

BILL ANALYSIS

C.S.H.B. 2679
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that accepting a plea from an arrested person who is detained in jail for an unadjudicated fine-only offense is widely practiced in jurisdictions across Texas, as this method is convenient for both the court and the defendant. However, the parties point out that the practice is neither expressly sanctioned nor prohibited and concerns have been raised that the location of a plea may create a coercive atmosphere that impairs the voluntary aspect of the plea. C.S.H.B. 2679 seeks to endorse the efficient and convenient administration of the Texas criminal justice system by specifically authorizing such practices.

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. 2679 amends the Code of Criminal Procedure to authorize a justice or judge of a justice or municipal court to permit a defendant who is detained in jail to enter a plea of guilty or not guilty, a plea of nolo contendere, or the special plea of double jeopardy. The bill authorizes the justice or judge, after complying with the statutory duties of an arresting officer and magistrate and advising a defendant who enters a plea of guilty or nolo contendere while detained in jail of the right to trial by jury, to accept the defendant's plea; assess a fine, determine costs, and accept payment of the fine and costs; give the defendant credit for time served; determine whether the defendant is indigent; or discharge the defendant, as appropriate. The bill requires a motion for new trial following a plea of guilty or nolo contendere to be made not later than 10 days after the rendition of judgment and sentence, and not afterward, and requires the justice or judge to grant a motion for new trial made under the bill's provisions.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2679 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

SECTION 1. Article 45.023, Code of Criminal Procedure, is amended by adding Subsections (b), (c) and (d) and (e) to read

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article 45.023, Code of Criminal Procedure, is amended to read as follows:

as follows:

(a) After the jury is impaneled, or after the defendant has waived trial by jury, the defendant may:

- (1) plead guilty or not guilty;
- (2) enter a plea of nolo contendere; or
- (3) enter the special plea of double jeopardy as described by Article 27.05.

(b) If the defendant is detained in jail, the justice or judge may permit the defendant to:

- (1) enter a plea of guilty or not guilty;
- (2) enter a plea of nolo contendere; or
- (3) enter the special plea of double jeopardy as described by Article 27.05.

(c) If the defendant enters a plea of guilty or no contest while detained in jail, the justice or judge may, after complying with Article 15.17 and admonishing the defendant of the right to trial by jury,

accept the defendant's plea, assess a fine, determine costs, accept payment of the fine and costs, give credit for time served, determine indigency, or, on satisfaction of the judgment, discharge the defendant, as the case may indicate.

(d) Not later than the 10th day after the date that the a judgment is entered pursuant to subsection (b) above, if the defendant files a motion for new trial, the justice or judge shall:

- (1) set aside the judgment;
- (2) determine the amount of bail necessary to secure the defendant's appearance;
- (3) set the case on the court's docket; and
- (4) proceed, as soon as practicable, to try the case.

(e) Notwithstanding subsection (d), a defendant shall not be granted more than one new trial in the same case.

SECTION 2. This Act takes effect September 1, 2013.

Art. 45.023. DEFENDANT'S PLEA.

(a) After the jury is impaneled, or after the defendant has waived trial by jury, the defendant may:

- (1) plead guilty or not guilty;
- (2) enter a plea of nolo contendere; or
- (3) enter the special plea of double jeopardy as described by Article 27.05.

(b) If a defendant is detained in jail before trial, the justice or judge may permit the defendant to

enter any of the pleas described by Subsection (a).

(c) If a defendant who is detained in jail enters a plea of guilty or nolo contendere, the justice or judge may, after complying with Article 15.17 and advising the defendant of the defendant's right to trial by jury, as appropriate:

- (1) accept the defendant's plea;
- (2) assess a fine, determine costs, and accept payment of the fine and costs;
- (3) give the defendant credit for time served;
- (4) determine whether the defendant is indigent; or
- (5) discharge the defendant.

(d) Notwithstanding Article 45.037, following a plea of guilty or nolo contendere entered under Subsection (b), a motion for new trial must be made not later than 10 days after the rendition of judgment and sentence, and not afterward. The justice or judge shall grant a motion for new trial made under this subsection.

SECTION 2. Same as introduced version.