86R10156 TSS-F

By:  Hinojosa S.B. No. 1935

A BILL TO BE ENTITLED

AN ACT

relating to the creation of magistrates for Hidalgo County.

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

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

SUBCHAPTER LL. MAGISTRATES IN HIDALGO COUNTY

Sec. 54.2101.  APPLICATION OF SUBCHAPTER. This subchapter applies to Hidalgo County.

Sec. 54.2102.  AUTHORIZATION; APPOINTMENT. (a) The Commissioners Court of Hidalgo County may authorize the judges of the district and statutory county courts in Hidalgo County to appoint one or more part-time or full-time magistrates to perform the duties authorized by this subchapter.

(b)  The judges of the district and statutory county courts in Hidalgo County by a two-thirds vote may appoint magistrates as authorized by the Commissioners Court of Hidalgo County.

(c)  The Commissioners Court of Hidalgo County may only authorize the appointment of magistrates that are necessary to perform the duties authorized by this subchapter and are included in the county's annual budget.

(d)  An order appointing a magistrate must be signed by the local presiding judge of the district courts serving Hidalgo County, and the order must state:

(1)  the magistrate's name; and

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

(e)  The judges of the district and statutory county courts in Hidalgo County shall ensure that the magistrates appointed under this subchapter are representative of the race, sex, national origin, and ethnicity of the population of Hidalgo County.

(f)  A magistrate 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 alternate dispute resolution proceeding, with or without compensation.

(g)  A magistrate is subject to proceedings under Section 1-a, Article V, Texas Constitution.

Sec. 54.2103.  TERMINATION OF EMPLOYMENT. (a) A magistrate may be terminated by a two-thirds vote of all the judges of the district and statutory county courts in Hidalgo County.

(b)  To terminate a magistrate's employment, the local administrative judge of the district courts serving Hidalgo County must sign a written order of termination. The order must state:

(1)  the magistrate's name; and

(2)  the final date of the magistrate's employment.

Sec. 54.2104.  QUALIFICATIONS; OATH OF OFFICE. (a) To be eligible for appointment as a magistrate, a person must:

(1)  be a resident of Hidalgo County;

(2)  be at least 25 years of age;

(3)  be a licensed attorney with at least two years' experience; and

(4)  have the other qualifications required by the judges of the district and statutory county courts in Hidalgo County.

(b)  A magistrate appointed under Section 54.2102 must take the constitutional oath of office required of appointed officers of this state.

Sec. 54.2105.  COMPENSATION. (a) A magistrate is entitled to the salary determined by the Commissioners Court of Hidalgo County.

(b)  A full-time magistrate's salary may not be less than that of a justice of the peace of Hidalgo County as established by the annual budget of Hidalgo County.

(c)  A part-time magistrate's salary is equal to the per-hour salary of a justice of the peace. The per-hour salary is determined by dividing the annual salary by a 2,000 work-hour year. The local administrative judge of the district courts serving Hidalgo County shall approve the number of hours to be paid a part-time magistrate.

Sec. 54.2106.  CRIMINAL JURISDICTION. (a) The judges of the district or statutory county courts in Hidalgo County shall establish standing orders to be followed by a magistrate or parties appearing before a magistrate, as applicable.

(b)  To the extent authorized by this subchapter and the standing orders, a magistrate has jurisdiction to exercise the authority granted by the judges of the district or statutory county courts in Hidalgo County.

(c)  The jurisdiction of a magistrate is limited to:

(1)  determining probable cause for further detention of any person detained on a criminal complaint, information, or indictment filed in the district courts or county courts at law; and

(2)  committing the defendant to jail, discharging the defendant from custody, or admitting the defendant to bail, as the law and facts of the case require.

(d)  This section does not limit or impair the jurisdiction of the court in which the complaint, information, or indictment is filed to review or alter the decision of a magistrate.

(e)  In a felony or misdemeanor case punishable by incarceration in the county jail, a magistrate may not dismiss the case, enter a judgment of acquittal or guilt, or pronounce sentence.

Sec. 54.2107.  MENTAL HEALTH JURISDICTION. The judges of the statutory county courts in Hidalgo County may authorize a magistrate to serve a probate court in Hidalgo County as necessary to hear emergency mental health matters under Chapter 573, Health and Safety Code. A magistrate has concurrent limited jurisdiction with a probate court in the county to hear emergency mental health matters under Chapter 573, Health and Safety Code. This section does not impair the jurisdiction of a probate court to review or alter the decision of a magistrate.

Sec. 54.2108.  DUTIES AND POWERS. (a) A magistrate shall inform a person arrested of the warnings described by Article 15.17, Code of Criminal Procedure.

(b)  A magistrate shall be available, within the time provided by law following a defendant's arrest, to determine probable cause for further detention, administer warnings, inform the accused of the pending charges, and determine all matters pertaining to bail.

(c)  A magistrate may:

(1)  determine the amount of bail and grant bail pursuant to Chapter 17, Code of Criminal Procedure, and as otherwise provided by law;

(2)  issue a magistrate's order for emergency apprehension and detention under Chapter 573, Health and Safety Code, if authorized by the judges of the statutory county courts in Hidalgo County and if the magistrate makes each finding required by Section 573.012(b), Health and Safety Code; or

(3)  accept a plea of guilty or nolo contendere in accordance with Article 26.13, Code of Criminal Procedure.

Sec. 54.2109.  JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge, statutory county court judge, and justice of the peace.

Sec. 54.2110.  PERSONNEL, EQUIPMENT, AND OFFICE SPACE. The Commissioners Court of Hidalgo County shall provide:

(1)  personnel for the legal or clerical functions necessary to perform the magistrate's duties authorized by this chapter; and

(2)  sufficient equipment and office space for the magistrate and personnel to perform the magistrate's essential functions.

Sec. 54.2111.  SHERIFF. On request of a magistrate appointed under this subchapter, the sheriff, in person or by deputy, shall assist the magistrate.

SECTION 2.  This Act takes effect September 1, 2019.