

BILL ANALYSIS

Senate Research Center
84R9968 YDB/SRS-D

S.B. 1139
By: Huffman
State Affairs
3/26/2015
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The State of Texas is experiencing both an increase in population and a shift in where the majority of residents live. As the state's population grows in some areas while declining in the others, the judicial needs of the various regions change. These shifting demographics can significantly impact the caseload of the existing courts. Historically, the Texas Legislature has compensated for changes in population by establishing new courts or changing existing judicial boundaries. Several factors are analyzed in the evaluation process, including increased caseloads, case backlogs, substantial population growth, and county support. In order to ensure that the creation of new courts and the modification of judicial jurisdictions is conducted in an orderly manner, S.B. 1139 consolidates these changes into a single omnibus bill.

As proposed, S.B. 1139 amends current law relating to the operation and administration of and practice in courts in the judicial branch of state government and the composition of certain juvenile boards.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

ARTICLE 1. DISTRICT COURTS AND DISTRICT ATTORNEYS

SECTION 1.01. Amends Section 24.154(b), Government Code, to provide that the terms of the 52nd District Court begin on the first Mondays in January and July, rather than January and June.

SECTION 1.02. (a) Amends Subchapter C, Chapter 24, Government Code, effective January 1, 2017, by adding Section 24.584, as follows:

Sec. 24.584. 440TH JUDICIAL DISTRICT (CORYELL COUNTY). Provides that the 440th Judicial District is composed of Coryell County.

(b) Provides that the 440th Judicial District is created January 1, 2017.

(c) Amends Subchapter D, Chapter 74, Government Code, by adding Section 74.0971, as follows:

Sec. 74.0971. LOCAL ADMINISTRATIVE DISTRICT JUDGE FOR CORYELL COUNTY. Provides that, notwithstanding Section 74.091(b) (requiring the judges in a county with two or more district courts to elect a district judge as local administrative district judge for a term of not more than two years and prohibiting the local administrative district judge from being elected on the basis of rotation or seniority), the local administrative district judge for Coryell County is selected on the basis of seniority from the district judges of the 52nd Judicial District and the 440th Judicial District.

SECTION 1.03. (a) Amends Subchapter C, Chapter 24, Government Code, by adding Section 24.590, as follows:

Sec. 24.590. 446TH JUDICIAL DISTRICT (ECTOR COUNTY). Provides that the 446th Judicial District is composed of Ector County.

(b) Provides that the 446th Judicial District is created September 1, 2015.

SECTION 1.04. (a) Amends Subchapter D, Chapter 24, Government Code, by adding Section 24.641, as follows:

Sec. 24.641. 507TH JUDICIAL DISTRICT (HARRIS COUNTY). Provides that the 507th Judicial District is composed of Harris County.

(b) Provides that the 507th Judicial District is created September 1, 2015.

SECTION 1.05. (a) Amends Subchapter D, Chapter 24, Government Code, by adding Sections 24.642 and 24.643, as follows:

Sec. 24.642. 469TH JUDICIAL DISTRICT (COLLIN COUNTY). Provides that the 469th Judicial District is composed of Collin County.

Sec. 24.643. 470TH JUDICIAL DISTRICT (COLLIN COUNTY). Provides that the 470th Judicial District is composed of Collin County.

(b) Provides that the 469th and 470th Judicial Districts are created September 1, 2015.

SECTION 1.06. (a) Amends Section 46.002, Government Code, to include the district attorney for the 132nd judicial district among the prosecutors and attorneys to which this chapter applies.

(b) Repealer: Section 43.156(b) (relating to the supplementation of the state salary of the district attorney), Government Code.

ARTICLE 2. STATUTORY COUNTY COURTS

SECTION 2.01. (a) Amends Section 25.0331(a), Government Code, to include the County Court at Law No. 4 of Cameron County, and the County Court at Law No. 5 of Cameron County among the statutory county courts of Cameron County.

(b) Amends Section 25.0332, Government Code, by adding Subsection (b) to require the County Court at Law No. 4 of Cameron County to give preference to probate, guardianship, and mental health matters.

(c) Provides that the County Court at Law No. 4 of Cameron County is created on January 1, 2016.

(d) Provides that the County Court at Law No. 5 of Cameron County is created on January 1, 2018.

SECTION 2.02. Amends Section 25.2223(a), Government Code, as follows:

(a) Provides that a county criminal court in Tarrant County has jurisdiction over all criminal matters and causes, original and appellate, prescribed by law for county courts, but does not have original civil jurisdiction. Provides that the County Criminal Courts Nos. 5 and 10 of Tarrant County also have concurrent jurisdiction within the county of all appeals, rather than all appeals from criminal convictions, under the laws of this state and the municipal ordinances of the municipalities located in Tarrant County that are appealed from the justice courts and municipal courts in the county.

