

## **BILL ANALYSIS**

C.S.H.B. 2795  
By: Coleman  
Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Under current Texas law, a person may be found not guilty by reason of insanity if, at the time of the offense, the person did not know the difference between right and wrong. Due to this restrictive language an individual with a legitimate claim of insanity has a difficult time convincing a jury of his/her condition. Individuals who are seriously mentally ill, delusional or suffering from psychosis may still have intellectual understanding or cognitive capacity. However, mental illness can affect a person's emotions and reason to such a degree that he/she cannot completely or willfully control his/her behavior. If defendants know their conduct is prohibited by law, they are considered sane for purposes of the Texas insanity defense. The law does not consider how mental illness may cloud a defendant's perception and render him/her unable to appreciate the moral wrongfulness of his/her actions, therefore, leaving him/her unable to conform his/her behavior to the requirements of law.

Additional problems with the insanity defense arise because attorneys are not permitted to inform jurors of the potential consequences of a not guilty by reason of insanity verdict. Many jurors come to court with the incorrect assumption that an acquittal on the grounds of insanity means that the defendant is permitted to return to the community despite their impairment. This lack of awareness inevitably prevents jurors from contemplating the consequences of their decision on the life of the defendant.

The 79th legislature adopted new law that re-codified the Texas Code of Criminal Procedure to update provisions relating to treatment, release and monitoring standards and procedures for individuals found not guilty by reason of insanity.

House Bill 2795 seeks to modernize the Texas insanity defense to better reflect medical science, and provide a more useful tool for the Texas criminal justice system. H.B. 2795 further allows attorneys to inform the jury as to the consequences of their verdict on the defendant. Finally, this bill would make the provisions adopted last session applicable to persons acquitted of an offense committed before, on, or after the effective date of this 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**

House Bill 2795 changes the language of the current insanity defense to allow for a more thorough inquiry into the mental capacity of the defendant. The proposed law replaces the word "know" with "appreciate" and adds the description of "legally or morally" to modify the word "wrong."

H.B. 2795 further allows the jury to be informed as to the consequences of their verdict on the defendant. Finally, this bill would make the provisions adopted last session regarding the commitment of the defendant applicable to persons found not guilty by reason of insanity before, on, or after the effective date of this act.

### **EFFECTIVE DATE**

September 1, 2007.

## **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The committee substitute to House Bill 2795 differs from the original in that it deletes a section of unnecessary language relating to the substantial capacity of the defendant.

Under current Texas law to find a person not guilty by reason of insanity it must be shown that at the time of the offense the person did not know the difference between right and wrong. Furthermore, an attorney may not inform the jury of the consequences to the defendant of returning a not guilty by reason of insanity verdict. In the previous legislative session, lawmakers set more specific standards and procedures to streamline the process requiring defendants who were found not guilty by reason of insanity be placed within the mental health system.