

HOUSE BILL ANALYSIS

HB 1202

Title: An act relating to judicial officers in district and municipal courts.

Brief Description: Appointing judicial officers of the district and municipal courts.

Sponsors: Representatives Constantine, Sheahan and Carrell.

Brief Summary of Bill

- Provides uniformity in provisions relating to court commissioners in municipal courts.
- Clarifies authority of municipal court commissioners to hear certain kinds of cases.

HOUSE COMMITTEE ON JUDICIARY

Staff: Bill Perry (786-7123).

Background:

District and municipal court judges are authorized to appoint court commissioners. Generally, the appointing judges may prescribe the authority of a commissioner, up to and including all of the authority the appointing judges have. A court commissioner must be a registered voter in the county in which the court sits, and must either be admitted to the bar or must have passed an examination for lay judges. Salaries for commissioners are set by local legislative authorities.

Court rules govern how parties in a case may seek to have the case transferred from one judge to another. Any party to a civil or criminal action is entitled to one demand to have a case transferred to another judge. Such a demand is made by filing an affidavit of prejudice before certain stages have been reached in the proceedings. A statute provides that any party in a case presided over by a commissioner may demand that the case be transferred to a judge.

A variety of provisions relating to district and municipal court commissioners exist in several statutes relating to district courts and the various kinds of municipal courts. There are three separate ways in which a municipal court may be formed. First, a city of any size may create a municipal court as a "department" of the district court. Second, a city of under 400,000 population may create its own separate municipal court. Third, special provisions apply to creation of a municipal court in a city of

over 400,000. The statutes covering these various kinds of municipal courts contain variations in how they describe the appointment and authority of court commissioners.

Statutes relating to the solemnization of marriages and to traffic infractions and other types of civil infractions explicitly mention the authority of "district" court commissioners, but do not mention "municipal" court commissioners. Statutes also provide for the filing of oaths of office of judges and commissioners of all levels of courts except municipal courts.

Summary of Bill:

Explicit uniformity is provided to several provisions of statutes dealing with the appointment and authority of municipal court commissioners. General provisions relating to municipal court commissioners are placed in the same chapter with district court commissioners, and the chapter is renamed to reflect that inclusion.

The appointment of commissioners in cities of population under 400,000 is explicitly made subject to the authorization of the city legislative authority. Any limitation on the authority granted a commissioner must be part of the written appointment by the judges, otherwise the authority of the commissioner is the same as that of a judge.

The statute allowing any party to a case to demand transfer of the case from a commissioner to a judge is repealed.

Specific mention is made authorizing municipal court commissioners to solemnize marriages and to hear cases involving traffic infractions and other civil infractions.

The oaths of office of municipal court judges and commissioners are to be filed with the county auditor.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Office of Program Research