

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.____. PROCEEDINGS 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.

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(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 criminal case arising from

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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.

Sec. 54. . MAGISTRATE ACTING IN ROLE OF ASSOCIATE JUDGE.

(a) A magistrate may act in the role of a civil associate judge pursuant to Subchapter B, Chapter 54A of the Texas Government Code. The provisions of Subchapter B, Chapter 54A shall be

applicable to the judge's appointment, termination, referrals, actions, duties and immunities to the extent not in conflict with this Act.

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.

TEXAS GOVERNMENT CODE

CHAPTER 54A. ASSOCIATE JUDGES

SUBCHAPTER A. CRIMINAL ASSOCIATE JUDGES

Sec. 54A.001. APPLICABILITY.

This subchapter applies to a district court or a statutory county court that hears criminal cases.

Sec. 54A.002. APPOINTMENT.

- (a) A judge of a court subject to this subchapter may appoint a full-time or part-time associate judge to perform the duties authorized by this subchapter if the commissioners court of the county in which the court has jurisdiction has authorized the creation of an associate judge position.
- (b) If a court has jurisdiction in more than one county, an associate judge appointed by that court may serve only in a county in which the commissioners court has authorized the appointment.
- (c) If more than one court in a county is subject to this subchapter, the commissioners court may authorize the appointment of an associate judge for each court or may authorize one or more associate judges to share service with two or more courts.
- (d) If an associate judge serves more than one court, the associate judge's appointment must be made as established by local rule, but in no event by less than a vote of two-thirds of the judges under whom the associate judge serves.

Sec. 54A.003. QUALIFICATIONS.

To qualify for appointment as an associate judge under this subchapter, a person must:

- (1) be a resident of this state and one of the counties the person will serve;
- (2) have been licensed to practice law in this state for at least four years;
- (3) not have been removed from office by impeachment, by the supreme court, by the governor on address to the legislature, by a tribunal reviewing a recommendation of the State Commission on Judicial Conduct, or by the legislature's abolition of the judge's court; and

- (4) not have resigned from office after having received notice that formal proceedings by the State Commission on Judicial Conduct had been instituted as provided by Section 33.022 and before final disposition of the proceedings.

Sec. 54A.004. COMPENSATION.

- (a) An associate judge shall be paid a salary determined by the commissioners court of the county in which the associate judge serves.
- (b) If an associate judge serves in more than one county, the associate judge shall be paid a salary as determined by agreement of the commissioners courts of the counties in which the associate judge serves.
- (c) The associate judge's salary is paid from the county fund available for payment of officers' salaries.

Sec. 54A.005. TERMINATION.

- (a) An associate judge who serves a single court serves at the will of the judge of that court.
- (b) The employment of an associate judge who serves more than two courts may only be terminated by a majority vote of all the judges of the courts the associate judge serves.
- (c) The employment of an associate judge who serves two courts may be terminated by either of the judges of the courts the associate judge serves.
- (d) To terminate an associate judge's employment, the appropriate judges must sign a written order of termination. The order must state:
 - (1) the associate judge's name and state bar identification number;
 - (2) each court ordering termination; and
 - (3) the date the associate judge's employment ends.

Sec. 54A.006. PROCEEDINGS THAT MAY BE REFERRED.

- (a) A judge may refer to an associate judge any matter arising out of a criminal case involving:
 - (1) a negotiated plea of guilty or no contest before the court;
 - (2) a bond forfeiture;

- (3) a pretrial motion;
- (4) a writ of habeas corpus;
- (5) an examining trial;
- (6) an occupational driver's license;
- (7) an appeal of an administrative driver's license revocation hearing;
- (8) a civil commitment matter under Subtitle C, Title 7, Health and Safety Code;
- (9) setting, adjusting, or revoking bond;
- (10) the issuance of search warrants, including a search warrant under Article 18.02(10), Code of Criminal Procedure, notwithstanding Article 18.01(c), Code of Criminal Procedure; and
- (11) any other matter the judge considers necessary and proper.

