

SUBJECT: Allowing deputies and constables to perform duties between terms

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 8 ayes — Coleman, Stucky, Anderson, Longoria, Lopez, Spiller,
Stephenson, Turner

1 nay — Cason

WITNESSES: For — Brian Hawthorne, Sheriffs Association of Texas (*Registered, but did not testify*); Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT); Rick Hill, Noel Johnson, Sammy Knapp, Carlos Lopez, Jama Pantel, Justices of the Peace and Constables Association of Texas; Julie Wheeler, Travis County Commissioners Court)

Against — None

DIGEST: HB 1049 would allow reappointed sheriff's deputies, reserve deputies, and reserve deputy constables to continue to perform their duties before retaking the official oath of office and would require that they retake the oath as soon as possible after being reappointed.

The bill would take effect September 1, 2021.

SUPPORTERS SAY: HB 1049 would clarify an ambiguity in current statute about the authority of reappointed sheriff's department officers in the period between the official end of a preceding term and the beginning of a new term of office.

Under current law, reappointed deputies and constables are required to retake the oath of office before performing their duties. As a matter of established practice, departments try to administer the oath to all personnel at or near midnight of New Year's Eve, since terms expire at that point. However, for many medium-sized and large departments, assembling all personnel at the same time is unfeasible, resulting in many instances across the state of reappointed deputies being out on duty without having retaken the oath of office. This situation creates the

possibility that the authority for any police action taken by a reappointed deputy before retaking the oath could be legally challenged. Deputies and constables should never have to operate under a cloud of ambiguity regarding their legal authority, and HB 1049 is needed to ensure the integrity of that authority.

Current statute makes it difficult for sheriff's departments to follow the letter of the law, and HB 1049 would remove this unreasonable burden by clarifying the authority of reappointed deputies and constable between terms, while still requiring the retaking of the oath of office as soon as reasonably possible.

**CRITICS
SAY:**

HB 1049 is unnecessary because current law does not impose an unreasonable burden on sheriff's departments. Even if the oath of office cannot be administered to all deputies and constables in a department simultaneously, there have been no serious issues resulting from the current practice.