

GOVERNMENT CODE

CHAPTER 54. MASTERS; MAGISTRATES; REFEREES; ASSOCIATE JUDGES  
SUBCHAPTER BB. MAGISTRATES IN NOLAN COUNTY

Subchapter BB, Magistrates in Nolan County, consisting of Secs. 54.1701 to 54.1705, was added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005.

For another Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356, added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005, and Subchapter BB, Criminal Law Hearing Officers in Cameron County, consisting of Secs. 54.1351 to 54.1361, added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005, see Secs. 54.1351 to 54.1356 and Secs. 54.1351 to 54.1361 ante.

Sec. 54.1701. AUTHORIZATION; APPOINTMENT; ELIMINATION. (a) The Commissioners Court of Nolan County may authorize the judge of the district court to appoint one or more part-time or full-time magistrates to perform the duties authorized by this subchapter in Nolan County.

(b) The judge may appoint magistrates as authorized by the Commissioners Court of Nolan County.

(c) A magistrate serves at the will of the judge.

(d) An authorized magistrate's position may be eliminated on a majority vote of the Commissioners Court of Nolan County.

Added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005.

Subchapter BB, Magistrates in Nolan County, consisting of Secs. 54.1701 to 54.1705, was added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005.

For another Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356, added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005, and Subchapter BB, Criminal Law Hearing Officers in Cameron County, consisting of Secs. 54.1351 to 54.1361, added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005, see Secs. 54.1351 to 54.1356 and Secs. 54.1351 to 54.1361 ante.

Sec. 54.1702. QUALIFICATIONS. To be eligible for appointment as a magistrate, a person must:

(1) be a citizen of the United States;

(2) have resided in Nolan County for at least the two years preceding the person's appointment; and

(3) have been licensed to practice law in this state for at least four years preceding the date of appointment.

Added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005.

Subchapter BB, Magistrates in Nolan County, consisting of Secs. 54.1701 to 54.1705, was added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005.

For another Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356, added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005, and Subchapter BB, Criminal Law Hearing Officers in Cameron County, consisting of Secs. 54.1351 to 54.1361, added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005, see Secs. 54.1351 to 54.1356 and Secs. 54.1351 to 54.1361 ante.

Sec. 54.1703. COMPENSATION. A magistrate is entitled to the salary determined by the Commissioners Court of Nolan County. The magistrate's salary is paid from the county fund available for payment of officers' salaries.

Added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005.

Subchapter BB, Magistrates in Nolan County, consisting of Secs. 54.1701 to 54.1705, was added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005.

For another Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356, added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005, and Subchapter BB, Criminal Law Hearing Officers in Cameron County, consisting of Secs. 54.1351 to 54.1361, added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005, see Secs. 54.1351 to 54.1356 and Secs. 54.1351 to 54.1361 ante.

Sec. 54.1704. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005.

Subchapter BB, Magistrates in Nolan County, consisting of Sections 54.1701 to 54.1705, was added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005.

For another Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356, added by Acts 2005, 79th

Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005, and Subchapter BB, Criminal Law Hearing Officers in Cameron County, consisting of Secs. 54.1351 to 54.1361, added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005, see Secs. 54.1351 to 54.1356 and Secs. 54.1351 to 54.1361 ante.

Sec. 54.1705. JURISDICTION; RESPONSIBILITY; POWERS. (a) To the extent authorized by this subchapter, a magistrate has jurisdiction to exercise the authority granted by the judge of the district court.

(b) A magistrate has all of the powers of a magistrate under the laws of this state and may administer an oath for any purpose.

(c) A magistrate shall give preference to performing the duties of a magistrate under Article 15.17, Code of Criminal Procedure.

(d) A magistrate is authorized to:

(1) set, adjust, and revoke bonds before the filing of an information or the return of an indictment;

(2) conduct examining trials;

(3) determine whether a defendant is indigent and appoint counsel for an indigent defendant;

(4) issue search and arrest warrants; and

(5) conduct juvenile detention hearings as authorized by Section 51.04(f), Family Code.

(e) A magistrate may:

(1) issue notices of the setting of a case for a hearing;

(2) conduct hearings;

(3) compel production of evidence;

(4) hear evidence;

(5) issue summons for the appearance of witnesses;

(6) swear witnesses for hearings;

(7) regulate proceedings in a hearing; and

(8) perform any act and take any measure necessary and proper for the efficient performance of the duties required by the magistrate's jurisdiction and authority.

Added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005.

#### SUBCHAPTER C. CRIMINAL LAW MASTERS IN JEFFERSON COUNTY

Sec. 54.201. APPLICATION. This subchapter applies to the district courts and to the county courts at law that give preference to criminal cases in Jefferson County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.202. APPOINTMENT AND COMPENSATION. (a) The judge of a court subject to this subchapter may appoint one or more masters to perform the duties authorized by this subchapter.

(b) To qualify for appointment as a master, a person must be licensed to practice law in Texas.

(c) Appointment as a master is not valid unless the appointee agrees to serve as a master.

(d) A person appointed to serve as master is entitled to be paid an amount set by the court that may not exceed the amount paid for indigent trial representation pursuant to Article 26.05, Code of Criminal Procedure. The commissioners court shall pay the salary from funds appropriated by the commissioners court for indigent criminal representation.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 468, Sec. 2, eff. June 9, 1993.

Sec. 54.203. REFERRAL OF CASE. (a) To refer a case to a master, the judge must issue a written order of referral that specifies the master's duties in the case.

(b) A judge may refer to a master any proceeding in a criminal case relating to:

(1) a negotiated plea of guilty or nolo contendere;

(2) a bond forfeiture;

(3) a pretrial motion;

(4) a postconviction writ of habeas corpus;

(5) an examining trial; or

(6) any other matter that the judge considers proper.

(c) A judge may not refer to a master any case for trial on the merits.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.204. POWERS. A master to whom a case is referred may:

(1) conduct hearings;

(2) hear evidence;

(3) compel production of relevant evidence;

- (4) rule on the admissibility of evidence;
- (5) issue summons for the appearance of witnesses;
- (6) examine witnesses;
- (7) swear witnesses for hearings;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) rule on pretrial motions;
- (11) recommend a ruling, order, or judgment to be made

in a case;

- (12) regulate any proceeding in a hearing; and
- (13) take any action necessary and proper for the

efficient performance of duties required by the order of referral.  
Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.205. PAPERS TRANSMITTED TO JUDGE. At the conclusion of a proceeding, the master shall transmit to the referring court any papers relating to the case, including the master's findings, conclusions, orders, and recommendations, and a statement as to any other actions taken.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.206. JUDICIAL ACTION. (a) The referring court may modify, correct, reject, reverse, or recommit for further proceedings any action taken by a master.

(b) If the referring court does not take any action, the actions of the master are adopted by the referring court and become the decree in the case.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.207. RESTRICTION ON PRACTICE OF LAW. A person appointed as a master under this subchapter may not practice law before the court for which the person served as master for two years after the date the master's services end.

Added by Acts 1993, 73rd Leg., ch. 468, Sec. 3, eff. June 9, 1993.

#### SUBCHAPTER D. CRIMINAL LAW MAGISTRATES IN DALLAS COUNTY

Sec. 54.301. APPOINTMENT. (a) Each judge of a district court of Dallas County that gives preference to criminal cases, each judge of a criminal district court of Dallas County, and each judge of a county criminal court of Dallas County, with the consent and approval of the Commissioners Court of Dallas County, may appoint a magistrate to perform the duties authorized by this subchapter.

(b) Judges may authorize one or more magistrates to share service with more than one court.

(c) If a magistrate serves more than one court, the magistrate's appointment must be made with the unanimous approval of all the judges under whom the magistrate serves.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 215, Sec. 1, eff. May 23, 1997.

Sec. 54.302. QUALIFICATIONS. To be eligible for appointment as a magistrate, a person must:

(1) be a resident of this state; and

(2) have been licensed to practice law in this state for at least four years.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.303. COMPENSATION. (a) A magistrate is entitled to the salary determined by the Commissioners Court of Dallas County.

(b) The salary may not be less than the salary authorized to be paid to a master for family law cases appointed under Subchapter A.

(c) The magistrate's salary is paid from the county fund available for payment of officers' salaries.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.304. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.305. TERMINATION OF SERVICES. (a) A magistrate who serves a single court serves at the will of the judge.

(b) The services of a magistrate who serves more than one court may be terminated by a majority vote of all the judges whom the magistrate serves.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.306. PROCEEDING THAT MAY BE REFERRED. (a) A judge may refer to a magistrate any matter arising out of a criminal case involving:

(1) a negotiated plea of guilty or nolo contendere before the court;

(2) a bond forfeiture;

(3) a pretrial motion;  
(4) a postconviction writ of habeas corpus;  
(5) an examining trial;  
(6) an occupational driver's license;  
(7) an appeal of an administrative driver's license revocation hearing; and  
(8) any other matter the judge considers necessary and proper.

(b) The magistrate may not preside over a trial on the merits, whether or not the trial is before a jury. Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 215, Sec. 2, eff. May 23, 1997; Acts 1999, 76th Leg., ch. 811, Sec. 1, eff. Sept. 1, 1999.

Sec. 54.307. ORDER OF REFERRAL. (a) To refer one or more cases to a magistrate, a judge must issue an order of referral specifying the magistrate's duties.

(b) An order of referral may:  
(1) limit the powers of the magistrate and direct the magistrate to report only on specific issues, do particular acts, or receive and report on evidence only;  
(2) set the time and place for the hearing;  
(3) prescribe a closing date for the hearing;  
(4) provide a date for filing the magistrate's findings;  
(5) designate proceedings for more than one case over which the magistrate shall preside;  
(6) direct the magistrate to call the court's docket; and

(7) set forth general powers and limitations of authority of the magistrate applicable to any case referred. Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.308. POWERS. (a) Except as limited by an order of referral, a magistrate to whom a case is referred may:

(1) conduct hearings;  
(2) hear evidence;  
(3) compel production of relevant evidence;  
(4) rule on admissibility of evidence;  
(5) issue summons for the appearance of witnesses;  
(6) examine witnesses;  
(7) swear witnesses for hearings;  
(8) make findings of fact on evidence;  
(9) formulate conclusions of law;  
(10) rule on a pretrial motion;  
(11) recommend the rulings, orders, or judgment to be made in a case;  
(12) regulate proceedings in a hearing; and  
(13) do any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

(b) A magistrate may not enter a ruling on any issue of law or fact if that ruling could result in dismissal or require dismissal of a pending criminal prosecution, but the magistrate may make findings, conclusions, and recommendations on those issues.

(c) Except as limited by an order of referral, a magistrate who is appointed by a district court judge and to whom a case is referred may accept a plea of guilty or nolo contendere in a misdemeanor case for a county criminal court. The magistrate shall forward any fee or fine collected for the misdemeanor offense to the county clerk.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 522, Sec. 1, eff. June 17, 1987; Acts 1997, 75th Leg., ch. 215, Sec. 3, eff. May 23, 1997.

Sec. 54.309. COURT REPORTER. At the request of a party in a felony case, the court shall provide a court reporter to record the proceedings before the magistrate.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 215, Sec. 4, eff. May 23, 1997.

Sec. 54.310. WITNESS. (a) A witness who appears before a magistrate and is sworn is subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.311. PAPERS TRANSMITTED TO JUDGE. At the conclusion of the proceedings, a magistrate shall transmit to the referring court any papers relating to the case, including the magistrate's findings, conclusions, orders, recommendations, or other action taken.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.312. JUDICIAL ACTION. (a) A referring court may modify, correct, reject, reverse, or recommit for further information any action taken by the magistrate.

(b) If the court does not modify, correct, reject, reverse, or recommit an action of the magistrate, the action becomes the decree of the court.

(c) At the conclusion of each term during which the services of a magistrate are used, the referring court shall enter a decree on the minutes adopting the actions of the magistrate of which the court approves.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.313. COSTS OF MAGISTRATE. The court shall determine if the nonprevailing party is able to defray the costs of the magistrate. If the court determines that the nonprevailing party is able to pay those costs, the court shall tax the magistrate's fees as costs against the nonprevailing party.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

#### SUBCHAPTER E. JUVENILE COURT REFEREES IN WICHITA COUNTY

Sec. 54.401. APPOINTMENT. Each judge of a district court or each court designated a juvenile court of Wichita County may appoint a referee in a civil case as provided by this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.402. QUALIFICATIONS. A referee must be:

- (1) a citizen of this state; and
- (2) licensed to practice law in this state.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.403. COMPENSATION. (a) Any compensation given to a referee shall be found and taxed in the manner provided by law for taxing other costs in a civil case.

(b) The judge shall determine if the parties to the litigation are able to defray the costs of the referee's compensation and shall tax the compensation against the parties if the judge determines that they are able to pay those costs. If the costs of the referee's compensation are not taxed against the parties, the commissioners court shall determine the compensation and pay it out of the county jury fund.

(c) Costs may not be taxed against the county if any party to the litigation owns real property in this state or is otherwise able to defray the costs.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.404. CASES THAT MAY BE REFERRED BY DISTRICT COURT. A judge of a district court may refer to a referee any civil case involving a motion:

- (1) of contempt for failure or refusal:

(A) to pay child support, temporary support, or separate maintenance; or

(B) to comply with a court order concerning visitation with children growing out of a separate maintenance or divorce action;

- (2) for a change in child custody;
- (3) for revision of child support payments; or
- (4) for revision of visitation privileges.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.405. CASES THAT MAY BE REFERRED BY JUVENILE COURT. A judge of a court designated a juvenile court may refer to a referee any civil case involving:

(1) a child alleged to be dependent, neglected, or delinquent; or

(2) any other matter over which the juvenile court has exclusive jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.406. ORDER OF REFERRAL. An order referring a case to a referee may:

(1) specify or limit the powers of the referee and direct the referee to report only on particular issues, do particular acts, or receive and report on evidence only;

(2) set the time and place for beginning and closing a hearing; and

- (3) set a date for filing a report.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.407. POWERS. Except as limited or specified by an order referring a case, a referee may:

- (1) hear evidence;
- (2) make findings of fact on evidence;
- (3) formulate conclusions of law;
- (4) recommend judgment to be entered in a case;
- (5) require production of evidence on any matter embraced by the order;
- (6) rule on admissibility of evidence;
- (7) issue summons for the appearance of witnesses;
- (8) swear witnesses for hearings;
- (9) examine witnesses;
- (10) regulate any proceeding in a hearing before the referee; and
- (11) do any act and take any measure necessary and proper for the efficient performance of the referee's duties under the order.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.408. NOTICE OF HEARING. Before a referee holds a hearing, each party shall be given notice of the time and place of the hearing as provided by law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.409. WITNESS. (a) A witness who appears before a referee and is sworn is subject to the penalties for perjury provided by law.

(b) The referring court may issue attachment against and may fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.410. PAPERS TRANSMITTED TO JUDGE. At the conclusion of a hearing, a referee shall transmit to the referring judge any papers relating to the case, including the referee's findings and a statement that notice of the findings and of the right to a hearing before the judge has been given to any principal and to the parent, guardian, or custodian of any principal who is a minor.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.411. JUDICIAL ACTION ON REFEREE'S REPORT. (a) A referring court may adopt, modify, correct, reject, reverse, or recommit for further information a referee's report.

(b) If the referee recommends a judgment, the court may approve the recommendation and hear further evidence before rendering a judgment.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.412. HEARING BEFORE JUDGE. (a) After receiving notice of the referee's findings, any principal, minor, or the parent, guardian, or custodian of a minor is entitled to a hearing before the judge of the referring court.

(b) Notice of the right to a hearing before the judge may be given at the hearing before the referee or otherwise as the referring court directs.

(c) A request for a hearing must be filed with the referring court not later than the third day after the date notice of the referee's findings is received by the principal, minor, parent, guardian, or custodian.

(d) The court may allow the hearing at any time.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.413. DECREE OF COURT. If a hearing before a judge is not requested, or the right to a hearing is waived, the findings and recommendations of the referee become the decree of the court when adopted by an order of the judge.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.414. JURY TRIAL DEMANDED. If a jury trial is demanded in a proceeding, the referee shall refer the case back to the referring court for a full hearing before the court and jury. The hearing is subject to the usual rules of the court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

#### SUBCHAPTER F. ASSOCIATE JUDGES IN DALLAS COUNTY

Sec. 54.501. APPLICATION OF SUBCHAPTER. This subchapter applies to the judges of the:

- (1) 14th, 44th, 68th, 95th, 101st, 116th, 134th, 160th, 162nd, 191st, 192nd, 193rd, and 298th district courts; and
- (2) any district courts in Dallas County that are required by law to give preference to civil cases.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.76(a), eff. Sept. 1, 1987.

Sec. 54.502. APPOINTMENT OF ASSOCIATE JUDGES. (a) The judges may by majority vote appoint one or more full-time associate judges for any civil matters.

(b) Each appointment is subject to the approval of the commissioners court.

(c) An associate judge's services may be terminated by a majority vote of the judges.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.76(a), eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 318, Sec. 2, eff. Sept. 1, 2003.

Sec. 54.503. QUALIFICATIONS. An associate judge must:

(1) be a citizen of this state;

(2) be at least 25 years of age; and

(3) have practiced law in this state for at least four years preceding the date of appointment and maintain a license to practice law in this state during the term of appointment.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.76(a), eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 318, Sec. 3, eff. Sept. 1, 2003.

Sec. 54.504. COMPENSATION. An associate judge is entitled to the compensation set by the commissioners court. The compensation shall be paid from the general fund of the county.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.76(a), eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 318, Sec. 4, eff. Sept. 1, 2003.

Sec. 54.505. JUDICIAL IMMUNITY. An associate judge has the same judicial immunity as a district judge.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.76(a), eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 318, Sec. 5, eff. Sept. 1, 2003.

Sec. 54.506. MATTERS THAT MAY BE REFERRED. A judge may refer any civil case or portion of a civil case to an associate judge for resolution.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.76(a), eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 318, Sec. 6, eff. Sept. 1, 2003.

Sec. 54.5061. TRIAL ON THE MERITS. An associate judge may conduct a trial on the merits on the agreement of all parties and the consent of the referring court.

Added by Acts 2003, 78th Leg., ch. 318, Sec. 7, eff. Sept. 1, 2003.

Sec. 54.507. METHODS OF REFERRAL. A case may be referred to an associate judge by an order of referral in a specific case or by an omnibus order.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.76(a), eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 318, Sec. 8, eff. Sept. 1, 2003.

Sec. 54.508. POWERS. Except as limited by an order of referral, the associate judge may:

(1) conduct hearings;

(2) hear evidence;

(3) compel production of relevant evidence, including books, papers, vouchers, documents, and other writings;

(4) rule on admissibility of evidence;

(5) issue summons for the appearance of witnesses;

(6) examine witnesses;

(7) swear witnesses for hearings;

(8) regulate proceedings in a hearing; and

(9) do any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.76(a), eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 318, Sec. 9, eff. Sept. 1, 2003.

Sec. 54.509. RECORD OF EVIDENCE. (a) A court reporter may be provided during a hearing held by an associate judge appointed under this subchapter. A court reporter is required to be provided when the associate judge presides over a jury trial.

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

(c) The record may be preserved in the absence of a court reporter by any other means approved by the associate judge.

(d) The referring court or associate judge may assess the

expense of preserving the record under Subsection (c) as costs.

(e) On appeal of the associate judge's report or proposed order, the referring court may consider testimony or other evidence in the record if the record is taken by a court reporter.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.76(a), eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 318, Sec. 10, eff. Sept. 1, 2003.

Sec. 54.510. NOTICE OF DECISION; APPEAL. (a) After hearing a matter, an associate judge shall notify each attorney participating in the hearing of the associate judge's decision. An associate judge's decision has the same force and effect as an order of the referring court unless a party appeals the decision as provided by Subsection (b).

(b) To appeal an associate judge's decision, other than the issuance of a temporary restraining order or temporary injunction, a party must file an appeal in the referring court not later than the third day after the date the party receives notice of the decision under Subsection (a).

(c) A temporary restraining order issued by an associate judge is effective immediately and expires on the 15th day after the date of issuance unless, after a hearing, the order is modified or extended by the associate judge or a district judge.

(d) A temporary injunction issued by an associate judge is effective immediately and continues during the pendency of a trial unless, after a hearing, the order is modified by a district judge.

(e) A matter appealed to the referring court shall be tried de novo and shall be limited to only those matters specified in the appeal. Except on leave of court, a party may not submit on appeal any additional evidence or pleadings.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.76(a), eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 318, Sec. 11, eff. Sept. 1, 2003.

#### SUBCHAPTER G. STATUTORY PROBATE COURT ASSOCIATE JUDGES

Sec. 54.601. DEFINITION. In this subchapter, "statutory probate court" has the meaning assigned by Section 3, Texas Probate Code.

Added by Acts 1999, 76th Leg., ch. 1503, Sec. 1, eff. Sept. 1, 1999.

Sec. 54.602. APPLICATION. This subchapter does not apply to the statutory probate courts of:

(1) Dallas County; or

(2) Harris County, except Probate Courts Nos. 1 and 3.

Added by Acts 1999, 76th Leg., ch. 1503, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2003, 78th Leg., ch. 1066, Sec. 3, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 1176, Sec. 1, eff. Sept. 1, 2005.