(b) An associate judge may accept an agreed plea of guilty or no contest from a defendant charged with misdemeanor, felony, or both misdemeanor and felony offenses and may assess punishment if a plea agreement is announced on the record between the defendant and the state.

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

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

Sec. 54A.007. ORDER OF REFERRAL.

(a) To refer one or more cases to an associate judge, a judge must issue a written order of referral that specifies the associate judge's duties.

(b) An order of referral may:

- (1) limit the powers of the associate judge and direct the associate judge 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 associate judge's findings;
- (5) designate proceedings for more than one case over which the associate judge shall preside;
- (6) direct the associate judge to call the court's docket; and
- (7) set forth general powers and limitations or authority of the associate judge applicable to any case referred.

Sec. 54A.008. POWERS.

(a) Except as limited by an order of referral, an associate judge to whom a case is referred may:

- (1) conduct hearings;
- (2) hear evidence;
- (3) compel production of relevant evidence;
- (4) rule on the admissibility of evidence;
- (5) issue summons for the appearance of witnesses;
- (6) examine a witness;
- (7) swear a witness for a hearing;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) rule on pretrial motions;
- (11) recommend the rulings, orders, or judgment to be made in a case;
- (12) regulate proceedings in a hearing;
- (13) order the attachment of a witness or party who fails to obey a subpoena;
- (14) accept a plea of guilty from a defendant charged with misdemeanor, felony, or both misdemeanor and felony offenses;
- (15) select a jury;
- (16) notwithstanding Article 18.01(c), Code of Criminal Procedure, issue a search warrant, including a search warrant under Article 18.02(10), Code of Criminal Procedure; and

(17) take action as necessary and proper for the efficient performance of the duties required by the order of referral.

(b) An associate judge may not enter 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 the associate judge may make findings, conclusions, and recommendations on those issues.

(c) Except as limited by an order of referral, an associate judge who is appointed by a district or statutory county court judge and to whom a case is referred may accept a plea of guilty or nolo contendere in a misdemeanor case for a county criminal court. The associate judge shall forward any fee or fine collected for the misdemeanor offense to the county clerk.

(d) An associate judge may, in the interest of justice, refer a case back to the referring court regardless of whether a timely objection to the associate judge hearing the trial on the merits or presiding at a jury trial has been made by any party.

Sec. 54A.009. ATTENDANCE OF BAILIFF.

A bailiff shall attend a hearing by an associate judge if directed by the referring court.

Sec. 54A.010. COURT REPORTER.

At the request of a party, the court shall provide a court reporter to record the proceedings before the associate judge.

Sec. 54A.011. WITNESS.

(a) A witness appearing before an associate judge 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. 54A.012. PAPERS TRANSMITTED TO JUDGE.

At the conclusion of the proceedings, an associate judge shall transmit to the referring court any papers relating to the case, including the associate judge's findings, conclusions, orders, recommendations, or other action taken.

Sec. 54A.013. JUDICIAL ACTION.

(a) Not later than the 30th day after the date an action is taken by an associate judge, a referring court may modify, correct, reject, reverse, or recommit for further information the action taken by the associate judge.

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

Sec. 54A.014. JUDICIAL IMMUNITY.

An associate judge has the same judicial immunity as a district judge.

SUBCHAPTER B. CIVIL ASSOCIATE JUDGES

Sec. 54A.101. APPLICABILITY.

This subchapter applies to a district court or a statutory county court that is assigned civil cases.

Sec. 54A.102. APPOINTMENT.

- (a) A judge of a court subject to this subchapter may appoint a full-time or part-time associate judge to perform the duties authorized by this subchapter if the commissioners court of the county in which the court has jurisdiction has authorized the creation of an associate judge position.
- (b) If a district court has jurisdiction in more than one county, an associate judge appointed by that court may serve only in a county in which the commissioners court has authorized the appointment.
- (c) If more than one court in a county is subject to this subchapter, the commissioners court may authorize the appointment of an associate judge for each court or may authorize one or more associate judges to share service with two or more courts.
- (d) If an associate judge serves more than one court, the associate judge's appointment must be made as established by local rule, but in no event by less than a vote of two-thirds of the judges under whom the associate judge serves.

