

CHAPTER 81

H.B. No. 442

AN ACT

relating to the appointment of criminal law magistrates in Tarrant County.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 54, Government Code, is amended by adding Subchapter H to read as follows:

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 and the judges of the criminal district 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 unanimous approval 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.

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.*

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.

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

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.

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; and*
- (6) any other matter the judge considers necessary and proper.*

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

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

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.*

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 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.*

(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.

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

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.

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.

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.

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.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on April 2, 1987, by a non-record vote. Passed by the Senate on April 30, 1987, by the following vote: Yeas 31, Nays 0.

Approved May 12, 1987.

Effective 90 days after date of adjournment.