

By: Barrientos

S.B. No. 1794

A BILL TO BE ENTITLED

AN ACT

relating to the criminal law magistrates in Travis County.

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

SECTION 1. Article 2.09, Code of Criminal Procedure, is amended to read as follows:

Art. 2.09. WHO ARE MAGISTRATES. Each of the following officers is a magistrate within the meaning of this Code: The justices of the Supreme Court, the judges of the Court of Criminal Appeals, the justices of the Courts of Appeals, the judges of the District Court, the magistrates appointed by the judges of the district courts of Bexar County, Dallas County, or Tarrant County [~~or Travis County~~] that give preference to criminal cases, the criminal law hearing officers for Harris County appointed under Subchapter L, Chapter 54, Government Code, the magistrates appointed by the judges of the district courts of Lubbock County or Webb County, the magistrates appointed by the judges of the criminal district courts of Dallas County or Tarrant County, the masters appointed by the judges of the district courts and the county courts at law that give preference to criminal cases in Jefferson County, the magistrates appointed by the judges of the district courts and the statutory county courts of Williamson County, the magistrates appointed by the judges of the district courts and statutory county courts that give preference to criminal 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[~~7~~] 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  
17 judge 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.