

1-1 By: Miles S.B. No. 2254
 1-2 (In the Senate - Filed March 8, 2019; March 21, 2019, read
 1-3 first time and referred to Committee on State Affairs; May 1, 2019,
 1-4 reported adversely, with favorable Committee Substitute by the
 1-5 following vote: Yeas 8, Nays 0; May 1, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 COMMITTEE SUBSTITUTE FOR S.B. No. 2254 By: Zaffirini

1-18 A BILL TO BE ENTITLED
 1-19 AN ACT

1-20 relating to creation of magistrates in Fort Bend County.
 1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-22 SECTION 1. Article 2.09, Code of Criminal Procedure, is
 1-23 amended to read as follows:
 1-24 Art. 2.09. WHO ARE MAGISTRATES. Each of the following
 1-25 officers is a magistrate within the meaning of this Code: The
 1-26 justices of the Supreme Court, the judges of the Court of Criminal
 1-27 Appeals, the justices of the Courts of Appeals, the judges of the
 1-28 District Court, the magistrates appointed by the judges of the
 1-29 district courts of Bexar County, Dallas County, or Tarrant County
 1-30 that give preference to criminal cases, the criminal law hearing
 1-31 officers for Harris County appointed under Subchapter L, Chapter
 1-32 54, Government Code, the criminal law hearing officers for Cameron
 1-33 County appointed under Subchapter BB, Chapter 54, Government Code,
 1-34 the magistrates or associate judges appointed by the judges of the
 1-35 district courts of Lubbock County, Nolan County, or Webb County,
 1-36 the magistrates appointed by the judges of the criminal district
 1-37 courts of Dallas County or Tarrant County, the associate judges
 1-38 appointed by the judges of the district courts and the county courts
 1-39 at law that give preference to criminal cases in Jefferson County,
 1-40 the associate judges appointed by the judges of the district courts
 1-41 and the statutory county courts of Brazos County, Nueces County, or
 1-42 Williamson County, the magistrates appointed by the judges of the
 1-43 district courts and statutory county courts that give preference to
 1-44 criminal cases in Travis County, the criminal magistrates appointed
 1-45 by the Brazoria County Commissioners Court, the criminal
 1-46 magistrates appointed by the Burnet County Commissioners Court, the
 1-47 county judges, the judges of the county courts at law, judges of the
 1-48 county criminal courts, the judges of statutory probate courts, the
 1-49 associate judges appointed by the judges of the statutory probate
 1-50 courts under Chapter 54A, Government Code, the associate judges
 1-51 appointed by the judge of a district court under Chapter 54A,
 1-52 Government Code, the magistrates appointed under Subchapter JJ,
 1-53 Chapter 54, Government Code, as added by H.B. No. 2132, Acts of the
 1-54 82nd Legislature, Regular Session, 2011, the magistrates appointed
 1-55 under Subchapter NN, Chapter 54, Government Code, the justices of
 1-56 the peace, and the mayors and recorders and the judges of the
 1-57 municipal courts of incorporated cities or towns.
 1-58 SECTION 2. Article 4.01, Code of Criminal Procedure, is
 1-59 amended to read as follows:
 1-60 Art. 4.01. WHAT COURTS HAVE CRIMINAL JURISDICTION. The

2-1 following courts have jurisdiction in criminal actions:
2-2 1. The Court of Criminal Appeals;
2-3 2. Courts of appeals;
2-4 3. The district courts;
2-5 4. The criminal district courts;
2-6 5. The magistrates appointed by the judges of the district
2-7 courts of Bexar County, Dallas County, Tarrant County, or Travis
2-8 County that give preference to criminal cases, ~~and~~ the
2-9 magistrates appointed by the judges of the criminal district courts
2-10 of Dallas County or Tarrant County, and the magistrates appointed
2-11 by the judges of the statutory county courts and district courts of
2-12 Fort Bend County that give preference to criminal cases;

2-13 6. The county courts;
2-14 7. All county courts at law with criminal jurisdiction;
2-15 8. County criminal courts;
2-16 9. Justice courts;
2-17 10. Municipal courts; and
2-18 11. The magistrates appointed by the judges of the district
2-19 courts of Lubbock County.

2-20 SECTION 3. Chapter 54, Government Code, is amended by
2-21 adding Subchapter NN to read as follows:

2-22 SUBCHAPTER NN. MAGISTRATES IN FORT BEND COUNTY

2-23 Sec. 54.2301. AUTHORIZATION; APPOINTMENT; ELIMINATION.

2-24 (a) The Commissioners Court of Fort Bend County may authorize the
2-25 judges of the district courts and statutory county courts in Fort
2-26 Bend County to appoint one or more part-time or full-time
2-27 magistrates to perform the duties authorized by this subchapter.

2-28 (b) The judges of the district courts and statutory county
2-29 courts in Fort Bend County by a unanimous vote may appoint
2-30 magistrates as authorized by the Commissioners Court of Fort Bend
2-31 County.

2-32 (c) An order appointing a magistrate must be signed by the
2-33 local administrative judge of the district courts and the local
2-34 administrative judge of the statutory county courts serving Fort
2-35 Bend County, and the order must state:

- 2-36 (1) the magistrate's name; and
- 2-37 (2) the date the magistrate's employment is to begin.

2-38 (d) An authorized magistrate's position may be eliminated
2-39 on a majority vote of the Commissioners Court of Fort Bend County.

