

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 29, 2009

Date

Honorable David Dewhurst
President of the Senate

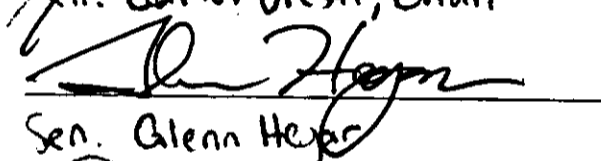
Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

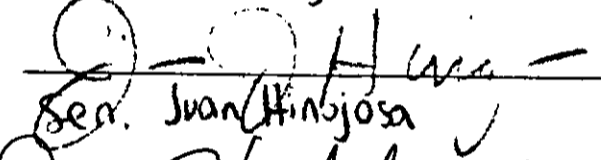
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 1722 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



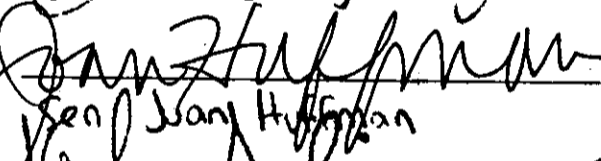
Sen. Carlos Uresti, Chair



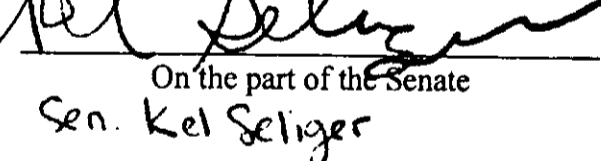
Sen. Glenn Heise



Sen. Juan Hinojosa

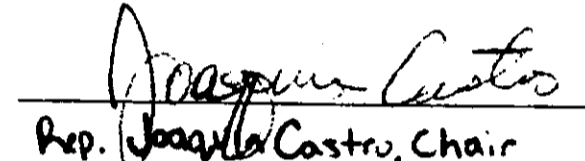


Sen. Wang Huffman

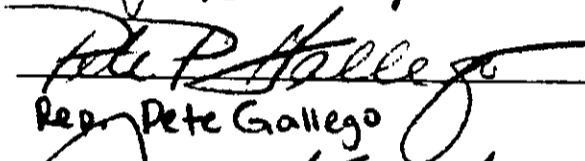


On the part of the Senate

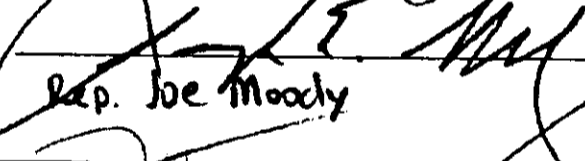
Sen. Kel Seliger



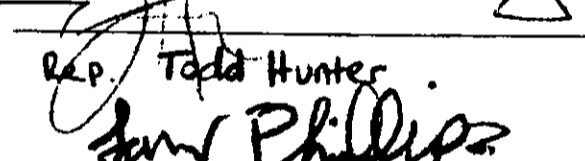
Rep. Joanna Castro, Chair



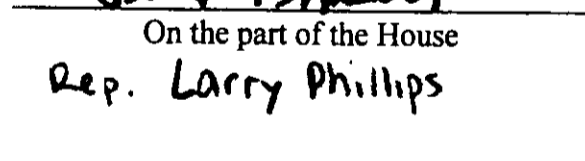
Rep. Pete Gallego



Rep. Joe Moody



Rep. Todd Hunter



On the part of the House

Rep. Larry Phillips

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

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 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) 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.

SECTION 2. Section 54.908, Government Code, is amended to

1 read as follows:

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

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

25 (b) A magistrate does not have authority under Subsection
26 (a)(14) to issue a subsequent search warrant under Article
27 18.02(10), Code of Criminal Procedure.

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

House Bill 1722
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Amends Section 54.906, Government Code. Among other provisions, adds to the types of proceedings in any criminal case that a judge is authorized to refer to a magistrate to include proceedings involving a plea of guilty or nolo contendere from a defendant charged with a felony, Class C misdemeanor, or any misdemeanor if the defendant is charged with both misdemeanor and felony offenses.

SECTION 2. Amends Section 54.908, Government Code. Among other provisions, amends the authority in current law for a magistrate to whom a case is referred to accept a plea of guilty for a misdemeanor from a defendant charged with both misdemeanor and felony to authorize the magistrate to accept a plea of guilty or nolo contendere from a defendant charged with a felony, Class C misdemeanor, or any misdemeanor if the defendant is charged with both misdemeanor and felony offenses.

SECTION 3. Effective date.

SENATE VERSION

SECTION 1. Same as House version except authorizes a judge to refer to a magistrate any criminal case *or matter* for various proceedings; strikes from the types of proceedings that a judge may refer to a magistrate under current law those involving a bond forfeiture; and omits the type added in the house version involving a plea of guilty or nolo contendere.

SECTION 2. Same as House version except strikes the authority in current law for a magistrate to accept a plea of guilty from a defendant charged with both misdemeanor and felony offenses, rather than amending that authority as in the House version.

Same as House version.

CONFERENCE

SECTION 1. Same as House version except omits the type added in the house version involving a plea of guilty or nolo contendere.
(The conference committee may have exceeded the limitations imposed on its jurisdiction, but only the presiding officer can make the final determination on this issue.)

SECTION 2. Same as House version except keeps the authority in current law for a magistrate to accept a plea of guilty from a defendant charged with both misdemeanor and felony offenses, rather than amending it.

Same as House version.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 30, 2009

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
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.), **Conference Committee Report**

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.

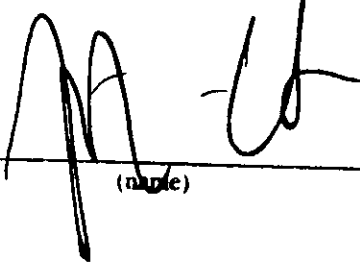
Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, SD, ESi, DB

Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on H. B. 1722 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.



(name)

5-30-09

(date)