

1-1 By: Naishtat (Senate Sponsor - Wentworth) H.B. No. 890  
1-2 (In the Senate - Received from the House April 16, 2009;  
1-3 April 27, 2009, read first time and referred to Committee on  
1-4 Jurisprudence; May 7, 2009, reported favorably by the following  
1-5 vote: Yeas 5, Nays 0; May 7, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the terminology used to describe certain judicial  
1-9 officers.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 54.603(e), Government Code, is amended  
1-12 to read as follows:

1-13 (e) An associate judge appointed under this subchapter may  
1-14 serve as an associate judge [~~a master~~] appointed under Section  
1-15 574.0085, Health and Safety Code.

1-16 SECTION 2. Section 571.017(a), Health and Safety Code, is  
1-17 amended to read as follows:

1-18 (a) The court shall order the payment of reasonable  
1-19 compensation to attorneys, physicians, language interpreters, sign  
1-20 interpreters, and associate judges [~~masters~~] appointed under this  
1-21 subtitle.

1-22 SECTION 3. Section 574.0085, Health and Safety Code, is  
1-23 amended to read as follows:

1-24 Sec. 574.0085. ASSOCIATE JUDGES [~~MASTERS~~]. (a) The  
1-25 county judge may appoint a full-time or a part-time associate judge  
1-26 [~~master~~] to preside over the proceedings for court-ordered mental  
1-27 health services if the commissioners court of a county in which the  
1-28 court has jurisdiction authorizes the employment of an associate  
1-29 judge [~~a master~~].

1-30 (b) To be eligible for appointment as an associate judge [~~a~~  
1-31 ~~master~~], a person must be a resident of this state and have been  
1-32 licensed to practice law in this state for at least four years or be  
1-33 a retired county judge, statutory or constitutional, with at least  
1-34 10 years of service.

1-35 (c) An associate judge [~~A master~~] shall be paid as  
1-36 determined by the commissioners court of the county in which the  
1-37 associate judge [~~master~~] serves. If an associate judge [~~a master~~]  
1-38 serves in more than one county, the associate judge [~~master~~] shall  
1-39 be paid as determined by agreement of the commissioners courts of  
1-40 the counties in which the associate judge [~~master~~] serves. The  
1-41 associate judge [~~master~~] may be paid from county funds available  
1-42 for payment of officers' salaries.

1-43 (d) An associate judge [~~A master~~] who serves a single court  
1-44 serves at the will of the judge of that court. The services of an  
1-45 associate judge [~~a master~~] who serves more than two courts may be  
1-46 terminated by a majority vote of all the judges of the courts the  
1-47 associate judge [~~master~~] serves. The services of an associate  
1-48 judge [~~a master~~] who serves two courts may be terminated by either  
1-49 of the judges of the courts the associate judge [~~master~~] serves.

1-50 (e) To refer cases to an associate judge [~~a master~~], the  
1-51 referring court must issue an order of referral. The order of  
1-52 referral may limit the power or duties of an associate judge [~~a~~  
1-53 ~~master~~].

1-54 (f) Except as limited by an order of referral, an associate  
1-55 judge [~~masters~~] appointed under this section has [~~have~~] all the  
1-56 powers and duties set forth in Section 201.007, Family Code.

1-57 (g) A bailiff may attend a hearing held by an associate  
1-58 judge [~~a master~~] if directed by the referring court.

1-59 (h) A witness appearing before an associate judge [~~a master~~]  
1-60 is subject to the penalties for perjury provided by law. A  
1-61 referring court may issue attachment against and may fine or  
1-62 imprison a witness whose failure to appear before an associate  
1-63 judge [~~a master~~] after being summoned or whose refusal to answer  
1-64 questions has been certified to the court.

