

## **BILL ANALYSIS**

Senate Research Center  
81R3742 YDB-D

H.B. 1750  
By: Bonnen (Huffman)  
Criminal Justice  
5/5/2009  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Justices of the peace in Brazoria County provide the county's residents with a valuable and readily accessible forum for the impartial adjudication of minor conflicts, including the arraignment of a defendant in certain minor criminal matters. The range of duties and volume of cases that a justice of the peace is expected to perform often creates a delay or makes a justice unavailable for the arraignment of a person arrested and brought to the county jail by law enforcement personnel. Allowing a magistrate to have concurrent criminal jurisdiction with a justice of the peace court judge would minimize the demands on those justices, decrease transportation and jail-holding time, and reduce related costs to the county.

H.B. 1750 amends current law relating to the creation of criminal law magistrates for Brazoria County.

### **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 Chapter 54, Government Code, by adding Subchapter HH, as follows:

#### **SUBCHAPTER HH. BRAZORIA COUNTY CRIMINAL MAGISTRATES**

Sec. 54.1851. APPOINTMENT. (a) Authorizes the Commissioners Court of Brazoria County (commissioners court) to select magistrates to serve the courts of Brazoria County having jurisdiction in criminal matters.

(b) Requires the commissioners court to establish the minimum qualifications, salary, benefits, and other compensation for each magistrate position and determine whether the position is full-time or part-time. Requires that the qualifications require the magistrate to have served as a justice of the peace or be an attorney licensed in this state.

(c) Provides that a magistrate appointed under this section serves at the pleasure of the commissioners court.

Sec. 54.1852. JURISDICTION. Provides that a magistrate has concurrent criminal jurisdiction with the judges of the justice of the peace courts of Brazoria County.

Sec. 54.1853. POWERS AND DUTIES. (a) Requires the commissioners court to establish the powers and duties of a magistrate appointed under this subchapter. Authorizes a magistrate, except as otherwise provided by the commissioners court, to have the powers of a magistrate under the Code of Criminal Procedure and other laws of this state and to administer an oath for any purpose.

(b) Requires a magistrate to give preference to performing the duties of a magistrate under Article 15.17 (Duties of Arresting Officer and Magistrate), Code of Criminal Procedure.

(c) Authorizes the commissioners court to designate one or more magistrates to hold regular hearings to give admonishments; set and review bail and conditions of release; appoint legal counsel; and determine other routine matters relating to preindictment or pending cases within those courts' jurisdiction.

(d) Requires a magistrate, in the hearings provided under Subsection (c), to give preference to the case of an individual held in county jail.

(e) Authorizes a magistrate to inquire into a defendant's intended plea to the charge and set the case for an appropriate hearing before a judge or master.

Sec. 54.1854. JUDICIAL IMMUNITY. Provides that a magistrate has the same judicial immunity as a district judge.

Sec. 54.1855. WITNESSES. (a) 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.

(b) 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.

SECTION 2. Amends Article 2.09, Code of Criminal Procedure, as follows:

Art. 2.09. WHO ARE MAGISTRATES. Provides that certain officers are magistrates within the meaning of this code, including the criminal magistrates appointed by the Brazoria County Commissioners Court.

SECTION 3. Effective date: upon passage or September 1, 2009.