Senate Research Center   C.S.S.B. 1139
84R20561 SRS-D   By: Huffman; Zaffirini
                                                                                         State Affairs
                                                                                          4/15/2015
                                                                   Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The State of Texas is experiencing both an increase in population and a shift in where the majority of residents live. As the state's population grows in some areas while declining in the others, the judicial needs of the various regions change. These shifting demographics can significantly impact the caseload of the existing courts. Historically, the Texas Legislature has compensated for changes in population by establishing new courts or changing existing judicial boundaries. Several factors are analyzed in the evaluation process, including increased caseloads, case backlogs, substantial population growth, and county support. In order to ensure that the creation of new courts and the modification of judicial jurisdictions is conducted in an orderly manner, C.S.S.B. 1139 consolidates these changes into a single omnibus bill.

C.S.S.B. 1139 amends current law relating to the operation and administration of and practice in courts in the judicial branch of state government and the composition of certain juvenile boards.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

ARTICLE 1. DISTRICT COURTS AND DISTRICT ATTORNEYS

SECTION 1.01. Amends Section 24.154(b), Government Code, to provide that the terms of the 52nd District Court begin on the first Mondays in January and July, rather than January and June.

SECTION 1.02. (a) Amends Section 24.275, Government Code, effective January 1, 2017, as follows:

> Sec. 24.275. New heading: 216TH JUDICIAL DISTRICT (GILLESPIE AND KERR COUNTIES). Provides that the 216th Judicial District is composed of Gillespie and Kerr counties, rather than of Gillespie, Kendall, and Kerr counties.

(b) Amends Subchapter C, Chapter 24, Government Code, effective January 1, 2017, by adding Section 24.591, as follows:

> Sec. 24.591. 451ST JUDICIAL DISTRICT (KENDALL COUNTY). (a) Provides that the 451st Judicial District is composed of Kendall County.

>> (b) Provides that, in addition to the other jurisdiction provided by law, the 451st District Court has concurrent jurisdiction with the County Court of Kendall County in all civil and criminal matters over which the county court would have original or appellate jurisdiction, including probate matters and proceedings under Subtitle C (Texas Mental Health Code), Title 7, Health and Safety Code.

>> (c) Requires that all civil and criminal matters within the concurrent jurisdiction of the county and district courts be filed with the county clerk

in the county court. Provides that the county clerk serves as the clerk of the district court for those matters.

(c) Amends Section 44.001, Government Code, effective January 1, 2017, as follows:

Sec. 44.001. ELECTION. Provides that the voters of certain counties, including Kendall County, elect a criminal district attorney.

(d) Amends Subchapter B, Chapter 44, Government Code, effective January 1, 2017, by adding Section 44.230, as follows:

Sec. 44.230. KENDALL COUNTY. (a) Requires the criminal district attorney of Kendall County to meet the following qualifications:

(1) be at least 30 years old;

(2) have been a practicing attorney in this state for at least five years; and

(3) have been a resident of Kendall County for at least one year before election or appointment.

(b) Provides that the criminal district attorney has all the powers, duties, and privileges in Kendall County that are conferred by law on county and district attorneys in the various counties and districts.

(c) Requires the criminal district attorney to attend each term and session of the district and inferior courts of Kendall County, except municipal courts, held for the transaction of criminal business and to exclusively represent the state in all criminal matters before those courts.

(d) Requires the criminal district attorney to represent Kendall County in any court in which the county has pending business. Provides that this subsection does not require the criminal district attorney to represent the county in a delinquent tax suit or condemnation proceeding and does not prevent the county from retaining other legal counsel in a civil matter at any time it considers appropriate to do so.

(e) Requires the criminal district attorney to collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(f) Entitles the criminal district attorney to receive in equal monthly installments compensation from the state equal to the amount paid by the state to district attorneys. Requires that the state compensation be paid by the comptroller of public accounts of the State of Texas (comptroller) as appropriated by the legislature. Requires the Commissioners Court of Kendall County to pay the criminal district attorney an additional amount so that the total compensation of the criminal district attorney equals at least 90 percent of the total salary paid to the judge of the 451st District Court in Kendall County. Requires that the compensation paid by the county be paid in semiweekly or bimonthly installments, as determined by the commissioners court.

(g) Authorizes the criminal district attorney or the Commissioners Court of Kendall County to accept gifts and grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting effective prosecution, crime prevention or suppression, rehabilitation of offenders, substance abuse education, treatment and prevention, or crime victim assistance programs

in Kendall County. Requires the criminal district attorney to account for and report to the commissioners court all gifts or grants accepted under this subsection.

