

- SUBJECT:** Transfer of certain offenders while appealing felony convictions
- COMMITTEE:** Corrections — favorable, without amendment
- VOTE:** 7 ayes — Murphy, J. White, Allen, Keough, Krause, Schubert, Tinderholt
0 nays
- WITNESSES:** For — Caprice Cospier, Harris County; AJ Louderback, Sheriffs' Association of Texas; (*Registered, but did not testify:* Seth Mitchell, Bexar County Commissioners Court; Charles Reed, Dallas County; Donna Warndorf, Harris County; Justin Wood, Harris County District Attorney's Office; Mark Mendez, Tarrant County Commissioners Court)

Against — None

On — (*Registered, but did not testify:* Bryan Collier, Texas Department of Criminal Justice)
- BACKGROUND:** Under Code of Criminal Procedure, art. 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) system who give notice of appeals must be transferred to TDCJ, pending a mandate from the appeals court.

Under Code of Criminal Procedure, art. 44.04(b), defendants who are appealing convictions may not be released on bail for felony convictions for which the punishment is 10 years or more or for convictions for an offense 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 904 would require offenders appealing felony convictions and ineligible for bail under Code of Criminal Procedure, art. 44.04(b) to be transferred to TDCJ.

The bill would take effect September 1, 2015.

**SUPPORTERS
SAY:**

HB 904 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.

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

HB 904 would help alleviate this burden by requiring all offenders who were ineligible for bail 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 10 years. These offenders have been sentenced to prison either for a long term or for a violent offense and should be housed by the state while their appeals are pending, especially now that the state has available prison beds.

HB 904 would not burden the state. The Legislative Budget Board’s fiscal note estimates no fiscal implication to the state. TDCJ currently has about 2,300 empty prison beds and could easily handle any offenders transferred to the agency under the bill.

**OPPONENTS
SAY:**

No apparent opposition.