

## **BILL ANALYSIS**

Senate Research Center  
81R35690 E

C.S.H.B. 1544  
By: Miklos (Carona)  
Criminal Justice  
5/22/2009  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

It is necessary to expedite dockets in courts that hear misdemeanor cases by instituting the "mail box rule," which allows a defendant to have a misdemeanor case disposed of without having to physically appear in court. At any point until the trial on the merits of the case commences, a defendant can decide to plead, or change his or her original pleading to guilty or nolo contendere and waive the right to a jury trial. The defendant can do so in person or by mail as long as the postmark on the envelope is dated before the date on which the trial commences.

C.S.H.B. 1544 amends current law relating to court proceedings for a plea of guilty or nolo contendere for a misdemeanor punishable by fine only.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 27.14(b), Code of Criminal Procedure, to require the court, if the court receives a plea and waiver after the time the defendant is scheduled to appear in court but at least five business days before a scheduled trial date, to dispose of the case without requiring a court appearance by the defendant.

SECTION 2. Amends Articles 45.051(a), (a-1), (b), and (c), Code of Criminal Procedure, as follows:

(a) Authorizes the judge, rather than authorizes the judge, at the judge's discretion, on a plea of guilty or nolo contendere by a defendant or on a finding of guilt in a misdemeanor case punishable by fine only and payment of all court costs, to defer further proceedings without entering an adjudication of guilt and place the defendant on probation for a period not to exceed 180 days. Authorizes the judge, in issuing the order of deferral, to impose a special expense fee on the defendant in an amount not to exceed the amount of the fine that could be imposed on the defendant as punishment for the offense. Authorizes that the special expense fee be collected at any time before the date on which the period of probation ends. Authorizes the judge to elect not to impose the special expense fee for good cause shown by the defendant. Requires the judge, if the judge orders the collection of a special expense fee, to require that the amount of the special expense fee be credited toward the payment of the amount of the fine imposed by the judge.

(a-1) Authorizes the judge, rather than authorizes the judge in the judge's discretion, notwithstanding any other provision of law, as an alternative to requiring a defendant charged with one or more offenses to make payment of all court costs as required by Subsection (a), to allow the defendant to enter into an agreement for payment of those costs in installments during the defendant's period of probation; require an eligible defendant to discharge all or part of those costs by performing community service under Article 45.049 (Community Service in Satisfaction of Fine or Costs); or take any combination of actions authorized by Subdivision (1) (relating to a defendant making payment of certain costs in installments) or (2) (relating to a defendant discharging certain costs by performing community service).

(b) Makes a conforming change.

(c) Requires the judge, on determining that the defendant has complied with the requirements imposed by the judge under this article, to dismiss the complaint, and requires that it be clearly noted in the docket that the complaint is dismissed and that there is not a final conviction. Deletes existing text providing that, if the complaint is dismissed, a special expense not to exceed the amount of the fine assessed is authorized to be imposed.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2009.