

BILL ANALYSIS

C.S.H.B. 212
By: Alonzo
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties report that both federal and Texas courts have held that the rules of evidence normally applicable in criminal jury trials do not fully apply at hearings before a judge to determine preliminary questions concerning the admissibility of evidence in a criminal proceeding, including suppression hearings. While current Texas law authorizes a court to hold such a pre-trial hearing, the law does not require a court to do so, which has reportedly led to judges refusing to grant pre-trial hearings and forcing parties to go to trial even when a pre-trial issue is the only issue in dispute. The parties contend that it is not economically ideal to bring the state, defense, judge, and jury into a courtroom to proceed through trial if the primary dispute relates only to the admissibility of evidence against the defendant.

In an effort to ensure that only reliable evidence as set out in the Texas Rules of Evidence is admissible and to enhance the efficiency of the Texas judicial system, C.S.H.B. 212 requires a court to set a pre-trial hearing in certain criminal cases on request by the defendant.

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. 212 amends the Code of Criminal Procedure to require a court to set a pre-trial hearing in a criminal case other than a case involving an offense punishable as a Class C misdemeanor if, not later than the 60th day before the date on which trial commences, 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 and, to the extent feasible, rule at the hearing on all pre-trial motions filed in the case. The bill establishes that the court's failure to comply with the bill's requirements is not grounds for the dismissal of a case against a defendant and prohibits the court from sustaining a motion to set aside an indictment, information, or complaint for failure to provide a speedy trial based solely on the court's failure to comply with those requirements.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 212 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

83R 25255

13.116.74

Substitute Document Number: 83R 18745

SECTION 1. Article 28.01, Code of Criminal Procedure, is amended by adding Section 4 to read as follows:

Sec. 4. A court shall set a pre-trial hearing in a criminal case other than a case involving an offense punishable as a Class C misdemeanor if, not later than the 60th day before the date on which trial commences, the state or the defendant requests the hearing. The court must:

(1) hold the requested hearing not later than the 30th day before the date on which trial commences; and

(2) to the extent feasible, rule at the hearing on all pre-trial motions filed in the case.

SECTION 2. This Act applies only to a criminal case in which the indictment or information is presented to the court on or after the effective date of this Act. A criminal case in which the indictment or information is presented to the court before the effective date of this Act is governed by the law in effect on the date the indictment or information is presented, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2013.

SECTION 1. Article 28.01, Code of Criminal Procedure, is amended by adding Section 4 to read as follows:

Sec. 4. (a) A court shall set a pre-trial hearing in a criminal case other than a case involving an offense punishable as a Class C misdemeanor if, not later than the 60th day before the date on which trial commences, the defendant requests the hearing. The court must:

(1) hold the requested hearing not later than the 30th day before the date on which trial commences; and

(2) to the extent feasible, rule at the hearing on all pre-trial motions filed in the case.

(b) The failure of the court to comply with the requirements of Subsection (a) is not grounds for dismissal of a case against a defendant.

(c) The court may not sustain a motion to set aside an indictment, information, or complaint for failure to provide a speedy trial, as described by Article 28.061, based solely on the failure of the court to comply with the requirements of Subsection (a).

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.