

By: Naishtat

H.B. No. 890

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the terminology used to describe certain judicial
3 officers.

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

5 SECTION 1. Section 54.603(e), Government Code, is amended
6 to read as follows:

7 (e) An associate judge appointed under this subchapter may
8 serve as an associate judge [~~a master~~] appointed under Section
9 574.0085, Health and Safety Code.

10 SECTION 2. Section 571.017(a), Health and Safety Code, is
11 amended to read as follows:

12 (a) The court shall order the payment of reasonable
13 compensation to attorneys, physicians, language interpreters, sign
14 interpreters, and associate judges [~~masters~~] appointed under this
15 subtitle.

16 SECTION 3. Section 574.0085, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 574.0085. ASSOCIATE JUDGES [~~MASTERS~~]. (a) The
19 county judge may appoint a full-time or a part-time associate judge
20 [~~master~~] to preside over the proceedings for court-ordered mental
21 health services if the commissioners court of a county in which the
22 court has jurisdiction authorizes the employment of an associate
23 judge [~~a master~~].

24 (b) To be eligible for appointment as an associate judge [~~a~~

1 ~~master~~], a person must be a resident of this state and have been
2 licensed to practice law in this state for at least four years or be
3 a retired county judge, statutory or constitutional, with at least
4 10 years of service.

5 (c) An associate judge [~~A master~~] shall be paid as
6 determined by the commissioners court of the county in which the
7 associate judge [~~master~~] serves. If an associate judge [~~a master~~]
8 serves in more than one county, the associate judge [~~master~~] shall
9 be paid as determined by agreement of the commissioners courts of
10 the counties in which the associate judge [~~master~~] serves. The
11 associate judge [~~master~~] may be paid from county funds available
12 for payment of officers' salaries.

13 (d) An associate judge [~~A master~~] who serves a single court
14 serves at the will of the judge of that court. The services of an
15 associate judge [~~a master~~] who serves more than two courts may be
16 terminated by a majority vote of all the judges of the courts the
17 associate judge [~~master~~] serves. The services of an associate
18 judge [~~a master~~] who serves two courts may be terminated by either
19 of the judges of the courts the associate judge [~~master~~] serves.

20 (e) To refer cases to an associate judge [~~a master~~], the
21 referring court must issue an order of referral. The order of
22 referral may limit the power or duties of an associate judge [~~a~~
23 ~~master~~].

24 (f) Except as limited by an order of referral, an associate
25 judge [~~masters~~] appointed under this section has [~~have~~] all the
26 powers and duties set forth in Section 201.007, Family Code.

27 (g) A bailiff may attend a hearing held by an associate

1 judge [~~a master~~] if directed by the referring court.

2 (h) A witness appearing before an associate judge [~~a master~~]
3 is subject to the penalties for perjury provided by law. A
4 referring court may issue attachment against and may fine or
5 imprison a witness whose failure to appear before an associate
6 judge [~~a master~~] after being summoned or whose refusal to answer
7 questions has been certified to the court.

8 (i) At the conclusion of any hearing conducted by an
9 associate judge [~~a master~~] and on the preparation of an associate
10 judge's [~~a master's~~] report, the associate judge [~~master~~] shall
11 transmit to the referring court all papers relating to the case,
12 with the associate judge's [~~master's~~] signed and dated report.
13 After the associate judge's [~~master's~~] report has been signed, the
14 associate judge [~~master~~] shall give to the parties participating in
15 the hearing notice of the substance of the report. The associate
16 judge's [~~master's~~] report may contain the associate judge's
17 [~~master's~~] findings, conclusions, or recommendations. The
18 associate judge's [~~master's~~] report must be in writing in a form as
19 the referring court may direct. The form may be a notation on the
20 referring court's docket sheet. After the associate judge's
21 [~~master's~~] report is filed, the referring court may adopt, approve,
22 or reject the associate judge's [~~master's~~] report, hear further
23 evidence, or recommit the matter for further proceedings as the
24 referring court considers proper and necessary in the particular
25 circumstances of the case.

26 (j) If a jury trial is demanded or required, the associate
27 judge [~~master~~] shall refer the entire matter back to the referring

1 court for trial.

2 (k) An associate judge [~~A master~~] appointed under this
3 section has the judicial immunity of a county judge.

4 (l) An associate judge [~~A master~~] appointed in accordance
5 with this section shall comply with the Code of Judicial Conduct in
6 the same manner as the county judge.

7 SECTION 4. Sections 574.025(c) and (e), Health and Safety
8 Code, are amended to read as follows:

9 (c) The hearing shall be held before a magistrate or, at the
10 discretion of the presiding judge, before an associate judge [~~a~~
11 ~~master~~] appointed by the presiding judge. Notwithstanding any
12 other law or requirement, an associate judge [~~a master~~] appointed
13 to conduct a hearing under this section may practice law in the
14 court the associate judge [~~master~~] serves. The associate judge
15 [~~master~~] is entitled to reasonable compensation.

16 (e) The magistrate or associate judge [~~master~~] may consider
17 evidence, including letters, affidavits, and other material, that
18 may not be admissible or sufficient in a subsequent commitment
19 hearing.

