

BILL ANALYSIS

H.B. 2132
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In counties such as Fort Bend County, justice of the peace courts and municipal courts throughout the county hear truancy issues. Concerned parties argue that there is no consistency among the courts in case management techniques in dealing with the truants and the large number of truancy cases prevents these courts from adequately dealing with other cases. Those parties assert that it is crucial for such a county to be able to create a truancy court to help effectively manage truancy cases. Currently, in counties with a population of 2 million or more, magistrates are authorized to hear truancy cases, but other counties that could benefit from having this authority, such as rapidly growing Fort Bend County, do not meet that population requirement.

H.B. 2132 seeks to provide consistency in dealing with truancy issues in certain counties by authorizing the judge of a constitutional county court in a county that has a population of more than 585,000 and is contiguous to a county with a population of at least four million to appoint magistrates to hear truancy cases.

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. 2132 amends the Government Code to authorize the judge of a constitutional county court in a county that has a population of more than 585,000 and is contiguous to a county with a population of at least four million to appoint one or more part-time or full-time magistrates to hear a matter alleging an offense of a parent contributing to a child's nonattendance of school or an offense of failure to attend school that is referred to the magistrate by a court having jurisdiction over the matter. The bill makes an appointment of such a magistrate subject to the approval of the county commissioners court and specifies that a magistrate so appointed serves at the pleasure of the county judge. The bill requires a magistrate to be a citizen of Texas, have resided in the county for at least six months before the date of the appointment, and have served as a justice of the peace for at least four years before the date of the appointment or have been licensed to practice law in Texas for at least four years before the date of the appointment. The bill entitles a magistrate to the compensation set by the commissioners court and requires that the compensation be paid from the general fund of the county.

H.B. 2132 sets out the actions relating to court procedures a magistrate is authorized to take, except as limited by an order of the county judge.

H.B. 2132 prohibits a magistrate from ruling on an issue of law or fact the ruling on which could result in the dismissal of a prosecution of a parent contributing to nonattendance offense or failure to attend school offense but authorizes the magistrate to make findings, conclusions, and recommendations on the issue. The bill requires the magistrate, on entry of a not guilty plea, to

refer the case back to the referring court for all further pretrial proceedings and a full trial on the merits before the court or a jury. The bill requires the magistrate to transmit to the referring judge any papers relating to the case at the conclusion of a hearing, including the magistrate's finding and recommendations, a statement that notice of the findings and recommendations and of the right to a hearing before the judge has been given to all parties, and all other documents requested by the referring judge. The bill provides that a magistrate's finding or recommendation is final for appeal purposes unless the judge adopts, modifies, or rejects the magistrate's findings or recommendations not later than the fifth working day after the date the judge receives the findings or recommendations. The bill requires a judge to send written notice of any modification or rejection of the magistrate's findings or recommendations to each party to the case and the attorney representing the state not later than the fifth day after the date of the modification or rejection.

H.B. 2132 amends the Code of Criminal Procedure to include magistrates appointed by the judge of a constitutional county court described by the bill's provisions among the officers who are magistrates within the meaning of the code.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.