

1-1 By: Oliveira (Senate Sponsor - Lucio) H.B. No. 3485
1-2 (In the Senate - Received from the House May 2, 2005;
1-3 May 3, 2005, read first time and referred to Committee on
1-4 Jurisprudence; May 20, 2005, reported favorably by the following
1-5 vote: Yeas 6, Nays 0; May 20, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the establishment of criminal law hearing officers in
1-9 Cameron County.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Chapter 54, Government Code, is amended by
1-12 adding Subchapter BB to read as follows:

1-13 SUBCHAPTER BB. CRIMINAL LAW HEARING OFFICERS IN CAMERON COUNTY

1-14 Sec. 54.1351. APPLICATION OF SUBCHAPTER. This subchapter
1-15 applies to Cameron County.

1-16 Sec. 54.1352. APPOINTMENT. (a) A majority of the members
1-17 of a board composed of the judges of the district courts and
1-18 statutory county courts of Cameron County may appoint criminal law
1-19 hearing officers to perform the duties authorized by this
1-20 subchapter.

1-21 (b) A criminal law hearing officer appointed under this
1-22 subchapter serves at the pleasure of the board and may be terminated
1-23 at any time in the same manner as appointed.

1-24 (c) A criminal law hearing officer may not engage in the
1-25 private practice of law or serve as a mediator or arbitrator or
1-26 otherwise participate as a neutral party in any alternative dispute
1-27 resolution proceeding, with or without compensation.

1-28 (d) A criminal law hearing officer is subject to proceedings
1-29 under Section 1-a, Article V, Texas Constitution.

1-30 Sec. 54.1353. QUALIFICATIONS. To be eligible for
1-31 appointment as a criminal law hearing officer under this
1-32 subchapter, a person must:

1-33 (1) be a resident of Cameron County;

1-34 (2) be eligible to vote in this state and in Cameron
1-35 County;

1-36 (3) be at least 30 years of age; and

1-37 (4) have the other qualifications required by the
1-38 board.

1-39 Sec. 54.1354. COMPENSATION. (a) A criminal law hearing
1-40 officer is entitled to a salary in the amount set by the
1-41 commissioners court.

1-42 (b) The salary is paid from the county fund available for
1-43 payment of officers' salaries.

1-44 Sec. 54.1355. OATH. A criminal law hearing officer must
1-45 take the constitutional oath of office required of appointed
1-46 officers of this state.

1-47 Sec. 54.1356. CRIMINAL JURISDICTION. (a) A criminal law
1-48 hearing officer appointed under this subchapter has limited
1-49 concurrent jurisdiction over criminal cases filed in the district
1-50 courts, statutory county courts, and justice courts of the county.
1-51 The jurisdiction of the criminal law hearing officer is limited to:

1-52 (1) determining probable cause for further detention
1-53 of any person detained on a criminal complaint, information, or
1-54 indictment filed in the district courts, statutory county courts,
1-55 or justice courts of the county;

1-56 (2) committing the defendant to jail, discharging the
1-57 defendant from custody, or admitting the defendant to bail, as the
1-58 law and facts of the case require;

1-59 (3) issuing search warrants and arrest warrants as
1-60 provided by law for magistrates; and

1-61 (4) as to criminal cases filed in justice courts,
1-62 disposing of cases as provided by law, other than by trial, and
1-63 collecting fines and enforcing judgments and orders of the justice
1-64 courts in criminal cases.

2-1 (b) This section does not limit or impair the jurisdiction
2-2 of the court in which the complaint, information, or indictment is
2-3 filed to review or alter the decision of the criminal law hearing
2-4 officer.

2-5 (c) In a felony or misdemeanor case punishable by
2-6 incarceration in the county jail, a criminal law hearing officer
2-7 may not dismiss the case, enter a judgment of acquittal or guilt, or
2-8 pronounce sentence.

2-9 Sec. 54.1357. MENTAL HEALTH JURISDICTION. The judges of
2-10 the statutory county courts of Cameron County may authorize a
2-11 criminal law hearing officer to serve the probate courts of Cameron
2-12 County as necessary to hear emergency mental health matters under
2-13 Chapter 573, Health and Safety Code. A criminal law hearing officer
2-14 has concurrent limited jurisdiction with the probate courts of the
2-15 county to hear emergency mental health matters under Chapter 573,
2-16 Health and Safety Code. This section does not impair the
2-17 jurisdiction of the probate courts to review or alter the decision
2-18 of the criminal law hearing officer.

