

BILL ANALYSIS

Senate Research Center
81R3563 HLT-D

S.B. 406
By: Shapiro
Jurisprudence
2/23/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Rule 614, Texas Rules of Evidence, currently prevents law enforcement officers testifying at a criminal trial from assisting a prosecutor at the counsel table during the trial, which places the prosecutor at a disadvantage. Defense counsel always have their client seated with them at the counsel table to consult with during trial.

Texas is in the minority among United States jurisdictions regarding this rule. Specifically, 37 states, the federal courts, and the Uniform Rules of Evidence allow a law enforcement officer testifying at trial to stay in the courtroom and assist the prosecution during a criminal trial. Furthermore, the adoption of an exception to Rule 614 for law enforcement officers could increase cooperation between law enforcement officers and prosecutors.

As proposed, S.B. 406 amends Article 36.03 (Invocation of Rule), Code of Criminal Procedure, to authorize a prosecuting attorney to designate one person who is an officer or employee of a party who is not a natural person to serve as the state's courtroom representative during a criminal procedure.

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 36.03, Code of Criminal Procedure, by adding Subsection (f), to authorize the prosecuting attorney to designate one person who is an officer or employee of a party that is not a natural person to serve as the state's courtroom representative during a criminal proceeding. Prohibits a court, notwithstanding Rule 614 (Exclusion of Witnesses), Texas Rules of Evidence, from excluding under this article or that rule a person who has been designated as a courtroom representative under this subsection.

SECTION 2. Provides that under the terms of Section 22.109(b) (related to authorizing the court of criminal appeals to promulgate a comprehensive body of certain rules of evidence), Government Code, Rule 614, Texas Rules of Evidence, is disapproved to the extent that Rule 614 permits the exclusion of a witness who is designated by the prosecuting attorney as the state's courtroom representative in a criminal case from hearing the testimony of other witnesses in the case.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2009.