

GOVERNMENT CODE

TITLE 2. JUDICIAL BRANCH

SUBTITLE D. JUDICIAL PERSONNEL AND OFFICIALS

CHAPTER 54. MASTERS; MAGISTRATES; REFEREES; ASSOCIATE JUDGES

SUBCHAPTER \_\_. MAGISTRATES IN COLLIN COUNTY

Sec. 54.\_\_\_\_. AUTHORIZATION; APPOINTMENT; ELIMINATION.

(a) The Commissioners Court of Collin County may, by a majority vote, appoint one or more part-time or full-time magistrates to perform the duties authorized by this subchapter in aid of the District Courts, the County Courts At Law and the Justice Courts of Collin County.

(b) An order appointing a magistrate must be signed by the County Judge of Collin County, and the order must state:

(1) the magistrate's name; and

(2) the date the magistrate's employment is to begin.

(c) An authorized magistrate's appointment may be terminated on a majority vote of the Commissioners Court of Collin County.

(d) An authorized magistrate's position may be eliminated on a majority vote of the Commissioners Court of Collin County.

Sec. 54.\_\_\_\_. QUALIFICATIONS; OATH OF OFFICE. (a) To be eligible for appointment as a magistrate, a person must:

(1) be a citizen of the United States;

(2) have resided in Collin County for at least the four years preceding the person's appointment; and

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

(b) A magistrate appointed under Section [54.\\_\\_\\_\\_](#) must take the constitutional oath of office required of appointed officers of this state.

Sec. 54.\_\_\_\_\_. COMPENSATION. A magistrate is entitled to the compensation set by the Commissioners Court of Collin County. The compensation shall be paid from the general fund of the County.

Sec. 54.\_\_\_\_\_. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Sec. 54.\_\_\_\_\_. PROCEEDING THAT MAY BE REFERRED. (a) A judge may refer to a magistrate any case or matter relating to a case for proceedings involving:

- (1) a negotiated plea of guilty or no contest and sentencing before the court;
- (2) a bond forfeiture, remittitur, and related proceedings;
- (3) a pretrial motion;
- (4) a writ of habeas corpus;
- (5) an examining trial;
- (6) an occupational driver's license;
- (7) a petition for an order of expunction under Chapter 55, Code of Criminal Procedure;
- (8) an asset forfeiture hearing as provided by Chapter 59, Code of Criminal Procedure;
- (9) a petition for an order of nondisclosure of criminal history record information or an order of nondisclosure of criminal history record information that does not require a petition provided by Subchapter E-1, Chapter 411;
- (10) a motion to modify or revoke community supervision or to proceed with an adjudication of guilt;
- (11) setting conditions, modifying, revoking, and surrendering of bonds, including surety bonds;
- (12) specialty court proceedings;
- (13) a waiver of extradition;
- (14) any other matter the judge considers necessary and proper; and
- (15) a magistrate may select a jury.

(b) A judge may 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) A magistrate may accept a plea of guilty from a defendant charged with misdemeanor, felony, or both misdemeanor and felony offenses.

(d) A magistrate may not preside over a criminal trial on the merits, whether or not the trial is before a jury.

(e) A magistrate may not hear a jury trial on the merits.

Sec. 54.\_\_\_\_. ORDER OF REFERRAL. (a) To refer one or more cases to a magistrate, a judge must issue an order of referral specifying the magistrate's duties.

(b) An order of referral may:

(1) limit the powers of the magistrate and direct the magistrate to report only on specific issues, do particular acts, or receive and report on evidence only;

(2) set the time and place for the hearing;

(3) prescribe a closing date for the hearing;

(4) provide a date for filing the magistrate's findings;

(5) designate proceedings for more than one case over which the magistrate shall preside;

(6) direct the magistrate to call the court's docket; and

(7) set forth general powers and limitations of authority of the magistrate applicable to any case referred.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.\_\_\_\_. POWERS. (a) Except as limited by an order of referral, a magistrate to whom a civil or criminal case

arising from the District Courts, the County Courts At Law or the Justice Courts is referred may:

- (1) conduct hearings;
- (2) hear evidence;
- (3) compel production of relevant evidence in civil or criminal matters and may rule on matters and disputes involving civil discovery;
- (4) rule on admissibility of evidence;
- (5) issue summons for the appearance of witnesses;
- (6) examine witnesses;
- (7) swear witnesses for hearings;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) rule on a pretrial motion;
- (11) recommend the rulings, orders, or judgment to be made in a case;
- (12) regulate proceedings in a hearing;
- (13) accept a plea of guilty from a defendant charged with misdemeanor, felony, or both misdemeanor and felony offenses;
- (14) select a jury;
- (15) accept a negotiated plea on a probation revocation;
- (16) conduct a contested probation revocation hearing;
- (17) sign a dismissal in a misdemeanor case or in a civil case when the parties have agreed thereto;
- (18) in any case referred under Section [54.\\_\\_\\_\\_](#), accept a negotiated plea of guilty or no contest and:
  - (A) enter a finding of guilt and impose or suspend the sentence; or
  - (B) defer adjudication of guilt; and
- (19) do any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

(20) conduct initial juvenile detention hearings if approved by the Juvenile Board of Collin County.

