By: Hinojosa

S.B. No. 1935

A BILL TO BE ENTITLED

1   AN ACT

2 relating to the creation of magistrates for Hidalgo County.

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

4   SECTION 1. Chapter 54, Government Code, is amended by

5 adding Subchapter LL to read as follows:

6   SUBCHAPTER LL. MAGISTRATES IN HIDALGO COUNTY

7   Sec. 54.2101. APPLICATION OF SUBCHAPTER. This subchapter

8 applies to Hidalgo County.

9   Sec. 54.2102. AUTHORIZATION; APPOINTMENT. (a)   The

10 Commissioners Court of Hidalgo County may authorize the judges of

11 the district and statutory county courts in Hidalgo County to

12 appoint one or more part-time or full-time magistrates to perform

13 the duties authorized by this subchapter.

14   (b) The judges of the district and statutory county courts

15 in Hidalgo County by a two-thirds vote may appoint magistrates as

16 authorized by the Commissioners Court of Hidalgo County.

17   (c) The Commissioners Court of Hidalgo County may only

18 authorize the appointment of magistrates that are necessary to

19 perform the duties authorized by this subchapter and are included

20 in the county's annual budget.

21   (d) An order appointing a magistrate must be signed by the

22 local presiding judge of the district courts serving Hidalgo

23 County, and the order must state:

24   (1)   the magistrate's name; and

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

2 (e) The judges of the district and statutory county courts

3 in Hidalgo County shall ensure that the magistrates appointed under

4 this subchapter are representative of the race, sex, national

5 origin, and ethnicity of the population of Hidalgo County.

6 (f) A magistrate may not engage in the private practice of

7 law or serve as a mediator or arbitrator or otherwise participate as

8 a neutral party in any alternate dispute resolution proceeding,

9 with or without compensation.

10 (g) A magistrate is subject to proceedings under Section

11 1-a, Article V, Texas Constitution.

12 Sec. 54.2103. TERMINATION OF EMPLOYMENT. (a) A magistrate

13 may be terminated by a two-thirds vote of all the judges of the

14 district and statutory county courts in Hidalgo County.

15 (b) To terminate a magistrate's employment, the local

16 administrative judge of the district courts serving Hidalgo County

17 must sign a written order of termination. The order must state:

18 (1) the magistrate's name; and

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

20 Sec. 54.2104. QUALIFICATIONS; OATH OF OFFICE. (a) To be

21 eligible for appointment as a magistrate, a person must:

22 (1) be a resident of Hidalgo County;

23 (2) be at least 25 years of age;

24 (3) be a licensed attorney with at least two years'

25 experience; and

26 (4) have the other qualifications required by the

27 judges of the district and statutory county courts in Hidalgo

1 County.

2 (b) A magistrate appointed under Section 54.2102 must take

3 the constitutional oath of office required of appointed officers of

4 this state.

5 Sec. 54.2105. COMPENSATION. (a) A magistrate is entitled

6 to the salary determined by the Commissioners Court of Hidalgo

7 County.

8 (b) A full-time magistrate's salary may not be less than

9 that of a justice of the peace of Hidalgo County as established by

10 the annual budget of Hidalgo County.

11 (c) A part-time magistrate's salary is equal to the per-hour

12 salary of a justice of the peace. The per-hour salary is determined

13 by dividing the annual salary by a 2,000 work-hour year. The local

14 administrative judge of the district courts serving Hidalgo County

15 shall approve the number of hours to be paid a part-time magistrate.

16 Sec. 54.2106. CRIMINAL JURISDICTION. (a) The judges of the

17 district or statutory county courts in Hidalgo County shall

18 establish standing orders to be followed by a magistrate or parties

19 appearing before a magistrate, as applicable.

20 (b) To the extent authorized by this subchapter and the

21 standing orders, a magistrate has jurisdiction to exercise the

22 authority granted by the judges of the district or statutory county

23 courts in Hidalgo County.

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

25 (1) determining probable cause for further detention

26 of any person detained on a criminal complaint, information, or

27 indictment filed in the district courts or county courts at law; and

1   (2) committing the defendant to jail, discharging the

2 defendant from custody, or admitting the defendant to bail, as the

3 law and facts of the case require.

4   (d) This section does not limit or impair the jurisdiction

5 of the court in which the complaint, information, or indictment is

6 filed to review or alter the decision of a magistrate.

7   (e) In a felony or misdemeanor case punishable by

8 incarceration in the county jail, a magistrate may not dismiss the

9 case, enter a judgment of acquittal or guilt, or pronounce

10 sentence.

11   Sec. 54.2107. MENTAL HEALTH JURISDICTION. The judges of

12 the statutory county courts in Hidalgo County may authorize a

13 magistrate to serve a probate court in Hidalgo County as necessary

14 to hear emergency mental health matters under Chapter 573, Health

15 and Safety Code. A magistrate has concurrent limited jurisdiction

16 with a probate court in the county to hear emergency mental health

17 matters under Chapter 573, Health and Safety Code. This section

18 does not impair the jurisdiction of a probate court to review or

19 alter the decision of a magistrate.

20   Sec. 54.2108. DUTIES AND POWERS. (a) A magistrate shall

21 inform a person arrested of the warnings described by Article

22 15.17, Code of Criminal Procedure.

23   (b) A magistrate shall be available, within the time

24 provided by law following a defendant's arrest, to determine

25 probable cause for further detention, administer warnings, inform

26 the accused of the pending charges, and determine all matters

27 pertaining to bail.

1   (c) A magistrate may:

2   (1) determine the amount of bail and grant bail

3   pursuant to Chapter 17, Code of Criminal Procedure, and as

4   otherwise provided by law;

5   (2) issue a magistrate's order for emergency

6   apprehension and detention under Chapter 573, Health and Safety

7   Code, if authorized by the judges of the statutory county courts in

8   Hidalgo County and if the magistrate makes each finding required by

9   Section 573.012(b), Health and Safety Code; or

10   (3) accept a plea of guilty or nolo contendere in

11   accordance with Article 26.13, Code of Criminal Procedure.

12   Sec. 54.2109. JUDICIAL IMMUNITY. A magistrate has the same

13   judicial immunity as a district judge, statutory county court

14   judge, and justice of the peace.

15   Sec. 54.2110. PERSONNEL, EQUIPMENT, AND OFFICE SPACE. The

16   Commissioners Court of Hidalgo County shall provide:

17   (1) personnel for the legal or clerical functions

18   necessary to perform the magistrate's duties authorized by this

19   chapter; and

20   (2) sufficient equipment and office space for the

21   magistrate and personnel to perform the magistrate's essential

22   functions.

23   Sec. 54.2111. SHERIFF. On request of a magistrate

24   appointed under this subchapter, the sheriff, in person or by

25   deputy, shall assist the magistrate.

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