

## **BILL ANALYSIS**

C.S.H.B. 3241  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

While prior to 1899, municipal courts only had jurisdiction to adjudicate city ordinance violations, their subject matter jurisdiction has subsequently been expanded to include all state criminal law violations punishable by fine only. Such offenses are prosecuted in the name of the State of Texas. Chapter 45 of the Code of Criminal Procedure provides that the city attorney or deputy city attorney shall conduct all prosecutions in municipal court. Although they operate in the context of city government, municipal courts are state trial courts “governed by the same rules of practice as are other state courts” *Ex Parte Quintanilla*, 207 S.W.2d 377 (Tex.Crim.App.1947). Despite consistent case law to the contrary, some members of fringe groups and defendants continue to assert that city attorneys are not “attorneys for the state” and are thus not legally entitled to prosecute in municipal courts. *Martin v. State*, 13 S.W.2d 133, 139 (Tex.App.Dallas – 2000). While such arguments have not been given credence, the Court of Criminal Appeals has considered the confusion surrounding the evolved role of the city attorney in the prosecution of state law matters. *Aguirre v. State*, 22 S.W.2d 463 (Tex.Crim.App.1999).

C.S.H.B. 3241 clarifies the holding of Texas appellate courts, specifically that city attorneys and or other lawyers appointed in a pro tem capacity are in fact serving as an “attorney for the state.” The bill clarifies the role of the city attorney in the prosecution of cases in municipal court and clarifies provisions of the Code of Criminal Procedure relating to enforcement and indigence issues in light of U.S. Supreme Court case law.

### **RULEMAKING AUTHORITY**

It is the committee’s opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3241 amends the Code of Criminal Procedure to include a city attorney in the definition of an “attorney for the state.” The bill also requires a magistrate, before whom a person is taken who was arrested under a warrant issued in another county, to obtain approval of the magistrate or court that issued the warrant when accepting a plea of guilty or nolo contendere or making other determinations. Furthermore, the magistrate is also able to enter a final judgment in the case.

C.S.H.B. 3241 would permit municipal judges and justices of the peace to waive payment of a fine or court cost imposed on a defendant who defaults in payment if the judge determines that the defendant is indigent and that each alternative method of discharging the fine or cost would impose an undue hardship on the defendant. The decision of the court on this matter is final.

### **EFFECTIVE DATE**

September 1, 2003.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute differs from the original bill to include a city attorney, rather than a municipal prosecutor, in the definition of an “attorney for the state.” The substitute also adds the provision which allows a judge to order a defendant to be confined in jail if the defendant is indigent and has failed to make a good faith effort to discharge the fine and costs pursuant to the judgment. Additionally, the substitute adds a provision which states that a decision to waive payment of a fine or court cost imposed on an indigent defendant is final.