

By: Miles

S.B. No. 2254

A BILL TO BE ENTITLED

AN ACT

relating to the creation of magistrates in Fort Bend County

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

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

SUBCHAPTER LL. MAGISTRATES IN FORT BEND COUNTY

Sec. 54.2101. AUTHORIZATION; APPOINTMENT; ELIMINATION. (a)

The Commissioners Court of Fort Bend County may authorize the judges of the district and statutory county courts in Fort Bend 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 courts and statutory county courts in Fort Bend County by a unanimous vote may appoint magistrates as authorized by the Commissioners Court of Fort Bend County.

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

(1) the magistrate's name; and

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

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

Sec. 54.2102. QUALIFICATIONS; OATH OF OFFICE. (a) To be

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

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

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

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

10 (4) not have resigned from office after having
11 received notice that formal proceedings by the State Commission on
12 Judicial Conduct had been instituted as provided in Section 33.022
13 and before the final disposition of the proceedings.

14 (b) A magistrate appointed under Section 54.2101 must take
15 the constitutional oath of office required of appointed officers of
16 this state.

17 Sec. 54.2103. COMPENSATION. (a) A magistrate is entitled
18 to the salary determined by the Commissioners Court of Fort Bend
19 County.

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

23 (c) A part-time magistrate's salary is equal to the per-hour
24 salary of a justice of the peace. The per-hour salary is determined
25 by dividing the annual salary by a 2000 work-hour year. The local
26 administrative judge of the district courts serving Fort Bend
27 County shall approve the number of hours to be paid a part-time

1 magistrate.

2 (d) The magistrate's salary is paid from the county fund
3 available for payment of officers' salaries.

4 Sec. 54.2104. JUDICIAL IMMUNITY. A magistrate has the same
5 judicial immunity as a district judge.

6 Sec. 54.2105. TERMINATION OF EMPLOYMENT. (a) A magistrate
7 may be terminated by a majority vote of all the judges of the
8 district and statutory county courts of Fort Bend County.

9 (b) To terminate a magistrate's employment, the local
10 administrative judges of the district courts and statutory county
11 courts serving Fort Bend County must sign a written order of
12 termination. The order must state:

13 (1) the magistrate's name; and

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

15 Sec. 54.2106. DUTIES AND POWERS. (a) A magistrate shall
16 inform the person arrested, in clear language, of the accusation
17 against the person and of any affidavit filed with the accusation.
18 A magistrate shall inform the person arrested of the person's right
19 to retain counsel, to remain silent, to have an attorney present
20 during any interview with a peace officer or an attorney
21 representing the state, to terminate the interview at any time, and
22 to request the appointment of counsel if the person is indigent and
23 cannot afford counsel. The magistrate shall also inform the person
24 arrested that the person is not required to make a statement and
25 that any statement made by the person may be used against the
26 person. The magistrate must allow the person arrested reasonable
27 time and opportunity to consult counsel and shall admit the person

1 arrested to bail if allowed by law. In addition to the powers and
2 duties specified by this section, a magistrate has all other powers
3 and duties of a magistrate specified by the Code of Criminal
4 Procedure and other laws of this state.

5 (b) A magistrate may determine the amount of bail and grant
6 bail pursuant to Chapter 17, Code of Criminal Procedure, and as
7 otherwise provided by law.

8 (c) The magistrate shall be available, within 24 hours of a
9 defendant's arrest, to determine probable cause for further
10 detention, administer warnings, inform the accused of the pending
11 charges, and determine all matters pertaining to bail. Magistrates
12 shall be available to review and issue search warrants and arrest
13 warrants as provided by law.

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

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

19 Sec. 54.2107. MENTAL HEALTH JURISDICTION. The judges of
20 the statutory county courts of Fort Bend County may authorize a
21 magistrate to serve the probate courts of Fort Bend County as
22 necessary to hear emergency mental health matters under Chapter
23 573, Health and Safety Code. A magistrate has concurrent limited
24 jurisdiction with the probate courts of the county to hear
25 emergency mental health matters under Chapter 573, Health and
26 Safety Code. This section does not impair the jurisdiction of the
27 probate courts to review or alter the decision of the magistrate.

