

By: Phillips, Moody, Herrero

H.B. No. 107

A BILL TO BE ENTITLED

AN ACT

relating to allowing for certain criminal proceedings in the
absence of certain defendants.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 27, Code of Criminal Procedure, is
amended by adding Article 27.19 to read as follows:

Art. 27.19. PLEA BY CERTAIN DEFENDANTS.

(a) Notwithstanding any other provision of this code, a court
shall accept a plea of guilty or nolo contendere from a defendant
who is confined in a penal institution if the plea is made:

(1) in accordance with the procedure established by
Article 27.18; or

(2) in writing before the appropriate court having
jurisdiction in the county in which the penal institution is
located, provided that:

(A) in the writing, the defendant waives the
right to be present at the taking of the plea or to have counsel
present; and

(B) if the defendant is charged with a felony,
judgment and sentence are rendered in accordance with the
conditions and the procedure established by Article 42.14(b).

(b) In this article, "penal institution" has the meaning
assigned by Section 1.07, Penal Code.

SECTION 2. Article 42.14, Code of Criminal Procedure, is

1 amended to read as follows:

2 Art. 42.14. IN ABSENCE OF DEFENDANT. (a) In a misdemeanor
3 case, the [The] judgment and sentence [~~in a misdemeanor case~~] may be
4 rendered in the absence of the defendant.

5 (b) In a felony case, the judgment and sentence may be
6 rendered in the absence of the defendant only if:

7 (1) the defendant is confined in a penal institution;

8 (2) the defendant is not charged with a felony
9 offense:

10 (A) that is listed in Section 3g(a)(1), Article
11 42.12; or

12 (B) for which it is alleged that:

13 (i) a deadly weapon was used or exhibited
14 during the commission of the offense or during immediate flight
15 from the commission of the offense; and

16 (ii) the defendant used or exhibited the
17 deadly weapon or was a party to the offense and knew that a deadly
18 weapon would be used or exhibited;

19 (3) the defendant in writing before the appropriate
20 court having jurisdiction in the county in which the penal
21 institution is located:

22 (A) waives the right to be present at the
23 rendering of the judgment and sentence or to have counsel present;

24 (B) affirms that the defendant does not have
25 anything to say as to why the sentence should not be pronounced and
26 that there is no reason to prevent the sentence under Article 42.07;

27 (C) states that the defendant has entered into a

1 written plea agreement with the attorney representing the state in
2 the prosecution of the case; and

3 (D) requests the court to pronounce sentence in
4 the case in accordance with the plea agreement;

5 (4) the defendant and the attorney representing the
6 state in the prosecution of the case have entered into a written
7 plea agreement that is made a part of the record in the case; and

8 (5) sentence is pronounced in accordance with the plea
9 agreement.

10 (c) In this article, "deadly weapon" and "penal
11 institution" have the meanings assigned by Section 1.07, Penal
12 Code.

13 SECTION 3. Article 27.19, Code of Criminal Procedure, as
14 added by this Act, and Article 42.14, Code of Criminal Procedure, as
15 amended by this Act, apply to a plea entered or to a judgment and
16 sentence rendered in a criminal case on or after the effective date
17 of this Act, regardless of whether the offense for which the plea is
18 entered or judgment and sentence are rendered is committed before,
19 on, or after that date.

20 SECTION 4. This Act takes effect September 1, 2009.