

1-1 By: Reynolds (Senate Sponsor - Hegar) H.B. No. 2132
1-2 (In the Senate - Received from the House April 27, 2011;
1-3 April 28, 2011, read first time and referred to Committee on
1-4 Jurisprudence; May 18, 2011, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; May 18, 2011, sent to printer.)

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

1-8 relating to the creation of magistrates in certain counties.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Chapter 54, Government Code, is amended by
1-11 adding Subchapter JJ to read as follows:

1-12 SUBCHAPTER JJ. MAGISTRATES IN CERTAIN COUNTIES

1-13 Sec. 54.1951. APPLICATION OF SUBCHAPTER. This subchapter
1-14 applies to a constitutional county court in a county that:

1-15 (1) has a population of more than 585,000; and

1-16 (2) is contiguous to a county with a population of at
1-17 least four million.

1-18 Sec. 54.1952. APPOINTMENT. (a) The county judge may
1-19 appoint one or more part-time or full-time magistrates to hear a
1-20 matter alleging a violation of Section 25.093 or 25.094, Education
1-21 Code, referred to the magistrate by a court having jurisdiction
1-22 over the matter.

1-23 (b) An appointment under Subsection (a) is subject to the
1-24 approval of the commissioners court.

1-25 (c) A magistrate serves at the pleasure of the county judge.

1-26 Sec. 54.1953. QUALIFICATIONS. A magistrate must:

1-27 (1) be a citizen of this state;

1-28 (2) have resided in the county for at least six months
1-29 before the date of the appointment; and

1-30 (3) have:

1-31 (A) served as a justice of the peace for at least
1-32 four years before the date of appointment; or

1-33 (B) been licensed to practice law in this state
1-34 for at least four years before the date of appointment.

1-35 Sec. 54.1954. COMPENSATION. A magistrate is entitled to
1-36 the compensation set by the commissioners court. The compensation
1-37 shall be paid from the general fund of the county.

1-38 Sec. 54.1955. POWERS. (a) Except as limited by an order of
1-39 the county judge, a magistrate appointed under this subchapter may:

1-40 (1) conduct hearings;

1-41 (2) hear evidence;

1-42 (3) issue summons for the appearance of witnesses;

1-43 (4) examine witnesses;

1-44 (5) swear witnesses for hearings;

1-45 (6) recommend rulings or orders or a judgment in a
1-46 case;

1-47 (7) regulate proceedings in a hearing;

1-48 (8) accept a plea of guilty or nolo contendere in a
1-49 case alleging a violation of Section 25.093 or 25.094, Education

1-50 Code, and assess a fine or court costs or order community service in
1-51 satisfaction of a fine or costs in accordance with Article 45.049,
1-52 Code of Criminal Procedure;

1-53 (9) enter an order suspending a sentence or deferring
1-54 a final disposition that includes at least one of the requirements
1-55 listed in Article 45.051, Code of Criminal Procedure;

1-56 (10) perform any act and take any measure necessary
1-57 and proper for the efficient performance of the duties required by
1-58 the referral order, including the entry of an order that includes at
1-59 least one of the requirements in Article 45.054, Code of Criminal
1-60 Procedure; and

1-61 (11) if the magistrate finds that a child as defined by
1-62 Article 45.058, Code of Criminal Procedure, has violated an order
1-63 under Article 45.054, Code of Criminal Procedure, proceed as
1-64 authorized by Article 45.050, Code of Criminal Procedure.

2-1 (b) With respect to an issue of law or fact the ruling on
2-2 which could result in the dismissal of a prosecution under Section
2-3 25.093 or 25.094, Education Code, a magistrate may not rule on the
2-4 issue but may make findings, conclusions, and recommendations on
2-5 the issue.

2-6 Sec. 54.1956. NOT GUILTY PLEA ENTERED. On entry of a not
2-7 guilty plea the magistrate shall refer the case back to the
2-8 referring court for all further pretrial proceedings and a full
2-9 trial on the merits before the court or a jury.

2-10 Sec. 54.1957. PAPERS TRANSMITTED TO JUDGE. (a) At the
2-11 conclusion of a hearing, the magistrate shall transmit to the judge
2-12 any papers relating to the case, including:

2-13 (1) the magistrate's findings and recommendations;

2-14 (2) a statement that notice of the findings and
2-15 recommendations and of the right to a hearing before the judge has
2-16 been given to all parties; and

2-17 (3) all other documents requested by the referring
2-18 judge.

2-19 (b) Unless the judge adopts, modifies, or rejects the
2-20 magistrate's findings or recommendations not later than the fifth
2-21 working day after the date the judge receives the findings or
2-22 recommendations, a magistrate's finding or recommendation is final
2-23 for appeal purposes.

2-24 (c) The judge shall send written notice of any modification
2-25 or rejection of the magistrate's findings or recommendations to
2-26 each party to the case and the attorney representing the state not
2-27 later than the fifth day after the date of the modification or
2-28 rejection.

2-29 SECTION 2. Article 2.09, Code of Criminal Procedure, is
2-30 amended to read as follows:

2-31 Art. 2.09. WHO ARE MAGISTRATES. Each of the following
2-32 officers is a magistrate within the meaning of this Code: The
2-33 justices of the Supreme Court, the judges of the Court of Criminal
2-34 Appeals, the justices of the Courts of Appeals, the judges of the
2-35 District Court, the magistrates appointed by the judges of the
2-36 district courts of Bexar County, Dallas County, or Tarrant County
2-37 that give preference to criminal cases, the criminal law hearing
2-38 officers for Harris County appointed under Subchapter L, Chapter
2-39 54, Government Code, the criminal law hearing officers for Cameron
2-40 County appointed under Subchapter BB, Chapter 54, Government Code,
2-41 the magistrates appointed by the judges of the district courts of
2-42 Lubbock County, Nolan County, or Webb County, the magistrates
2-43 appointed by the judges of the criminal district courts of Dallas
2-44 County or Tarrant County, the masters appointed by the judges of the
2-45 district courts and the county courts at law that give preference to
2-46 criminal cases in Jefferson County, the magistrates appointed by
2-47 the judges of the district courts and the statutory county courts of
2-48 Brazos County, Nueces County, or Williamson County, the magistrates
2-49 appointed by the judges of the district courts and statutory county
2-50 courts that give preference to criminal cases in Travis County, the
2-51 criminal magistrates appointed by the Brazoria County
2-52 Commissioners Court, the county judges, the judges of the county
2-53 courts at law, judges of the county criminal courts, the judges of
2-54 statutory probate courts, the associate judges appointed by the
2-55 judges of the statutory probate courts under Subchapter G, Chapter
2-56 54, Government Code, the associate judges appointed by the judge of
2-57 a district court under Subchapter II, Chapter 54, Government Code,
2-58 the magistrates appointed under Subchapter JJ, Chapter 54,
2-59 Government Code, the justices of the peace, and the mayors and
2-60 recorders and the judges of the municipal courts of incorporated
2-61 cities or towns.

2-62 SECTION 3. This Act takes effect immediately if it receives
2-63 a vote of two-thirds of all the members elected to each house, as
2-64 provided by Section 39, Article III, Texas Constitution. If this
2-65 Act does not receive the vote necessary for immediate effect, this
2-66 Act takes effect September 1, 2011.

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