

BILL ANALYSIS

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C.S.S.B. 823
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State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Chapter 54, Government Code, provides for the appointment, compensation, and powers of criminal law magistrates in certain populous counties in Texas. Criminal law magistrates operate under the supervision of an elected district judge and serve many vital functions as delegated by a district judge. Of these, the Tarrant County criminal law magistrates lessen the docket of criminal cases that must be heard by a district judge. Currently, district judges are hesitant to refer certain proceedings to a magistrate or allow a magistrate to exercise certain powers unless the authority to do so is specifically granted in statute. As a result, district judges spend valuable time performing certain duties that could otherwise be performed by a magistrate and lessen the docket volume of a district judge.

Compensation currently allowed for criminal magistrates cannot be lower than that of other specific officers. Furthermore, the law is silent on the ability of a county to use criminal law magistrates on a part-time basis. This provision limits the ability of a county to employ more part-time criminal law magistrates in a way that maximizes the efficiency of their district court docket.

S.B. 823 amends certain sections of Chapter 54, Subchapter H, Government Code, to grant explicit authorization for certain referrals, powers, and duties not currently provided in statute as well as modify the ability of Tarrant County to compensate magistrates, providing for the part-time employment of criminal law magistrates. New powers granted to criminal law magistrates under this proposal include the ability to discharge certain routine motions and oversee specialty court proceedings. Furthermore, Tarrant County will have the ability to employ part-time magistrates and better manage their criminal case dockets.

S.B. 823 allows Tarrant County to better serve its courts and, therefore, better serve its citizens by expanding the abilities and allowing flexibility in compensating its criminal law magistrates. This bill only applies to Tarrant County. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 823 amends current law relating to the powers and compensation of criminal law magistrates in Tarrant County.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 54.653, Government Code, as follows:

Sec. 54.653. COMPENSATION. (a) Provides that a full-time magistrate, rather than a magistrate, is entitled to the salary determined by the Commissioners Court of Tarrant County.

(b) Prohibits the salary of a full-time magistrate from exceeding 90 percent of the sum of the salary paid to a district judge by the state under Section 659.012 (Judicial Salaries) and the maximum amount of county contributions and

supplements allowed by law to be paid to a district judge under Section 659.012, rather than prohibiting the salary from being less than the salary authorized to be paid to a master for family law cases appointed under Subchapter A.

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

(d) Creates this subsection from existing text and makes nonsubstantive changes.

SECTION 2. Amends Section 54.656(a), Government Code, as follows:

(a) Authorizes a judge to refer to a magistrate any criminal case or matter relating to a criminal case for proceedings involving:

(1) a negotiated plea of guilty or no contest and sentencing before the court, rather than a negotiated plea of guilty before the court;

(2) a bond forfeiture, remittitur, and related proceedings, rather than a bond forfeiture;

(3) makes no changes to this subdivision;

(4) a writ of habeas corpus, rather than a postconviction writ of habeas corpus;

(5) and (6) makes no changes to these subdivisions;

(7) a petition for an order of expunction under Chapter 55 (Expunction of Criminal Records), Code of Criminal Procedure, rather than an agreed order of expunction, under Chapter 55, Code of Criminal Procedure;

(8) makes no change to this subdivision;

(9) a petition for an order of nondisclosure of criminal history record information, rather than an agreed order of nondisclosure of criminal history record information, or an order of nondisclosure of criminal history record information that does not require a petition provided by Subchapter E-1 (Order of Nondisclosure of Criminal History Record Information), Chapter 411 (Department of Public Safety of the State of Texas);

(10) a motion to modify or revoke community supervision or to proceed with an adjudication of guilt, rather than a motion to revoke probation;

(11) setting conditions, modifying, revoking, and surrendering of bonds, including surety bonds;

(12) specialty court proceedings;

(13) a waiver of extradition; and

(14) creates this subdivision from existing text and makes no change to this subdivision.

SECTION 3. Amends Section 54.658, Government Code, as follows:

Sec. 54.658. POWERS. (a) Creates this subsection from existing text. Authorizes a magistrate, except as limited by an order of referral, to whom a case is referred, among certain other actions, in any case referred under Section 54.656(a)(1), to accept a

negotiated plea of guilty or no contest and enter a finding of guilt and impose or suspend the sentence, or defer adjudication of guilt. Makes nonsubstantive changes.

(b) Authorizes a magistrate 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 adjudicated cases at sentencing under Section 12.45 (Admission of Unadjudicated Offense), Penal Code.

(c) Provides that a magistrate has all the powers of a magistrate under the laws of this state and is authorized to administer an oath for any purpose.

(d) Provides that a magistrate does not have authority under Article 18.01(c) (relating to authorizing only certain judges to issue a search warrant under certain circumstances), Code of Criminal Procedure, to issue a subsequent search warrant under Article 18.02(10) (relating to authorizing a search warrant to be issued to search for and seize certain property or items), Code of Criminal Procedure.

SECTION 4. Makes application of SECTIONS 2 and 3 of this Act prospective.

SECTION 5. Effective date: September 1, 2017.