

By: Smithee

H.B. No. 2768

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the operation and administration of and practice in
3 courts in the judicial branch of state government and the
4 composition of certain juvenile boards.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 ARTICLE 1. DISTRICT COURTS AND DISTRICT ATTORNEYS

7 SECTION 1.01. Section 24.154(b), Government Code, is
8 amended to read as follows:

9 (b) The terms of the 52nd District Court begin on the first
10 Mondays in January and July [~~June~~].

11 SECTION 1.02. (a) Effective January 1, 2017, Subchapter C,
12 Chapter 24, Government Code, is amended by adding Section 24.584 to
13 read as follows:

14 Sec. 24.584. 440TH JUDICIAL DISTRICT (CORYELL COUNTY). The
15 440th Judicial District is composed of Coryell County.

16 (b) The 440th Judicial District is created January 1, 2017.

17 (c) Subchapter D, Chapter 74, Government Code, is amended by
18 adding Section 74.0971 to read as follows:

19 Sec. 74.0971. LOCAL ADMINISTRATIVE DISTRICT JUDGE FOR
20 CORYELL COUNTY. Notwithstanding Section 74.091(b), the local
21 administrative district judge for Coryell County is selected on the
22 basis of seniority from the district judges of the 52nd Judicial
23 District and the 440th Judicial District.

24 SECTION 1.03. (a) Subchapter C, Chapter 24, Government

1 Code, is amended by adding Section 24.590 to read as follows:

2 Sec. 24.590. 446TH JUDICIAL DISTRICT (ECTOR COUNTY). The
3 446th Judicial District is composed of Ector County.

4 (b) The 446th Judicial District is created September 1,
5 2015.

6 SECTION 1.04. (a) Subchapter D, Chapter 24, Government
7 Code, is amended by adding Section 24.641 to read as follows:

8 Sec. 24.641. 507TH JUDICIAL DISTRICT (HARRIS COUNTY). The
9 507th Judicial District is composed of Harris County.

10 (b) The 507th Judicial District is created September 1,
11 2015.

12 SECTION 1.05. (a) Subchapter D, Chapter 24, Government
13 Code, is amended by adding Sections 24.642 and 24.643 to read as
14 follows:

15 Sec. 24.642. 469TH JUDICIAL DISTRICT (COLLIN COUNTY). The
16 469th Judicial District is composed of Collin County.

17 Sec. 24.643. 470TH JUDICIAL DISTRICT (COLLIN COUNTY). The
18 470th Judicial District is composed of Collin County.

19 (b) The 469th and 470th Judicial Districts are created
20 September 1, 2015.

21 SECTION 1.06. (a) Section 46.002, Government Code, is
22 amended to read as follows:

23 Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. This chapter
24 applies to the state prosecuting attorney, all county prosecutors,
25 and the following state prosecutors:

26 (1) the district attorneys for Kenedy and Kleberg
27 Counties and for the 1st, 2nd, 8th, 9th, 18th, 21st, 23rd, 25th,

1 26th, 27th, 29th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th,
2 42nd, 43rd, 46th, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th,
3 66th, 69th, 70th, 76th, 79th, 81st, 83rd, 84th, 85th, 88th, 90th,
4 97th, 100th, 105th, 106th, 109th, 110th, 112th, 118th, 119th,
5 123rd, 132nd, 142nd, 143rd, 145th, 156th, 159th, 173rd, 196th,
6 198th, 216th, 220th, 229th, 235th, 253rd, 258th, 259th, 266th,
7 268th, 271st, 286th, 287th, 329th, 344th, 349th, 355th, 369th,
8 452nd, and 506th judicial districts;

9 (2) the criminal district attorneys for the counties
10 of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell,
11 Calhoun, Cass, Collin, Comal, Dallas, Deaf Smith, Denton, Eastland,
12 Fannin, Galveston, Grayson, Gregg, Harrison, Hays, Hidalgo,
13 Jasper, Jefferson, Kaufman, Lubbock, McLennan, Madison, Navarro,
14 Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith,
15 Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker,
16 Waller, Wichita, Wood, and Yoakum; and

17 (3) the county attorneys performing the duties of
18 district attorneys in the counties of Andrews, Callahan, Cameron,
19 Castro, Colorado, Crosby, Ellis, Falls, Freestone, Gonzales,
20 Lamar, Lamb, Lampasas, Lavaca, Lee, Limestone, Marion, Milam,
21 Morris, Ochiltree, Oldham, Orange, Rains, Red River, Robertson,
22 Rusk, Swisher, Terry, Webb, and Willacy.

23 (b) Section 43.156(b), Government Code, is repealed.

