

BILL ANALYSIS

C.S.H.B. 643
By: Harless
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that current law is unclear with regard to the person permitted to file a motion to discharge a bail bond in a criminal proceeding and that the discharging of certain bonds has become problematic for some sureties. These parties point to instances in which a defendant is arrested and released on bond while the defendant's case is reviewed to determine if charges will be filed. The potential exists for the defendant to remain on bond indefinitely until a determination is made regarding the charges and, if the decision is delayed for over a year, for an affirmative defense to become available for any subsequent bond forfeiture. However, if no charges are filed, there will be no occurrence of a hearing or a failure to appear, leaving the bond on the surety's list of open bonds. C.S.H.B. 643 seeks to address this issue and clarify the individuals authorized to file the motion to discharge a bond in certain criminal proceedings.

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. 643 amends the Code of Criminal Procedure to authorize a surety to file a motion only for the purpose of discharging a defendant's bail when the defendant has been detained in custody or held to bail to answer any criminal accusation and no indictment or information has been presented against the defendant in the required time frame.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 643 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article 32.01, Code of

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Criminal Procedure, is amended to read as follows:

Art. 32.01. DEFENDANT IN CUSTODY AND NO INDICTMENT PRESENTED.

(a) When a defendant has been detained in custody or held to bail for the defendant's ~~his~~ appearance to answer any criminal accusation, the prosecution, unless otherwise ordered by the court, for good cause shown, supported by affidavit, shall be dismissed and the bail discharged, if indictment or information be not presented against the ~~such~~ defendant on or before the last day of the next term of the court which is held after the defendant's ~~his~~ commitment or admission to bail or on or before the 180th day after the date of commitment or admission to bail, whichever date is later.

(b) The court shall dismiss the prosecution and discharge the defendant's bail under Subsection (a) on its own motion or on the motion of the defendant or the attorney representing the state.

A surety may file a motion under that subsection for the purpose of discharging the defendant's bail only.

SECTION 2. This Act takes effect September 1, 2015.

Criminal Procedure, is amended to read as follows:

Art. 32.01. DEFENDANT IN CUSTODY AND NO INDICTMENT PRESENTED.

(a) When a defendant has been detained in custody or held to bail for the defendant's ~~his~~ appearance to answer any criminal accusation, the prosecution, unless otherwise ordered by the court, for good cause shown, supported by affidavit, shall be dismissed and the bail discharged, if indictment or information be not presented against the ~~such~~ defendant on or before the last day of the next term of the court which is held after the defendant's ~~his~~ commitment or admission to bail or on or before the 180th day after the date of commitment or admission to bail, whichever date is later.

(b) A surety may file a motion under Subsection (a) for the purpose of discharging the defendant's bail only.

SECTION 2. Same as introduced version.