

## **BILL ANALYSIS**

C.S.H.B. 2109  
By: Puente  
Judiciary  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Magistrates are used in a number of criminal courts to relieve a court's backlog by hearing non-trial proceedings. The purpose of this local bill is to provide for the appointment of criminal law magistrates in Bexar 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**

The bill amends Chapter 54 of the Government Code by adding provisions which would allow for the appointment in Bexar County of criminal law magistrates in addition to those currently provided for by law. The provisions for such additional magistrates cover qualifications, compensation, immunity, authority and other aspects of the magistrates' service.

### **EFFECTIVE DATE**

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

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute adds a new subsection to 54.1302, Probate Code, to provide that the term of a magistrate appointed under such section shall not exceed two years. An additional subsection in such section is amended to state that the appointing judges shall equal access to the magistrates if fewer magistrates are appointed than the number of courts. The qualifications of magistrates are amended to require residency in Bexar County. The provision of the bill regarding the clerk is amended to provide that the district clerk shall perform the required duties with respect to matters referred to magistrates under this statute, including county courts at law and municipal courts. The provision permitting a single judge to terminate a magistrate is deleted in the substitute. The substitute amends Section 54.1308 to expressly allow criminal matters in addition to cases to be referred. The substitute adds subsection (d) to Section 54.1310, Probate Code, not found in the original bill, stating that a magistrate appointed under these provisions may carry out the duties specified in the order of referral. The substitute also adds parts (16) and (17) to Section 54.1311, providing for additional powers of magistrates in referred cases. The substitute also adds a proviso to subsection (b) of 54.1311 providing that the limitation contained in that section does not apply when the magistrate is performing the duties of a magistrate under the Code of Criminal Procedure. The substitute alters the request of a party condition in Section 54.1312 and limits it to Class B misdemeanors or higher unless the magistrate is acting under the Code of Criminal Procedure. The substitute adds a new Section 54.1314 regarding papers transmitted to a judge. The substitute adds new conditions to the application of the section pertaining to judicial action excepting the application thereof from circumstances when the magistrate is performing duties of a magistrate under the Code of Criminal Procedure and except as otherwise required by law and deletes subsection (c) of this section. The substitute deletes Section 54.1316 in the original bill pertaining to costs of magistrate.