1-65 (i) At the conclusion of any hearing conducted by an

2-1 associate judge [~~a master~~] and on the preparation of an associate  
 2-2 judge's [~~a master's~~] report, the associate judge [~~master~~] shall  
 2-3 transmit to the referring court all papers relating to the case,  
 2-4 with the associate judge's [~~master's~~] signed and dated report.  
 2-5 After the associate judge's [~~master's~~] report has been signed, the  
 2-6 associate judge [~~master~~] shall give to the parties participating in  
 2-7 the hearing notice of the substance of the report. The associate  
 2-8 judge's [~~master's~~] report may contain the associate judge's  
 2-9 [~~master's~~] findings, conclusions, or recommendations. The  
 2-10 associate judge's [~~master's~~] report must be in writing in a form as  
 2-11 the referring court may direct. The form may be a notation on the  
 2-12 referring court's docket sheet. After the associate judge's  
 2-13 [~~master's~~] report is filed, the referring court may adopt, approve,  
 2-14 or reject the associate judge's [~~master's~~] report, hear further  
 2-15 evidence, or recommit the matter for further proceedings as the  
 2-16 referring court considers proper and necessary in the particular  
 2-17 circumstances of the case.

2-18 (j) If a jury trial is demanded or required, the associate  
 2-19 judge [~~master~~] shall refer the entire matter back to the referring  
 2-20 court for trial.

2-21 (k) An associate judge [~~A master~~] appointed under this  
 2-22 section has the judicial immunity of a county judge.

2-23 (l) An associate judge [~~A master~~] appointed in accordance  
 2-24 with this section shall comply with the Code of Judicial Conduct in  
 2-25 the same manner as the county judge.

2-26 SECTION 4. Sections 574.025(c) and (e), Health and Safety  
 2-27 Code, are amended to read as follows:

2-28 (c) The hearing shall be held before a magistrate or, at the  
 2-29 discretion of the presiding judge, before an associate judge [~~a~~  
 2-30 ~~master~~] appointed by the presiding judge. Notwithstanding any  
 2-31 other law or requirement, an associate judge [~~a master~~] appointed  
 2-32 to conduct a hearing under this section may practice law in the  
 2-33 court the associate judge [~~master~~] serves. The associate judge  
 2-34 [~~master~~] is entitled to reasonable compensation.

2-35 (e) The magistrate or associate judge [~~master~~] may consider  
 2-36 evidence, including letters, affidavits, and other material, that  
 2-37 may not be admissible or sufficient in a subsequent commitment  
 2-38 hearing.

2-39 SECTION 5. Sections 574.026(a) and (b), Health and Safety  
 2-40 Code, are amended to read as follows:

2-41 (a) The magistrate or associate judge [~~master~~] shall order  
 2-42 that a proposed patient remain in protective custody if the  
 2-43 magistrate or associate judge [~~master~~] determines after the hearing  
 2-44 that an adequate factual basis exists for probable cause to believe  
 2-45 that the proposed patient presents a substantial risk of serious  
 2-46 harm to himself or others to the extent that he cannot remain at  
 2-47 liberty pending the hearing on court-ordered mental health  
 2-48 services.

2-49 (b) The magistrate or associate judge [~~master~~] shall  
 2-50 arrange for the proposed patient to be returned to the mental health  
 2-51 facility or other suitable place, along with copies of the  
 2-52 certificate of medical examination, any affidavits or other  
 2-53 material submitted as evidence in the hearing, and the notification  
 2-54 prepared as prescribed by Subsection (d).

2-55 SECTION 6. Section 574.028(a), Health and Safety Code, is  
 2-56 amended to read as follows:

2-57 (a) The magistrate or associate judge [~~master~~] shall order  
 2-58 the release of a person under a protective custody order if the  
 2-59 magistrate or associate judge [~~master~~] determines after the hearing  
 2-60 under Section 574.025 that no probable cause exists to believe that  
 2-61 the proposed patient presents a substantial risk of serious harm to  
 2-62 himself or others.

