

SUBJECT: Requiring courts to withdraw an execution date on certain motions

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Moody, Cook, Bhojani, Bowers, Darby, Harrison, Leach, C. Morales, Schatzline

0 nays

WITNESSES: For — (*Registered, but did not testify*: M Paige Williams, Dallas County Criminal District Attorney John Creuzot; John Litzler, Texas Baptist Christian Life Commission; Jenny Andrews, Texas Catholic Conference of Bishops; Shea Place, Texas Criminal Defense Lawyers Association; Joshua Houston, Texas Impact; Delfino Garza)

Against — (*Registered, but did not testify*: James Parnell, Dallas Police Association; Ray Hunt, Houston Police Officers' Union; John Wilkerson, Texas Municipal Police Association; John Chancellor, Texas Police Chiefs Association)

On — (*Registered, but did not testify*: Maro Robbins, Office of Capital and Forensic Writs)

DIGEST: CSHB 180 would require, on the motion of the state's attorney, a convicting court to withdraw an order setting an execution date in a death penalty case.

The bill would take effect September 1, 2023, and would apply only to an order entered on or after that date.

SUPPORTERS SAY: By requiring a judge to honor a prosecutor's request to withdraw an execution date, CSHB 180 would provide clarity to courts and prosecutors. Current law allows the state's attorney to request the withdrawal of an execution date in a death penalty case but only the presiding judge may order the withdrawal. In most cases, judges will honor a prosecutor's requests for withdrawal. However, recent conflicts

between judges and attorneys on this issue has created uncertainty in the law and conflicts between legal authorities, which can impact public trust in the justice system and result in unjust outcomes. CSHB 180 would provide clarity by granting the authority to the state's attorney, who often has better knowledge of the case facts that may be unknown to a trial judge and may be better positioned to make this decision.

**CRITICS
SAY:**

CSHB 180 could allow prosecutors to withdraw execution dates without sufficient reason. The judge and prosecutor should be required to agree on the issue of execution date withdrawal.