

## **BILL ANALYSIS**

Senate Research Center  
87R5631 MAW-F

S.B. 698  
By: Hughes  
Criminal Justice  
3/17/2021  
As Filed

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

Reports indicate that 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 sentencing is appropriate for the crime committed. However, gaps remain in ensuring that the criminal justice system has the tools necessary to provide just outcomes. S.B. 698 would provide a mechanism to obtain a motion for a new trial in the interests of justice when the defendant, the state, and the trial court all agree that a new trial should be granted in certain situations.

As proposed, S.B. 698 amends current law relating to the authority of a court to grant a motion for a new trial in certain criminal cases.

### **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 40, Code of Criminal Procedure, by adding Article 40.002, as follows:

Art. 40.002. NEW TRIAL ON MOTION BY AGREEMENT OF PARTIES. (a) Authorizes a defendant, notwithstanding any other law, at any time during the period of a term of imprisonment, with the written consent of the district attorney or criminal district attorney, to file a motion for a new trial with the convicting court. Requires that the motion include an agreed statement of facts for the court to consider.

(b) Authorizes the court to, after a hearing, grant the defendant a new trial in the interest of justice. Authorizes the court to rely on the agreed statement in granting a new trial, and authorizes the agreed statement to constitute the entire record in the cause.

(c) Provides that the rights of appeal provided by Chapter 44 (Appeal and Writ of Error) apply to a decision of a court to grant a new trial under this article, 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.

(d) 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.

(e) Provides that until the trial court has granted the motion under this article, the defendant is authorized to withdraw the motion and the attorney representing the state is authorized to withdraw consent to the motion. Provides that if the motion

or consent is withdrawn, the court is prohibited from granting a new trial in the case based on that motion.

SECTION 2. Effective date: September 1, 2021.