

## **BILL ANALYSIS**

Senate Research Center  
81R30266 KFF-D

C.S.H.B. 1722  
By: Castro, Gutierrez (Uresti)  
Criminal Justice  
5/20/2009  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

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 officials 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.

C.S.H.B. 1722 amends current law relating to the proceedings that may be referred to and the powers of a criminal law magistrate in Bexar County.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 54.906, Government Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Authorizes a judge to refer to a magistrate any criminal case or matter for proceedings involving the issuance of search warrants, including a search warrant under Article 18.02(10) (relating to a search warrant being issued to search for and seize property or items constituting evidence of an offense), Code of Criminal Procedure, notwithstanding Article 18.01(c) (relating to prohibiting a search warrant from being issued pursuant to Article 18.02(10)), Code of Criminal Procedure, and any other matter the judge considers necessary and proper. Deletes existing text relating to including a bond forfeiture and a negotiated plea of guilty before the court. Makes nonsubstantive changes.

(c) Provides that Subsection (a)(4) (relating to the issuance of search warrants) does not apply to the issuance of a subsequent search warrant under Article 18.02(10), Code of Criminal Procedure.

SECTION 2. Amends Section 54.908, Government Code, as follows:

Sec. 54.908. POWERS. (a) Authorizes a magistrate to whom a case is referred, except as limited by an order of referral, notwithstanding Article 18.01(c), Code of Criminal Procedure, to issue a search warrant under Article 18.02(10), Code of Criminal Procedure, rather than accept a plea of guilty for a misdemeanor from a defendant charged with both misdemeanor and felony offenses. Makes nonsubstantive changes.

(b) Provides that a magistrate does not have authority under Subsection (a)(13) (relating to issuing a search warrant under Article 18.02(10)), to issue a subsequent search warrant under Article 18.02(10), Code of Criminal Procedure.

SECTION 3. Effective date: upon passage or September 1, 2009.