

## **BILL ANALYSIS**

Senate Research Center

H.B. 1396  
By: Workman (Burton)  
Criminal Justice  
5/20/2015  
Engrossed

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

H.B. 1396 amends current law relating to the construction of certain statutes and rules that create or define criminal offenses and penalties and a review of certain penal laws of this state.

### **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 Subchapter C, Chapter 311, Government Code, by adding Section 311.035, as follows:

Sec. 311.035. CONSTRUCTION OF STATUTE OR RULE INVOLVING CRIMINAL OFFENSE OR PENALTY. (a) Defines "actor" and "element of offense."

(b) Requires that a statute or rule that creates or defines a criminal offense or penalty, except as provided by Subsection (c), be construed in favor of the actor if any part of the statute or rule is ambiguous on its face or as applied to the case, including:

- (1) an element of offense; or
- (2) the penalty to be imposed.

(c) Provides that Subsection (b) does not apply to a criminal offense or penalty under the Penal Code or under the Texas Controlled Substances Act.

(d) Provides that the ambiguity of a part of a statute or rule to which this section applies is a matter of law to be resolved by the judge.

SECTION 2. (a) Provides that a commission is created to study and review all penal laws of this state other than criminal offenses:

- (1) under the Penal Code;
- (2) under Chapter 481 (Texas Controlled Substances Act), Health and Safety Code; or
- (3) related to the operation of a motor vehicle.

(b) Requires the commission to:

- (1) evaluate all laws described by Subsection (a) of this section; and

(2) make recommendations to the legislature regarding the repeal of laws that are identified as being unnecessary, unclear, duplicative, overly broad, or otherwise insufficient to serve the intended purpose of the law.

(c) Provides that the commission is composed of nine members appointed as follows:

(1) two members appointed by the governor;

(2) two members appointed by the lieutenant governor;

(3) two members appointed by the speaker of the house of representatives;

(4) two members appointed by the chief justice of the Supreme Court of Texas;  
and

(5) one member appointed by the presiding judge of the Texas Court of Criminal Appeals.

(d) Requires the officials making appointments to the commission under Subsection (c) of this section to ensure that the membership of the commission includes representatives of all areas of the criminal justice system, including prosecutors, defense attorneys, judges, legal scholars, and relevant business interests.

(e) Requires the governor to designate one member of the commission to serve as the presiding officer of the commission.

(f) Provides that a member of the commission is not entitled to compensation or reimbursement of expenses.

(g) Requires the commission to meet at the call of the presiding officer.

(h) Requires the commission, not later than November 1, 2016, to report the commission's findings and recommendations to the governor, the lieutenant governor, the speaker of the house of representatives, the Supreme Court of Texas, the Texas Court of Criminal Appeals, and the standing committees of the house of representatives and the senate with primary jurisdiction over criminal justice. Requires the commission to include in its recommendations any specific statutes that the commission recommends revising or repealing.

(i) Requires the governor, the lieutenant governor, the speaker of the house of representatives, the chief justice of the Supreme Court of Texas, and the presiding judge of the Texas Court of Criminal Appeals, not later than November 1, 2015, to appoint the members of the commission created under this section.

(j) Provides that the commission is abolished and this section expires December 31, 2016.

SECTION 3. Provides that the change in law made by this Act applies only to a criminal proceeding that commences on or after the effective date of this Act. Provides that a criminal proceeding that commences before the effective date of this Act is governed by the law in effect on the date the proceeding commenced, and the former law is continued in effect for that purpose.

SECTION 4. Effective date: September 1, 2015.