

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 3595
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Criminal Justice
5/23/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.H.B. 3595 relates to the provision of drug court programs in this state.

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 469, Health and Safety Code, by designating Sections 469.001 through 469.009 as Subchapter A, and adding a heading to that subchapter, to read as follows:

SUBCHAPTER A. DRUG COURT PROGRAMS

SECTION 2. Amends Chapter 469, Health and Safety Code, by adding Subchapter B, as follows:

SUBCHAPTER B. ASSOCIATE JUDGES FOR DRUG COURT PROGRAMS

Sec. 469.051. APPOINTMENT BY PRESIDING JUDGE. (a) Requires the presiding judge of each administrative judicial region, subject to available state funding, to appoint a full-time or part-time associate judge to establish and administer a drug court program described by Section 469.002 if, after conferring with each judge of a court in the region that serves a county with a population of 200,000 or less, the presiding judge determines one or more of those judges desire the appointment of an associate judge under this section.

(b) Authorizes the presiding judge to limit an appointment under this section to a specified period and to terminate an appointment at any time.

(c) Authorizes an associate judge to be appointed under this section to serve more than one court. Authorizes two or more judges of administrative judicial regions to jointly appoint one or more associate judges to serve courts located in the regions.

(d) Requires the judges of the courts served by the associate judge, after consulting with the associate judge and each presiding judge of the administrative judicial region who appointed the associate judge, not later than the 31st day after the date an associate judge is appointed under this section, to establish a court referral protocol for the referral of cases to the drug court program administered by the associate judge.

Sec. 469.052. QUALIFICATIONS. Requires a person, to be eligible for appointment as an associate judge under this subchapter, to be a United States citizen, have resided in this state for the two years preceding the date of appointment, and meet certain qualifications.

Sec. 469.053. DESIGNATION OF HOST COUNTY. (a) Requires the presiding judges of the administrative judicial regions by majority vote, subject to the approval of the

commissioners court of the proposed host county, to determine the host county of an associate judge appointed under this subchapter.

(b) Requires the host county to provide an adequate courtroom and quarters, including furniture, necessary utilities, and telephone equipment and service, for the associate judge and other personnel assisting the associate judge.

(c) Provides that an associate judge is not required to reside in the host county.

Sec. 469.054. ORDER OF REFERRALS; GENERAL POWERS OF ASSOCIATE JUDGE. (a) Requires the referring court, to refer cases involving defendants who are eligible to participate in the drug court program to an associate judge appointed under this subchapter, to issue an order of referral specifying the associate judge's duties.

(b) Requires an order of referral issued under this section to be consistent with the court referral protocol established for the associate judge under Section 469.051(d). Provides that, in the event of a conflict between the order of referral and the court referral protocol, the order of referral controls.

(c) Authorizes that an order of referral limit the powers of the associate judge and direct the associate judge to report on specific issues and perform particular acts; set the time and place for a hearing; specify a date for filing the associate judge's findings; designate proceedings for more than one case over which the associate judge presides; and set forth general powers and limitations of authority of the associate judge applicable to any case referred.

(d) Authorizes an associate judge to whom a case is referred, except as limited by an order of referral, to perform any act necessary and proper for the efficient performance of the associate judge's duties under an order of referral.

Sec. 469.055. COURT REPORTER; RECORD. (a) Authorizes a court reporter to be provided during a hearing held by an associate judge appointed under this subchapter. Requires the associate judge, at the request of a party, to provide a court reporter to record the proceedings before the judge.

(b) Authorizes a party, the associate judge, or the referring court to provide for a reporter during the hearing if one is not otherwise provided.

(c) Authorizes the record, except as provided by Subsection (a), in the absence of a court reporter or on agreement of the parties, to be preserved by any means approved by the associate judge.

(d) Authorizes the referring court or associate judge to assess the expense of preserving the record under Subsection (c) as costs.

Sec. 469.056. JUDICIAL ACTION. (a) Authorizes a referring court to modify, correct, reject, reverse, or recommit for further information any action taken by the associate judge.

