

**SUBJECT:** Releasing certain misdemeanants after serving time, pending appeal

**COMMITTEE:** Criminal Jurisprudence — favorable, without amendment

**VOTE:** 6 ayes — Moody, Canales, Gervin-Hawkins, Hefner, Lang, Wilson

0 nays

1 absent — Hunter

**WITNESSES:** For — Ted Wood, Harris County Public Defender's Office; (*Registered, but did not testify*: Mary Mergler, Texas Appleseed; Shea Place, Texas Criminal Defense Lawyers Association; Douglas Smith, Texas Criminal Justice Coalition; Emily Gerrick, Texas Fair Defense Project; Thomas Parkinson)

Against — None

**BACKGROUND:** Code of Criminal Procedure, art. 44.04 entitles criminal defendants to be released on reasonable bail when there is a pending decision about a motion for a new trial or an appeal from a misdemeanor conviction.

**DIGEST:** HB 1442 would entitle a criminal defendant awaiting a decision on a request for a new trial or an appeal from a misdemeanor conviction to be released after completing the sentence of confinement. Courts could require such defendants to give personal bonds, but could not require any condition on a personal bond, another type of bail bond, or a surety or other security.

The bill would take effect September 1, 2017.

**SUPPORTERS SAY:** HB 1442 would ensure that criminal defendants who completed their entire jail terms for misdemeanor offenses were not kept in jail because of an oversight in current law related to appeals bonds.

In some cases, a person serving a jail term for a misdemeanor who appeals

the conviction is entitled under current law to a bond pending that appeal. Defendants who cannot make bail stay in jail, and some remain there after serving their entire sentences because of the decision making their release dependent on bail.

If defendants have served their time, there is no justification for keeping them in jail any longer, and HB 1442 would provide a mechanism for their release. Bail is designed to ensure someone returns to court, and in these cases the court is not concerned with defendants showing up for their own appeals. Under the bill, counties would save money and jail space would be available for those who need to be confined, which would improve public safety.

The bill would implement this common-sense provision by entitling such defendants to be released pending any motion for retrial or an appeal and by authorizing courts to require them to post a personal bond. Under a personal bond, defendants agree to return to court and to comply with its conditions without being required to post cash or surety. The bill would prohibit the placement of conditions on the personal bond or requirements for any other type of bond.

OPPONENTS  
SAY:

No apparent opposition.