BILL ANALYSIS

Senate Research Center   S.B. 358
                                                                   By: Shapiro
      Jurisprudence
      8/18/2003
      Enrolled

DIGEST AND PURPOSE

Currently, magistrates in counties with a population of two million or more are not permitted to hear truancy cases. S.B. 358 allows the county judge of a county with a population of two million or more to appoint magistrates to hear truancy cases, with the county judge retaining final authority over the decision rendered by the magistrate. In addition, this bill allows the newly created truancy courts in these counties to have original jurisdiction over truancy cases.

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 26.045, Government Code, by amending Subsection (c) and adding Subsections (d) and (e), as follows:

> (c) Sets forth that except as provided by Subsection (d), a county court that is in a county with a criminal district court does not have any criminal jurisdiction.

> (d) Provides that a county court in a county with a population of two million or more has original jurisdiction over cases alleging a violation of Section 25.093 (Parent Contributing to Truancy) or 25.094 (Failure to Attend School), Education Code.

> (e) Provides that Subsections (c) and (d) do not affect the jurisdiction of a statutory county court.

SECTION 2. Amends Chapter 54, Government Code, by adding Subchapter V, as follows:

> SUBCHAPTER V. MAGISTRATES IN CERTAIN COUNTY COURTS

> Sec. 54.1151. APPLICATION OF SUBCHAPTER. Sets forth that this subchapter applies to a constitutional county court in a county with a population of two million or more.

> Sec. 54.1152. APPOINTMENT. (a) Authorizes a county judge to appoint one or more full-time magistrates to hear a matter alleging a violation of Section 25.093 (Parent Contributing to Truancy) or 25.094 (Failure to Attend School), Education Code.

> > (b) Provides that an appointment under Subsection (a) is subject to the approval of the commissioners court.

> > (c) Sets forth that a magistrate serves at the pleasure of the county judge.

> Sec. 54.1153. QUALIFICATIONS. Requires a magistrate to meet certain qualifications.

> Sec. 54.1154. COMPENSATION. Provides that a magistrate is entitled to the compensation set by the commissioners court. Requires that compensation be paid from the general fund of the county.

Sec. 54.1155. POWERS. Authorizes the magistrate appointed under this subchapter, except as limited by an order of the county judge, to perform certain duties.

Sec. 54.1156. PAPERS TRANSMITTED TO JUDGE. (a) Requires the magistrate, at the conclusion of a hearing, to transmit to the judge any papers relating to the case, including certain information.

(b) Requires the judge to adopt, modify, or reject the magistrate's recommendations not later than the third working day after the date the judge receives the recommendations.

(c) Requires the judge to send written notice of any modification or rejection of the magistrate's recommendations to each party to the case.

SECTION 3. Amends Sections 25.091(a) and (b), Education Code, to provide that a peace officer serving as an attendance officer has the power and duty to enforce compulsory school attendance requirements by referring a student to a juvenile court or filing a complaint against a student in a county, justice, or municipal court if the student has unexcused absences for the amount of time specified under Section 25.094 (Failure to Attend School), Education Code, or under Section 51.03(b)(2) (Delinquent Conduct; Conduct Indicating a Need for Supervision), Family Code. Makes conforming changes.

SECTION 4. Amends Section 25.093(b), Education Code, to require the attendance officer or other appropriate school official to file a complaint against the parent in the constitutional county court of the county in which the parent resides or in which the school is located, if the county has a population of two million or more. Creates new Subdivisions (2) and (3) from existing text.

SECTION 5. Reenacts Section 25.093(d), Education Code, as amended by Chapter 1504, Acts of the 77th Legislature, Regular Session, 2001, and as amended and relettered by Chapter 1514, Acts of the 77th Legislature, Regular Session, 2001, and amends it to require one-half of a fine collected under this section to be deposited to the credit of the general fund of the county, if the complaint is filed in the justice court or the constitutional county court.

SECTION 6. Amends Sections 25.094(b) and (c), Education Code, to make conforming and nonsubstantive changes.

SECTION 7. Amends Section 25.094(d), Education Code, as amended by Chapter 1297, Acts of the 77th Legislature, Regular Session, 2001, to make a conforming change.

SECTION 8. Amends Section 25.094(d), Education Code, as amended by Chapter 1514, Acts of the 77th Legislature, Regular Session, 2001, by relettering it as Subsection (d-1) and amending it to make conforming changes.

SECTION 9. Amends Sections 25.0951(a) and (b), Education Code, to make conforming changes.

SECTION 10. Amends Section 25.0952, Education Code, to make a conforming change.

SECTION 11. Amends Section 51.03(a), Family Code, to provide that delinquent conduct is conduct that violates a lawful order of a court under circumstances that would constitute contempt of that court in a justice or municipal court or a county court for conduct punishable only by a fine.

SECTION 12. Amends Section 54.021, Family Code, as follows:

Sec. 54.021. New heading: COUNTY, JUSTICE, OR MUNICIPAL COURT: TRUANCY. (a) Makes conforming and nonsubstantive changes.

(b) and (c) Make conforming changes.

(d) Requires, notwithstanding any other law, the costs assessed in a case filed in or transferred to a constitutional county court for an offense under Section 25.093 or 25.094, Education Code, to be the same as the costs assessed for case filed in a justice court for an offense under those sections.

(e) Authorizes the proceedings before a constitutional county court related to an offense under Section 25.093 (Parent Contributing to Truancy) or 25.094 (Failure to Attend School), Education Code, to be recorded in any manner provided by Section 30.00010, Government Code, for recording proceedings in a municipal court of record.

SECTION 13. Amends Sections 54.04(o) and (u), Family Code, to make conforming changes.

SECTION 14. Amends Article 45.054(a), Code of Criminal Procedure, as added by Chapter 1514, Acts of the 77th Legislature, Regular Session, 2001, to make a conforming change.

SECTION 15. Amends Article 45.055(d), Code of Criminal Procedure, to make a conforming change.

SECTION 16. Repealer: Section 26.201 (Harris County), Government Code.

SECTION 17. (a) and (b) Make application of this Act prospective.

SECTION 18. Effective date: September 1, 2003.