(h) Authorizes the criminal district attorney, for the purposes of conducting affairs of the office, to appoint a staff composed of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel that the commissioners court may authorize. Provides that the salary of a staff member is an amount recommended by the criminal district attorney and approved by the commissioners court. Requires the commissioners court to pay the salaries of the staff in equal semiweekly or bimonthly installments from county funds.

(i) Requires the criminal district attorney to, with the advice and consent of the commissioners court, designate one or more individuals to act as an assistant criminal district attorney with exclusive responsibility for assisting the commissioners court. Requires that an individual designated as an assistant criminal district attorney under this subsection have extensive experience in representing public entities and knowledge of the laws affecting counties, including the open meetings and open records laws under Chapters 551 (Open Meetings) and 552 (Public Information).

(j) Entitles Kendall County to receive from the state an amount equal to the amount provided in the General Appropriations Act to district attorneys for the payment of staff salaries and office expenses.

(k) Authorizes the legislature to provide for additional staff members to be paid from state funds if it considers supplementation of the criminal district attorney's staff to be necessary.

(l) Prohibits the criminal district attorney and assistant criminal district attorney from engaging in the private practice of law or receiving a fee for the referral of a case.

(m) Provides that a vacancy in the office of criminal district attorney is filled by appointment by the Commissioners Court of Kendall County. Provides that the appointee holds office until the next general election.

(e) Amends Section 46.002, Government Code, effective January 1, 2017, to delete existing text including the district attorney for the 25th judicial district among the prosecutors and attorneys to whom this chapter applies and to include the district attorney for the 132nd judicial district among those prosecutors and attorneys. Includes the criminal district attorney of Kendall County and the county attorneys performing the duties of district attorneys in the counties of Aransas and Guadalupe among the prosecutors and attorneys to which this chapter applies.

(f) Provides that, effective January 1, 2017, the office of county attorney of Kendall County is abolished.

(g) Provides that the County Court at Law of Kendall County is abolished on the date the 451st District Court is created.

Repealers: Sections 25.1321 (Kendall County) and 25.1322 (Kendall County Court at Law Provisions), Government Code.

(h) Provides that, on the date the 451st District Court is created, all cases from Kendall County pending in the 216th District Court are transferred to the 451st District Court. Provides that on the date the County Court at Law of Kendall County is abolished, all cases pending in the court are transferred to the 451st District Court. Provides that, when a case is transferred from one court to another as provided by this section, all processes,

writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court. Provides that the obligees in all bonds and recognizances taken in and for a court from which a case is transferred and all witnesses summoned to appear in a court from which a case is transferred are required to appear before the court to which a case is transferred as if originally required to appear before the court to which the transfer is made.

(i) Provides that the 451st Judicial District is created January 1, 2017.

SECTION 1.03. (a) Amends Subchapter C, Chapter 24, Government Code, effective January 1, 2017, by adding Section 24.584, as follows:

Sec. 24.584. 440TH JUDICIAL DISTRICT (CORYELL COUNTY). Provides that the 440th Judicial District is composed of Coryell County.

(b) Provides that the 440th Judicial District is created January 1, 2017.

(c) Amends Subchapter D, Chapter 74, Government Code, by adding Section 74.0971, as follows:

Sec. 74.0971. LOCAL ADMINISTRATIVE DISTRICT JUDGE FOR CORYELL COUNTY. Provides that, notwithstanding Section 74.091(b) (requiring the judges in a county with two or more district courts to elect a district judge as local administrative district judge for a term of not more than two years and prohibiting the local administrative district judge from being elected on the basis of rotation or seniority), the local administrative district judge for Coryell County is selected on the basis of seniority from the district judges of the 52nd Judicial District and the 440th Judicial District.

SECTION 1.04. (a) Amends Subchapter C, Chapter 24, Government Code, by adding Section 24.590, as follows:

Sec. 24.590. 446TH JUDICIAL DISTRICT (ECTOR COUNTY). Provides that the 446th Judicial District is composed of Ector County.

(b) Provides that the 446th Judicial District is created September 1, 2015.

SECTION 1.05. (a) Amends Subchapter D, Chapter 24, Government Code, effective January 1, 2017, by adding Section 24.641, as follows:

Sec. 24.641. 507TH JUDICIAL DISTRICT (HARRIS COUNTY). Provides that the 507th Judicial District is composed of Harris County.

(b) Provides that the 507th Judicial District is created January 1, 2017.

SECTION 1.06. (a) Amends Subchapter D, Chapter 24, Government Code, by adding Sections 24.642 and 24.643, as follows:

Sec. 24.642. 469TH JUDICIAL DISTRICT (COLLIN COUNTY). Provides that the 469th Judicial District is composed of Collin County.

Sec. 24.643. 470TH JUDICIAL DISTRICT (COLLIN COUNTY). Provides that the 470th Judicial District is composed of Collin County.

(b) Provides that the 469th and 470th Judicial Districts are created September 1, 2015.

