

**SUBJECT:** Allowing certain constitutional county courts to appoint special judges

**COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment

**VOTE:** 10 ayes — Hunter, Hughes, Alonzo, Hartnett, Jackson, Leibowitz, Lewis, Madden, Martinez, Woolley

0 nays

1 absent — Branch

**WITNESSES:** For — Ken Sparks

Against — None

**BACKGROUND:** The Government Code allows for the appointment of a special or visiting judge in situations where a constitutional county court judge is absent, incapacitated, or disqualified from hearing a case. In general, the authority to assign a special or visiting judge belongs to the presiding judge of each of the state's nine administrative judicial regions, not the constitutional county court judges themselves. A statutory exception exists for Harris County, where the presiding county criminal court at law judge may appoint an attorney with good standing to serve as a special judge for a fixed period of time.

Constitutional county court judges who are not attorneys sometimes lack the requisite legal training to conduct jury trials and determine the admissibility of evidence. This necessitates the appointment of a visiting judge, but the process can be cumbersome in situations where the visiting judge has to travel a great distance to hear only a single proceeding.

**DIGEST:** HB 3324 would allow a constitutional county court judge in a county without a statutory county court or a statutory probate court to issue a written order appointing a special judge to hear criminal, juvenile, and civil cases in situations when the constitutional county court judge was absent or otherwise unable for any reason to preside over the county court. The order would have to state the period of time for which the appointment would last.

A county judge could only select a special judge from a list of qualified persons approved by the county commissioners court. To be eligible for selection, a person would have to be a licensed attorney in Texas who had practiced law for more than five years.

Once appointed, a special judge would have the same authority as a county court judge when presiding over criminal, juvenile, or civil cases, but would have no authority to preside over commissioners court meetings or over the general administration of county business.

During the appointment period, a special judge would be subject to the Code of Judicial Conduct and would be prohibited from practicing law.

An appointed special judge would have to sign the oath of office required by the constitution for county judges before performing any duties as a special judge. The county clerk would have to record both the appointment and the oath into the general minutes of the court.

HB 3324 would require the county commissioners court to determine the amount of compensation for a special judge prior to the special judge's appointment.

The bill would take effect September 1, 2009.