24 ARTICLE 2. STATUTORY COUNTY COURTS

25 SECTION 2.01. (a) Section 25.0331(a), Government Code, is
26 amended to read as follows:

27 (a) Cameron County has the following statutory county

1 courts:

2 (1) County Court at Law No. 1 of Cameron County;

3 (2) County Court at Law No. 2 of Cameron County; ~~and~~

4 (3) County Court at Law No. 3 of Cameron County;

5 (4) County Court at Law No. 4 of Cameron County; and

6 (5) County Court at Law No. 5 of Cameron County.

7 (b) Section 25.0332, Government Code, is amended by adding
8 Subsection (b) to read as follows:

9 (b) The County Court at Law No. 4 of Cameron County shall
10 give preference to probate, guardianship, and mental health
11 matters.

12 (c) The County Court at Law No. 4 of Cameron County is
13 created on January 1, 2016.

14 (d) The County Court at Law No. 5 of Cameron County is
15 created on January 1, 2018.

16 SECTION 2.02. Section 25.2223(a), Government Code, is
17 amended to read as follows:

18 (a) A county criminal court in Tarrant County has
19 jurisdiction over all criminal matters and causes, original and
20 appellate, prescribed by law for county courts, but does not have
21 original civil jurisdiction. The County Criminal Courts Nos. 5 and
22 10 of Tarrant County also have concurrent jurisdiction within the
23 county of all appeals ~~[from criminal convictions]~~ under the laws of
24 this state and the municipal ordinances of the municipalities
25 located in Tarrant County that are appealed from the justice courts
26 and municipal courts in the county. The County Criminal Courts Nos.
27 5, 7, 8, 9, and 10 of Tarrant County also have concurrent

1 jurisdiction with the district court in felony cases to conduct
2 arraignments, conduct pretrial hearings, and accept guilty pleas.

3 ARTICLE 3. MAGISTRATES, CERTAIN JUVENILE BOARDS, AND CRIMINAL LAW
4 HEARING OFFICERS

5 SECTION 3.01. (a) Section 54.1356(a), Government Code, is
6 amended to read as follows:

7 (a) A criminal law hearing officer appointed under this
8 subchapter has limited concurrent jurisdiction over criminal cases
9 filed in the district courts, statutory county courts, and justice
10 courts of the county. The jurisdiction of the criminal law hearing
11 officer is limited to:

12 (1) determining probable cause for further detention
13 of any person detained on a criminal complaint, information, or
14 indictment filed in the district courts, statutory county courts,
15 or justice courts of the county;

16 (2) committing the defendant to jail, discharging the
17 defendant from custody, or admitting the defendant to bail, as the
18 law and facts of the case require;

19 (3) issuing search warrants and arrest warrants as
20 provided by law for magistrates;

21 (4) as to criminal cases filed in justice courts,
22 disposing of cases as provided by law, other than by trial, and
23 collecting fines and enforcing judgments and orders of the justice
24 courts in criminal cases;

25 (5) hearing, considering, and ruling on writs of
26 habeas corpus filed under Article 17.151, Code of Criminal
27 Procedure; ~~and~~

1 (6) on motion of the district attorney:

2 (A) dismissing a criminal case when the arresting
3 agency has not timely filed the offense report with the district
4 attorney; and

5 (B) reducing the amount of bond on prisoners held
6 at the county jail whose cases have not been filed in a district
7 court or a statutory county court; and

8 (7) presiding over an extradition proceeding under
9 Article 51.13, Code of Criminal Procedure.

10 (b) Section 54.1358, Government Code, is amended by adding
11 Subsections (f) and (g) to read as follows:

12 (f) In accordance with Article 26.13, Code of Criminal
13 Procedure, a criminal law hearing officer may accept a plea of
14 guilty or nolo contendere.

15 (g) A criminal law hearing officer may determine whether a
16 defendant is indigent and appoint counsel for an indigent
17 defendant.

18 (c) Subchapter BB, Chapter 54, Government Code, is amended
19 by adding Section 54.1362 to read as follows:

20 Sec. 54.1362. PROCEEDINGS THAT MAY BE REFERRED. A district
21 judge or a county court at law judge may refer to a criminal law
22 hearing officer any criminal case for proceedings involving:

23 (1) a bond forfeiture;

24 (2) the arraignment of defendants;

25 (3) the determination of whether a defendant is
26 indigent and the appointment of counsel for an indigent defendant;

27 and

1 (4) a negotiated plea of guilty or nolo contendere
2 before the court, in accordance with Article 26.13, Code of
3 Criminal Procedure.

4 SECTION 3.02. (a) Chapter 54, Government Code, is amended
5 by adding Subchapter LL to read as follows:

6 SUBCHAPTER LL. GALVESTON COUNTY CRIMINAL MAGISTRATES

7 Sec. 54.2051. APPOINTMENT. (a) The Commissioners Court of
8 Galveston County may select magistrates to serve the courts of
9 Galveston County having jurisdiction in criminal matters.