20 SECTION 5. Sections 574.026(a) and (b), Health and Safety
21 Code, are amended to read as follows:

22 (a) The magistrate or associate judge [~~master~~] shall order
23 that a proposed patient remain in protective custody if the
24 magistrate or associate judge [~~master~~] determines after the hearing
25 that an adequate factual basis exists for probable cause to believe
26 that the proposed patient presents a substantial risk of serious
27 harm to himself or others to the extent that he cannot remain at

1 liberty pending the hearing on court-ordered mental health
2 services.

3 (b) The magistrate or associate judge [~~master~~] shall
4 arrange for the proposed patient to be returned to the mental health
5 facility or other suitable place, along with copies of the
6 certificate of medical examination, any affidavits or other
7 material submitted as evidence in the hearing, and the notification
8 prepared as prescribed by Subsection (d).

9 SECTION 6. Section 574.028(a), Health and Safety Code, is
10 amended to read as follows:

11 (a) The magistrate or associate judge [~~master~~] shall order
12 the release of a person under a protective custody order if the
13 magistrate or associate judge [~~master~~] determines after the hearing
14 under Section 574.025 that no probable cause exists to believe that
15 the proposed patient presents a substantial risk of serious harm to
16 himself or others.

17 SECTION 7. Section 574.064(b), Health and Safety Code, is
18 amended to read as follows:

19 (b) A patient may be detained under a temporary detention
20 order for more than 72 hours, excluding Saturdays, Sundays, legal
21 holidays, and the period prescribed by Section 574.025(b) for an
22 extreme emergency only if, after a hearing held before the
23 expiration of that period, the court, a magistrate, or a designated
24 associate judge [~~master~~] finds that there is probable cause to
25 believe that:

26 (1) the patient meets the criteria described by
27 Section 574.065(a); and

1 (2) detention in an inpatient mental health facility
2 is necessary to evaluate the appropriate setting for continued
3 court-ordered services.

4 SECTION 8. Sections 574.106(d), (e), and (f), Health and
5 Safety Code, are amended to read as follows:

6 (d) A judge may refer a hearing to a magistrate or
7 court-appointed associate judge [~~master~~] who has training
8 regarding psychoactive medications. The magistrate or associate
9 judge [~~master~~] may effectuate the notice, set hearing dates, and
10 appoint attorneys as required in this subchapter. A record is not
11 required if the hearing is held by a magistrate or court-appointed
12 associate judge [~~master~~].

13 (e) A party is entitled to a hearing de novo by the judge if
14 an appeal of the magistrate's or associate judge's [~~master's~~] report
15 is filed with the court within three days after the report is
16 issued. The hearing de novo shall be held within 30 days of the
17 filing of the application for an order to authorize psychoactive
18 medication.

19 (f) If a hearing or an appeal of an associate judge's [~~a~~
20 ~~master's~~] or magistrate's report is to be held in a county court in
21 which the judge is not a licensed attorney, the proposed patient or
22 the proposed patient's attorney may request that the proceeding be
23 transferred to a court with a judge who is licensed to practice law
24 in this state. The county judge shall transfer the case after
25 receiving the request, and the receiving court shall hear the case
26 as if it had been originally filed in that court.

27 SECTION 9. Section 574.203(a), Health and Safety Code, is

1 amended to read as follows:

2 (a) A hearing may be conducted in accordance with this
3 chapter but conducted by secure electronic means, including
4 satellite transmission, closed-circuit television transmission, or
5 any other method of two-way electronic communication that is
6 secure, available to the parties, approved by the court, and
7 capable of visually and audibly recording the proceedings, if:

8 (1) written consent to the use of a secure electronic
9 communication method for the hearing is filed with the court by:

10 (A) the proposed patient or the attorney
11 representing the proposed patient; and

12 (B) the county or district attorney, as
13 appropriate;

14 (2) the secure electronic communication method
15 provides for a simultaneous, compressed full-motion video, and
16 interactive communication of image and sound among the judge or [~~7~~]
17 associate judge [~~7~~, ~~or master~~], the county or district attorney, the
18 attorney representing the proposed patient, and the proposed
19 patient; and

20 (3) on request of the proposed patient or the attorney
21 representing the proposed patient, the proposed patient and the
22 attorney can communicate privately without being recorded or heard
23 by the judge or [~~7~~] associate judge [~~7~~, ~~or master~~] or by the county or
24 district attorney.

25 SECTION 10. Section 821.0211, Health and Safety Code, is
26 amended to read as follows:

27 Sec. 821.0211. ADDITIONAL DEFINITION. In this subchapter,

1 "magistrate" means any officer as defined in Article 2.09, Code of
2 Criminal Procedure, except that the term does not include justices
3 of the supreme court, judges of the court of criminal appeals, or
4 courts of appeals, judges or associate judges [~~masters~~] of
5 statutory probate courts, or judges or associate judges [~~masters~~]
6 of district courts that give preference to family law matters or
7 family district courts under Subchapter D, Chapter 24, Government
8 Code.

9 SECTION 11. This Act takes effect September 1, 2009.