Sec. 54A.103. QUALIFICATIONS.

To qualify for appointment as an associate judge under this subchapter, a person must:

- (1) be a resident of this state and one of the counties the person will serve;
- (2) have been licensed to practice law in this state for at least four years;
- (3) not have been removed from office by impeachment, by the supreme court, by the governor on address to the legislature, by a tribunal reviewing a recommendation of the State Commission on Judicial Conduct, or by the legislature's abolition of the judge's court; and
- (4) not have resigned from office after having received notice that formal proceedings by the State Commission on Judicial Conduct had been instituted as provided in Section 33.022 and before final disposition of the proceedings.

Sec. 54A.104. COMPENSATION.

- (a) An associate judge shall be paid a salary determined by the commissioners court of the county in which the associate judge serves.
- (b) If an associate judge serves in more than one county, the associate judge shall be paid a salary as determined by agreement of the commissioners courts of the counties in which the associate judge serves.
- (c) The associate judge's salary is paid from the county fund available for payment of officers' salaries.

Sec. 54A.105. TERMINATION.

- (a) An associate judge who serves a single court serves at the will of the judge of that court.
- (b) The employment of an associate judge who serves more than two courts may only be terminated by a majority vote of all the judges of the courts the associate judge serves.
- (c) The employment of an associate judge who serves two courts may be terminated by either of the judges of the courts the associate judge serves.
- (d) To terminate an associate judge's employment, the appropriate judges must sign a written order of termination. The order must state:
 - (1) the associate judge's name and state bar identification number;
 - (2) each court ordering termination; and
 - (3) the date the associate judge's employment ends.

Sec. 54A.106. CASES THAT MAY BE REFERRED.

- (a) Except as provided by this section, a judge of a court may refer any civil case or portion of a civil case to an associate judge for resolution.
- (b) Unless a party files a written objection to the associate judge hearing a trial on the merits, the judge may refer the trial to the associate judge. A trial on the merits is any final adjudication from which an appeal may be taken to a court of appeals.
- (c) A party must file an objection to an associate judge hearing a trial on the merits or presiding at a jury trial not later than the 10th day after the date the party receives notice that the associate judge will hear the trial. If an objection is filed, the referring

court shall hear the trial on the merits or preside at a jury trial.

Sec. 54A.107. METHODS OF REFERRAL.

- (a) A case may be referred to an associate judge by an order of referral in a specific case or by an omnibus order.
- (b) The order of referral may limit the powers or duties of an associate judge.

Sec. 54A.108. POWERS.

- (a) Except as limited by an order of referral, an associate judge may:
 - (1) conduct hearings;
 - (2) hear evidence;
 - (3) compel production of relevant evidence;
 - (4) rule on the admissibility of evidence;
 - (5) issue summons for the appearance of witnesses;
 - (6) examine a witness;
 - (7) swear a witness for a hearing;
 - (8) make findings of fact on evidence;
 - (9) formulate conclusions of law;
 - (10) rule on pretrial motions;
 - (11) recommend the rulings, orders, or judgment to be made in a case;
 - (12) regulate proceedings in a hearing;
 - (13) order the attachment of a witness or party who fails to obey a subpoena; and
 - (14) take action as necessary and proper for the efficient performance of the duties required by the order of referral.
- (b) An associate judge may, in the interest of justice, refer a case back to the referring court regardless of whether a timely objection to the associate judge hearing the trial on the merits or presiding at a jury trial has been made by any party.

Sec. 54A.109. WITNESS.

- (a) A witness appearing before an associate judge is subject to the penalties for perjury provided by law.
- (b) A referring court may fine or imprison a witness who:
 - (1) failed to appear before an associate judge after being summoned; or
 - (2) improperly refused to answer questions if the refusal has been certified to the court by the associate judge.

Sec. 54A.110. COURT REPORTER; RECORD.

