

Subject: Magistrate

From: Judge Emily Miskel

Sent: Wednesday, December 12, 2018 1:46 PM

To: Bill Bilyeu; Judge Mason; Judge Benjamin N. Smith; Judge Paul Raleeh; Judge Andrea Thompson

Subject: RE: Magistrate

Bill,

In the places where the proposed bill refers to “civil” cases, it would be important to look at the existing laws on civil magistrates.

Magistrates in family law cases are governed by Tex. Fam. Code Chapter 201:

<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.201.htm>

Civil magistrates are governed by Tex. Gov. Code Chapter 54A, Subchapter B:

<https://statutes.capitol.texas.gov/Docs/GV/htm/GV.54A.htm#54A.101>

The commissioners may already have the ability to appoint civil or family magistrates under these chapters.

Interestingly, both of those chapters provide for a right to a “de novo” hearing in anything the magistrate hears. This means that either side can request a “do-over” in front of the district judge. The district judge must re-hear the matter within 30 days.

In civil and family cases, we find that magistrates (because of this right to a do-over in front of the district judge) do not relieve as much congestion as we might hope.

Thanks,
Emily