

By: Fraser

S.B. No. 584

A BILL TO BE ENTITLED

AN ACT

relating to the appointment in Blanco, Burnet, Llano, and San Saba Counties of associate judges in the district court and of criminal law magistrates in the drug courts.

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

SECTION 1. Chapter 54, Government Code, is amended by adding Subchapters Z and AA to read as follows:

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

Sec. 54.1251. APPLICATION OF SUBCHAPTER. 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) The local administrative district judge for Blanco, Burnet, Llano, and San Saba Counties may appoint one or more part-time or full-time associate judges for any civil matter.

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

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

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

5       (e) An associate judge serves at the pleasure of the local  
6 administrative district judge for Blanco, Burnet, Llano, and San  
7 Saba Counties.

8       Sec. 54.1253. QUALIFICATIONS. An associate judge must:

- 9           (1) be a citizen of this state;  
10          (2) be at least 25 years of age; and  
11          (3) have practiced law in this state for at least four  
12 years preceding the date of appointment and maintain a license to  
13 practice law in this state during the term of appointment.

14       Sec. 54.1254. COMPENSATION. (a) An associate judge who  
15 receives compensation from county funds is entitled to the  
16 compensation set by the commissioners court. The compensation  
17 shall be paid from the general fund of the county.

18       (b) An associate judge whose compensation is not paid from  
19 county funds is entitled to the compensation set by order of the  
20 local administrative district judge for Blanco, Burnet, Llano, and  
21 San Saba Counties.

22       Sec. 54.1255. JUDICIAL IMMUNITY. An associate judge has  
23 the same judicial immunity as a district judge.

24       Sec. 54.1256. MATTERS THAT MAY BE REFERRED. A judge may  
25 refer any civil case or portion of a civil case to an associate  
26 judge for resolution.

27       Sec. 54.1257. TRIAL ON THE MERITS. An associate judge may

1 conduct a trial on the merits on the agreement of all parties and  
2 the consent of the referring court.

3 Sec. 54.1258. METHODS OF REFERRAL. A case may be referred  
4 to an associate judge by an order of referral in a specific case or  
5 by an omnibus order.

6 Sec. 54.1259. POWERS. Except as limited by an order of  
7 referral, the associate judge may:

8 (1) conduct hearings;

9 (2) hear evidence;

10 (3) compel production of relevant evidence, including  
11 books, papers, vouchers, documents, and other writings;

12 (4) rule on admissibility of evidence;

13 (5) issue summons for the appearance of witnesses;

14 (6) examine witnesses;

15 (7) swear witnesses for hearings;

16 (8) regulate proceedings in a hearing; and

17 (9) perform any act and take any measure necessary and  
18 proper for the efficient performance of the duties required by the  
19 order of referral.

20 Sec. 54.1260. RECORD OF EVIDENCE. (a) A court reporter may  
21 be provided during a hearing held by an associate judge appointed  
22 under this subchapter. A court reporter must be provided when the  
23 associate judge presides over a jury trial.

24 (b) A party, the associate judge, or the referring court may  
25 provide for a court reporter during a hearing held by an associate  
26 judge appointed under this subchapter if one is not otherwise  
27 provided.

1       (c) The record in a case before an associate judge appointed  
2 under this subchapter may be preserved in the absence of a court  
3 reporter by any other means approved by the associate judge. The  
4 referring court or associate judge may assess the expense of  
5 preserving the record as costs.

6       (d) On appeal of the associate judge's report or proposed  
7 order, the referring court may consider testimony or other evidence  
8 in the record if the record is taken by a court reporter.

9       Sec. 54.1261. NOTICE OF DECISION; APPEAL. (a) After  
10 hearing a matter, an associate judge shall notify each attorney  
11 participating in the hearing of the associate judge's decision. An  
12 associate judge's decision has the same force and effect as an order  
13 of the referring court unless a party appeals the decision as  
14 provided by Subsection (b).

15       (b) To appeal an associate judge's decision, other than the  
16 issuance of a temporary restraining order or temporary injunction,  
17 a party must file an appeal in the referring court not later than  
18 the third day after the date the party receives notice of the  
19 decision under Subsection (a).

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

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

27       (e) A matter appealed to the referring court shall be tried

1 de novo and shall be limited to only those matters specified in the  
2 appeal. Except on leave of court, a party may not submit on appeal  
3 any additional evidence or pleadings.

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

6 Sec. 54.1301. DEFINITION. In this subchapter, "drug court"  
7 has the meaning assigned by Section 469.001, Health and Safety  
8 Code.

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

13 (b) Subject to Subsection (d), the local administrative  
14 district judge shall establish the salary, benefits, and other  
15 compensation of each magistrate position and shall determine  
16 whether the position is full-time or part-time.

17 (c) Subject to Subsection (d), a magistrate may  
18 concurrently serve as an associate judge, referee, or master under  
19 another statute unless that statute prohibits holding another  
20 judicial position.

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

25 (e) A magistrate serves at the pleasure of the local  
26 administrative district judge for Blanco, Burnet, Llano, and San  
27 Saba Counties.

1       Sec. 54.1303. QUALIFICATIONS. To be eligible for  
2 appointment as a magistrate, a person must:

- 3           (1) be a resident of this state; and  
4           (2) have been licensed to practice law in this state  
5 for at least four years.

6       Sec. 54.1304. COMPENSATION. (a) A magistrate who receives  
7 compensation from county funds is entitled to the compensation set  
8 by the commissioners court. The compensation shall be paid from the  
9 general fund of the county.

10       (b) A magistrate whose compensation is not paid from county  
11 funds is entitled to the compensation set by order of the local  
12 administrative district judge for Blanco, Burnet, Llano, and San  
13 Saba Counties.

14       Sec. 54.1305. POWERS AND DUTIES. (a) Under the direction  
15 of the local administrative district judge, the magistrate shall  
16 provide the ongoing judicial interaction with drug court program  
17 participants in accordance with Chapter 469, Health and Safety  
18 Code.

19       (b) The magistrate may:

- 20           (1) issue arrest warrants;  
21           (2) modify terms and conditions of probation;  
22           (3) determine the eligibility of prospective  
23 participants in the drug court program and admit or discharge  
24 program participants;  
25           (4) order confinement as a condition of probation  
26 authorized by the Code of Criminal Procedure; and  
27           (5) perform any act and take any measure assigned by

1 the local administrative district judge that is necessary and  
2 proper for the efficient performance of the drug court.

3 Sec. 54.1306. JUDICIAL IMMUNITY. A magistrate has the same  
4 judicial immunity as a district judge.

5 Sec. 54.1307. SHERIFF. On request of a magistrate, the  
6 sheriff, in person or by deputy, shall assist the magistrate.

7 Sec. 54.1308. CLERK. The district clerk serves as the clerk  
8 for a magistrate appointed under this subchapter.

9 SECTION 2. This Act takes effect immediately if it receives  
10 a vote of two-thirds of all the members elected to each house, as  
11 provided by Section 39, Article III, Texas Constitution. If this  
12 Act does not receive the vote necessary for immediate effect, this  
13 Act takes effect September 1, 2005.