

## BILL ANALYSIS

Senate Research Center  
79R5405 YDB-D

S.B. 584  
By: Fraser  
Jurisprudence  
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As Filed

### AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, the district judge of the 33rd judicial district lacks the authority to appoint a criminal law magistrate and associate judges. The associate judges will assist in clearing dockets when backlogs occur and will help create an additional opportunity for civil litigation to reach finality. The criminal law magistrate will provide the necessary intervention by a judge in the probation process for drug offenders without tying up the sitting district judge.

As proposed, S.B. 584 gives authority to the district judge of the 33rd judicial district to appoint associate judges for specialized dockets. S.B. 584 also allows the district judge of the 33rd judicial district to appoint a criminal law magistrate to preside over the drug court.

### RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 54, Government Code, by adding Subchapters Z and AA, as follows:

#### SUBCHAPTER Z. ASSOCIATES JUDGES IN BLANCO, BURNET, LLANO, AND SAN SABA COUNTIES

Sec. 54.1251. APPLICATION OF SUBCHAPTER. Provides that this subchapter applies to the judges of the district courts in Blanco, Burnet, Llano, and San Saba counties.

Sec. 54.1252. APPOINTMENT OF ASSOCIATE JUDGES. (a) Authorizes the local administrative district judge for Blanco, Burnet, Llano, and San Saba counties to appoint one or more part-time or full-time associate judges for any civil matter.

(b) Requires the local administrative district judge, subject to Subsection (d), to establish the salary, benefits, and other compensation of each associate judge position and to determine whether the position is full-time or part-time.

(c) Authorizes an associate judge, subject to Subsection (d), to concurrently serve as a magistrate, referee, or master under another statute unless that statute prohibits holding another judicial position.

(d) Provides that the appointment of an associate judge is subject to the approval of the commissioners court of any county that is responsible for contributing from county funds any portion of the associate judge's compensation.

(e) Provides that an associate judge serves at the pleasure of the local administrative district judge for Blanco, Burnet, Llano, and San Saba counties.

Sec. 54.1253. QUALIFICATIONS. Sets forth certain qualification requirements of an associate judge.

Sec. 54.1254. COMPENSATION. (a) Provides that an associate judge who receives compensation from county funds is entitled to the compensation set by the commissioners court. Requires the compensation to be paid from the general fund of the county.

(b) Provides that an associate judge whose compensation is not paid from county funds is entitled to the compensation set by order of the local administrative district judge for Blanco, Burnet, Llano, and San Saba counties.

Sec. 54.1255. JUDICIAL IMMUNITY. Provides that an associate judge has the same immunity as a district judge.

Sec. 54.1256. MATTERS THAT MAY BE REFERRED. Authorizes a judge to refer any civil case or portion of a civil case to an associate judge for resolution.

Sec. 54.1257. TRIAL ON THE MERITS. Authorizes an associate judge to conduct a trial on the merits on the agreements of all parties and the consent of the referring court.

Sec. 54.1258. METHODS OF REFERRAL. Authorizes a case be referred to an associate judge by an order of referral in a specific case or by an omnibus order.

Sec. 54.1259. POWERS. Authorizes the associate judge, except as limited by an order of referral, to administer certain procedures.

Sec. 54.1260. RECORD OF EVIDENCE. (a) Authorizes a court reporter to be provided during a hearing held by an associate judge appointed under this subchapter. Requires a court reporter to be provided when the associate judge presides over a jury trial.

(b) Authorizes a party, the associate judge, or the referring court to provide for a court reporter during a hearing held by an associate judge appointed under this subchapter if one is not otherwise provided.

(c) Authorizes the record in a case before an associate judge to be preserved in the absence of a court reporter by any other means approved by the associate judge. Authorizes the referring court or associate judge to assess the expense of preserving the record as costs.

(d) Authorizes the referring court, on appeal of the associate judge's report or proposed order, to consider testimony or other evidence in the record if the record is taken by a court reporter.

Sec. 54.1261. NOTICE OF DECISION; APPEAL. (a) Requires an associate judge, after hearing a matter, to notify each attorney participating in the hearing of the associate judge's decision. Provides that an associate judge's decision has the same force and effect as an order of the referring court unless a party appeals the decision as provided by Subsection (b).

(b) Requires a party, to appeal an associate judge's decision, other than the issuance of a temporary restraining order or temporary injunction, to file an appeal in the referring court no later than the third day after the date the party receives notice of the decision under Subsection (a).

(c) Provides that a temporary restraining order issued by an associate judge is effective immediately and expires on the 15th day after the date of issuance unless, after a hearing, the order is modified or extended by the associate judge or a district judge.

(d) Provides that a temporary injunction issued by an associate judge is effective immediately and continues during the pendency of a trial unless, after a hearing, the order is modified by a district judge.

(e) Requires a matter appealed to the referring court to be tried de novo and to be limited to only those matters specified in the appeal. Prohibits a party, except on leave of court, from submitting on appeal any additional evidence or pleadings.

SUBCHAPTER AA. CRIMINAL LAW MAGISTRATES IN BLANCO, BURNET, LLANO,  
AND SAN SABA COUNTIES

Sec. 54.1301. DEFINITION. Defines "drug court."

Sec. 54.1302. APPOINTMENT. (a) Authorizes the local administrative district judge for Blanco, Burnet, Llano, and San Saba Counties to appoint a magistrate to perform the duties associated with the administration of a drug court.

(b) Requires the local administrative district judge, subject to Subjection (d), to establish the salary, benefits, and other compensation of each magistrate position and to determine whether the position is full-time or part-time.

(c) Authorizes a magistrate, subject to Subsection (d), to concurrently serve as an associate judge, referee, or master under another statute unless that statute prohibits holding another judicial position.

(d) Provides that the appointment of a magistrate is subject to the approval of the commissioners court of any county that is responsible for contributing from county funds any portion of the magistrate's compensation.

(e) Provides that a magistrate serves at the pleasure of the local administrative district judge for Blanco, Burnet, Llano, and San Saba counties.

Sec. 54.1303. QUALIFICATIONS. Sets forth certain eligibility requirements for appointment as a magistrate.

Sec. 54.1304. COMPENSATION. (a) Provides that a magistrate who receives compensation from county funds is entitled to the compensation set by the commissioners court. Requires the compensation to be paid from the general fund of the county.

(b) Provides that a magistrate whose compensation is not paid from county funds is entitled to the compensation set by order of the local administrative district judge for Blanco, Burnet, Llano, and San Saba counties.

Sec. 54.1305. POWERS AND DUTIES. (a) Requires the magistrate, under the direction of the local administrative district judge, to provide the ongoing judicial interaction with drug court program participants in accordance with Chapter 469 (Drug Court Programs), Health and Safety Code.

(b) Authorizes the magistrate to perform certain actions.

Sec. 54.1306. JUDICIAL IMMUNITY. Provides that a magistrate has the same judicial immunity as a district judge.

Sec. 54.1307. SHERIFF. Requires, on request of a magistrate, the sheriff, in person or by duty, to assist the magistrate.

Sec. 54.1308. CLERK. Provides that the district clerk serves as the clerk for a magistrate appointed under this subchapter.

SECTION 2. Effective date: upon passage or September 1, 2005.