

By: Gonzales

H.B. No. 2977

Substitute the following for H.B. No. 2977:

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C.S.H.B. No. 2977

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of criminal law hearing officers in Hidalgo County.

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

SECTION 1. Chapter 54, Government Code, is amended by adding Subchapter DD to read as follows:

SUBCHAPTER DD. CRIMINAL LAW HEARING OFFICERS IN HIDALGO COUNTY

Sec. 54.1741. APPLICATION OF SUBCHAPTER. This subchapter applies to Hidalgo County.

Sec. 54.1742. APPOINTMENT. (a) A majority of the members of a board composed of the judges of the district courts and statutory county courts of Hidalgo County may appoint criminal law hearing officers to perform the duties authorized by this subchapter.

(b) A criminal law hearing officer appointed under this subchapter serves at the pleasure of the board and may be terminated at any time in the same manner as appointed.

(c) A criminal law hearing officer may not engage in the private practice of law or serve as a mediator or arbitrator or otherwise participate as a neutral party in any alternative dispute resolution proceeding, with or without compensation.

(d) A criminal law hearing officer is subject to proceedings under Section 1-a, Article V, Texas Constitution.

Sec. 54.1743. QUALIFICATIONS. To be eligible for

1 appointment as a criminal law hearing officer under this
2 subchapter, a person must:

- 3 (1) be a resident of Hidalgo County;
4 (2) be eligible to vote in this state and in Hidalgo
5 County;
6 (3) be at least 30 years of age; and
7 (4) have the other qualifications required by the
8 board.

9 Sec. 54.1744. COMPENSATION. (a) A criminal law hearing
10 officer is entitled to a salary in the amount set by the
11 commissioners court.

12 (b) The salary is paid from the county fund available for
13 payment of officers' salaries.

14 Sec. 54.1745. OATH. A criminal law hearing officer must
15 take the constitutional oath of office required of appointed
16 officers of this state.

17 Sec. 54.1746. CRIMINAL JURISDICTION. (a) A criminal law
18 hearing officer appointed under this subchapter has limited
19 concurrent jurisdiction over criminal cases filed in the district
20 courts, statutory county courts, and justice courts of the county.
21 The jurisdiction of the criminal law hearing officer is limited to:

22 (1) determining probable cause for further detention
23 of any person detained on a criminal complaint, information, or
24 indictment filed in the district courts, statutory county courts,
25 or justice courts of the county;

26 (2) committing the defendant to jail, discharging the
27 defendant from custody, or admitting the defendant to bail, as the

1 law and facts of the case require;

2 (3) issuing search warrants and arrest warrants as
3 provided by law for magistrates; and

4 (4) as to criminal cases filed in justice courts,
5 disposing of cases as provided by law, other than by trial, and
6 collecting fines and enforcing judgments and orders of the justice
7 courts in criminal cases.

8 (b) This section does not limit or impair the jurisdiction
9 of the court in which the complaint, information, or indictment is
10 filed to review or alter the decision of the criminal law hearing
11 officer.

12 (c) In a felony or misdemeanor case punishable by
13 incarceration in the county jail, a criminal law hearing officer
14 may not dismiss the case, enter a judgment of acquittal or guilt, or
15 pronounce sentence.

16 Sec. 54.1747. MENTAL HEALTH JURISDICTION. The judges of
17 the statutory county courts of Hidalgo County may authorize a
18 criminal law hearing officer to serve the probate courts of Hidalgo
19 County as necessary to hear emergency mental health matters under
20 Chapter 573, Health and Safety Code. A criminal law hearing officer
21 has concurrent limited jurisdiction with the probate courts of the
22 county to hear emergency mental health matters under Chapter 573,
23 Health and Safety Code. This section does not impair the
24 jurisdiction of the probate courts to review or alter the decision
25 of the criminal law hearing officer.

26 Sec. 54.1748. DUTIES AND POWERS. (a) A criminal law
27 hearing officer shall inform a person arrested of the warnings

1 described by Article 15.17, Code of Criminal Procedure.

2 (b) A criminal law hearing officer may determine the amount
3 of bail and grant bail under Chapter 17, Code of Criminal Procedure,
4 and as otherwise provided by law.

5 (c) A criminal law hearing officer may issue a magistrate's
6 order for emergency apprehension and detention under Chapter 573,
7 Health and Safety Code, if authorized by the judges of the statutory
8 county courts of Hidalgo County and if the criminal law hearing
9 officer makes each finding required by Section 573.012(b), Health
10 and Safety Code.

11 (d) The criminal law hearing officer shall be available,
12 within the time provided by law following a defendant's arrest, to
13 determine probable cause for further detention, administer
14 warnings, inform the accused of the pending charges, and determine
15 all matters pertaining to bail. Criminal law hearing officers
16 shall be available to review and issue search warrants and arrest
17 warrants as provided by law.

18 (e) A criminal law hearing officer may dispose of criminal
19 cases filed in the justice courts as provided by law, other than by
20 trial, and collect fines and enforce the judgments and orders of the
21 justice courts in criminal cases.

22 Sec. 54.1749. JUDICIAL IMMUNITY. A criminal law hearing
23 officer has the same judicial immunity as a district judge,
24 statutory county court judge, and justice of the peace.

25 Sec. 54.1750. SHERIFF. On request of a criminal law hearing
26 officer appointed under this subchapter, the sheriff, in person or
27 by deputy, shall assist the criminal law hearing officer.

1 Sec. 54.1751. CLERK. The district clerk shall perform the
2 statutory duties necessary for the criminal law hearing officers
3 appointed under this subchapter in cases filed in a district court
4 or a statutory county court. A person designated to serve as a
5 clerk of a justice court shall perform the statutory duties
6 necessary for cases filed in a justice court.

7 SECTION 2. Article 2.09, Code of Criminal Procedure, is
8 amended to read as follows:

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

1 cases in Travis County, the county judges, the judges of the county
2 courts at law, judges of the county criminal courts, the judges of
3 statutory probate courts, the associate judges appointed by the
4 judges of the statutory probate courts under Subchapter G, Chapter
5 54, Government Code, the justices of the peace, the mayors and
6 recorders and the judges of the municipal courts of incorporated
7 cities or towns.

8 SECTION 3. This Act takes effect September 1, 2005.