Sec. 54.603. APPOINTMENT. (a) After obtaining the approval of the commissioners court, the judge of a statutory probate court by order may appoint a person to act as associate judge for the statutory probate court.

(b) The commissioners court may authorize the appointment of an associate judge for each court or may authorize one or more associate judges to share service with two or more courts, if more than one statutory probate court exists in a county.

(c) If an associate judge serves more than one court, the associate judge's appointment must be made with the unanimous approval of all the judges under whom the associate judge serves.

(d) An associate judge must meet the qualifications to serve as a judge of the court to which the associate judge is appointed.

(e) An associate judge appointed under this subchapter may serve as a master appointed under Section 574.0085, Health and Safety Code.

Added by Acts 1999, 76th Leg., ch. 1503, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2003, 78th Leg., ch. 1066, Sec. 3, eff. Sept. 1, 2003.

Sec. 54.604. TERMINATION OF ASSOCIATE JUDGE. (a) An associate judge who serves a single court serves at the will of the judge of that court.

(b) The employment of an associate judge who serves more than two courts may only be terminated by a majority vote of all the judges of the courts that the associate judge serves.

(c) The employment of an associate judge who serves two courts may be terminated by either of the judges of the courts that the associate judge serves.

(d) The appointment of the associate judge terminates if:

(1) the appointing judge vacates the judge's office;

(2) the associate judge becomes a candidate for



election to public office; or

(3) the commissioners court does not appropriate funds in the county's budget to pay the salary of the associate judge.

Added by Acts 1999, 76th Leg., ch. 1503, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1066, Sec. 3, eff. Sept. 1, 2003.

Sec. 54.605. COMPENSATION. (a) An associate judge is entitled to the compensation set by the appointing judge and approved by the commissioners court. The salary of the associate judge may not exceed the salary of the appointing judge.

(b) The compensation of the associate judge shall be paid by the county from the county general fund in the same manner that the appointing judge's salary is paid.

Added by Acts 1999, 76th Leg., ch. 1503, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1066, Sec. 3, eff. Sept. 1, 2003.

Sec. 54.606. OATH. An associate judge must take the constitutional oath of office required of appointed officers of this state.

Added by Acts 1999, 76th Leg., ch. 1503, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1066, Sec. 3, eff. Sept. 1, 2003.

Sec. 54.607. MAGISTRATE. An associate judge appointed under this subchapter is a magistrate.

Added by Acts 1999, 76th Leg., ch. 1503, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1066, Sec. 3, eff. Sept. 1, 2003.

Sec. 54.608. CASES THAT MAY BE REFERRED. (a) Except as provided by this section, a judge of a court may refer to an associate judge any aspect of a suit over which the probate court has jurisdiction, including any matter ancillary to the suit.

(b) Unless a party files a written objection to the associate judge hearing a trial on the merits, the judge may refer the trial to the associate judge. A trial on the merits is any final adjudication from which an appeal may be taken to a court of appeals.

(c) A party must file an objection to an associate judge hearing a trial on the merits or presiding at a jury trial not later than the 10th day after the date the party receives notice that the associate judge will hear the trial. If an objection is filed, the referring court shall hear the trial on the merits or preside at a jury trial.

Added by Acts 1999, 76th Leg., ch. 1503, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1066, Sec. 3, eff. Sept. 1, 2003.

Sec. 54.609. ORDER OF REFERRAL. (a) In referring a case to an associate judge, the judge of the referring court shall render:

(1) an individual order of referral; or

(2) a general order of referral specifying the class and type of cases to be heard by the associate judge.

(b) The order of referral may limit the power or duties of an associate judge.

Added by Acts 1999, 76th Leg., ch. 1503, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1066, Sec. 3, eff. Sept. 1, 2003.

Sec. 54.610. POWERS OF ASSOCIATE JUDGE. Except as limited by an order of referral, an associate judge may:

(1) conduct a hearing;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on the admissibility of evidence;

(5) issue a summons for the appearance of witnesses;

(6) examine a witness;

(7) swear a witness for a hearing;

(8) make findings of fact on evidence;

(9) formulate conclusions of law;

(10) recommend an order to be rendered in a case;

(11) regulate all proceedings in a hearing before the associate judge; and

(12) take action as necessary and proper for the efficient performance of the associate judge's duties.

Added by Acts 1999, 76th Leg., ch. 1503, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1066, Sec. 3, eff. Sept. 1, 2003.

Sec. 54.611. ATTENDANCE OF BAILIFF. A bailiff shall attend

a hearing conducted by an associate judge if directed to attend by the referring court.

Added by Acts 1999, 76th Leg., ch. 1503, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1066, Sec. 3, eff. Sept. 1, 2003.

Sec. 54.612. COURT REPORTER. (a) A court reporter is not required during a hearing held by an associate judge appointed under this subchapter unless required by other law.

(b) A party, the associate judge, or the referring court may provide for a reporter during the hearing.

(c) The record of a hearing before an associate judge may be preserved by any means approved by the referring court.

(d) The referring court or associate judge may impose on a party the expense of preserving the record as a court cost.

Added by Acts 1999, 76th Leg., ch. 1503, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1066, Sec. 3, eff. Sept. 1, 2003.

Sec. 54.613. WITNESS. (a) A witness appearing before an associate judge is subject to the penalties for perjury provided by law.

(b) A referring court may fine or imprison a witness who:

(1) fails to appear before an associate judge after being summoned; or

(2) improperly refuses to answer a question if the refusal has been certified to the court by the associate judge.

Added by Acts 1999, 76th Leg., ch. 1503, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1066, Sec. 3, eff. Sept. 1, 2003.

Sec. 54.614. REPORT. (a) The associate judge's report may contain the associate judge's findings, conclusions, or recommendations. The associate judge shall prepare a written report in the form directed by the referring court. The form may be a notation on the referring court's docket sheet.

(b) After a hearing, the associate judge shall provide the parties participating in the hearing notice of the substance of the associate judge's report.

(c) Notice may be given to the parties:

(1) in open court, by an oral statement or a copy of the associate judge's written report; or

(2) by certified mail, return receipt requested.

(d) The associate judge shall certify the date of mailing of notice by certified mail. Notice is considered given on the third day after the date of mailing.

(e) After a hearing conducted by an associate judge, the associate judge shall send the associate judge's signed and dated report and all other papers relating to the case to the referring court.

Added by Acts 1999, 76th Leg., ch. 1503, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1066, Sec. 3, eff. Sept. 1, 2003.

Sec. 54.615. NOTICE OF RIGHT TO APPEAL. (a) An associate judge shall give all parties notice of the right of appeal to the judge of the referring court.

(b) The notice may be given:

(1) by oral statement in open court;

(2) by posting inside or outside the courtroom of the referring court; or

(3) as otherwise directed by the referring court.

Added by Acts 1999, 76th Leg., ch. 1503, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1066, Sec. 4, eff. Sept. 1, 2003.

Sec. 54.616. ORDER OF COURT. (a) Pending appeal of the associate judge's report to the referring court, the decisions and recommendations of the associate judge's report have the force and effect, and are enforceable as, an order of the referring court, except for orders providing for incarceration or for the appointment of a receiver.

(b) If an appeal to the referring court is not filed or the right to an appeal to the referring court is waived, the findings and recommendations of the associate judge become the order of the referring court at the time the judge of the referring court signs an order conforming to the associate judge's report.

Added by Acts 1999, 76th Leg., ch. 1503, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1066, Sec. 5, eff. Sept. 1, 2003.

Sec. 54.617. JUDICIAL ACTION ON ASSOCIATE JUDGE'S REPORT. Unless a party files a written notice of appeal, the referring court may:

(1) adopt, modify, or reject the associate judge's report;

(2) hear further evidence; or

(3) recommit the matter to the associate judge for further proceedings.

Added by Acts 1999, 76th Leg., ch. 1503, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1066, Sec. 5, eff. Sept. 1, 2003.

Sec. 54.618. APPEAL TO REFERRING COURT. (a) A party may appeal an associate judge's report by filing notice of appeal not later than the third day after the date the party receives notice of the substance of the associate judge's report as provided by Section 54.614.

(b) An appeal to the referring court must be made in writing and specify the findings and conclusions of the associate judge to which the party objects. The appeal is limited to the findings and conclusions specified in the written appeal.

(c) The parties may present witnesses on appeal to the referring court as in a hearing de novo on the issues raised in the appeal.

(d) Notice of an appeal to the referring court must be given to the opposing attorney in the manner provided by Rule 21a, Texas Rules of Civil Procedure.

(e) If an appeal to the referring court is filed by a party, any other party may file an appeal to the referring court not later than the seventh day after the date of filing of the initial appeal.

(f) The referring court, after notice to the parties, shall hold a hearing on all appeals not later than the 30th day after the date on which the initial appeal was filed with the referring court, unless all of the parties agree to a later date.

(g) Before the start of a hearing conducted by an associate judge, the parties may waive the right of appeal to the referring court. The waiver may be in writing or on the record.

Added by Acts 1999, 76th Leg., ch. 1503, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1066, Sec. 6, eff. Sept. 1, 2003.

Sec. 54.619. APPELLATE REVIEW. (a) Failure to appeal to the referring court, by waiver or otherwise, the approval by the referring court of an associate judge's report does not deprive a party of the right to appeal to or request other relief from a court of appeals or the supreme court.

(b) The date the judge of a referring court signs an order or judgment is the controlling date for the purposes of appeal to or request for other relief from a court of appeals or the supreme court.

Added by Acts 1999, 76th Leg., ch. 1503, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1066, Sec. 7, eff. Sept. 1, 2003.

Sec. 54.620. IMMUNITY. An associate judge appointed under this subchapter has the judicial immunity of a probate judge. All existing immunity granted an associate judge by law, express or implied, continues in full force and effect.

Added by Acts 1999, 76th Leg., ch. 1503, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1066, Sec. 8, eff. Sept. 1, 2003.

#### SUBCHAPTER H. CRIMINAL LAW MAGISTRATES IN TARRANT COUNTY

Sec. 54.651. APPOINTMENT. (a) The judges of the district courts of Tarrant County that give preference to criminal cases, the judges of the criminal district courts of Tarrant County, and the judges of the county criminal courts of Tarrant County, with the consent and approval of the Commissioners Court of Tarrant County, shall jointly appoint the number of magistrates set by the commissioners court to perform the duties authorized by this subchapter.

(b) Each magistrate's appointment must be made with the approval of at least two-thirds of all the judges described in Subsection (a).

(c) If the number of magistrates is less than the number of judges described in Subsection (a), each magistrate shall serve equally in the courts of those judges.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987. Amended by Acts 1997, 75th Leg., ch. 1147, Sec. 1, eff. Sept. 1,

1997; Acts 2003, 78th Leg., ch. 910, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.652. QUALIFICATIONS. To be eligible for appointment as a magistrate, a person must:

- (1) be a resident of this state; and
- (2) have been licensed to practice law in this state for at least four years.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.653. COMPENSATION. (a) A magistrate is entitled to the salary determined by the Commissioners Court of Tarrant County.

(b) The salary may not be less than the salary authorized to be paid to a master for family law cases appointed under Subchapter A.

(c) The magistrate's salary is paid from the county fund available for payment of officers' salaries.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.654. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.655. TERMINATION OF SERVICES. (a) A magistrate who serves a single court serves at the will of the judge.

(b) The services of a magistrate who serves more than one court may be terminated by a majority vote of all the judges whom the magistrate serves.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.656. PROCEEDING THAT MAY BE REFERRED. (a) A judge may refer to a magistrate any criminal case for proceedings involving:

- (1) a negotiated plea of guilty before the court;
- (2) a bond forfeiture;
- (3) a pretrial motion;
- (4) a postconviction writ of habeas corpus;
- (5) an examining trial;
- (6) an occupational driver's license; and
- (7) any other matter the judge considers necessary and proper.

(b) A magistrate may accept a plea of guilty from a defendant charged with misdemeanor, felony, or both misdemeanor and felony offenses.

(c) A magistrate may select a jury. A magistrate may not preside over a trial on the merits, whether or not the trial is before a jury.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987.

Amended by Acts 1997, 75th Leg., ch. 1147, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 910, Sec. 2, eff. Sept. 1, 2003.

Sec. 54.657. ORDER OF REFERRAL. (a) To refer one or more cases to a magistrate, a judge must issue an order of referral specifying the magistrate's duties.

- (b) An order of referral may:
- (1) limit the powers of the magistrate and direct the magistrate to report only on specific issues, do particular acts, or receive and report on evidence only;
  - (2) set the time and place for the hearing;
  - (3) prescribe a closing date for the hearing;
  - (4) provide a date for filing the magistrate's findings;
  - (5) designate proceedings for more than one case over which the magistrate shall preside;
  - (6) direct the magistrate to call the court's docket; and

(7) set forth general powers and limitations of authority of the magistrate applicable to any case referred.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.658. POWERS. (a) Except as limited by an order of referral, a magistrate to whom a case is referred may:

- (1) conduct hearings;
- (2) hear evidence;
- (3) compel production of relevant evidence;
- (4) rule on admissibility of evidence;
- (5) issue summons for the appearance of witnesses;
- (6) examine witnesses;
- (7) swear witnesses for hearings;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) rule on a pretrial motion;
- (11) recommend the rulings, orders, or judgment to be

made in a case;

- (12) regulate proceedings in a hearing;
- (13) accept a plea of guilty from a defendant charged with misdemeanor, felony, or both misdemeanor and felony offenses;
- (14) select a jury; and
- (15) do any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

(b) A magistrate may not enter a ruling on any issue of law or fact if that ruling could result in dismissal or require dismissal of a pending criminal prosecution, but the magistrate may make findings, conclusions, and recommendations on those issues. Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987. Amended by Acts 2003, 78th Leg., ch. 910, Sec. 3, eff. Sept. 1, 2003.

Sec. 54.659. COURT REPORTER. At the request of a party in a felony case, the court shall provide a court reporter to record the proceedings before the magistrate.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987. Amended by Acts 1997, 75th Leg., ch. 1147, Sec. 3, eff. Sept. 1, 1997.

Sec. 54.660. WITNESS. (a) A witness who appears before a magistrate and is sworn is subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the court.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.661. PAPERS TRANSMITTED TO JUDGE. At the conclusion of the proceedings, a magistrate shall transmit to the referring court any papers relating to the case, including the magistrate's findings, conclusions, orders, recommendations, or other action taken.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.662. JUDICIAL ACTION. (a) A referring court may modify, correct, reject, reverse, or recommit for further information any action taken by the magistrate.

(b) If the court does not modify, correct, reject, reverse, or recommit an action of the magistrate, the action becomes the decree of the court.

(c) At the conclusion of each term during which the services of a magistrate are used, the referring court shall enter a decree on the minutes adopting the actions of the magistrate of which the court approves.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.663. COSTS OF MAGISTRATE. The court shall determine if the nonprevailing party is able to defray the costs of the magistrate. If the court determines that the nonprevailing party is able to pay those costs, the court shall tax the magistrate's fees as costs against the nonprevailing party.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987.

#### SUBCHAPTER I. JUVENILE LAW MASTERS IN HARRIS COUNTY

Sec. 54.681. APPOINTMENT. (a) A majority of the judges of the courts that are designated as juvenile courts in Harris County may determine that one or more full-time or part-time masters are needed to serve those courts.

(b) The judges shall issue an order reflecting that determination and specifying the number of masters needed.

(c) Subject to the determination of need and the approval of the commissioners court of Harris County, each judge may appoint one or more masters to serve the judge's court.

(d) Judges may act together to appoint a master to serve their courts.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.03, eff. Aug. 31, 1987. Renumbered from V.T.C.A., Government Code Sec. 54.501 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(24), eff. Aug. 28, 1989.

Sec. 54.682. QUALIFICATIONS. A master must:

- (1) be a citizen and resident of this state; and
- (2) have been licensed to practice law in this state for at least four years.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.03, eff. Aug. 31, 1987. Renumbered from V.T.C.A., Government Code Sec. 54.502 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(24), eff. Aug. 28, 1989.

Sec. 54.683. ORDER OF APPOINTMENT. The order appointing a

master must be entered in the minutes of each court making the order and state:

(1) The master's name and state bar identification number;

(2) the name of each court the master will serve; and

(3) the date the master's service is to begin.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.03, eff. Aug. 31, 1987. Renumbered from V.T.C.A., Government Code Sec. 54.503 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(24), eff. Aug. 28, 1989.

Sec. 54.684. COMPENSATION. The commissioners court shall set the compensation for masters and determine the total amount the county will pay as compensation for masters.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.03, eff. Aug. 31, 1987. Renumbered from V.T.C.A., Government Code Sec. 54.504 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(24), eff. Aug. 28, 1989.

Sec. 54.685. JUDICIAL IMMUNITY. A master appointed under this Act has the same judicial immunity as a district judge.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.03, eff. Aug. 31, 1987. Renumbered from V.T.C.A., Government Code Sec. 54.505 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(24), eff. Aug. 28, 1989.

Sec. 54.686. TERMINATION OF EMPLOYMENT. (a) A master who serves a single court serves at the will of the judge of that court.

(b) The employment of a master who serves two courts may be terminated by either of the judges of those courts.

(c) The employment of a master who serves more than two courts may be terminated by a majority of the judges of those courts.

(d) To terminate a master's employment, the appropriate judges must sign a written order of termination. The order must state:

(1) the master's name and state bar identification number;

(2) each court ordering termination; and

(3) the date the master's employment ends.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.03, eff. Aug. 31, 1987. Renumbered from V.T.C.A., Government Code Sec. 54.506 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(24), eff. Aug. 28, 1989.

Sec. 54.687. WITHDRAWAL OF APPOINTMENT FOR A PARTICULAR COURT. The judge of a court for which a master has been appointed may withdraw the master's appointment to that court by written order. The order must state:

(1) the master's name and state bar identification number;

(2) the name of the court ordering the withdrawal; and

(3) the date the master's services end as to that court.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.03, eff. Aug. 31, 1987. Renumbered from V.T.C.A., Government Code Sec. 54.507 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(24), eff. Aug. 28, 1989.

Sec. 54.688. CASES THAT MAY BE REFERRED. A judge may refer to a master any civil case or portion of a civil case brought:

(1) under Title 1, 2, 3, 4, or 5, Family Code; or

(2) in connection with Rule 308a, Texas Rules of Civil

Procedure

Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.03, eff. Aug. 31, 1987. Renumbered from V.T.C.A., Government Code Sec. 54.508 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(24), eff. Aug. 28, 1989.

Amended by Acts 1997, 75th Leg., ch. 165, Sec. 7.34, eff. Sept. 1, 1997.

Sec. 54.689. METHOD OF REFERRAL. A case may be referred as prescribed by published local rules or by written orders.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.03, eff. Aug. 31, 1987. Renumbered from V.T.C.A., Sec. 54.509 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(24), eff. Aug. 28, 1989.

Sec. 54.690. POWERS. (a) An order of referral may limit the use or power of a master.

(b) Unless limited by published local rule, by written order, or by an order of referral, a master may perform all acts and take all measures necessary and proper to perform the tasks assigned in a referral.

(c) A master may administer oaths.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.03, eff. Aug. 31, 1987. Renumbered from V.T.C.A., Government Code Sec. 54.510 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(24), eff. Aug. 28, 1989.

Sec. 54.691. EFFECT ON TEMPORARY RESTRAINING ORDER. (a) The

referral of a case or a portion of a case to a master does not affect a party's right to have a court grant or extend a temporary restraining order and does not prevent the expiration of a temporary restraining order.

(b) Until a judge signs an order concerning the findings and recommendations of a master, the findings and recommendations do not affect an existing temporary restraining order or the expiration or extension of that order.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.03, eff. Aug. 31, 1987. Renumbered from V.T.C.A., Government Code Sec. 54.511 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(24), eff. Aug. 28, 1989.

Sec. 54.692. JURY. (a) Except as provided by Subsection (b), if a jury trial is demanded in a case referred to a master, the master shall refer the case back to the referring court for a full hearing according to the usual rules applicable to the case.

(b) A jury demand does not affect the authority of a master to handle pretrial matters referred to the master.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.03, eff. Aug. 31, 1987. Renumbered from V.T.C.A., Government Code Sec. 54.512 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(24), eff. Aug. 28, 1989.

Sec. 54.693. COURT REPORTER. (a) A court reporter need not be provided during a hearing conducted by a master.

(b) Notwithstanding Subsection (a), a referring judge may require a reporter at any hearing.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.03, eff. Aug. 31, 1987. Renumbered from V.T.C.A., Government Code Sec. 54.513 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(24), eff. Aug. 28, 1989.

Sec. 54.694. FAILURE TO COMPLY WITH SUMMONS OR ORDER. If an attorney, party, witness, or any other person fails to comply with a summons or order, the master may certify in writing that failure to the referring court for appropriate action.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.03, eff. Aug. 31, 1987. Renumbered from V.T.C.A., Government Code Sec. 54.514 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(24), eff. Aug. 28, 1989.

Sec. 54.695. WITNESSES. (a) A witness appearing before a master is subject to the penalties of perjury as provided by Chapter 37, Penal Code.

