

## **BILL ANALYSIS**

C.S.H.B. 452  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties assert that a recent U.S. Supreme Court ruling held that rules of evidence normally applicable in criminal jury trials do not operate with full force at hearings before a judge to determine the admissibility of evidence. Furthermore, these parties point to a ruling by the Texas Court of Criminal Appeals that, because suppression hearings involve the determination of preliminary questions concerning the admissibility of evidence, the language of the current rules indicates that the rules of evidence no longer apply to suppression hearings. The parties further note that a court is currently authorized but not required to hold a pretrial hearing in a criminal case, which allows for the potential refusal of a pretrial hearing and may force parties to trial even when the only disputed issue is a pretrial issue. C.S.H.B. 452 seeks to remedy this situation.

### **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. 452 amends the Code of Criminal Procedure to require a court to set a pretrial hearing in a criminal case if the defendant requests the hearing not later than the 60th day before the date on which trial commences. 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, to rule at the hearing on all pretrial motions filed in the case. The bill entitles the defendant, if the court fails to hold a pretrial hearing as required, to a continuance of the trial setting to a date not later than the 30th day after the date on which the court holds the pretrial hearing. The bill specifies that the failure of the court to comply with these pretrial hearing requirements is not grounds for 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 the pretrial hearing requirements. The bill exempts from its provisions a case in which the offense is punishable by fine only, is punishable by a fine and a sanction not consisting of confinement or imprisonment, or is an offense under Alcoholic Beverage Code provisions relating to age the punishment for which does not include confinement as an authorized sanction.

### **EFFECTIVE DATE**

September 1, 2015.

## COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 452 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

### INTRODUCED

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. This Act applies only to a criminal case in which the indictment or information is presented to the court on or

### HOUSE COMMITTEE SUBSTITUTE

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 pretrial hearing in a criminal case 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 pretrial motions filed in the case.

(b) If a court fails to hold a pretrial hearing under Subsection (a), the defendant is entitled to a continuance of the trial setting to a date not later than the 30th day after the date on which the court holds the hearing as required under that subsection.

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

(d) 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).

(e) This section does not apply to a case in which the offense:

(1) is punishable by fine only;

(2) is punishable by a fine and a sanction not consisting of confinement or imprisonment; or

(3) is an offense under Chapter 106, Alcoholic Beverage Code, the punishment for which does not include confinement as an authorized sanction.

SECTION 2. Same as introduced version.

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, 2015.

SECTION 3. Same as introduced version.