

## **BILL ANALYSIS**

H.B. 1293  
By: Smithee  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Recent efforts to devote significant attention to individuals wrongfully convicted of crimes or serving inappropriate sentences have led to improvements to the criminal justice system in Texas by minimizing wrongful convictions and ensuring that the punishment is appropriate for the crime that was committed. However, gaps remain in making sure the criminal justice system has all the tools necessary to provide just outcomes. It has been suggested that it should be easier to obtain a motion for a new trial in the interest of justice when the defendant, the state, and the trial court all agree that a new trial should be granted. H.B. 1293 seeks to address this issue and help fill these gaps by allowing for a motion for a new trial in certain situations in which there is such agreement.

### **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**

H.B. 1293 amends the Code of Criminal Procedure to authorize a defendant, at any time during the period of a term of imprisonment, to file, with the written consent of the district attorney or criminal district attorney, a motion for a new trial with the convicting court. The motion must include an agreed statement of facts for the court to consider. The bill provides for the following:

- the court, after a hearing, may grant the defendant a new trial in the interest of justice;
- the court may rely on the agreed statement in granting a new trial; and
- the agreed statement may constitute the entire record in the cause.

The rights of appeal provided by state law relating to appeals by the state are applicable to a decision of a court to grant a new trial, except that neither the attorney representing the state nor the defendant is entitled to appeal the court's decision to deny a motion for a new trial.

H.B. 1293 authorizes the attorney representing the state to condition the attorney's consent to a motion for a new trial on any appropriate reason, including a requirement that the defendant:

- plead guilty and accept a specific punishment;
- waive the defendant's parole eligibility as part of any punishment agreement; or
- waive the defendant's right to appeal.

Until the trial court has granted the motion, the defendant may withdraw the motion and the attorney representing the state may withdraw consent to the motion. If the motion or consent is withdrawn, the court is prohibited from granting a new trial in the case based on that motion.

**EFFECTIVE DATE**

September 1, 2021.