

BILL ANALYSIS

H.B. 1722
By: Castro
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current law does not explicitly authorize Bexar County magistrates to accept pleas on Class C misdemeanor or felony cases or to issue evidentiary search warrants for property or items constituting evidence of an offense or showing that a person committed an offense. Searching for an eligible judge to sign an evidentiary warrant in the middle of the night can often cost law enforcement important time during which the evidence may be lost or destroyed. Providing this authority to magistrates would increase the number of available judges during overnight hours and assist law enforcement officials in executing timely searches.

H.B. 1722 grants Bexar County magistrates the authority to issue evidentiary search warrants. The bill makes the judicial process more efficient by authorizing Bexar County magistrates to hear cases referred to them by Bexar County district judges where a defendant pleads guilty or nolo contendere in a felony case, Class C misdemeanor case, or any misdemeanor case if the defendant is also charged with a felony.

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. 1722 amends the Government Code to add to the list of proceedings that may be referred by a district court judge serving in Bexar County to a criminal law magistrate in the county any criminal case for proceedings involving a plea of guilty or nolo contendere from a defendant charged with a felony, a Class C misdemeanor, or any misdemeanor if the defendant is charged with both misdemeanor and felony offenses. The bill specifies that the proceedings authorized to be transferred to the magistrate involving the issuance of a search warrant include a search warrant for property or items constituting evidence, except the personal writings of the accused, notwithstanding certain provisions of the law. The bill specifies that the transfer does not apply to a proceeding involving the issuance of a subsequent search warrant for property or items.

H.B. 1722 authorizes a criminal law magistrate in Bexar County to whom a case is referred to accept cases and issue warrants as authorized above.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.