2-63 SECTION 7. Section 574.064(b), Health and Safety Code, is  
 2-64 amended to read as follows:

2-65 (b) A patient may be detained under a temporary detention  
 2-66 order for more than 72 hours, excluding Saturdays, Sundays, legal  
 2-67 holidays, and the period prescribed by Section 574.025(b) for an  
 2-68 extreme emergency only if, after a hearing held before the  
 2-69 expiration of that period, the court, a magistrate, or a designated

3-1 associate judge [~~master~~] finds that there is probable cause to  
3-2 believe that:

3-3 (1) the patient meets the criteria described by  
3-4 Section 574.065(a); and

3-5 (2) detention in an inpatient mental health facility  
3-6 is necessary to evaluate the appropriate setting for continued  
3-7 court-ordered services.

3-8 SECTION 8. Sections 574.106(d), (e), and (f), Health and  
3-9 Safety Code, are amended to read as follows:

3-10 (d) A judge may refer a hearing to a magistrate or  
3-11 court-appointed associate judge [~~master~~] who has training  
3-12 regarding psychoactive medications. The magistrate or associate  
3-13 judge [~~master~~] may effectuate the notice, set hearing dates, and  
3-14 appoint attorneys as required in this subchapter. A record is not  
3-15 required if the hearing is held by a magistrate or court-appointed  
3-16 associate judge [~~master~~].

3-17 (e) A party is entitled to a hearing de novo by the judge if  
3-18 an appeal of the magistrate's or associate judge's [~~master's~~] report  
3-19 is filed with the court within three days after the report is  
3-20 issued. The hearing de novo shall be held within 30 days of the  
3-21 filing of the application for an order to authorize psychoactive  
3-22 medication.

3-23 (f) If a hearing or an appeal of an associate judge's [~~a~~  
3-24 ~~master's~~] or magistrate's report is to be held in a county court in  
3-25 which the judge is not a licensed attorney, the proposed patient or  
3-26 the proposed patient's attorney may request that the proceeding be  
3-27 transferred to a court with a judge who is licensed to practice law  
3-28 in this state. The county judge shall transfer the case after  
3-29 receiving the request, and the receiving court shall hear the case  
3-30 as if it had been originally filed in that court.

3-31 SECTION 9. Section 574.203(a), Health and Safety Code, is  
3-32 amended to read as follows:

3-33 (a) A hearing may be conducted in accordance with this  
3-34 chapter but conducted by secure electronic means, including  
3-35 satellite transmission, closed-circuit television transmission, or  
3-36 any other method of two-way electronic communication that is  
3-37 secure, available to the parties, approved by the court, and  
3-38 capable of visually and audibly recording the proceedings, if:

3-39 (1) written consent to the use of a secure electronic  
3-40 communication method for the hearing is filed with the court by:

3-41 (A) the proposed patient or the attorney  
3-42 representing the proposed patient; and

3-43 (B) the county or district attorney, as  
3-44 appropriate;

3-45 (2) the secure electronic communication method  
3-46 provides for a simultaneous, compressed full-motion video, and  
3-47 interactive communication of image and sound among the judge or [~~7~~  
3-48 associate judge [~~7~~, or ~~master~~], the county or district attorney, the  
3-49 attorney representing the proposed patient, and the proposed  
3-50 patient; and

3-51 (3) on request of the proposed patient or the attorney  
3-52 representing the proposed patient, the proposed patient and the  
3-53 attorney can communicate privately without being recorded or heard  
3-54 by the judge or [~~7~~] associate judge [~~7~~, or ~~master~~] or by the county or  
3-55 district attorney.

3-56 SECTION 10. Section 821.0211, Health and Safety Code, is  
3-57 amended to read as follows:

3-58 Sec. 821.0211. ADDITIONAL DEFINITION. In this subchapter,  
3-59 "magistrate" means any officer as defined in Article 2.09, Code of  
3-60 Criminal Procedure, except that the term does not include justices  
3-61 of the supreme court, judges of the court of criminal appeals, or  
3-62 courts of appeals, judges or associate judges [~~masters~~] of  
3-63 statutory probate courts, or judges or associate judges [~~masters~~]  
3-64 of district courts that give preference to family law matters or  
3-65 family district courts under Subchapter D, Chapter 24, Government  
3-66 Code.

3-67 SECTION 11. This Act takes effect September 1, 2009.

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