

AN ACT

relating to allowing for certain criminal proceedings in the absence of certain defendants.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 27, Code of Criminal Procedure, is amended by adding Article 27.19 to read as follows:

Art. 27.19. PLEA BY CERTAIN DEFENDANTS.

(a) Notwithstanding any other provision of this code, a court shall accept a plea of guilty or nolo contendere from a defendant who is confined in a penal institution if the plea is made:

(1) in accordance with the procedure established by Article 27.18; or

(2) in writing before the appropriate court having jurisdiction in the county in which the penal institution is located, provided that:

(A) the defendant is notified by the court of original jurisdiction of the right to counsel and the procedures for requesting appointment of counsel, and is provided a reasonable opportunity to request a court-appointed lawyer;

(B) if the defendant elects to proceed without counsel, the defendant must waive the right to counsel in accordance with Article 1.051;

(C) the defendant must waive the right to be present at the taking of the plea or to have counsel present, if the

1 defendant has counsel; and

2 (D) if the defendant is charged with a felony,  
3 judgment and sentence are rendered in accordance with the  
4 conditions and the procedure established by Article 42.14(b).

5 (b) In this article, "penal institution" has the meaning  
6 assigned by Section 1.07, Penal Code.

7 SECTION 2. Article 42.14, Code of Criminal Procedure, is  
8 amended to read as follows:

9 Art. 42.14. IN ABSENCE OF DEFENDANT. (a) In a misdemeanor  
10 case, the [The] judgment and sentence [in a misdemeanor case] may be  
11 rendered in the absence of the defendant.

12 (b) In a felony case, the judgment and sentence may be  
13 rendered in the absence of the defendant only if:

14 (1) the defendant is confined in a penal institution;  
15 (2) the defendant is not charged with a felony  
16 offense:

17 (A) that is listed in Section 3g(a)(1), Article  
18 42.12; or

19 (B) for which it is alleged that:

20 (i) a deadly weapon was used or exhibited  
21 during the commission of the offense or during immediate flight  
22 from the commission of the offense; and

23 (ii) the defendant used or exhibited the  
24 deadly weapon or was a party to the offense and knew that a deadly  
25 weapon would be used or exhibited;

26 (3) the defendant in writing before the appropriate  
27 court having jurisdiction in the county in which the penal

1 institution is located:

2 (A) waives the right to be present at the  
3 rendering of the judgment and sentence or to have counsel present;

4 (B) affirms that the defendant does not have  
5 anything to say as to why the sentence should not be pronounced and  
6 that there is no reason to prevent the sentence under Article 42.07;

7 (C) states that the defendant has entered into a  
8 written plea agreement with the attorney representing the state in  
9 the prosecution of the case; and

10 (D) requests the court to pronounce sentence in  
11 the case in accordance with the plea agreement;

12 (4) the defendant and the attorney representing the  
13 state in the prosecution of the case have entered into a written  
14 plea agreement that is made a part of the record in the case; and

15 (5) sentence is pronounced in accordance with the plea  
16 agreement.

17 (c) A judgment and sentence may be rendered under this  
18 article in the absence of the defendant only after the defendant is  
19 notified by the court of original jurisdiction of the right to  
20 counsel and the defendant requests counsel or waives the right to  
21 counsel in accordance with Article 1.051.

22 (d) In this article, "deadly weapon" and "penal  
23 institution" have the meanings assigned by Section 1.07, Penal  
24 Code.

25 (e) If a defendant enters a plea of guilty or nolo  
26 contendere under Article 27.19, the attorney representing the state  
27 may request at the time the plea is entered that the defendant

1 submit a fingerprint of the defendant suitable for attachment to  
2 the judgment. On request for a fingerprint under this subsection,  
3 the county in which the defendant is confined shall obtain a  
4 fingerprint of the defendant and use first-class mail or other  
5 means acceptable to the attorney representing the state and the  
6 county to forward the fingerprint to the court accepting the plea.

7         SECTION 3. Article 27.19, Code of Criminal Procedure, as  
8 added by this Act, and Article 42.14, Code of Criminal Procedure, as  
9 amended by this Act, apply to a plea entered or to a judgment and  
10 sentence rendered in a criminal case on or after the effective date  
11 of this Act, regardless of whether the offense for which the plea is  
12 entered or judgment and sentence are rendered is committed before,  
13 on, or after that date.

14         SECTION 4. This Act takes effect September 1, 2009.

David Newkirk  
President of the Senate

Jim Strawn  
Speaker of the House

I certify that H.B. No. 107 was passed by the House on April 22, 2009, by the following vote: Yeas 147, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 107 on May 23, 2009, by the following vote: Yeas 138, Nays 0, 1 present, not voting.

Robert Haney  
Chief Clerk of the House

I certify that H.B. No. 107 was passed by the Senate, with amendments, on May 21, 2009, by the following vote: Yeas 31, Nays 0.

Patricia Spaw  
Secretary of the Senate

APPROVED: 19 JUN '09  
Date

RICK PERRY  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
2:11 O'CLOCK  
JUN 19 2009

Colby Hunter III