

**House Bill 1722**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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 for proceedings involving:

- (1) a bond forfeiture;
  - (2) a pretrial motion;
  - (3) a postconviction writ of habeas corpus;
  - (4) an examining trial;
  - (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;
  - (6) the setting of bonds;
  - (7) the arraignment of defendants; ~~and~~
  - (8) a plea of guilty or nolo contendere from a defendant charged with:
    - (A) a felony;
    - (B) a Class C misdemeanor; or
    - (C) any misdemeanor if the defendant is charged with both misdemeanor and felony offenses; and
  - (9) any other matter the judge considers necessary and proper[, ~~including a negotiated plea of guilty before the court~~].
- (c) Subsection (a)(5) does not apply to the issuance of a subsequent search warrant under Article 18.02(10), Code of Criminal Procedure.

SENATE VERSION

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.

CONFERENCE

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HOUSE VERSION

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

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

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

SENATE VERSION

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

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- (1) conduct hearings;
- (2) hear evidence;
- (3) compel production of relevant evidence;
- (4) rule on admissibility of evidence;
- (5) issue summons for the appearance of witnesses;
- (6) examine witnesses;
- (7) swear witnesses for hearings;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) rule on a pretrial motion;
- (11) recommend the rulings, orders, or judgment to be made in a case;
- (12) regulate proceedings in a hearing;
- (13) ~~[accept a plea of guilty for a misdemeanor from a defendant charged with both misdemeanor and felony offenses];~~

notwithstanding Article 18.01(c), Code of Criminal Procedure, issue a search warrant under Article 18.02(10), Code of Criminal Procedure and

- (14) do any act and take any measure necessary and proper for the efficient performance of the duties

CONFERENCE

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HOUSE VERSION

required by the order of referral.

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

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

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required by the order of referral.

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

Same as House version.

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