

BILL ANALYSIS

Senate Research Center
82R5631 KFF-D

H.B. 3844
By: Aycock (Fraser)
Jurisprudence
5/16/2011
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, while some counties have the authority to hire a magistrate, others cannot hire a magistrate or appoint an associate judge to magistrate so such a county may contract with an associate judge from a city. H.B. 3844 seeks to authorize Burnet County to hire a magistrate having jurisdiction over criminal matters.

H.B. 3844 amends current law relating to the creation of criminal law magistrates for Burnet County.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 54, Government Code, by adding Subchapter JJ, as follows:

SUBCHAPTER JJ. BURNET COUNTY CRIMINAL MAGISTRATES

Sec. 54.1951. APPOINTMENT. (a) Authorizes the Commissioners Court of Burnet County to select magistrates to serve the courts of Burnet County having jurisdiction in criminal matters.

(b) Requires the commissioners court to establish the minimum qualifications, salary, benefits, and other compensation of each magistrate position and to determine whether the position is full-time or part-time. Requires that the qualifications require the magistrate to have served as a justice of the peace or municipal court judge, or be an attorney licensed in this state.

(c) Provides that a magistrate appointed under this section serves at the pleasure of the commissioners court.

Sec. 54.1952. JURISDICTION. Provides that a magistrate has concurrent criminal jurisdiction with the judges of the justice of the peace courts of Burnet County.

Sec. 54.1953. POWERS AND DUTIES. (a) Requires the Commissioners Court of Burnet County to establish the powers and duties of a magistrate appointed under this subchapter. Provides that, except as otherwise provided by the commissioners court, a magistrate has the powers of a magistrate under the Code of Criminal Procedure and other laws of this state and may administer an oath for any purpose.

(b) Requires a magistrate to give preference to performing the duties of a magistrate under Article 15.17 (Duties of Arresting Officer and Magistrate), Code of Criminal Procedure.

(c) Authorizes the commissioners court to designate one or more magistrates to hold regular hearings to give admonishments, set and review bail and conditions

of release, appoint legal counsel, and determine other routine matters relating to preindictment or pending cases within those courts' jurisdiction.

(d) Requires a magistrate, in the hearings provided under Subsection (c), to give preference to the case of an individual held in county jail.

(e) Authorizes a magistrate to inquire into a defendant's intended plea to the charge and set the case for an appropriate hearing before a judge or master.

Sec. 54.1954. JUDICIAL IMMUNITY. Provides that a magistrate has the same judicial immunity as a district judge.

Sec. 54.1955. WITNESSES. (a) Provides that a witness who is sworn and who appears before a magistrate is subject to the penalties for perjury and aggravated perjury provided by law.

(b) Authorizes a referring court to fine or imprison a witness or other court participant for failure to appear after being summoned, refusal to answer questions, or other acts of direct contempt before a magistrate.

SECTION 2. Amends Article 2.09, Code of Criminal Procedure, to provide that each of certain officers is a magistrate within the meaning of this Code, including the criminal magistrates appointed by the Burnet County Commissioners Court.

SECTION 3. Effective date: upon passage or September 1, 2011.