

BILL ANALYSIS

C.S.H.B. 3817
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Courts around the nation implemented virtual hearings to alleviate the backlog caused by COVID-19 and mitigate its associated health risks. The Texas Supreme Court has issued and renewed emergency orders allowing courts to require defendants to appear and to hold proceedings by videoconference but the court's final emergency order expired on March 1, 2023. Courts should continue to have the discretion to require certain defendants to appear by videoconference. C.S.H.B. 3817 provides for a court to require a defendant confined in a penal institution to appear for pretrial proceedings by videoconference.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 3817 amends the Code of Criminal Procedure to authorize a court to require a defendant without the defendant's consent to appear, for any pretrial proceeding related to the prosecution of a criminal offense, by videoconference in the same manner as a plea or waiver of rights by videoconference under state law if the defendant is confined in a penal institution at the time of the proceeding. The bill requires the court, if the court on its own motion or a motion from the defendant or state's attorney determines that the defendant's circumstances require the defendant's physical presence in the courtroom for a pretrial proceeding, to continue the proceeding until the defendant is physically present in the courtroom. The bill defines "pretrial proceeding" as a pretrial hearing, including an arraignment, other than a hearing or arraignment at which a plea of guilty or nolo contendere is entered or evidence, including sworn testimony, is received by the court.

C.S.H.B. 3817 applies only to a criminal proceeding that commences on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3817 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced authorized a court to require a defendant without the defendant's consent to appear for any proceeding related to the prosecution of a criminal offense by videoconference, the substitute limits this authorization to a pretrial proceeding. Accordingly, the substitute includes a definition for "pretrial proceeding," which was absent from the introduced.

The substitute includes a requirement that was not in the introduced for a court to continue a pretrial proceeding until the defendant is physically present in the courtroom if the defendant, state's attorney, or court makes a motion and the court determines that the defendant's circumstances require the defendant's physical presence.