

1-1 By: McReynolds, Guillen (Senate Sponsor - Watson) H.B. No. 3595  
1-2 (In the Senate - Received from the House April 29, 2009;  
1-3 May 6, 2009, read first time and referred to Committee on Criminal  
1-4 Justice; May 23, 2009, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;  
1-6 May 23, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3595 By: Ellis

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the provision of drug court programs in this state.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Chapter 469, Health and Safety Code, is amended  
1-13 by designating Sections 469.001 through 469.009 as Subchapter A and  
1-14 adding a heading to that subchapter to read as follows:

1-15 SUBCHAPTER A. DRUG COURT PROGRAMS

1-16 SECTION 2. Chapter 469, Health and Safety Code, is amended  
1-17 by adding Subchapter B to read as follows:

1-18 SUBCHAPTER B. ASSOCIATE JUDGES FOR DRUG COURT PROGRAMS

1-19 Sec. 469.051. APPOINTMENT BY PRESIDING JUDGE. (a) Subject  
1-20 to available state funding, the presiding judge of each  
1-21 administrative judicial region shall appoint a full-time or  
1-22 part-time associate judge to establish and administer a drug court  
1-23 program described by Section 469.002 if, after conferring with each  
1-24 judge of a court in the region that serves a county with a  
1-25 population of 200,000 or less, the presiding judge determines one  
1-26 or more of those judges desire the appointment of an associate judge  
1-27 under this section.

1-28 (b) The presiding judge may limit an appointment under this  
1-29 section to a specified period and may terminate an appointment at  
1-30 any time.

1-31 (c) An associate judge may be appointed under this section  
1-32 to serve more than one court. Two or more judges of administrative  
1-33 judicial regions may jointly appoint one or more associate judges  
1-34 to serve courts located in the regions.

1-35 (d) Not later than the 31st day after the date an associate  
1-36 judge is appointed under this section, the judges of the courts  
1-37 served by the associate judge, after consulting with the associate  
1-38 judge and each presiding judge of the administrative judicial  
1-39 region who appointed the associate judge, shall establish a court  
1-40 referral protocol for the referral of cases to the drug court  
1-41 program administered by the associate judge.

1-42 Sec. 469.052. QUALIFICATIONS. To be eligible for  
1-43 appointment as an associate judge under this subchapter, a person  
1-44 must:

1-45 (1) be a United States citizen;

1-46 (2) have resided in this state for the two years  
1-47 immediately preceding the date of appointment;

1-48 (3) meet one of the following qualifications:

1-49 (A) be eligible for assignment under Section  
1-50 74.054, Government Code, because the person is named on the list of  
1-51 retired and former judges subject to assignment under Section  
1-52 74.055, Government Code; or

1-53 (B) be licensed to practice law in this state and  
1-54 have been practicing law in this state or been acting as a judge of a  
1-55 court in this state for the four years immediately preceding the  
1-56 date of appointment, but is not otherwise eligible for assignment  
1-57 as provided by Paragraph (A);

1-58 (4) not have been defeated for reelection to a  
1-59 judicial office;

1-60 (5) not have been removed from office by impeachment,  
1-61 by the supreme court, by the governor on address to the legislature,  
1-62 by a tribunal reviewing a recommendation of the State Commission on  
1-63 Judicial Conduct, or by the legislature's abolition of the judge's

2-1 court; and

2-2 (6) not have resigned from office after having  
 2-3 received notice that formal proceedings by the State Commission on  
 2-4 Judicial Conduct had been instituted as provided in Section 33.022,  
 2-5 Government Code, and before the final disposition of the  
 2-6 proceedings.

2-7 Sec. 469.053. DESIGNATION OF HOST COUNTY. (a) Subject to  
 2-8 the approval of the commissioners court of the proposed host  
 2-9 county, the presiding judges of the administrative judicial regions  
 2-10 by majority vote shall determine the host county of an associate  
 2-11 judge appointed under this subchapter.