(b) A witness referred to the court under Section 54.514 is subject to the same penalties and orders that may be imposed on a witness appearing in a hearing before the court.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.03, eff. Aug. 31, 1987. Renumbered from V.T.C.A., Government Code Sec. 54.515, by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(24), eff. Aug. 28, 1989.

Sec. 54.696. RETURN TO REFERRING COURT; FINDINGS. After a hearing is concluded, the master shall send to the referring judge all papers relating to the case and the written findings of the master.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.03, eff. Aug. 31, 1987. Renumbered from V.T.C.A., Government Code Sec. 54.516 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(24), eff. Aug. 28, 1989.

Sec. 54.697. COURT ACTION ON REPORT. (a) After the court receives the master's report, the court may adopt, modify, correct, reject, or reverse the master's report or may recommit it for further information, as the court determines to be proper and necessary in each case.

(b) If a judgment has been recommended, the court may approve the recommendation and hear more evidence before making its judgment.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.03, eff. Aug. 31, 1987. Renumbered from V.T.C.A., Government Code Sec. 54.517 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(24), eff. Aug. 28, 1989.

Sec. 54.698. DECREE OR JUDGMENT. The finding and recommendations become the decree or judgment of the court when adopted and approved by an order of the judge.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.03, eff. Aug. 31, 1987. Renumbered from V.T.C.A., Government Code Sec. 54.518 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(24), eff. Aug. 28, 1989.

Sec. 54.699. MASTERS IN CHANCERY. This subchapter does not prohibit a court from appointing a master in chancery as provided by Rule 171, Texas Rules of Civil Procedure.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.03, eff. Aug. 31, 1987. Renumbered from V.T.C.A., Government Code Sec. 54.519 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(24), eff. Aug. 28, 1989.

Sec. 54.700. REFEREES. (a) A master appointed under this subchapter may serve as a referee as provided by Sections 51.04(g)

and 54.10, Family Code.

(b) A referee appointed under Section 51.04(g), Family Code, may be appointed to serve as a master under this Act. Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.03, eff. Aug. 31, 1987. Renumbered from V.T.C.A., Government Code Sec. 54.520 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(24), eff. Aug. 28, 1989.

SUBCHAPTER J. EL PASO CRIMINAL LAW MAGISTRATE COURT

Sec. 54.731. SHORT TITLE. This subchapter may be cited as the El Paso Criminal Law Magistrates Act. Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.732. CREATION. The El Paso Criminal Law Magistrate Court is a court having the jurisdiction provided by this subchapter over offenses allegedly committed in El Paso County except for that portion of the county in the corporate limits of Vinton, Texas. Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.733. JURISDICTION. (a) Except as provided by Subsection (b), the criminal law magistrate court has the criminal jurisdiction provided by the constitution and laws of this state for county courts.

(b) The criminal law magistrate court does not have jurisdiction to:

(1) hear a trial of a misdemeanor offense, other than a Class C misdemeanor, on the merits if a jury trial is demanded; or

(2) hear a trial of a misdemeanor, other than a Class C misdemeanor, on the merits if a defendant pleads not guilty.

(c) The criminal law magistrate court has the jurisdiction provided by the constitution and laws of this state for magistrates. A judge of the criminal law magistrate court is a magistrate as that term is defined by Section 2.09, Code of Criminal Procedure.

(d) Except as provided by Subsection (e), the criminal law magistrate court has the criminal jurisdiction provided by the constitution and laws of the state for a district court.

(e) The criminal law magistrate court does not have jurisdiction to:

(1) hear a trial of a felony offense on the merits if a jury trial is demanded;

(2) hear a trial of a felony offense on the merits if a defendant pleads not guilty;

(3) sentence in a felony case unless the judge in whose court the case is pending assigned the case to the criminal law magistrate court for a guilty plea and sentence; or

(4) hear any part of a capital murder case after indictment.

(f) A criminal law magistrate court may not issue writs of habeas corpus in felony cases but may hear and grant relief on a writ of habeas corpus that is issued by a district court and that is assigned by the district court to the criminal law magistrate court.

(g) A felony or misdemeanor indictment may not be filed in or transferred to the criminal law magistrate court.

(h) A felony or misdemeanor information may not be filed in or transferred to the criminal law magistrate court.

(i) A judge of the criminal law magistrate court shall exercise jurisdiction granted by this subchapter over felony and misdemeanor indictments and informations only as judge presiding for the court in which the indictment or information is pending and under the limitations set out in the assignment order by the assigning court or as provided by local administrative rules.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.734. TERM OF COURT. The criminal law magistrate court has two terms of court beginning on the first Mondays in January and July.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.735. POWERS AND DUTIES. The criminal law magistrate court or a judge of the criminal law magistrate court may issue writs of injunction and all other writs necessary for the enforcement of the jurisdiction of the court and may issue misdemeanor writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court or of any other



court of inferior jurisdiction in the county. The court and the judge may punish for contempt as provided by law for district courts. A judge of the criminal law magistrate court has all other powers, duties, immunities, and privileges provided by law for county court judges when acting in a misdemeanor case and for district court judges when acting in a felony case.  
Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.736. COUNCIL OF JUDGES. (a) The El Paso Council of Judges is composed of the judges of the district courts of El Paso County and the judges of the county courts at law of El Paso County.

(b) The council of judges shall ensure that the criminal law magistrate court gives preference to magistrate duties, as those duties apply to the county jail inmate population, until the commissioners court provides funds for more than one judge to sit on the criminal law magistrate court.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.737. ADMINISTRATIVE RULES. (a) The El Paso Council of Judges by majority vote shall include in the local rules of administration adopted as provided by Subchapter D, Chapter 74, rules for the administration of the criminal law magistrate court.

(b) The rules may provide for:

(1) assignment and hearing of all criminal cases subject to the jurisdictional limitations of the criminal law magistrate court;

(2) designation of a particular judge of the criminal law magistrate court to be responsible for certain matters;

(3) fair and equitable division of caseloads of criminal cases of the judges of the council of judges and the criminal law magistrate court;

(4) limitations on the assignment of cases to the criminal law magistrate court;

(5) limitations on the powers of a judge of the criminal law magistrate court in regard to the exercise of jurisdiction when presiding for an assigning court;

(6) setting hours, days, and places for holding court by a judge of the criminal law magistrate court; and

(7) any other matter necessary to carry out this subchapter or to improve the administration and management of the court system and its auxiliary services.

(c) The rules must provide that:

(1) a criminal law magistrate judge may not, on a regular basis, hold court or perform magistrate duties after 7 p.m. or before 7 a.m.; and

(2) a criminal law magistrate judge may only release a defendant under Article 17.031, Code of Criminal Procedure, under guidelines established by the council of judges.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.738. TRANSFER AND ASSIGNMENT OF CASES. (a) Except as provided by Subsection (b) or local administrative rules, the local administrative judge or a judge of the criminal law magistrate court may transfer between courts any unindicted felony case, Class A misdemeanor case, or Class B misdemeanor case if an information has not been filed and if the case is pending in the court of any magistrate in the criminal law magistrate court's jurisdiction.

(b) A case may not be transferred from or to the magistrate docket of a judge on the El Paso Council of Judges without the consent of the judge of the court to which it is transferred.

(c) Except as provided by Subsection (d) or local administrative rules, the local administrative judge may assign a judge on the council of judges, a judge of the criminal law magistrate court, or any other magistrate to act as presiding judge in any unindicted felony case, Class A misdemeanor case, or Class B misdemeanor case if an information has not been filed and if the case is pending in the court of any magistrate in the criminal law magistrate court's jurisdiction.

(d) A case may not be assigned to a judge on the council of judges without the assigned judge's consent.

(e) This section applies only to the district courts, county courts at law, justice courts, and municipal courts in the county.

(f) The local administrative judge may delegate or the local administrative rules may provide for the delegation of the power to

transfer or assign cases to any other judge on the council of judges.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.739. ORDER OF ASSIGNMENT. (a) Cases may be assigned by local administrative rules, by a blanket written order, or on a case-by-case basis. Each district court and county court at law may use any of the methods to assign cases to the criminal law magistrate court.

(b) The local administrative rules, a blanket order of assignment, or a specific order of assignment may limit the powers of a criminal law magistrate court or a judge of that court.

(c) Unless limited as provided by Subsection (b), the criminal law magistrate court and a judge of that court may perform all acts and take all measures necessary and proper to exercise the jurisdiction granted in this subchapter in relation to a case assigned under this subchapter.

(d) A case assigned under this subchapter to the criminal law magistrate court from a district court or a county court at law remains on the docket of the assigning court and in the assigning court's jurisdiction.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.740. EFFECT OF TRANSFER. When a case is transferred from one court to another as provided by this subchapter, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court. The obligees in all bonds and recognizances taken in a case that is transferred and all witnesses summoned to appear in a court from which a case is transferred are required to appear before the court to which the case is transferred as if the processes or obligations were originally issued by the court to which the transfer is made.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.741. FORFEITURES. Bail bonds and personal bonds may be forfeited by the criminal law magistrate court in the manner provided by Chapter 22, Code of Criminal Procedure, and those forfeitures shall be filed with the district clerk, except in cases in which the county clerk is the clerk under this subchapter.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.742. COSTS. (a) When the district clerk is the clerk under this subchapter, the district clerk shall charge the same court costs for cases filed, transferred to, or assigned to the criminal law magistrate court that are charged in the district courts.

(b) When the county clerk is the clerk under this subchapter, the county clerk shall charge the same court costs for cases filed in, transferred to, or assigned to the criminal law magistrate court that are charged in the county courts.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.743. OBJECTION TO JUDGE. (a) If after indictment, the defendant or the state files a timely objection to the assignment of a first-degree felony to the criminal law magistrate court, the judge is disqualified to hear the case.

(b) If after indictment the defendant or the state files a timely objection to a particular judge on the criminal law magistrate court hearing a first-degree felony assigned to that court, that judge is disqualified to hear the case.

(c) An objection under this section must be filed before the first hearing or trial, including pretrial hearings, in which the assigned judge is to preside.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.744. JUDGES ON EL PASO COUNCIL OF JUDGES. Unless the local rules of administration provide otherwise, the judges on the El Paso Council of Judges and the judges on the criminal law magistrate court may sit and act for any magistrate in El Paso County on any unindicted felony or Class A or B misdemeanor case if an information has not been filed.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.745. PRETRIAL DIVERSION. (a) As a condition for a

defendant to enter any pretrial diversion program or the functional equivalent that may be operated in El Paso County by the West Texas Regional Adult Probation Department or a county or district attorney of El Paso County, a defendant must file in the court in which the charges are pending a sworn waiver of speedy trial motion requesting the court to approve without a hearing defendant's waiver of his speedy trial rights under the constitution and other law. If the court approves the waiver, the defendant is eligible for consideration for acceptance into a pretrial diversion program or equivalent program.

(b) At the time the motion to waive speedy trial rights required by Subsection (a) is filed, the court clerk shall collect a \$100 filing fee unless the court for good cause waives the fee or any part of the fee under guidelines that may be set by the local administrative rules. The filing fee is nonrefundable.

(c) The fees collected by the court clerk under Subsection (b) shall be deposited in the general fund of the county treasury as provided by Chapter 113, Local Government Code.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.746. JURISDICTION OF JUDGES ON EL PASO COUNCIL OF JUDGES. (a) In addition to jurisdiction conferred by other law, each district court and county court at law in El Paso County has the same jurisdiction given to the criminal law magistrate court by this subchapter.

(b) A misdemeanor information may not be filed in a district court under the grant of jurisdiction in Subsection (a).

(c) A felony indictment or information may not be filed in a county court at law under the grant of jurisdiction in Subsection (a).

(d) A judge of a county court at law in El Paso County shall exercise jurisdiction granted by Subsection (a) over felony indictments and felony information only as a judge presiding for the court in which the felony is pending and only if the El Paso Council of Judges has so provided in the local administrative rules by a unanimous vote. The exercise of this jurisdiction outside El Paso County is as provided by Chapter 74 and other law.

(e) A judge of a district court in El Paso County shall exercise jurisdiction granted by Subsection (a) over misdemeanor information only as a judge presiding for the court in which the misdemeanor is pending and only if the council of judges has so provided in the local administrative rules by a unanimous vote. The exercise of this jurisdiction outside El Paso County is as provided by the Court Administration Act (Chapter 74) and other law.

(f) This subchapter does not grant jurisdiction over misdemeanors involving official misconduct to any court, and all those cases remain in the original jurisdiction of the district courts as provided by law.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.747. JUDGE. (a) The criminal law magistrate court is presided over by one or more judges appointed by a two-thirds vote of all the district court and county court at law judges. A criminal law magistrate court judge serves for a one-year term beginning on the date of appointment.

(b) To be eligible for appointment as a judge of the criminal law magistrate court, a person must meet all the requirements and qualifications to serve as a district court judge.

(c) If there is more than one criminal law magistrate court judge, the council of judges may appoint one of the judges to be the presiding criminal law magistrate court judge.

(d) The order appointing a judge of the criminal law magistrate court must be signed by two-thirds of the judges on the El Paso Council of Judges and shall be entered in the minutes of each district court and county court at law. The order must state the judge's name, state bar identification number, and the date the appointment takes effect.

(e) The council of judges may withdraw a judge's appointment to the criminal law magistrate court by a majority vote of all the judges on the council of judges. The order must be signed by the local administrative judge and shall be entered in the minutes of each district court and county court at law. The order must state the judge's name, state bar identification number, and the date the order of withdrawal takes effect.

(f) Any judge on the council of judges may withdraw that

judge's consent for a judge or judges of the criminal law magistrate court to act for that judge under this subchapter. The order withdrawing consent to act must state the name of the judge who may not act, the judge's state bar identification number, and the date the withdrawal of consent takes effect.

(g) A judge of the criminal law magistrate court is entitled to the salary determined by the commissioners court. The salary may not be less than the salary authorized to be paid to a family law master appointed for El Paso County.

(h) Except as provided for in Subsection (i), the council of judges may only appoint the number of judges for which the commissioners court by order provides compensation in the county budget.

(i) The council of judges may appoint any number of judges who agree to serve on the criminal law magistrate court as part-time or as full-time judges without compensation.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.748. OATH OF OFFICE. The judges of the criminal law magistrate court must take the constitutional oath of office prescribed for appointed officers.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.749. JUDICIAL IMMUNITY. The judges of the criminal law magistrate court and the judges of the county courts at law have the same judicial immunity as a district judge.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.750. EXCHANGE OF BENCHES. (a) The judges of the criminal law magistrate court may exchange benches and may sit and act for each other in any proceeding pending in the criminal law magistrate court.

(b) Except as provided by Subsection (c), the judges of the criminal law magistrate court may exchange benches and may sit and act for each other in any proceeding assigned to them under this subchapter if a felony or misdemeanor indictment has been filed or a felony or misdemeanor information has been filed.

(c) Any court that assigns an indicted case or a case in which an information has been filed under this subchapter to the criminal law magistrate court may provide in the assignment order or the local administrative rules may provide that only the judge who is named in the assignment order may act on the case and that another judge of the criminal law magistrate court may not exchange benches with or sit for the judge named in the assignment order or local administrative rules.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.751. SPECIAL JUDGE. (a) If a full-time compensated judge of the criminal law magistrate court is absent or is from any cause disabled or disqualified from presiding, a special judge may be appointed in the manner provided by this subchapter for the appointment of a judge of the criminal law magistrate court.

(b) A special judge shall take the oath of office that is required by law for the regular judge and has all the power and jurisdiction of the court and of the regular judge for whom he is sitting. A special judge may sign orders, judgments, decrees, or other process of any kind as "Judge Presiding" when acting for the regular judge.

(c) A special judge is entitled to receive for the services actually performed the same amount of compensation that the regular judge is entitled to receive for the services. The compensation shall be paid out of county funds. None of the amount paid to a special judge for sitting for the regular judge may be deducted or paid out of the salary of the regular judge.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.753. CLERK. (a) The district clerk serves as clerk of the criminal law magistrate court, except that after a misdemeanor information is filed in the county court at law and assigned to the criminal law magistrate court, the county clerk serves as clerk for that misdemeanor case.

(b) The district clerk shall establish a docket and keep the minutes for the cases filed in or transferred to the criminal law magistrate court. The district clerk shall perform any other duties that local administrative rules require in connection with

the implementation of this subchapter. The local administrative judge shall ensure that the duties required under this subsection are performed.

(c) The clerk of the case shall include as part of the record on appeal a copy of the order and local administrative rule under which a criminal law magistrate court acted.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.754. SHERIFF. (a) The county sheriff, either in person or by deputy, shall attend the criminal law magistrate court as required by a judge of that court.

(b) Unless the local administrative rules provide otherwise, the county sheriff, either in person or by deputy, shall attend court proceedings heard by El Paso family law masters as required by a family law master.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.755. COURT REPORTER. Each judge of the criminal law magistrate court shall appoint an official shorthand reporter to serve that judge. Those official shorthand reporters must be well skilled in their profession. Such a reporter is a sworn officer of the court who holds office at the pleasure of the court.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.756. FAMILY LAW MASTER. (a) An El Paso family law master may be appointed as a judge of the criminal law magistrate court and continue as a family law master.

(b) A family law master may not be appointed as a judge of the criminal law magistrate court unless the family law master agrees to the appointment.

(c) A family law master appointed to serve as a judge of the criminal law magistrate court is not entitled to receive additional compensation for serving as a judge of that court unless the commissioners court provides additional compensation.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.757. JUDGE OF CRIMINAL LAW MAGISTRATE COURT. (a) A judge of the criminal law magistrate court may be appointed as a family law master and continue as a judge of the criminal law magistrate court.

(b) A judge of the criminal law magistrate court may not be appointed as a family law master unless the judge agrees to the appointment.

(c) A judge of the criminal law magistrate court appointed to serve as a family law master is not entitled to receive additional compensation for serving as a family law master unless the commissioners court provides additional compensation.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.758. MAGISTRATES MAY BE APPOINTED. (a) Any magistrate in El Paso County may be appointed as a judge of the criminal law magistrate court or as a family law master, or both, and continue as a judge or justice of another court.

(b) A magistrate may not be appointed under Subsection (a) unless the magistrate agrees to the appointment.

(c) A magistrate appointed under Subsection (a) is not entitled to receive additional compensation unless the commissioners court provides additional compensation.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.759. LOCATION OF COURT. The criminal law magistrate court may be held at the location that is provided by the local administrative rules or ordered by the local administrative judge.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.760. COURT SEAL. The seal of the criminal law magistrate court shall be the same as that provided by law for county courts, except that the seal must contain the words "El Paso Criminal Law Magistrate Court." The seal shall be judicially noticed.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.761. INACTIVE COURT. (a) If in the opinion of a majority of the judges of the El Paso Council of Judges the criminal law magistrate court should not continue in active operation after

it is created, then by an order or orders signed by the local administrative judge all pending cases on the active docket of the criminal law magistrate court shall be transferred to the court or courts of other magistrates that have potential jurisdiction over the cases transferred.

(b) The local administrative judge shall select the courts to which the cases are transferred under Subsection (a).  
Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.762. JURISDICTION NOT DIMINISHED. This subchapter does not diminish the jurisdiction granted by the constitution and laws of this state to any court named in this subchapter.  
Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.763. TRANSFER UNDER CODE OF CRIMINAL PROCEDURE. This subchapter does not prevent a district court from transferring misdemeanor indictments to an inferior court as provided by Chapter 21, Code of Criminal Procedure, notwithstanding the grant of misdemeanor jurisdiction to the district courts by this subchapter.  
Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

#### SUBCHAPTER K. JUVENILE COURT MASTERS IN HARRIS COUNTY

Sec. 54.801. APPOINTMENT. (a) A majority of the judges of the courts that are designated as juvenile courts in Harris County may determine that one or more full-time or part-time masters are needed to serve those courts.

(b) The judges shall issue an order reflecting that determination and specifying the number of masters needed.

(c) Subject to the determination of need and the approval of the commissioners court of Harris County, each judge may appoint one or more masters to serve the judge's court.

(d) Judges may act together to appoint a master to serve their courts.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.802. QUALIFICATIONS. A master must:  
(1) be a citizen and resident of this state; and  
(2) have been licensed to practice law in this state for at least four years.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.803. ORDER OF APPOINTMENT. The order appointing a master must be entered in the minutes of each court making the order and state:

(1) the master's name and state bar identification number;

(2) the name of each court the master will serve; and

(3) the date the master's service is to begin.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.804. COMPENSATION. The commissioners court shall set the compensation for masters and determine the total amount the county will pay as compensation for masters.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.805. JUDICIAL IMMUNITY. A master appointed under this subchapter has the same judicial immunity as a district judge.  
Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.806. TERMINATION OF EMPLOYMENT. (a) A master who serves a single court serves at the will of the judge of that court.

(b) The employment of a master who serves two courts may be terminated by either of the judges of those courts.

(c) The employment of a master who serves more than two courts may be terminated by a majority of the judges of those courts.

(d) To terminate a master's employment, the appropriate judges must sign a written order of termination. The order must state:

(1) the master's name and state bar identification number;

(2) each court ordering termination; and

(3) the date the master's employment ends.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28,

1989.

