

SUBJECT: CLE for bail bond sureties and releasing certain defendants from custody

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Keel, Riddle, Denny, Escobar, Hodge, Pena, Raymond

0 nays

2 absent — P. Moreno, Reyna

WITNESSES: None

BACKGROUND: A bail bond is a cash deposit, a similar deposit or written undertaking, or a bond or other security given to guarantee the appearance of a defendant in a criminal case. A bail bond surety is a person who executes a bail bond as a surety or co-surety for another person or who, for compensation, deposits cash to ensure the appearance in court of a person accused of a crime.

Counties with populations of 110,000 or more are required by state law to create bail bond boards, the duties of which include supervising and regulating the bail bond business in the county. In these counties, bail bond sureties must meet the requirements outlined in Occupations Code, ch. 1704, which include completing at least eight hours of State Bar-approved continuing legal education (CLE) courses in criminal or bail bond law that are offered by an accredited institution of higher education in Texas.

Code of Criminal Procedure, ch. 32, governs the procedure for dismissing prosecutions. Under art. 32.01, when a defendant has been detained to answer any criminal accusation before a district court, the prosecution must dismiss the charge, unless the court has good cause to order otherwise, if indictment or information is not presented by the last day of the court's next term or 180 days after the defendant was jailed or admitted to bail, whichever is later.

In a criminal case, district courts have jurisdiction over felony and misdemeanor offenses. County courts, municipal courts, and justice courts each may hear certain types of misdemeanor offenses.

**DIGEST:** CSHB 2767 would require that all compensated bail bond agents in counties without bail bond boards complete the same CLE courses required of bail bond agents in counties with bail bond boards. These courses would have to be completed within two years before a bail bond was given.

The bill also would apply provisions in Code of Criminal Procedure, art. 32.01 to any defendant who was detained or held to bail, rather than just those who appeared before a district court, when no indictment was presented within the required time frame.

The bill would take effect on September 1, 2005.

**SUPPORTERS SAY:** CSHB 2767 would increase the overall quality and professionalism of the bail bond industry by requiring professional bail bond agents in non-bail bond board counties to meet minimum CLE requirements. Bail bond agents can have a direct impact on a defendant's access to justice. The minimum CLE requirement helps to ensure that a defendant is accorded all his or her rights under the law.

The bill also would correct an omission in current law that excludes misdemeanor offenders who appear before a court other than a district court from the requirement that defendants be released if no indictment has been presented within a certain time period.

**OPPONENTS SAY:** No apparent opposition.

**NOTES:** The substitute made a technical correction to the original.