(b) Provides that if the referring court does not modify, correct, reject, reverse, or recommit an action to the associate judge, before the 31st day after the date the associate judge takes the action, the action becomes the decree of the court.

Sec. 469.057. JUDICIAL IMMUNITY. Provides that an associate judge has the same judicial immunity as a district judge.

Sec. 469.058. COMPENSATION. (a) Entitles an associate judge appointed under this subchapter to a salary as determined by a majority vote of the presiding judges of the administrative judicial regions. Prohibits the salary from exceeding 90 percent of the salary paid to a district judge as set by the state General Appropriations Act.

(b) Requires that the associate judge's salary be paid from funds available as provided by this subchapter.

Sec. 469.059. PERSONNEL. (a) Authorizes the presiding judge of an administrative judicial region who appointed an associate judge under this subchapter or the presiding judges of the administrative judicial regions, by majority vote, to appoint personnel as needed to implement and administer the provisions of this subchapter.

(b) Requires that the salaries of the personnel be paid from funds available as provided by this subchapter.

Sec. 469.060. SUPERVISION OF ASSOCIATE JUDGES. Requires the office of court administration to assist the presiding judges in monitoring the associate judges' compliance with any applicable job performance standards, uniform practices adopted by the presiding judges, and federal and state laws and policies; addressing the training needs and resource requirements of the associate judges; conducting annual performance evaluations for the associate judges and other personnel appointed under this subchapter based on written personnel performance standards adopted by the presiding judges; and receiving, investigating, and resolving complaints about particular associate judges or the associate judge program under this subchapter based on a uniform process adopted by the presiding judges.

Sec. 469.061. FUNDING. (a) Authorizes the office of court administration to contract for available state, county, and federal funds from any source and to employ personnel needed to implement and administer this subchapter. Provides that an associate judge and other personnel appointed under this subsection are state employees for all purposes, including accrual of leave time, insurance benefits, retirement benefits, and travel regulations.

(b) Authorizes the presiding judges of the administrative judicial regions, state agencies, and counties to contract for available federal funds from any source to reimburse costs and salaries associated with associate judges and personnel appointed under this subchapter and to also use available state and county funds and public or private grants.

(c) Requires the presiding judges and the office of court administration in cooperation with other agencies to take action necessary to maximize the amount of federal money available to fund the use of associate judges under this subchapter.

Sec. 469.062. ASSIGNMENT OF JUDGES AND APPOINTMENT OF VISITING ASSOCIATE JUDGES. (a) Provides that this subchapter does not limit the authority of a presiding judge to assign a judge eligible for assignment under Chapter 74 (Court Administration Act), Government Code, to operate a drug court program under this subchapter.

(b) Authorizes the presiding judge of the administrative judicial region in which the associate judge serves or the vacancy occurs to appoint a visiting associate judge to perform the duties of the associate judge during the period the associate judge is unable to perform the associate judge's duties or until another associate judge is appointed to fill the vacancy, if an associate judge appointed under this subchapter is temporarily unable to perform the associate judge's official duties because of absence resulting from family circumstances, illness, injury, disability, or military service, or if there is a vacancy in the position of associate judge.

(c) Provides that a person is not eligible for appointment under this section unless the person has served as an associate judge, a district judge, or a county court judge for at least two years before the date of appointment.

(d) Provides that a visiting associate judge appointed under this section is subject to each provision of this subchapter that applies to an associate judge serving

under a regular appointment under this subchapter. Entitles a visiting associate judge appointed under this section to compensation, to be determined by a majority vote of the presiding judges of the administrative judicial regions, through use of funds under this subchapter. Provides that a visiting associate judge is not considered to be a state employee for any purpose.

(e) Provides that Section 2252.901 (Contracts with Former or Retired Agency Employees), Government Code, does not apply to the appointment of a visiting associate judge under this section.

Sec. 469.063. LIMITATION ON LAW PRACTICE BY ASSOCIATE JUDGE. Prohibits an associate judge appointed under this subchapter from engaging in the private practice of law.

SECTION 3. Effective date: upon passage or September 1, 2009.