

## **BILL ANALYSIS**

Senate Research Center  
78R3218 YDB-F

S.B. 358  
By: Shapiro  
Jurisprudence  
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As Filed

### **DIGEST AND PURPOSE**

Currently, magistrates in counties with a population of two million or more are not permitted to hear truancy cases. As proposed, S.B. 358 would allow the county judge of a county with a population of two million or more to appoint magistrates to hear truancy cases, with the county judge retaining final authority over the decision rendered by the magistrate. In addition, this bill allows the newly created truancy courts in these counties to have original jurisdiction over truancy cases.

### **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 Section 26.045, Government Code, by amending Subsection (c) and adding Subsections (d) and (e), as follows:

(c) Sets forth that except as provided by Subsection (d), a county court that is in a county with a criminal district court does not have an criminal jurisdiction.

(d) Authorizes a county court in a county with a population of two million or more to accept original jurisdiction over cases alleging a violation of Section 25.093 (Parent contributing to Truancy) or 25.094 (Failure to Attend School), Education Code.

(e) Provides that Subsections (c) and (d) do not affect the jurisdiction of a statutory county court.

SECTION 2. Amends Chapter 54, Government Code, by adding Subchapter V, as follows:

#### **SUBCHAPTER V. MAGISTRATES IN CERTAIN COUNTY COURTS**

Sec. 54.1151. APPLICATION OF SUBCHAPTER. Sets forth that this subchapter applies to a constitutional county court in a county with a population of two million or more.

Sec. 54.1152. APPOINTMENT. (a) Authorizes a county judge to appoint one or more full-time magistrates to hear a matter alleging a violation of Section 25.093 (Parent Contributing to Truancy) or 25.094 (Failure to Attend School), Education Code.

(b) Provides that an appointment under Subsection (a) is subject to the approval of the commissioners court.

(c) Sets forth that a magistrate serves at the pleasure of the county judge.

Sec. 54.1153. QUALIFICATIONS. Requires a magistrate to meet certain qualifications.

Sec. 54.1154. COMPENSATION. Provides that a magistrate is entitled to the compensation set by the commissioners court. Requires that compensation to be paid from the general fund of the county.

Sec. 54.1155. POWERS. Authorizes the magistrate, except as limited by an order of the county judge, to perform certain duties.

SECTION 3. Amends Sections 25.091(a) and (b), Education Code, to provide that a peace officer serving as an attendance officer has the power and duty to enforce compulsory school attendance requirements by referring a student to a juvenile court or filing a complaint against a student in an appropriate court, rather than a justice or municipal court, if the student has unexcused absences for the amount of time specified under Section 25.094 (Failure to Attend School), Education Code or under Section 51.03(b)(2) (Delinquent Conduct; Conduct Indicating a Need for Supervision), Family Code. Makes a conforming change.

SECTION 4. Amends Section 25.093(b), Education Code, to require the attendance officer or other appropriate school official to file a complaint against the parent in the constitutional county court of the county in which the parent resides or in which the school is located, if the county has a population of two million or more.

Creates new Subsections (2) and (3) from existing text.

SECTION 5. Reenacts Section 25.093(d), Education Code, as amended by Chapter 1514, Acts of the 77th Legislature, Regular Session, 2001, and as amended and relettered by Chapter 1504, Acts of the 77th Legislature, Regular Session, 2001, and amends it to require one-half of a fine collected under this section to be deposited to the credit of the general fund of the county, if the complaint is filed in the justice court or the constitutional county court.

SECTION 6. Amends Sections 25.094(b) and (c), Education Code, to make conforming changes.

SECTION 7. Amends Section 25.094(d), Education Code, as amended by Chapter 1297, Acts of the 77th Legislature, Regular Session, 2001, to make a conforming change.

SECTION 8. Amends Section 25.094(d), Education Code, as amended by Chapter 1514, Acts of the 77th Legislature, Regular Session, 2001, by relettering it as Subsection (d-1) and amending it to make conforming changes.

SECTION 9. Amends Sections 25.0951(a) and (b), Education Code, to make conforming changes.

SECTION 10. Amends Section 25.0952, Education Code, to make a conforming change.

SECTION 11. Amends Section 54.021, Family Code, as follows:

Sec. 54.021. New Heading: COUNTY, JUSTICE, OR MUNICIPAL COURT: TRUANCY

(a) Makes conforming and nonsubstantive changes.

(b) Makes conforming changes.

(c) Makes a conforming change.

(d) Requires, notwithstanding any other law, the costs assessed in a case filed in a constitutional county court for an offense under Section 25.93 or 25.094, Education Code, to be the same as the costs assessed for case filed in a justice court for an offense under Section 25.093 (Parent Contributing to Truancy) or 25.094 (Failure to Attend School),

Education Code.

(e) Authorizes the proceedings before a constitutional county court related to an offense under Section 25.093 (Parent Contributing to Truancy) or 25.094 (Failure to Attend School), Education Code, to be recorded in any manner provided by Section 30.00010, Government Code, for recording proceedings in a municipal court of record.

SECTION 12. Amends the heading to and the text of Section 54.023, Family Code, to make conforming changes.

SECTION 13. Amends Section 54.04(o) and (u), Family Code, to make conforming changes.

SECTION 14. Amends Article 4.07, Code of Criminal Procedure, to make a conforming change.

SECTION 15. Amends Article 45.054(a), Code of Criminal Procedure, as added by Chapter 1514, Acts of the 77th Legislature, Regular Session, 2001 to make a conforming change.

SECTION 16. Amends Article 45.055(d), Code of Criminal Procedure, to make a conforming change.

SECTION 17. Effective date: September 1, 2003.