

SUBJECT: Prohibiting the use of hypnotically induced statements in a criminal trial

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Moody, Cook, Bhojani, Bowers, Darby, Harrison, Leach, C. Morales, Schatzline
0 nays

SENATE VOTE: On final passage (April 20) — 29 - 0

WITNESSES: For — (*Registered, but did not testify*: Lauren Johnson, ACLU of Texas; Sarah Berel-Harrop)

Against — Pamela Garner Taylor; Charles Gilmore; Marx Howell (*Registered, but did not testify*: Brian Hawthorne, Sheriffs' Association of Texas)

BACKGROUND: Concerns have been raised that investigative hypnosis may not be a reliable method to recover a witness' memories.

DIGEST: SB 338 would establish that a statement made during or after a hypnotic session would be inadmissible against a defendant in a criminal trial if the hypnotic session was performed by a law enforcement agency for the purpose of investigating the offense that was the subject of the trial.

The bill would apply to all statements made by a person who had undergone investigative hypnosis to enhance the person's recollection of an event at issue in a criminal investigation or case, including courtroom testimony regarding those statements and statements identifying an accused that were made pursuant to pretrial identification procedures.

The bill would take effect September 1, 2023, and would apply to the admissibility of a statement in a criminal proceeding that commenced on or after that date.