

By: Bonnen

H.B. No. 1750

A BILL TO BE ENTITLED

AN ACT

relating to the creation of criminal law magistrates for Brazoria County.

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

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

SUBCHAPTER HH. BRAZORIA COUNTY CRIMINAL MAGISTRATES

Sec. 54.1851. APPOINTMENT. (a) The Commissioners Court of Brazoria County may select magistrates to serve the courts of Brazoria County having jurisdiction in criminal matters.

(b) The commissioners court shall establish the minimum qualifications, salary, benefits, and other compensation of each magistrate position and shall determine whether the position is full-time or part-time. The qualifications must require the magistrate to have served as a justice of the peace or be an attorney licensed in this state.

(c) A magistrate appointed under this section serves at the pleasure of the commissioners court.

Sec. 54.1852. JURISDICTION. A magistrate has concurrent criminal jurisdiction with the judges of the justice of the peace courts of Brazoria County.

Sec. 54.1853. POWERS AND DUTIES. (a) The Commissioners Court of Brazoria County shall establish the powers and duties of a magistrate appointed under this subchapter. Except as otherwise

1 provided by the commissioners court, a magistrate has the powers of
2 a magistrate under the Code of Criminal Procedure and other laws of
3 this state and may administer an oath for any purpose.

4 (b) A magistrate shall give preference to performing the
5 duties of a magistrate under Article 15.17, Code of Criminal
6 Procedure.

7 (c) The commissioners court may designate one or more
8 magistrates to hold regular hearings to:

9 (1) give admonishments;

10 (2) set and review bail and conditions of release;

11 (3) appoint legal counsel; and

12 (4) determine other routine matters relating to
13 preindictment or pending cases within those courts' jurisdiction.

14 (d) In the hearings provided under Subsection (c), a
15 magistrate shall give preference to the case of an individual held
16 in county jail.

17 (e) A magistrate may inquire into a defendant's intended
18 plea to the charge and set the case for an appropriate hearing
19 before a judge or master.

20 Sec. 54.1854. JUDICIAL IMMUNITY. A magistrate has the same
21 judicial immunity as a district judge.

22 Sec. 54.1855. WITNESSES. (a) A witness who is sworn and
23 who appears before a magistrate is subject to the penalties for
24 perjury and aggravated perjury provided by law.

25 (b) A referring court may fine or imprison a witness or
26 other court participant for failure to appear after being summoned,
27 refusal to answer questions, or other acts of direct contempt

1 before a magistrate.

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

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

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

5 SECTION 3. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2009.