

BILL ANALYSIS

Senate Research Center
79R3947 YDB-F

H.B. 3485
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Jurisprudence
5/11/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

H.B. 3485 creates the position of criminal law hearings officer in Cameron County. One or more such officers would be appointed by a board composed of district and county judges in the area and would be limited to determining probable cause for future detention of suspected criminals, committing the defendant to jail, discharging the defendant from custody, and admitting the defendant to bail as the law or facts of the case require. The criminal law hearing officer would not be able to engage in private law practice, serve as a mediator or arbitrator, or participate as a neutral party in any resolution proceeding, with or without pay.

This position would assist in making the processing of inmates more efficient and could help to reduce overcrowding at the Carrizales Rucker Detention Facility in Olmito, just north of Brownsville.

The hearing officer's salary would be set by the county commissioners court from the county fund available for payment to officers.

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 Chapter 54, Government Code, by adding Subchapter BB, as follows:

SUBCHAPTER BB. CRIMINAL LAW HEARING OFFICERS IN CAMERON COUNTY

Sec. 54.1351. APPLICATION OF SUBCHAPTER. Provides that this subchapter applies to Cameron County.

Sec. 54.1352. APPOINTMENT. (a) Authorizes a majority of the members of a board composed of the judges of the district courts and statutory county courts of Cameron County to appoint criminal law hearing officers to perform the duties authorized by this subchapter.

(b) Provides that a criminal law hearing officer appointed under this subchapter serves at the pleasure of the board and may be terminated at any time in the same manner as appointed.

(c) Prohibits a criminal law hearing officer from engaging in the private practice of law or serving as a mediator or arbitrator or otherwise participating as a neutral party in any alternative dispute resolution proceeding, with or without compensation.

(d) Provides that a criminal law hearing officer is subject to proceedings under Section 1-a (Retirement, Censure, Removal, and Compensation of Justices and Judges; State Commission on Judicial Conduct; Procedure), Article V, Texas Constitution.

Sec. 54.1353. QUALIFICATIONS. Sets forth the required qualifications to be eligible for appointment as a criminal law hearing officer.

Sec. 54.1354. COMPENSATION. Entitles a criminal law hearing officer to a salary in the amount set by the commissioners court and provides that the salary is paid from the county fund available for payment of officers' salaries.

Sec. 54.1355. OATH. Requires a criminal law hearing officer to take the constitutional oath of office required of appointed officers of this state.

Sec. 54.1356. CRIMINAL JURISDICTION. (a) Provides that a criminal law hearing officer appointed under this subchapter has limited concurrent jurisdiction over criminal cases filed in the district courts, statutory county courts, and justice courts of the county. Sets forth the jurisdiction limitations of a criminal law hearing officer.

(b) Provides that this section does not limit or impair the jurisdiction of the court in which the complaint, information, or indictment is filed to review or alter the decision of the criminal law hearing officer.

(c) Prohibits a criminal law hearing officer, in a felony or misdemeanor case punishable by incarceration in the county jail, from dismissing the case, entering a judgment of acquittal or guilt, or pronouncing a sentence.

Sec. 54.1357. MENTAL HEALTH JURISDICTION. Authorizes the judges of the statutory county courts of Cameron County to authorize a criminal law hearing officer to serve the probate courts of Cameron County as necessary to hear emergency mental health matters under Chapter 573 (Emergency Detention), Health and Safety Code. Provides that a criminal law hearing officer has concurrent limited jurisdiction with the probate courts of the county to hear emergency mental health matters under Chapter 573, Health and Safety Code. Provides that this section does not impair the jurisdiction of the probate courts to review or alter the decision of the criminal law hearing officer.

Sec. 54.1358. DUTIES AND POWERS. Sets forth the duties and powers of a criminal law hearing officer.

Sec. 54.1359. JUDICIAL IMMUNITY. Provides that a criminal law hearing officer has the same judicial immunity as a district judge, statutory county court judge, and justice of the peace.

Sec. 54.1360. SHERIFF. Requires the sheriff, in person or by deputy, on request of a criminal law hearing officer appointed under this subchapter, to assist the criminal law hearing officer.

Sec. 54.1361. CLERK. Requires the district clerk to perform the statutory duties necessary for the criminal law hearing officers appointed under this subchapter in cases filed in a district court or a statutory county court. Requires a person designated to serve as a clerk of a justice court to perform the statutory duties necessary for cases filed in a justice court.

SECTION 2. Amends Article 2.09, Code of Criminal Procedure, to provide that a criminal law hearing officer for Cameron County appointed under Subchapter BB, Chapter 54, Government Code, is a magistrate within the meaning of this code.

SECTION 3. Effective date: September 1, 2005.