

By: Toth

H.B. No. 38

A BILL TO BE ENTITLED

AN ACT

relating to the appointment by the governor of a conservator of certain counties.

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

SECTION 1. Subtitle B, Title 4, Government Code, is amended by adding Chapter 426 to read as follows:

CHAPTER 426. CONSERVATORSHIP OF COUNTIES

Sec. 426.001. DEFINITIONS. In this chapter:

(1) "County law enforcement agency" means the sheriff's office or constable's office of a county.

(2) "Criminal justice information system" has the meaning assigned by Article 66.001, Code of Criminal Procedure.

(3) "Department" means the Department of Public Safety of the State of Texas.

Sec. 426.002. REVIEW OF CRIMINAL ACTIVITY IN COUNTY; ACTION. The department shall review the information in the criminal justice information system to determine whether there has been a significant increase in criminal activity in a county of this state. If the department determines that a significant increase in criminal activity in a county poses a threat to public safety for residents of this state, the department shall:

(1) notify the governor of the threat to public safety for residents of this state;

(2) work with the county commissioners court and

1 county law enforcement agencies to reduce the criminal activity in  
2 the county, including increasing the number of department personnel  
3 in the county; and

4 (3) notify the county commissioners court and county  
5 law enforcement agencies that failure to reduce criminal activity  
6 in the county may result in a law enforcement agency being placed in  
7 state conservatorship.

8 Sec. 426.003. APPOINTMENT OF CONSERVATOR. (a) If the  
9 county commissioners court or any county law enforcement agency  
10 does not cooperate with the department to implement measures to  
11 reduce criminal activity in the county, the department shall notify  
12 the governor of the failure to cooperate and may recommend that the  
13 governor appoint a conservator for the county law enforcement  
14 agency.

15 (b) After receipt of a notice under Subsection (a), the  
16 governor by proclamation may appoint a conservator, in accordance  
17 with the recommendation, to act as conservator of the county law  
18 enforcement agency.

19 (c) To be eligible for appointment as a conservator, a  
20 person must be qualified, by experience or education, in law  
21 enforcement.

22 (d) Except as otherwise provided by this chapter, a  
23 conservator shall act as conservator of a county law enforcement  
24 agency in the manner provided by Chapter 2104 for conservatorship  
25 of state agencies by a conservator.

26 Sec. 426.004. ASSUMPTION OF POLICY FUNCTIONS. The  
27 conservator appointed by the governor under Section 426.003 shall

1 assume all the powers and duties of the officers responsible for  
2 policy direction of the county law enforcement agency that is the  
3 subject of the proclamation, and those officers may not act unless  
4 authorized by the conservator.

5 Sec. 426.005. DURATION OF CONSERVATORSHIP. A  
6 conservatorship of a county law enforcement agency under this  
7 chapter continues until the earlier of:

8 (1) the governor's issuing of a proclamation declaring  
9 that criminal activity in the county no longer justifies the need  
10 for a conservatorship and that the conservatorship is dissolved; or

11 (2) the department's finding and certifying to the  
12 governor that the criminal activity in the county no longer  
13 requires the conservatorship, in which case the conservatorship is  
14 dissolved.

15 SECTION 2. This Act takes effect immediately if it receives  
16 a vote of two-thirds of all the members elected to each house, as  
17 provided by Section 39, Article III, Texas Constitution. If this  
18 Act does not receive the vote necessary for immediate effect, this  
19 Act takes effect on the 91st day after the last day of the  
20 legislative session.