

By: Springer, Moody, Leach, et al.

H.B. No. 794

Substitute the following for H.B. No. 794:

By: Herrero

C.S.H.B. No. 794

A BILL TO BE ENTITLED

AN ACT

relating to a presumption regarding certain evidence of a prior conviction in a criminal proceeding.

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

SECTION 1. Chapter 38, Code of Criminal Procedure, is amended by adding Article 38.50 to read as follows:

Art. 38.50. PRESUMPTION OF PRIOR CONVICTION. (a) This article applies to a document that relates to a prior conviction and is self-authenticating under Rule 902(1), (2), or (4), Texas Rules of Evidence.

(b) Except as provided by Subsection (d), the admission of a document described by Subsection (a) into evidence in compliance with this article creates a presumption establishing the existence of that prior conviction for the person named in the document without the necessity of supporting testimony.

(c) For purposes of establishing a presumption under Subsection (b), not later than the 30th day before the date any trial in the case begins:

(1) a document described by Subsection (a) must be filed with the clerk of the court; and

(2) a copy of the document described by Subsection (a) must be provided by fax, hand delivery, secure electronic transmission, or certified mail, return receipt requested, to the opposing party.

1 (d) The presumption established under Subsection (b) does
2 not apply if, not later than the 10th day before the date any trial
3 in the case begins, the opposing party:

4 (1) files with the clerk of the court a sworn written
5 objection to the document described by Subsection (a); and

6 (2) provides a copy of the objection under Subdivision
7 (1) by fax, hand delivery, secure electronic transmission, or
8 certified mail, return receipt requested, to the offering party.

9 (e) A sworn written objection submitted under Subsection
10 (d) must state that the defendant or witness is not the person named
11 in the document or must identify another error that makes the
12 document inapplicable to or otherwise inadmissible in the
13 proceeding in which it is offered.

14 (f) This article does not limit the right of a party to
15 summon a witness or to introduce other admissible evidence relevant
16 to the prior conviction.

17 SECTION 2. Article 38.50, Code of Criminal Procedure, as
18 added by this Act, applies only to a trial that begins on or after
19 the effective date of this Act, regardless of whether the alleged
20 offense was committed before, on, or after that date.

21 SECTION 3. This Act takes effect September 1, 2015.