Sec. 54.807. WITHDRAWAL OF APPOINTMENT FOR A PARTICULAR COURT. The judge of a court for which a master has been appointed may withdraw the master's appointment to that court by written order. The order must state:

- (1) the master's name and state bar identification number;
- (2) the name of the court ordering the withdrawal; and
- (3) the date the master's services end as to that court.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.808. CASES THAT MAY BE REFERRED. A judge may refer to a master any civil case or portion of a civil case brought:

- (1) under Title 1, 2, 3, 4, or 5, Family Code; or
- (2) in connection with Rule 308a, Texas Rules of Civil Procedure

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 7.35, eff. Sept. 1, 1997.

Sec. 54.809. METHOD OF REFERRAL. A case may be referred as prescribed by published local rules or by written orders.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.810. POWERS. (a) An order of referral may limit the use or power of a master.

(b) Unless limited by published local rule, by written order, or by an order of referral, a master may perform all acts and take all measures necessary and proper to perform the tasks assigned in a referral.

(c) A master may administer oaths.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.811. EFFECT ON TEMPORARY RESTRAINING ORDER. (a) The referral of a case or a portion of a case to a master does not affect a party's right to have a court grant or extend a temporary restraining order and does not prevent the expiration of a temporary restraining order.

(b) Until a judge signs an order concerning the findings and recommendations of a master, the findings and recommendations do not affect an existing temporary restraining order or the expiration or extension of that order.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.812. JURY. (a) Except as provided by Subsection (b), if a jury trial is demanded in a case referred to a master, the master shall refer the case back to the referring court for a full hearing according to the usual rules applicable to the case.

(b) A jury demand does not affect the authority of a master to handle pretrial matters referred to the master.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.813. COURT REPORTER. (a) A court reporter must be provided during a hearing conducted by a master.

(b) Notwithstanding Subsection (a), a referring judge may require a reporter at any hearing.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.814. FAILURE TO COMPLY WITH SUMMONS OR ORDER. If an attorney, party, witness, or any other person fails to comply with a summons or order, the master may certify that failure in writing to the referring court for appropriate action.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.815. WITNESSES. (a) A witness appearing before a master is subject to the penalties of perjury as provided by Chapter 37, Penal Code.

(b) A witness referred to the court under Section 54.814 is subject to the same penalties and orders that may be imposed on a witness appearing in a hearing before the court.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.816. RETURN TO REFERRING COURT; FINDINGS. After a hearing is concluded, the master shall send to the referring judge all papers relating to the case and the written findings of the

master.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.817. COURT ACTION ON REPORT. (a) After the court receives the master's report, the court may adopt, modify, correct, reject, or reverse the master's report or may recommit it for further information, as the court determines to be proper and necessary in each case.

(b) If a judgment has been recommended, the court may approve the recommendation and hear more evidence before making its judgment.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.818. DECREE OR JUDGMENT. The finding and recommendations become the decree or judgment of the court when adopted and approved by an order of the judge.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.819. MASTERS IN CHANCERY. This subchapter does not prohibit a court from appointing a master in chancery as provided by Rule 171, Texas Rules of Civil Procedure.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.820. REFEREES. (a) A master appointed under this subchapter may serve as a referee as provided by Subsection (g) of Section 51.04 and Section 54.10, Family Code.

(b) A referee appointed under Subsection (g) of Section 51.04, Family Code, may be appointed to serve as a master under this subchapter.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

#### SUBCHAPTER L. CRIMINAL LAW HEARING OFFICERS IN CERTAIN COUNTIES

Sec. 54.851. APPLICATION. This subchapter applies only to counties with a population of 3.3 million or more.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 18, eff. Sept. 1, 2001.

Sec. 54.852. APPOINTMENT. (a) A board composed of three judges of the district courts of Harris County trying criminal cases, three judges of the county criminal courts at law, and three justices of the peace in Harris County may appoint criminal law hearing officers, with the consent and approval of the commissioners court, to perform the duties authorized by this subchapter. A quorum is two-thirds of the members of the board.

(b) The board shall ensure that the criminal law hearing officers appointed under this subchapter are representative of the race, sex, national origin, and ethnicity of the population of Harris County.

(c) A criminal law hearing officer serves a one-year term and continues to serve until a successor is appointed.

(d) A criminal law hearing officer appointed under this subchapter may be terminated at any time in the same manner as appointed.

(e) A criminal law hearing officer may not engage in the private practice of law or serve as a mediator or arbitrator or otherwise participate as a neutral party in any alternate dispute resolution proceeding, with or without compensation.

(f) A criminal law hearing officer is subject to proceedings under Article V, Section 1-a, of the Texas Constitution.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.853. QUALIFICATIONS. To be eligible for appointment as a criminal law hearing officer under this subchapter, a person must:

(1) be a resident of this state and the county;  
(2) have been licensed to practice law in this state for at least four years;

(3) not have been defeated for reelection to a judicial office;

(4) not have been removed from office by impeachment, by the supreme court, by the governor on address to the legislature, by a tribunal reviewing a recommendation of the State Commission on Judicial Conduct, or by the legislature's abolition of the judge's court; and

(5) not have resigned from office after having received notice that formal proceedings by the State Commission on



Judicial Conduct had been instituted as provided in Section 33.022 and before the final disposition of the proceedings.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.854. COMPENSATION. (a) Each criminal law hearing officer is entitled to a salary in the amount set by the commissioners court.

(b) The salary may not be less than the salary authorized to be paid to a master for family law cases appointed under Subchapter A.

(c) The salary is paid from the county fund available for payment of officers' salaries.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.855. OATH. A criminal law hearing officer must take the constitutional oath of office required of appointed officers of this state.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.856. CRIMINAL JURISDICTION. (a) A criminal law hearing officer appointed under this subchapter has limited concurrent jurisdiction over criminal cases filed in the district courts, county criminal courts at law, and justice courts of the county. The jurisdiction of the criminal law hearing officer is limited to:

(1) determining probable cause for further detention of any person detained on a criminal complaint, information, or indictment filed in the district courts, county criminal courts at law, or justice courts of the county;

(2) committing the defendant to jail, discharging the defendant from custody, or admitting the defendant to bail, as the law and facts of the case require;

(3) issuing search warrants and arrest warrants as provided by law for magistrates;

(4) as to criminal cases filed in justice courts, disposing of cases as provided by law, other than by trial, and collecting fines and enforcing judgments and orders of the justice courts in criminal cases; and

(5) enforcing judgments and orders of the county criminal courts at law in criminal cases.

(b) 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) In a felony or misdemeanor case punishable by incarceration in the county jail, a criminal law hearing officer may not dismiss the case, enter a judgment of acquittal or guilt, or pronounce sentence.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993.

Amended by Acts 2001, 77th Leg., ch. 1206, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.857. MENTAL HEALTH JURISDICTION. The judges appointing a criminal law hearing officer may authorize the criminal law hearing officer to serve the statutory probate courts of Harris County as necessary to hear emergency mental health matters under Chapter 573, Health and Safety Code. A criminal law hearing officer has concurrent limited jurisdiction with the statutory probate courts of the county to hear emergency mental health matters under Chapter 573, Health and Safety Code. This section does not impair the jurisdiction of the statutory probate courts to review or alter the decision of the criminal law hearing officer.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.858. DUTIES AND POWERS. (a) A criminal law hearing officer shall inform the person arrested, in clear language, of the accusation against the person and of any affidavit filed with the accusation. A criminal law hearing officer shall inform the person arrested of the person's right to retain counsel, to remain silent, to have an attorney present during any interview with a peace officer or an attorney representing the state, to terminate the interview at any time, and to request the appointment of counsel if the person is indigent and cannot afford counsel. The criminal law hearing officer shall also inform the person arrested that the person is not required to make a statement and that any statement made by the person may be used against the person. The criminal law hearing officer must allow the person arrested reasonable time and opportunity to consult counsel and shall admit the person arrested to bail if allowed by law.

(b) A criminal law hearing officer may determine the amount of bail and grant bail pursuant to Chapter 17, Code of Criminal Procedure, and as otherwise provided by law.

(c) A criminal law hearing officer may issue a magistrate's order for emergency apprehension and detention under Chapter 573, Health and Safety Code, if the criminal law hearing officer makes each finding required by Section 573.012(b), Health and Safety Code.

(d) The criminal law hearing officer shall be available, within 24 hours of a defendant's arrest, to determine probable cause for further detention, administer warnings, inform the accused of the pending charges, and determine all matters pertaining to bail. Criminal law hearing officers shall be available to review and issue search warrants and arrest warrants as provided by law.

(e) A criminal law hearing officer may dispose of criminal cases filed in the justice court as provided by law, other than by trial, and collect fines and enforce the judgments and orders of the justice courts in criminal cases.

(f) A criminal law hearing officer may enforce judgments and orders of the county criminal courts at law in criminal cases.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993. Amended by Acts 2001, 77th Leg., ch. 1206, Sec. 2, eff. Sept. 1, 2001.

Sec. 54.859. JUDICIAL IMMUNITY. A criminal law hearing officer has the same judicial immunity as a district judge, statutory county court judge, and justice of the peace.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.860. SHERIFF. On request of a criminal law hearing officer appointed under this subchapter, the sheriff, in person or by deputy, shall assist the criminal law hearing officer.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.861. CLERK. The district clerk shall perform the statutory duties necessary for the criminal law hearing officers appointed under this subchapter in cases filed in a district court or county criminal court. A person designated to serve as clerk of a justice court shall perform the statutory duties necessary for cases filed in a justice court.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993.

#### SUBCHAPTER M. MAGISTRATES IN LUBBOCK COUNTY

Sec. 54.871. APPOINTMENT. (a) The judges of the district courts of Lubbock County, with the consent and approval of the Commissioners Court of Lubbock County, shall jointly appoint the number of magistrates set by the commissioners court to perform the duties authorized by this subchapter.

(b) Each magistrate's appointment must be made with the unanimous approval of all the judges described in Subsection (a).

(c) If the number of magistrates is less than the number of district judges, each magistrate shall serve equally in the courts of those judges.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.872. QUALIFICATIONS. To be eligible for appointment as a magistrate, a person must:

(1) be a resident of this state; and

(2) have been licensed to practice law in this state for at least four years.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.873. COMPENSATION. (a) A magistrate is entitled to the salary determined by the Commissioners Court of Lubbock County.

(b) The salary may not be less than the salary authorized to be paid to an associate judge for Title IV-D cases appointed under Subchapter B, Chapter 201, Family Code.

(c) The magistrate's salary is paid from the county fund available for payment of officers' salaries.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

Amended by Acts 1999, 76th Leg., ch. 602, Sec. 2, eff. June 18, 1999; Acts 2003, 78th Leg., ch. 1258, Sec. 26, eff. Sept. 1, 2003.

Sec. 54.874. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.875. TERMINATION OF SERVICES. (a) A magistrate who serves a single court serves at the will of the judge.

(b) The services of a magistrate who serves more than one court may be terminated by a majority vote of all the judges whom the magistrate serves.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.876. PROCEEDING THAT MAY BE REFERRED. (a) A district judge or a county court at law judge may refer to a magistrate any criminal case for proceedings involving:

- (1) a negotiated plea of guilty before the court;
- (2) a bond forfeiture;
- (3) a pretrial motion;
- (4) a postconviction writ of habeas corpus;
- (5) an examining trial; and
- (6) any other matter the judge considers necessary and

proper.

(b) A magistrate may accept a plea of guilty for a misdemeanor or felony.

(c) A magistrate may not preside over a trial on the merits, whether or not the trial is before a jury.

(d) A judge of a court designated a juvenile court may refer to a magistrate any proceeding over which a juvenile court has exclusive original jurisdiction under Title 3, Family Code, including any matter ancillary to the proceeding.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1999, 76th Leg., ch. 602, Sec. 3, eff. June 18, 1999.

Sec. 54.877. ORDER OF REFERRAL. (a) To refer one or more cases to a magistrate, a judge must issue an order of referral specifying the magistrate's duties.

(b) An order of referral may:

(1) limit the powers of the magistrate and direct the magistrate to report only on specific issues, do particular acts, or receive and report on evidence only;

(2) set the time and place for the hearing;

(3) prescribe a closing date for the hearing;

(4) provide a date for filing the magistrate's findings;

(5) designate proceedings for more than one case over which the magistrate shall preside;

(6) direct the magistrate to call the court's docket; and

(7) set forth general powers and limitations of authority of the magistrate applicable to any case referred.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.878. POWERS. (a) Except as limited by an order of referral, a magistrate to whom a case is referred may:

(1) conduct hearings;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on admissibility of evidence;

(5) issue summons for the appearance of witnesses;

(6) examine witnesses;

(7) swear witnesses for hearings;

(8) make findings of fact on evidence;

(9) formulate conclusions of law;

(10) rule on a pretrial motion;

(11) recommend the rulings, orders, or judgment to be made in a case;

(12) regulate proceedings in a hearing;

(13) accept a plea of guilty for a misdemeanor or felony or a plea of true from a defendant or juvenile, regardless of the classification of the offense charged or the conduct alleged; and

(14) do any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

(b) A magistrate may not enter a ruling on any issue of law or fact if that ruling could result in dismissal or require dismissal of a pending criminal prosecution, but the magistrate may make findings, conclusions, and recommendations on those issues.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1999, 76th Leg., ch. 602, Sec. 4, eff. June 18, 1999.

Sec. 54.879. COURT REPORTER. At the request of a party, the court shall provide a court reporter to record the proceedings before the magistrate.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.880. WITNESS. (a) A witness who appears before a magistrate and is sworn is subject to the penalties for perjury

provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the court.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.881. PAPERS TRANSMITTED TO JUDGE. At the conclusion of the proceedings, a magistrate shall transmit to the referring court any papers relating to the case, including the magistrate's findings, conclusions, orders, recommendations, or other action taken.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.882. JUDICIAL ACTION. (a) A referring court may modify, correct, reject, reverse, or recommit for further information any action taken by the magistrate.

(b) If the court does not modify, correct, reject, reverse, or recommit an action of the magistrate, the action becomes the decree of the court.

(c) At the conclusion of each term during which the services of a magistrate are used, the referring court shall enter a decree on the minutes adopting the actions of the magistrate of which the court approves.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.883. COSTS OF MAGISTRATE. The court shall determine if the nonprevailing party is able to defray the costs of the magistrate. If the court determines that the nonprevailing party is able to pay those costs, the court shall tax the magistrate's fees as costs against the nonprevailing party.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.884. MAGISTRATES. (a) If a magistrate appointed under this subchapter is absent or unable to serve, the judge referring the case may appoint another magistrate to serve for the absent magistrate.

(b) A magistrate serving for another magistrate under this section has the powers and shall perform the duties of the magistrate for whom he is serving.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

Amended by Acts 1999, 76th Leg., ch. 602, Sec. 5, eff. June 18, 1999.

Sec. 54.885. CLERK. The clerk of a district court or county court at law that refers a proceeding to a magistrate under this subchapter shall perform the statutory duties necessary for the magistrate to perform the duties authorized by this subchapter.

Added by Acts 1999, 76th Leg., ch. 602, Sec. 6, eff. June 18, 1999.

#### SUBCHAPTER N. CRIMINAL LAW MAGISTRATES IN BEXAR COUNTY

Sec. 54.901. APPOINTMENT. (a) The judges of the district courts of Bexar County that give preference to criminal cases, with the consent and approval of the Commissioners Court of Bexar County, shall jointly appoint the number of magistrates set by the commissioners court to perform the duties authorized by this subchapter.

(b) Each magistrate's appointment must be made with the approval of a majority of the judges described in Subsection (a).

(c) If the number of magistrates is less than the number of the appointing judges, each magistrate shall serve equally in the courts of those judges.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.902. QUALIFICATIONS. To be eligible for appointment as a magistrate, a person must:

(1) be a resident of this state; and

(2) have been licensed to practice law in this state for at least four years.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.903. COMPENSATION. (a) A magistrate is entitled to the salary determined by the Commissioners Court of Bexar County.

(b) The magistrate's salary is paid from the county fund available for payment of officers' salaries.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.904. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.905. TERMINATION OF SERVICES. (a) A magistrate who serves a single court serves at the will of the judge.

(b) The services of a magistrate who serves more than one court may be terminated by a majority vote of the appointing judges.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.906. PROCEEDING THAT MAY BE REFERRED. (a) A judge may refer to a magistrate any criminal case for proceedings involving:

- (1) a bond forfeiture;
- (2) a pretrial motion;
- (3) a postconviction writ of habeas corpus;
- (4) an examining trial;
- (5) the issuance of search warrants;
- (6) the setting of bonds;
- (7) the arraignment of defendants; and
- (8) any other matter the judge considers necessary and proper, including a negotiated plea of guilty before the court.

(b) A magistrate may not preside over a trial on the merits, whether or not the trial is before a jury.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.907. ORDER OF REFERRAL. (a) To refer one or more cases to a magistrate, a judge must issue an order of referral specifying the magistrate's duties. The judge may issue a written order of referral or may read the order of referral into the minutes of the court.

- (b) An order of referral may:
- (1) limit the powers of the magistrate and direct the magistrate to report only on specific issues, do particular acts, or receive and report on evidence only;
  - (2) set the time and place for the hearing;
  - (3) prescribe a closing date for the hearing;
  - (4) provide a date for filing the magistrate's findings;
  - (5) designate proceedings for more than one case over which the magistrate shall preside;
  - (6) direct the magistrate to call the court's docket;
- and

(7) set forth general powers and limitations of authority of the magistrate applicable to any case referred.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

Amended by Acts 1999, 76th Leg., ch. 59, Sec. 1, eff. May 10, 1999.

Sec. 54.908. POWERS. Except as limited by an order of referral, a magistrate to whom a case is referred may:

- (1) conduct hearings;
- (2) hear evidence;
- (3) compel production of relevant evidence;
- (4) rule on admissibility of evidence;
- (5) issue summons for the appearance of witnesses;
- (6) examine witnesses;
- (7) swear witnesses for hearings;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) rule on a pretrial motion;
- (11) recommend the rulings, orders, or judgment to be made in a case;

(12) regulate proceedings in a hearing;

(13) accept a plea of guilty for a misdemeanor from a defendant charged with both misdemeanor and felony offenses; and

(14) do any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

Amended by Acts 2001, 77th Leg., ch. 680, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.909. COURT REPORTER. At the request of a party, the court shall provide a court reporter to record the proceedings before the magistrate.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.910. WITNESS. (a) A witness who appears before a magistrate and is sworn is subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the court.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.911. PAPERS TRANSMITTED TO JUDGE. At the conclusion of the proceedings, a magistrate shall transmit to the referring court any papers relating to the case, including the magistrate's

findings, conclusions, orders, recommendations, or other action taken.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.912. JUDICIAL ACTION. (a) A referring court may modify, correct, reject, reverse, or recommit for further information any action taken by the magistrate.

(b) If the court does not modify, correct, reject, reverse, or recommit an action of the magistrate, the action becomes the decree of the court.

(c) At the conclusion of each term during which the services of a magistrate are used, the referring court shall enter a decree on the minutes adopting the actions of the magistrate of which the court approves.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.913. COSTS OF MAGISTRATE. The court shall determine if the nonprevailing party is able to defray the costs of the magistrate. If the court determines that the nonprevailing party is able to pay those costs, the court shall tax the magistrate's fees as costs against the nonprevailing party.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

SUBCHAPTER O. PART-TIME JUVENILE LAW MASTERS IN BEXAR COUNTY

Sec. 54.921. APPOINTMENT. (a) The judge of the 289th District Court may determine that part-time masters are needed to serve the court.

(b) The judge shall issue an order reflecting that determination.

(c) Subject to the determination of need and the approval of the number of part-time masters by the commissioners court of Bexar County, the judge may appoint the approved number of part-time masters.

(d) The number of part-time masters serving under this subchapter may not exceed six.

Added by Acts 1989, 71st Leg., ch. 686, Sec. 1, eff. Sept. 1, 1989.

Sec. 54.922. QUALIFICATIONS. A master must:

(1) be a citizen and resident of this state; and

(2) have been licensed to practice law in this state for at least two years.

Added by Acts 1989, 71st Leg., ch. 686, Sec. 1, eff. Sept. 1, 1989.

Sec. 54.923. ORDER OF APPOINTMENT. The order appointing a master must be entered in the minutes of the court and must state:

(1) the master's name and state bar identification number; and

(2) the date the master's service is to begin.

Added by Acts 1989, 71st Leg., ch. 686, Sec. 1, eff. Sept. 1, 1989.

Sec. 54.924. COMPENSATION. The commissioners court shall set the compensation for masters and determine the total amount the county will pay as compensation for masters. The commissioners court of Bexar County may at any time change the compensation or reduce the number of masters.

Added by Acts 1989, 71st Leg., ch. 686, Sec. 1, eff. Sept. 1, 1989.

Sec. 54.925. JUDICIAL IMMUNITY. A master appointed under this subchapter has the same judicial immunity as a district judge.

Added by Acts 1989, 71st Leg., ch. 686, Sec. 1, eff. Sept. 1, 1989.

Sec. 54.926. TERMINATION OF EMPLOYMENT. (a) A master serves at the will of the judge.

(b) To terminate a master's employment, the judge must sign a written order of termination. The order must state:

(1) the master's name and state bar identification number; and

(2) the date the master's employment ends.

