

1-1 By: Lindsay S.B. No. 1465
1-2 (In the Senate - Filed March 13, 2003; March 20, 2003, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 April 22, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 4, Nays 0; April 22, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1465 By: Williams

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the establishment of criminal law magistrates in Harris
1-11 County.

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

1-12 SECTION 1. Chapter 54, Government Code, is amended by
1-13 adding Subchapter X to read as follows:

SUBCHAPTER X. CRIMINAL LAW MAGISTRATES IN HARRIS COUNTY

1-14 Sec. 54.1201. APPOINTMENT. (a) The judges of the district
1-15 courts of Harris County that give preference to criminal cases,
1-16 with the consent and approval of the Commissioners Court of Harris
1-17 County, may appoint the number of magistrates set by the
1-18 commissioners court to perform the duties associated with the
1-19 administration of drug courts and acceptance and sentencing on
1-20 negotiated pleas as authorized by this subchapter.

1-21 (b) Each magistrate's appointment must be made with the
1-22 approval of the majority of the judges described in Subsection (a).

1-23 (c) If the number of magistrates is less than the number of
1-24 the appointing judges, each magistrate shall serve equally in the
1-25 courts of those judges.

Sec. 54.1202. QUALIFICATIONS. A magistrate must:

1-26 (1) be a resident of this state and of Harris County;
1-27 and

1-28 (2) have been licensed to practice law in this state
1-29 for at least four years.

1-30 Sec. 54.1203. COMPENSATION. A magistrate is entitled to
1-31 the salary determined by the Commissioners Court of Harris County.

1-32 Sec. 54.1204. JUDICIAL IMMUNITY. A magistrate has the same
1-33 judicial immunity as a district judge.

1-34 Sec. 54.1205. TERMINATION OF SERVICES. The services of a
1-35 magistrate may be terminated by a majority vote of the appointing
1-36 judges of the district courts of Harris County that give preference
1-37 to criminal cases.

1-38 Sec. 54.1206. PROCEEDINGS THAT MAY BE REFERRED. (a) A
1-39 judge may refer to a magistrate:

1-40 (1) a criminal case for drug court proceedings; and

1-41 (2) a criminal case involving a negotiated plea.

1-42 (b) A magistrate may not preside over a contested trial on
1-43 the merits, regardless of whether the trial is before a jury.

1-44 Sec. 54.1207. ORDER OF REFERRAL. (a) To refer one or more
1-45 cases to a drug court magistrate or a magistrate accepting a
1-46 negotiated plea, a judge or board of judges trying criminal cases
1-47 must issue an order of referral specifying the magistrate's duties.

(b) An order of referral may:

1-48 (1) limit the powers of the magistrate and direct the
1-49 magistrate to report on specific issues and perform particular
1-50 acts;

1-51 (2) set the time and place for the hearing;

1-52 (3) provide a date for filing the magistrate's
1-53 findings;

1-54 (4) designate proceedings for more than one case over
1-55 which the magistrate shall preside;

1-56 (5) direct the magistrate to call the court's docket;
1-57 and

1-58 (6) set forth general powers and limitations of
1-59 authority of the magistrate applicable to any case referred.

2-1 Sec. 54.1208. POWERS. (a) Except as limited by an order of
2-2 referral, a magistrate to whom a drug court case is referred may:

- 2-3 (1) conduct hearings;
- 2-4 (2) hear evidence;
- 2-5 (3) compel production of relevant evidence;
- 2-6 (4) rule on admissibility of evidence;
- 2-7 (5) issue summons for the appearance of witnesses;
- 2-8 (6) examine witnesses;
- 2-9 (7) swear witnesses for hearings;
- 2-10 (8) make findings of fact on evidence;
- 2-11 (9) formulate conclusions of law;
- 2-12 (10) rule on preliminary motions;
- 2-13 (11) recommend the rulings, orders, or judgment to be

2-14 made in a case;

- 2-15 (12) regulate proceedings in a hearing;
- 2-16 (13) in a case:
 - 2-17 (A) accept a negotiated plea of guilty;
 - 2-18 (B) enter a finding of guilt and impose or
 - 2-19 suspend sentence; or
 - 2-20 (C) defer adjudication of guilt; and
- 2-21 (14) perform any act and take any measure necessary
- 2-22 and proper for the efficient performance of the drug court and the
- 2-23 duties required by the order of referral.

2-24 (b) Except as limited by an order of referral, a magistrate
2-25 to whom a negotiated plea is referred may:

- 2-26 (1) in a case:
 - 2-27 (A) accept a negotiated plea;
 - 2-28 (B) enter a finding of guilt and impose or
 - 2-29 suspend sentence; or
 - 2-30 (C) defer adjudication of guilt; and
- 2-31 (2) perform any act and take any measure necessary and
- 2-32 proper for the efficient performance of the duties required by the
- 2-33 order of referral.

2-34 (c) A magistrate may not enter a ruling on any issue of law
2-35 or fact if that ruling could result in dismissal or require
2-36 dismissal of a pending criminal prosecution, but the magistrate may
2-37 make findings, conclusions, and recommendations on those issues.

2-38 Sec. 54.1209. RECORD OF PROCEEDINGS. At the request of a
2-39 party the court shall provide that the proceedings before the
2-40 magistrate be recorded.

2-41 Sec. 54.1210. WITNESS. (a) A witness who appears before a
2-42 magistrate and is sworn is subject to the penalties for perjury
2-43 provided by law.

2-44 (b) A supervising judge or judges may issue attachment
2-45 against and may fine or imprison a witness whose failure to appear
2-46 after being summoned or whose refusal to answer questions has been
2-47 certified to the court.

2-48 Sec. 54.1211. PAPERS TRANSMITTED TO THE JUDGE. At the
2-49 conclusion of the proceedings, a magistrate shall transmit to the
2-50 referring court any papers relating to the case, including the
2-51 magistrate's findings, conclusions, orders, recommendations, or
2-52 other action taken.

2-53 Sec. 54.1212. JUDICIAL ACTION. (a) The supervising judge
2-54 or judges of a drug court may modify, correct, reject, reverse, or
2-55 recommit for further information any action taken by the
2-56 magistrate.

2-57 (b) If the supervising judge or judges do not modify,
2-58 correct, reject, reverse, or recommit an action of the magistrate,
2-59 the action becomes the decree of the court.

2-60 (c) At the conclusion of each term during which the services
2-61 of a magistrate are used, the supervising judge or judges shall
2-62 enter a decree on the minutes of the referring court adopting the
2-63 actions of the magistrate of which the court approves.

2-64 Sec. 54.1213. CRIMINAL LAW MAGISTRATES. (a) If a criminal
2-65 law magistrate appointed under this subchapter is absent or unable
2-66 to serve, the judge referring the case may appoint another criminal
2-67 law magistrate to serve for the absent magistrate.

2-68 (b) A criminal law magistrate serving for another
2-69 magistrate under this section has the powers and shall perform the

3-1 duties of the magistrate for whom he is serving.

3-2 SECTION 2. This Act takes effect September 1, 2003.

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