

BILL ANALYSIS

C.S.H.B. 96
By: Fletcher
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Rule 614 of the Texas Rules of Evidence requires the exclusion of certain witnesses from a courtroom at the request of a party. This exclusion prevents law enforcement officers testifying at a criminal trial from assisting a prosecutor at the counsel table during the trial, placing the prosecutor at a disadvantage. Defense counsel is allowed to have the defendant seated at the counsel table to consult with during trial. Texas is in the minority among United States jurisdictions regarding this rule. Over 35 states, the federal courts, and the Uniform Rules of Evidence allow a law enforcement officer testifying at a trial to remain in the courtroom and assist the prosecution during a criminal trial. Furthermore, the adoption of an exception to Rule 614 for law enforcement officers could increase cooperation between law enforcement officers and prosecutors. As proposed, C.S.H.B. 96 authorizes a prosecuting attorney to designate one person who is an officer or employee of a party who is not a natural person to serve as the state's courtroom representative during a criminal procedure.

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. 96 amends the Code of Criminal Procedure to authorize a prosecuting attorney to designate one person who is an officer or employee of a party that is not a natural person to serve as the state's courtroom representative during a criminal proceeding. The bill prohibits exclusion of such a designated person under the Texas Rules of Evidence or provisions of law authorizing the exclusion of certain persons whose testimony would be affected by other testimony heard at the trial, unless the designated person is a law enforcement officer who is committing a violation by wearing a law enforcement uniform or badge while serving as that representative. The bill prohibits a law enforcement officer who is designated as the state's courtroom representative from wearing a law enforcement uniform or badge while serving as that representative. The bill specifies that, under provisions of law authorizing the legislature to disapprove rules of evidence adopted by the court of criminal appeals, Rule 614 of the Texas Rules of Evidence is disapproved to the extent that the rule permits the exclusion of a witness designated by the prosecuting attorney as the state's courtroom representative in a criminal case from hearing the testimony of other witnesses.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 96 contains a provision not included in the original prohibiting a law enforcement officer who is designated as the state's courtroom representative during a criminal proceeding from wearing a law enforcement uniform or badge while serving as that representative. The substitute contains a provision not included in the original providing an exception to the prohibition against excluding a person designated as the state's courtroom representative if that person is a law enforcement officer who is violating the prohibition against wearing a uniform or badge.