Added by Acts 1989, 71st Leg., ch. 686, Sec. 1, eff. Sept. 1, 1989.

Sec. 54.927. CASES THAT MAY BE REFERRED. The judge may refer to a master any civil case or portion of a civil case brought:

(1) under Title 1, 2, 3, 4, or 5, Family Code; or

(2) in connection with Rule 308a, Texas Rules of Civil Procedure

Added by Acts 1989, 71st Leg., ch. 686, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 1997, 75th Leg., ch. 165, Sec. 7.36, eff. Sept. 1, 1997.

Sec. 54.928. METHOD OF REFERRAL. A case may be referred as prescribed by published local rules or by written orders.

Added by Acts 1989, 71st Leg., ch. 686, Sec. 1, eff. Sept. 1, 1989.

Sec. 54.929. POWERS. (a) An order of referral may limit the use or power of a master.

(b) Unless limited by published local rule, by written

order, or by an order of referral, a master may perform all acts and take all measures necessary and proper to perform the tasks assigned in a referral.

(c) A master may administer oaths.

Added by Acts 1989, 71st Leg., ch. 686, Sec. 1, eff. Sept. 1, 1989.

Sec. 54.930. EFFECT OF TEMPORARY RESTRAINING ORDER. (a) The referral of a case or a portion of a case to a master does not affect a party's right to have a court grant or extend a temporary restraining order and does not prevent the expiration of a temporary restraining order.

(b) Until a judge signs an order concerning the findings and recommendations of a master, the findings and recommendations do not affect an existing temporary restraining order or the expiration or extension of that order.

Added by Acts 1989, 71st Leg., ch. 686, Sec. 1, eff. Sept. 1, 1989.

Sec. 54.931. JURY. (a) Except as provided by Subsection (b), if a jury trial is demanded in a case referred to a master, the master shall refer the case back to the referring court for a full hearing according to the usual rules applicable to the case.

(b) A jury demand does not affect the authority of a master to handle pretrial matters referred to the master.

Added by Acts 1989, 71st Leg., ch. 686, Sec. 1, eff. Sept. 1, 1989.

Sec. 54.932. COURT REPORTER. (a) A court reporter need not be provided during a hearing conducted by a master.

(b) Notwithstanding Subsection (a), a referring judge may require a reporter at any hearing.

Added by Acts 1989, 71st Leg., ch. 686, Sec. 1, eff. Sept. 1, 1989.

Sec. 54.933. FAILURE TO COMPLY WITH SUMMONS OR ORDER. If an attorney, party, witness, or any other person fails to comply with a summons or order, the master may certify in writing that failure to the referring court for appropriate action.

Added by Acts 1989, 71st Leg., ch. 686, Sec. 1, eff. Sept. 1, 1989.

Sec. 54.934. WITNESSES. (a) A witness appearing before a master is subject to the penalties of perjury as provided by Chapter 37, Penal Code.

(b) A witness referred to the court under Section 54.933 is subject to the same penalties and orders that may be imposed on a witness appearing in a hearing before the court.

Added by Acts 1989, 71st Leg., ch. 686, Sec. 1, eff. Sept. 1, 1989.

Sec. 54.935. RETURN TO REFERRING COURT; FINDINGS. After a hearing is concluded, the master shall send to the referring judge all papers relating to the case and the written findings of the master.

Added by Acts 1989, 71st Leg., ch. 686, Sec. 1, eff. Sept. 1, 1989.

Sec. 54.936. COURT ACTION ON REPORT. (a) After the court receives the master's report, the court may adopt, modify, correct, reject, or reverse the master's report or may recommit it for further information, as the court determines is proper and necessary in each case.

(b) If a judgment has been recommended, the court may approve the recommendation and hear more evidence before making its judgment.

Added by Acts 1989, 71st Leg., ch. 686, Sec. 1, eff. Sept. 1, 1989.

Sec. 54.937. DECREE OR JUDGMENT. The findings and recommendation become the decree or judgment of the court when adopted and approved by an order of the judge.

Added by Acts 1989, 71st Leg., ch. 686, Sec. 1, eff. Sept. 1, 1989.

Sec. 54.938. MASTERS IN CHANCERY. This subchapter does not prohibit a court from appointing a master in chancery as provided by Rule 171, Texas Rules of Civil Procedure.

Added by Acts 1989, 71st Leg., ch. 686, Sec. 1, eff. Sept. 1, 1989.

Sec. 54.939. REFEREES. (a) A master appointed under this subchapter may serve as a referee as provided by Sections 51.04(g) and 54.10, Family Code.

(b) A referee appointed under Section 51.04(g), Family Code, may be appointed to serve as a master under this subchapter.

Added by Acts 1989, 71st Leg., ch. 686, Sec. 1, eff. Sept. 1, 1989.

#### SUBCHAPTER P. WILLIAMSON COUNTY CRIMINAL MAGISTRATES

Sec. 54.951. APPOINTMENT. (a) The judges of the district courts and statutory county courts having criminal jurisdiction in Williamson County may, by a majority vote of the judges, select magistrates to serve the courts of Williamson County having jurisdiction in criminal matters.

(b) The commissioners court shall establish the minimum qualifications, salary, benefits, and other compensation of each

magistrate position and shall determine whether the position is full-time or part-time.

(c) A magistrate appointed under this section serves at the pleasure of a majority of the judges making appointments under this section.

(d) Subject to commissioners court approval of a magistrate's total compensation, a magistrate may concurrently serve as an associate judge, referee, or master under another statute unless that statute prohibits holding another judicial position.

Added by Acts 1999, 76th Leg., ch. 586, Sec. 1, eff. June 18, 1999.

Sec. 54.952. JURISDICTION. A magistrate has concurrent criminal jurisdiction with the judges of the statutory county courts and justice of the peace courts of Williamson County.

Added by Acts 1999, 76th Leg., ch. 586, Sec. 1, eff. June 18, 1999.

Sec. 54.953. POWERS AND DUTIES. (a) Except as provided by Subsection (b), a magistrate has all of the powers of a magistrate under the Code of Criminal Procedure and other laws of this state and may administer an oath for any purpose.

(b) A magistrate who is not an attorney may not issue arrest and search warrants.

(c) A magistrate shall give preference to performing the duties of a magistrate under Article 15.17, Code of Criminal Procedure.

(d) A magistrate may enforce a prior judgment or order of a justice court in a criminal case. Except for a trial on the merits following a plea of not guilty, with the express authorization of the justice of the peace, a magistrate may exercise concurrent criminal jurisdiction with a justice of the peace to dispose as provided by law of cases arising within the precinct of the authorizing justice of the peace.

(e) The judges of the statutory county courts with criminal jurisdiction may, by majority vote, designate one or more magistrates to hold regular hearings to:

- (1) give admonishments;
- (2) set and review bail and conditions of release;
- (3) appoint legal counsel; and
- (4) determine other routine matters relating to

preindictment or pending cases within those courts' jurisdiction.

(f) In the hearings provided under Subsection (e), a magistrate shall give preference to the case of an individual held in county jail.

(g) A magistrate may inquire into a defendant's intended plea to the charge and set the case for an appropriate hearing before a judge or master. Except as provided by Subsection (d) or (h), a statement by a defendant under these circumstances concerning an intended plea may not be admitted into evidence in any other proceeding.

(h) The magistrate may accept the plea, direct a supervision officer to prepare a presentence report, and set the case for sentencing before a judge or master, if a defendant pleads guilty, nolo contendere, or true after being properly admonished by a magistrate who:

(1) is qualified to serve as judge of the court with jurisdiction over the case; and

(2) has been expressly authorized by the judge to accept those pleas.

Added by Acts 1999, 76th Leg., ch. 586, Sec. 1, eff. June 18, 1999.

Sec. 54.954. MASTERS IN CRIMINAL CASES. (a) The judge of a statutory county court with criminal jurisdiction in Williamson County may designate a magistrate by written referral order to serve as a master in connection with a criminal case pending before the court. To serve as master, the magistrate must be qualified to serve as judge of the court.

(b) A magistrate appointed to serve as master may consider any referred matter pending before the court but may not conduct a trial on the merits following a plea of not guilty.

(c) The master may:

- (1) conduct hearings;
- (2) regulate proceedings in a hearing and certify acts of contempt to the referring court for sanctions;
- (3) compel production of relevant evidence;
- (4) rule on admissibility of evidence;
- (5) issue summons and attachments for the appearance of witnesses;



(6) swear witnesses for hearings;  
(7) examine witnesses;  
(8) hear evidence;  
(9) make findings of fact on evidence;  
(10) formulate conclusions of law;  
(11) recommend the rulings, orders, or judgment to be made in a case; and  
(12) do any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

(d) Except as provided by Subsection (c), a master may not issue a judgment or order but may only certify to the referring court the master's findings of fact, conclusions of law, and recommended judgment or order.

(e) Except as provided by Subsection (g), the defendant or the attorney representing the state may obtain de novo review by the referring court if the de novo review is requested in writing not later than the third day after the date on which notice of the recommended judgment or order is received by the requestor. A request for review must set out specifically complaints regarding the master's findings of fact, conclusions of law, and recommendations. Review is limited to the issues complained of by one or both parties.

(f) If no request for review is received, the referring court shall, not later than the 10th day after the date on which the parties receive notice of the recommendation, enter a judgment or order that approves, modifies, corrects, rejects, reverses, or recommits for further information the recommendation of the master. If no action is taken within that time, the recommendation is considered rejected and the court must reconsider the matter de novo as if the matter had not been referred.

(g) A plea bargaining agreement between the state and the defendant may provide that both parties waive the right to review or appeal a master's sentencing recommendation. The waiver must be signed by both parties and filed with the master. The defendant may withdraw the plea if the master rejects the agreement. The referring judge may reject the recommendation of the master and permit withdrawal of the plea or approve the agreement and immediately sign the recommended judgment and sentence.

Added by Acts 1999, 76th Leg., ch. 586, Sec. 1, eff. June 18, 1999.

Sec. 54.955. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 1999, 76th Leg., ch. 586, Sec. 1, eff. June 18, 1999.

Sec. 54.956. WITNESSES. (a) A witness who is sworn and who appears before a magistrate is subject to the penalties for perjury and aggravated perjury provided by law.

(b) A referring court may fine or imprison a witness or other court participant for failure to appear after being summoned, refusal to answer questions, or other acts of direct contempt before a magistrate.

Added by Acts 1999, 76th Leg., ch. 586, Sec. 1, eff. June 18, 1999.

Sec. 54.957. COURT REPORTER. At the request of a party, the court shall provide a court reporter to record proceedings before a magistrate that the party could require to be recorded if held before a judge.

Added by Acts 1999, 76th Leg., ch. 586, Sec. 1, eff. June 18, 1999.

Sec. 54.958. COSTS OF MAGISTRATE. A court shall determine whether the nonprevailing party is able to defray the expense of the magistrate in each case in which the services of a magistrate are used. If the court determines the party can pay all or a portion of the expense, the court shall tax the expense as costs of court.

Added by Acts 1999, 76th Leg., ch. 586, Sec. 1, eff. June 18, 1999.

Sec. 54.959. SHERIFF. On request of a magistrate, the sheriff, in person or by deputy, shall assist the magistrate.

Added by Acts 1999, 76th Leg., ch. 586, Sec. 1, eff. June 18, 1999.

Sec. 54.960. CLERK. (a) The district clerk serves as the clerk for a magistrate for a case under the jurisdiction of a district court.

(b) The county clerk serves as the clerk for a magistrate for a case under the jurisdiction of a statutory county court.

(c) A clerk of a justice court serves as the clerk for a magistrate for a case under the jurisdiction of a justice court.

Added by Acts 1999, 76th Leg., ch. 586, Sec. 1, eff. June 18, 1999.

Sec. 54.961. STAFF. The commissioners court shall provide a staff to perform clerical functions for the magistrates.

Added by Acts 1999, 76th Leg., ch. 586, Sec. 1, eff. June 18, 1999.

SUBCHAPTER Q. CRIMINAL LAW MAGISTRATES IN TRAVIS COUNTY

Sec. 54.970. APPLICATION. This subchapter applies to the district courts and the county courts at law that give preference to criminal cases in Travis County.

Added by Acts 2003, 78th Leg., ch. 979, Sec. 2, eff. Sept. 1, 2003.

Sec. 54.971. APPOINTMENT. (a) The Commissioners Court of Travis County shall set the number of magistrates needed to perform the duties authorized by this subchapter.

(b) The judges of the district courts subject to this subchapter shall, with the consent and approval of the Commissioners Court of Travis County, jointly appoint the magistrates that will assist the district courts. Each magistrate's appointment under this subsection must be made with the unanimous approval of the judges of the district courts subject to this subchapter.

(c) Except as provided by Subsection (e), if the number of magistrates is less than the number of the appointing judges, each magistrate shall serve equally in the courts of those judges.

(d) The judges of the county courts at law subject to this subchapter shall, with the consent and approval of the Commissioners Court of Travis County, jointly appoint the magistrates that will assist the county courts at law. Each magistrate's appointment under this subsection must be made with the unanimous approval of the judges of the county courts at law subject to this subchapter.

(e) In addition to the requirements of Subsection (b) or (d), a magistrate appointed to assist only one court must be approved by the judge of that court.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991. Amended by Acts 2003, 78th Leg., ch. 979, Sec. 3, eff. Sept. 1, 2003.

Sec. 54.972. QUALIFICATIONS. A magistrate must:

(1) be a resident of this state and of Travis County; and

(2) have been licensed to practice law in this state for at least four years.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.

Sec. 54.973. COMPENSATION. (a) A magistrate is entitled to the salary determined by the Commissioners Court of Travis County.

(b) The salary may not be less than the salary authorized to be paid to a master for family law cases appointed under Subchapter A, Chapter 201, Family Code, unless a lesser salary is recommended by the judges described by Section 54.971 and approved by the commissioners court.

(c) The magistrate's salary is paid from the county fund available for payment of officers' salaries.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991. Amended by Acts 1999, 76th Leg., ch. 861, Sec. 1, eff. Sept. 1, 1999.

Sec. 54.974. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge or a judge of a county court at law, as applicable.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991. Amended by Acts 2003, 78th Leg., ch. 979, Sec. 3, eff. Sept. 1, 2003.

Sec. 54.975. TERMINATION OF SERVICES. (a) A magistrate who serves a single court serves at the will of the judge.

(b) The services of a magistrate who serves more than one court may be terminated by a majority vote of the appointing judges. Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.

Sec. 54.976. PROCEEDINGS THAT MAY BE REFERRED. (a) A judge may refer to a magistrate any criminal case for proceedings involving:

(1) a negotiated plea of guilty or no contest and sentencing;

(2) a pretrial motion;

(3) an examining trial;

(4) a postconviction writ of habeas corpus;

(5) a bond forfeiture suit;

(6) issuance of search warrants;

(7) setting of bonds;

(8) arraignment of defendants;

(9) a motion to increase or decrease a bond;

(10) a motion to revoke community supervision or to

proceed to an adjudication;

(11) an issue of competency, with or without a jury;  
and

(12) any other matter the judge considers necessary and proper.

(b) A magistrate may not preside over a contested criminal trial on the merits, regardless of whether the trial is before a jury.

(c) A judge may refer to a magistrate any proceeding involving an application for a protective order under Title 4, Family Code, or Section 17.292, Code of Criminal Procedure.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 413, Sec. 3, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 979, Sec. 3, eff. Sept. 1, 2003.

Sec. 54.977. ORDER OF REFERRAL. (a) To refer one or more cases to a magistrate, a judge must issue an order of referral specifying the magistrate's duties.

(b) An order of referral may:

(1) limit the powers of the magistrate and direct the magistrate to report only specific issues, do particular acts, or receive and report on evidence only;

(2) set the time and place for the hearing;

(3) prescribe a closing date for the hearing;

(4) provide a date for filing the magistrate's findings;

(5) designate proceedings for more than one case over which the magistrate shall preside;

(6) direct the magistrate to call the court's docket;  
and

(7) set forth general powers and limitations of authority of the magistrate applicable to any case referred.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.

Sec. 54.978. POWERS. (a) Except as limited by an order of referral, a magistrate to whom a case is referred may:

(1) conduct hearings;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on admissibility of evidence;

(5) issue summons for the appearance of witnesses;

(6) examine witnesses;

(7) swear witnesses for hearings;

(8) make findings of fact on evidence;

(9) formulate conclusions of law;

(10) rule on pretrial motions;

(11) recommend the rulings, orders, or judgment to be made in a case;

(12) regulate proceedings in a hearing;

(13) in any case referred under Section 54.976(a)(1):

(A) accept a negotiated plea of guilty;

(B) enter a finding of guilt and impose or suspend sentence; or

(C) defer adjudication of guilty; and

(14) do any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

(b) A magistrate may not enter a ruling on any issue of law or fact if that ruling could result in dismissal or require dismissal of a pending criminal prosecution, but the magistrate may make findings, conclusions, and recommendations on those issues.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.

Sec. 54.979. RECORD OF PROCEEDINGS. At the request of a party the court shall provide that the proceedings before the magistrate be recorded.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.

Sec. 54.980. WITNESS. (a) A witness who appears before a magistrate and is sworn is subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the court.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.

Sec. 54.981. PAPERS TRANSMITTED TO THE JUDGE. (a) At the conclusion of the proceedings, a magistrate shall transmit to the referring court any papers relating to the case, including the

magistrate's findings, conclusions, orders, recommendations, or other action taken.

(b) A party has seven days after the date of the magistrate's ruling to tender to the referring court any objections to the magistrate's ruling on pretrial matters. The referring court shall consider any objections before taking final action.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.

Sec. 54.982. JUDICIAL ACTION. (a) A referring court may modify, correct, reject, reverse, or recommit for further information any action taken by the magistrate.

(b) If the court does not modify, correct, reject, reverse, or recommit an action of the magistrate, the action becomes the decree of the court.

(c) At the conclusion of each term during which the services of a magistrate are used, the referring court shall enter a decree on the minutes adopting the actions of the magistrate of which the court approves.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.

Sec. 54.983. COSTS OF MAGISTRATE. The court shall determine if the nonprevailing party is able to defray the costs of the magistrate. If the court determines that the nonprevailing party is able to pay those costs, the court shall tax the magistrate's fees as cost against the nonprevailing party.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.

Sec. 54.984. CRIMINAL LAW MAGISTRATES. (a) If a criminal law magistrate appointed under this subchapter is absent or unable to serve, the judge referring the case may appoint another criminal law magistrate to serve for the absent magistrate.

(b) A criminal law magistrate serving for another magistrate under this section has the powers and shall perform the duties of the magistrate for whom he is serving.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.

#### SUBCHAPTER R. CRIMINAL LAW MAGISTRATES IN WEBB COUNTY

Sec. 54.991. APPOINTMENT. (a) The judges of the district courts in Webb County shall jointly appoint the number of criminal law magistrates set by the commissioners court.

(b) Each magistrate's appointment must be unanimously approved by the judges.

Added by Acts 1993, 73rd Leg., ch. 577, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.992. QUALIFICATIONS. A magistrate must be a resident of this state and Webb County.

Added by Acts 1993, 73rd Leg., ch. 577, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.993. COMPENSATION. A magistrate is entitled to the salary determined by the commissioners court.

Added by Acts 1993, 73rd Leg., ch. 577, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.994. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 1993, 73rd Leg., ch. 577, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.995. ORDER OF REFERRAL. (a) To refer one or more criminal cases to a magistrate, a judge must issue an order specifying the magistrate's duties.

(b) An order of referral may set forth general powers and limitations of authority of the magistrate that apply to any case referred.

Added by Acts 1993, 73rd Leg., ch. 577, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.996. POWERS. (a) A judge may refer to a magistrate any criminal case for proceedings involving:

- (1) issuance of search warrants;
- (2) setting of bonds;
- (3) arraignment of defendants; and
- (4) any other matter that is subject to the review of the judge.

(b) A magistrate may not preside over a contested trial on the merits, regardless of whether the trial is before a jury.

Added by Acts 1993, 73rd Leg., ch. 577, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.997. RETURN TO REFERRING COURT; FINDINGS. After a hearing is concluded, the magistrate shall send to the referring court any papers related to the case, including the magistrate's findings, conclusions, orders, recommendations, or other action taken.

Added by Acts 1993, 73rd Leg., ch. 577, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.998. JUDICIAL ACTION. (a) A referring court may modify, correct, reject, reverse, or recommit for further information any action taken by the magistrate.

(b) If the court does not modify, correct, reject, reverse,

or recommit an action of the magistrate, the action becomes the decree of the court.

(c) At the conclusion of each term during which the services of a magistrate are used, the referring court shall enter a decree on the minutes adopting the actions of the magistrate of which the court approves.

Added by Acts 1993, 73rd Leg., ch. 577, Sec. 1, eff. Aug. 30, 1993.  
SUBCHAPTER S. CIVIL, JUVENILE, AND CRIMINAL LAW ASSOCIATE JUDGES IN  
FORT BEND COUNTY

Sec. 54.1001. APPOINTMENT. (a) A majority of the judges of the district courts and the statutory county courts at law in Fort Bend County may determine that one or more full-time or part-time associate judges are needed to serve those courts.