2-12 (b) The host county shall provide an adequate courtroom and  
 2-13 quarters, including furniture, necessary utilities, and telephone  
 2-14 equipment and service, for the associate judge and other personnel  
 2-15 assisting the associate judge.

2-16 (c) An associate judge is not required to reside in the host  
 2-17 county.

2-18 Sec. 469.054. ORDER OF REFERRALS; GENERAL POWERS OF  
 2-19 ASSOCIATE JUDGE. (a) To refer cases involving defendants who are  
 2-20 eligible to participate in the drug court program to an associate  
 2-21 judge appointed under this subchapter, the referring court must  
 2-22 issue an order of referral specifying the associate judge's duties.

2-23 (b) An order of referral issued under this section must be  
 2-24 consistent with the court referral protocol established for the  
 2-25 associate judge under Section 469.051(d). In the event of a  
 2-26 conflict between the order of referral and the court referral  
 2-27 protocol, the order of referral controls.

2-28 (c) An order of referral may:

2-29 (1) limit the powers of the associate judge and direct  
 2-30 the associate judge to report on specific issues and perform  
 2-31 particular acts;

2-32 (2) set the time and place for a hearing;

2-33 (3) specify a date for filing the associate judge's  
 2-34 findings;

2-35 (4) designate proceedings for more than one case over  
 2-36 which the associate judge presides; and

2-37 (5) set forth general powers and limitations of  
 2-38 authority of the associate judge applicable to any case referred.

2-39 (d) Except as limited by an order of referral, an associate  
 2-40 judge to whom a case is referred may perform any act necessary and  
 2-41 proper for the efficient performance of the associate judge's  
 2-42 duties under an order of referral.

2-43 Sec. 469.055. COURT REPORTER; RECORD. (a) A court reporter  
 2-44 may be provided during a hearing held by an associate judge  
 2-45 appointed under this subchapter. At the request of a party, the  
 2-46 associate judge shall provide a court reporter to record the  
 2-47 proceedings before the judge.

2-48 (b) A party, the associate judge, or the referring court may  
 2-49 provide for a reporter during the hearing if one is not otherwise  
 2-50 provided.

2-51 (c) Except as provided by Subsection (a), in the absence of  
 2-52 a court reporter or on agreement of the parties, the record may be  
 2-53 preserved by any means approved by the associate judge.

2-54 (d) The referring court or associate judge may assess the  
 2-55 expense of preserving the record under Subsection (c) as costs.

2-56 Sec. 469.056. JUDICIAL ACTION. (a) A referring court may  
 2-57 modify, correct, reject, reverse, or recommit for further  
 2-58 information any action taken by the associate judge.

2-59 (b) If the referring court does not modify, correct, reject,  
 2-60 reverse, or recommit an action of the associate judge before the  
 2-61 31st day after the date the associate judge takes the action, the  
 2-62 action becomes the decree of the court.

2-63 Sec. 469.057. JUDICIAL IMMUNITY. An associate judge has  
 2-64 the same judicial immunity as a district judge.

2-65 Sec. 469.058. COMPENSATION. (a) An associate judge  
 2-66 appointed under this subchapter is entitled to a salary as  
 2-67 determined by a majority vote of the presiding judges of the  
 2-68 administrative judicial regions. The salary may not exceed 90  
 2-69 percent of the salary paid to a district judge as set by the state

3-1 General Appropriations Act.

3-2 (b) The associate judge's salary shall be paid from funds  
 3-3 available as provided by this subchapter.

3-4 Sec. 469.059. PERSONNEL. (a) The presiding judge of an  
 3-5 administrative judicial region who appointed an associate judge  
 3-6 under this subchapter or the presiding judges of the administrative  
 3-7 judicial regions, by majority vote, may appoint personnel as needed  
 3-8 to implement and administer the provisions of this subchapter.

3-9 (b) The salaries of the personnel shall be paid from funds  
 3-10 available as provided by this subchapter.

3-11 Sec. 469.060. SUPERVISION OF ASSOCIATE JUDGES. The office  
 3-12 of court administration shall assist the presiding judges in:

3-13 (1) monitoring the associate judges' compliance with  
 3-14 any applicable job performance standards, uniform practices  
 3-15 adopted by the presiding judges, and federal and state laws and  
 3-16 policies;

3-17 (2) addressing the training needs and resource  
 3-18 requirements of the associate judges;

3-19 (3) conducting annual performance evaluations for the  
 3-20 associate judges and other personnel appointed under this  
 3-21 subchapter based on written personnel performance standards  
 3-22 adopted by the presiding judges; and

3-23 (4) receiving, investigating, and resolving  
 3-24 complaints about particular associate judges or the associate judge  
 3-25 program under this subchapter based on a uniform process adopted by  
 3-26 the presiding judges.

3-27 Sec. 469.061. FUNDING. (a) The office of court  
 3-28 administration may contract for available state, county, and  
 3-29 federal funds from any source and may employ personnel needed to  
 3-30 implement and administer this subchapter. An associate judge and  
 3-31 other personnel appointed under this subchapter are state employees  
 3-32 for all purposes, including accrual of leave time, insurance  
 3-33 benefits, retirement benefits, and travel regulations.

3-34 (b) The presiding judges of the administrative judicial  
 3-35 regions, state agencies, and counties may contract for available  
 3-36 federal funds from any source to reimburse costs and salaries  
 3-37 associated with associate judges and personnel appointed under this  
 3-38 subchapter and may also use available state and county funds and  
 3-39 public or private grants.

3-40 (c) The presiding judges and the office of court  
 3-41 administration in cooperation with other agencies shall take action  
 3-42 necessary to maximize the amount of federal money available to fund  
 3-43 the use of associate judges under this subchapter.

3-44 Sec. 469.062. ASSIGNMENT OF JUDGES AND APPOINTMENT OF  
 3-45 VISITING ASSOCIATE JUDGES. (a) This subchapter does not limit the  
 3-46 authority of a presiding judge to assign a judge eligible for  
 3-47 assignment under Chapter 74, Government Code, to administer a drug  
 3-48 court program under this subchapter.

3-49 (b) If an associate judge appointed under this subchapter is  
 3-50 temporarily unable to perform the associate judge's official duties  
 3-51 because of absence resulting from family circumstances, illness,  
 3-52 injury, disability, or military service, or if there is a vacancy in  
 3-53 the position of associate judge, the presiding judge of the  
 3-54 administrative judicial region in which the associate judge serves  
 3-55 or the vacancy occurs may appoint a visiting associate judge to  
 3-56 perform the duties of the associate judge during the period the  
 3-57 associate judge is unable to perform the associate judge's duties  
 3-58 or until another associate judge is appointed to fill the vacancy.

3-59 (c) A person is not eligible for appointment under this  
 3-60 section unless the person has served as an associate judge, a  
 3-61 district judge, or a county court judge for at least two years  
 3-62 before the date of appointment.

3-63 (d) A visiting associate judge appointed under this section  
 3-64 is subject to each provision of this subchapter that applies to an  
 3-65 associate judge serving under a regular appointment under this  
 3-66 subchapter. A visiting associate judge appointed under this  
 3-67 section is entitled to compensation, to be determined by a majority  
 3-68 vote of the presiding judges of the administrative judicial  
 3-69 regions, through use of funds under this subchapter. A visiting

4-1 associate judge is not considered to be a state employee for any  
4-2 purpose.

4-3 (e) Section 2252.901, Government Code, does not apply to the  
4-4 appointment of a visiting associate judge under this section.

4-5 Sec. 469.063. LIMITATION ON LAW PRACTICE BY ASSOCIATE  
4-6 JUDGE. An associate judge appointed under this subchapter may not  
4-7 engage in the private practice of law.

4-8 SECTION 3. This Act takes effect immediately if it receives  
4-9 a vote of two-thirds of all the members elected to each house, as  
4-10 provided by Section 39, Article III, Texas Constitution. If this  
4-11 Act does not receive the vote necessary for immediate effect, this  
4-12 Act takes effect September 1, 2009.

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