

By: Brown of Brazos

H.B. No. 2748

A BILL TO BE ENTITLED

AN ACT

relating to the magistrates in Brazos County.

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

SECTION 1. Section 54.1046, Government Code, is amended by amending Subsection (a) and adding Subsections (e) and (f) to read as follows:

(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; ~~and~~
- (4) a negotiated plea of guilty before the court;
- (5) a pretrial motion, including a motion to proceed with adjudication;
- (6) a writ of habeas corpus;
- (7) an examining trial;
- (8) a motion to modify or revoke probation; and
- (9) any other matter the judge considers necessary and proper.

(e) A judge of a court designated a juvenile court may refer to a magistrate any matter the court may refer to a referee under Title 3, Family Code.

1 (f) A judge of a court authorized by the Commissioners Court
2 of Brazos County to refer civil cases other than a case described by
3 Subsection (b) or (c) may refer to a magistrate a civil case for
4 proceedings involving:

- 5 (1) a pretrial motion;
6 (2) a default or agreed judgment;
7 (3) an alternative dispute resolution procedure;
8 (4) a postjudgment matter; and
9 (5) any other matter the judge considers necessary and
10 proper.

11 SECTION 2. Section 54.1047(b), Government Code, is amended
12 to read as follows:

- 13 (b) An order of referral may ~~shall~~:
- 14 (1) limit the powers of the magistrate and direct the
15 magistrate to report only on specific issues, perform particular
16 actions, or receive and report on evidence only;
- 17 (2) set the time and place for the hearing;
- 18 (3) prescribe a closing date for the hearing;
- 19 (4) provide a date for filing the magistrate's
20 findings;
- 21 (5) designate proceedings for more than one case over
22 which the magistrate shall preside;
- 23 (6) direct the magistrate to call the court's docket;
24 and
- 25 (7) designate the general powers and limitations of
26 authority of the magistrate applicable to any case referred.

27 SECTION 3. Section 54.1048, Government Code, is amended to

1 read as follows:

2 Sec. 54.1048. POWERS. (a) Except as limited by an order of
3 referral, a magistrate to whom a case is referred may:

- 4 (1) conduct hearings;
5 (2) hear evidence;
6 (3) compel production of evidence;
7 (4) rule on admissibility of evidence;
8 (5) issue notices of the setting of a case for a
9 hearing;

- 10 (6) issue summons for the appearance of witnesses;
11 (7) examine witnesses; ~~[and]~~
12 (8) swear witnesses for hearings;
13 (9) make findings of fact on evidence;
14 (10) formulate conclusions of law;
15 (11) rule on a pretrial motion;
16 (12) recommend the rulings, orders, or judgment to be
17 made in a case;

- 18 (13) regulate proceedings in a hearing; and
19 (14) perform any action necessary and proper for the
20 efficient performance of the duties required by the order of
21 referral.

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

26 SECTION 4. Section 54.1052, Government Code, as added by
27 Chapter 954, Acts of the 77th Legislature, Regular Session, 2001,

1 is amended to read as follows:

2 Sec. 54.1052. REPORT AND PAPERS TRANSMITTED TO JUDGE. At
3 the conclusion of the proceedings, a magistrate shall send to the
4 referring court:

5 (1) the magistrate's signed and dated report,
6 including the findings, conclusions, orders, recommendations, or
7 other action taken; and

8 (2) any papers relating to the case.

9 SECTION 5. Sections 54.1053(a) and (c), Government Code, as
10 added by Chapter 954, Acts of the 77th Legislature, Regular
11 Session, 2001, are amended to read as follows:

12 (a) After receiving notice of the magistrate's findings
13 [~~orders, recommendations, or other action taken~~], any party,
14 principal, or minor, or the parent, guardian, or custodian of a
15 minor, is entitled to a hearing before the judge of the referring
16 court.

17 (c) Except as provided by other law requiring a party to
18 file a request for a hearing sooner, a party must file a request for
19 hearing with the referring court not later than the fifth day after
20 the date the magistrate signs the report under Section 54.1052. The
21 appeal to the referring court must specify the findings and
22 conclusions of [~~orders of or recommendations or other actions taken~~
23 ~~by~~] the magistrate to which the party objects. The appeal is
24 limited to the findings and conclusions [~~orders, recommendations,~~
25 ~~or other actions taken which are~~] specified in the appeal.

26 SECTION 6. This Act takes effect September 1, 2003.