

BILL ANALYSIS

H.B. 1750
By: Bonnen
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

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 authorizes the Brazoria County Commissioners Court to appoint a magistrate to have concurrent criminal jurisdiction with the judges of the county's justice of the peace courts.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 1750 amends the Government Code to authorize the Commissioners Court of Brazoria County to select magistrates to serve the courts of the county having jurisdiction in criminal matters and to establish the minimum qualifications, salary, benefits, and other compensation of each magistrate position and to determine whether the position is full-time or part-time. The bill requires the qualifications to require a magistrate to have served as a justice of the peace or be a licensed attorney in Texas. The bill provides that a magistrate appointed by the commissioners court serves at the pleasure of the commissioners court and has concurrent criminal jurisdiction with the judges of the county's justice of the peace courts. The bill requires the county commissioners court to establish the powers and duties of a magistrate it appoints, and provides that except as otherwise provided by the commissioners court, a magistrate has the powers of a magistrate under the Code of Criminal Procedure and other state laws and may administer an oath for any purpose. The bill requires a magistrate to give preference to performing the duties of a magistrate under state law relating to an arrested person brought before the magistrate. The bill authorizes the commissioners court to designate one or more magistrates to hold regular hearings to give admonishments, to set and review bail and conditions of release, to appoint legal counsel, and to determine other routine matters relating to preindictment or pending cases within those courts' jurisdiction. The bill requires the magistrate, in such a hearing, to give preference to the case of an individual held in county jail. The bill 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. The bill grants a magistrate the same judicial immunity as a district judge. The bill subjects a witness who is sworn and who appears before a magistrate to the penalties for perjury and aggravated perjury provided by law. The bill authorizes a referring court to fine or imprison a witness or other court participant for failure to appear after being summoned, for refusal to answer questions, or for other acts of direct contempt before a magistrate.

H.B. 1750 amends the Code of Criminal Procedure to include the criminal magistrates appointed by the Brazoria County Commissioners Court as persons who are magistrates as defined in that code.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.