

BILL ANALYSIS

H.B. 3844
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

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.

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

H.B. 3844 amends the Government Code to authorize the Commissioners Court of Burnet County to select magistrates to serve the courts of Burnet County having jurisdiction in criminal matters. The bill 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. The bill sets as required qualifications that a magistrate have served as a justice of the peace or municipal court judge or be an attorney licensed in Texas. The bill specifies that a magistrate appointed under the bill's provisions serves at the pleasure of the commissioners court and gives such a magistrate concurrent criminal jurisdiction with the judges of the justice of the peace courts of Burnet County.

H.B. 3844 requires the commissioners court to establish the powers and duties of a magistrate appointed under the bill's provisions. The bill gives such a magistrate the powers of a magistrate under provisions of law of Texas and authorizes such a magistrate to administer an oath for any purpose. The bill requires such a magistrate to give preference to performing the duties of a magistrate under Code of Criminal Procedure provisions relating to the duties of an arresting officer and magistrate and 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. The bill requires the magistrate, in such hearings, to give preference to the case of an individual held in county jail.

H.B. 3844 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. The bill gives such a magistrate the same judicial immunity as a district judge and makes a witness who is sworn and who appears before a magistrate subject to the penalties for perjury and aggravated perjury provided by law. The bill 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.

H.B. 3844 amends the Code of Criminal Procedure to make a conforming change.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.