10 (b) The commissioners court shall establish the minimum
11 qualifications, salary, benefits, and other compensation of each
12 magistrate position and shall determine whether the position is
13 full-time or part-time. The qualifications must require the
14 magistrate to have served as a justice of the peace or be an
15 attorney licensed in this state.

16 (c) A magistrate appointed under this section serves at the
17 pleasure of the commissioners court.

18 Sec. 54.2052. JURISDICTION. A magistrate has concurrent
19 criminal jurisdiction with the judges of the justice of the peace
20 courts of Galveston County.

21 Sec. 54.2053. POWERS AND DUTIES. (a) The Commissioners
22 Court of Galveston County shall establish the powers and duties of a
23 magistrate appointed under this subchapter. Except as otherwise
24 provided by the commissioners court, a magistrate has the powers of
25 a magistrate under the Code of Criminal Procedure and other laws of
26 this state and may administer an oath for any purpose.

27 (b) A magistrate shall give preference to performing the

1 duties of a magistrate under Article 15.17, Code of Criminal
2 Procedure.

3 (c) The commissioners court may designate one or more
4 magistrates to hold regular hearings to:

- 5 (1) give admonishments;
6 (2) set and review bail and conditions of release;
7 (3) appoint legal counsel; and
8 (4) determine other routine matters relating to
9 preindictment or pending cases within those courts' jurisdiction.

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

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

16 Sec. 54.2054. JUDICIAL IMMUNITY. A magistrate has the same
17 judicial immunity as a district judge.

18 Sec. 54.2055. WITNESSES. (a) A witness who is sworn and
19 who appears before a magistrate is subject to the penalties for
20 perjury and aggravated perjury provided by law.

21 (b) A referring court may fine or imprison a witness or
22 other court participant for failure to appear after being summoned,
23 refusal to answer questions, or other acts of direct contempt
24 before a magistrate.

25 (b) Article 2.09, Code of Criminal Procedure, is amended to
26 read as follows:

27 Art. 2.09. WHO ARE MAGISTRATES. Each of the following

1 officers is a magistrate within the meaning of this Code: The
2 justices of the Supreme Court, the judges of the Court of Criminal
3 Appeals, the justices of the Courts of Appeals, the judges of the
4 District Court, the magistrates appointed by the judges of the
5 district courts of Bexar County, Dallas County, or Tarrant County
6 that give preference to criminal cases, the criminal law hearing
7 officers for Harris County appointed under Subchapter L, Chapter
8 54, Government Code, the criminal law hearing officers for Cameron
9 County appointed under Subchapter BB, Chapter 54, Government Code,
10 the magistrates or associate judges appointed by the judges of the
11 district courts of Lubbock County, Nolan County, or Webb County,
12 the magistrates appointed by the judges of the criminal district
13 courts of Dallas County or Tarrant County, the associate judges
14 appointed by the judges of the district courts and the county courts
15 at law that give preference to criminal cases in Jefferson County,
16 the associate judges appointed by the judges of the district courts
17 and the statutory county courts of Brazos County, Nueces County, or
18 Williamson County, the magistrates appointed by the judges of the
19 district courts and statutory county courts that give preference to
20 criminal cases in Travis County, the criminal magistrates appointed
21 by the Brazoria County Commissioners Court, the criminal
22 magistrates appointed by the Burnet County Commissioners Court, the
23 criminal magistrates appointed by the Galveston County
24 Commissioners Court, the county judges, the judges of the county
25 courts at law, judges of the county criminal courts, the judges of
26 statutory probate courts, the associate judges appointed by the
27 judges of the statutory probate courts under Chapter 54A,

1 Government Code, the associate judges appointed by the judge of a
2 district court under Chapter 54A, Government Code, the magistrates
3 appointed under Subchapter JJ, Chapter 54, Government Code, as
4 added by H.B. No. 2132, Acts of the 82nd Legislature, Regular
5 Session, 2011, the justices of the peace, and the mayors and
6 recorders and the judges of the municipal courts of incorporated
7 cities or towns.

8 (c) This section takes effect immediately if this Act
9 receives a vote of two-thirds of all the members elected to each
10 house, as provided by Section 39, Article III, Texas Constitution.
11 If this Act does not receive the vote necessary for immediate
12 effect, this section takes effect September 1, 2015.

13 SECTION 3.03. Section 152.0131(a), Human Resources Code, is
14 amended to read as follows:

15 (a) The juvenile board of Atascosa County is composed of the
16 county judge, ~~[and]~~ the district judges in Atascosa County, and the
17 judge of the County Court at Law of Atascosa County.

18 ARTICLE 4. EFFECTIVE DATE

19 SECTION 4.01. Except as otherwise provided by this Act,
20 this Act takes effect September 1, 2015.