

By: Lindsay

S.B. No. 1465

A BILL TO BE ENTITLED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

AN ACT

relating to the establishment of criminal law magistrates in certain counties.

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

SECTION 1. Chapter 54 of the Government Code, is amended by adding subchapter U, Criminal Law Masters in Certain Counties, to read as follows:

SECTION 2. Section 54.1100. APPLICATION. This subchapter applies only to counties with a population of 3.3 million or more.

SECTION 3. Section 54.1101. APPOINTMENT. (a) In counties with populations of 3.3 million or more, the judges of the district courts that give preference to criminal cases, with the consent and approval of the commissioners court of that county, may appoint the number of magistrates set by the commissioners court to perform the duties associated with the administration of drug courts and/or acceptance and sentencing on negotiated pleas 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.

SECTION 4. Section 54.1102. QUALIFICATIONS. A magistrate must:

1 (a) be a resident of this state and of the county in which
2 they are appointed; and

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

5 SECTION 5. Section 54.1103. COMPENSATION. (a) A
6 magistrate is entitled to the salary determined by the
7 commissioners court of the county in which they are appointed to
8 serve.

9 SECTION 6. Section 54.1104. JUDICIAL IMMUNITY. A
10 magistrate has the same judicial immunity as a district judge.

11 SECTION 7. Section 54.1105. TERMINATION OF SERVICES.
12 (a) The services of a magistrate may be terminated by a majority
13 vote of the appointing judges of the district courts that give
14 preference to criminal cases.

15 SECTION 8. Section 54.1106. PROCEEDINGS THAT MAY BE
16 REFERRED.

17 (a) A judge may refer to a magistrate
18 1) any criminal case for drug court proceedings;
19 and/or
20 2) any criminal case involving a negotiated plea.

21 (b) A magistrate may not preside over a contested trial on
22 the merits, regardless of whether the trial is before a jury.

23 SECTION 9. Section 54.1107. ORDER OF REFERRAL. (a) To
24 refer one or more cases to a drug court magistrate or a magistrate
25 accepting a negotiated plea, a judge or board of judges trying
26 criminal cases must issue an order of referral specifying the
27 magistrate's duties.

1 (b) An order of referral may:

2 (1) limit the powers of the magistrate and direct the
3 magistrate to report on specific issues and do particular acts;

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

5 (3) provide a date for filing the magistrate's
6 findings;

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

9 (5) direct the magistrate to call the court's docket;
10 and

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

13 SECTION 10. Section 54.1108. POWERS. (a) Except as
14 limited by an order of referral, a magistrate to whom a drug court
15 case is referred may:

16 (1) conduct hearings;

17 (2) hear evidence;

18 (3) compel production of relevant evidence;

19 (4) rule on admissibility of evidence;

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

21 (6) examine witnesses;

22 (7) swear witnesses for hearings;

23 (8) make findings of fact on evidence;

24 (9) formulate conclusions of law;

25 (10) rule on preliminary motions;

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

1 (12) regulate proceedings in a hearing;

2 (13) in any case referred under Section 54.1106(a)(1):

3 (A) accept a negotiated plea of guilty;

4 (B) enter a finding of guilt and impose or
5 suspend sentence; or

6 (C) defer adjudication of guilt; and

7 (14) do any act and take any measure necessary and
8 proper for the efficient performance of the drug court and/or the
9 duties required by the order of referral.

10 (b) Except as limited by an order of referral, a magistrate
11 to whom a negotiated plea is referred may:

12 (1) in any case referred under Section 54.1106(a)(2):

13 (A) accept a negotiated plea;

14 (B) enter a finding of guilt and impose or
15 suspend sentence; or

16 (C) defer adjudication of guilt; and

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

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

24 SECTION 11. Section 54.1109. RECORD OF PROCEEDINGS. At
25 the request of a party, the court shall provide that the proceedings
26 before the magistrate be recorded.

27 SECTION 12. Section 54.1110. WITNESS. (a) A witness who

1 appears before a magistrate and is sworn is subject to the penalties
2 for perjury provided by law.

3 (b) A supervising judge or judges may issue attachment
4 against and may fine or imprison a witness whose failure to appear
5 after being summoned or whose refusal to answer questions has been
6 certified to the court.

7 SECTION 13. Section 54.1111. PAPERS TRANSMITTED TO THE
8 JUDGE. (a) At the conclusion of the proceedings, a magistrate
9 shall transmit to the referring court any papers relating to the
10 case, including the magistrate's findings, conclusions, orders,
11 recommendations, or other action taken.

12 SECTION 14. Section 54.1112. JUDICIAL ACTION. (a) The
13 supervising judge or judges of a drug court may modify, correct,
14 reject, reverse, or recommit for further information any action
15 taken by the magistrate.

16 (b) If the supervising judge or judges do not modify,
17 correct, reject, reverse, or recommit an action of the magistrate,
18 the action becomes the decree of the court.

19 (c) At the conclusion of each term during which the services
20 of a magistrate are used, the supervising judge or judges shall
21 enter a decree on the minutes adopting the actions of the magistrate
22 of which the court approves.

23 SECTION 15. Section 54.1113. CRIMINAL LAW MAGISTRATES.

24 (a) If a criminal law magistrate appointed under this subchapter
25 is absent or unable to serve, the judge referring the case may
26 appoint another criminal law magistrate to serve for the absent
27 magistrate.

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