SECTION 1.07. (a) Amends Subchapter D, Chapter 24, Government Code, by adding Section 24.644, as follows:

Sec. 24.644. 505TH JUDICIAL DISTRICT (FORT BEND COUNTY). Provides that the 505th Judicial District is composed of Fort Bend County.

(b) Provides that the 505th Judicial District is created September 1, 2015.

SECTION 1.08. (a) Amends Section 46.002, Government Code, effective September 1, 2015, to include the district attorney for the 132nd judicial district among the prosecutors and attorneys to whom this chapter applies. Includes the county attorney performing the duties of district attorney in Aransas County among the prosecutors and attorneys to whom this chapter applies.

(b) Repealer: Section 43.156(b) (relating to the supplementation of the state salary of the district attorney of the 132nd Judicial District), Government Code.

ARTICLE 2. STATUTORY COUNTY COURTS, COUNTY ATTORNEYS, AND CERTAIN COUNTY JUDGES

SECTION 2.01. (a) Amends Section 25.0331(a), Government Code, to include the County Court at Law No. 4 of Cameron County, and the County Court at Law No. 5 of Cameron County among the statutory county courts of Cameron County.

(b) Amends Section 25.0332, Government Code, by adding Subsection (b) to require the County Court at Law No. 4 of Cameron County to give preference to probate, guardianship, and mental health matters.

(c) Provides that the County Court at Law No. 4 of Cameron County is created on January 1, 2016.

(d) Provides that the County Court at Law No. 5 of Cameron County is created on January 1, 2018.

SECTION 2.02. (a) Amends Section 25.0451(a), Government Code, to include the County Court at Law No. 7 of Collin County among the statutory county courts of Collin County.

(b) Provides that the County Court at Law No. 7 of Collin County is created on the effective date of this Act.

SECTION 2.03. (a) Amends Section 25.0811, Government Code, as follows:

Sec. 25.0811. FORT BEND COUNTY. Includes the County Court at Law No. 5 of Fort Bend County among the statutory county courts of Fort Bend County.

(b) Provides that the County Court at Law No. 5 of Fort Bend County is created January 1, 2016.

SECTION 2.04. (a) Amends Section 25.1031(b), Government Code, effective January 1, 2017, to include the County Criminal Court at Law No. 16 of Harris County, Texas, among the county criminal courts of Harris County.

(b) Provides that the County Criminal Court at Law No. 16 of Harris County is created January 1, 2017.

SECTION 2.05. Amends Section 25.1112(e), Government Code, as follows:

(e) Provides that the district clerk of Hill County serves as the clerk of a county court at law for all criminal and civil matters except that the county clerk serves as the clerk of the county court at law in probate and guardianship matters, rather than in uncontested probate and guardianship matters.

Deletes existing text requiring the county clerk to transfer to the district clerk any contested probate and guardianship matters filed with the county clerk.

SECTION 2.06. Amends Section 25.2222(a), Government Code, to provide that, notwithstanding any other provision, a county court at law in Tarrant County has jurisdiction on any appeal from a municipal court of record in Tarrant County that is not an appeal of a criminal law case or proceeding.

SECTION 2.07. (a) Amends Subchapter D, Chapter 25, Government Code, by adding Section 25.2607, as follows:

Sec. 25.2607. DESIGNATION OF ADMINISTRATIVE COUNTY FOR MULTICOUNTY STATUTORY COUNTY COURTS. (a) Provides that, if a statute that establishes a multicounty statutory county court does not designate one of the counties that compose the multicounty statutory county court as the administrative county for that court, the county with the greatest population of the counties composing the court at the time the court is established is the administrative county for that court.

(b) Authorizes the commissioners court of the counties that compose a multicounty statutory county court to enter into an agreement to provide support for the court. Authorizes the administrative county for the court to receive contributions from the other counties composing the court to pay the operating expenses of the court.

(c) Requires the administrative county, except for money provided by state appropriations or under an agreement under Subsection (b), to pay out of the county's general fund the salaries, compensation, and expenses incurred in operating the multicounty statutory county court.

(d) Requires the state, notwithstanding Section 25.0015, to annually compensate the administrative county of a multicounty statutory county court in an amount equal to 100 percent of the state salary of a district court judge in the county for the salary of the judge of the multicounty statutory county court.

(e) Requires the court fees and costs collected by the clerk of a multicounty statutory county court to be deposited in the appropriate county fund as provided by law.

(b) Amends Section 25.2701, Government Code, effective January 1, 2019, as follows:

Sec. 25.2701. New heading: 1ST MULTICOUNTY COURT AT LAW (FISHER AND NOLAN COUNTIES). Provides that Fisher and Nolan Counties, rather than Fisher, Mitchell, and Nolan Counties, have a multicounty statutory county court composed of those counties, and the 1st Multicounty Court at Law.

