

- SUBJECT:** Punishment for the offense of bail jumping and failure to appear
- COMMITTEE:** Criminal Jurisprudence —favorable, without amendment
- VOTE:** 9 ayes — Gallego, Christian, Fletcher, Kent, Miklos, Moody, Pierson, Vaught, Vo
- 0 nays
- 2 absent — Hodge, Riddle
- WITNESSES:** For — Ballard Shapleigh, Jaime Esparza, District Attorney, 34th Judicial District; (*Registered, but did not testify:* Marc Chavez, Lubbock County District Attorney’s Office; Katrina Daniels, Bexar County District Attorney Susan D. Reed; Amy Mills, Tarrant County District Attorney Tim Curry; Kevin Petroff, Harris County District Attorney’s Office)
- Against — (*Registered, but did not testify:* Samuel England, American Civil Liberties Union of Texas)
- BACKGROUND:** Under Penal Code, sec. 38.10, a person commits the offense of bail jumping and failure to appear if the person is lawfully released, with or without bail, on condition that the person subsequently appear and fails to appear in accordance with the terms of the person’s release. An offense is a class C misdemeanor (maximum fine of \$500) if the offense for which the person’s appearance is required is punishable by fine only. It is a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) if the offense for which the person’s appearance is required is a felony. Otherwise, an offense is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).
- DIGEST:** HB 2115 would make bail jumping and failure to appear a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000) if the offense for which the person was required to appear was murder or capital murder.
- The bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

By increasing the penalty for the bail jumping and failure to appear offenses when the offender had been charged with murder or capital murder, HB 2115 would reflect the gravity of the crime, and punish offenders accordingly. Offenders who jump bail on murder or capital murder cases may flee the country and be recaptured years later. Over time, evidence may be lost and witnesses may become unavailable, making it impossible to prosecute these serious crimes.

**OPPONENTS
SAY:**

Enhancing the penalty for this offense would not be an effective deterrent. The cost of incarcerating offenders would be an additional financial burden on the state and would divert resources away from other important efforts, such as the probation and parole systems. Allowing defendants to be sentenced to possible life in prison for jumping bail, regardless of whether they were found guilty of the underlying offense, would be a disproportionate punishment.