

- SUBJECT:** Apprehension of defendants who forfeit on bail bonds
- COMMITTEE:** Criminal Jurisprudence — committee substitute recommended
- VOTE:** 5 ayes — Hinojosa, Keel, Talton, Martinez Fischer, Shields
0 nays
4 absent — Dunnam, Garcia, Green, Kitchen
- WITNESSES:** For — Kathleen Braddock, Harris County District Attorney’s Office; Sgt. Bruce Carr, Harris County Sheriff’s Department; *Registered but did not testify:* Tillmin G. Welch, Professional Bondsmen of Texas
Against — None
On — David Hudson, Tarrant County District Attorney’s Office
- BACKGROUND:** A bail bond is a written undertaking entered into by a defendant, also known as a principal, to appear before a court or magistrate to answer a criminal accusation. A bond forfeiture occurs when the defendant fails to meet the conditions of the bail bond. A surety is a person who undertakes to pay money or perform other acts in the event that the defendant fails to meet the bond conditions, such as appearing before the court on a specific date. The surety is directly and immediately liable for the debt. *Capias* is a court order that authorizes the seizure of the defendant upon bond forfeiture.
- The 76th Legislature enacted HB 2617 by Bosse to continue the Texas Commission on Private Security. Among other changes, it created a state-jail felony offense (punishable by 180 days to two years in a state jail and an optional fine of up to \$10,000) for anyone who contracts with or is employed by a bondsman to apprehend a defendant who forfeits on a bail bond unless the person is a peace officer, a licensed private investigator, the manager of a licensed investigations company, or a commissioned security officer employed by a licensed guard company. Some have interpreted the law to mean that licensed bail bondsmen cannot pursue those who owe them money unless they also are licensed peace officers, security guards, or private

investigators.

Code of Criminal Procedure, art. 17.19 allows a surety to apply to a magistrate for a warrant to surrender the principal. The warrant can be executed only by a peace officer, security officer, or licensed private investigator.

Code of Criminal Procedure, art. 23.05 allows a *capias* to be executed only by a peace officer or licensed private investigator.

DIGEST: CSHB 1848 would add sec. 1702.3863 to the Occupations Code to expand eligibility for who could recapture defendants who forfeited on bail bonds. In addition to those already covered by law, bill would allow recapture by an individually licensed bail bond surety, the agent designated in the license application of a corporate bail bond surety, or a full-time employee of a bail bond surety who held an individual license or was designated in the license application of a corporate surety.

The bill also would expand eligibility to execute a warrant or *capias* to bail bond sureties and agents and employees of bail bond sureties as described above.

CSHB 1848 would take effect on September 1, 2001.

NOTES: HB 1848 as filed would have allowed persons who had an ownership interest in a bail bond surety to recapture defendants who forfeited on bail bonds. It would not have included individuals licensed as bail bond sureties unless they were full-time employees of a surety or had an ownership interest in one. The bill would not have expanded eligibility to execute a warrant or *capias* under Code of Criminal Procedure, art. 17.19 or 23.05.