

BILL ANALYSIS

Senate Research Center
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S.B. 922
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Jurisprudence
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In an effort to increase efficiency and maximize the number of cases disposed, the district judges trying criminal cases in Tarrant County, with the support and approval of the commissioners court are recommending the expansion of the duties and authority of the criminal law magistrates in Tarrant County. Since the Office of Court Administration considers magistrates to be full "judicial resources," these changes will fall in line with the presumption of magisterial competence to perform the tasks permitted by this bill.

As proposed, S.B. 922 authorizes a judge to refer to a magistrate certain criminal cases and a civil case arising out of Chapter 59 (Forfeiture of Contraband), Code of Criminal Procedure. This bill also authorizes a magistrate to whom a case is referred to perform certain duties and exercise judgment on additional uncontested matters.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 54.656, Government Code, as follows:

Sec. 54.656. PROCEEDING THAT MAY BE REFERRED. (a) Authorizes a judge to 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 forfeiture of bail, rather than a bond forfeiture;
- (3) a pretrial motion;
- (4) a postconviction writ of habeas corpus;
- (5) an examining trial;
- (6) an occupational driver's license;
- (7) an agreed order of expunction under Chapter 55 (Expunction of Criminal Records), Code of Criminal Procedure;
- (8) an asset forfeiture hearing as provided by Chapter 59 (Forfeiture of Contraband), Code of Criminal Procedure;
- (9) an agreed order of nondisclosure provided by Section 411.081 (Application of Subchapter);
- (10) a hearing on a motion to revoke probation; and
- (11) any other matter the judge considers necessary and proper.

Makes nonsubstantive changes.

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

(c) Creates this subsection from existing text.

(d) Redesignates Subsection (c) as Subsection (d). Authorizes a magistrate to select a jury. Prohibits a magistrate from presiding over a criminal trial on the merits, whether or not the trial is before a jury.

(e) Prohibits a magistrate from hearing a jury trial on the merits of a bond forfeiture.

SECTION 2. Amends Section 54.658, Government Code, as follows:

Sec. 54.658. POWERS. Authorizes a magistrate to whom a case is referred, except as limited by an order of referral, to perform certain duties, including to accept a negotiated plea on a probation revocation, conduct a contested probation revocation hearing, and sign a dismissal in a misdemeanor case. Deletes existing Subsection (b) prohibiting a magistrate from entering a ruling on any issue of law or fact if that ruling could result in dismissal or require dismissal of a pending criminal prosecution, but authorizing the magistrate to make findings, conclusions, and recommendations on these issues. Makes nonsubstantive changes.

SECTION 3. Amends 18.01(c), Code of Criminal Procedure, to authorize only a judge of a municipal court of record or county court who is an attorney licensed by the State of Texas, a judge of a statutory county court, district court, or the Court of Criminal Appeals, a justice of the Supreme Court, or a magistrate with jurisdiction over criminal cases serving a district court, except as provided by Subsections (d) (relating to property or items that may be seized) and (i) (relating to issuance of search warrant) of this article, to issue warrants pursuant to Subdivision (10) (relating to property or items that constitute evidence of an offense), Article 18.02 of this code. Makes a nonsubstantive change.

SECTION 4. Effective date: September 1, 2009.