

## CHAPTER 224

H.B. No. 2113

## AN ACT

relating to the appointment of hearing officers for criminal and mental health cases in certain courts.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Chapter 54, Government Code, is amended by adding Subchapter L to read as follows:

**SUBCHAPTER L. CRIMINAL LAW HEARING  
OFFICERS IN CERTAIN COUNTIES**

*Sec. 54.851. APPLICATION. This subchapter applies only to counties with a population of two million or more.*

*Sec. 54.852. APPOINTMENT. (a) A board composed of three judges of the district courts of Harris County trying criminal cases, three judges of the county criminal courts at law, and three justices of the peace in Harris County may appoint criminal law hearing officers, with the consent and approval of the commissioners court, to perform the duties authorized by this subchapter. A quorum is two-thirds of the members of the board.*

*(b) The board shall ensure that the criminal law hearing officers appointed under this subchapter are representative of the race, sex, national origin, and ethnicity of the population of Harris County.*

*(c) A criminal law hearing officer serves a one-year term and continues to serve until a successor is appointed.*

*(d) A criminal law hearing officer appointed under this subchapter may be terminated at any time in the same manner as appointed.*

*(e) A criminal law hearing officer may not engage in the private practice of law or serve as a mediator or arbitrator or otherwise participate as a neutral party in any alternate dispute resolution proceeding, with or without compensation.*

*(f) A criminal law hearing officer is subject to proceedings under Article V, Section 1-a, of the Texas Constitution.*

*Sec. 54.853. QUALIFICATIONS. To be eligible for appointment as a criminal law hearing officer under this subchapter, a person must:*

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

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

*(3) not have been defeated for reelection to a judicial office;*

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

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

*Sec. 54.854. COMPENSATION. (a) Each criminal law hearing officer is entitled to a salary in the amount set by the commissioners court.*

*(b) The salary may not be less than the salary authorized to be paid to a master for family law cases appointed under Subchapter A.*

*(c) The salary is paid from the county fund available for payment of officers' salaries.*

*Sec. 54.855. OATH. A criminal law hearing officer must take the constitutional oath of office required of appointed officers of this state.*

*Sec. 54.856. CRIMINAL JURISDICTION. (a) A criminal law hearing officer appointed under this subchapter has limited concurrent jurisdiction over criminal cases filed in the district courts, county criminal courts at law, and justice courts of the county. The jurisdiction of the criminal law hearing officer is limited to:*

*(1) determining probable cause for further detention of any person detained on a criminal complaint, information, or indictment filed in the district courts, county criminal courts at law, or justice courts of the county;*

*(2) committing the defendant to jail, discharging the defendant from custody, or admitting the defendant to bail, as the law and facts of the case require;*

*(3) issuing search warrants and arrest warrants as provided by law for magistrates; and*

*(4) as to criminal cases filed in justice courts, disposing of cases as provided by law, other than by trial, and collecting fines and enforcing judgments and orders of the justice courts in criminal cases.*

*(b) This section does not limit or impair the jurisdiction of the court in which the complaint, information, or indictment is filed to review or alter the decision of the criminal law hearing officer.*

*(c) In a felony or misdemeanor case punishable by incarceration in the county jail, a criminal law hearing officer may not dismiss the case, enter a judgment of acquittal or guilt, or pronounce sentence.*

*Sec. 54.857. MENTAL HEALTH JURISDICTION. The judges appointing a criminal law hearing officer may authorize the criminal law hearing officer to serve the statutory probate courts of Harris County as necessary to hear emergency mental health matters under Chapter 573, Health and Safety Code. A criminal law hearing officer has concurrent limited jurisdiction with the statutory probate courts of the county to hear emergency mental health matters under Chapter 573, Health and Safety Code. This section does not impair the jurisdiction of the statutory probate courts to review or alter the decision of the criminal law hearing officer.*

*Sec. 54.858. DUTIES AND POWERS. (a) A criminal law hearing officer shall inform the person arrested, in clear language, of the accusation against the person and of any affidavit filed with the accusation. A criminal law hearing officer shall inform the person arrested of the person's right to retain counsel, to remain silent, to have an attorney present during any interview with a peace officer or an attorney representing the state, to terminate the interview at any time, and to request the appointment of counsel if the person is indigent and cannot afford counsel. The criminal law hearing officer shall also inform the person arrested that the person is not required to make a statement and that any statement made by the person may be used against the person. The criminal law hearing officer must allow the person arrested reasonable time and opportunity to consult counsel and shall admit the person arrested to bail if allowed by law.*

*(b) A criminal law hearing officer may determine the amount of bail and grant bail pursuant to Chapter 17, Code of Criminal Procedure, and as otherwise provided by law.*

*(c) A criminal law hearing officer may issue a magistrate's order for emergency apprehension and detention under Chapter 573, Health and Safety Code, if the criminal law hearing officer makes each finding required by Section 573.012(b), Health and Safety Code.*

*(d) The criminal law hearing officer shall be available, within 24 hours of a defendant's arrest, to determine probable cause for further detention, administer warnings, inform the accused of the pending charges, and determine all matters pertaining to bail. Criminal law*

*hearing officers shall be available to review and issue search warrants and arrest warrants as provided by law.*

*(e) A criminal law hearing officer may dispose of criminal cases filed in the justice court as provided by law, other than by trial, and collect fines and enforce the judgments and orders of the justice courts in criminal cases.*

*Sec. 54.859. JUDICIAL IMMUNITY. A criminal law hearing officer has the same judicial immunity as a district judge, statutory county court judge, and justice of the peace.*

*Sec. 54.860. SHERIFF. On request of a criminal law hearing officer appointed under this subchapter, the sheriff, in person or by deputy, shall assist the criminal law hearing officer.*

*Sec. 54.861. CLERK. The district clerk shall perform the statutory duties necessary for the criminal law hearing officers appointed under this subchapter in cases filed in a district court or county criminal court. A person designated to serve as clerk of a justice court shall perform the statutory duties necessary for cases filed in a justice court.*

SECTION 2. 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 magistrates appointed by the judges of the district courts of Lubbock County, and the magistrates appointed by the judges of the criminal district courts of Dallas County or Tarrant County, the county judges, the judges of the county courts at law, judges of the county criminal courts, the judges of statutory probate courts, the justices of the peace, the mayors and recorders and the judges of the municipal courts of incorporated cities or towns.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on April 23, 1993, by a non-record vote; passed by the Senate on May 12, 1993: Yeas 31, Nays 0.

Approved May 18, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.