

BILL ANALYSIS

C.S.H.B. 4039
By: Anderson
Judiciary
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In McLennan County, the appointment of magistrates for initial disposition of criminal cases has been handled on a voluntary basis amongst the justices of the peace in that county. This structure is largely dependent on the scheduling and availability of a justice of the peace. The purpose of the bill is to allow for the appointment of magistrates in McLennan County by the district judges and county court at law judges that give preference to criminal cases, with the consent and approval of the Commissioners Court of McLennan County.

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

SECTION 1. Adds Subchapter CC to Chapter 54 of the Government Code (Magistrates in McLennan County), containing Sections 54.1511 through 54.1515.

Section 54.1511 allows the appointment of magistrates in McLennan County by the judges of the district courts and the judges of the county courts at law in McLennan County that give preference to criminal cases, subject to the consent and approval of the Commissioners Court of McLennan County.

Section 54.1512 establishes the qualifications for a magistrate: 1) must be a resident of McLennan County; and 2) must have been licensed to practice law in this state or have served as a judge or magistrate in this state for at least four years.

Section 54.1513 allows the Commissioners Court to determine the salary for magistrates.

Section 54.1514 grants judicial immunity to a magistrate.

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Section 54.1514 (a) establishes the powers that a magistrate has, subject to the standing orders of the appointing judges. A magistrate may: 1) investigate applications for personal bonds; 2) give statutory warnings; 3) set bonds, including surety bonds; and 4) issue personal bonds to qualified defendants. Subsection (b) allows a county judge the same powers as a magistrate under this subchapter. Subsection (c) allows a magistrate to administer oaths for any purpose.

EFFECTIVE DATE

Immediately on receipt of required vote; otherwise September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute changes the magistrates' appointing entity from the Commissioners Court to the district judges and county court at law judges of McLennan County that give preference to criminal cases, with the consent and approval of the Commissioners Court. CSHB 4039 also changes the qualifications section of the statute, to require that a magistrate be licensed to

practice law, or has served as a judge or magistrate, for four years. Furthermore, the powers of a magistrate are more specific in the substitute as to bonding and issuance of warnings.