

By: Phillips

H.B. No. 107

A BILL TO BE ENTITLED

AN ACT

relating to the rendering of a judgment and sentence in the absence of certain defendants charged with felonies.

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

SECTION 1. Article 42.14, Code of Criminal Procedure, is amended to read as follows:

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

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

(1) the defendant is imprisoned in a penal institution;

(2) the defendant in writing before a district court having jurisdiction in the county where the defendant is imprisoned:

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

(B) 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 sentence under Article 42.07;

(C) states that the defendant has entered into a written plea agreement with the attorney representing the state in the prosecution of the case; and

1 (D) requests the judge to pronounce sentence in
2 the case in accordance with the plea agreement;

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

6 (4) sentence is pronounced in accordance with the plea
7 agreement.

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

10 SECTION 2. The change in law made by this Act applies only
11 to an offense committed on or after the effective date of this Act.
12 An offense committed before the effective date of this Act is
13 governed by the law in effect at the time the offense was committed,
14 and the former law is continued in effect for that purpose. For
15 purposes of this section, an offense was committed before the
16 effective date of this Act if any element of the offense was
17 committed before that date.

18 SECTION 3. This Act takes effect September 1, 2009.