

By: Hegar

S.B. No. 1131

A BILL TO BE ENTITLED

AN ACT

relating to the creation of magistrates in certain counties.

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

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

SUBCHAPTER JJ. MAGISTRATES IN CERTAIN COUNTIES

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

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

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

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

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

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

Sec. 54.1953. QUALIFICATIONS. A magistrate must:

(1) be a citizen of this state;

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

(3) have:

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

3           (B) been licensed to practice law in this state  
4 for at least four years before the date of appointment.

5           Sec. 54.1954. COMPENSATION. A magistrate is entitled to  
6 the compensation set by the commissioners court. The compensation  
7 shall be paid from the general fund of the county.

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

10           (1) conduct hearings;

11           (2) hear evidence;

12           (3) issue summons for the appearance of witnesses;

13           (4) examine witnesses;

14           (5) swear witnesses for hearings;

15           (6) recommend rulings or orders or a judgment in a  
16 case;

17           (7) regulate proceedings in a hearing;

18           (8) accept a plea of guilty or nolo contendere in a  
19 case alleging a violation of Section 25.093 or 25.094, Education  
20 Code, and assess a fine or court costs or order community service in  
21 satisfaction of a fine or costs in accordance with Article 45.049,  
22 Code of Criminal Procedure;

23           (9) enter an order suspending a sentence or deferring  
24 a final disposition that includes at least one of the requirements  
25 listed in Article 45.051, Code of Criminal Procedure;

26           (10) perform any act and take any measure necessary  
27 and proper for the efficient performance of the duties required by

1 the referral order, including the entry of an order that includes at  
2 least one of the requirements in Article 45.054, Code of Criminal  
3 Procedure; and

4 (11) if the magistrate finds that a child as defined by  
5 Article 45.058, Code of Criminal Procedure, has violated an order  
6 under Article 45.054, Code of Criminal Procedure, proceed as  
7 authorized by Article 45.050, Code of Criminal Procedure.

8 (b) With respect to an issue of law or fact the ruling on  
9 which could result in the dismissal of a prosecution under Section  
10 25.093 or 25.094, Education Code, a magistrate may not rule on the  
11 issue but may make findings, conclusions, and recommendations on  
12 the issue.

13 Sec. 54.1956. NOT GUILTY PLEA ENTERED. On entry of a not  
14 guilty plea the magistrate shall refer the case back to the  
15 referring court for all further pretrial proceedings and a full  
16 trial on the merits before the court or a jury.

17 Sec. 54.1957. PAPERS TRANSMITTED TO JUDGE. (a) At the  
18 conclusion of a hearing, the magistrate shall transmit to the judge  
19 any papers relating to the case, including:

20 (1) the magistrate's findings and recommendations;

21 (2) a statement that notice of the findings and  
22 recommendations and of the right to a hearing before the judge has  
23 been given to all parties; and

24 (3) all other documents requested by the referring  
25 judge.

26 (b) Unless the judge adopts, modifies, or rejects the  
27 magistrate's findings or recommendations not later than the fifth

1 working day after the date the judge receives the findings or  
2 recommendations, a magistrate's finding or recommendation is final  
3 for appeal purposes.

4 (c) The judge shall send written notice of any modification  
5 or rejection of the magistrate's findings or recommendations to  
6 each party to the case and the attorney representing the state not  
7 later than the fifth day after the date of the modification or  
8 rejection.

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

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

1 Brazos County, Nueces County, or Williamson County, the magistrates  
2 appointed by the judges of the district courts and statutory county  
3 courts that give preference to criminal cases in Travis County, the  
4 criminal magistrates appointed by the Brazoria County  
5 Commissioners Court, the county judges, the judges of the county  
6 courts at law, judges of the county criminal courts, the judges of  
7 statutory probate courts, the associate judges appointed by the  
8 judges of the statutory probate courts under Subchapter G, Chapter  
9 54, Government Code, the associate judges appointed by the judge of  
10 a district court under Subchapter II, Chapter 54, Government Code,  
11 the magistrates appointed under Subchapter JJ, Chapter 54,  
12 Government Code, the justices of the peace, and the mayors and  
13 recorders and the judges of the municipal courts of incorporated  
14 cities or towns.

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