

By: Miles

S.B. No. 2254

A BILL TO BE ENTITLED

AN ACT

relating to creation of magistrates in Fort Bend County.

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

SECTION 1. Article 2.09, Code of Criminal Procedure, is amended to read as follows:

Art. 2.09. WHO ARE MAGISTRATES. Each of the following officers is a magistrate within the meaning of this Code: The justices of the Supreme Court, the judges of the Court of Criminal Appeals, the justices of the Courts of Appeals, the judges of the District Court, the magistrates appointed by the judges of the district courts of Bexar County, Dallas County, or Tarrant County that give preference to criminal cases, the criminal law hearing officers for Harris County appointed under Subchapter L, Chapter 54, Government Code, the criminal law hearing officers for Cameron County appointed under Subchapter BB, Chapter 54, Government Code, the magistrates or associate judges appointed by the judges of the district courts of Lubbock County, Nolan County, or Webb County, the magistrates appointed by the judges of the criminal district courts of Dallas County or Tarrant County, the associate judges appointed by the judges of the district courts and the county courts at law that give preference to criminal cases in Jefferson County, the associate judges appointed by the judges of the district courts and the statutory county courts of Brazos County, Nueces County, or Williamson County, the magistrates appointed by the judges of the

1 district courts and statutory county courts that give preference to
2 criminal cases in Travis County, the criminal magistrates appointed
3 by the Brazoria County Commissioners Court, the criminal
4 magistrates appointed by the Burnet County Commissioners Court, the
5 county judges, the judges of the county courts at law, judges of the
6 county criminal courts, the judges of statutory probate courts, the
7 associate judges appointed by the judges of the statutory probate
8 courts under Chapter 54A, Government Code, the associate judges
9 appointed by the judge of a district court under Chapter 54A,
10 Government Code, the magistrates appointed under Subchapter JJ,
11 Chapter 54, Government Code, as added by H.B. No. 2132, Acts of the
12 82nd Legislature, Regular Session, 2011, the magistrates appointed
13 under Subchapter NN, Chapter 54, Government Code, the justices of
14 the peace, and the mayors and recorders and the judges of the
15 municipal courts of incorporated cities or towns.

16 SECTION 2. Article 4.01, Code of Criminal Procedure, is
17 amended to read as follows:

18 Art. 4.01. WHAT COURTS HAVE CRIMINAL JURISDICTION. The
19 following courts have jurisdiction in criminal actions:

- 20 1. The Court of Criminal Appeals;
- 21 2. Courts of appeals;
- 22 3. The district courts;
- 23 4. The criminal district courts;
- 24 5. The magistrates appointed by the judges of the district
25 courts of Bexar County, Dallas County, Tarrant County, or Travis
26 County that give preference to criminal cases, ~~and~~ the
27 magistrates appointed by the judges of the criminal district courts

1 of Dallas County or Tarrant County, and the magistrates appointed
2 by the judges of the statutory county courts and district courts of
3 Fort Bend County that give preference to criminal cases;

4 6. The county courts;

5 7. All county courts at law with criminal jurisdiction;

6 8. County criminal courts;

7 9. Justice courts;

8 10. Municipal courts; and

9 11. The magistrates appointed by the judges of the district
10 courts of Lubbock County.

11 SECTION 3. Chapter 54, Government Code, is amended by
12 adding Subchapter NN to read as follows:

13 SUBCHAPTER NN. MAGISTRATES IN FORT BEND COUNTY

14 Sec. 54.2301. AUTHORIZATION; APPOINTMENT; ELIMINATION.

15 (a) The Commissioners Court of Fort Bend County may authorize the
16 judges of the district courts and statutory county courts in Fort
17 Bend County to appoint one or more part-time or full-time
18 magistrates to perform the duties authorized by this subchapter.

19 (b) The judges of the district courts and statutory county
20 courts in Fort Bend County by a unanimous vote may appoint
21 magistrates as authorized by the Commissioners Court of Fort Bend
22 County.

23 (c) An order appointing a magistrate must be signed by the
24 local administrative judge of the district courts and the local
25 administrative judge of the statutory county courts serving Fort
26 Bend County, and the order must state:

27 (1) the magistrate's name; and

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

2 (d) An authorized magistrate's position may be eliminated
3 on a majority vote of the Commissioners Court of Fort Bend County.