(b) The judges shall issue an order reflecting that determination and specifying the number of associate judges and support staff needed.

(c) Subject to the determination of need by the district courts and statutory county courts at law and the approval of the commissioners court of the county, each judge may appoint one or more associate judges and support staff to serve the judge's court.

(d) Judges may act together to appoint associate judges to serve their courts.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1002. QUALIFICATIONS. To be eligible for appointment as an associate judge, a person must:

(1) be a resident of this state; and

(2) have been licensed to practice law in this state for at least four years.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1003. ORDER OF APPOINTMENT. The order appointing an associate judge must be entered in the minutes of each court making the order and must state:

(1) the associate judge's name and state bar identification number;

(2) the name of each court the associate judge will serve; and

(3) the date the associate judge's service is to begin.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1004. COMPENSATION. The commissioners court shall set the compensation for associate judges and support staff and determine the total amount the county will pay as compensation for associate judges and support staff.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1005. JUDICIAL IMMUNITY. An associate judge appointed under this subchapter has the same judicial immunity as the district court and statutory county court at law judges.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1006. TERMINATION OF EMPLOYMENT. (a) An associate judge who serves a single court serves at the will of the judge of that court.

(b) The employment of an associate judge who serves two courts may be terminated by either of the judges of those courts.

(c) The employment of an associate judge who serves more than two courts may be terminated by a majority of the judges of those courts.

(d) To terminate an associate judge's employment, the appropriate judges must sign a written order of termination. The order must state:

(1) the associate judge's name and state bar identification number;

(2) the name of the court ordering the termination; and

(3) the date the associate judge's services end.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1007. WITHDRAWAL OF APPOINTMENT FOR PARTICULAR COURT. The judge of a court for which an associate judge has been appointed may withdraw the associate judge's appointment to that court by written order. The order must state:

(1) the associate judge's name and state bar identification number;

(2) the name of the court ordering the withdrawal; and

(3) the date the associate judge's services end as to that court.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1008. PROCEEDINGS THAT MAY BE REFERRED. (a) A judge

may refer to an associate judge any criminal case for proceedings involving:

- (1) a negotiated plea of guilty before the court;
- (2) a bond forfeiture;
- (3) a pretrial motion;
- (4) a postconviction writ of habeas corpus;
- (5) an examining trial; and
- (6) any other matter the judge considers necessary and

proper.

(b) An associate judge may not preside over a trial on the merits, whether or not the trial is before a jury.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1009. CASES THAT MAY BE REFERRED. (a) A judge may refer to an associate judge any juvenile, probate, or civil case or portion of one of those cases brought:

- (1) under Title 1, 2, 3, 4, or 5, Family Code;
- (2) in connection with Rule 308a, Texas Rules of Civil Procedure;
- (3) in connection with Title 7, Health and Safety Code; or
- (4) under the civil jurisdiction of the appointing court.

(b) An associate judge may not preside over a trial on the merits, whether or not the trial is before a jury.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1010. METHOD OF REFERRAL. A case may be referred as prescribed by published local rules or by written orders.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1011. DUTIES AND POWERS. (a) Except as limited by an order of referral, an associate judge to whom a case is referred may:

- (1) conduct hearings;
- (2) hear evidence;
- (3) compel production of relevant evidence;
- (4) rule on admissibility of evidence;
- (5) issue summons for the appearance of witnesses;
- (6) examine witnesses;
- (7) swear witnesses for hearings;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) rule on a pretrial motion;
- (11) recommend the rulings, orders, or judgment to be

made in a case;

- (12) regulate proceedings in a hearing; and
- (13) do any act and take any measure necessary and

proper for the efficient performance of the duties required by the order of referral.

(b) An associate judge may not enter a ruling on any issue of law or fact if that ruling could result in dismissal or require dismissal of a pending criminal prosecution or civil case, but the associate judge may make findings, conclusions, and recommendations on those issues.

(c) An order of referral may limit the use or power of an associate judge.

(d) Unless limited by published local rule, by written order, or by an order of referral, an associate judge may perform all acts and take all measures necessary and proper to perform the tasks assigned in a referral.

(e) An associate judge may administer oaths.

(f) An associate judge has the jurisdiction provided by the constitution and laws of this state for magistrates and is a magistrate as defined by Article 2.09, Code of Criminal Procedure.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1012. JURY. (a) Except as provided by Subsection (b), if a jury trial is demanded in a case referred to an associate judge, the associate judge shall refer the case back to the referring court for a full hearing according to the usual rules applicable to the case.

(b) A jury demand does not affect the authority of an associate judge to handle pretrial matters referred to the associate judge.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1013. COURT REPORTER. (a) A court reporter need not be provided during a hearing conducted by an associate judge.

(b) Notwithstanding Subsection (a), a referring judge may

require a reporter at any hearing.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1014. FAILURE TO COMPLY WITH SUMMONS OR OATH. If an attorney, party, witness, or any other person fails to comply with a summons or order, the associate judge may certify in writing that failure to the referring court for appropriate action.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1015. PERJURY. (a) A witness appearing before an associate judge is subject to the penalties of perjury as provided by Chapter 37, Penal Code.

(b) A witness referred to the court under Section 54.1014 is subject to the same penalties and orders that may be imposed on a witness appearing in a hearing before the court.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1016. RETURN TO REFERRING COURT; FINDINGS. At the conclusion of the proceedings, an associate judge shall transmit to the referring court any papers relating to the case, including the associate judge's findings, conclusions, orders, recommendations, or other action taken.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1017. NOTICE OF RIGHT TO APPEAL. (a) Notice of right to appeal to the judge of the referring court shall be given to all parties.

(b) The notice may be given:

(1) by oral statement in open court; or

(2) by posting inside or outside the courtroom of the referring court.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1018. APPEAL TO REFERRING COURT. (a) A party may appeal an associate judge's report by filing a notice of appeal not later than the sixth day after the date the associate judge submits his report to the referring court under Section 54.1016.

(b) An appeal to the referring court must be filed with the court clerk and must specify in writing the findings of the associate judge to which the party objects.

(c) Notice of an appeal to the referring court shall be given to all opposing parties or their counsel under Rule 21a, Texas Rules of Civil Procedure.

(d) If an appeal to the referring court is filed by a party, any other party may file a response to the appeal not later than the seventh day after the date the initial appeal was filed.

(e) The referring court, after notice to the parties, may conduct a hearing de novo on the issues raised in the appeal not later than the 30th day after the date on which the initial appeal was filed with the referring court.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1019. COURT ACTION ON REPORT. (a) After the court receives the associate judge's report, or in the case of an appeal under Section 54.1018, after the court has decided the appeal, the court may adopt, modify, correct, reject, or reverse the associate judge's report or may recommit it for further information, as the court determines to be proper and necessary in each case.

(b) If a judgment has been recommended, the court may approve the recommendation and hear more evidence before making its judgment.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1020. DECREE OR JUDGMENT. The finding and recommendations become the decree or judgment of the court when adopted and approved by an order of the judge.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1021. MASTER IN CHANCERY. This subchapter does not prohibit a court from appointing a master in chancery as provided by Rule 171, Texas Rules of Civil Procedure.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

Sec. 54.1022. REFEREES. (a) An associate judge appointed under this subchapter may serve as a referee as provided by Sections 51.04(g) and 54.10, Family Code.

(b) A referee appointed under Section 51.04(g), Family Code, may be appointed to serve as an associate judge under this subchapter.

(c) An associate judge appointed under this subchapter may serve as a master as provided by Section 574.0085, Health and Safety Code.

Added by Acts 1997, 75th Leg., ch. 42, Sec. 1, eff. May 7, 1997.

SUBCHAPTER T. CIVIL LAW ASSOCIATE JUDGES IN BEXAR COUNTY

Sec. 54.1051. APPOINTMENT. (a) The judges of the district courts in Bexar County may appoint a full-time or part-time associate judge to hear any civil matter within the jurisdiction of the district court.

(b) An associate judge may be appointed to serve more than one court with the approval of the judge of each court to which the associate judge is appointed to serve.

(c) An associate judge appointed under Section 201.001, Family Code, may also be appointed under this section at the same rate of compensation received for appointment under the Family Code.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.1052. QUALIFICATIONS. An associate judge must have the same qualifications as required for a judge of a district court in Bexar County.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.1053. ORDER OF APPOINTMENT. The order appointing an associate judge must be entered in the minutes of the district court.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.1054. COMPENSATION. An associate judge shall be paid a salary as determined by the Commissioners Court of Bexar County.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.1055. JUDICIAL IMMUNITY. An associate judge appointed under this subchapter has the same judicial immunity as a district judge.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.1056. TERMINATION OF EMPLOYMENT. (a) An associate judge who serves only one court serves at the will of the judge of that court.

(b) The employment of an associate judge who serves two courts may be terminated by the judge of either of the courts served.

(c) The employment of an associate judge who serves more than two courts may be terminated by a majority of the judges of the courts served.

(d) A judge seeking to terminate an associate judge's employment must sign a written order of termination.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.1057. CASES THAT MAY BE REFERRED. (a) A judge of a district court served by an associate judge appointed under this subchapter may refer to the associate judge a civil case or part of a civil case brought under the civil jurisdiction of the district court.

(b) An associate judge may preside over a trial on the merits, regardless of whether the trial is before a jury.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.1058. OBJECTION TO APPOINTMENT. (a) Unless a party files a written objection, the judge of a district court may refer a trial on the merits to an associate judge.

(b) If a party files an objection to an associate judge hearing a trial on the merits or presiding at a jury trial not later than the 10th day after the date the party receives notice that the associate judge will hear the case, the court shall assign the matter for trial without referring the case to an associate judge.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.1059. METHOD OF REFERRAL. A case may be referred to an associate judge as provided by published local rules or by written orders.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.1060. DUTIES AND POWERS. (a) Except as limited by an order of referral, an associate judge to whom a case is referred may:

- (1) conduct hearings;
- (2) hear evidence;
- (3) compel the production of relevant evidence;
- (4) rule on the admissibility of evidence;
- (5) issue summons for the appearance of witnesses;
- (6) examine witnesses;
- (7) swear witnesses for hearings;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) rule on a pretrial motion;
- (11) recommend the rulings, orders, or judgment to be



made in a case;

- (12) regulate proceedings in a hearing;
- (13) order the attachment of a witness or party who fails to obey a subpoena;
- (14) order the detention of a witness or party found guilty of contempt pending the approval of the district judge;
- (15) administer an oath;
- (16) handle pretrial matters for cases to be tried by the district court judge; and
- (17) take any action within the authority of a district judge necessary and proper for the performance of the associate judge's duties.

(b) An order of referral may limit the use or power of an associate judge.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.1061. JURY. An associate judge shall conduct a full hearing according to the usual rules applicable to a jury trial if a jury is demanded in a case referred to an associate judge.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.1062. COURT REPORTER. (a) A referring judge may require a reporter at any hearing.

(b) A court reporter must be provided when an associate judge presides over a jury or nonjury trial on the merits.

(c) On appeal from an associate judge's report on proposed orders, the referring court may consider testimony or other evidence in the record.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.1063. FAILURE TO COMPLY WITH SUMMONS OR OATH. If an attorney, party, witness, or other person fails to comply with a summons or order, an associate judge may certify that failure in writing to the referring district court for appropriate action.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.1064. PERJURY. (a) A witness appearing before an associate judge is subject to the penalties of perjury as provided by Chapter 37, Penal Code.

(b) A witness referred to a court under Section 54.1063 is subject to the same penalties and orders that may be imposed on a witness appearing in a hearing before the district court.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.1065. REPORT. (a) At the conclusion of the proceedings, an associate judge shall transmit to the referring court any papers relating to the case, including the associate judge's findings, conclusions, orders, recommendations, or other action taken.

(b) The associate judge's report must be in writing and in the form prescribed by the referring court. The form may be a notation on the court's docket sheet or in the court's jacket.

(c) After a hearing, an associate judge shall notify the parties participating in the hearing of the substance of the judge's report. The notice may be given in the form of a proposed order.

(d) Notice required under Subsection (c) may be given:

(1) in open court by an oral statement or by providing a copy of the associate judge's written report, including any proposed order;

(2) by certified mail, return receipt requested; or

(3) by facsimile.

(e) An associate judge shall note in the record the date of a mailing by certified mail under Subsection (d)(2). Notice is considered given on the third day after the date of the mailing.

(f) After a hearing conducted by an associate judge, the associate judge shall send the signed and dated report, including any proposed order, and all other papers relating to the case to the referring court.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.1066. NOTICE OF RIGHT TO APPEAL. (a) Each party must be given notice of the right to appeal to the judge of the referring court. The notice may be given:

(1) by an oral statement in open court;

(2) by a posting inside or outside the referring court; or

(3) as otherwise prescribed by the referring court.

(b) Before the commencement of a hearing before the associate judge, a party may waive the right to appeal to the referring court in writing or on the record.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.1067. ORDER OF COURT. (a) Pending appeal to the referring court of the associate judge's report, including any proposed order, the decisions and recommendations of the associate judge are in full force and effect and are enforceable as an order of the referring court, except for orders providing for the appointment of a receiver.

(b) If an appeal to the referring court is not filed or the right to an appeal to the court is waived, the findings and recommendations of the associate judge become the order of the court only on the court's signing of an order conforming to the associate judge's report.

(c) An order by an associate judge for the temporary detention or incarceration of a witness or party shall be presented to the referring court on the date the witness or party is detained or incarcerated. The referring court, without prejudice to the right of appeal, may approve the temporary detention or incarceration or may order the release of the party or witness, with or without bond, pending appeal. If the referring court is not immediately available, the associate judge may order the release of the party or witness, with or without bond, pending appeal or may continue the person's detention or incarceration for not more than 72 hours.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.1068. APPEAL TO REFERRING COURT. (a) A party may appeal an associate judge's report by filing a notice of appeal not later than the third day after the date the party is given notice of the associate judge's report under Section 54.1065, unless the party has waived the party's right to appeal as provided by Section 54.1066(b).

(b) An appeal to the referring court must specify in writing the findings of the associate judge to which the party objects. The appeal is limited to the specified findings and conclusions.

(c) On appeal to the referring court, the parties may present witnesses as in a hearing de novo on the issues raised in the appeal. The court may also consider the record from the hearing before the associate judge, including the charge to and verdict returned by a jury, if the record was taken by a court reporter.

(d) Notice of an appeal to the referring court must be given to each opposing party or their counsel under Rule 21a, Texas Rules of Civil Procedure.

(e) If an appeal to the referring court is filed by a party, any other party may file an appeal to the referring court not later than the seventh day after the date the initial appeal was filed.

(f) The referring court, after giving notice to each party, shall conduct a hearing on each appeal not later than the 30th day after the date the initial appeal was filed with the court.

(g) Denial of an appeal under this section or waiver of the right to appeal to the referring court does not affect the right of a party to file a motion for new trial, motion for judgment notwithstanding the verdict, or other post-trial motion.

(h) A party may not demand a second jury on appeal of an associate judge's report, including any proposed order, resulting from a jury trial.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.1069. APPELLATE REVIEW. (a) Failure to appeal to the referring court, by waiver or otherwise, the approval by the referring court of an associate judge's report does not deprive a party of the right to appeal to or request other relief from a court of appeals or the supreme court.

(b) The date that an order or judgment by the referring court is signed is the controlling date for purposes of appealing to or requesting other relief from a court of appeals or the supreme court.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.1070. JUDICIAL ACTION ON ASSOCIATE JUDGE'S REPORT. Unless a party files a written notice of appeal, the referring court may:

(1) adopt, modify, or reject the associate judge's report, including any proposed order;

(2) hear additional evidence; or

(3) recommit the matter to the associate judge for further proceedings.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

Sec. 54.1071. REFEREES. (a) An associate judge appointed

under this subchapter may serve as a referee as provided by Section 51.04(g) or 54.10, Family Code.

(b) An associate judge appointed under this subchapter may serve as a master as provided by Section 574.0085, Health and Safety Code.

Added by Acts 2001, 77th Leg., ch. 570, Sec. 1, eff. Sept. 1, 2001.

#### SUBCHAPTER U. MAGISTRATES IN BRAZOS COUNTY

Sec. 54.1101. APPOINTMENT. (a) The judges of the district courts and county courts at law in Brazos County, with the consent and approval of the Commissioners Court of Brazos County, may jointly appoint one or more magistrates to perform the duties authorized by this subchapter.

(b) The judges may authorize one or more magistrates to share service with more than one court.

(c) If a magistrate serves more than one court, the magistrate's appointment must be made with the unanimous approval of all the judges under whom the magistrate serves.

Added by Acts 2001, 77th Leg., ch. 954, Sec. 1, eff. June 14, 2001. Renumbered from V.T.C.A., Government Code Sec. 54.1041 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(56), eff. Sept. 1, 2003.

Sec. 54.1102. QUALIFICATIONS. To be eligible for appointment as a magistrate, a person must:

(1) have resided in Brazos County for at least two years preceding the person's appointment; and

(2) have been licensed to practice law in this state for at least four years.

Added by Acts 2001, 77th Leg., ch. 954, Sec. 1, eff. June 14, 2001. Renumbered from V.T.C.A., Government Code Sec. 54.1042 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(56), eff. Sept. 1, 2003.

Sec. 54.1103. COMPENSATION. (a) A magistrate is entitled to the salary determined by the Commissioners Court of Brazos County.

(b) A magistrate's total compensation from all government sources may not exceed an amount equal to \$1,000 less than the total compensation from all government sources paid to a judge of a county court at law in Brazos County.

(c) The magistrate's salary is paid from the county fund available for payment of officers' salaries.

Added by Acts 2001, 77th Leg., ch. 954, Sec. 1, eff. June 14, 2001. Renumbered from V.T.C.A., Government Code Sec. 54.1043 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(56), eff. Sept. 1, 2003.

Sec. 54.1104. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 2001, 77th Leg., ch. 954, Sec. 1, eff. June 14, 2001. Renumbered from V.T.C.A., Government Code Sec. 54.1044 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(56), eff. Sept. 1, 2003.

Sec. 54.1105. TERMINATION OF EMPLOYMENT. (a) A magistrate who serves a single court serves at the will of the judge of that court.

(b) A magistrate who serves more than one court may be terminated by a majority of the judges of those courts.

(c) To terminate a magistrate's employment, the appropriate judges must sign a written order of termination. The order must state:

(1) the magistrate's name and state bar identification number;

(2) each court ordering termination; and

(3) the date the magistrate's employment ends.

Added by Acts 2001, 77th Leg., ch. 954, Sec. 1, eff. June 14, 2001. Renumbered from V.T.C.A., Government Code Sec. 54.1045 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(56), eff. Sept. 1, 2003.

Sec. 54.1106. PROCEEDINGS THAT MAY BE REFERRED. (a) A judge of a court authorized by the Commissioners Court of Brazos County to refer criminal cases may refer to a magistrate any criminal case for proceedings involving:

(1) a bond forfeiture;

(2) the arraignment of defendants;

(3) a determination of whether a defendant is indigent and, if so, the appointment of counsel for the defendant;

(4) a negotiated plea of guilty or no contest and sentencing;

(5) a pretrial motion;

(6) an examining trial;

(7) an application for a writ of habeas corpus;

(8) issuance of an arrest warrant or a search warrant;

(9) setting of bonds;

(10) a motion to increase or decrease a bond;  
(11) a motion to proceed with adjudication;  
(12) a motion to modify or revoke community supervision;  
(13) a drug court proceeding;  
(14) an occupational driver's license; or  
(15) any other matter the judge considers necessary and proper.

(b) A judge of a court having family law jurisdiction may refer to a magistrate any matter that may be referred to an associate judge under Subchapter A, Chapter 201, Family Code, or a referee under Title 3, Family Code.

(c) A judge of a court authorized by the Commissioners Court of Brazos County to refer mental health cases may refer to a magistrate any matter that may be referred to a magistrate or referee under Subtitle C, Title 7, Health and Safety Code.

(c-1) A judge of a court with jurisdiction over a delinquent tax suit may refer to a magistrate any matter that may be referred to a tax master under Subtitle E, Title 1, Tax Code.

(d) A magistrate may not preside over a trial on the merits before a jury. With the written consent of the parties and the approval of the referring judge, a magistrate may preside over a bench trial on the merits.

Added by Acts 2001, 77th Leg., ch. 954, Sec. 1, eff. June 14, 2001. Renumbered from V.T.C.A., Government Code Sec. 54.1046 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(56), eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 1331, Sec. 2, eff. Sept. 1, 2005.

Sec. 54.1107. ORDER OF REFERRAL. (a) To refer one or more cases to a magistrate, a judge must issue an order of referral specifying the magistrate's duties.

(b) An order of referral shall:

(1) limit the powers of the magistrate and direct the magistrate to report only on specific issues, perform particular actions, or receive and report on evidence only;

(2) set the time and place for the hearing;

(3) prescribe a closing date for the hearing;

(4) provide a date for filing the magistrate's findings;

(5) designate proceedings for more than one case over which the magistrate shall preside;

(6) direct the magistrate to call the court's docket; and

(7) designate the general powers and limitations of authority of the magistrate applicable to any case referred.

