

## **BILL ANALYSIS**

Senate Research Center  
76R2717 DB-F

S.B. 611  
By: Ogden  
Intergovernmental Relations  
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As Filed

### **DIGEST**

Currently, under Texas law, a person who has been arrested must appear before a magistrate in a timely fashion. Current conditions in Williamson County have created difficulties in meeting this requirement. This bill allows criminal court judges in Williamson County to appoint persons to perform the duties now performed by the jail magistrates, together with such other duties as the judges see fit.

### **PURPOSE**

As proposed, S.B. 611 authorizes the appointment of criminal magistrates for Williamson County and sets forth the duties of criminal magistrates.

### **RULEMAKING AUTHORITY**

This bill does not 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 P, as follows:

#### **SUBCHAPTER P. WILLIAMSON COUNTY CRIMINAL MAGISTRATES**

Sec. 54.951. APPOINTMENT. Authorizes the judges of the district courts and statutory county courts having criminal jurisdiction in Williamson County to select, by a majority vote, magistrates to serve the Williamson County criminal courts. Requires the commissioners court to establish the minimum qualifications, salary, benefits, and other compensation of each magistrate position and requires the commissioners court to determine whether the position is full or part-time. Establishes that a magistrate appointed under this section serves at the pleasure of a majority of the judges making appointments under this section. Authorizes a magistrate to concurrently serve as an associate judge, referee, or master under another statute unless that statute prohibits holding another judicial position, subject to the commissioners court approval of a magistrate's total compensation.

Sec. 54.952. JURISDICTION. Provides that a magistrate has concurrent criminal jurisdiction with the judges of the statutory county courts and justice of the peace courts of Williamson County.

Sec. 54.953. POWERS AND DUTIES. Provides that a magistrate has all of the powers of a magistrate under the Code of Criminal Procedure and other laws of this state, except as provided by Subsection (b), and authorizes a magistrate to administer an oath for any purpose. Prohibits a magistrate who is not an attorney from issuing arrest and search warrants. Requires a magistrate to give preference to performing the duties of a magistrate under Article 15.17, Code of Criminal Procedure. Authorizes a magistrate to enforce a prior judgment or order of a justice court in a criminal case. Authorizes a magistrate to exercise concurrent criminal jurisdiction with a justice of the peace to dispose as provided by law of certain cases, except for a trial on the merits following a plea of not guilty, with the express authorization of the justice of the peace. Authorizes the judges of the statutory county courts with criminal jurisdiction to designate, by majority vote, one or more magistrates to hold regular hearings to perform certain actions. Requires a magistrate to give preference to the case of an individual held in county jail, in the hearings provided under Subsection (e). Authorizes the 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.

Prohibits a statement by a defendant under these circumstances concerning an intended plea from being admitted into evidence in any other proceeding, except as provided by Subsection (d) or (h). Authorizes certain magistrates to accept pleas, direct supervision officers to prepare presentence reports, and set cases for sentencing before a judge or master, if a defendant pleads guilty, nolo contendere, or true after being properly admonished.

Sec. 54.954. **MASTERS IN CRIMINAL CASES.** Authorizes the judge of a statutory county court with criminal jurisdiction in Williamson County to designate a magistrate by written referral order to serve as a master in connection with a criminal case pending before the court. Requires the magistrate to be qualified to serve as a judge of the court in order to be qualified to serve as master. Authorizes a magistrate appointed to serve as master to consider any referred matter pending before the court but prohibits the magistrate from conducting a trial on the merits following a plea of not guilty. Authorizes the magistrate to perform certain duties. Prohibits a magistrate from issuing a judgment or order, except as provided by Subsection (c), but authorizes a magistrate to only certify to the referring court the master's findings of fact, conclusions of law, and recommended judgment or order. Authorizes the defendant or the attorney representing the state to obtain de novo review by the referring court if the de novo review is requested in writing by a certain date, except as provided by Subsection (g). Requires a request for review to set out specifically complaints regarding the master's findings of fact, conclusions of law, and recommendations. Provides that review is limited to the issues complained of by one or both parties. Requires the referring court, if no request for review is received, to enter a judgment or order by a certain date that approves, modifies, corrects, rejects, reverses, or recommits for further information the master's recommendation. Provides that if no action is taken within that time, the recommendation is considered rejected, and requires the court to reconsider the matter de novo as if the matter had not been referred. Authorizes a plea bargaining agreement between the state and the defendant to provide that both parties waive the right to review or appeal of a master's sentencing recommendation. Requires the waiver to be signed by both parties and filed with the master. Authorizes the defendant to withdraw the plea if the master rejects the agreement. Authorizes the referring judge to reject the recommendation of the master and permit the withdrawal of the plea or approve the agreement and immediately sign the recommended judgment and sentence.

Sec. 54.955. **JUDICIAL IMMUNITY.** Provides that a magistrate has the same judicial immunity as a district judge.

Sec. 54.956. **WITNESSES.** 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. 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.

Sec. 54.957. **COURT REPORTER.** Requires the court, at the request of a party, to provide a court reporter to record certain proceedings before a magistrate.

Sec. 54.958. **COSTS OF MAGISTRATE.** Requires a court to determine whether the nonprevailing party is able to defray the expense of the magistrate in each case in which a magistrate is used. Requires the court to tax the expense as court costs if the court determines the party can pay all or a portion of the expense.

Sec. 54.959. **SHERIFF.** Requires the sheriff, in person or by deputy, to assist the magistrate, on request of the magistrate.

Sec. 54.960. **CLERK.** Provides that the district clerk serves as clerk for a magistrate for a case under the jurisdiction of a district court. Provides that the county clerk serves as clerk for a magistrate for a case under the jurisdiction of a statutory county court. Provides that a clerk of a justice court serves as the clerk for a magistrate for a case under the jurisdiction of a justice court.

Sec. 54.961. **STAFF.** Requires the commissioners court to provide staff to perform the clerical functions for the magistrates.

SECTION 2. Amends Article 2.09, Code of Criminal Procedure, to include the magistrates appointed by the judges of the district and statutory county courts of Williamson County, among those officers considered magistrates under this code.

SECTION 3. Emergency clause.  
Effective date: upon passage.