(b) A magistrate may sign a motion to dismiss submitted by an attorney representing the state on cases referred to the magistrate, or on dockets called by the magistrate, and may consider unadjudicated cases at sentencing under Section 12.45, Penal Code.

(c) Except as provided by subsection (d), a magistrate has all of the powers of a magistrate under the laws of this state and may administer an oath for any purpose.

(d) A magistrate appointed under this chapter may not preside over a trial on the merits, whether or not the trial is before a jury

Sec. 54.\_\_\_\_. FORFEITURES. Bail bonds and personal bonds may be forfeited by the magistrate court in the manner provided by Chapter 22, Code of Criminal Procedure, and those forfeitures shall be filed with:

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

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

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

Sec. 54.\_\_\_\_. COSTS. (a) When the district clerk is the clerk under this subchapter, the district clerk shall charge the same court costs for cases filed, transferred to, or assigned to the magistrate court that are charged in the district courts for criminal or civil matters.

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

(c) When a justice clerk is the clerk under this subchapter, the justice clerk shall charge the same court costs for cases filed in, transferred to, or assigned to the magistrate court that are charged in the justice courts for civil or criminal matters.

Sec. 54.\_\_\_\_. CLERK. (a) The district clerk serves as clerk of the magistrate court, except that:

(1) after a Class A or Class B misdemeanor information is filed in the county court at law and assigned to the magistrate court, the county clerk serves as clerk for that misdemeanor case; and

(2) after a Class C misdemeanor is filed in a justice court and assigned to the magistrate court, the originating justice court clerk serves as clerk for that misdemeanor case.

(b) The district clerk shall establish a docket and keep the minutes for the cases filed in or transferred to the magistrate court. The district clerk shall perform any other duties that local administrative rules require in connection with the implementation of this subchapter. The local administrative judge shall ensure that the duties required under this subsection are performed. To facilitate the duties associated with serving as the clerk of the criminal law magistrate court, the district clerk and the deputies of the district clerk may serve as deputy justice clerks and deputy county clerks at the discretion of the district clerk.

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

Sec. 54.\_\_\_\_. COURT REPORTER. At the request of a party in a case, the court shall provide a court reporter to record the proceedings before the magistrate.

Sec. 54.\_\_\_\_. WITNESS. (a) A witness who appears before a magistrate and is sworn is subject to the penalties for perjury provided by law.

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

Sec. 54.\_\_\_\_. PAPERS TRANSMITTED TO JUDGE. At the conclusion of the proceedings, a magistrate shall transmit to the referring court any papers relating to the case, including the magistrate's findings, conclusions, orders, recommendations, or other action taken.

Sec. 54.\_\_\_\_. JUDICIAL ACTION. (a) A referring court may modify, correct, reject, reverse, or recommit for further information any action taken by the magistrate.

(b) If the court does not modify, correct, reject, reverse, or recommit an action of the magistrate, the action becomes the decree of the court.

(c) At the conclusion of each term during which the services of a magistrate are used, the referring court shall enter a decree on the minutes adopting the actions of the magistrate of which the court approves.

Sec. 54.\_\_\_\_. COSTS OF MAGISTRATE. The court shall determine if the nonprevailing party is able to defray the costs of the magistrate. If the court determines that the nonprevailing party is able to pay those costs, the court shall tax the magistrate's fees as costs against the nonprevailing party.

## CODE OF CRIMINAL PROCEDURE

### TITLE 1. CODE OF CRIMINAL PROCEDURE

#### CHAPTER 2. GENERAL DUTIES OF OFFICERS

Art. 2.09. WHO ARE MAGISTRATES. Each of the following officers is a magistrate within the meaning of this Code: The justices of the Supreme Court, the judges of the Court of Criminal Appeals, the justices of the Courts of Appeals, the judges of the District Court, the magistrates appointed by the judges of the district courts of Bexar County, Dallas County, or Tarrant County that give preference to criminal cases, the criminal law hearing officers for Harris County appointed under Subchapter L, Chapter 54, Government Code, the criminal law hearing officers for Cameron County appointed under Subchapter BB, Chapter 54, Government Code, the magistrates or associate judges appointed by the judges of the district courts of Lubbock County, Nolan County, or Webb County, the magistrates appointed by the judges of the criminal district courts of Dallas County or Tarrant County, the associate judges appointed by the judges of the district courts and the county courts at law that give preference to criminal cases in Jefferson County, the associate judges appointed by the judges of the district courts and the statutory county courts of Brazos County, Nueces County, or Williamson County, the magistrates appointed by the judges of the district courts and statutory county courts that give preference to criminal cases in Travis County, the criminal magistrates appointed by the Brazoria County Commissioners Court, magistrates appointed by the Collin County Commissioners Court, the criminal magistrates appointed by the Burnet County Commissioners Court, the county judges, the judges of the county courts at law, judges of the county criminal courts, the judges of statutory probate courts, the associate judges appointed by the judges of the statutory probate courts under Chapter 54A, Government Code, the associate judges appointed by the judge of a district court under Chapter 54A, Government Code, the magistrates appointed under Subchapter JJ, Chapter 54, Government Code, as added by H.B. No. 2132, Acts of the 82nd Legislature, Regular Session, 2011, the justices of the peace, and the mayors and recorders and the judges of the municipal courts of incorporated cities or towns.