- (a) A court reporter may be provided during a hearing held by an associate judge appointed under this subchapter. A court reporter is required to be provided when the associate judge presides over a jury trial.
- (b) A party, the associate judge, or the referring court may provide for a reporter during the hearing if one is not otherwise provided.
- (c) Except as provided by Subsection (a), in the absence of a court reporter or on agreement of the parties, the record may be preserved by any means approved by the associate judge.
- (d) The referring court or associate judge may assess the expense of preserving the record under Subsection (c) as costs.
- (e) On appeal of the associate judge's report or proposed order, the referring court may consider testimony or other evidence in the record if the record is taken by a court reporter.

Sec. 54A.111. NOTICE OF DECISION; APPEAL.

- (a) After hearing a matter, an associate judge shall notify each attorney participating in the hearing of the associate judge's decision. An associate judge's decision has the same force and effect as an order of the referring court unless a party appeals the decision as provided by Subsection (b).
- (b) To appeal an associate judge's decision, other than the issuance of a temporary restraining order or temporary injunction, a party must file an appeal in the referring court not later than the seventh day after the date the party receives notice of the decision under Subsection (a).

- (c) A temporary restraining order issued by an associate judge is effective immediately and expires on the 15th day after the date of issuance unless, after a hearing, the order is modified or extended by the associate judge or referring judge.
- (d) A temporary injunction issued by an associate judge is effective immediately and continues during the pendency of a trial unless, after a hearing, the order is modified by a referring judge.
- (e) A matter appealed to the referring court shall be tried de novo and is limited to only those matters specified in the appeal. Except on leave of court, a party may not submit on appeal any additional evidence or pleadings.

Sec. 54A.112. NOTICE OF RIGHT TO DE NOVO HEARING; WAIVER.

- (a) Notice of the right to a de novo hearing before the referring court shall be given to all parties.
- (b) The notice may be given:
 - (1) by oral statement in open court;
 - (2) by posting inside or outside the courtroom of the referring court; or
 - (3) as otherwise directed by the referring court.
- (c) Before the start of a hearing by an associate judge, a party may waive the right of a de novo hearing before the referring court in writing or on the record.

Sec. 54A.113. ORDER OF COURT.

- (a) Pending a de novo hearing before the referring court, a proposed order or judgment of the associate judge is in full force and effect and is enforceable as an order or judgment of the referring court, except for an order providing for the appointment of a receiver.
- (b) If a request for a de novo hearing before the referring court is not timely filed or the right to a de novo hearing before the referring court is waived, the proposed order or judgment of the associate judge becomes the order or judgment of the referring court only on the referring court's signing the proposed order or judgment.
- (c) An order by an associate judge for the temporary detention or incarceration of a witness or party shall be presented to the referring court on the day the witness or party is detained or incarcerated. The referring court, without prejudice to the right to a de

novo hearing provided by Section 54A.115, may approve the temporary detention or incarceration or may order the release of the party or witness, with or without bond, pending a de novo hearing. If the referring court is not immediately available, the associate judge may order the release of the party or witness, with or without bond, pending a de novo hearing or may continue the person's detention or incarceration for not more than 72 hours.

Sec. 54A.114. JUDICIAL ACTION ON ASSOCIATE JUDGE'S PROPOSED ORDER OR JUDGMENT.

Unless a party files a written request for a de novo hearing before the referring court, the referring court may:

- (1) adopt, modify, or reject the associate judge's proposed order or judgment;
- (2) hear additional evidence; or
- (3) recommit the matter to the associate judge for further proceedings.

Sec. 54A.115. DE NOVO HEARING.

- (a) A party may request a de novo hearing before the referring court by filing with the clerk of the referring court a written request not later than the seventh working day after the date the party receives notice of the substance of the associate judge's decision as provided by Section 54A.111.
- (b) A request for a de novo hearing under this section must specify the issues that will be presented to the referring court. The de novo hearing is limited to the specified issues.
- (c) Notice of a request for a de novo hearing before the referring court shall be given to the opposing attorney in the manner provided by Rule 21a, Texas Rules of Civil Procedure.
- (d) If a request for a de novo hearing before the referring court is filed by a party, any other party may file a request for a de novo hearing before the referring court not later than the seventh working day after the date the initial request was filed.
- (e) The referring court, after notice to the parties, shall hold a de novo hearing not later than the 30th day after the date the initial request for a de novo hearing was filed with the clerk of the referring court.
- (f) In the de novo hearing before the referring court, the parties may present witnesses on the issues specified

in the request for hearing. The referring court may also consider the record from the hearing before the associate judge, including the charge to and verdict returned by a jury, if the record was taken by a court reporter.