(c) Amends Section 25.2702, Government Code, by adding Subsection (c-1), to provide that Nolan County is the administrative county for the 1st Multicounty Court at Law.

(d) Repealer: Section 25.2702(g) (requiring the state to annually compensate Fisher, Mitchell, and Nolan Counties each in the amount required under Section 25.0015 (State Contribution) from amounts deposited in the judicial fund under Section 51.702 (Additional Fees and Costs in Statutory County Courts)), Government Code.

SECTION 2.08. (a) Amends Section 43.122, Government Code, as follows:

Sec. 43.122. 36TH JUDICIAL DISTRICT. Provides that the voters of San Patricio County, rather than of Aransas and San Patricio counties, elect a district attorney for the 36th Judicial District who represents the state in that district court only in that county, rather than only in those counties. Provides that in addition to exercising the duties and authority conferred on district attorneys by general law,

the district attorney represents the state in all criminal cases in the district courts in that county, rather than in those counties.

(b) Amends Subchapter B, Chapter 45, Government Code, by adding Section 45.104, as follows:

Sec. 45.104. ARANSAS COUNTY. (a) Requires the county attorney of Aransas County, in Aransas County, to perform the duties imposed on and have the powers conferred on district attorneys by general law.

(b) Authorizes the county attorney of Aransas County or the Commissioners Court of Aransas County to accept gifts or grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purposes of financing or assisting the operation of the office of county attorney in Aransas County. Requires the county attorney to account for and report to the commissioners court all gifts or grants accepted under this subsection.

SECTION 2.09. (a) Amends Subchapter B, Chapter 45, Government Code, effective January 1, 2017, by adding Section 45.194, as follows:

Sec. 45.194. GUADALUPE COUNTY. (a) Requires the county attorney of Guadalupe County, in Guadalupe County, to perform the duties imposed on and have the powers conferred on district attorneys by general law. Entitles the county attorney of Guadalupe County to be compensated by the state in the manner and amount set by general law relating to the salary paid to district attorneys by the state.

(b) Authorizes the county attorney of Guadalupe County or the Commissioners Court of Guadalupe County to accept gifts or grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purposes of financing or assisting the operation of the office of county attorney in Guadalupe County. Requires the county attorney to account for and report to the commissioners court all gifts or grants accepted under this subsection.

(b) Repealer, effective January 1, 2017: Section 43.112 (25th Judicial District), Government Code, as amended by Chapters 644 (H.B. 717) and 872 (H.B. 696), Acts of the 83rd Legislature, Regular Session, 2013.

(c) Provides that, on January 1, 2017, the office of district attorney for the 25th Judicial District is abolished.

ARTICLE 3. BAILIFFS

SECTION 3.01. Amends Chapter 53, Government Code, by adding Subchapter G, as follows:

SUBCHAPTER G. BAILIFFS FOR COUNTY COURTS AT LAW IN TARRANT COUNTY

Sec. 53.101. ASSIGNMENT OF BAILIFF. Requires that at least one bailiff be assigned regularly to each county court at law of Tarrant County.

Sec. 53.102. OFFICE OF BAILIFF; APPOINTMENT. (a) Authorizes the judge of each county court at law of Tarrant County to appoint one person to serve as bailiff of that court.

(b) Provides that the bailiff is an officer of the court and performs the duties of the office under the direction and supervision of the judge of the court.

Sec. 53.103. TERM OF OFFICE. Provides that the bailiff holds office at the will of the judge of the court served by the bailiff.

Sec. 53.104. DUTIES. Requires a bailiff to perform the duties imposed on bailiffs under the general law of this state and the other duties required by the judge of the court served.

Sec. 53.105. ASSIGNMENT OF BAILIFF BY SHERIFF. (a) Requires the sheriff of Tarrant County, if the judge of a county court at law of Tarrant County does not appoint a person to serve as bailiff under Section 53.102, to assign a bailiff for the court on written request of the judge.

> (b) Provides that a bailiff assigned by the sheriff serves at the pleasure of the court to which the bailiff is assigned. Requires a bailiff assigned by the sheriff to perform the duties required by the judge of the court.

> (c) Requires the sheriff, on request of the judge of a county court at law, to immediately assign a bailiff to the court served by the judge to fill a temporary absence of the appointed or assigned bailiff.

Sec. 53.106. COMPENSATION. Requires a bailiff appointed by the judge of a county court at law of Tarrant County to be compensated out of the general fund of the county in an amount to be set by the Commissioners Court of Tarrant County.

