By: Stick, Rodriguez, Baxter   H.B. No. 2401

A BILL TO BE ENTITLED

1   AN ACT

2 relating to the criminal law magistrates in Travis County.

3   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4   SECTION 1. Article 2.09, Code of Criminal Procedure, is

5 amended to read as follows:

6   Art. 2.09. WHO ARE MAGISTRATES.   Each of the following

7 officers is a magistrate within the meaning of this Code: The

8 justices of the Supreme Court, the judges of the Court of Criminal

9 Appeals, the justices of the Courts of Appeals, the judges of the

10 District Court, the magistrates appointed by the judges of the

11 district courts of Bexar County, Dallas County, or Tarrant County[,

12 or Travis County] that give preference to criminal cases, the

13 criminal law hearing officers for Harris County appointed under

14 Subchapter L, Chapter 54, Government Code, the magistrates

15 appointed by the judges of the district courts of Lubbock County or

16 Webb County, the magistrates appointed by the judges of the

17 criminal district courts of Dallas County or Tarrant County, the

18 masters appointed by the judges of the district courts and the

19 county courts at law that give preference to criminal cases in

20 Jefferson County, the magistrates appointed by the judges of the

21 district courts and the statutory county courts of Williamson

22 County, the magistrates appointed by the judges of the district

23 courts and statutory county courts that give preference to criminal

24 cases in Travis County, the county judges, the judges of the county

1 courts at law, judges of the county criminal courts, the judges of

2 statutory probate courts, the masters appointed by the judges of

3 the statutory probate courts under Subchapter G, Chapter 54,

4 Government Code, the justices of the peace, the mayors and

5 recorders and the judges of the municipal courts of incorporated

6 cities or towns.

7 SECTION 2. Subchapter Q, Chapter 54, Government Code, is

8 amended by adding Section 54.970 to read as follows:

9 Sec. 54.970. APPLICATION. This subchapter applies to the

10 district courts and the county courts at law that give preference to

11 criminal cases in Travis County.

12 SECTION 3. Sections 54.971, 54.974, and 54.976, Government

13 Code, are amended to read as follows:

14 Sec. 54.971. APPOINTMENT. (a) The [judges of the district

15 courts of Travis County that give preference to criminal cases,

16 with the consent and approval of the] Commissioners Court of Travis

17 County[,] shall set [jointly appoint] the number of magistrates

18 needed [set by the commissioners court] to perform the duties

19 authorized by this subchapter.

20 (b) The judges of the district courts subject to this

21 subchapter shall, with the consent and approval of the

22 Commissioners Court of Travis County, jointly appoint the

23 magistrates that will assist the district courts. Each

24 magistrate's appointment under this subsection must be made with

25 the unanimous approval of the judges of the district courts subject

26 to this subchapter [described in Subsection (a)].

27 (c) Except as provided by Subsection (e), if [If] the number

1 of magistrates is less than the number of the appointing judges,

2 each magistrate shall serve equally in the courts of those judges.

3   (d) The judges of the county courts at law subject to this

4 subchapter shall, with the consent and approval of the

5 Commissioners Court of Travis County, jointly appoint the

6 magistrates that will assist the county courts at law. Each

7 magistrate's appointment under this subsection must be made with

8 the unanimous approval of the judges of the county courts at law

9 subject to this subchapter.

10   (e) In addition to the requirements of Subsection (b) or

11 (d), a magistrate appointed to assist only one court must be

12 approved by the judge of that court.

13   Sec. 54.974. JUDICIAL IMMUNITY. A magistrate has the same

14 judicial immunity as a district judge or a judge of a county court

15 at law, as applicable.

16   Sec. 54.976. PROCEEDINGS THAT MAY BE REFERRED. (a) A judge

17 may refer to a magistrate any criminal case for proceedings

18 involving:

19   (1) a negotiated plea of guilty or no contest and

20 sentencing;

21   (2) a pretrial motion;

22   (3) an examining trial;

23   (4) a postconviction writ of habeas corpus;

24   (5) a bond forfeiture suit;

25   (6) issuance of search warrants;

26   (7) setting of bonds;

27   (8) arraignment of defendants; [and]

1   (9) a motion to increase or decrease a bond;

2   (10) a motion to revoke community supervision or to

3 proceed to an adjudication;

4   (11) an issue of competency, with or without a jury;

5 and

6   (12) any other matter the judge considers necessary

7 and proper.

8   (b) A magistrate may not preside over a contested criminal

9 trial on the merits, regardless of whether the trial is before a

10 jury.

11   (c) A judge may refer to a magistrate any proceeding

12 involving an application for a protective order under Title 4,

13 Family Code, or Section 17.292, Code of Criminal Procedure.

14   SECTION 4. This Act takes effect September 1, 2003.