

## **BILL ANALYSIS**

Senate Research Center  
85R4045 YDB-D

S.B. 378  
By: Perry  
State Affairs  
2/8/2017  
As Filed

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

This issue first came to light on February 12, 2016, when Supreme Court Justice Antonin Scalia died in his sleep in Presidio County, Texas. At that time, no justice of the peace was available to complete the inquest so the inquest was done over the phone. Texas received much criticism for how the process worked and that the inquest was not done in person.

Many counties in Texas have few justices of the peace (JPs)—65 counties in Texas only have one JP. Normally, when a JP is unavailable or out of town, the county judge will cover for the JP. Under current law, Section 27.054, Government Code, allows a JP to hold court for another at the request of that justice for a period not to exceed five days. Section 27.055, Government Code, allows the county judge to appoint a qualified person to serve as JP if a justice is unable to perform their duties. This process works well if the JP or judge knows they will be unavailable ahead of time.

However, a problem arises when the JPs and judges are unavailable or an emergency arises. In such a case, statutory authority is needed to allow exchange of benches for inquests.

This bill would grant the JP or county judge the authority to exchange benches with another county upon request to conduct an inquest. Once the inquest is completed, the JP or county judge is required to transfer the case back to the county of origin for final disposition not later than the fifth day following the inquest. The bill stipulates that the judge performing the inquest is not entitled to any compensation other than mileage for conducting the inquest.

If neither the JP nor county judge is available, the person with the authority to request the inquest (such as a sheriff) can request a JP or judge from another county to conduct the inquest. The bill stipulates the costs will be covered by the requesting county.

As proposed, S.B. 378 amends current law relating to the persons authorized to conduct an inquest in certain counties.

### **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 the heading to Subchapter C, Chapter 27, Government Code, to read as follows:

#### **SUBCHAPTER C. CONDUCTING COURT AND INQUESTS**

SECTION 2. Amends Subchapter C, Chapter 27, Government Code, by adding Section 27.0545, as follows:

Sec. 27.0545. EXCHANGE OF BENCHES: INQUESTS. (a) Authorizes the justice of the peace (JP) of the precinct in which a person's death occurred or the county judge of the county, if a JP or the county judge of a county to which Subchapter A (Duties

Performed by Justices of the Peace), Chapter 49 (Inquests Upon Dead Bodies), Code of Criminal Procedure, applies is not available to conduct an inquest into the person's death occurring in the county, to request a JP of another county to which that subchapter applies to conduct the inquest.

(b) Requires a JP who conducts a requested inquest to, not later than the fifth day after the date the inquest is initiated, transfer all information related to the inquest to the JP of the precinct in which the death occurred for final disposition of the matter.

(c) Provides that a JP who conducts an inquest is not entitled to receive from the commissioners court of the county in which the death occurred any compensation, other than mileage, for conducting the inquest.

SECTION 3. Amends Article 49.07(c), Code of Criminal Procedure, by adding Subdivision (3), as follows:

(3) Authorizes a person required to give notice under this article, if a JP or the county judge serving the county in which the body or body part was found is not available to conduct an inquest, to ask the JP of the precinct in which the body or the body part was found or the county judge to request a JP of another county to which this subchapter applies to conduct the inquest. Requires the JP conducting the inquest, not later than the fifth day after the date the inquest is initiated, to transfer all information related to the inquest to the JP of the precinct in which the body or body part was found for final disposition of the matter. Requires that all expenses related to the inquest be paid as provided by this chapter.

SECTION 4. Effective date: September 1, 2017.