

BILL ANALYSIS

C.S.H.B. 794
By: Springer
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the process of re-authenticating evidence with supporting witnesses in a criminal trial can be expensive and burdensome, especially since the evidence in a self-authenticating document clearly identifies the defendant and has already been validated in a court of law. C.S.H.B. 794 seeks to address this issue by revising statutory provisions relating to the admission of certain documents into evidence.

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. 794 amends the Code of Criminal Procedure to establish that the admission into evidence of certain self-authenticating documents relating to a prior conviction that complies with the bill's provisions creates a presumption establishing the existence of that prior conviction for the person named in the document without the necessity of supporting testimony. The bill requires the self-authenticating document, for purposes of establishing such a presumption of a prior conviction, to be filed with the clerk of the court not later than the 30th day before the date any trial in the case begins and requires a copy of the document to be provided by fax, hand delivery, secure electronic transmission, or certified mail, return receipt requested, to the opposing party by the same deadline.

C.S.H.B. 794 makes the presumption of a prior conviction established by the bill's provisions inapplicable if, not later than the 10th day before the date any trial in the case begins, the opposing party files with the clerk of the court a sworn written objection to the self-authenticating document and provides a copy of the objection by fax, hand delivery, secure electronic transmission, or certified mail, return receipt requested, to the offering party. The bill requires the sworn written objection to state that the defendant or witness is not the person named in the self-authenticating document or to identify another error that makes the document inapplicable or otherwise inadmissible in the proceeding in which it is offered. The bill's provisions do not limit the right of a party to summon a witness or to introduce other admissible evidence relevant to the prior conviction.

EFFECTIVE DATE

September 1, 2015.

84R 27884

15.125.514

Substitute Document Number: 84R 17431

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 794 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. Chapter 38, Code of Criminal Procedure, is amended by adding Article 38.48 to read as follows:

Art. 38.48. PRESUMPTION OF PRIOR CONVICTION.

Sec. 1. The admission into evidence of a self-authenticating document relating to a prior conviction that complies with this article creates a presumption establishing the existence of that prior conviction for the person named in the self-authenticating document without the necessity of supporting testimony.

Sec. 2. Not later than the 30th day before the trial begins in a proceeding in which a prior conviction is to be introduced, the self-authenticating document must be filed with the clerk of the court and a copy must be provided by fax, hand delivery, secure electronic transmission, or certified mail, return receipt requested, to the opposing party.

The presumption established under Section 1 does not or certified mail, return receipt requested, to the offering party.

A sworn written objection submitted under this section must state that the defendant or witness is not the person named in the self-authenticating document or identify another error that makes the document inadmissible in or inapplicable to the proceeding in which it is filed.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 38, Code of Criminal Procedure, is amended by adding Article 38.50 to read as follows:

Art. 38.50. PRESUMPTION OF PRIOR CONVICTION. (a) This article applies to a document that relates to a prior conviction and is self-authenticating under Rule 902(1), (2), or (4), Texas Rules of Evidence.

(b) Except as provided by Subsection (d), the admission of a document described by Subsection (a) into evidence in compliance with this article creates a presumption establishing the existence of that prior conviction for the person named in the document without the necessity of supporting testimony.

(c) For purposes of establishing a presumption under Subsection (b), not later than the 30th day before the date any trial in the case begins:

(1) a document described by Subsection (a) must be filed with the clerk of the court; and
(2) a copy of the document described by Subsection (a) must be provided by fax, hand delivery, secure electronic transmission, or certified mail, return receipt requested, to the opposing party.

(d) The presumption established under Subsection (b) does not apply if, not later than the 10th day before the date any trial in the case begins, the opposing party:

(1) files with the clerk of the court a sworn written objection to the document described by Subsection (a); and

(2) provides a copy of the objection under Subdivision (1) by fax, hand delivery, secure electronic transmission, or certified mail, return receipt requested, to the offering party.

(e) A sworn written objection submitted under Subsection (d) must state that the defendant or witness is not the person named in the document or must identify another error that makes the document inapplicable to or otherwise inadmissible in the proceeding in which it is offered.

Sec. 3. This article does not limit the right of a party to summon a witness or to introduce admissible evidence relevant to the prior conviction.

No equivalent provision.

SECTION 2. This Act takes effect September 1, 2015.

(f) This article does not limit the right of a party to summon a witness or to introduce other admissible evidence relevant to the prior conviction.

SECTION 2. Article 38.50, Code of Criminal Procedure, as added by this Act, applies only to a trial that begins on or after the effective date of this Act, regardless of whether the alleged offense was committed before, on, or after that date.

SECTION 3. Same as introduced version.