

By: Hayes

H.B. No. 4703

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the operation and administration of and practice in and
3 grants provided by courts in the judicial branch of state
4 government.

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

6 SECTION 1. Article 2.09, Code of Criminal Procedure, is
7 amended to read as follows:

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

1 and the statutory county courts of Brazos County, Nueces County, or
2 Williamson County, the magistrates appointed by the judges of the
3 district courts and statutory county courts that give preference to
4 criminal cases in Travis County, the criminal magistrates appointed
5 by the Brazoria County Commissioners Court, the criminal
6 magistrates appointed by the Burnet County Commissioners Court, the
7 magistrates appointed by the Denton Council of Judges, the county
8 judges, the judges of the county courts at law, judges of the county
9 criminal courts, the judges of statutory probate courts, the
10 associate judges appointed by the judges of the statutory probate
11 courts under Chapter 54A, Government Code, the associate judges
12 appointed by the judge of a district court under Chapter 54A,
13 Government Code, the magistrates appointed under Subchapter JJ,
14 Chapter 54, Government Code, the magistrates appointed by the
15 Collin County Commissioners Court, the magistrates appointed by the
16 Fort Bend County Commissioners Court, the associate district and
17 county criminal court judges and designated magistrates appointed
18 by the district and county criminal court judges of Denton County;
19 the justices of the peace, and the mayors and recorders and the
20 judges of the municipal courts of incorporated cities or towns.

21 SECTION 2. Article 4.01, Code of Criminal Procedure, is
22 amended to read as follows:

23 Art. 4.01. WHAT COURTS HAVE CRIMINAL JURISDICTION. The
24 following courts have jurisdiction in criminal actions:

- 25 1. The Court of Criminal Appeals;
- 26 2. Courts of appeals;
- 27 3. The district courts;

- 1 4. The criminal district courts;
- 2 5. The magistrates appointed by the judges of the
- 3 district courts of Bexar County, Dallas County, Tarrant County, or
- 4 Travis County that give preference to criminal cases and the
- 5 magistrates appointed by the judges of the criminal district courts
- 6 of Dallas County or Tarrant County;
- 7 6. The county courts;
- 8 7. All county courts at law with criminal
- 9 jurisdiction;
- 10 8. County criminal courts;
- 11 9. Justice courts;
- 12 10. Municipal courts;
- 13 11. The magistrates appointed by the judges of the
- 14 district courts of Lubbock County;
- 15 12. The magistrates appointed by the Denton Council of
- 16 Judges;
- 17 13. The magistrates appointed by the Collin County
- 18 Commissioners Court;
- 19 14. The magistrates appointed by the Brazoria County
- 20 Commissioners Court or the local administrative judge for Brazoria
- 21 County; and
- 22 15. The magistrates appointed by the judges of the
- 23 district courts of Denton County; and,
- 24 16. The associate district and county criminal judge,
- 25 jail magistrate, and designated county magistrates appointed by the
- 26 District and County Criminal Courts of Denton County.

27 SECTION 3. Chapter 54, Government Code, is amended by

1 adding Subchapter RR to read as follows:

2 SUBCHAPTER RR. DENTON COUNTY CRIMINAL LAW MAGISTRATE COURT

3 Sec. 54.2701. CREATION. The Denton County Criminal Law
4 Magistrate Court is a court with the jurisdiction provided by this
5 subchapter.

6 Sec. 54.2702. CRIMINAL LAW MAGISTRATE COURT. (a) The
7 Denton County criminal law magistrate court is composed of the
8 district judges, county criminal court judges, associate district
9 and county criminal judges, the county court at law judge with
10 juvenile jurisdiction, appointed jail magistrates, and any
11 municipal judges of municipal courts of record within Denton County
12 or justice of the peace judges:

13 (1) that have been specifically identified and
14 designated by joint standing order of the district and county
15 criminal court judges of Denton County;

16 (2) who are an attorney in good standing with the State
17 Bar of Texas, and,

18 (3) which have attended all necessary training and
19 received any certification required to access criminal history
20 information or serve as a magistrate.

