

By: Moody

H.B. No. 2657

A BILL TO BE ENTITLED

AN ACT

relating to jurisdiction and court administration of the El Paso Criminal Law Magistrate Court.

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

SECTION 1. Section 54.732, Government Code, is amended to read as follows:

Sec. 54.732. CREATION. The El Paso Criminal Law Magistrate Court is a court having the jurisdiction provided by this subchapter over offenses allegedly committed in El Paso County ~~[except for that portion of the county in the corporate limits of Vinton, Texas]~~.

SECTION 2. Section 54.733, Government Code, is amended by adding Subsection (j) to read as follows:

(j) The criminal law magistrate court has concurrent criminal jurisdiction with the justice courts located in El Paso County.

SECTION 3. Section 54.735, Government Code, is amended to read as follows:

Sec. 54.735. POWERS AND DUTIES. (a) The criminal law magistrate court or a judge of the criminal law magistrate court may issue writs of injunction and all other writs necessary for the enforcement of the jurisdiction of the court and may issue misdemeanor writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court or of any other

1 court of inferior jurisdiction in the county. The court and the  
2 judge may punish for contempt as provided by law for district  
3 courts. A judge of the criminal law magistrate court has all other  
4 powers, duties, immunities, and privileges provided by law for:

5 (1) justices of the peace when acting in a Class C  
6 misdemeanor case;

7 (2) county court judges when acting in a Class A or  
8 Class B misdemeanor case; and

9 (3) [for] district court judges when acting in a  
10 felony case.

11 (b) A judge of the criminal law magistrate court may hold an  
12 indigency hearing and a capias pro fine hearing. When acting as the  
13 judge who issued the capias pro fine, a judge of the criminal law  
14 magistrate court may make all findings of fact and law required of  
15 the judge who issued the capias pro fine. In conducting a hearing  
16 under this subsection, the judge of the criminal law magistrate  
17 court is empowered to make all findings of fact and to issue all  
18 orders necessary to properly dispose of the capias pro fine or  
19 indigency hearing in accordance with the provisions of the Code of  
20 Criminal Procedure applicable to a misdemeanor or felony case of  
21 the same type and level.

22 SECTION 4. Section 54.736(b), Government Code, is amended  
23 to read as follows:

24 (b) The council of judges shall ensure that the criminal law  
25 magistrate court gives preference to magistrate duties, as those  
26 duties apply to the county jail inmate population first and then to  
27 newly detained individuals, until the commissioners court provides

1 funds for more than one judge to sit on the criminal law magistrate  
2 court.

3 SECTION 5. Section 54.737(c), Government Code, is amended  
4 to read as follows:

5 (c) The rules must provide that[+  
6 ~~[(1) a criminal law magistrate judge may not, on a~~  
7 ~~regular basis, hold court or perform magistrate duties after 7 p.m.~~  
8 ~~or before 7 a.m.; and~~

9 ~~[(2)]~~ a criminal law magistrate judge may only release  
10 a defendant under Article 17.031, Code of Criminal Procedure, under  
11 guidelines established by the council of judges.

12 SECTION 6. Sections 54.738(a) and (c), Government Code, are  
13 amended to read as follows:

14 (a) Except as provided by Subsection (b) or local  
15 administrative rules, the local administrative judge or a judge of  
16 the criminal law magistrate court may transfer between courts a  
17 case that is pending in the court of any magistrate in the criminal  
18 law magistrate court's jurisdiction if the case is:

19 (1) an [any] unindicted felony case;  
20 (2) a[7] Class A [misdemeanor case,7] or Class B  
21 misdemeanor case if an information has not been filed; or  
22 (3) a Class C misdemeanor [and if the] case [is pending  
23 in the court of any magistrate in the criminal law magistrate  
24 court's jurisdiction].

25 (c) Except as provided by Subsection (d) or local  
26 administrative rules, the local administrative judge may assign a  
27 judge on the council of judges, a judge of the criminal law

1 magistrate court, a retired judge, or any other magistrate to act as  
2 presiding judge in a case that is pending in the court of any  
3 magistrate in the criminal law magistrate court's jurisdiction if  
4 the case is:

- 5           (1) an ~~[any]~~ unindicted felony case;
- 6           (2) a~~[r]~~ Class A ~~[misdemeanor case]~~ or Class B  
7 misdemeanor case if an information has not been filed; or
- 8           (3) a Class C misdemeanor ~~[and if the]~~ case ~~[is pending~~  
9 ~~in the court of any magistrate in the criminal law magistrate~~  
10 ~~court's jurisdiction]~~.

