

BILL ANALYSIS

Senate Research Center
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S.B. 1049
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Jurisprudence
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current statutes require a sheriff or a constable to execute a bond with "two or more good and sufficient sureties". Although a more general statute allows for official bonds to also be made with a "solvent surety company", sheriffs and constables are bound by the more specific provision. Most bond companies do not currently provide bonds with more than one surety, making it difficult if not impossible to comply with the statute.

A recent change in the Government Code inadvertently allowed individual members of a commissioners court, as opposed to the entire court, to request jail vacancies.

Current law requires arrested persons to be taken before a magistrate "without unnecessary delay, but no later than 48 hours after the person is arrested." Many counties do not have a magistrate available late at night or through parts of the weekend, requiring some arrestees to wait almost the full 48 hours to see a magistrate.

As proposed, S.B. 1049 provides the option to execute a bond with a solvent surety company authorized to do business in Texas, creates a process for the eligible local governments to make nominations for appointment, clarifies the language to allow commissioners court to make certain requests to the Jail Standards Commission, and allows counties, including nonadjacent counties, to use electronic broadcast systems for magistration.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 85.001(a), Local Government Code, to include a solvent surety company authorized to do business in this state as an entity that a person elected as sheriff, before beginning to perform the duties of office, is required to execute a bond with. Makes conforming changes.

SECTION 2. Amends Section 86.002(a), Local Government Code, to make a conforming change.

SECTION 3. Amends Section 403.1042(b), Government Code, to make certain amendments to the composition of and manner in which members of the advisory committee are appointed.

SECTION 4. Amends Section 511.009(c), Government Code, to make this section applicable to the application of the county commissioners court, rather than the county commissioners.

SECTION 5. Amends Section 501.138, Transportation Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Requires the county assessor-collector to send to the comptroller, in the time and manner prescribed by the comptroller on or after September 1, 2008, \$15 of the fee for a certificate of title, regardless of the county in which the applicant resides.

(b-1) Created from existing text. Makes conforming changes.

SECTION 6. Amends Article 14.06(a), Code of Criminal Procedure, to require, except as provided by Subsection (b), in each case enumerated by this Code, the person making the arrest or the person having custody of the person arrested to take the person arrested or have him taken without unnecessary delay, but not later than 48 hours after the person is arrested, before the magistrate who may have ordered the arrest, before some magistrate of the county where the arrest was made without an order, or, to provide more expeditiously to the person arrested in the magistrate in any other county of this state, rather than in a county in border the county in which the arrest was made. Makes conforming changes.

SECTION 7. Amends Article 15.16, Code of Criminal Procedure, as follows:

Art. 15.16. HOW WARRANT IS EXECUTED. (a) Creates subsection from existing text.

(b) Authorizes the officer or person executing the arrest warrant, notwithstanding Subsection (a), to provide more expeditiously to the person arrested the warnings described by Article 15.17, to take the person arrested before a magistrate in a county other than the county of the arrest as permitted by that article.

SECTION 8. Amends Article 15.17(a), Code of Criminal Procedure, to authorize an arrested person to be presented to the magistrate by means of an electronic broadcast system. Defines "electronic broadcast system." Deletes existing text prohibiting a closed circuit television system form being used under this subsection. Makes conforming changes.

SECTION 9. Amends Article 14.18, Code of Criminal Procedure, as follows:

Art. 15.18. ARREST FOR OUT-OF-COUNTY OFFENSE. (a) Requires a person arrested under a warrant issued in a county other than the one in which the person is arrested to be taken before a magistrate of the county where the arrest takes place or, to provide more expeditiously to the arrested person the warnings described by Article 15.17, before a magistrate in any other county of this state, including the county where the warrant was issued. Requires the magistrate to take certain actions. Makes conforming changes.

(b) Makes a conforming change.

(c) Authorizes the arrested person to be taken before a magistrate by means of an electronic broadcast system as provided by and subject to the requirements of Article 15.17.

SECTION 10. Amends Article 15.19(b), Code of Criminal Procedure, to make conforming changes.

SECTION 11. Makes application of this Act prospective.

SECTION 12. Effective date: September 1, 2005.