

1-1 By: Barrientos S.B. No. 1794
1-2 (In the Senate - Filed March 14, 2003; March 24, 2003, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 April 16, 2003, reported favorably by the following vote: Yeas 4,
1-5 Nays 0; April 16, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the criminal law magistrates in Travis County.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Article 2.09, Code of Criminal Procedure, is
1-11 amended to read as follows:

1-12 Art. 2.09. WHO ARE MAGISTRATES. Each of the following
1-13 officers is a magistrate within the meaning of this Code: The
1-14 justices of the Supreme Court, the judges of the Court of Criminal
1-15 Appeals, the justices of the Courts of Appeals, the judges of the
1-16 District Court, the magistrates appointed by the judges of the
1-17 district courts of Bexar County, Dallas County, or Tarrant County~~[~~
1-18 ~~or Travis County]~~ that give preference to criminal cases, the
1-19 criminal law hearing officers for Harris County appointed under
1-20 Subchapter L, Chapter 54, Government Code, the magistrates
1-21 appointed by the judges of the district courts of Lubbock County or
1-22 Webb County, the magistrates appointed by the judges of the
1-23 criminal district courts of Dallas County or Tarrant County, the
1-24 masters appointed by the judges of the district courts and the
1-25 county courts at law that give preference to criminal cases in
1-26 Jefferson County, the magistrates appointed by the judges of the
1-27 district courts and the statutory county courts of Williamson
1-28 County, the magistrates appointed by the judges of the district
1-29 courts and statutory county courts that give preference to criminal
1-30 cases in Travis County, the county judges, the judges of the county
1-31 courts at law, judges of the county criminal courts, the judges of
1-32 statutory probate courts, the masters appointed by the judges of
1-33 the statutory probate courts under Subchapter G, Chapter 54,
1-34 Government Code, the justices of the peace, the mayors and
1-35 recorders and the judges of the municipal courts of incorporated
1-36 cities or towns.

1-37 SECTION 2. Subchapter Q, Chapter 54, Government Code, is
1-38 amended by adding Section 54.970 to read as follows:

1-39 Sec. 54.970. APPLICATION. This subchapter applies to the
1-40 district courts and the county courts at law that give preference to
1-41 criminal cases in Travis County.

1-42 SECTION 3. Sections 54.971, 54.974, and 54.976, Government
1-43 Code, are amended to read as follows:

1-44 Sec. 54.971. APPOINTMENT. (a) ~~The [judges of the district~~
1-45 ~~courts of Travis County that give preference to criminal cases,~~
1-46 ~~with the consent and approval of the]~~ Commissioners Court of Travis
1-47 County~~[~~ shall set ~~[jointly appoint]~~ the number of magistrates
1-48 needed ~~[set by the commissioners court]~~ to perform the duties
1-49 authorized by this subchapter.

1-50 (b) The judges of the district courts subject to this
1-51 subchapter shall, with the consent and approval of the
1-52 Commissioners Court of Travis County, jointly appoint the
1-53 magistrates that will assist the district courts. Each
1-54 magistrate's appointment under this subsection must be made with
1-55 the unanimous approval of the judges of the district courts subject
1-56 to this subchapter [described in Subsection (a)].

1-57 (c) Except as provided by Subsection (e), if [if] the number
1-58 of magistrates is less than the number of the appointing judges,
1-59 each magistrate shall serve equally in the courts of those judges.

1-60 (d) The judges of the county courts at law subject to this
1-61 subchapter shall, with the consent and approval of the
1-62 Commissioners Court of Travis County, jointly appoint the
1-63 magistrates that will assist the county courts at law. Each
1-64 magistrate's appointment under this subsection must be made with

2-1 the unanimous approval of the judges of the county courts at law
2-2 subject to this subchapter.

2-3 (e) In addition to the requirements of Subsection (b) or
2-4 (d), a magistrate appointed to assist only one court must be
2-5 approved by the judge of that court.

2-6 Sec. 54.974. JUDICIAL IMMUNITY. A magistrate has the same
2-7 judicial immunity as a district judge or a judge of a county court
2-8 at law, as applicable.

2-9 Sec. 54.976. PROCEEDINGS THAT MAY BE REFERRED. (a) A
2-10 judge may refer to a magistrate any criminal case for proceedings
2-11 involving:

2-12 (1) a negotiated plea of guilty or no contest and
2-13 sentencing;

2-14 (2) a pretrial motion;

2-15 (3) an examining trial;

2-16 (4) a postconviction writ of habeas corpus;

2-17 (5) a bond forfeiture suit;

2-18 (6) issuance of search warrants;

2-19 (7) setting of bonds;

2-20 (8) arraignment of defendants; [~~and~~]

2-21 (9) a motion to increase or decrease a bond;

2-22 (10) a motion to revoke community supervision or to
2-23 proceed to an adjudication;

2-24 (11) an issue of competency, with or without a jury;
2-25 and

2-26 (12) any other matter the judge considers necessary
2-27 and proper.

2-28 (b) A magistrate may not preside over a contested criminal
2-29 trial on the merits, regardless of whether the trial is before a
2-30 jury.

2-31 (c) A judge may refer to a magistrate any proceeding
2-32 involving an application for a protective order under Title 4,
2-33 Family Code, or Section 17.292, Code of Criminal Procedure.

2-34 SECTION 4. This Act takes effect September 1, 2003.

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