

1-1 By: Aycock (Senate Sponsor - Fraser) H.B. No. 3844  
1-2 (In the Senate - Received from the House May 13, 2011;  
1-3 May 13, 2011, read first time and referred to Committee on  
1-4 Jurisprudence; May 21, 2011, reported favorably by the following  
1-5 vote: Yeas 4, Nays 0; May 21, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the creation of criminal law magistrates for Burnet  
1-9 County.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Chapter 54, Government Code, is amended by  
1-12 adding Subchapter JJ to read as follows:

1-13 SUBCHAPTER JJ. BURNET COUNTY CRIMINAL MAGISTRATES

1-14 Sec. 54.1951. APPOINTMENT. (a) The Commissioners Court of  
1-15 Burnet County may select magistrates to serve the courts of Burnet  
1-16 County having jurisdiction in criminal matters.

1-17 (b) The commissioners court shall establish the minimum  
1-18 qualifications, salary, benefits, and other compensation of each  
1-19 magistrate position and shall determine whether the position is  
1-20 full-time or part-time. The qualifications must require the  
1-21 magistrate to:

1-22 (1) have served as a justice of the peace or municipal  
1-23 court judge; or

1-24 (2) be an attorney licensed in this state.

1-25 (c) A magistrate appointed under this section serves at the  
1-26 pleasure of the commissioners court.

1-27 Sec. 54.1952. JURISDICTION. A magistrate has concurrent  
1-28 criminal jurisdiction with the judges of the justice of the peace  
1-29 courts of Burnet County.

1-30 Sec. 54.1953. POWERS AND DUTIES. (a) The Commissioners  
1-31 Court of Burnet County shall establish the powers and duties of a  
1-32 magistrate appointed under this subchapter. Except as otherwise  
1-33 provided by the commissioners court, a magistrate has the powers of  
1-34 a magistrate under the Code of Criminal Procedure and other laws of  
1-35 this state and may administer an oath for any purpose.

1-36 (b) A magistrate shall give preference to performing the  
1-37 duties of a magistrate under Article 15.17, Code of Criminal  
1-38 Procedure.

1-39 (c) The commissioners court may designate one or more  
1-40 magistrates to hold regular hearings to:

1-41 (1) give admonishments;

1-42 (2) set and review bail and conditions of release;

1-43 (3) appoint legal counsel; and

1-44 (4) determine other routine matters relating to  
1-45 preindictment or pending cases within those courts' jurisdiction.

1-46 (d) In the hearings provided under Subsection (c), a  
1-47 magistrate shall give preference to the case of an individual held  
1-48 in county jail.

1-49 (e) A magistrate may inquire into a defendant's intended  
1-50 plea to the charge and set the case for an appropriate hearing  
1-51 before a judge or master.

1-52 Sec. 54.1954. JUDICIAL IMMUNITY. A magistrate has the same  
1-53 judicial immunity as a district judge.

1-54 Sec. 54.1955. WITNESSES. (a) A witness who is sworn and  
1-55 who appears before a magistrate is subject to the penalties for  
1-56 perjury and aggravated perjury provided by law.

1-57 (b) A referring court may fine or imprison a witness or  
1-58 other court participant for failure to appear after being summoned,  
1-59 refusal to answer questions, or other acts of direct contempt  
1-60 before a magistrate.

1-61 SECTION 2. Article 2.09, Code of Criminal Procedure, is  
1-62 amended to read as follows:

1-63 Art. 2.09. WHO ARE MAGISTRATES. Each of the following  
1-64 officers is a magistrate within the meaning of this Code: The

2-1 justices of the Supreme Court, the judges of the Court of Criminal  
2-2 Appeals, the justices of the Courts of Appeals, the judges of the  
2-3 District Court, the magistrates appointed by the judges of the  
2-4 district courts of Bexar County, Dallas County, or Tarrant County  
2-5 that give preference to criminal cases, the criminal law hearing  
2-6 officers for Harris County appointed under Subchapter L, Chapter  
2-7 54, Government Code, the criminal law hearing officers for Cameron  
2-8 County appointed under Subchapter BB, Chapter 54, Government Code,  
2-9 the magistrates appointed by the judges of the district courts of  
2-10 Lubbock County, Nolan County, or Webb County, the magistrates  
2-11 appointed by the judges of the criminal district courts of Dallas  
2-12 County or Tarrant County, the masters appointed by the judges of the  
2-13 district courts and the county courts at law that give preference to  
2-14 criminal cases in Jefferson County, the magistrates appointed by  
2-15 the judges of the district courts and the statutory county courts of  
2-16 Brazos County, Nueces County, or Williamson County, the magistrates  
2-17 appointed by the judges of the district courts and statutory county  
2-18 courts that give preference to criminal cases in Travis County, the  
2-19 criminal magistrates appointed by the Brazoria County  
2-20 Commissioners Court, the criminal magistrates appointed by the  
2-21 Burnet County Commissioners Court, the county judges, the judges of  
2-22 the county courts at law, judges of the county criminal courts, the  
2-23 judges of statutory probate courts, the associate judges appointed  
2-24 by the judges of the statutory probate courts under Subchapter G,  
2-25 Chapter 54, Government Code, the associate judges appointed by the  
2-26 judge of a district court under Subchapter II, Chapter 54,  
2-27 Government Code, the justices of the peace, and the mayors and  
2-28 recorders and the judges of the municipal courts of incorporated  
2-29 cities or towns.

2-30 SECTION 3. This Act takes effect immediately if it receives  
2-31 a vote of two-thirds of all the members elected to each house, as  
2-32 provided by Section 39, Article III, Texas Constitution. If this  
2-33 Act does not receive the vote necessary for immediate effect, this  
2-34 Act takes effect September 1, 2011.

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