- (g) The denial of relief to a party after a de novo hearing under this section or a party's waiver of the right to a de novo hearing before the referring court does not affect the right of a party to file a motion for new trial, a motion for judgment notwithstanding the verdict, or other posttrial motions.
- (h) A party may not demand a second jury in a de novo hearing before the referring court if the associate judge's proposed order or judgment resulted from a jury trial.

Sec. 54A.116. APPELLATE REVIEW.

- (a) A party's failure to request a de novo hearing before the referring court or a party's waiver of the right to request a de novo hearing before the referring court does not deprive the party of the right to appeal to or request other relief from a court of appeals or the supreme court.
- (b) Except as provided by Subsection (c), the date an order or judgment by the referring court is signed is the controlling date for the purposes of appeal to or request for other relief from a court of appeals or the supreme court.
- (c) The date an agreed order or a default order is signed by an associate judge is the controlling date for the purpose of an appeal to, or a request for other relief relating to the order from, a court of appeals or the supreme court.

Sec. 54A.117. JUDICIAL ACTION.

- (a) Not later than the 30th day after the date an action is taken by an associate judge, a referring court may modify, correct, reject, reverse, or recommit for further information the action taken by the associate judge.
- (b) If the court does not modify, correct, reject, reverse, or recommit an action to the associate judge, the action becomes the decree of the court.

Sec. 54A.118. JUDICIAL IMMUNITY.

An associate judge appointed under this subchapter has the judicial immunity of a district judge.

SUBCHAPTER C. STATUTORY PROBATE COURT ASSOCIATE JUDGES

Sec. 54A.201. DEFINITION.

In this subchapter, "statutory probate court" has the meaning assigned by Chapter 22, Estates Code.

Sec. 54A.202. APPLICABILITY.

This subchapter applies to a statutory probate court.

Sec. 54A.203. APPOINTMENT.

- (a) After obtaining the approval of the commissioners court to create an associate judge position, the judge of a statutory probate court by order may appoint one or more full-time or part-time associate judges to perform the duties authorized by this subchapter.
- (b) If a statutory probate court has jurisdiction in more than one county, an associate judge appointed by that court may serve only in a county in which the commissioners court has authorized the appointment.
- (c) The commissioners court may authorize the appointment of an associate judge for each court or may authorize one or more associate judges to share service with two or more courts, if more than one statutory probate court exists in a county.
- (d) If an associate judge serves more than one court, the associate judge's appointment must be made with the unanimous approval of all the judges under whom the associate judge serves.
- (e) An associate judge appointed under this subchapter may serve as an associate judge appointed under Section 574.0085, Health and Safety Code.

Sec. 54A.204. QUALIFICATIONS.

To qualify for appointment as an associate judge under this subchapter, a person must:

- (1) be a resident of this state and one of the counties the person will serve;
- (2) have been licensed to practice law in this state for at least five years;
- (3) not have been removed from office by impeachment, by the supreme court, by the governor on address to the legislature, by a tribunal reviewing a recommendation of the State Commission on

Judicial Conduct, or by the legislature's abolition of the judge's court; and

- (4) not have resigned from office after having received notice that formal proceedings by the State Commission on Judicial Conduct had been instituted as provided in Section 33.022 and before final disposition of the proceedings.

Sec. 54A.205. COMPENSATION.

- (a) An associate judge is entitled to the compensation set by the appointing judge and approved by the commissioners court or commissioners courts of the counties in which the associate judge serves.
- (b) If an associate judge serves in more than one county, the associate judge shall be paid a salary as determined by agreement of the commissioners courts of the counties in which the associate judge serves.
- (c) Except as provided by Subsection (d), the compensation of the associate judge shall be paid by the county from the county general fund. The compensation must be paid in the same manner that the appointing judge's salary is paid.
- (d) On the recommendation of the statutory probate court judges in the county and subject to the approval of the county commissioners court, the county may pay all or part of the compensation of the associate judge from the excess contributions remitted to the county under Section 25.00212 and deposited in the contributions fund created under Section 25.00213.

