

BILL ANALYSIS

Senate Research Center
87R645 NC-D

H.B. 1049
By: Harless (Huffman)
Criminal Justice
4/30/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law and practice, deputies commissioned under both sheriffs and constables have an oath of office that expires at the end of the officeholder's current term of office on midnight December 31st. Historically, sheriffs and constables have taken their oath of office as close to midnight on New Year's Eve as was practicable. For those officeholders with even an average-sized agency it creates a logistical issue to have all personnel available to take an oath of office at that same time.

Questions have been raised involving the authority to act as a peace officer after that midnight expiration and before a new oath is administered. H.B. 1049 seeks to correct this deficiency and clarify law enforcement authority for these peace officers in that time gap until they can reasonably be sworn in for a new term of office. This bill does not create a presumption of continued employment nor require a change in personnel due to the term of office.

H.B. 1049 amends current law relating to the requirement for a deputy sheriff, reserve deputy sheriff, deputy constable, or reserve deputy constable to take an official oath.

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 85.003, Local Government Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Creates an exception under Subsection (b-1) to the requirement that a person appointed as a deputy, before beginning to perform the duties of office, take and subscribe the official oath, which, together with the certificate of the officer administering the oath, is required to be endorsed on the appointment. Makes a nonsubstantive change.

(b-1) Authorizes a person reappointed as a deputy to continue to perform the duties of office before retaking the official oath. Requires the deputy to retake the oath as soon as possible after being reappointed.

SECTION 2. Amends Section 85.004, Local Government Code, by amending Subsection (c) and adding Subsection (c-2), as follows:

(c) Creates an exception under Subsection (c-2) to the requirement that a reserve deputy, before beginning to perform the duties of office and at the time of appointment, file an oath and execute and file a bond in the amount of \$2,000 payable to the sheriff.

(c-2) Authorizes a person reappointed as a reserve deputy to continue to perform the duties of office before retaking the official oath. Requires the reserve deputy to retake the oath as soon as possible after being reappointed.

SECTION 3. Amends Section 86.011(b), Local Government Code, to require each deputy constable to qualify for appointment in the manner provided for deputy sheriffs under Section 85.003 (Deputies).

SECTION 4. Amends Section 86.012, Local Government Code, by amending Subsection (c) and adding Subsection (c-2), as follows:

(c) Creates an exception under Subsection (c-2) to the requirement that the oath and bond be given before the reserve deputy constable's entry on duty and simultaneously with the officer's appointment. Makes a nonsubstantive change.

(c-2) Authorizes a person reappointed as a reserve deputy constable to continue to perform the duties of office before retaking the official oath. Requires the reserve deputy constable to retake the oath as soon as possible after being reappointed.

SECTION 5. This Act takes effect September 1, 2021.