

BILL ANALYSIS

C.S.H.B. 278
By: Alonzo
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that the U.S. Supreme Court has held that rules of evidence normally applicable in criminal jury trials do not operate with full force at certain hearings before the judge to determine the admissibility of evidence. The parties also note that a Texas court of appeals held that because suppression hearings involve the determination of preliminary questions concerning the admissibility of evidence, the language of the current rules indicates that certain rules of evidence no longer apply to suppression hearings. The parties contend that while current law authorizes a court to hold a pre-trial hearing under certain circumstances if there are pre-trial issues, judges may refuse to grant pre-trial hearings and force parties to go to trial even when the only issue in dispute is a pre-trial issue. C.S.H.B. 278 seeks to remedy this situation.

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. 278 amends the Code of Criminal Procedure to require a court to set a pre-trial hearing in any criminal case if, not later than the 60th day before the date on which trial commences, the state or the defendant requests the hearing. The bill requires the court to hold the requested hearing not later than the 30th day before the date on which trial commences.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 278 differs from the original, in the provision requiring a court to set a pre-trial hearing in any criminal case if the state or the defendant requests the hearing, by setting a deadline of not later than the 60th day before the date on which trial commences for making such a request, whereas the original sets no deadline for making such a request.