

By: Duncan

S.B. No. 552

Substitute the following for S.B. No. 552:

By: Hartnett

C.S.S.B. No. 552

A BILL TO BE ENTITLED

AN ACT

relating to the creation of magistrates in Nolan County.

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

SECTION 1. Chapter 54, Government Code, is amended by adding Subchapter BB to read as follows:

SUBCHAPTER BB. MAGISTRATES IN NOLAN COUNTY

Sec. 54.1701. AUTHORIZATION; APPOINTMENT; ELIMINATION.

(a) The Commissioners Court of Nolan County may authorize the judge of the district court to appoint one or more part-time or full-time magistrates to perform the duties authorized by this subchapter in Nolan County.

(b) The judge may appoint magistrates as authorized by the Commissioners Court of Nolan County.

(c) A magistrate serves at the will of the judge.

(d) An authorized magistrate's position may be eliminated on a majority vote of the Commissioners Court of Nolan County.

Sec. 54.1702. QUALIFICATIONS. To be eligible for appointment as a magistrate, a person must:

(1) be a citizen of the United States;

(2) have resided in Nolan County for at least the two years preceding the person's appointment; and

(3) have been licensed to practice law in this state for at least four years preceding the date of appointment.

Sec. 54.1703. COMPENSATION. A magistrate is entitled to

1 the salary determined by the Commissioners Court of Nolan County.
2 The magistrate's salary is paid from the county fund available for
3 payment of officers' salaries.

4 Sec. 54.1704. JUDICIAL IMMUNITY. A magistrate has the same
5 judicial immunity as a district judge.

6 Sec. 54.1705. JURISDICTION; RESPONSIBILITY; POWERS.

7 (a) To the extent authorized by this subchapter, a magistrate has
8 jurisdiction to exercise the authority granted by the judge of the
9 district court.

10 (b) A magistrate has all of the powers of a magistrate under
11 the laws of this state and may administer an oath for any purpose.

12 (c) A magistrate shall give preference to performing the
13 duties of a magistrate under Article 15.17, Code of Criminal
14 Procedure.

15 (d) A magistrate is authorized to:

16 (1) set, adjust, and revoke bonds before the filing of
17 an information or the return of an indictment;

18 (2) conduct examining trials;

19 (3) determine whether a defendant is indigent and
20 appoint counsel for an indigent defendant;

21 (4) issue search and arrest warrants; and

22 (5) conduct juvenile detention hearings as authorized
23 by Section 51.04(f), Family Code.

24 (e) A magistrate may:

25 (1) issue notices of the setting of a case for a
26 hearing;

27 (2) conduct hearings;

- 1 (3) compel production of evidence;
- 2 (4) hear evidence;
- 3 (5) issue summons for the appearance of witnesses;
- 4 (6) swear witnesses for hearings;
- 5 (7) regulate proceedings in a hearing; and
- 6 (8) perform any act and take any measure necessary and
7 proper for the efficient performance of the duties required by the
8 magistrate's jurisdiction and authority.

9 SECTION 2. Article 2.09, Code of Criminal Procedure, is
10 amended to read as follows:

11 Art. 2.09. WHO ARE MAGISTRATES. Each of the following
12 officers is a magistrate within the meaning of this Code: The
13 justices of the Supreme Court, the judges of the Court of Criminal
14 Appeals, the justices of the Courts of Appeals, the judges of the
15 District Court, the magistrates appointed by the judges of the
16 district courts of Bexar County, Dallas County, or Tarrant County
17 that give preference to criminal cases, the criminal law hearing
18 officers for Harris County appointed under Subchapter L, Chapter
19 54, Government Code, the magistrates appointed by the judges of the
20 district courts of Lubbock County, Nolan County, or Webb County,
21 the magistrates appointed by the judges of the criminal district
22 courts of Dallas County or Tarrant County, the masters appointed by
23 the judges of the district courts and the county courts at law that
24 give preference to criminal cases in Jefferson County, the
25 magistrates appointed by the judges of the district courts and the
26 statutory county courts of Williamson County, the magistrates
27 appointed by the judges of the district courts and statutory county

1 courts that give preference to criminal cases in Travis County, the
2 county judges, the judges of the county courts at law, judges of the
3 county criminal courts, the judges of statutory probate courts, the
4 associate judges appointed by the judges of the statutory probate
5 courts under Subchapter G, Chapter 54, Government Code, the
6 justices of the peace, and the mayors and recorders and the judges
7 of the municipal courts of incorporated cities or towns.

8 SECTION 3. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2005.