

BILL ANALYSIS

S.B. 1173
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current law allows judges of the courts in Harris County that have the same criminal jurisdiction to select a presiding judge from among themselves. However, there is uncertainty regarding a presiding judge's power to appoint a special judge in the case of an absence, as well as confusion regarding which individuals are eligible for appointment. S.B. 1173 seeks to address this issue by clarifying that if a presiding judge is absent for any reason, the presiding judge may appoint a special judge to serve in their place, and by specifying that the appointed special judge must be selected from a list of judges meeting certain criteria that is maintained by the presiding judge. The legislation also sets the procedure for the appointment of criminal law hearing officers and associate judges for certain courts.

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

S.B. 1173 amends the Government Code to set out provisions relating to the appointment of certain criminal law hearing officers, special presiding judges, and associate judges for certain courts.

S.B. 1173 removes the condition on the appointment of Harris County criminal law hearing officers on the consent and approval of the commissioners court and instead conditions their appointment on the following:

- the presiding judge of the administrative judicial region that includes Harris County approving the appointment; and
- the county auditor certifying that the expenses incurred by the appointment will not exceed the applicable budget appropriation.

The bill requires the board appointing the officers to ensure that the officers are certified in criminal law by the Texas Board of Legal Specialization and subjects the board to the state open meetings law. The bill changes the nature of such an officer's one-year term from continuing after one year until a successor is appointed to continuing after the end of that term only if the officer is reappointed.

S.B. 1173 establishes that the local administrative district judge for Harris County is selected on the basis of seniority from the district judges of all the judicial districts comprised of Harris County. The bill requires a judge to have served at least one full term as a judge of a state or

county court in Texas in order to be selected as a presiding judge for a court in Harris County with criminal jurisdiction.

S.B. 1173 specifies that the authorization for a Harris County criminal court presiding judge who is absent or for any reason unable to preside to appoint a special judge to serve as presiding judge applies with respect to selecting the special judge from a list maintained by the presiding judge of each judge who is currently serving a term to which the judge was elected on a criminal court in Harris County and who has agreed to be subject to the appointment. The bill requires the presiding judge to submit the judge's selection to the presiding judge of the administrative judicial region that includes Harris County for approval and requires the presiding judge of the administrative judicial region, on their approval of the selection, to appoint the judge as a special judge to serve as presiding judge. The bill clarifies that the qualifications, duties, and powers of an appointed special judge are the same as for the regular presiding judge. The bill repeals a provision authorizing the appointment or election of a Harris County special county criminal court at law judge as provided by law for special county judges and also the appointment of a special judge to serve in a county criminal court at law as provided by provisions governing the presiding judge for certain Harris County courts.

S.B. 1173 removes the condition on the appointment of a criminal associate judge that the commissioners court of the county in which the court has jurisdiction authorizes the creation of an associate judge position and the judge's appointment to certain courts, as applicable. The bill instead conditions the appointment of such a judge on the presiding judge of the administrative judicial region that includes the county in which the court has jurisdiction authorizing the creation of an associate judge position and the judge's appointment to certain courts, as applicable.

S.B. 1173 repeals Section 25.1033(i), Government Code.

EFFECTIVE DATE

September 1, 2023.