

BILL ANALYSIS

Senate Research Center
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S.B. 281
By: Hinojosa
Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Since the 1980s, Texas courts have allowed hypnosis-induced testimony. In 1987, the Texas Legislature passed S.B. 929, which charged the Texas Commission on Law Enforcement (TCOLE) with implementing forensic hypnosis training and testing for law enforcement. TCOLE requires police hypnotists to complete a 40-hour basic hypnosis certification course and obtain hypnosis training every 24 months to keep the certificate current. The theory behind the technique is that it helps witnesses recall certain events and suspect descriptions that normal memory cannot access.

However, scientific studies have found the use of hypnosis to produce an alarming amount of unreliable eyewitness identification testimony. Rather than increase the accuracy of eyewitness recall and recognition, Johns Hopkins Medicine has warned that hypnosis does not work as a memory recovery method and leads witnesses to be more confident in their memories, even when they are false. While hypnotherapy can be useful when treating addiction and mental illness, experts resist its use as a forensic tool to enhance eyewitness memory and this concern is heightened when executed by non-professionals.

The Department of Public Safety of the State of Texas has announced the suspension of their forensic hypnosis program, stating that they have developed more advanced interview and interrogation techniques that yield better results.

As proposed, S.B. 281 amends the Code of Criminal Procedure to prohibit the use of hypnotically induced testimony in a criminal trial.

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 Chapter 38, Code of Criminal Procedure, by adding Article 38.24, as follows:

Art. 38.24. TESTIMONY OBTAINED BY HYPNOSIS. Provides that the testimony of a person obtained by hypnotizing the person is not admissible against a defendant in a criminal trial, whether offered in the guilt or innocence phase or the punishment phase of the trial.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2021.