Added by Acts 2001, 77th Leg., ch. 954, Sec. 1, eff. June 14, 2001. Renumbered from V.T.C.A., Government Code Sec. 54.1047 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(56), eff. Sept. 1, 2003.

Sec. 54.1108. POWERS. Except as limited by an order of referral, a magistrate to whom a case is referred may:

(1) conduct hearings;

(2) hear evidence;

(3) compel production of evidence;

(4) rule on admissibility of evidence;

(5) issue notices of the setting of a case for a hearing;

(6) issue summons for the appearance of witnesses;

(7) examine witnesses; and

(8) swear witnesses for hearings.

Added by Acts 2001, 77th Leg., ch. 954, Sec. 1, eff. June 14, 2001. Renumbered from V.T.C.A., Government Code Sec. 54.1408 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(56), eff. Sept. 1, 2003.

Sec. 54.1109. NOTICE OF HEARING. Before a magistrate holds a hearing, each party shall be given notice of the time and place of the hearing as provided by law.

Added by Acts 2001, 77th Leg., ch. 954, Sec. 1, eff. June 14, 2001. Renumbered from V.T.C.A., Government Code Sec. 54.1049 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(56), eff. Sept. 1, 2003.

Sec. 54.1110. WITNESSES. (a) A witness who appears before a magistrate and is sworn is subject to the penalties for perjury as provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the court.

Added by Acts 2001, 77th Leg., ch. 954, Sec. 1, eff. June 14, 2001.

Renumbered from V.T.C.A., Government Code Sec. 54.1050 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(56), eff. Sept. 1, 2003.

Sec. 54.1111. RECORD OF EVIDENCE. (a) A court reporter is not required during a hearing held by a magistrate.

(b) A party, the magistrate, or the referring court may provide for a reporter during the hearing.

(c) The record of a hearing before a magistrate may be preserved by any means approved by the referring court, including by stenographic or electronic recording.

(d) The referring court or magistrate may impose on a party the expense of preserving the record as a court cost.

Added by Acts 2001, 77th Leg., ch. 954, Sec. 1, eff. June 14, 2001. Renumbered from V.T.C.A., Government Code Sec. 54.1051 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(56), eff. Sept. 1, 2003.

Sec. 54.1112. REPORT AND PAPERS TRANSMITTED TO JUDGE. At the conclusion of the proceedings, a magistrate shall send to the referring court:

(1) the magistrate's signed and dated report, including the orders, recommendations, or other action taken; and

(2) any papers relating to the case.

Added by Acts 2001, 77th Leg., ch. 954, Sec. 1, eff. June 14, 2001. Renumbered from V.T.C.A., Government Code Sec. 54.1052 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(56), eff. Sept. 1, 2003.

Sec. 54.1113. HEARING BEFORE JUDGE. (a) After receiving notice of the magistrate's orders, recommendations, or other action taken, any party, principal, or minor, or the parent, guardian, or custodian of a minor, is entitled to a hearing before the judge of the referring court.

(b) Notice of the right to a hearing before the judge may be given at the hearing before the magistrate or otherwise as the referring court directs.

(c) Except as provided by other law requiring a party to file a request for a hearing sooner, a party must file a request for hearing with the referring court not later than the fifth day after the date the magistrate signs the report under Section 54.1112. The appeal to the referring court must specify the orders or recommendations or other actions taken by the magistrate to which the party objects. The appeal is limited to the orders, recommendations, or other actions taken which are specified in the appeal.

Added by Acts 2001, 77th Leg., ch. 954, Sec. 1, eff. June 14, 2001. Renumbered from V.T.C.A., Government Code Sec. 54.1053 and amended by Acts 2003, 78th Leg., ch. 1275, Sec. 2(56), 3(26), eff. Sept. 1, 2003.

Sec. 54.1114. EFFECT OF MAGISTRATE'S REPORT PENDING APPEAL. Pending appeal of the magistrate's report to the referring court, the decisions and recommendations of the magistrate's report have the force and effect of, and are enforceable as, an order of the referring court, except as provided by other law for a particular action by the magistrate.

Added by Acts 2001, 77th Leg., ch. 954, Sec. 1, eff. June 14, 2001. Renumbered from V.T.C.A., Government Code Sec. 54.1054 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(56), eff. Sept. 1, 2003.

Sec. 54.1115. JUDICIAL ACTION. (a) The referring court may modify, correct, reject, reverse, or recommit for further proceedings any action taken by the magistrate.

(b) If the referring court does not take any action, the actions of the magistrate become the decree of the referring court on adoption by that court.

Added by Acts 2001, 77th Leg., ch. 954, Sec. 1, eff. June 14, 2001. Renumbered from V.T.C.A., Government Code Sec. 54.1055 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(56), eff. Sept. 1, 2003.

Sec. 54.1116. COSTS OF MAGISTRATE. (a) The court shall determine if the nonprevailing party is able to defray the costs of the magistrate. If the court determines that the nonprevailing party is able to pay those costs, the court shall impose the magistrate's fees as costs against the nonprevailing party.

(b) The Commissioners Court of Brazos County shall set the amount of the magistrate's fees that may be imposed as costs. Unless a higher fee is authorized by law for a particular action taken by the magistrate, the magistrate's fees in a case may not exceed \$50.

(c) The clerk of the referring court shall collect the magistrate's fees and deposit the fees in the county treasury.

Added by Acts 2001, 77th Leg., ch. 954, Sec. 1, eff. June 14, 2001.

Renumbered from V.T.C.A., Government Code Sec. 54.1056 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(56), eff. Sept. 1, 2003.

SUBCHAPTER V. ASSOCIATE JUDGES IN DUVAL COUNTY

Sec. 54.1131. APPOINTMENT. The judge of the 229th District Court, with the approval of the Commissioners Court of Duval County, may appoint a full-time or a part-time associate judge to perform the duties authorized by this subchapter.

Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1132. QUALIFICATIONS. To be eligible for appointment as an associate judge, a person must:

(1) be a resident of this state and Duval County; and

(2) meet the requirements and qualifications to serve as a judge of the court to which the person is appointed.

Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1133. COMPENSATION. (a) An associate judge is entitled to the compensation set by the Duval County Commissioners Court.

(b) The salary shall be paid from the county fund available for payments of officers' salaries.

(c) This section does not apply to an associate judge appointed under Section 201.001, Family Code.

Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1134. PRIVATE PRACTICE. A part-time associate judge may engage in the private practice of law, unless restricted on a finding that it is not in the public interest by the appointing judge.

Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1135. TERMINATION OF SERVICES. (a) An associate judge serves at the will of the judge of the 229th District Court.

(b) This section does not apply to an associate judge appointed under Section 201.001, Family Code.

Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1136. REFERRAL OF CASE. (a) The appointing judge may refer to an associate judge any aspect of a civil or criminal case involving a matter over which the referring court has jurisdiction in Duval County.

(b) After notice to all parties of the time and place of hearing, an associate judge may preside over any hearing, including:

(1) for a civil case, proceedings involving:

(A) a temporary order in an action or suit for support by one spouse against another;

(B) a motion or suit to modify a temporary or final order;

(C) temporary orders in a suit affecting the parent-child relationship;

(D) an application for a temporary injunction related to temporary possession or use of property;

(E) habeas corpus, including any hearing authorized by the Family Code;

(F) a motion to transfer;

(G) a motion of contempt for failure or refusal to obey a temporary or final order;

(H) an action brought under Chapter 159, Family Code;

(I) an action for the protection of the family;

(J) a matter on which the parties agree;

(K) a matter in which a party is entitled to a default judgment;

(L) a divorce action in which a waiver of citation is on file;

(M) a friendly suit; and

(N) any other matter in the jurisdiction of the court, including a pretrial motion, discovery, summary judgment, and other matters governed by the Texas Rules of Civil Procedure; and

(2) for a criminal case, proceedings involving:

(A) a negotiated plea of guilty or nolo contendere;

(B) a bond forfeiture;

(C) a pretrial motion;

(D) a postconviction writ of habeas corpus;

(E) an examining trial; and

(F) any other matter that the judge considers proper.

(c) A judge may not refer to an associate judge any criminal case for trial on the merits in which a jury trial has been requested.

(d) Unless a party files a written objection to the associate judge hearing the trial, the appointing judge may refer to an associate judge a trial on the merits. If an objection is filed, the trial on the merits shall be heard by the referring court.

(e) A trial on the merits is a final adjudication from which an appeal may be taken to a court of appeals.

(f) An associate judge may not conduct a contested trial on the merits to terminate parental rights unless the affected parties give written consent to the contested trial by the associate judge. Unless written consent is given by the affected parties to a contested trial on the merits, any order terminating parental rights issued pursuant to an associate judge's report resulting from the contested trial is void.

(g) On appointment of an associate judge, any pending or future cases may be referred to the associate judge.

Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1137. ORDER OF REFERRAL. (a) To refer cases to an associate judge, the referring court must issue an order of referral.

(b) The order of referral may limit the power or duties of an associate judge.

Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1138. POWERS. Except as limited by an order of referral, an associate judge may:

- (1) conduct a hearing;
- (2) hear evidence;
- (3) compel production of relevant evidence;
- (4) rule on admissibility of evidence;
- (5) issue summons for the appearance of witnesses;
- (6) examine witnesses;
- (7) swear witnesses for hearings;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) recommend the judgment to be made in a case;
- (11) regulate all proceedings in a hearing before the associate judge;
- (12) rule on all criminal pretrial motions; and
- (13) perform any act and take any measure necessary and proper for the efficient performance of the associate judge's duties.

Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1139. ATTENDANCE OF BAILIFF. A bailiff shall attend a hearing held by an associate judge if directed by the referring court.

Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1140. WITNESS. (a) A witness appearing before an associate judge is subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear before an associate judge after being summoned or whose refusal to answer questions has been certified to the court.

Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1141. REPORT TRANSMITTED TO COURT; NOTICE. (a) At the conclusion of any hearing conducted by an associate judge and on the preparation of an associate judge's report, the associate judge shall transmit to the referring court:

- (1) all papers relating to the case; and
- (2) the associate judge's signed and dated report.

(b) After the associate judge's report has been signed, the associate judge shall give notice of the substance of the report to the parties participating in the hearing.

(c) The associate judge's report may contain the associate judge's finding, conclusions, or recommendations. The associate judge's report must be in writing in a form as the referring court may direct. The form may be a notation on the referring court's docket sheet.

(d) The notice required under Subsection (b) may be given in open court or may be given by certified mail, return receipt requested. If the notice is given by certified mail, the associate judge shall certify the date of mailing and the notice is considered

to have been given on the third day after the date of mailing.  
Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1142. NOTICE OF RIGHT TO APPEAL. An associate judge shall give all parties notice of the right of appeal to the judge of the referring court. The notice may be given:

- (1) at the hearing;
- (2) by posting the notice inside or outside the courtroom of the referring court; or
- (3) as otherwise directed by the referring court.

Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1143. EFFECT OF ASSOCIATE JUDGE'S REPORT PENDING APPEAL. Pending appeal of the associate judge's report to the referring court, the decisions and recommendations of the associate judge are in full force and effect and are enforceable as an order of the referring court, except for the orders providing for incarceration or for the appointment of a receiver.

Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1144. JUDICIAL ACTION ON ASSOCIATE JUDGE'S REPORT. After the associate judge's report is filed, and unless the parties have filed a written notice of appeal to the referring court, the referring court may:

- (1) adopt, approve, or reject the associate judge's report;
- (2) hear further evidence; or
- (3) recommit the matter for further proceedings as the referring court considers proper and necessary in the particular circumstances of the case.

Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1145. DECREE OR ORDER OF COURT. If an appeal to the referring court is not filed or the right to an appeal to the referring court is waived, the findings and the recommendations of the associate judge become the decree or order of the referring court only on the referring court's signing an order or decree conforming to the associate judge's report.

Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1146. APPEAL TO REFERRING COURT. (a) Any party is entitled to a hearing by the judge of the referring court if, not later than three days, computed in the manner provided by Rule 4, Texas Rules of Civil Procedure, after the associate judge gives the notice required by Section 54.1141, an appeal of the associate judge's report is filed with the referring court.

(b) The first day of the appeal time to the referring courts begins on the day after the day on which the associate judge gives the notice required by Section 54.1141.

(c) An appeal to the referring court shall be in writing and must specify the findings and conclusions of the associate judge to which the party objects. The appeal is limited to the findings and conclusions specified in the written appeal.

(d) On appeal to the referring court, the parties may present witnesses as in a hearing de novo on the issues raised in the appeal.

(e) Notice of any appeal to the referring court shall be given to opposing counsel in the manner provided by Rule 21a, Texas Rules of Civil Procedure.

(f) If an appeal to the referring court is filed by a party, any other party may file an appeal to the referring court not later than the seventh day after the date the initial appeal was filed.

(g) The referring court, after notice to the parties, shall hold a hearing on all appeals not later than the 30th day after the date on which the initial appeal was filed with the referring court.

(h) Prior to any hearing before an associate judge, the parties may waive the right of appeal to the referring court. The waiver may be in writing or on the record.

Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1147. APPELLATE REVIEW. (a) Failure to appeal to the referring court, by waiver or otherwise, on the approval by the referring court of an associate judge's report does not deprive any party of the right to appeal to or request other relief from a court of appeals or the supreme court.

(b) The date of the signing of an order or judgment by the referring court is the controlling date for the purposes of appeal to or request for other relief from a court of appeals or the supreme court.

Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1148. JURY TRIAL DEMANDED. If a jury trial is



demand and a jury fee paid in a trial on the merits, the associate judge shall refer any matters requiring a jury back to the referring court for a full trial before the court and jury.

Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1149. INAPPLICABILITY OF SUBCHAPTER TO MASTERS APPOINTED UNDER RULE 171. Masters appointed by the referring court under Rule 171, Texas Rules of Civil Procedure, have all the duties and powers set forth in the order of appointment and are not governed by this subchapter.

Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1150. IMMUNITY. An associate judge appointed under this subchapter has the judicial immunity of a district judge.

Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1151. COURT REPORTER. (a) A court reporter is not required during a hearing held by an associate judge appointed under this subchapter.

(b) A party, the associate judge, or the referring court may provide for a court reporter during the hearing. The record may be preserved by any other means approved by the associate judge.

(c) The referring court or associate judge may impose on a party as costs the expense of preserving the record.

Added by Acts 2003, 78th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2003.

#### SUBCHAPTER W. MAGISTRATES IN CERTAIN COUNTY COURTS

Sec. 54.1171. APPLICATION OF SUBCHAPTER. This subchapter applies to a constitutional county court in a county with a population of two million or more.

Added by Acts 2003, 78th Leg., ch. 137, Sec. 2, eff. Sept. 1, 2003.

Renumbered from V.T.C.A., Government Code Sec. 54.1151 by Acts 2005, 79th Leg., ch. 728, Sec. 23.001(27), eff. Sept. 1, 2005.

Sec. 54.1172. APPOINTMENT. (a) The county judge may appoint one or more full-time magistrates to hear a matter alleging a violation of Section 25.093 or 25.094, Education Code.

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

(c) A magistrate serves at the pleasure of the county judge.

Added by Acts 2003, 78th Leg., ch. 137, Sec. 2, eff. Sept. 1, 2003.

Renumbered from V.T.C.A., Government Code Sec. 54.1152 by Acts 2005, 79th Leg., ch. 728, Sec. 23.001(27), eff. Sept. 1, 2005.

Sec. 54.1173. QUALIFICATIONS. A magistrate must:

(1) be a citizen of this state;

(2) be at least 25 years of age; and

(3) have been licensed to practice law in this state for at least four years preceding the date of appointment.

Added by Acts 2003, 78th Leg., ch. 137, Sec. 2, eff. Sept. 1, 2003.

Renumbered from V.T.C.A., Government Code Sec. 54.1153 by Acts 2005, 79th Leg., ch. 728, Sec. 23.001(27), eff. Sept. 1, 2005.

Sec. 54.1174. COMPENSATION. A magistrate is entitled to the compensation set by the commissioners court. The compensation shall be paid from the general fund of the county.

Added by Acts 2003, 78th Leg., ch. 137, Sec. 2, eff. Sept. 1, 2003.

Renumbered from V.T.C.A., Government Code Sec. 54.1154 by Acts 2005, 79th Leg., ch. 728, Sec. 23.001(27), eff. Sept. 1, 2005.

Sec. 54.1175. POWERS. Except as limited by an order of the county judge, a magistrate appointed under this subchapter may:

(1) conduct hearings and trials, including jury trials;

(2) hear evidence;

(3) compel production of relevant evidence, including books, papers, vouchers, documents, and other writings;

(4) rule on admissibility of evidence;

(5) issue summons and attachments for the appearance of witnesses;

(6) examine witnesses;

(7) swear witnesses for hearings and trials; and

(8) perform any act and take any measure necessary and proper for the efficient performance of the duties assigned by the county judge.

Added by Acts 2003, 78th Leg., ch. 137, Sec. 2, eff. Sept. 1, 2003.

Renumbered from V.T.C.A., Government Code Sec. 54.1155 by Acts 2005, 79th Leg., ch. 728, Sec. 23.001(27), eff. Sept. 1, 2005.

Sec. 54.1176. PAPERS TRANSMITTED TO JUDGE. (a) At the conclusion of a hearing, the magistrate shall transmit to the judge any papers relating to the case, including:

(1) the magistrate's findings and recommendations;  
and

(2) a statement that notice of the findings and recommendations and of the right to a hearing before the judge has been given to all parties.

(b) The judge shall adopt, modify, or reject the magistrate's recommendations not later than the third working day after the date the judge receives the recommendations.

(c) The judge shall send written notice of any modification or rejection of the magistrate's recommendations to each party to the case.

Added by Acts 2003, 78th Leg., ch. 137, Sec. 2, eff. Sept. 1, 2003. Renumbered from V.T.C.A., Government Code Sec. 54.1156 by Acts 2005, 79th Leg., ch. 728, Sec. 23.001(27), eff. Sept. 1, 2005.

SUBCHAPTER X. CRIMINAL LAW MAGISTRATES IN HARRIS COUNTY

Sec. 54.1201. DEFINITIONS. In this chapter, "drug court" has the meaning assigned by Section 469.001, Health and Safety Code.

Added by Acts 2003, 78th Leg., ch. 954, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1202. APPOINTMENT. (a) The judges of the district courts of Harris County that give preference to criminal cases, with the consent and approval of the Commissioners Court of Harris County, may appoint the number of magistrates set by the commissioners court to perform the duties associated with the administration of drug courts and acceptance and sentencing on agreed plea bargains as authorized by this subchapter.

(b) Each magistrate's appointment must be made with the approval of the majority of the judges described in Subsection (a).

(c) If the number of magistrates is less than the number of the appointing judges, each magistrate shall serve equally in the courts of those judges.

Added by Acts 2003, 78th Leg., ch. 954, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1203. QUALIFICATIONS. A magistrate must:

(1) be a resident of this state and of Harris County; and

(2) have been licensed to practice law in this state for at least four years.

Added by Acts 2003, 78th Leg., ch. 954, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1204. COMPENSATION. A magistrate is entitled to the salary determined by the Commissioners Court of Harris County.

Added by Acts 2003, 78th Leg., ch. 954, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1205. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 2003, 78th Leg., ch. 954, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1206. TERMINATION OF SERVICES. The services of a magistrate may be terminated by a majority vote of the appointing judges of the district courts of Harris County that give preference to criminal cases.

Added by Acts 2003, 78th Leg., ch. 954, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1207. PROCEEDINGS THAT MAY BE REFERRED. (a) A judge may refer to a magistrate:

(1) a criminal case for drug court proceedings; and

(2) a criminal case involving an agreed plea bargain recommendation as to punishment or an agreed recommendation for a presentence investigation report in which the plea will be accepted by the magistrate and the sentence determined by the judge.

(b) A magistrate may not preside over a contested trial on the merits, regardless of whether the trial is before a jury.

Added by Acts 2003, 78th Leg., ch. 954, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1208. ORDER OF REFERRAL. (a) To refer one or more cases to a drug court magistrate or a magistrate accepting an agreed plea bargain recommendation, a judge or board of judges trying criminal cases must issue an order of referral specifying the magistrate's duties.

(b) An order of referral may:

(1) limit the powers of the magistrate and direct the magistrate to report on specific issues and perform particular acts;

(2) set the time and place for the hearing;

(3) provide a date for filing the magistrate's findings;

(4) designate proceedings for more than one case over which the magistrate shall preside;

(5) direct the magistrate to call the court's docket; and

(6) set forth general powers and limitations of authority of the magistrate applicable to any case referred.

Added by Acts 2003, 78th Leg., ch. 954, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1209. POWERS. (a) Except as limited by an order of referral, a magistrate to whom a drug court case is referred may:

- (1) conduct hearings;
- (2) hear evidence;
- (3) compel production of relevant evidence;
- (4) rule on admissibility of evidence;
- (5) issue summons for the appearance of witnesses;
- (6) examine witnesses;
- (7) swear witnesses for hearings;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) rule on preliminary motions;
- (11) recommend the rulings, orders, or judgment to be made in a case;
- (12) regulate proceedings in a hearing;
- (13) in a case referred under Section 54.1207(a)(1):
  - (A) accept an agreed plea of guilty or an agreed plea bargain recommendation;
  - (B) enter a finding of guilt and impose or suspend sentence under an agreed plea bargain recommendation; or
  - (C) defer adjudication of guilt under an agreed plea bargain recommendation; and
- (14) perform any act and take any measure necessary and proper for the efficient performance of the drug court or the duties required by the order of referral.