Sec. 54A.206. TERMINATION OF ASSOCIATE JUDGE.

- (a) An associate judge who serves a single court serves at the will of the judge of that court.
- (b) The employment of an associate judge who serves more than two courts may only be terminated by a majority vote of all the judges of the courts that the associate judge serves.
- (c) The employment of an associate judge who serves two courts may be terminated by either of the judges of the courts that the associate judge serves.
- (d) The appointment of the associate judge terminates if:
 - (1) the associate judge becomes a candidate for election to public office; or

- (2) the commissioners court does not appropriate funds in the county's budget to pay the salary of the associate judge.
- (e) If an associate judge serves a single court and the appointing judge vacates the judge's office, the associate judge's employment continues, subject to Subsections (d) and (h), unless the successor appointed or elected judge terminates that employment.
- (f) If an associate judge serves two courts and one of the appointing judges vacates the judge's office, the associate judge's employment continues, subject to Subsections (d) and (h), unless the successor appointed or elected judge terminates that employment or the judge of the other court served by the associate judge terminates that employment as provided by Subsection (c).
- (g) If an associate judge serves more than two courts and an appointing judge vacates the judge's office, the associate judge's employment continues, subject to Subsections (d) and (h), unless:
 - (1) if no successor judge has been elected or appointed, the majority of the judges of the other courts the associate judge serves vote to terminate that employment; or
 - (2) if a successor judge has been elected or appointed, the majority of the judges of the courts the associate judge serves, including the successor judge, vote to terminate that employment as provided by Subsection (b).
- (h) Notwithstanding the powers of an associate judge provided by Section 54A.209, an associate judge whose employment continues as provided by Subsection (e), (f), or (g) after the judge of a court served by the associate judge vacates the judge's office may perform administrative functions with respect to that court, but may not perform any judicial function, including any power prescribed by Section 54A.209, with respect to that court until a successor judge is appointed or elected.

Sec. 54A.207. CASES THAT MAY BE REFERRED.

- (a) Except as provided by this section, a judge of a court may refer to an associate judge any aspect of a suit over which the probate court has jurisdiction, including any matter ancillary to the suit.
- (b) Unless a party files a written objection to the associate judge hearing a trial on the merits, the judge may refer the trial to the associate judge. A

trial on the merits is any final adjudication from which an appeal may be taken to a court of appeals.

- (c) A party must file an objection to an associate judge hearing a trial on the merits or presiding at a jury trial not later than the 10th day after the date the party receives notice that the associate judge will hear the trial. If an objection is filed, the referring court shall hear the trial on the merits or preside at a jury trial.

Sec. 54A.2071. OATH.

An associate judge must take the constitutional oath of office required of appointed officers of this state.

Sec. 54A.208. METHODS OF REFERRAL.

- (a) A case may be referred to an associate judge by an order of referral in a specific case or by an omnibus order specifying the class and type of cases to be referred.
- (b) The order of referral may limit the power or duties of an associate judge.

Sec. 54A.209. POWERS OF ASSOCIATE JUDGE.

- (a) Except as limited by an order of referral, an associate judge may:
 - (1) conduct a hearing;
 - (2) hear evidence;
 - (3) compel production of relevant evidence;
 - (4) rule on the admissibility of evidence;
 - (5) issue a summons for the appearance of witnesses;
 - (6) examine a witness;
 - (7) swear a witness for a hearing;
 - (8) make findings of fact on evidence;
 - (9) formulate conclusions of law;
 - (10) rule on pretrial motions;
 - (11) recommend the rulings, orders, or judgment to be made in a case;
 - (12) regulate all proceedings in a hearing before the associate judge;

(13) take action as necessary and proper for the efficient performance of the duties required by the order of referral;

(14) order the attachment of a witness or party who fails to obey a subpoena;

