

BILL ANALYSIS

Senate Research Center
76R8202 JMC-D

S.B. 760
By: Duncan
Jurisprudence
3/26/1999
As Filed

DIGEST

Though experiencing an increasing number of juvenile matters, Lubbock County does not have a juvenile referee. In an effort to accomplish the twin goals of increasing efficiency and addressing its juvenile matters, Lubbock County seeks to create one position composed of two responsibilities: juvenile referee and criminal magistrate. However, the Texas Constitution states that “no person shall hold or exercise at the same time, more than one civil office of emolument....” Only the legislature is authorized to determine whether it is in the best interest of Texas to have a person hold more than one position. An official attorney general opinion and two cases: Aldine Independent School District v. Stanley and State ex rel. Hill v. Pirtle further confuse the legitimacy of hiring one person to more than one position. This bill clarifies the responsibilities of a Lubbock County magistrate to legitimize the hiring of one person to two positions.

PURPOSE

As proposed, S.B. 760 removes the authority of a magistrate to accept certain guilty pleas, clarifies a magistrate’s compensation, and deletes the criminal law specification for magistrates in Lubbock County.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 54M, Government Code, as follows:

SUBCHAPTER M. New heading: MAGISTRATES IN LUBBOCK COUNTY

SECTION 2. Amends Section 54.873, Government Code, to entitle a magistrate to a salary in compliance with Subchapter B, Chapter 201, Family Code, rather than Subchapter A.

SECTION 3. Amends Section 54.876, Government Code, to authorize a district judge or a county court at law judge to refer certain cases to a magistrate. Authorizes a juvenile court judge to refer certain proceedings to a magistrate. Deletes the authority of a magistrate to accept a guilty plea from a defendant charged with misdemeanor and felony offenses.

SECTION 4. Amends Section 54.878(a), Government Code, to authorize a magistrate to accept a plea of true from a defendant or juvenile, regardless of the alleged conduct or offense. Makes conforming changes.

SECTION 5. Amends Section 54.884, Government Code, as follows:

Sec. 54.884. New heading: MAGISTRATES. Authorizes the judge to appoint another magistrate, rather than a criminal law magistrate, to serve for an absent magistrate. Makes conforming changes.

SECTION 6. Amends Chapter 54M, Government Code, by adding Section 54.885, as follows:

Sec. 54.885. CLERK. Requires a clerk of a district court or county court at law that refers a proceeding to a magistrate to perform statutory duties necessary for the magistrate to perform the duties authorized by this subchapter.

SECTION 7. Emergency clause.
Effective date: upon passage.