(b) Except as limited by an order of referral, a magistrate to whom an agreed plea bargain recommendation is referred may:

- (1) in a case referred under Section 54.1207(a)(2):
  - (A) accept an agreed plea bargain recommendation related to punishment;
  - (B) accept an agreed recommendation for a presentence investigation report in which the plea will be accepted by the magistrate and the sentence determined by the judge;
  - (C) enter a finding of guilt and impose or suspend sentence under an agreed plea bargain recommendation; or
  - (D) defer adjudication of guilt under an agreed plea bargain recommendation; and
- (2) perform any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

(c) A magistrate may not enter a ruling on any issue of law or fact if that ruling could result in dismissal or require dismissal of a pending criminal prosecution, but the magistrate may make findings, conclusions, and recommendations on those issues.

Added by Acts 2003, 78th Leg., ch. 954, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1210. RECORD OF PROCEEDINGS. At the request of a party, the court shall provide that the proceedings before the magistrate be recorded.

Added by Acts 2003, 78th Leg., ch. 954, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1211. WITNESS. (a) A witness who appears before a magistrate and is sworn is subject to the penalties for perjury provided by law.

(b) A supervising judge or judges may issue attachment against and may fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the court.

Added by Acts 2003, 78th Leg., ch. 954, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1212. PAPERS TRANSMITTED TO THE JUDGE. At the conclusion of the proceedings, a magistrate shall transmit to the referring court any papers relating to the case, including the magistrate's findings, conclusions, orders, recommendations, or other action taken.

Added by Acts 2003, 78th Leg., ch. 954, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1213. JUDICIAL ACTION. (a) The supervising judge or judges of a drug court may modify, correct, reject, reverse, or recommit for further information any action taken by the magistrate.

(b) If the supervising judge or judges do not modify, correct, reject, reverse, or recommit an action of the magistrate, the action becomes the decree of the court.

(c) At the conclusion of each term during which the services of a magistrate are used, the supervising judge or judges shall enter a decree on the minutes of the referring court adopting the actions of the magistrate of which the court approves.

Added by Acts 2003, 78th Leg., ch. 954, Sec. 1, eff. Sept. 1, 2003.

Sec. 54.1214. CRIMINAL LAW MAGISTRATES. (a) If a criminal law magistrate appointed under this subchapter is absent or unable to serve, the judge referring the case may appoint another criminal law magistrate to serve for the absent magistrate.

(b) A criminal law magistrate serving for another magistrate under this section has the powers and shall perform the duties of the magistrate for whom he is serving.

Added by Acts 2003, 78th Leg., ch. 954, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER Y. MAGISTRATES IN COMAL COUNTY

Sec. 54.1231. AUTHORIZATION; APPOINTMENT; ELIMINATION. (a) The Commissioners Court of Comal County may authorize the judges of the district and statutory county courts in Comal County to appoint one or more part-time or full-time magistrates to perform the duties authorized by this subchapter.

(b) The judges of the district and statutory county courts in Comal County by a unanimous vote may appoint magistrates as authorized by the Commissioners Court of Comal County.

(c) An order appointing a magistrate must be signed by the local presiding judge of the district courts serving Comal County, and the order must state:

- (1) the magistrate's name; and
- (2) the date the magistrate's employment is to begin.

(d) An authorized magistrate's position may be eliminated on a majority vote of the Commissioners Court of Comal County.

Added by Acts 2003, 78th Leg., ch. 42, Sec. 1, eff. May 15, 2003. Renumbered from V.T.C.A., Government Code Sec. 54.1151 by Acts 2005, 79th Leg., ch. 728, Sec. 23.001(28), eff. Sept. 1, 2005.

Sec. 54.1232. QUALIFICATIONS; OATH OF OFFICE. (a) To be eligible for appointment as a magistrate, a person must:

- (1) be a citizen of the United States;
- (2) have resided in Comal County for at least the two years preceding the person's appointment; and
- (3) be at least 30 years of age.

(b) A magistrate appointed under Section 54.1231 must take the constitutional oath of office required of appointed officers of this state.

Added by Acts 2003, 78th Leg., ch. 42, Sec. 1, eff. May 15, 2003. Renumbered from V.T.C.A., Government Code Sec. 54.1152 and amended by Acts 2005, 79th Leg., ch. 728, Sec. 23.001(28), 23.002(5), eff. Sept. 1, 2005.

Sec. 54.1233. COMPENSATION. (a) A magistrate is entitled to the salary determined by the Commissioners Court of Comal County.

(b) A full-time magistrate's salary may not be less than that of a justice of the peace of Comal County as established by the annual budget of Comal County.

(c) A part-time magistrate's salary is equal to the per-hour salary of a justice of the peace. The per-hour salary is determined by dividing the annual salary by a 2000 work-hour year. The local administrative judge of the district courts serving Comal County shall approve the number of hours to be paid a part-time magistrate.

(d) The magistrate's salary is paid from the county fund available for payment of officers' salaries.

Added by Acts 2003, 78th Leg., ch. 42, Sec. 1, eff. May 15, 2003. Renumbered from V.T.C.A., Government Code Sec. 54.1153 by Acts 2005, 79th Leg., ch. 728, Sec. 23.001(28), eff. Sept. 1, 2005.

Sec. 54.1234. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 2003, 78th Leg., ch. 42, Sec. 1, eff. May 15, 2003. Renumbered from V.T.C.A., Government Code Sec. 54.1154 by Acts 2005, 79th Leg., ch. 728, Sec. 23.001(28), eff. Sept. 1, 2005.

Sec. 54.1235. TERMINATION OF EMPLOYMENT. (a) A magistrate may be terminated by a majority vote of all the judges of the district and statutory county courts of Comal County.

(b) To terminate a magistrate's employment, the local administrative judge of the district courts serving Comal County must sign a written order of termination. The order must state:

- (1) the magistrate's name; and
- (2) the final date of the magistrate's employment.

Added by Acts 2003, 78th Leg., ch. 42, Sec. 1, eff. May 15, 2003. Renumbered from V.T.C.A., Government Code Sec. 54.1155 by Acts 2005, 79th Leg., ch. 728, Sec. 23.001(28), eff. Sept. 1, 2005.

Sec. 54.1236. JURISDICTION; RESPONSIBILITY; POWERS. (a) The judges of the district or statutory county courts shall establish standing orders to be followed by a magistrate or parties

appearing before a magistrate, as applicable.

(b) To the extent authorized by this subchapter and the standing orders, a magistrate has jurisdiction to exercise the authority granted by the judges of the district or statutory county courts.

(c) A magistrate has all of the powers of a magistrate under the laws of this state and may administer an oath for any purpose.

(d) A magistrate shall give preference to performing the duties of a magistrate under Article 15.17, Code of Criminal Procedure.

(e) A magistrate is authorized to:

(1) set, adjust, and revoke bonds before the filing of an information or the return of an indictment;

(2) conduct examining trials;

(3) determine whether a defendant is indigent and appoint counsel for an indigent defendant;

(4) issue search and arrest warrants;

(5) issue emergency protective orders;

(6) order emergency mental commitments; and

(7) conduct initial juvenile detention hearings if approved by the Juvenile Board of Comal County.

(f) With the express authorization of a justice of the peace, a magistrate may exercise concurrent criminal jurisdiction with the justice of the peace to dispose as provided by law of cases filed in the precinct of the authorizing justice of the peace, except for a trial on the merits following a plea of not guilty.

(g) A magistrate may:

(1) issue notices of the setting of a case for a hearing;

(2) conduct hearings;

(3) compel production of evidence;

(4) hear evidence;

(5) issue summons for the appearance of witnesses;

(6) swear witnesses for hearings;

(7) regulate proceedings in a hearing; and

(8) perform any act and take any measure necessary and proper for the efficient performance of the duties required by the magistrate's jurisdiction and authority.

Added by Acts 2003, 78th Leg., ch. 42, Sec. 1, eff. May 15, 2003. Renumbered from V.T.C.A., Government Code Sec. 54.1156 by Acts 2005, 79th Leg., ch. 728, Sec. 23.001(28), eff. Sept. 1, 2005.

Sec. 54.1237. PERSONNEL, EQUIPMENT, AND OFFICE SPACE. The Commissioners Court of Comal County shall provide:

(1) personnel for the legal or clerical functions necessary to perform the magistrate's duties authorized by this chapter; and

(2) sufficient equipment and office space for the magistrate and personnel to perform the magistrate's essential functions.

Added by Acts 2003, 78th Leg., ch. 42, Sec. 1, eff. May 15, 2003. Renumbered from V.T.C.A., Government Code Sec. 54.1157 by Acts 2005, 79th Leg., ch. 728, Sec. 23.001(28), eff. Sept. 1, 2005.

#### SUBCHAPTER BB. MAGISTRATES IN MONTGOMERY COUNTY

Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356, was added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005.

For another Subchapter BB, Criminal Law Hearing Officer in Cameron County, consisting of Secs. 54.1351 to 54.1361, added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005, and Subchapter BB, Magistrates in Nolan County, consisting of Secs. 54.1701 to 54.1705, added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005, see Secs. 54.1351 to 54.1361 and Secs. 54.1701 to 54.1705 post.

Sec. 54.1351. APPOINTMENT. (a) The judges of the district courts and statutory county courts in Montgomery County, with the consent and approval of the Commissioners Court of Montgomery County, may jointly appoint one or more magistrates to perform the duties authorized by this subchapter.

(b) Each magistrate's appointment must be made with the approval of a majority of the judges described in Subsection (a).

(c) A magistrate appointed under this subchapter may be terminated at any time in the same manner as appointed.

Added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005. Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356, was added by Acts 2005, 79th Leg., ch.

663, Sec. 1, eff. Sept. 1, 2005.

For another Subchapter BB, Criminal Law Hearing Officer in Cameron County, consisting of Secs. 54.1351 to 54.1361, added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005, and Subchapter BB, Magistrates in Nolan County, consisting of Secs. 54.1701 to 54.1705, added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005, see Secs. 54.1351 to 54.1361 and Secs. 54.1701 to 54.1705 post.

Sec. 54.1352. QUALIFICATIONS; OATH OF OFFICE. (a) To be eligible for appointment as a magistrate, a person must:

(1) be a resident of Montgomery County, Texas; and

(2) be licensed to practice law in this state for at least four years.

(b) A magistrate appointed under this subchapter must take the constitutional oath of office required of appointed officers of this state.

Added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005.

Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356, was added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005.

For another Subchapter BB, Criminal Law Hearing Officer in Cameron County, consisting of Secs. 54.1351 to 54.1361, added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005, and Subchapter BB, Magistrates in Nolan County, consisting of Secs. 54.1701 to 54.1705, added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005, see Secs. 54.1351 to 54.1361 and Secs. 54.1701 to 54.1705 post.

Sec. 54.1353. COMPENSATION. (a) A magistrate is entitled to the salary determined by the Commissioners Court of Montgomery County.

(b) The magistrate's salary is to be paid from the county fund available for the payment of officers' salaries.

Added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005.

Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356, was added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005.

For another Subchapter BB, Criminal Law Hearing Officer in Cameron County, consisting of Secs. 54.1351 to 54.1361, added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005, and Subchapter BB, Magistrates in Nolan County, consisting of Secs. 54.1701 to 54.1705, added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005, see Secs. 54.1351 to 54.1361 and Secs. 54.1701 to 54.1705 post.

Sec. 54.1354. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005.

Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356, was added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005.

For another Subchapter BB, Criminal Law Hearing Officer in Cameron County, consisting of Secs. 54.1351 to 54.1361, added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005, and Subchapter BB, Magistrates in Nolan County, consisting of Secs. 54.1701 to 54.1705, added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005, see Secs. 54.1351 to 54.1361 and Secs. 54.1701 to 54.1705 post.

Sec. 54.1355. JURISDICTION; RESPONSIBILITY. The judges of the district and statutory county courts of Montgomery County by majority vote shall adopt standing orders establishing the duties of a magistrate.

Added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005.

Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356, was added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005.

For another Subchapter BB, Criminal Law Hearing Officer in Cameron County, consisting of Secs. 54.1351 to 54.1361, added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005, and Subchapter BB, Magistrates in Nolan County, consisting of Secs. 54.1701 to 54.1705, added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005, see Secs. 54.1351 to 54.1361 and Secs. 54.1701 to 54.1705 post.

Sec. 54.1356. POWERS. Subject to the standing orders of the judges of the district and statutory county courts of Montgomery County, the magistrate has all the powers of a magistrate under the laws of this state and may:

- (1) set, adjust, and revoke bonds before the filing of an information or the return of an indictment;
- (2) conduct examining trials;
- (3) determine whether a defendant is indigent and appoint counsel for indigent defendants;
- (4) issue search and arrest warrants;
- (5) issue emergency protective orders;
- (6) order emergency mental commitments;
- (7) conduct juvenile detention hearings if approved by the Juvenile Board of Montgomery County; and
- (8) administer an oath for any purpose.

Added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005. Subchapter BB, Criminal Law Hearing Officers in Cameron County, consisting of Secs. 54.1351 to 54.1361, was added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. May 20, 2005.

For another Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356m added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005, see Secs. 54.1351 to 54.1356, ante, and for Subchapter BB, Magistrates in Nolan County, consisting of Secs. 54.1701 to 54.1705, added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005, see Secs. 54.1701 to 54.1705 post.

Sec. 54.1351. APPLICATION OF SUBCHAPTER. This subchapter applies to Cameron County.

Added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005. Subchapter BB, Criminal Law Hearing Officers in Cameron County, consisting of Secs. 54.1351 to 54.1361, was added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. May 20, 2005.

For another Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356m added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005, see Secs. 54.1351 to 54.1356, ante, and for Subchapter BB, Magistrates in Nolan County, consisting of Secs. 54.1701 to 54.1705, added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005, see Secs. 54.1701 to 54.1705 post.

Sec. 54.1352. APPOINTMENT. (a) A majority of the members of a board composed of the judges of the district courts and statutory county courts of Cameron County may appoint not more than two criminal law hearing officers to perform the duties authorized by this subchapter.

(b) 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) A criminal law hearing officer is subject to proceedings under Section 1-a, Article V, Texas Constitution.

Added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005. Subchapter BB, Criminal Law Hearing Officers in Cameron County, consisting of Secs. 54.1351 to 54.1361, was added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. May 20, 2005.

For another Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356m added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005, see Secs. 54.1351 to 54.1356, ante, and for Subchapter BB, Magistrates in Nolan County, consisting of Secs. 54.1701 to 54.1705, added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005, see Secs. 54.1701 to 54.1705 post.

Sec. 54.1353. QUALIFICATIONS. To be eligible for appointment as a criminal law hearing officer under this subchapter, a person must:

- (1) be a resident of Cameron County;
- (2) be eligible to vote in this state and in Cameron County;
- (3) be at least 30 years of age;
- (4) be a licensed attorney with at least four years' experience; and
- (5) have the other qualifications required by the board.

Added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005. Subchapter BB, Criminal Law Hearing Officers in Cameron County, consisting of Secs. 54.1351 to 54.1361, was added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. May 20, 2005.

For another Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356m added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005, see Secs. 54.1351 to 54.1356, ante, and for Subchapter BB, Magistrates in Nolan County,

consisting of Secs. 54.1701 to 54.1705, added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005, see Secs. 54.1701 to 54.1705 post.

Sec. 54.1354. COMPENSATION. (a) A criminal law hearing officer is entitled to a salary in the amount set by the commissioners court.

(b) The salary is paid from the county fund available for payment of officers' salaries.

Added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005. Subchapter BB, Criminal Law Hearing Officers in Cameron County, consisting of Secs. 54.1351 to 54.1361, was added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. May 20, 2005.

For another Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356m added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005, see Secs. 54.1351 to 54.1356, ante, and for Subchapter BB, Magistrates in Nolan County, consisting of Secs. 54.1701 to 54.1705, added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005, see Secs. 54.1701 to 54.1705 post.

Sec. 54.1355. OATH. A criminal law hearing officer must take the constitutional oath of office required of appointed officers of this state.

Added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005. Subchapter BB, Criminal Law Hearing Officers in Cameron County, consisting of Secs. 54.1351 to 54.1361, was added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. May 20, 2005.

For another Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356m added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005, see Secs. 54.1351 to 54.1356, ante, and for Subchapter BB, Magistrates in Nolan County, consisting of Secs. 54.1701 to 54.1705, added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005, see Secs. 54.1701 to 54.1705 post.

Sec. 54.1356. CRIMINAL JURISDICTION. (a) 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. The jurisdiction of the criminal law hearing officer is limited to:

(1) determining probable cause for further detention of any person detained on a criminal complaint, information, or indictment filed in the district courts, statutory county courts, or justice courts of the county;

(2) committing the defendant to jail, discharging the defendant from custody, or admitting the defendant to bail, as the law and facts of the case require;

(3) issuing search warrants and arrest warrants as provided by law for magistrates; and

(4) as to criminal cases filed in justice courts, disposing of cases as provided by law, other than by trial, and collecting fines and enforcing judgments and orders of the justice courts in criminal cases.

(b) 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) In a felony or misdemeanor case punishable by incarceration in the county jail, a criminal law hearing officer may not dismiss the case, enter a judgment of acquittal or guilt, or pronounce sentence.

Added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005. Subchapter BB, Criminal Law Hearing Officers in Cameron County, consisting of Secs. 54.1351 to 54.1361, was added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. May 20, 2005.

For another Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356m added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005, see Secs. 54.1351 to 54.1356, ante, and for Subchapter BB, Magistrates in Nolan County, consisting of Secs. 54.1701 to 54.1705, added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005, see Secs. 54.1701 to 54.1705 post.

Sec. 54.1357. MENTAL HEALTH JURISDICTION. The judges of the statutory county courts of Cameron County may 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, Health and Safety Code. 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. This section does not impair the jurisdiction of the probate courts to review or alter the decision of the criminal law hearing officer.

Added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005. Subchapter BB, Criminal Law Hearing Officers in Cameron County, consisting of Secs. 54.1351 to 54.1361, was added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. May 20, 2005.

For another Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356m added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005, see Secs. 54.1351 to 54.1356, ante, and for Subchapter BB, Magistrates in Nolan County, consisting of Secs. 54.1701 to 54.1705, added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005, see Secs. 54.1701 to 54.1705 post.

Sec. 54.1358. DUTIES AND POWERS. (a) A criminal law hearing officer shall inform a person arrested of the warnings described by Article 15.17, Code of Criminal Procedure.

(b) A criminal law hearing officer may determine the amount of bail and grant bail under Chapter 17, Code of Criminal Procedure, and as otherwise provided by law.

(c) A criminal law hearing officer may issue a magistrate's order for emergency apprehension and detention under Chapter 573, Health and Safety Code, if authorized by the judges of the statutory county courts of Cameron County and if the criminal law hearing officer makes each finding required by Section 573.012(b), Health and Safety Code.

(d) The criminal law hearing officer shall be available, within the time provided by law following a defendant's arrest, to determine probable cause for further detention, administer warnings, inform the accused of the pending charges, and determine all matters pertaining to bail. Criminal law hearing officers shall be available to review and issue search warrants and arrest warrants as provided by law.

(e) A criminal law hearing officer may dispose of criminal cases filed in the justice courts as provided by law, other than by trial, and collect fines and enforce the judgments and orders of the justice courts in criminal cases.

Added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005. Subchapter BB, Criminal Law Hearing Officers in Cameron County, consisting of Secs. 54.1351 to 54.1361, was added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. May 20, 2005.

For another Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356m added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005, see Secs. 54.1351 to 54.1356, ante, and for Subchapter BB, Magistrates in Nolan County, consisting of Secs. 54.1701 to 54.1705, added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005, see Secs. 54.1701 to 54.1705 post.

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

Added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005. Subchapter BB, Criminal Law Hearing Officers in Cameron County, consisting of Secs. 54.1351 to 54.1361, was added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. May 20, 2005.

For another Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356m added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005, see Secs. 54.1351 to 54.1356, ante, and for Subchapter BB, Magistrates in Nolan County, consisting of Secs. 54.1701 to 54.1705, added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005, see Secs. 54.1701 to 54.1705 post.

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

Added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005. Subchapter BB, Criminal Law Hearing Officers in Cameron County, consisting of Secs. 54.1351 to 54.1361, was added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. May 20, 2005.

For another Subchapter BB, Magistrates in Montgomery County, consisting of Secs. 54.1351 to 54.1356m added by Acts 2005, 79th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2005, see Secs. 54.1351 to 54.1356, ante, and for Subchapter BB, Magistrates in Nolan County,

consisting of Secs. 54.1701 to 54.1705, added by Acts 2005, 79th Leg., ch. 109, Sec. 1, eff. May 20, 2005, see Secs. 54.1701 to 54.1705 post.

Sec. 54.1361. CLERK. The district clerk shall 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. A person designated to serve as a clerk of a justice court shall perform the statutory duties necessary for cases filed in a justice court.

Added by Acts 2005, 79th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2005.