

## **BILL ANALYSIS**

Senate Research Center

S.B. 415  
By: Brown  
Jurisprudence  
2-10-97  
As Filed

### **DIGEST**

Currently, Texas law does not provide for the appointment of associate judges in Fort Bend County. The ability to appoint associate judges in Fort Bend County will give needed assistance to the existing courts until such time as other courts can be created. This bill will provide for the appointment of associate judges by the district courts and county courts at law of Fort Bend County.

### **PURPOSE**

As proposed, S.B. 415 provides for the appointment of associate judges by the district courts and county courts at law of Fort Bend 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 54, Government Code, by adding Subchapter S, as follows:

#### **SUBCHAPTER S. CIVIL, JUVENILE, AND CRIMINAL LAW ASSOCIATE JUDGES IN FORT BEND COUNTY**

Sec. 54.1001. **APPOINTMENT.** Authorizes a majority of the judges of the district courts and the statutory county courts at law in Fort Bend County to determine that one or more full-time or part-time associate judges are needed to serve those courts. Requires the judges to issue an order reflecting that determination and specifying the number of associate judges and support staff needed. Authorizes each judge, subject to the determination of need by the district courts and statutory county courts at law and the approval of the commissioners court of the county, to appoint one or more associate judges and support staff to serve the judge's court. Authorizes judges to act together to appoint associate judges to serve their courts.

Sec. 54.1002. **QUALIFICATIONS.** Sets forth requirements for a person to be eligible for appointment as an associate judge.

Sec. 54.1003. **ORDER OF APPOINTMENT.** Sets forth the requirements for an order appointing an associate judge.

Sec. 54.1004. **COMPENSATION.** Requires the commissioners court to set the compensation for associate judges and support staff and determine the total amount the county will pay as compensation for associate judges and support staff.

Sec. 54.1005. **JUDICIAL IMMUNITY.** Provides that an associate judge appointed under this subchapter has the same judicial immunity as the district court and statutory county court at law judges.

Sec. 54.1006. **TERMINATION OF EMPLOYMENT.** Sets forth procedures for termination of an associate judge's employment.

Sec. 54.1007. WITHDRAWAL OF APPOINTMENT FOR PARTICULAR COURT. Authorizes the judge of a court for which an associate judge has been appointed to withdraw the associate judge's appointment to that court by written order. Sets forth required contents of the order.

Sec. 54.1008. PROCEEDINGS THAT MAY BE REFERRED. Authorizes a judge to refer certain proceedings in a criminal case to an associate judge. Prohibits an associate judge from presiding over a trial on the merits, whether or not the trial is before a jury.

Sec. 54.1009. CASES THAT MAY BE REFERRED. Authorizes a judge to refer to an associate judge certain juvenile, probate, or civil cases or portion of one of those cases. Prohibits an associate judge from presiding over a trial on the merits, whether or not the trial is before a jury.

Sec. 54.1010. METHOD OF REFERRAL. Authorizes a case to be referred as prescribed by published local rules or written orders.

Sec. 54.1011. DUTIES AND POWERS. Sets forth the duties and powers of an associate judge.

Sec. 54.1012. JURY. Requires an associate judge, if a jury trial is demanded in a case referred to the associate judge, to refer the case back to the referring court for a full hearing according to the usual rules applicable to the case, except as provided by Subsection (b). Provides that a jury demand does not affect the authority of an associate judge to handle pretrial matters referred to the associate judge.

Sec. 54.1013. COURT REPORTER. Provides that a court reporter need not be provided during a hearing conducted by an associate judge. Authorizes a referring judge, notwithstanding Subsection (a), to require a reporter at any hearing.

Sec. 54.1014. FAILURE TO COMPLY WITH SUMMONS OR OATH. Authorizes an associate judge, if an attorney, party, witness, or any other person fails to comply with a summons or order, to certify in writing that failure to the referring court for appropriate action.

Sec. 54.1015. PERJURY. Provides that a witness appearing before an associate judge is subject to the penalties of perjury as provided by Chapter 37, Penal Code. Provides that a witness referred to the court under Section 54.1014, is subject to the same penalties and orders that may be imposed on a witness appearing in a hearing before the court.

Sec. 54.1016. RETURN TO REFERRING COURT; FINDINGS. Requires an associate judge, at the conclusion of the proceedings, to transmit to the referring court any papers relating to the case, including the associate judge's findings, conclusions, orders, recommendations, or other action taken.

Sec. 54.1017. COURT ACTION ON REPORT. Authorizes the court, after the court receives the associate judge's report, to adopt, modify, correct, reject or reverse the associate judge's report or to recommit it for further information, as the court determines to be proper and necessary in each case. Authorizes a court, if a judgment has been recommended, to approve the recommendation and hear more evidence before making its judgment.

Sec. 54.1018. DECREE OR JUDGMENT. Provides that the finding and recommendations become the decree or judgment of the court when adopted and approved by an order of the judge.

Sec. 54.1019. MASTER IN CHANCERY. Provides that this subchapter does not prohibit a court from appointing a master in chancery as provided by Rule 171, Texas Rules of Civil Procedure.

Sec. 54.1020. REFEREES. Authorizes an associate judge appointed under this subchapter to serve as a referee as provided by Sections 51.04(g) and 54.10, Family Code. Authorizes a referee appointed under Section 51.04(g), Family Code, to be appointed to serve as an associate judge under this subchapter. Authorizes an associate judge appointed under this subchapter to serve as a master as provided by Section 574.0085, Health and Safety Code.

SECTION 2. Emergency clause.  
Effective date: upon passage.