

BILL ANALYSIS

S.B. 1681
By: Hinojosa
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The veracity of an in-custody informant's statement can be highly suspect. The person may have been offered a reduction in their own sentence, a plea deal in return for their testimony, or an improvement in their conditions of confinement as a reward for testifying. If an in-custody informant provides information related to a crime that only declares the crime was committed, and there is no additional evidence to substantiate the informant's claim, it is imprudent to convict a person based on the informant's statement alone.

Current law already requires that a conviction under the Texas Controlled Substances Act be supported by corroborating evidence that validates the testimony of a person who is not a peace officer or who is an undercover peace officer. This means that even the testimony of an undercover peace officer is required to be corroborated by evidence in seeking a conviction under the Texas Controlled Substances Act. The testimony of in-custody informant should be held to the same standard.

S.B. 1681 prohibits the conviction of a defendant based solely on the testimony of a person to whom the defendant made a statement against the defendant's interest during a time when the person was imprisoned or confined in the same correctional facility as the defendant. S.B. 1681 defines "correctional facility" and provides that corroboration is not sufficient if it only shows that the offense in question was committed.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Chapter 38, Code of Criminal Procedure, by adding Article 38.075, as follows:

Art. 38.075. CORROBORATION OF CERTAIN TESTIMONY REQUIRED. (a) Prohibits a defendant from being convicted of an offense on the testimony of a person to whom the defendant made a statement against the defendant's interest during a time when the person was imprisoned or confined in the same correctional facility as the defendant unless the testimony is corroborated by other evidence tending to connect the defendant with the offense committed. Defines "correctional facility."

(b) Provides that corroboration is not sufficient for the purposes of this article if the corroboration only shows that the offense was committed.

SECTION 2. Provides that the change in law made by this Act applies to any case in which a judgment has not been entered before the effective date of this Act. Provides that a case in which a judgment has been entered before the effective date of this Act is governed by the law in effect when the judgment was entered, and the former law is continued in effect for that purpose.

SECTION 3. Effective date: September 1, 2009.

EFFECTIVE DATE

September 1, 2009.