

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1547
By: Ogden
Jurisprudence
4-3-97
Committee Report (Substituted)

DIGEST

Currently, Williamson County does not have a criminal magistrate to process prisoners for release from jail. The county does not have enough justices of the peace or municipal judges to take over magistrations. As a result, the county has had to use jail magistrates who are actually judges of the Municipal Court of Bartlett, Texas, nearly 30 miles from the jail. This has led to jurisdictional and paperwork problems. This bill will authorize the appointment of criminal magistrates for Williamson County and set forth the duties of a criminal magistrate.

PURPOSE

As proposed, C.S.S.B. 1547 authorizes the appointment of criminal magistrates for Williamson County and sets forth the duties of a criminal magistrate.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 54, Government Code, by adding Subchapter P, as follows:

SUBCHAPTER P. WILLIAMSON COUNTY CRIMINAL MAGISTRATES

Sec. 54.951. APPOINTMENT. Sets forth regulations regarding the appointment of magistrates to serve the courts of Williamson County having jurisdiction in criminal matters.

Sec. 54.952. JURISDICTION. Provides that a magistrate has concurrent criminal jurisdiction with the judges of the statutory county courts and justice of the peace courts of Williamson County.

Sec. 54.953. POWERS AND DUTIES. Sets forth the powers and duties of a magistrate.

Sec. 54.954. MASTERS IN CRIMINAL CASES. Authorizes the judge of a statutory county court with criminal jurisdiction in Williamson County to designate a magistrate by written referral order to serve as a master in connection with a criminal case pending before the court. Requires the magistrate to be qualified to serve as judge of the court in order to serve as master. Sets forth powers and duties of a master. Sets forth regulations regarding review by the referring court of the master's findings of fact, conclusions of law, and recommendations. Sets forth actions to be taken by the court after the master has made a recommendation. Sets forth regulations regarding waiver of the right to review or appeal a master's sentencing recommendation.

Sec. 54.955. JUDICIAL IMMUNITY. Provides that a magistrate has the same judicial immunity as a district judge.

Sec. 54.956. WITNESSES. Provides that a witness who is sworn and who appears before a magistrate is subject to the penalties for perjury and aggravated perjury provided by law. Authorizes a referring court to fine or imprison a witness or other court participant for failure

to appear after being summoned, refusal to answer questions, or other acts of direct contempt before a magistrate.

Sec. 54.957. COURT REPORTER. Requires the court, at the request of a party, to provide a court reporter to record proceedings before a magistrate that the party could require to be recorded if held before a judge.

Sec. 54.958. COSTS OF MAGISTRATE. Requires a court to determine if the nonprevailing party is able to defray the expense of the magistrate in each case in which the services of a magistrate have been utilized. Requires the court to tax the expense as costs of court if the court determines the party can pay all or a portion of the expense.

Sec. 54.959. SHERIFF. Requires the sheriff, in person or by deputy, to assist a magistrate on request of the magistrate.

Sec. 54.960. CLERK. Sets forth duties of a clerk in regards to a magistrate.

Sec. 54.961. STAFF. Requires the commissioners court to provide a staff to perform the clerical functions for the magistrates.

SECTION 2. Amends Article 2.09, Code of Criminal Procedure, to make a conforming change.

SECTION 3. Emergency clause.

Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 54.952, Government Code, to delete a reference to the district courts of Williamson County.

Amends Section 54.953(e), Government Code, to authorize the judges of the statutory county courts, rather than district courts, to take certain actions.

Amends Section 54.953(f), Government Code, to delete proposed Subsection (f), and to redesignate existing Subsection (g) as Subsection (f), and make a conforming change.

Amends Section 54.954(a), Government Code, to authorize the judge of a statutory county court with criminal jurisdiction, rather than the judge of a court with criminal jurisdiction, to take certain actions.

Amends Section 54.960, Government Code, to delete proposed Subsection (a) regarding the clerk of a district court, and to redesignate subsequent subsections.