21 (b) The district court judges and county criminal court
22 judges of Denton County shall supervise the criminal law magistrate
23 court and ensure that the magistrate court gives preference to
24 magistrate duties, as set forth under Chapters 14, 15 16, 17 and 18
25 of the Texas Code of Criminal Procedure.

26 (c) An associate district and county criminal court judge
27 designated by the district and county criminal judges shall preside

1 over the Denton County magistrate criminal law court.

2 (d) All judges or magistrates performing duties for the
3 Denton County criminal law magistrate court shall comply with any
4 standing orders or directives issued by the district or county
5 criminal court judges, or by the presiding associate criminal judge
6 as those orders apply to criminal defendants or offenses that have
7 not been filed by indictment or information in a district or county
8 criminal court of Denton County.

9 Sec. 54.2703. JURISDICITON OF CRIMINAL LAW MAGISTRATE
10 COURT. (a) Except as provided by Subsection (b), the criminal law
11 magistrate court has the criminal jurisdiction provided by the
12 constitution and laws of the state, and has the authority to perform
13 all duties of a magistrate, including, but not limited to
14 determinations of probable cause, issuing orders of commitment,
15 warrants of arrest, performing all magisterial duties required
16 under Chapters 14, 15, 16, 17 and 18 of the Texas Code of Criminal
17 Procedure, and may modify, reduce or hold bond to be insufficient or
18 take any action as to any criminal offense alleged to have occurred
19 in Denton County, and which remains "pending" as defined under
20 Subsection(b) of this section.

21 (b) "Pending" for the purpose of magisterial processes,
22 means any class "B" or class "A" misdemeanor, or any felony criminal
23 offense alleged to have been committed in Denton County for which:

24 (1) probable cause has been found by any magistrate or
25 judge for Denton County or any other county;

26 (2) the defendant has either been released on bail and
27 is no longer in custody, or if still in custody, has been delivered

1 or transferred into the custody of the Denton County Sheriff or his
2 Deputies; and,

3 (3) the criminal offense or charge for which the
4 defendant was arrested has not been filed by formal indictment in a
5 district court or by information in a county criminal court, or
6 otherwise been disposed by dismissal, judgement, conviction or
7 acquittal.

8 (c) The criminal law magistrate court does not have
9 jurisdiction to modify, reduce or hold bond to be insufficient or
10 take any action in a criminal offense or matter filed by indictment
11 in a Denton County District Court or by information or complaint in
12 a County Criminal Court of Denton County, without express referral
13 by the judge of the court in which the matter has been filed.

14 Sec. 54.2704. ASSIGNMENT OF MAGISTERIAL AUTHORITY. (a)
15 The Denton County criminal law magistrate court shall have the
16 authority to consider all motions and take any action necessary in
17 any criminal matter that is pending as defined in Sec. 54.2703(b) of
18 this chapter.

19 (b) With the consent of the judge or magistrate before whom
20 the defendant first appeared after arrest, continuing magisterial
21 authority related to a defendant or the offense for which they have
22 been arrested or charged shall be conferred, assigned and
23 transferred to a district or county judge, or a magistrate of the
24 criminal law magistrate court upon the:

25 (1) filing of a true bill of indictment by a Denton
26 County grand jury in a felony offense, or information by the
27 district attorney in a misdemeanor offense;

1 (2) physical transfer and delivery of a defendant into
2 the custody of the Denton County Sheriff, his deputies, or the
3 surrender of the defendant to the Denton County Jail; or,

4 (3) filing of a bail bond, other instrument, or cash
5 tendered to secure the defendant's release from custody with the
6 Denton County Sheriff, or his designee.

