

## **BILL ANALYSIS**

C.S.H.B. 1480  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Courts are increasingly turning to the use of closed circuit video teleconferencing to dispose of backlogged cases and to minimize delays in justice. To maximize the benefits of this method, it is necessary to provide statutory authority for the appropriate use of closed circuit video teleconferencing in certain criminal proceedings.

C.S.H.B. 1480 authorizes a peace officer summoned before a grand jury to testify via a closed circuit video teleconferencing system between the peace officer, the attorney representing the state, and the grand jury. The bill requires a court, after receiving a written waiver of jury trial signed by the defendant, to accept a plea of guilty or nolo contendere by closed circuit video teleconferencing from an inmate who is incarcerated in a facility operated by or under contract with the Texas Department of Criminal Justice and authorizes any disposition or testimony of such an inmate to testify as a witness in a criminal offense proceeding to be conducted by such teleconferencing.

### **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. 1480 amends the Code of Criminal Procedure to authorize a peace officer summoned to testify before a grand jury to testify, with the consent of the foreman of the grand jury and the attorney representing the state, through the use of a closed circuit video teleconferencing system that provides an encrypted, simultaneous, compressed full motion video and interactive communication of image and sound between the peace officer, the attorney representing the state, and the grand jury. The bill requires a peace officer testifying through the use of a video teleconferencing system, before being interrogated and in addition to being administered the grand jury oath to witnesses, to affirm that no person other than a person in the grand jury room is capable of hearing the peace officer's testimony and that the peace officer's testimony is not being recorded or otherwise preserved by any person at the location from which the peace officer is testifying. The bill requires the peace officer's testimony to be recorded in the same manner as other testimony taken before the grand jury.

C.S.H.B. 1480 adds a person operating a video teleconferencing system for the use of grand jury testimony to the list of persons who are authorized to be present in a grand jury room while the grand jury is conducting proceedings and liable to a fine or imprisonment or both for disclosing anything transpiring before the grand jury in the course of its official duties.

C.S.H.B. 1480 specifies that a court reporter or court recorder is not required to record a plea broadcasted and accepted by a court by closed circuit video teleconferencing, unless the defendant or attorney representing the state requests a court reporter or court recorder's presence. The bill provides that the loss or destruction of or failure to make a video recording of a plea is

not alone sufficient grounds for a defendant to withdraw the defendant's plea or to request the court to set aside a conviction or sentence based on the plea.

C.S.H.B. 1480 requires a court, after receiving a written waiver of jury trial signed by the defendant, to accept a plea of guilty or nolo contendere by closed circuit video teleconferencing from an inmate who is incarcerated in a facility operated by or under contract with Texas Department of Criminal Justice (TDCJ).

C.S.H.B. 1480 authorizes any disposition or testimony of an inmate in the custody of TDCJ who is required to testify as a witness in a criminal offense proceeding to be conducted by a closed circuit video teleconferencing system, rather than by electronic means in the same manner as permitted in certain civil cases and makes a conforming change to reflect this authorization in the provision requiring a defendant to waive the right of trial by jury in person in writing in open court.

### **EFFECTIVE DATE**

September 1, 2009.

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

C.S.H.B. 1480 differs from the original in the provision requiring a court to accept a plea of guilty or nolo contendere by closed circuit video teleconferencing for an inmate incarcerated in a facility operated by or under contract with TDCJ, by adding the condition that the court do so only after receiving a written waiver of jury trial signed by the defendant. The substitute adds a provision not in the original to make a conforming change relating to an inmate's waiver of a jury trial through closed circuit video teleconferencing.