SUBJECT: Requiring pretrial hearings in criminal cases on request of defendant

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 4 ayes — Herrero, Moody, Leach, Shaheen

1 nay — Simpson

2 absent — Canales, Hunter

WITNESSES: For — Kristin Etter, Texas Criminal Defense Lawyers Association; Elizabeth Henneke, Texas Criminal Justice Coalition; Kate Murphy, Texas Public Policy Foundation; (*Registered, but did not testify*: Charles Reed, Dallas County; Mark Bennett, Harris County Criminal Lawyers Association; Amanda Marzullo, Texas Defender Service)

Against — None

DIGEST: CSHB 452 would require courts to set a pretrial hearing in any criminal case, with some exceptions, if within 60 days before the trial, the defendant requested a hearing. Courts would be required to hold the requested hearing at least 30 days before the trial and to rule at the hearing on all pretrial motions, to the extent feasible. The bill's requirement would not apply to cases that are punishable by a fine only and to those punishable by a fine and a sanction other than confinement or imprisonment. It also would not apply to offenses in the Alcoholic Beverage Code, ch. 106 that relate to minors and that do not include potential confinement.

If a court failed to comply with a pretrial hearing request, the defendant would be entitled to a continuance. Failure to hold a hearing would not be grounds for dismissal. A court could not sustain a motion to set aside an indictment, information, or complaint for failure to provide a speedy trial based solely on the failure of the court to comply with a request for a pretrial hearing.

The bill would take effect September 1, 2015, and would apply only to cases in which an indictment or information was presented on or after that date.

SUPPORTERS SAY:

CSHB 452 would improve judicial efficiency by ensuring that pretrial hearings occur in all criminal cases in which defendants find them necessary. Currently, judges may hold pretrial hearings at their own discretion. This means that judges can refuse to hold hearings and force parties to prepare for a trial, even if the issues in dispute might result in no trial if addressed in a pretrial hearing. For example, a pretrial hearing could resolve questions about the admissibility of evidence. Preparing for unnecessary trials can be costly and burdensome for taxpayers, defendants, victims, witnesses, and others involved in the criminal justice system.

Under the bill, judges would retain control of their dockets in setting the hearing, establishing time limits, and determining other parameters for the hearings. The bill would ensure courts are not overwhelmed by excluding certain low-level cases. The bill would balance the needs of defendants and courts by prohibiting the failure to comply with the bill from being grounds for dismissal. The bill also would establish timelines for requests and hearings, so that last-minute requests could not be made as a delaying tactic.

OPPONENTS SAY:

CSHB 452 could reduce the ability of judges to manage their dockets as they saw fit. Currently, judges hold pretrial hearings when it is appropriate, and the bill could result in hearings that judges did not think were necessary or force hearings to be held at a time judges did not think best. The ability to force a judge to hold a pretrial hearing could be abused and used as a delaying tactic, especially since the bill would not limit the number of these requests.

OTHER OPPONENTS SAY:

If the state is going to require courts to hold pretrial hearing, it also should be fair to defendants and give them the remedy of a dismissal if courts do not comply with the requirement.