ARTICLE 3. MAGISTRATES, CERTAIN JUVENILE BOARDS, AND CRIMINAL LAW
HEARING OFFICERS

SECTION 3.01. (a) Amends Section 54.1356(a), Government Code, to provide that the jurisdiction of the criminal law hearing officer is limited to presiding over an extradition proceeding under Article 51.13 (Uniform Criminal Extradition Act), Code of Criminal Procedure.

(b) Amends Section 54.1358, Government Code, by adding Subsections (f) and (g), as follows:

(f) Authorizes a criminal law hearing officer, in accordance with Article 26.13 (Plea of Guilty), Code of Criminal Procedure, to accept a plea of guilty or nolo contendere.

(g) Authorizes a criminal law hearing officer to determine whether a defendant is indigent and appoint counsel for an indigent defendant.

(c) Amends Subchapter BB, Chapter 54, Government Code, by adding Section 54.1362, as follows:

Sec. 54.1362. PROCEEDINGS THAT MAY BE REFERRED. Authorizes a district judge or a county court at law judge to refer to a criminal law hearing officer any criminal case for proceedings involving:

(1) a bond forfeiture;

(2) the arraignment of defendants;

(3) the determination of whether a defendant is indigent and the appointment of counsel for an indigent defendant; and

(4) a negotiated plea of guilty or nolo contendere before the court, in accordance with Article 26.13, Code of Criminal Procedure.

SECTION 3.02. (a) Amends Chapter 54, Government Code, by adding Subchapter LL, as follows:

SUBCHAPTER LL. GALVESTON COUNTY CRIMINAL MAGISTRATES

Sec. 54.2051. APPOINTMENT. (a) Authorizes the Commissioners Court of Galveston County (commissioners court) to select magistrates to serve the courts of Galveston County having jurisdiction in criminal matters.

(b) Requires the commissioners court to establish the minimum qualifications, salary, benefits, and other compensation of each magistrate position and to determine whether the position is full-time or part-time. Requires that the qualifications require the magistrate to have served as a justice of the peace or be an attorney licensed in this state.

(c) Provides that a magistrate appointed under this section serves at the pleasure of the commissioners court.

Sec. 54.2052. JURISDICTION. Provides that a magistrate has concurrent criminal jurisdiction with the judges of the justice of the peace courts of Galveston County.

Sec. 54.2053. POWERS AND DUTIES. (a) Requires the Commissioners Court of Galveston County to establish the powers and duties of a magistrate appointed under this subchapter. Provides that, except as otherwise provided by the

commissioners court, a magistrate has the powers of a magistrate under the Code of Criminal Procedure and other laws of this state and is authorized to administer an oath for any purpose.

(b) Requires a magistrate to give preference to performing the duties of a magistrate under Article 15.17 (Duties of Arresting Officer and Magistrate), Code of Criminal Procedure.

(c) Authorizes the commissioners court to designate one or more magistrates to hold regular hearings to:

(1) give admonishments;

(2) set and review bail and conditions of release;

(3) appoint legal counsel; and

(4) determine other routine matters relating to preindictment or pending cases within those courts' jurisdiction.

(d) Requires a magistrate, in the hearings provided under Subsection (c), to give preference to the case of an individual held in county jail.

(e) Authorizes a magistrate to inquire into a defendant's intended plea to the charge and set the case for an appropriate hearing before a judge or master.

Sec. 54.2054. JUDICIAL IMMUNITY. Provides that a magistrate has the same judicial immunity as a district judge.

Sec. 54.2055. WITNESSES. (a) Provides that a witness who is sworn and who appears before a magistrate is subject to the penalties for perjury and aggravated perjury provided by law.

(b) Authorizes a referring court to fine or imprison a witness or other court participant for failure to appear after being summoned, refusal to answer questions, or other acts of direct contempt before a magistrate.

(b) Amends Article 2.09, Code of Criminal Procedure, to include the criminal magistrates appointed by the Galveston County Commissioners Court as officers who are magistrates within the meaning of this code.

(c) Effective date, this section: upon passage or September 1, 2015.

SECTION 3.03. Amends Section 152.0131(a), Human Resources Code, to provide that the juvenile board of Atascosa County is composed of the county judge, the district judges in Atascosa County, and the judge of the County Court at Law of Atascosa County.

ARTICLE 4. EFFECTIVE DATE

SECTION 4.01. Effective date, except as otherwise provided by this Act: September 1, 2015.