

- SUBJECT:** Transfer of certain offenders while appealing felony convictions
- COMMITTEE:** Corrections — favorable, without amendment
- VOTE:** 6 ayes — Parker, White, Allen, Riddle, J.D. Sheffield, Toth
0 nays
1 absent — Rose
- WITNESSES:** For — Caprice Cospers, Harris County; Justin Wood, Harris County District Attorney's Office; (*Registered, but did not testify:* Brian Eppes, Tarrant County District Attorney's Office; Donald Lee, Texas Conference of Urban Counties; Mark Mendez, Tarrant County; Seth Mitchell, Bexar County Commissioners Court; Craig Pardue, Dallas County; Cathy Sisk, Harris County; Steven Tays, Bexar County Criminal District Attorney's Office; Dennis D. Wilson, Sheriff's Association of Texas)

Against — None
- BACKGROUND:** Under Code of Criminal Procedure 42.09 sec. 3, criminal defendants convicted of felonies and sentenced to death, life, or terms of more than 10 years in the Texas Department of Criminal Justice (TDCJ) who give notice of appeals must be transferred to TDCJ, pending a mandate from the appeals court.

Under Code of Criminal Procedure sec. 44.04(b) defendants who are appealing convictions may not be released on bail for felony convictions for which the punishment was 10 years or more or for convictions for an offenses listed in art. 42.12, sec. 3g(a)(1). This section contains a list of certain serious and violent crimes that are ineligible to receive judge-ordered community supervision (probation) and are often referred to as "3g" offenses.
- DIGEST:** HB 1962 would require offenders who were appealing their convictions and were ineligible for bail to be transferred to TDCJ. CCP 44.04(b) lists those ineligible for bail as those sentenced to terms of 10 years or more and those convicted of a "3g" offense.

The bill would take effect September 1, 2013.

**SUPPORTERS
SAY:**

HB 1992 is needed to make the state's system of transferring offenders to TDCJ more fair and to relieve counties from housing offenders who should be housed by the state.

Currently, the law does not mandate transfer to TDCJ from county jails for certain persons convicted of crimes and sentenced to prison if they received a sentence of 10 years or less and are appealing their conviction. If these defendants cannot make an appeal bond, they remain in the county jail while their case is appealed. As the Legislature has gradually restricted the right to an appeal bond, housing these offenders has become burdensome for counties.

HB 1992 would address this by requiring all offenders who were ineligible for a bond to be transferred to TDCJ during their appeals. The bill would affect mainly two small groups not currently sent to TDCJ: offenders with sentences of exactly 10 years and “3g” offenders with sentences of less than ten years. These offenders have been sentenced to prison for either a long term or for a violent offense and should be housed by the state while appealing, especially now that the state has available prison beds.

HB 1992 would not burden the state. The fiscal note estimates no fiscal implication to the state. Currently TDCJ has about 12,000 empty prison beds and could easily handle any offenders transferred to the agency under the bill.

**OPPONENTS
SAY:**

No apparent opposition.