2-19 Sec. 54.1358. DUTIES AND POWERS. (a) A criminal law
2-20 hearing officer shall inform a person arrested of the warnings
2-21 described by Article 15.17, Code of Criminal Procedure.

2-22 (b) A criminal law hearing officer may determine the amount
2-23 of bail and grant bail under Chapter 17, Code of Criminal Procedure,
2-24 and as otherwise provided by law.

2-25 (c) A criminal law hearing officer may issue a magistrate's
2-26 order for emergency apprehension and detention under Chapter 573,
2-27 Health and Safety Code, if authorized by the judges of the statutory
2-28 county courts of Cameron County and if the criminal law hearing
2-29 officer makes each finding required by Section 573.012(b), Health
2-30 and Safety Code.

2-31 (d) The criminal law hearing officer shall be available,
2-32 within the time provided by law following a defendant's arrest, to
2-33 determine probable cause for further detention, administer
2-34 warnings, inform the accused of the pending charges, and determine
2-35 all matters pertaining to bail. Criminal law hearing officers
2-36 shall be available to review and issue search warrants and arrest
2-37 warrants as provided by law.

2-38 (e) A criminal law hearing officer may dispose of criminal
2-39 cases filed in the justice courts as provided by law, other than by
2-40 trial, and collect fines and enforce the judgments and orders of the
2-41 justice courts in criminal cases.

2-42 Sec. 54.1359. JUDICIAL IMMUNITY. A criminal law hearing
2-43 officer has the same judicial immunity as a district judge,
2-44 statutory county court judge, and justice of the peace.

2-45 Sec. 54.1360. SHERIFF. On request of a criminal law hearing
2-46 officer appointed under this subchapter, the sheriff, in person or
2-47 by deputy, shall assist the criminal law hearing officer.

2-48 Sec. 54.1361. CLERK. The district clerk shall perform the
2-49 statutory duties necessary for the criminal law hearing officers
2-50 appointed under this subchapter in cases filed in a district court
2-51 or a statutory county court. A person designated to serve as a
2-52 clerk of a justice court shall perform the statutory duties
2-53 necessary for cases filed in a justice court.

2-54 SECTION 2. Article 2.09, Code of Criminal Procedure, is
2-55 amended to read as follows:

2-56 Art. 2.09. WHO ARE MAGISTRATES. Each of the following
2-57 officers is a magistrate within the meaning of this Code: The
2-58 justices of the Supreme Court, the judges of the Court of Criminal
2-59 Appeals, the justices of the Courts of Appeals, the judges of the
2-60 District Court, the magistrates appointed by the judges of the
2-61 district courts of Bexar County, Dallas County, or Tarrant County
2-62 that give preference to criminal cases, the criminal law hearing
2-63 officers for Harris County appointed under Subchapter L, Chapter
2-64 54, Government Code, the criminal law hearing officers for Cameron
2-65 County appointed under Subchapter BB, Chapter 54, Government Code,
2-66 the magistrates appointed by the judges of the district courts of
2-67 Lubbock County or Webb County, the magistrates appointed by the
2-68 judges of the criminal district courts of Dallas County or Tarrant
2-69 County, the masters appointed by the judges of the district courts

3-1 and the county courts at law that give preference to criminal cases
3-2 in Jefferson County, the magistrates appointed by the judges of the
3-3 district courts and the statutory county courts of Williamson
3-4 County, the magistrates appointed by the judges of the district
3-5 courts and statutory county courts that give preference to criminal
3-6 cases in Travis County, the county judges, the judges of the county
3-7 courts at law, judges of the county criminal courts, the judges of
3-8 statutory probate courts, the associate judges appointed by the
3-9 judges of the statutory probate courts under Subchapter G, Chapter
3-10 54, Government Code, the justices of the peace, the mayors and
3-11 recorders and the judges of the municipal courts of incorporated
3-12 cities or towns.

3-13 SECTION 3. This Act takes effect September 1, 2005.

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