11           SECTION 7. Section 54.739(d), Government Code, is amended  
12 to read as follows:

13           (d) A case assigned under this subchapter to the criminal  
14 law magistrate court from a district court, ~~[or]~~ a county court at  
15 law, or a justice court remains on the docket of the assigning court  
16 and in the assigning court's jurisdiction.

17           SECTION 8. Section 54.741, Government Code, is amended to  
18 read as follows:

19           Sec. 54.741. FORFEITURES. Bail bonds and personal bonds  
20 may be forfeited by the criminal law magistrate court in the manner  
21 provided by Chapter 22, Code of Criminal Procedure, and those  
22 forfeitures shall be filed with:

- 23           (1) the district clerk if associated with a felony  
24 case;
- 25           (2) ~~[, except in cases in which]~~ the county clerk if  
26 associated with a Class A or Class B misdemeanor case; or
- 27           (3) the same justice court clerk associated with the

1 Class C misdemeanor case in which the bond was originally filed ~~[is~~  
2 ~~the clerk under this subchapter]~~.

3 SECTION 9. Section 54.742, Government Code, is amended by  
4 adding Subsection (c) to read as follows:

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

9 SECTION 10. Section 54.744, Government Code, is amended to  
10 read as follows:

11 Sec. 54.744. JUDGES ON EL PASO COUNCIL OF JUDGES. Unless  
12 the local rules of administration provide otherwise, the judges on  
13 the El Paso Council of Judges and the judges on the criminal law  
14 magistrate court may sit and act for any magistrate in El Paso  
15 County on any unindicted felony or Class A or B misdemeanor case if  
16 an information has not been filed or any Class C misdemeanor case  
17 filed in a justice court.

18 SECTION 11. Section 54.745(a), Government Code, is amended  
19 to read as follows:

20 (a) As a condition for a defendant to enter any pretrial  
21 diversion program, including a behavioral modification program, a  
22 health care program, a specialty court program, or the functional  
23 equivalent that may be operated in El Paso County by El Paso County,  
24 Emergence Health Network, the City of El Paso, the West Texas  
25 Regional Adult Probation Department, a community partner approved  
26 by the council of judges, or a county or district attorney of El  
27 Paso County, a defendant must file in the court in which the charges

1 are pending a sworn waiver of speedy trial motion requesting the  
2 court to approve without a hearing defendant's waiver of his speedy  
3 trial rights under the constitution and other law. If the court  
4 approves the waiver, the defendant is eligible for consideration  
5 for acceptance into a pretrial diversion program or equivalent  
6 program.

7 SECTION 12. Sections 54.746(d) and (e), Government Code,  
8 are amended to read as follows:

9 (d) A judge of a county court at law in El Paso County shall  
10 exercise jurisdiction granted by Subsection (a) over felony  
11 indictments and felony informations and justice court cases  
12 [~~information~~] only as a judge presiding for the court in which the  
13 felony or Class C misdemeanor is pending and only if the El Paso  
14 Council of Judges has so provided in the local administrative rules  
15 by a unanimous vote. The exercise of this jurisdiction outside El  
16 Paso County is as provided by Chapter 74 and other law.

17 (e) A judge of a district court in El Paso County shall  
18 exercise jurisdiction granted by Subsection (a) over misdemeanor  
19 information and justice court cases only as a judge presiding for  
20 the court in which the misdemeanor is pending and only if the  
21 council of judges has so provided in the local administrative rules  
22 by a unanimous vote. The exercise of this jurisdiction outside El  
23 Paso County is as provided by the Court Administration Act (Chapter  
24 74) and other law.

25 SECTION 13. Section 54.750, Government Code, is amended by  
26 adding Subsection (d) to read as follows:

27 (d) When conducting a capias pro fine hearing for any court,

1 the criminal law magistrate court acts in the same capacity and with  
2 the same authority as the judge who issued the capias pro fine.

3 SECTION 14. Sections 54.753(a) and (b), Government Code,  
4 are amended to read as follows:

5 (a) The district clerk serves as clerk of the criminal law  
6 magistrate court, except that:

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

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

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

26 SECTION 15. Section 54.759, Government Code, is amended to  
27 read as follows:

1       Sec. 54.759. LOCATION OF COURT. (a) The criminal law  
2 magistrate court may be held at one or more locations [~~the location~~  
3 ~~that is~~] provided by the local administrative rules or ordered by  
4 the local administrative judge.

5       (b) A defendant may be brought before the court in person or  
6 by means of an electronic broadcast system through which an image of  
7 the defendant is presented to the court. For purposes of this  
8 subsection, "electronic broadcast system" means a two-way  
9 electronic communication of image and sound between the defendant  
10 and the court and includes secure Internet videoconferencing.

11       SECTION 16. This Act takes effect September 1, 2015.