

BILL ANALYSIS

H.B. 1048
By: Phillips
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Section 42.14 of the Code of Criminal Procedure currently allows for the sentencing and judgment in absentia of defendants in misdemeanor cases. There is currently no such provision for felony cases. If a plea agreement has already been reached, the judgment and sentence for a felony case should be allowed to be rendered without the presence of the incarcerated defendant, if that defendant so agrees. H.B. 1048 proposes to do this. Such a process would save the state time and money while also allowing inmates to start serving simultaneous sentences earlier.

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. 1048 amends Section 42.14, Code of Criminal Procedure, to allow the judgment and sentence in a felony case to be rendered in the absence of the defendant only if:

- the defendant is imprisoned in a penal institution;
- the defendant in writing waives the right to be present at the rendering of the judgment and sentence or to have counsel present, affirms that the defendant does not have anything to say as to why the sentence should not be pronounced and that there is no reason to prevent sentence under Article 42.07, Code of Criminal Procedure, states that the defendant has entered into a written plea agreement with the state's attorney, and requests the judge to pronounce sentence in the case in accordance with the plea agreement;
- the defendant and the state's attorney have entered into a written plea agreement that is made a part of the record in the case; and
- the sentence is pronounced in accordance with the plea agreement.

The bill provides that "penal institution" has the meaning assigned by Section 1.07, Penal Code.

Makes application of this Act prospective.

EFFECTIVE DATE

September 1, 2007.