SECTION 3.02. Amends Chapter 53, Government Code, by adding Subchapter H, as follows:

SUBCHAPTER H. BAILIFFS FOR FAMILY DISTRICT COURTS IN TARRANT COUNTY

Sec. 53.121. OFFICE OF BAILIFF. Authorizes the judges of the 231st, 233rd, 322nd, 323rd, 324th, 325th, and 360th district courts to appoint one person to serve as bailiff of that court and one person to serve as bailiff for the district court served by an associate judge of that district court. Provides that a bailiff is an officer of the court and performs the duties of the office under the direction and supervision of the judge of that court.

Sec. 53.122. APPOINTMENT. Provides that an order signed by the appointing judge and entered on the minutes of the court is evidence of appointment of a bailiff. Requires the judge to give written notice to the commissioners court and each constable of Tarrant County of the appointment and date employed.

Sec. 53.123. QUALIFICATIONS. Requires a bailiff to be a citizen of the United States and to be 18 years of age or older.

Sec. 53.124. BAILIFF AS DEPUTY. Authorizes a constable of the county, on written notice of the appointment from the judge, to deputize the bailiff in addition to other deputies authorized by law.

Sec. 53.125. OATH. Requires that a certain oath be administered by the appointing judge to the bailiff appointed under this subchapter. Sets forth the language required to be included in the oath.

Sec. 53.126. TERM OF OFFICE. Provides that the bailiff holds office at the will of the judge of the court served by the bailiff.

Sec. 53.127. DUTIES. Requires a bailiff to perform the duties imposed on bailiffs under the general laws of this state and the other duties required by the judge of the court served.

Sec. 53.128. COMPENSATION. Requires the bailiff to be compensated out of the general fund of the county in an amount to be set by the Commissioners Court of Tarrant County.

ARTICLE 4. CERTAIN CRIMINAL LAW MAGISTRATE COURTS, CERTAIN CRIMINAL LAW HEARING OFFICERS, AND A JUVENILE BOARD

SECTION 4.01. (a) Amends Article 2.09, Code of Criminal Procedure, to include the associate judges appointed by the judges of the district courts and the statutory county courts of Hidalgo County as officers who are magistrates within the meaning of this code.

(b) Amends Chapter 54, Government Code, by adding Subchapter MM, as follows:

SUBCHAPTER MM. CRIMINAL LAW MAGISTRATES IN HIDALGO COUNTY

Sec. 54.2101. APPLICATION. Provides that this subchapter applies to the district courts and the county courts at law in Hidalgo County.

Sec. 54.2102. APPOINTMENT; COMPENSATION. (a) Requires the Commissioners Court of Hidalgo County to set the number of magistrates needed to perform the duties authorized by this subchapter.

(b) Requires a magistrate to be paid a salary determined by the Commissioners Court of Hidalgo County.

(c) Authorizes the judges of the district courts who wish to use the services of a magistrate to jointly appoint the magistrates that will assist their courts. Authorizes the judges of the county courts at law who wish to use the services of a magistrate to jointly appoint the magistrates that will assist their courts. Authorizes a judge who uses the services of a magistrate to determine the extent to which those services are used in the judge's court.

(d) Authorizes a magistrate, on agreement between the judges of the district courts and the judges of the county courts at law who wish to use the services of a magistrate, to serve in both those district courts and those county courts at law. Requires a magistrate serving in both the district courts and the county courts at law to spend half the magistrate's time in the district courts and half in the county courts at law.

(e) Requires each magistrate, if the number of magistrates is less than the number of the judges who wish to use the services of a magistrate, to serve equally in the courts of those judges.

(f) Provides that a magistrate serves a one-year term, unless the magistrate is terminated under Section 54.2109.

(g) Authorizes a magistrate to be employed on a full-time or part-time basis. Requires a court served by the magistrate to determine the magistrate's work schedule.

Sec. 54.2103. ELIGIBILITY FOR APPOINTMENT. Requires the judges of the district courts or the judges of the county courts aw law, as applicable, in determining whom to appoint as a magistrate under this subchapter, to give priority to a retired or former judge, as those terms are defined by Section 74.041. Requires the appointing judges, if no retired or former judge desires to be appointed, to consider for appointment persons who:

(1) are licensed to practice law in this state;

(2) reside in Hidalgo County;

(3) have at least 10 years of active experience in criminal law practice; and

(4) exhibit judicial temperaments.

Sec. 54.2104. JUDICIAL IMMUNITY. Provides that a magistrate has the same judicial immunity as a district judge or judge of a county court at law, as applicable.

Sec. 54.2105. STAFF FOR MAGISTRATE. (a) Requires the clerk of a court a magistrate serves to provide a clerk for the magistrate.

(b) Requires a sheriff's deputy to attend a proceeding conducted by a magistrate and act as a bailiff.

