

## **BILL ANALYSIS**

Senate Research Center  
88R19181 TSS-D

C.S.S.B. 1173  
By: Huffman  
Criminal Justice  
3/21/2023  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under Section 75.403 of the Government Code, the judges of the courts in Harris County that have the same criminal jurisdiction may select from among themselves a presiding judge. Currently, there is uncertainty regarding a presiding judge's powers to appoint a special judge in the case of an absence. Additionally, there is confusion regarding which individuals are eligible for appointment under this section.

S.B. 1173 clarifies that if a presiding judge is absent for any reason and unable to preside, the presiding judge may appoint a special judge to serve in their place. The bill also specifies that the appointed special judge must meet the same qualifications, powers, and duties as the presiding judge.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1173 amends current law relating to the appointment of criminal law hearing officers and of a special presiding judge and associate judges for certain criminal courts.

### **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 54.852, Government Code, by amending Subsections (a), (b), and (c) and adding Subsections (a-1) and (b-1), as follows:

(a) Authorizes a board composed of three judges of the district courts of Harris County trying criminal cases, three judges of the county criminal courts at law, and three justices of the peace in Harris County (board) to appoint criminal law hearing officers, rather than appoint criminal law hearing officers with the consent and approval of the commissioners court, to perform the duties authorized by Subchapter L (Criminal Law Hearing Officers in Certain Counties) if:

(1) the presiding judge of the administrative judicial region that includes Harris County approves the appointment; and

(2) the county auditor certifies the expenses incurred by the appointment will not exceed the applicable budget appropriation.

(a-1) Creates this subsection from existing text.

(b) Requires the board to ensure that the criminal law hearing officers appointed under this subchapter are:

(1) representative of the race, sex, national origin, and ethnicity of the population of Harris County; and

(2) certified in criminal law by the Texas Board of Legal Specialization.

(b-1) Provides that the board is subject to Chapter 551 (Open Meetings), Government Code.

(c) Provides that a criminal law hearing officer serves a one-year term and is authorized to be reappointed at the end of a term, rather than continues to serve until a successor is appointed.

SECTION 2. Amends Sections 54A.002(a), (b), and (c), Government Code, as follows:

(a) Authorizes a judge of a court subject to Subchapter A (Criminal Associate Judges) to appoint a full-time or part-time associate judge to perform the duties authorized by this subchapter if the presiding judge of the administrative judicial region that includes the county in which the court has jurisdiction has authorized the creation of an associate judge position, rather than if the commissioners court of the county in which the court has jurisdiction has authorized the creation of an associate judge position.

(b) Authorizes an associate judge appointed by a court, if the court has jurisdiction in more than one county, to serve only in a county in which a presiding judge of an administrative judicial region, rather than the commissioners court, has authorized the appointment.

(c) Authorizes the presiding judge of the administrative judicial region that includes the county, rather than the commissioners court, to authorize the appointment of an associate judge for each court or to authorize one or more associate judges to share service with two or more courts if more than one court in the county is subject to this subchapter.

SECTION 3. Amends Section 75.403, Government Code, by amending Subsection (e) and adding Subsections (b-1), (e-1), and (e-2), as follows:

(b-1) Requires a judge to have served at least one full term as a judge of a state or county court in this state to be selected as a presiding judge under Section 75.403 (Presiding Judge for Certain Harris County Courts).

(e) Authorizes the presiding judge, if the presiding judge, rather than a judge, is absent or for any reason unable to preside, to select, rather than appoint, a special judge to serve as presiding judge from a list maintained by the presiding judge of each judge who:

(1) is currently serving a term to which the judge was elected on a court with criminal jurisdiction in Harris County; and

(2) has agreed to be subject to appointment under this subsection.

(e-1) Requires the presiding judge to submit the judge's selection under Subsection (e) to the presiding judge of the administrative judicial region that includes Harris County for approval. Requires the presiding judge of the administrative judicial region to appoint the judge as a special judge to serve as presiding judge if the presiding judge if the administrative judicial region approves the presiding judge's selection.

(e-2) Provides that the qualifications, duties, and powers of a special judge appointed under Subsection (e-1) are the same as for the regular presiding judge. Deletes existing text providing that certain provisions of the Code of Criminal Procedure, 1965, relating to the oath, compensation, and record of appointment of certain special judges apply to the appointment of a special judge under this subsection.

SECTION 4. Repealer: Section 25.1033(i) (relating to authorizing a special county criminal court at law judge for Harris County to be appointed or elected as provided by law), Government Code.

SECTION 5. Effective date: September 1, 2023.