1 Sec. 54.2108. PERSONNEL, EQUIPMENT, AND OFFICE SPACE. The
2 Commissioners Court of Fort Bend County shall provide:

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

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

9 Sec. 54.2109. SHERIFF. On request of a magistrate
10 appointed under this subchapter, the sheriff, in person or by
11 deputy, shall assist the magistrate.

12 Sec. 54.2110. CLERK. The district clerk or county clerk
13 shall perform the statutory duties necessary for the magistrate
14 appointed under this subchapter in cases filed in a district court
15 and a statutory county court.

16 SECTION 2. Article 2.09, Code of Criminal Procedure, is
17 amended to read as follows:

18 Art. 2.09. WHO ARE MAGISTRATES. Each of the following
19 officers is a magistrate within the meaning of this Code, the
20 justices of the Supreme Court, the judges of the Court of Criminal
21 Appeals, the justices of the Courts of Appeals, the judges of the
22 District Court, the magistrates appointed by the judges of the
23 district courts of Bexar County, Dallas County, or Tarrant County
24 that give preference to criminal cases, the criminal law hearing
25 officers appointed under Subchapter L, Chapter 54, Government Code,
26 the criminal law hearing officers for Cameron County appointed
27 under Subchapter BB, Chapter 54, Government Code, the magistrates

1 or associate judges appointed by the judges of the district courts
2 of Lubbock County, Nolan County, or Webb County, the magistrates
3 appointed by the judges of the criminal district courts of Dallas
4 County or Tarrant County, the associate judges appointed by the
5 judges of the district courts and the county courts at law that give
6 preference to criminal cases in Jefferson County, the associate
7 judges appointed by the judges of the district courts and the
8 statutory county courts of Brazos County, Nueces County, or
9 Williamson County, the magistrates appointed by the judges of the
10 district courts and statutory county courts that give preference to
11 criminal cases in Travis County, the criminal magistrates appointed
12 by the Brazoria County Commissioners Court, the criminal
13 magistrates appointed by the Burnet County Commissioners Court, the
14 county judges, the judges of the county courts at law, judges of the
15 county criminal courts, the judges of statutory probate courts, the
16 associate judges appointed by the judges of the statutory probate
17 courts under Chapter 54A, Government Code, the associate judges
18 appointed by the judge of a district court under Chapter 54A,
19 Government Code, the magistrates appointed under Subchapter JJ,
20 Chapter 54, Government Code, as added by H.B. No. 2132, Acts of the
21 82nd Legislature, Regular Session, 2011, the magistrates appointed
22 under Subchapter LL, Chapter 54, Government Code, the justices of
23 the peace, and the mayors and recorders and the judges of the
24 municipal courts of incorporated cities or towns.

25 SECTION 3. Article 4.01, Code of Criminal Procedure, is
26 amended to read as follows:

27 Art. 4.01. WHAT COURTS HAVE CRIMINAL JURISDICTION. The

1 following courts have jurisdiction in criminal actions:

- 2 1. The Court of Criminal Appeals;
- 3 2. Courts of appeals;
- 4 3. The district courts;
- 5 4. The criminal district courts;
- 6 5. The magistrates appointed by the judges of the district courts
- 7 of Bexar County, Dallas County, Tarrant County, or Travis County
- 8 that give preference to criminal cases, ~~and~~ the magistrates
- 9 appointed by the judges of the criminal district courts of Dallas
- 10 County or Tarrant County, and the magistrates appointed by the
- 11 judges of the statutory county courts and district courts of Fort
- 12 Bend County that give preference to criminal cases;
- 13 6. The county courts;
- 14 7. All county courts at law with criminal jurisdiction;
- 15 8. County criminal courts;
- 16 9. Justice courts;
- 17 10. Municipal courts; and
- 18 11. The magistrates appointed by the judges of the district courts
- 19 of Lubbock County.

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