

BILL ANALYSIS

H.B. 1425
By: Hodge
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, Art. 28.01, Code of Criminal Procedure, as it is currently worded, could be interpreted to authorize a court to dispose of a motion to suppress evidence without live testimony, even where one side objects. Such an application of the statute amounts to denial of the right to confront and cross-examine witnesses, which is never more critical than in issues of motions to suppress, which are often dispositive of a criminal case. Art. 28.01, Code of Criminal Procedure will be clarified by H.B. 1425 by guaranteeing that a party in a criminal case can examine witnesses pursuant to a motion to suppress. A court can still dispose of a motion to suppress evidence without testimony if neither the state nor the defense objects. H.B. 1425 would also clarify that the Texas Rules of Evidence applicable to criminal proceedings likewise apply to hearings on motions to suppress evidence, a confession, or a statement.

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

H.B. 1425 amends the Code of Criminal Procedure to guarantee that a party in a criminal case can examine witnesses pursuant to a motion to suppress. A court can still dispose of a motion to suppress evidence without testimony if neither the state nor defense objects. H.B. 1425 would also clarify that the Texas Rules of Evidence, applicable to criminal proceedings, likewise apply to hearings on motions to suppress evidence, a confession, or a statement.

EFFECTIVE DATE

September 1, 2005.