4 Sec. 54.2302. QUALIFICATIONS; OATH OF OFFICE. (a) To be
5 eligible for appointment as a magistrate, a person must:

6 (1) be a resident of this state and the county;

7 (2) have been licensed to practice law in this state
8 for at least four years;

9 (3) not have been removed from office by impeachment,
10 by the supreme court, by the governor on address to the legislature,
11 by a tribunal reviewing a recommendation of the State Commission on
12 Judicial Conduct, or by the legislature's abolition of the judge's
13 court; and

14 (4) not have resigned from office after having
15 received notice that formal proceedings by the State Commission on
16 Judicial Conduct had been instituted as provided by Section [33.022](#)
17 and before the final disposition of the proceedings.

18 (b) A magistrate appointed under Section 54.2301 must take
19 the constitutional oath of office required of appointed officers of
20 this state.

21 Sec. 54.2303. COMPENSATION. (a) A magistrate is entitled
22 to the salary determined by the Commissioners Court of Fort Bend
23 County.

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

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

1 salary of a justice of the peace. The per-hour salary is determined
2 by dividing the annual salary by a 2,000 work-hour year. The local
3 administrative judge of the district courts serving Fort Bend
4 County shall approve the number of hours to be paid a part-time
5 magistrate.

6 (d) A magistrate's salary is paid from the county fund
7 available for payment of officers' salaries.

8 Sec. 54.2304. JUDICIAL IMMUNITY. A magistrate has the same
9 judicial immunity as a district judge.

10 Sec. 54.2305. TERMINATION OF EMPLOYMENT. (a) A magistrate
11 may be terminated by a majority vote of all the judges of the
12 district courts and statutory county courts of Fort Bend County.

13 (b) To terminate a magistrate's employment, the local
14 administrative judge of the district courts and the local
15 administrative judge of the statutory county courts serving Fort
16 Bend County must sign a written order of termination. The order
17 must state:

18 (1) the magistrate's name; and

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

20 Sec. 54.2306. DUTIES AND POWERS. (a) A magistrate shall
21 inform the person arrested, in clear language, of the accusation
22 against the person and of any affidavit filed with the accusation.
23 A magistrate shall inform the person arrested of the person's right
24 to retain counsel, to remain silent, to have an attorney present
25 during any interview with a peace officer or an attorney
26 representing the state, to terminate the interview at any time, and
27 to request the appointment of counsel if the person is indigent and

1 cannot afford counsel. The magistrate shall also inform the person
2 arrested that the person is not required to make a statement and
3 that any statement made by the person may be used against the
4 person. The magistrate must allow the person arrested reasonable
5 time and opportunity to consult counsel and shall admit the person
6 arrested to bail if allowed by law. In addition to the powers and
7 duties specified by this subsection, a magistrate has all other
8 powers and duties of a magistrate specified by the Code of Criminal
9 Procedure and other laws of this state.

10 (b) A magistrate may determine the amount of bail and grant
11 bail under Chapter 17, Code of Criminal Procedure, and as otherwise
12 provided by law.

13 (c) A magistrate shall be available, within 24 hours of a
14 defendant's arrest, to determine probable cause for further
15 detention, administer warnings, inform the accused of the pending
16 charges, and determine all matters pertaining to bail. Magistrates
17 shall be available to review and issue search warrants and arrest
18 warrants as provided by law.

19 (d) A magistrate may dispose of criminal cases filed in the
20 justice court as provided by law and collect fines and enforce the
21 judgments and orders of the justice courts in criminal cases.

22 (e) A magistrate may enforce the judgments and orders of the
23 statutory county courts in criminal cases.

24 Sec. 54.2307. MENTAL HEALTH JURISDICTION. The judges of
25 the statutory county courts of Fort Bend County may authorize a
26 magistrate as necessary to hear emergency mental health matters
27 under Chapter 573, Health and Safety Code. A magistrate has

1 concurrent limited jurisdiction with the statutory county courts to
2 hear emergency mental health matters under Chapter 573, Health and
3 Safety Code. This section does not impair the jurisdiction of the
4 statutory county courts to review or alter the decision of the
5 magistrate.

6 Sec. 54.2308. PERSONNEL, EQUIPMENT, AND OFFICE SPACE. The
7 Commissioners Court of Fort Bend County shall provide:

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

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

14 Sec. 54.2309. SHERIFF. On request of a magistrate
15 appointed under this subchapter, the sheriff, in person or by
16 deputy, shall assist the magistrate.

17 Sec. 54.2310. CLERK. The district clerk or county clerk, as
18 applicable, shall perform the statutory duties necessary for the
19 magistrate appointed under this subchapter in cases filed in a
20 district court and in cases filed in a statutory county court.

21 SECTION 4. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2019.