

1-1 By: Hinojosa S.B. No. 338
 1-2 (In the Senate - Filed December 28, 2022; February 15, 2023,
 1-3 read first time and referred to Committee on Criminal Justice;
 1-4 April 17, 2023, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 7, Nays 0; April 17, 2023,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 338 By: Flores

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the use of hypnotically induced statements in a
 1-20 criminal trial.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Chapter 38, Code of Criminal Procedure, is
 1-23 amended by adding Article 38.24 to read as follows:

1-24 Art. 38.24. STATEMENTS OBTAINED BY INVESTIGATIVE HYPNOSIS.

1-25 (a) In this article, "investigative hypnosis" means a law
 1-26 enforcement technique that uses hypnosis to explore the memory of a
 1-27 witness to enhance the witness's recall of a legally relevant
 1-28 event, including descriptions of people, conversations, and the
 1-29 environment.

1-30 (b) This article applies to all statements made during or
 1-31 after a hypnotic session by a person who has undergone
 1-32 investigative hypnosis performed by a law enforcement agency for
 1-33 the purpose of enhancing the person's recollection of an event at
 1-34 issue in a criminal investigation or case, including courtroom
 1-35 testimony regarding those statements and including statements
 1-36 identifying an accused that are made pursuant to pretrial
 1-37 identification procedures.

1-38 (c) A statement described by Subsection (b) is not
 1-39 admissible against a defendant in a criminal trial, whether offered
 1-40 in the guilt or innocence phase or the punishment phase of the
 1-41 trial, if the hypnotic session giving rise to the statement was
 1-42 performed by a law enforcement agency to investigate the offense
 1-43 that is the subject of the trial. Notwithstanding Article 38.23,
 1-44 this article does not affect the admissibility of any physical
 1-45 evidence, or the testimony of any witness identified, that
 1-46 independently corroborates the commission of the offense.

1-47 SECTION 2. The change in law made by this Act applies to the
 1-48 admissibility of a statement in a criminal proceeding that
 1-49 commences on or after the effective date of this Act. The
 1-50 admissibility of a statement in a criminal proceeding that
 1-51 commences before the effective date of this Act is governed by the
 1-52 law in effect on the date the proceeding commenced, and the former
 1-53 law is continued in effect for that purpose.

1-54 SECTION 3. This Act takes effect September 1, 2023.

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