

BILL ANALYSIS

S.B. 1116
By: Carona
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, a defendant whose deferred adjudication probation has been revoked by a court, and who has been adjudicated guilty of the original charge, may not challenge the decision of the court on appeal. This is true even if a court has no reasonable basis on which to make such a decision. Current law also does not allow a defendant who attempts to appeal a decision revoking deferred adjudication and is foreclosed from appeal to seek a writ of habeas corpus from the Court of Criminal Appeals.

As proposed, S.B. 1116 provides that revocation of community supervision may be appealed in the same manner as a case in which an adjudication of guilt has not been deferred. The bill also provides that a defendant denied an appeal of a decision revoking deferred adjudication may seek a writ of habeas corpus.

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

S.B. 1116 amends Article 11.07, Code of Criminal Procedure (CCP), to require the Court of Criminal Appeals, if an application for a writ of habeas corpus is filed in a cause in which the applicant previously sought review on direct appeal of a determination made under Section 5(b) Article 42.12, CCP, to direct that the cause be docketed and heard under Section 5, Article 11.07, CCP, if review of the cause on direct appeal was denied by the appellate court on the grounds that the court lacked jurisdiction. Makes a conforming change to Section 5, Article 11.07, CCP.

Amends Section 5(b), Article 42.12, Code of Criminal Procedure, to provide that a determination by the court of whether it proceeds with an adjudication of guilt on the original charge is reviewable in the same manner as a revocation hearing conducted under Section 21, Article 42.12, CCP, in a case in which an adjudication of guilt had not been deferred. Strikes existing text prohibiting an appeal to be taken from this determination.

Article 11.07, Code of Criminal Procedure, as amended by this Act, applies only to an application for a writ of habeas corpus that is filed on or after the effective date of this Act. An application for a writ of habeas corpus that is filed before the effective date of this Act is governed by the law in effect at the time the application was filed, and the former law is continued in effect for that purpose.

Provides that Section 5(b), Article 42.12, Code of Criminal Procedure, as amended by this Act, applies to a hearing conducted under that section on or after the effective date of this Act, regardless of when the adjudication of guilt was originally deferred or when the offense giving rise to the grant of deferred adjudication community supervision was committed.

EFFECTIVE DATE

September 1, 2007.

