

BILL ANALYSIS

C.S.H.B. 1936
By: Rose
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised about the use of the death penalty for offenders with severe and persistent mental illnesses, such as schizophrenia or bipolar disorder. It has been suggested that those afflicted by such disorders have a diminished capacity to appreciate the consequences of their actions or to participate fully in their own defense. C.S.H.B. 1936 seeks to address this issue by providing protections for such offenders on the determination that the offender had a severe mental illness during the commission of a capital offense.

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. 1936 amends the Code of Criminal Procedure to prohibit a defendant who at the time of the commission of a capital offense was a person with severe mental illness from being sentenced to death. The bill defines "person with severe mental illness" as a person who has schizophrenia, a schizoaffective disorder, or a bipolar disorder and, as a result of that disorder, has active psychotic symptoms that substantially impair the person's capacity to appreciate the nature, consequences, or wrongfulness of the person's conduct, or exercise rational judgment in relation to the person's conduct.

C.S.H.B. 1936 requires a defendant planning to offer evidence that the defendant was a person with severe mental illness at the time of the commission of the alleged offense to file with the court a notice of the defendant's intention to offer that evidence. The bill requires the notice to be filed not later than the 30th day before the date the case is set for trial and to contain a certification that a copy of the notice has been served on the attorney representing the state. The bill establishes that unless the notice is timely filed, such evidence is not admissible at the guilt or innocence stage unless the court finds that good cause exists for failure to give notice. The bill requires the issue of whether the defendant was a person with severe mental illness at the time of the commission of the alleged offense to be submitted to the jury only if the issue is supported by evidence and requires the jury to determine the issue and to return a special verdict on the issue that is separate from the jury's verdict on the issue of guilt or innocence. The bill requires the defendant to prove that the defendant was such a person at the prescribed time by clear and convincing evidence.

C.S.H.B. 1936 requires the judge, on the request of either party or on the judge's own motion, to appoint a disinterested expert experienced and qualified in the field of diagnosing mental illness to examine the defendant and determine whether the defendant is a person with severe mental illness. The bill authorizes the judge, after giving notice to the defendant, to order the defendant to submit to such an examination. The bill sets out the requirements for such an examination and requires such an expert to provide the defendant's attorney and the attorney representing the state with all notes and data from the examination. The bill prohibits a statement made by the defendant in such an examination from being admitted into evidence during the trial of the offense.

C.S.H.B. 1936 exempts the defendant from procedural requirements for a capital case if the jury determines that the defendant was a person with severe mental illness at the time of the commission of an alleged capital offense and the defendant is convicted of that offense and requires the judge to sentence the defendant to imprisonment in the Texas Department of Criminal Justice for life without parole.

C.S.H.B. 1936 requires the judge, if the jury determines after such a hearing that the defendant was not such a person and the defendant is convicted of that offense, to conduct a sentencing proceeding in accordance with statutory provisions governing procedure in a capital case. The bill authorizes evidence of a mental disability of the defendant to be presented during that proceeding to the extent permitted by those provisions.

C.S.H.B. 1936 applies only to a trial that commences on or after the bill's effective date, regardless of whether the alleged offense was committed before, on, or after that date.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1936 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 procedure by which a defendant may raise the issue of severe mental illness in a capital case from requesting that the judge hold a hearing to determine whether the defendant was a person with severe mental illness at the time of the offense to filing with the court a notice of the defendant's intention to offer evidence that the defendant was such a person at the time of the offense and on which the jury will determine the matter separately from the matter of guilt or innocence.

The substitute includes a provision regarding the admissibility of evidence that the defendant was a person with severe mental illness at the time of the offense based on the timely submission of the evidence.

The substitute changes the required actions following the determination that the defendant was not a person with severe mental illness at the time of the commission of an alleged capital offense and includes as a requisite condition for such actions that the defendant is convicted of the offense.

The substitute includes a requirement for an appointed disinterested expert to provide the attorney representing the state in the capital case with all notes and data from an examination of the defendant.