7 (c) Upon the occurrence of one of the events listed in
8 (c)(1), (c)(2) or (c)(3) of this subsection, a judge or magistrate
9 of the criminal law magistrate court may set bail, issue orders of
10 protection, issue conditions of bond, or modify, reduce, increase,
11 hold bond insufficient, or consider any motion or request related
12 to the disposition of a defendant's case prior to filing by
13 indictment in a district court or information or complaint in a
14 district or county criminal court.

15 Sec. 54.2705. APPOINTMENT OF ASSOCIATE JUDGE. (a) The
16 judges of the district and county criminal courts of Denton County,
17 with the consent and approval of the Commissioner's Court of Denton
18 County, may jointly appoint an associate district and county
19 criminal court judge, as necessary to perform the duties authorized
20 by this subchapter.

21 (b) Appointment of the associate district and county
22 criminal court judge must be made with the approval of at least
23 two-thirds of all the judges described in Subsection (a).

24 (c) The associate district and county criminal court judge
25 will serve all district and county criminal courts of Denton
26 County.

27 (d) The associate district and county criminal court judge

1 shall preside over the criminal law magistrate court.

2 (e) The associate district and county criminal court judge
3 may be referred to as the "associate criminal judge."

4 Sec. 54.2706. APPOINTMENT OF FULL-TIME JAIL MAGISTRATE.

5 (a) The judges of the district and county criminal courts of Denton
6 County, with the consent and approval of the commissioners court of
7 Denton County, may appoint and designate by joint standing order,
8 one or more full-time criminal "jail magistrates."

9 (b) A jail magistrate shall conduct magistrate duties as
10 required by the Texas Constitution, Texas Code of Criminal
11 procedure and relevant laws related to defendants in the custody of
12 the Denton County Sheriff and which have not been filed by
13 indictment in a district court or by information in a county
14 criminal court.

15 (c) A jail magistrate shall devote such time as is necessary
16 to ensure that magistrate duties are performed within the time
17 requirements set forth by Art. 15.17 of the Texas Code of Criminal
18 Procedure or other statutes related to magistrate duties.

19 (d) A jail magistrate serves at the direction of the
20 presiding associate criminal judge and may perform any other
21 magisterial actions or duties assigned by order of referral.

22 Sec. 54.2707. APPOINTMENT OF DESIGNATED COUNTY

23 MAGISTRATES. (a) The judges of the district and county criminal
24 courts of Denton County shall appoint and designate by joint
25 standing order, one or more contract or part-time criminal
26 magistrates, as defined by Art. 2.09 of the Texas Code of Criminal
27 Procedure, to perform the duties of a magistrate for defendants in

1 the custody of the Denton County Sheriff, or who are being held in a
2 detention facility or jail under the control of the Denton County
3 Sheriff. The district and county criminal judges may appoint one or
4 more designated county magistrates to perform magistrate duties in
5 the county jail on weekends, holidays or weekdays as assigned.

6 (b) The presiding associate district and county criminal
7 court judge shall, as necessary to fulfill the County's needs,
8 recommend for consideration, approval or denial any qualified
9 persons currently serving as appointed or elected magistrates for a
10 district, county, justice or municipal court, and who meet the
11 qualifications as set forth by this chapter.

12 (c) The presiding associate district and county criminal
13 court judge shall supervise, assign and shall periodically report
14 the activities of the jail magistrate or designated county
15 magistrates to the district and county criminal judges of Denton
16 County. Upon good cause, the presiding associate criminal court
17 judge may recommend removal of any magistrate appointed or
18 designated under this chapter.

19 (d) A designated county magistrate may be assigned to serve
20 as a magistrate on weekends, holidays or by assignment of the
21 associate criminal judge in the Denton County jail as necessary.

22 Sec. 54.2708. QUALIFICATIONS. (a) To be eligible for
23 appointment as an associate district and county criminal court
24 judge, a full-time jail magistrate, or a designated county
25 magistrate for Denton County, a person must:

26 (1) be a resident of Denton County, and of this state
27 for at least two (2) years prior to appointment; and

1 (2) have been licensed to practice law in this state
2 for at least four years.

