

## **BILL ANALYSIS**

C.S.H.B. 111  
By: Pena  
Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Recently, concern has been raised over a Texas law allowing capital murder defendants to be tried together, as any or all of the defendants may receive the death penalty regardless of whether a defendant was an accomplice or actually committed the crime. One of the cases that brought this issue into the public eye was the conviction of Kenneth Foster. In 1996, Foster was driving Mauriceo Brown and two others around San Antonio as they committed a string of armed robberies. During the course of one of the robberies, Brown shot and killed Michael LaHood, Jr. Foster was tried jointly with Brown and found guilty of capital murder under Texas' law of parties, which establishes criminal responsibility for another's conduct if, in a conspiracy to commit a felony, another felony is committed by one of the conspirators. Both Foster and Brown were sentenced to death. On August 30, 2007, the day of Foster's scheduled execution, Governor Rick Perry commuted the death sentence to life imprisonment and expressed his concern about the Texas law that allows capital murder defendants to be tried simultaneously. The issue was the focus of an interim study by the House Criminal Jurisprudence Committee. The purpose of this bill is to require separate trials for each defendant in a capital murder case for which the state seeks the death penalty to prevent the criminal conduct of one defendant from influencing the jury regarding another defendant being tried in the same case.

C.S.H.B. 111 prohibits a court from joining two or more defendants in the same criminal trial if any defendant to be tried is indicted or complained against for a capital felony for which the state seeks the death penalty.

### **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. 111 amends the Code of Criminal Procedure to prohibit a court from joining two or more defendants in the same criminal trial if any defendant to be tried is indicted or complained against for a capital felony for which the state seeks the death penalty. The bill requires the court to order a severance in cases where two or more defendants are jointly indicted or complained against for a capital felony if the state seeks the death penalty for any one of those defendants.

### **EFFECTIVE DATE**

September 1, 2009.

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

C.S.H.B. 111 differs from the original by clarifying that the prohibition against a court joining two or more defendants in the same criminal trial if any defendant to be tried is indicted or complained against for a capital felony and the requirement that a court order a severance in

cases where two or more defendants are jointly indicted or complained against for a capital felony apply only to capital felony cases for which the state seeks the death penalty.