

By: Harris

S.B. No. 922

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of certain magistrates.

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

SECTION 1. Section 54.656, Government Code, is amended to read as follows:

Sec. 54.656. PROCEEDING THAT MAY BE REFERRED. (a) A judge may refer to a magistrate any criminal case for proceedings involving:

(1) a negotiated plea of guilty before the court;

(2) bail, including an increase, decrease, or denial of bail, a change in the conditions of bail, or [a bond] forfeiture of bail;

(3) a pretrial motion;

(4) a postconviction writ of habeas corpus;

(5) an examining trial;

(6) an occupational driver's license; ~~and~~

(7) an agreed order of expunction under Chapter 55, Code of Criminal Procedure;

(8) an asset forfeiture hearing as provided by Chapter 59, Code of Criminal Procedure;

(9) an agreed order of nondisclosure provided by Section 411.081;

(10) a hearing on a motion to revoke probation; and

(11) any other matter the judge considers necessary

1 and proper.

2 (b) A judge may refer to a magistrate a civil case arising  
3 out of Chapter 59, Code of Criminal Procedure, for any purpose  
4 authorized by that chapter, including issuing orders, accepting  
5 agreed judgments, enforcing judgments, and presiding over a case on  
6 the merits if a party has not requested a jury trial.

7 (c) A magistrate may accept a plea of guilty from a  
8 defendant charged with misdemeanor, felony, or both misdemeanor and  
9 felony offenses.

10 (d) [~~e~~] A magistrate may select a jury. A magistrate may  
11 not preside over a criminal trial on the merits, whether or not the  
12 trial is before a jury.

13 (e) A magistrate may not hear a jury trial on the merits of a  
14 bond forfeiture.

15 SECTION 2. Section 54.658, Government Code, is amended to  
16 read as follows:

17 Sec. 54.658. POWERS. [~~a~~] Except as limited by an order  
18 of referral, a magistrate to whom a case is referred may:

- 19 (1) conduct hearings;
- 20 (2) hear evidence;
- 21 (3) compel production of relevant evidence;
- 22 (4) rule on admissibility of evidence;
- 23 (5) issue summons for the appearance of witnesses;
- 24 (6) examine witnesses;
- 25 (7) swear witnesses for hearings;
- 26 (8) make findings of fact on evidence;
- 27 (9) formulate conclusions of law;

- 1 (10) rule on a pretrial motion;
- 2 (11) recommend the rulings, orders, or judgment to be  
3 made in a case;
- 4 (12) regulate proceedings in a hearing;
- 5 (13) accept a plea of guilty from a defendant charged  
6 with misdemeanor, felony, or both misdemeanor and felony offenses;
- 7 (14) select a jury; ~~and~~
- 8 (15) accept a negotiated plea on a probation  
9 revocation;
- 10 (16) conduct a contested probation revocation  
11 hearing;
- 12 (17) sign a dismissal in a misdemeanor case; and
- 13 (18) do any act and take any measure necessary and  
14 proper for the efficient performance of the duties required by the  
15 order of referral.

16 ~~[(b) A magistrate may not enter a ruling on any issue of law~~  
17 ~~or fact if that ruling could result in dismissal or require~~  
18 ~~dismissal of a pending criminal prosecution, but the magistrate may~~  
19 ~~make findings, conclusions, and recommendations on those issues.]~~

20 SECTION 3. Article 18.01(c), Code of Criminal Procedure, is  
21 amended to read as follows:

22 (c) A search warrant may not be issued pursuant to  
23 Subdivision (10) of Article 18.02 of this code unless the sworn  
24 affidavit required by Subsection (b) of this article sets forth  
25 sufficient facts to establish probable cause: (1) that a specific  
26 offense has been committed, (2) that the specifically described  
27 property or items that are to be searched for or seized constitute

1 evidence of that offense or evidence that a particular person  
2 committed that offense, and (3) that the property or items  
3 constituting evidence to be searched for or seized are located at or  
4 on the particular person, place, or thing to be searched. Except as  
5 provided by Subsections (d) and (i) of this article, only a judge of  
6 a municipal court of record or county court who is an attorney  
7 licensed by the State of Texas, a judge of a statutory county court,  
8 district court, or the Court of Criminal Appeals, a justice of [or]  
9 the Supreme Court, or a magistrate with jurisdiction over criminal  
10 cases serving a district court may issue warrants pursuant to  
11 Subdivision (10), Article 18.02 of this code.

12 SECTION 4. This Act takes effect September 1, 2009.