3 (b) In addition to the qualification set for under
4 subsection (b), a designated county magistrate shall be a sitting
5 elected or appointed judge of a district, county, justice or
6 municipal court of record in Denton County at the time of their
7 appointment.

8 Sec. 54.2709. COMPENSATION. (a) An associate district and
9 county criminal court judge, jail magistrate, or a designated
10 county magistrate is entitled to salary or compensation as
11 determined by the commissioners court of Denton County.

12 (b) An associate district and county criminal court judge's
13 salary, jail magistrate's salary, or compensation paid to any
14 designated county magistrate shall be paid from the county fund
15 available for payment of officers' salaries.

16 Sec. 54.2710. JUDICIAL IMMUNITY. An associate district and
17 county criminal court judge, a jail magistrate, or any designated
18 county magistrate shall have the same judicial immunity as a
19 district judge.

20 Sec. 54.2711. TERMINATION OF SERVICES. (a) An associate
21 district and county criminal court judge or a full-time jail
22 magistrate, may be terminated by a two-thirds (2/3) majority vote
23 of all the judges whom the associate judge serves.

24 (b) A designated county magistrate serves only by
25 assignment or referral of the associate criminal judge in his or her
26 capacity as the presiding judge of the criminal law magistrate
27 court

1 Sec. 54.2712. PROCEEDING THAT MAY BE REFERRED TO AN
2 ASSOCIATE JUDGE. (a) A judge of a district or county criminal
3 court, or the county court at law judge with juvenile jurisdiction,
4 may refer to an associate district and county criminal court judge
5 any matter arising out of a criminal case involving:

6 (1) a negotiated plea of guilty or no contest before
7 the court;

8 (2) a bond forfeiture, remittitur, and related
9 proceedings;

10 (3) a pretrial motion;

11 (4) a writ of habeas corpus;

12 (5) an examining trial;

13 (6) an occupational driver's license;

14 (7) a petition for an order of expunction under
15 Chapter 55, Code of Criminal Procedure;

16 (8) an asset forfeiture hearing as provided by Chapter
17 59, Code of Criminal Procedure;

18 (9) a civil commitment matter under Subtitle C, Title
19 7, Health and Safety Code;

20 (10) setting, adjusting, or revoking bond;

21 (11) a waiver of extradition or related matter under
22 Chapter 51 of the Texas Code of Criminal Procedure;

23 (12) the issuance of search warrants, including a
24 search warrant under Article 18.02(a)(10), Code of Criminal
25 Procedure, notwithstanding Article 18.01(c), Code of Criminal
26 Procedure; and

27 (13) any other matter the judge considers necessary

1 and proper.

2 (12) conduct initial juvenile detention hearings or
3 any other juvenile case actions as deemed appropriate, if assigned
4 by the presiding judge with juvenile jurisdiction, and, if approved
5 by the Denton County Juvenile Board.

6 (b) An associate judge may select a jury. Except as
7 provided in Subsection (a), an associate judge may not preside over
8 a trial on the merits, whether or not the trial is before a jury.

9 (c) An associate judge has all of the powers of a magistrate
10 under the laws of this state and may administer an oath for any
11 purpose.

12 (d) A judge of a court designated a juvenile court may refer
13 to an associate district and county criminal judge any proceeding
14 over which a juvenile court has exclusive original jurisdiction
15 under Title 3, Family Code, including any matter ancillary to the
16 proceeding. An associate district and county criminal court judge
17 may accept a plea of guilty for a misdemeanor or felony or a plea of
18 true from a defendant or juvenile, regardless of the classification
19 of the offense charged or the conduct alleged;

20 Sec. 54.2713. ORDER OF REFERRAL. (a) To refer one or more
21 cases to an associate district and county criminal court judge, a
22 judge must issue an order of referral specifying the associate
23 criminal judge's duties. An order of referral may be limited to
24 specific cases or dockets, or may be for a designated term of court.

