

## **BILL ANALYSIS**

C.S.H.B. 107  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Current law allows for the sentencing in absentia of defendants in certain misdemeanor cases, but there is no provision to allow a defendant in a felony case to be processed in absentia when the defendant is incarcerated. 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. Such a process would save Texas time and money while also allowing inmates to start serving sentences earlier.

C.S.H.B. 107 authorizes the rendering of a judgment and sentence in a felony case if a defendant is imprisoned in a penal institution, and meets certain other conditions.

### **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. 107 amends the Code of Criminal Procedure to authorize the rendering of a judgment and sentence in the absence of the defendant in a felony case only if all of the following conditions are met:

- the defendant is imprisoned in a penal institution;
- the defendant is not charged with a certain felony offense to which judge ordered community supervision does not apply or for which it is alleged that a deadly weapon was used or exhibited during the commission of the offense or during the immediate flight from the commission of the offense, and that the defendant used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited;
- the defendant in writing before a district court with jurisdiction in the county where the defendant is imprisoned, waives the right to be present or to have counsel present at the rendering, 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 the sentence, states that the defendant has entered into a written plea agreement with the attorney representing the state in the prosecution of the case, and requests the judge to pronounce sentence in the case in accordance with the plea agreement;
- the defendant and attorney representing the state in the prosecution of the case have entered into a written plea agreement that is made part of the record in the case; and
- a sentence is pronounced in accordance with the plea agreement.

C.S.H.B. 107 defines "penal institution."

### **EFFECTIVE DATE**

September 1, 2009.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 107 differs from the original by adding to the list of conditions in the original required for the judgment and sentence in a felony case to be rendered in the absence of a defendant, that the defendant not be charged with a certain felony offense to which judge ordered community supervision does not apply or for which it is alleged that a deadly weapon was used or exhibited during the commission of the offense or during the immediate flight from the commission of the offense, and that the defendant used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited.