

BILL ANALYSIS

C.S.H.B. 4202
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

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 the punishment fits the crime. However, it has been suggested that gaps remain in guaranteeing that our criminal justice system has all the tools it needs to provide just outcomes. It has been suggested that it should be easier to obtain a motion for a new trial in the interests of justice, especially when the defendant, the state, and the trial court all agree that a new trial should be granted. C.S.H.B. 4202 seeks to address this gap by allowing for a motion for a new trial in the interest of justice in certain situations.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4202 amends the Code of Criminal Procedure to authorize a defendant, at any time during the period of a term of imprisonment of more than three years or at any time after the imposition of the death penalty, to file, with the written consent of the district attorney or criminal district attorney, a motion for a new trial with the convicting court. The bill requires the motion to include an agreed statement of facts for the court to consider. The bill authorizes the court, after a hearing, to grant the defendant a new trial in the interest of justice. The bill authorizes the court to rely on the agreed statement in granting a new trial and the agreed statement to constitute the entire record in the cause. The bill makes the rights of the appeal provided by statutory provisions relating to appeals by the state applicable to a decision of a court to grant a new trial, 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.

C.S.H.B. 4202 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.

The bill authorizes, until the trial court has granted the motion, the defendant to withdraw the motion and the attorney representing the state to withdraw consent to the motion. The bill

prohibits the court, if the motion or consent is withdrawn, from granting a new trial in the case based on that motion. The bill establishes that statutory provisions governing the application for a writ of habeas corpus in which the applicant seeks relief from a judgment imposing the death penalty do not affect the authority of a court to grant a motion for a new trial under the bill's provisions.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4202 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the attorney the consent of whom is required to file a motion for a new trial from the attorney representing the state to the district attorney or criminal district attorney.

The substitute includes a requirement for the motion to include an agreed statement of facts for the court to consider and includes authorizations for the court to rely on such a statement in granting a new trial and for the statement to constitute the entire record in the cause.

The substitute does not include an authorization for a defendant who is granted a new trial to be prosecuted and punished under provisions criminalizing and prescribing punishment for the applicable conduct that were in effect at the time of conduct or in effect at the time the new trial is granted.

The substitute includes a provision making the rights of the appeal provided by provisions relating to appeals by the state applicable to a decision of a court to grant a new trial and revises the provision establishing that neither the attorney representing the state nor the defendant is entitled to appeal the court's decision.