2-40 Sec. 54.2302. QUALIFICATIONS; OATH OF OFFICE. (a) To be
2-41 eligible for appointment as a magistrate, a person must:

- 2-42 (1) be a resident of this state and the county;
- 2-43 (2) have been licensed to practice law in this state
2-44 for at least four years;

2-45 (3) not have been removed from office by impeachment,
2-46 by the supreme court, by the governor on address to the legislature,
2-47 by a tribunal reviewing a recommendation of the State Commission on
2-48 Judicial Conduct, or by the legislature's abolition of the judge's
2-49 court; and

2-50 (4) not have resigned from office after having
2-51 received notice that formal proceedings by the State Commission on
2-52 Judicial Conduct had been instituted as provided by Section 33.022
2-53 and before the final disposition of the proceedings.

2-54 (b) A magistrate appointed under Section 54.2301 must take
2-55 the constitutional oath of office required of appointed officers of
2-56 this state.

2-57 Sec. 54.2303. COMPENSATION. (a) A magistrate is entitled
2-58 to the salary determined by the Commissioners Court of Fort Bend
2-59 County.

2-60 (b) A full-time magistrate's salary may not be less than
2-61 that of a justice of the peace of Fort Bend County as established by
2-62 the annual budget of Fort Bend County.

2-63 (c) A part-time magistrate's salary is equal to the per-hour
2-64 salary of a justice of the peace. The per-hour salary is determined
2-65 by dividing the annual salary by a 2,000 work-hour year. The local
2-66 administrative judge of the district courts serving Fort Bend
2-67 County shall approve the number of hours to be paid a part-time
2-68 magistrate.

2-69 (d) A magistrate's salary is paid from the county fund

3-1 available for payment of officers' salaries.

3-2 Sec. 54.2304. JUDICIAL IMMUNITY. A magistrate has the same
3-3 judicial immunity as a district judge.

3-4 Sec. 54.2305. TERMINATION OF EMPLOYMENT. (a) A magistrate
3-5 may be terminated by a majority vote of all the judges of the
3-6 district courts and statutory county courts of Fort Bend County.

3-7 (b) To terminate a magistrate's employment, the local
3-8 administrative judge of the district courts and the local
3-9 administrative judge of the statutory county courts serving Fort
3-10 Bend County must sign a written order of termination. The order
3-11 must state:

3-12 (1) the magistrate's name; and

3-13 (2) the final date of the magistrate's employment.

3-14 Sec. 54.2306. DUTIES AND POWERS. (a) A magistrate shall
3-15 inform the person arrested, in clear language, of the accusation
3-16 against the person and of any affidavit filed with the accusation.
3-17 A magistrate shall inform the person arrested of the person's right
3-18 to retain counsel, to remain silent, to have an attorney present
3-19 during any interview with a peace officer or an attorney
3-20 representing the state, to terminate the interview at any time, and
3-21 to request the appointment of counsel if the person is indigent and
3-22 cannot afford counsel. The magistrate shall also inform the person
3-23 arrested that the person is not required to make a statement and
3-24 that any statement made by the person may be used against the
3-25 person. The magistrate must allow the person arrested reasonable
3-26 time and opportunity to consult counsel and shall admit the person
3-27 arrested to bail if allowed by law. In addition to the powers and
3-28 duties specified by this subsection, a magistrate has all other
3-29 powers and duties of a magistrate specified by the Code of Criminal
3-30 Procedure and other laws of this state.

3-31 (b) A magistrate may determine the amount of bail and grant
3-32 bail under Chapter 17, Code of Criminal Procedure, and as otherwise
3-33 provided by law.

3-34 (c) A magistrate shall be available, within 24 hours of a
3-35 defendant's arrest, to determine probable cause for further
3-36 detention, administer warnings, inform the accused of the pending
3-37 charges, and determine all matters pertaining to bail. Magistrates
3-38 shall be available to review and issue search warrants and arrest
3-39 warrants as provided by law.

3-40 (d) A magistrate may dispose of criminal cases filed in the
3-41 justice court as provided by law and collect fines and enforce the
3-42 judgments and orders of the justice courts in criminal cases.

3-43 (e) A magistrate may enforce the judgments and orders of the
3-44 statutory county courts in criminal cases.

3-45 Sec. 54.2307. MENTAL HEALTH JURISDICTION. The judges of
3-46 the statutory county courts of Fort Bend County may authorize a
3-47 magistrate as necessary to hear emergency mental health matters
3-48 under Chapter 573, Health and Safety Code. A magistrate has
3-49 concurrent limited jurisdiction with the statutory county courts to
3-50 hear emergency mental health matters under Chapter 573, Health and
3-51 Safety Code. This section does not impair the jurisdiction of the
3-52 statutory county courts to review or alter the decision of the
3-53 magistrate.

3-54 Sec. 54.2308. PERSONNEL, EQUIPMENT, AND OFFICE SPACE. The
3-55 Commissioners Court of Fort Bend County shall provide:

3-56 (1) personnel for the legal or clerical functions
3-57 necessary to perform the magistrate's duties authorized by this
3-58 subchapter; and

3-59 (2) sufficient equipment and office space for the
3-60 magistrate and personnel to perform the magistrate's essential
3-61 functions.

3-62 Sec. 54.2309. SHERIFF. On request of a magistrate
3-63 appointed under this subchapter, the sheriff, in person or by
3-64 deputy, shall assist the magistrate.

3-65 Sec. 54.2310. CLERK. The district clerk or county clerk, as
3-66 applicable, shall perform the statutory duties necessary for the
3-67 magistrate appointed under this subchapter in cases filed in a
3-68 district court and in cases filed in a statutory county court.

3-69 SECTION 4. This Act takes effect immediately if it receives

4-1 a vote of two-thirds of all the members elected to each house, as
4-2 provided by Section 39, Article III, Texas Constitution. If this
4-3 Act does not receive the vote necessary for immediate effect, this
4-4 Act takes effect September 1, 2019.

4-5

* * * * *