

By: Smith of Tarrant

H.B. No. 1252

Substitute the following for H.B. No. 1252:

By: Madden

C.S.H.B. No. 1252

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the powers and duties of criminal law magistrates in
3 Tarrant County.

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

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

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

- 10 (1) a negotiated plea of guilty before the court;
- 11 (2) a bond forfeiture;
- 12 (3) a pretrial motion;
- 13 (4) a postconviction writ of habeas corpus;
- 14 (5) an examining trial;
- 15 (6) an occupational driver's license; ~~and~~
- 16 (7) an agreed order of expunction under Chapter 55,
17 Code of Criminal Procedure;
- 18 (8) an asset forfeiture hearing as provided by Chapter
19 59, Code of Criminal Procedure;
- 20 (9) an agreed order of nondisclosure provided by
21 Section 411.081;
- 22 (10) a hearing on a motion to revoke probation; and
- 23 (11) any other matter the judge considers necessary
24 and proper.

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

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

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

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

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

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

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

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

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

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

21 (c) A search warrant may not be issued under Article
22 18.02(10) unless the sworn affidavit required by Subsection (b)
23 sets forth sufficient facts to establish probable cause: (1) that a
24 specific offense has been committed, (2) that the specifically
25 described property or items that are to be searched for or seized
26 constitute evidence of that offense or evidence that a particular
27 person committed that offense, and (3) that the property or items

1 constituting evidence to be searched for or seized are located at or
2 on the particular person, place, or thing to be searched. Except as
3 provided by Subsections (d), (i), and (j), only a judge of a
4 municipal court of record or a county court who is an attorney
5 licensed by the State of Texas, a statutory county court judge, a
6 district court judge, a judge of the Court of Criminal Appeals,
7 including the presiding judge, ~~or~~ a justice of the Supreme Court
8 of Texas, including the chief justice, or a magistrate with
9 jurisdiction over criminal cases serving a district court may issue
10 warrants under Article 18.02(10).

11 SECTION 4. This Act takes effect September 1, 2011.