

BILL ANALYSIS

C.S.H.B. 1252
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In an effort to increase the number of cases disposed, district judges trying cases in Tarrant County, with the support of the county commissioners court, recommend expanding the duties and authority of criminal law magistrates in Tarrant County. C.S.H.B. 1252 seeks to increase the number of cases disposed by authorizing a judge to refer certain criminal and civil cases to a magistrate and expanding the authority of a magistrate.

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

C.S.H.B. 1252 amends the Government Code to authorize a judge to refer to a criminal law magistrate in Tarrant County any criminal case for proceedings involving, among other matters, an agreed order of expunction, an asset forfeiture hearing, an agreed order of nondisclosure relating to criminal history record information, and a hearing on a motion to revoke probation. The bill authorizes a judge to refer to such a magistrate a civil case arising out of provisions relating to the forfeiture of contraband for any purpose authorized by those provisions. The bill specifies that a provision prohibiting such a magistrate from presiding over a trial on the merits applies to a criminal trial. The bill prohibits such a magistrate from hearing a jury trial on the merits of a bond forfeiture.

C.S.H.B. 1252 authorizes a criminal law magistrate in Tarrant County to whom a case is referred, except as limited by an order of referral, among other actions, to accept a negotiated plea on a probation revocation, to conduct a contested probation revocation hearing, and to sign a dismissal in a misdemeanor case. The bill removes a provision prohibiting such a magistrate from entering a ruling on any issue of law or fact if that ruling could result in dismissal or require dismissal of a pending criminal prosecution, but authorizing the magistrate to make findings, conclusions, and recommendations on those issues.

C.S.H.B. 1252 amends the Code of Criminal Procedure to include a magistrate with jurisdiction over criminal cases serving a district court among the entities authorized to issue a search warrant to search for and seize property or items, except the personal writings by the accused, constituting evidence of an offense or constituting evidence tending to show that a particular person committed an offense.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1252 omits a provision included in the original repealing a provision relating to the authority of any magistrate who is an attorney licensed by the state to issue a search warrant to collect a blood specimen from a person who is arrested for certain intoxication offenses and refuses to submit to a breath or blood alcohol test.