Sec. 54.2106. PROCEEDINGS THAT MAY BE REFERRED. Authorizes a judge who appoints a magistrate under Section 54.2102 to refer to the magistrate any criminal case for proceedings involving:

(1) arraignment of defendants;

(2) a negotiated plea of guilty or no contest;

(3) sentencing for a negotiated plea of guilty or no contest;

(4) ordering of community service;

(5) a pretrial motion;

(6) an examining trial;

(7) a bond forfeiture suit;

(8) issuance of capias;

(9) issuance of arrest and search warrants;

(10) setting of bonds;

(11) a motion to increase or decrease a bond;

(12) a hearing on a protective order;

(13) a motion to grant, modify, revoke, or extend community supervision or to proceed to an adjudication;

(14) a pretrial diversion;

(15) civil commitment matters under Subtitle C, Title 7, Health and Safety Code;

(16) an agreed recommendation for a presentence investigation report for determination of a sentence; and

(17) any other matter the judge considers necessary and proper.

Sec. 54.2107. POWERS. Authorizes a magistrate to whom a case is referred, except as limited by an order of referral, to:

(1) conduct hearings;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on admissibility of evidence;

(5) issue summons for the appearance of witnesses;

(6) examine witnesses;

(7) swear witnesses for hearings;

(8) make findings of fact on evidence;

(9) formulate conclusions of law;

(10) rule on pretrial motions;

(11) recommend the rulings, orders, or judgment to be made in a case;

(12) regulate proceedings in a hearing;

(13) in any case referred under Section 54.2106:

(A) accept a negotiated plea of guilty;

(B) enter a finding of guilt and impose or suspend sentence; or

(C) defer adjudication of guilt; and

(14) do any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

Sec. 54.2108. DISMISSAL. Prohibits a magistrate appointed under this subchapter from dismissing a case.

Sec. 54.2109. TERMINATION OF SERVICES. Authorizes the magistrate's service with respect to a particular type of court, regardless of whether a magistrate serves in both the district courts and the county courts at law or whether the magistrate serves in only one of those types of courts, to be terminated only on a majority vote of the judges of that type of court who appointed the magistrate under Section 54.2102, or their successors.

Sec. 54.2110. ABSENCE OF MAGISTRATE. (a) Authorizes the local administrative judge of the type of court with respect to which the magistrate served, if a magistrate appointed under this subchapter is absent or unable to serve, to appoint a temporary magistrate to serve for the absent magistrate.

(b) Provides that a temporary magistrate serving for another magistrate under this section has the powers and is required to perform the duties of the magistrate for whom the temporary magistrate is serving.

Sec. 54.2111. RECORD OF PROCEEDINGS. Requires that a criminal proceeding in a magistrate court be recorded by a good quality electronic audio or videotape recording device, unless the defendant requests that a court reporter be present. Requires that the record be retained by the clerk of the court as required by law.

Sec. 54.2112. PAPERS TRANSMITTED TO JUDGE. Requires a magistrate, at the conclusion of the proceedings, to transmit to the referring court as soon as

possible any papers relating to the case, including the magistrate's findings, conclusions, orders, recommendations, or other action taken.

Sec. 54.2113. JUDICIAL ACTION. (a) Authorizes the judge of the court in which the case is pending to modify, correct, reject, reverse, or recommit for further information any action taken by the magistrate.

(b) Provides that if the supervising judge or judges do not modify, correct, reject, reverse, or recommit an action of the magistrate within the time required by law, the action becomes the order, judgment, or decree of the court.

Sec. 54.2114. PRETRIAL DIVERSION. Requires a defendant, as a condition for a defendant to enter any pretrial diversion program or the functional equivalent that may be operated in Hidalgo County, to file in the court in which the charges are pending a sworn waiver of the defendant's right to a speedy trial under the United States Constitution and other law and a motion requesting the court to approve the waiver without a hearing. Provides that, if the court approves the waiver, the defendant is eligible for consideration for acceptance into a pretrial diversion or equivalent program.

SECTION 4.02. (a) Amends Section 54.732, Government Code, to provide that the El Paso Criminal Law Magistrate Court is a court having the jurisdiction provided by this subchapter over offenses allegedly committed in El Paso County, rather than committed in El Paso except for that portion of the county in the corporate limits of Vinton, Texas.

(b) Amends Section 54.733, Government Code, by adding Subsection (j), to provide that the criminal law magistrate court has concurrent criminal jurisdiction with the justice courts located in El Paso County.

(c) Amends Section 54.735, Government Code, as follows:

Sec. 54.735. POWERS AND DUTIES. (a) Creates this subsection from existing text. Provides that a judge of the criminal law magistrate court has all other powers, duties, immunities, and privileges provided by law for:

(1) justices of the peace when acting in a Class C misdemeanor case;

(2) county court judges when acting in a Class A or Class B misdemeanor case, rather than acting in a misdemeanor case; and

(3) district court judges when acting in a felony case.

