

BILL ANALYSIS

C.S.H.B. 2625

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Criminal Jurisprudence

Committee Report (Substituted)

BACKGROUND AND PURPOSE

In the 77th Texas Legislature, a bill was proposed which would have required a peace officer's testimony, along with testimony of a confidential informant (CI) and corroborating evidence, to obtain a conviction under Texas' Controlled Substances Act. The bill was inspired by the infamous cases in the cities of Tulia and Hearne, where dozens of people were imprisoned on the uncorroborated testimony of corrupt police or the false testimony of confidential informants. The final version of the bill that passed, House Bill 2351, was a compromise which required corroborating evidence only for the testimony of a CI, and not that of a peace officer, to obtain a conviction under Texas' Controlled Substances Act.

Upon implementation of H.B. 2351, it was revealed that in Dallas County, CIs used by District Attorneys and certain police officers to secure hundreds of convictions had falsely set up dozens of innocent people (mostly Spanish-speaking immigrants) with fake narcotics. Nearly 90 cases were dropped after it was determined that more than half of the "cocaine" seized by the Dallas Police Department in 2001 was fake, along with more than 1/4 of the methamphetamines.

In dozens of separate "field tests," Dallas police claimed to find positive results for cocaine where later analysis proved there was none. Those field test kits have been subsequently misplaced. Meanwhile, credible allegations that officers set up innocent people in drug stings have forced cases to be dropped and officers to be indicted in the counties of Floresville and Denton. The reasonable conclusion is that in the state of Texas incidents like these show that too many innocent people have been set up by corrupt law enforcement too many times to deny that a problem exists.

C.S.H.B. 2625 would require there to be corroborating evidence to support the testimony of anyone, even law enforcement officers, operating in an undercover drug sting as an agent of law enforcement as a party to the transaction, for a conviction. This language would include only convictions under the Controlled Substances Act.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2625 amends the Code of Criminal Procedure to prohibit a defendant from being convicted of an offense under Chapter 481 of the Health and Safety Code, on the testimony of any person who is a party to a transaction acting covertly on behalf of a law enforcement agency or under the color of law enforcement unless the testimony is corroborated by other evidence tending to connect the defendant with the offense committed.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute prohibits a defendant from being convicted of an offense on the testimony of any person who is a party to a transaction and is acting covertly on behalf of a law enforcement agency, unless corroborated by other evidence. The original bill prohibited conviction of an offense on the testimony of any person acting covertly on behalf of a law enforcement agency, unless corroborated by other evidence.