(15) order the detention of a witness or party found guilty of contempt, pending approval by the referring court as provided by Section 54A.214;

(16) without prejudice to the right to a de novo hearing under Section 54A.216, render and sign:

(A) a final order agreed to in writing as to both form and substance by all parties;

(B) a final default order;

(C) a temporary order;

(D) a final order in a case in which a party files an unrevoked waiver made in accordance with Rule 119, Texas Rules of Civil Procedure, that waives notice to the party of the final hearing or waives the party's appearance at the final hearing;

(E) an order specifying that the court clerk shall issue:

(i) letters testamentary or of administration; or

(ii) letters of guardianship; or

(F) an order for inpatient or outpatient mental health, mental retardation, or chemical dependency services or an order authorizing psychoactive medications; and

(17) sign a final order that includes a waiver of the right to a de novo hearing in accordance with Section 54A.216.

(b) An associate judge may, in the interest of justice, refer a case back to the referring court regardless of whether a timely objection to the associate judge hearing the trial on the merits or presiding at a jury trial has been made by any party.

(c) An order described by Subsection (a)(16) that is rendered and signed by an associate judge constitutes an order of the referring court. The judge of the referring court shall sign the order not later than the 30th day after the date the associate judge signs the order.

(d) An answer filed by or on behalf of a party who previously filed a waiver described in Subsection (a)(16)(D) revokes that waiver.

Sec. 54A.2091. ATTENDANCE OF BAILIFF.

A bailiff shall attend a hearing conducted by an associate judge if directed to attend by the referring court.

Sec. 54A.210. WITNESS.

(a) A witness appearing before an associate judge 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. 54A.211. COURT REPORTER; RECORD.

(a) A court reporter may be provided during a hearing held by an associate judge appointed under this subchapter. A court reporter is required to be provided when the associate judge presides over a jury trial.

(b) A party, the associate judge, or the referring court may provide for a reporter during the hearing if one is not otherwise provided.

(c) Except as provided by Subsection (a), in the absence of a court reporter or on agreement of the parties, the record may be preserved by any means approved by the associate judge.

(d) The referring court or associate judge may assess the expense of preserving the record as court costs.

(e) On appeal of the associate judge's report or proposed order, the referring court may consider testimony or other evidence in the record if the record is taken by a court reporter.

Sec. 54A.212. REPORT.

(a) The associate judge's report may contain the associate judge's findings, conclusions, or recommendations and may be in the form of a proposed order.

(b) The associate judge shall prepare a report in the form directed by the referring court, including in the form of:

(1) a notation on the referring court's docket sheet or in the court's jacket; or

(2) a proposed order.

(c) After a hearing, the associate judge shall provide the parties participating in the hearing notice of the substance of the associate judge's report, including any proposed order.

(d) Notice may be given to the parties:

(1) in open court, by an oral statement, or by providing a copy of the associate judge's written report, including any proposed order;

(2) by certified mail, return receipt requested;

(3) by facsimile transmission; or

(4) by electronic mail.

(e) There is a rebuttable presumption that notice is received on the date stated on:

(1) the signed return receipt, if notice was provided by certified mail;

(2) the confirmation page produced by the facsimile machine, if notice was provided by facsimile transmission; or

(3) a printout evidencing submission of the electronic mail message, if notice was provided by electronic mail.

(f) After a hearing conducted by an associate judge, the associate judge shall send the associate judge's signed and dated report, including any proposed order, and all other papers relating to the case to the referring court.

Sec. 54A.213. NOTICE OF RIGHT TO DE NOVO HEARING BEFORE REFERRING COURT.

(a) An associate judge shall give all parties notice of the right to a de novo hearing before the referring court.

(b) The notice may be given:

(1) by oral statement in open court;

(2) by posting inside or outside the courtroom of the referring court; or

(3) as otherwise directed by the referring court.

(c) Before the start of a hearing by an associate judge, a party may waive the right to a de novo hearing before the referring court in writing or on the record.

Sec. 54A.214. ORDER OF COURT.