Makes nonsubstantive changes.

(b) Authorizes a judge of the criminal law magistrate court to hold an indigency hearing and a capias pro fine hearing. Authorizes a judge of the criminal law magistrate court, when acting as the judge who issued the capias pro fine, to make all findings of fact and conclusions of law required of the judge who issued the capias pro fine. Provides that, in conducting a hearing under this subsection, the judge of the criminal law magistrate court is empowered to make all findings of fact and conclusions of law and to issue all orders necessary to properly dispose of the capias pro fine or indigency hearing in accordance with the provisions of the Code of Criminal Procedure applicable to a misdemeanor or felony case of the same type and level.

(d) Amends Section 54.736(b), Government Code, to require the council of judges to ensure that the criminal law magistrate court gives preference to magistrate duties, as

those duties apply to the county jail inmate population first and then to newly detained individuals, until the commissioners court provides funds for more than one judge to sit on the criminal law magistrate court.

(e) Amends Section 54.737(c), Government Code, to delete Subdivision (1) requiring that the rules provide that a criminal law magistrate judge is prohibited from, on a regular basis, hold court or perform magistrate duties after 7 p.m. or before 7 a.m. Deletes designation of Subdivision (2).

(f) Amends Sections 54.738(a) and (c), Government Code, as follows:

>(a) Authorizes the local administrative judge or a judge of criminal law magistrate court, except as provided by Subsection (b) (prohibiting a case from being transferred from or to the magistrate docket of a judge on the El Paso Council of Judges without the consent of the judge of the court to which it is transferred) or local administrative rules, to transfer between courts a case that is pending in the court of any magistrate in the criminal law magistrate court's jurisdiction if the case is:

>>(1) an unindicted felony case;

>>(2) a Class A or Class B misdemeanor case if an information has not been filed; or

>>(3) a Class C misdemeanor case.

>Deletes existing text authorizing the local administrative judge or a judge of criminal law magistrate court, except as provided by Subsection (b) or local administrative rules, to transfer between courts any unindicted felony case, Class A misdemeanor case, or Class B misdemeanor case if an information has not been filed and if the case is pending in the court of any magistrate in the criminal law magistrate court's jurisdiction. Makes nonsubstantive changes.

>(c) Authorizes the local administrative judge, except as provided by Subsection (d) (prohibiting a case from being assigned to a judge on the council of judges without the assigned judge's consent) or local administrative rules, to assign a judge on the council of judges, a judge of the criminal law magistrate court, a retired judge, or any other magistrate to act as presiding judge in a case that is pending in the court of any magistrate in the criminal law magistrate court's jurisdiction if the case is:

>>(1) an unindicted felony case;

>>(2) a Class A or Class B misdemeanor case if an information has not been filed; or

>>(3) a Class C misdemeanor case.

>Deletes existing text authorizing the local administrative judge, except as provided by Subsection (d) or local administrative rules, to assign a judge on the council of judges, a judge of the criminal law magistrate court, or any other magistrate to act as presiding judge in any unindicted felony case, Class A misdemeanor case, or Class B misdemeanor case if an information has not been filed and if the case is pending in the court of any magistrate in the criminal law magistrate court's jurisdiction.

(g) Amends Section 54.739(d), Government Code, to provide that a case assigned under this subchapter to the criminal law magistrate court from a district court, a county court at law, or a justice court remains on the docket of the assigning court and in the assigning court's jurisdiction.

(h) Amends Section 54.741, Government Code, as follows:

Sec. 54.741. FORFEITURES. Authorizes bail bonds and personal bonds to be forfeited by the criminal law magistrate court in the manner provided by Chapter 22 (Forfeiture of Bail), Code of Criminal Procedure, and those forfeitures are required to be filed with:

(1) the district clerk if associated with a felony case;

(2) the county clerk if associated with a Class A or Class B misdemeanor case; or

(3) the same justice court clerk associated with the Class C misdemeanor case in which the bond was originally filed.

Deletes existing text authorizing bail bonds and personal bonds to be forfeited by the criminal law magistrate court in the manner provided by Chapter 22, Code of Criminal Procedure, and those forfeitures are required to be filed with the district clerk, except in cases in which the county clerk is the clerk under this subchapter.

(i) Amends Section 54.742, Government Code, by adding Subsection (c), as follows:

(c) Requires the justice clerk, when a justice clerk is the clerk under this subchapter, to charge the same court costs for cases filed in, transferred to, or assigned to the criminal law magistrate court that are charged in the justice courts.

(j) Amends Section 54.744, Government Code, to include any Class C misdemeanor case filed in a justice court among cases for which the judges on the El Paso Council of Judges and the judges on the criminal law magistrate court may sit and act for any magistrate in El Paso County.

