The supreme court [~~of criminal appeals~~] shall adopt the
5 rules necessary to accomplish the purposes of this section. The
6 rules must require each district judge, judge of a statutory county
7 court, associate judge appointed under Chapter 54A of this code or
8 Chapter 201, Family Code, master, referee, and magistrate to
9 complete at least 12 hours of the training within the judge's first
10 term of office or the judicial officer's first four years of service
11 and provide a method for certification of completion of that
12 training. At least four hours of the training must be dedicated to
13 issues related to child abuse and neglect and must cover at least
14 two of the topics described in Subsections (d)(8)-(12). At least
15 six hours of the training must be dedicated to the training
16 described by Subsections (d)(5), (6), and (7). The rules must
17 require each judge and judicial officer to complete an additional
18 five hours of training during each additional term in office or four
19 years of service. At least two hours of the additional training
20 must be dedicated to issues related to child abuse and neglect. The
21 rules must exempt from the training requirement of this subsection
22 each judge or judicial officer who files an affidavit stating that
23 the judge or judicial officer does not hear any cases involving
24 family violence, sexual assault, or child abuse and neglect.

25 (c) In adopting the rules, the supreme court [~~of criminal~~
26 ~~appeals~~] may consult with [~~the supreme court and with~~] professional
27 groups and associations in the state that have expertise in the

1 subject matter to obtain the recommendations of those groups or
2 associations for instruction content.

3 (e) The supreme court [~~of criminal appeals~~] or the court's
4 designee shall report the name of a judge or judicial officer who
5 does not comply with the requirements of this section to the State
6 Commission on Judicial Conduct.

7 SECTION 15. Sections 22.1105(b) and (c), Government Code,
8 are amended to read as follows:

9 (b) The supreme court [~~of criminal appeals~~] shall adopt the
10 rules necessary to provide for the training required under
11 Subsection (a). The rules must require a judge described by
12 Subsection (a) to complete two hours of the required training every
13 judicial academic year that ends in a 0 or a 5 as part of the
14 training the judge is required to complete under rules adopted by
15 the supreme court [~~of criminal appeals~~] or other law.

16 (c) In adopting the rules, the supreme court [~~of criminal~~
17 ~~appeals~~] may consult with [~~the supreme court and with~~] professional
18 groups and associations in this state that have expertise in the
19 subject matter to obtain the recommendations of those groups or
20 associations for instructional content.

21 SECTION 16. Section 22.111, Government Code, is amended to
22 read as follows:

23 Sec. 22.111. TRAINING FOR PROSECUTING ATTORNEYS RELATED TO
24 PUNISHMENT ENHANCEMENT BECAUSE OF BIAS OR PREJUDICE. The supreme
25 court [~~of criminal appeals~~] shall provide to prosecuting attorneys
26 training related to the use of Section 12.47, Penal Code, and
27 Article 42.014, Code of Criminal Procedure, for enhancing

1 punishment on a finding that an offense was committed because of the
2 defendant's bias or prejudice as defined in Article 42.014, Code of
3 Criminal Procedure.

4 SECTION 17. Sections 22.226 and 22.301, Government Code,
5 are amended to read as follows:

6 Sec. 22.226. MANDATE. When the court from which an appeal
7 is taken is deprived of jurisdiction over the case pending the
8 appeal and the case is determined by a court of appeals or the
9 supreme court [~~of criminal appeals~~], the mandate of the appellate
10 court that determines the case shall be directed to the court that
11 had jurisdiction over the case, as also provided by Section 22.102.

12 Sec. 22.301. SALARIES OF OFFICERS AND PERSONNEL OF
13 APPELLATE COURTS. The salaries of the state prosecuting attorney
14 and the clerks, other officers, and employees of the supreme
15 court [~~, court of criminal appeals,~~] and courts of appeals shall be
16 determined by the legislature in its appropriation acts for the
17 support of the judiciary.

18 SECTION 18. Section 22.302(a), Government Code, is amended
19 to read as follows:

20 (a) At the discretion of its chief justice [~~or presiding~~
21 ~~judge~~], the supreme court [~~, the court of criminal appeals,~~] or a
22 court of appeals may order that oral argument be presented through
23 the use of teleconferencing technology. The court and the parties
24 or their attorneys may participate in oral argument from any
25 location through the use of teleconferencing technology.

26 SECTION 19. The following sections of the Government Code
27 are repealed:

1 (1) Sections 22.0035(d) and (e);

2 (2) Section 22.101; and

3 (3) Section 22.112.

4 SECTION 20. This Act takes effect on the date on which the
5 constitutional amendment proposed by the 83rd Legislature, Regular
6 Session, 2013, to abolish the court of criminal appeals and
7 establish one supreme court with civil and criminal appellate
8 jurisdiction takes effect. If that amendment is not approved by the
9 voters, this Act has no effect.