

BILL ANALYSIS

Senate Research Center
82R7835 CAE-D

C.S.S.B. 483
By: Harris
Jurisprudence
3/22/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In an effort to increase efficiency and maximize the number of cases disposed, the district judges trying criminal cases in Tarrant County, with the support and approval of the commissioners court are recommending the expansion of the duties and authority of the criminal law magistrates in Tarrant County.

C.S.S.B. 483 would authorize a judge to refer to a magistrate, in addition to proceedings that can already be referred to a magistrate, an agreed order of expunction, an asset forfeiture, an agreed order of nondisclosure, and a hearing on a motion to revoke probation. A judge would also be authorized to refer to a magistrate certain civil cases. A magistrate would not be authorized to hear a jury trial on the merits of a bond forfeiture. The bill would allow a magistrate to be authorized to enter a ruling related to a negotiated plea on a probation revocation, conduct a contested probation revocation hearing, and sign a dismissal in a misdemeanor case.

The bill would also amend the Code of Criminal Procedure to authorize a magistrate with jurisdiction over criminal cases serving a district court to issue warrants.

C.S.S.B. 483 amends current law relating to the powers and duties 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 54.656, Government Code, as follows:

Sec. 54.656. PROCEEDING THAT MAY BE REFERRED. (a) Authorizes a judge to refer to a magistrate any criminal case for proceedings involving certain matters, including an agreed order of expunction under Chapter 55 (Expunction of Criminal Records), Code of Criminal Procedure; an asset forfeiture hearing as provided by Chapter 59 (Forfeiture of Contraband), Code of Criminal Procedure; an agreed order of nondisclosure provided by Section 411.081 (Application of Subchapter); and a hearing on a motion to revoke probation. Makes nonsubstantive changes.

(b) Authorizes a judge to refer to a magistrate a civil case arising out of Chapter 59, Code of Criminal Procedure, for any purpose authorized by that chapter, including issuing orders, accepting agreed judgments, enforcing judgments, and presiding over a case on the merits if a party has not requested a jury trial.

(c) Creates this subsection from existing text. Makes no further changes.

(d) Redesignates existing Subsection (c) as Subsection (d). Authorizes a magistrate to select a jury. Prohibits a magistrate from presiding over a criminal trial on the merits, whether or not the trial is before a jury.

(e) Prohibits a magistrate from hearing a jury trial on the merits of a bond forfeiture.

SECTION 2. Amends Section 54.658, Government Code, as follows:

Sec. 54.658. POWERS. Authorizes a magistrate to whom a case is referred, except as limited by an order of referral, to take certain actions, including accepting a negotiated plea on a probation revocation; conducting a contested probation revocation hearing; and signing a dismissal in a misdemeanor case. Makes nonsubstantive changes.

Deletes existing designation of Subsection (a). Deletes existing Subsection (b) prohibiting a magistrate from entering a ruling on any issue of law or fact if that ruling could result in dismissal or require dismissal of a pending criminal prosecution, but authorizing the magistrate to make findings, conclusions, and recommendations on those issues.

SECTION 3. Amends Article 18.01(c), Code of Criminal Procedure, as follows:

(c) Provides that, except as provided by Subsections (d) (relating to providing that only certain property or items are authorized to be seized), (i) (relating to authorizing a magistrate to issue a search warrant under certain circumstances), and (j) (relating to authorizing a magistrate to issue a search warrant to collect a blood specimen), only a judge of a municipal court of record or a county court who is an attorney licensed by the State of Texas; a statutory county court judge; a district court judge; a judge of the Court of Criminal Appeals, including the presiding judge; a justice of the Supreme Court of Texas, including the chief justice; or a magistrate with jurisdiction over criminal cases serving a district court is authorized to issue warrants under Article 18.02(10) (relating to issuing a warrant to search for and seize property or items, except the personal writings by the accused, constituting evidence of an offense or constituting evidence tending to show that a particular person committed an offense). Makes nonsubstantive changes.

SECTION 4. Effective date: September 1, 2011.