(k) Amends Section 54.745(a), Government Code, as follows:

(a) Requires a defendant, as a condition for a defendant to enter any pretrial diversion program, including a behavioral modification program, a health care program, a specialty court program, or the functional equivalent that may be operated in El Paso County by El Paso County, Emergence Health Network, the City of El Paso, the West Texas Regional Adult Probation Department, a community partner approved by the council of judges, or a county or district attorney of El Paso County, to file in the court in which the charges are pending a sworn waiver of speedy trial motion requesting the court to approve without a hearing defendant's waiver of his speedy trial rights under the constitution and other law. Makes no further change to this subsection.

(l) Amends Sections 54.746(d) and (e), Government Code, as follows:

(d) Requires a judge of a county court at law in El Paso County to exercise jurisdiction granted by Subsection (a) (providing that, in addition to jurisdiction conferred by other law, each district court and county court at law in El Paso County has the same jurisdiction given to the criminal law magistrate court by this subchapter) over felony indictments and felony informations and justice court cases, rather than felony information, only as a judge presiding for the court in which the felony or Class C misdemeanor is pending and only if the El Paso Council of Judges has so provided in the local administrative rules by a unanimous vote. Makes no further change to this subsection.

(e) Requires a judge of a district court in El Paso County to exercise jurisdiction granted by Subsection (a) over misdemeanor information and justice court cases only as a judge presiding for the court in which the misdemeanor is pending and

only if the council of judges has so provided in the local administrative rules by a unanimous vote. Makes no further change to this subsection.

(m) Amends Section 54.750, Government Code, by adding Subsection (d), to provide that, when conducting a capias pro fine hearing for any court, the criminal law magistrate court acts in the same capacity and with the same authority as the judge who issued the capias pro fine.

(n) Amends Sections 54.753(a) and (b), Government Code, as follows:

(a) Provides that the district clerk serves as clerk of the criminal law magistrate court, except that:

(1) after a Class A or Class B misdemeanor, rather than after a misdemeanor, information is filed in the county court at law and assigned to the criminal law magistrate court, the county clerk serves as clerk for that misdemeanor case; and

(2) after a Class C misdemeanor is filed in a justice court and assigned to the criminal law magistrate court, the originating justice court clerk serves as clerk for that misdemeanor case.

(b) Authorizes the district clerk and the deputies of the district clerk, to facilitate the duties associated with serving as the clerk of the criminal law magistrate court, to serve as deputy justice clerks and deputy county clerks at the discretion of the district clerk. Makes no further change to this subsection.

(o) Amends Section 54.759, Government Code, as follows:

Sec. 54.759. LOCATION OF COURT. (a) Creates this subsection from existing text. Authorizes the criminal law magistrate court to be held at one or more locations, rather than at the location that is, provided by the local administrative rules or ordered by the local administrative judge.

(b) Provides that a defendant may be brought before the court in person or by means of an electronic broadcast system through which an image of the defendant is presented to the court. Defines "electronic broadcast system" for purposes of this subsection to mean to two-way electronic communication of image and sound between the defendant and the court and includes secure Internet videoconferencing.

SECTION 4.03. (a) Amends Section 54.1356(a), Government Code, to provide that the jurisdiction of the criminal law hearing officer is limited to presiding over an extradition proceeding under Article 51.13 (Uniform Criminal Extradition Act), Code of Criminal Procedure.

(b) Amends Section 54.1358, Government Code, by adding Subsections (f) and (g), as follows:

(f) Authorizes a criminal law hearing officer, in accordance with Article 26.13 (Plea of Guilty), Code of Criminal Procedure, to accept a plea of guilty or nolo contendere.

(g) Authorizes a criminal law hearing officer to determine whether a defendant is indigent and appoint counsel for an indigent defendant.

(c) Amends Subchapter BB, Chapter 54, Government Code, by adding Section 54.1362, as follows:

Sec. 54.1362. PROCEEDINGS THAT MAY BE REFERRED. Authorizes a district judge or a county court at law judge to refer to a criminal law hearing officer any criminal case for proceedings involving:

(1) a bond forfeiture;

(2) the arraignment of defendants;

(3) the determination of whether a defendant is indigent and the appointment of counsel for an indigent defendant; and

(4) a negotiated plea of guilty or nolo contendere before the court, in accordance with Article 26.13, Code of Criminal Procedure.

SECTION 4.04. Amends Section 152.0131(a), Human Resources Code, to provide that the juvenile board of Atascosa County is composed of the county judge, the district judges in Atascosa County, and the judge of the County Court at Law of Atascosa County.

ARTICLE 5. EFFECTIVE DATE

SECTION 5.01. Effective date, except as otherwise provided by this Act: September 1, 2015.