

SENATE AMENDMENTS

2nd Printing

By: Castro, et al.

H.B. No. 1722

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the proceedings that may be referred to and the powers
3 of a criminal law magistrate in Bexar County.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 54.906, Government Code, is amended by
6 amending Subsection (a) and adding Subsection (c) to read as
7 follows:

8 (a) A judge may refer to a magistrate any criminal case for
9 proceedings involving:

10 (1) a bond forfeiture;

11 (2) a pretrial motion;

12 (3) a postconviction writ of habeas corpus;

13 (4) an examining trial;

14 (5) the issuance of search warrants, including a
15 search warrant under Article 18.02(10), Code of Criminal Procedure,
16 notwithstanding Article 18.01(c), Code of Criminal Procedure;

17 (6) the setting of bonds;

18 (7) the arraignment of defendants; ~~and~~

19 (8) a plea of guilty or nolo contendere from a
20 defendant charged with:

21 (A) a felony;

22 (B) a Class C misdemeanor; or

23 (C) any misdemeanor if the defendant is charged
24 with both misdemeanor and felony offenses; and

1 (9) any other matter the judge considers necessary and
2 proper [~~, including a negotiated plea of guilty before the court~~].

3 (c) Subsection (a)(5) does not apply to the issuance of a
4 subsequent search warrant under Article 18.02(10), Code of Criminal
5 Procedure.

6 SECTION 2. Section 54.908, Government Code, is amended to
7 read as follows:

8 Sec. 54.908. POWERS. (a) Except as limited by an order of
9 referral, a magistrate to whom a case is referred may:

- 10 (1) conduct hearings;
- 11 (2) hear evidence;
- 12 (3) compel production of relevant evidence;
- 13 (4) rule on admissibility of evidence;
- 14 (5) issue summons for the appearance of witnesses;
- 15 (6) examine witnesses;
- 16 (7) swear witnesses for hearings;
- 17 (8) make findings of fact on evidence;
- 18 (9) formulate conclusions of law;
- 19 (10) rule on a pretrial motion;
- 20 (11) recommend the rulings, orders, or judgment to be
21 made in a case;
- 22 (12) regulate proceedings in a hearing;
- 23 (13) accept a plea of guilty or nolo contendere [~~for a~~
24 ~~misdemeanor~~] from a defendant charged with:

25 (A) a felony;

26 (B) a Class C misdemeanor; or

27 (C) any [~~both~~] misdemeanor if the defendant is

1 charged with both misdemeanor and felony offenses; [~~and~~

2 (14) notwithstanding Article 18.01(c), Code of
3 Criminal Procedure, issue a search warrant under Article 18.02(10),
4 Code of Criminal Procedure; and

5 (15) do any act and take any measure necessary and
6 proper for the efficient performance of the duties required by the
7 order of referral.

8 (b) A magistrate does not have authority under Subsection
9 (a)(14) to issue a subsequent search warrant under Article
10 18.02(10), Code of Criminal Procedure.

11 SECTION 3. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2009.

ADOPTED

MAY 22 2009

Atty. Gen.
Secretary of the Senate

By: *[Signature]*

H.B. No. 1722

Substitute the following for H.B. No. 1722:

By: *[Signature]*

C.S. H.B. No. 1722

A BILL TO BE ENTITLED

AN ACT

relating to the proceedings that may be referred to and the powers of a criminal law magistrate in Bexar County.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

(a) A judge may refer to a magistrate any criminal case or matter for proceedings involving:

- (1) ~~[a bond forfeiture,~~
- ~~[(2)]~~ a pretrial motion;
- (2) ~~[(3)]~~ a postconviction writ of habeas corpus;
- (3) ~~[(4)]~~ an examining trial;
- (4) ~~[(5)]~~ the issuance of search warrants, including a search warrant under Article 18.02(10), Code of Criminal Procedure, notwithstanding Article 18.01(c), Code of Criminal Procedure;
- (5) ~~[(6)]~~ the setting of bonds;
- (6) ~~[(7)]~~ the arraignment of defendants; and
- (7) ~~[(8)]~~ any other matter the judge considers

necessary and proper ~~[, including a negotiated plea of guilty before the court].~~

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

1 SECTION 2. Section 54.908, Government Code, is amended to
2 read as follows:

3 Sec. 54.908. POWERS. (a) Except as limited by an order of
4 referral, a magistrate to whom a case is referred may:

- 5 (1) conduct hearings;
- 6 (2) hear evidence;
- 7 (3) compel production of relevant evidence;
- 8 (4) rule on admissibility of evidence;
- 9 (5) issue summons for the appearance of witnesses;
- 10 (6) examine witnesses;
- 11 (7) swear witnesses for hearings;
- 12 (8) make findings of fact on evidence;
- 13 (9) formulate conclusions of law;
- 14 (10) rule on a pretrial motion;
- 15 (11) recommend the rulings, orders, or judgment to be
16 made in a case;
- 17 (12) regulate proceedings in a hearing;
- 18 (13) notwithstanding Article 18.01(c), Code of
19 Criminal Procedure, issue a search warrant under Article 18.02(10),
20 Code of Criminal Procedure [~~accept a plea of guilty for a~~
21 ~~misdemeanor from a defendant charged with both misdemeanor and~~
22 ~~felony offenses~~]; and
- 23 (14) do any act and take any measure necessary and
24 proper for the efficient performance of the duties required by the
25 order of referral.

26 (b) A magistrate does not have authority under Subsection
27 (a)(13) to issue a subsequent search warrant under Article

1 18.02(10), Code of Criminal Procedure.

2 SECTION 3. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2009.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 22, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1722 by Castro (Relating to the proceedings that may be referred to and the powers of a criminal law magistrate in Bexar County.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, SD, ESi, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1722 by Castro (Relating to the proceedings that may be referred to and the powers of a criminal law magistrate in Bexar County.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

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Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, ESi, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 15, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1722 by Castro (Relating to the proceedings that may be referred to and the powers of a criminal law magistrate in Bexar County.), **As Engrossed**

No fiscal implication to the State is anticipated.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, ESi, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 18, 2009

TO: Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1722 by Castro (Relating to the proceedings that may be referred to and the powers of a criminal law magistrate in Bexar County.), **As Introduced**

No fiscal implication to the State is anticipated.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

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LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1722 by Castro (Relating to the proceedings that may be referred to and the powers of a criminal law magistrate in Bexar County.), **Committee Report 2nd House, Substituted**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, LM, TMP

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

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LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

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IN RE: HB1722 by Castro (Relating to the proceedings that may be referred to and the powers of a criminal law magistrate in Bexar County.), **As Introduced**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

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LBB Staff: JOB, TMP