

BILL ANALYSIS

Senate Research Center
78R6340 SLO-F

S.B. 1794
By: Barrientos
Criminal Justice
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DIGEST AND PURPOSE

Currently, Travis County has the authority to appoint magistrates to serve the criminal district courts. However, there is no authority for the county to appoint a criminal magistrate to assist misdemeanor courts. As proposed, S.B. 1794 requires the judges of the district courts, with the consent and approval of the Commissioners Court of Travis County, to jointly appoint the magistrates that will assist the district courts and requires the judges of the county courts at law, with the consent and approval of the Commissioners Court of Travis County, to jointly appoint the magistrates that will assist the county courts at law. This bill also increases the types of proceedings which a judge may refer to a magistrate.

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 Article 2.09, Code of Criminal Procedure, to include the magistrates appointed by the judges of the district courts and statutory county courts that give preference to criminal cases in Travis County, as officers that are magistrates within the meaning of this code. Makes a conforming change.

SECTION 2. Amends Subchapter Q, Chapter 54, Government Code, by adding Section 54.970, as follows:

Sec. 54.970. APPLICATION. Provides that this subchapter applies to the district courts and the county courts at law that give preference to criminal cases in Travis County.

SECTION 3. Amends Sections 54.971, 54.974, and 54.976, Government Code, as follows:

Sec. 54.971. (a) Requires the Commissioners Court of Travis County to set the number of magistrates needed to perform the duties authorized by this subchapter. Deletes text regarding the requirement of the judges of the district courts of Travis County that give preference to criminal cases, with the consent and approval of the Commissioners Court of Travis County to jointly appoint the number of magistrates set by the commissioners court.

(b) Requires the judges of the district courts subject to this subchapter, with the consent and approval of the Commissioners Court of Travis County, to jointly appoint the magistrates that will assist the district courts. Requires each magistrate's appointment under this subsection to be made with unanimous approval of the judges of the district courts subject to this subchapter.

(c) Provides an exception.

(d) Requires the judges of the county courts at law subject to this subchapter, with the consent and approval of the Commissioners Court of Travis County, to jointly appoint the magistrates that will assist the county courts at law. Requires

each magistrate's appointment under this subsection to be made with the unanimous approval of the judges of the county courts at law subject to this subchapter.

(e) Requires a magistrate appointed to assist only one court to be approved by the judge of that court, in addition to the requirements of Subsection (b) or (d).

Sec. 54.974. Provides that a magistrate has the same judicial immunity as a district judge or a judge of a county court at law, as applicable.

Sec. 54.976. (a) Authorizes a judge to refer to a magistrate any criminal case for certain proceedings.

(b) Prohibits a magistrate from presiding over a contested criminal trial on the merits, regardless of whether the trial is before a jury.

(c) Authorizes a judge to refer to a magistrate any proceeding involving an application for a protective order under Title 4, Family Code, or Section 17.292, Code of Criminal Procedure.

SECTION 4. Effective date: September 1, 2003.