25 (b) An order of referral may limit the powers of the
26 associate judge as specifically set forth in Texas Government Code,
27 Chapter 54A.007(b).

1 Sec. 54.2714. POWERS OF ASSOCIATE DISTRICT AND COUNTY
2 CRIMINAL JUDGE. (a) Except as limited by an order of referral, an
3 associate district and county criminal court judge to whom a case is
4 referred may:

5 (1) conduct hearings;

6 (2) hear evidence;

7 (3) compel production of relevant evidence;

8 (4) rule on admissibility of evidence;

9 (5) issue summons for the appearance of witnesses;

10 (6) examine witnesses;

11 (7) swear witnesses for hearings;

12 (8) make findings of fact on evidence;

13 (9) formulate conclusions of law;

14 (10) rule on a pretrial motion;

15 (11) recommend the rulings, orders, or judgment to be
16 made in a case;

17 (12) regulate proceedings in a hearing;

18 (13) accept a plea of guilty from a defendant charged
19 with misdemeanor, felony, or both misdemeanor and felony offenses;

20 (14) select a jury;

21 (15) accept a negotiated plea on probation revocation;

22 (16) conduct a contested probation revocation
23 hearing;

24 (17) sign a dismissal in a misdemeanor case;

25 (18) in any case referred under Section 54.656(a)(1),
26 accept a negotiated plea of guilty or no contest and:

27 (A) enter a finding of guilty and impose or

1 suspend the sentence; or

2 (B) defer adjudication of guilty; and

3 (19) perform any act and take any measure necessary
4 and proper for the efficient performance of the duties required by
5 the order of referral.

6 (b) An associate district and county criminal court judge
7 may sign a motion to dismiss submitted by an attorney representing
8 the state on cases referred to the associate district and county
9 criminal court judge, or on dockets called by the associate
10 district and county criminal court judge, and may consider
11 adjudicated cases at sentencing under Section 12.45, Penal Code.

12 (c) An associate district and county criminal court judge
13 has all the powers of a magistrate under the laws of this state and
14 may administer an oath for any purpose.

15 Sec. 54.2715. FORFEITURES. Bail bonds and personal bonds
16 may be forfeited by the associate criminal judge in the manner
17 provided by Chapter 22, Code of Criminal Procedure, and those
18 forfeitures shall be filed with:

19 (1) the district clerk if associated with a felony
20 case;

21 (2) the county clerk if associated with a Class A or
22 Class B misdemeanor case; or

23 (3) the same justice court clerk associated with the
24 Class C misdemeanor case in which the bond was originally filed.

25 Sec. 54.2716. PAPERS TRANSMITTED TO JUDGE. At the
26 conclusion of the proceedings, an associate district and county
27 criminal court judge shall transmit to the referring court any

1 papers relating to the case, including the an associate district
2 and county criminal court judge findings, conclusions, orders,
3 recommendations, or other action taken.

4 Sec. 54.2717. JUDICIAL ACTION. (a) A referring court may
5 modify, correct, reject, reverse, or recommit for further
6 information any action taken by the associate district and county
7 criminal court judge.

8 (b) If the court does not modify, correct, reject, reverse,
9 or recommit an action of the associate district and county criminal
10 court judge, the action becomes the decree of the court.

11 Sec. 54.2718. POWERS OF FULL-TIME MAGISTRATE AND DESIGNATED
12 JAIL MAGISTRATES. (a) A full-time jail magistrate or a designated
13 county jail magistrate have all of the powers of a magistrate under
14 the laws of this state, and may administer an oath for any purpose.

15 (a) A full-time jail magistrate and any designated county
16 jail magistrates shall give preference to performing the duties of
17 a magistrate under Article 15.17, Code of Criminal Procedure.

