

BILL ANALYSIS

C.S.H.B. 1904
By: Capriglione
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that some district judges are hesitant to refer various proceedings to a criminal law magistrate in Tarrant County or allow such a magistrate to exercise certain powers unless the authority to do so is specifically granted. C.S.H.B. 1904 seeks to lessen the docket volume of district judges by revising the powers and compensation of criminal law magistrates in Tarrant County.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 1904 amends the Government Code to clarify that the type of criminal law magistrate in Tarrant County entitled to the salary determined by the commissioners court of such county is a full-time criminal law magistrate. The bill revises a compensation provision to cap the salary of such a magistrate at 90 percent of the sum of the salary paid to a district judge by the state and the maximum amount of county contributions and supplements allowed by law to be paid to a district judge. The bill establishes that the salary of a part-time criminal law magistrate in Tarrant County is equal to the per-hour salary of a full-time criminal law magistrate in such county, determined by dividing the annual salary by a 2,080 work-hour year. The bill requires the judges of the courts trying criminal cases in Tarrant County to approve the number of hours for which such a part-time magistrate is to be paid.

C.S.H.B. 1904 authorizes a judge to refer any matter relating to a criminal case to a criminal law magistrate in Tarrant County. The bill revises the matters for which a judge may make such a referral by changing proceedings involving a negotiated plea of guilty before the court to instead include proceedings involving a negotiated plea of guilty or no contest and sentencing; by replacing proceedings involving a bond forfeiture with proceedings involving a bond forfeiture, remittitur, and related proceedings; by removing the specification that a writ of habeas corpus that may be referred is a postconviction writ; by clarifying that proceedings involving an agreed order of expunction and proceedings involving an agreed order of nondisclosure of criminal history record information are, respectively, proceedings involving a petition for an order of expunction and proceedings involving a petition for an order of nondisclosure; by replacing proceedings involving a hearing on a motion to revoke probation with proceedings involving a motion to modify or revoke community supervision or to proceed with an adjudication of guilt; by adding proceedings involving setting conditions, modifying, revoking, and surrendering of

bonds, including surety bonds; by adding proceedings involving specialty court proceedings; and by adding proceedings involving a waiver of extradition.

C.S.H.B. 1904 authorizes a criminal law magistrate in Tarrant County to whom a case is referred for proceedings involving a negotiated plea of guilty, except as limited by the order of referral, to accept a negotiated plea of guilty or no contest and to enter a finding of guilt and impose or suspend the sentence or defer adjudication of guilt. The bill authorizes a criminal law magistrate in such county to sign a motion to dismiss submitted by an attorney representing the state on cases referred to the magistrate or on dockets called by the magistrate and to consider unadjudicated cases at sentencing. The bill grants such a magistrate all of the powers of a magistrate under state law and authorizes such a magistrate to administer an oath for any purpose but establishes that such a magistrate does not have authority to issue a subsequent search warrant to search for and seize certain property or items constituting evidence of an offense or constituting evidence tending to show that a particular person committed an offense.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1904 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 54.653, Government Code, is amended to read as follows:
Sec. 54.653. COMPENSATION.

(a) A full-time magistrate is entitled to the salary determined by the Commissioners Court of Tarrant County.

(b) The salary of a full-time magistrate may not exceed 90 percent of the sum of:

(1) ~~[be less than] the salary [authorized to be] paid to a district judge by the state under Section 659.012; and~~

(2) the maximum amount of county contributions and supplements allowed by law to be paid to a district judge under Section 659.012 ~~[master for family law cases appointed under Subchapter A].~~

(c) The salary of a part-time magistrate is equal to the per-hour salary of a full-time magistrate. The per-hour salary is determined by dividing the annual salary by a 2,000 work-hour year. The judges of the courts trying criminal cases in Tarrant County shall approve the number of hours for which a part-time magistrate is to be paid.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 54.653, Government Code, is amended to read as follows:
Sec. 54.653. COMPENSATION.

(a) Same as introduced version.

(b) Same as introduced version.

(c) The salary of a part-time magistrate is equal to the per-hour salary of a full-time magistrate. The per-hour salary is determined by dividing the annual salary by a 2,080 work-hour year. The judges of the courts trying criminal cases in Tarrant County shall approve the number of hours for which a part-time magistrate is to be paid.

(d) A ~~The~~ magistrate's salary is paid from the county fund available for payment of officers' salaries.

SECTION 2. Section 54.656(a), Government Code, is amended.

SECTION 3. Section 54.658, Government Code, is amended.

SECTION 4. The changes in law made by Sections 2 and 3 of this Act apply to a matter or case referred to a magistrate on or after the effective date of this Act. A matter or case referred to a magistrate before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2017.

(d) Same as introduced version.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.