(a) Pending a de novo hearing before the referring court, the decisions and recommendations of the associate judge or a proposed order or judgment of the associate judge has the full force and effect, and is enforceable as, an order or judgment of the referring court, except for an order providing for the appointment of a receiver.

(b) Except as provided by Section 54A.209(c), if a request for a de novo hearing before the referring court is not timely filed or the right to a de novo hearing before the referring court is waived, the decisions and recommendations of the associate judge or the proposed order or judgment of the associate judge becomes the order or judgment of the referring court at the time the judge of the referring court signs the proposed order or judgment.

(c) An order by an associate judge for the temporary detention or incarceration of a witness or party shall be presented to the referring court on the day the witness or party is detained or incarcerated. The referring court, without prejudice to the right to a de novo hearing provided by Section 54A.216, may approve the temporary detention or incarceration or may order the release of the party or witness, with or without bond, pending a de novo hearing. If the referring court is not immediately available, the associate judge may order the release of the party or witness, with or without bond, pending a de novo hearing or may continue the person's detention or incarceration for not more than 72 hours.

Sec. 54A.215. JUDICIAL ACTION ON ASSOCIATE JUDGE'S PROPOSED ORDER OR JUDGMENT.

(a) Unless a party files a written request for a de novo hearing before the referring court, the referring court may:

(1) adopt, modify, or reject the associate judge's proposed order or judgment;

(2) hear further evidence; or

(3) recommit the matter to the associate judge for further proceedings.

(b) The judge of the referring court shall sign a proposed order or judgment the court adopts as provided by Subsection (a)(1) not later than the 30th day after the date the associate judge signed the order or judgment.

Sec. 54A.216. DE NOVO HEARING BEFORE REFERRING COURT.

- (a) A party may request a de novo hearing before the referring court by filing with the clerk of the referring court a written request not later than the seventh working day after the date the party receives notice of the substance of the associate judge's report as provided by Section 54A.212.
- (b) A request for a de novo hearing under this section must specify the issues that will be presented to the referring court. The de novo hearing is limited to the specified issues.
- (c) In the de novo hearing before the referring court, the parties may present witnesses on the issues specified in the request for hearing. The referring court may also consider the record from the hearing before the associate judge, including the charge to and verdict returned by a jury, if the record was taken by a court reporter.
- (d) Notice of a request for a de novo hearing before the referring court must be given to the opposing attorney in the manner provided by Rule 21a, Texas Rules of Civil Procedure.
- (e) If a request for a de novo hearing before the referring court is filed by a party, any other party may file a request for a de novo hearing before the referring court not later than the seventh working day after the date of filing of the initial request.
- (f) The referring court, after notice to the parties, shall hold a de novo hearing not later than the 30th day after the date on which the initial request for a de novo hearing was filed with the clerk of the referring court.
- (g) Before the start of a hearing conducted by an associate judge, the parties may waive the right of a de novo hearing before the referring court. The waiver may be in writing or on the record.
- (h) The denial of relief to a party after a de novo hearing under this section or a party's waiver of the right to a de novo hearing before the referring court does not affect the right of a party to file a motion for new trial, motion for judgment notwithstanding the verdict, or other post-trial motion.
- (i) A party may not demand a second jury in a de novo hearing before the referring court if the associate judge's proposed order or judgment resulted from a jury trial.

Sec. 54A.217. APPELLATE REVIEW.

- (a) A party's failure to request a de novo hearing before the referring court or a party's waiver of the right to request a de novo hearing before the referring court does not deprive the party of the right to appeal to or request other relief from a court of appeals or the supreme court.
- (b) Except as provided by Subsection (c), the date the judge of a referring court signs an order or judgment is the controlling date for the purposes of appeal to or request for other relief from a court of appeals or the supreme court.
- (c) The date an order described by Section 54A.209(a)(16) is signed by an associate judge is the controlling date for the purpose of an appeal to, or a request for other relief relating to the order from, a court of appeals or the supreme court.

Sec. 54A.218. IMMUNITY.

An associate judge appointed under this subchapter has the judicial immunity of a probate judge. All existing immunity granted an associate judge by law, express or implied, continues in full force and effect.