18 (b) A full-time jail magistrate and any designated county
19 jail magistrates may specifically:

20 (1) consider sworn complaints or affidavits of
21 probable cause, and enter orders of release or commitment.

22 (2) conduct magistrate hearings as required by Texas
23 Code of Criminal Procedure Art. 15.17, provide warnings and advise
24 defendants of right to counsel and inquire as to indigency or need
25 for appointed counsel;

26 (3) set, adjust, and revoke bonds before the filing of
27 an information or the return of an indictment;

1 (4) issue conditions of bond;

2 (5) conduct examining trials;

3 (6) inquire as to a defendant's financial status or
4 claim of indigency and recommend appointment of counsel;

5 (7) issue search and arrest warrants;

6 (8) issue emergency protective orders;

7 (9) with the express authorization of a justice of the
8 peace, a magistrate may exercise concurrent criminal jurisdiction
9 with the justice of the peace to dispose as provided by law of cases
10 filed in the precinct of the authorizing justice of the peace.

11 (c) A full-time jail magistrate has all of the powers listed
12 in subsection (a) above, and has the express authority and duty to:

13 (1) order the release of a defendant based on
14 extraordinary medical conditions;

15 (2) consider information and make further inquiries as
16 to a defendant's mental health status;

17 (3) issue orders or writs necessary for further
18 evaluation, treatment and accommodations for mental health care;
19 and,

20 (4) communicate with Denton County's local mental
21 health authority or qualified mental health professional to provide
22 continuing care.

23 Sec. 54.2717. EXCHANGE OF BENCHES. (a) The judges of the
24 criminal law magistrate court may exchange benches and may sit and
25 act for each other in any proceeding pending in the criminal law
26 magistrate court.

27 (b) When conducting a capias pro fine hearing for any court,

1 the criminal law magistrate court acts in the same capacity and with
2 the same authority as the judge who issued the capias pro fine.

3 Sec. 54.2718. COURT REPORTER. At the request of a party in
4 a criminal case, the court shall provide a court reporter to record
5 the proceedings before the associate district and county criminal
6 court judge.

7 Sec. 54.2719. WITNESS. (a) A witness who appears before an
8 associate district and county criminal court judge, a jail
9 magistrate, or a designated county magistrate, is sworn and subject
10 to the penalties for perjury provided by law.

11 (b) A referring court may issue attachment against and may
12 fine or imprison a witness whose failure to appear after being
13 summoned or whose refusal to answer questions has been certified to
14 the court.

15 Sec. 54.2720. CLERK. (a) The district clerk serves as
16 clerk of the Denton County Criminal Magistrate Court, except that:

17 (1) after a Class A or Class B misdemeanor is filed in
18 a county criminal court, the county clerk serves as clerk for that
19 misdemeanor case.

20 (b) The district clerk shall establish a docket and keep the
21 minutes for the cases filed in or transferred to the magistrate
22 court. The district clerk shall perform any other duties that local
23 administrative rules require in connection with the implementation
24 of this subchapter. The local administrative judge shall ensure
25 that the duties required under this subsection are performed. To
26 facilitate the duties associated with serving as the clerk of the
27 magistrate court, the district clerk and the deputies of the

1 district clerk may serve as deputy county clerks at the discretion
2 of the district clerk.

3 (c) The clerk of the case shall include as part of the record
4 on appeal a copy of the order and local administrative rule under
5 which a magistrate court acted.

6 Sec. 54.2721. COSTS. (a) When the district clerk is the
7 clerk under this subchapter, the district clerk shall charge the
8 same court costs for cases filed, transferred to, or assigned to the
9 criminal law magistrate court that are charged in the district
10 courts.

11 (b) When the county clerk is the clerk under this
12 subchapter, the county clerk shall charge the same court costs for
13 cases filed in, transferred to, or assigned to the criminal law
14 magistrate court that are charged in the county courts.

15 SECTION 4. This Act takes effect September 1, 2023.