

By: Cook of Colorado

H.B. No. 3541

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of magistrates in Brazos 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 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 Brazos County or 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 courts at law, judges of the county

1 criminal courts, the judges of statutory probate courts, the
2 associate judges appointed by the judges of the statutory probate
3 courts under Subchapter G, Chapter 54, Government Code, the
4 justices of the peace, and the mayors and recorders and the judges
5 of the municipal courts of incorporated cities or towns.

6 SECTION 2. Section 54.1106, Government Code, is amended by
7 amending Subsections (a), (b), and (d) and adding Subsection (c-1)
8 to read as follows:

9 (a) A judge of a court authorized by the Commissioners Court
10 of Brazos County to refer criminal cases may refer to a magistrate
11 any criminal case for proceedings involving:

- 12 (1) a bond forfeiture;
- 13 (2) the arraignment of defendants;
- 14 (3) a determination of whether a defendant is indigent
15 and, if so, the appointment of counsel for the defendant; ~~[and]~~
- 16 (4) a negotiated plea of guilty or no contest and
17 sentencing;
- 18 (5) a pretrial motion;
- 19 (6) an examining trial;
- 20 (7) an application for a writ of habeas corpus;
- 21 (8) issuance of an arrest warrant or a search warrant;
- 22 (9) setting of bonds;
- 23 (10) a motion to increase or decrease a bond;
- 24 (11) a motion to proceed with adjudication;
- 25 (12) a motion to modify or revoke community
26 supervision;
- 27 (13) a drug court proceeding;

1 (14) an occupational driver's license; or

2 (15) any other matter the judge considers necessary
3 and proper [~~before the court~~].

4 (b) A judge of a court having family law jurisdiction may
5 refer to a magistrate any matter that may be referred to an
6 associate judge under Subchapter A, Chapter 201, Family Code, or a
7 referee under Title 3, Family Code [~~a master appointed under the~~
8 ~~Family Code or this chapter~~].

9 (c-1) A judge of a court with jurisdiction over a delinquent
10 tax suit may refer to a magistrate any matter that may be referred
11 to a tax master under Subtitle E, Title 1, Tax Code.

12 (d) A magistrate may not preside over a trial on the merits
13 [~~, regardless of whether the trial is~~] before a jury. With the
14 written consent of the parties and the approval of the referring
15 judge, a magistrate may preside over a bench trial on the merits.

16 SECTION 3. This Act takes effect September 1, 2005.