

## **BILL ANALYSIS**

Senate Research Center  
76R3193 PEP-F

S.B. 403  
By: Armbrister  
Criminal Justice  
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As Filed

### **DIGEST**

Currently, there are no uniform policies to address certain conditions relating to bail bonds and bail bond forfeiture. S.B. 403 would establish conditions regarding the liability of a criminal defendant and the defendant's sureties on a personal bond or a bail bond, and certain procedures in connection with a bond forfeiture.

### **PURPOSE**

As proposed, S.B. 403 establishes conditions regarding the liability of a criminal defendant and the defendant's sureties on a personal bond or a bail bond, and certain procedures in connection with a bond forfeiture.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 22.02, Code of Criminal Procedure, to require the name of a defendant on a bail bond or a personal bond to be called distinctly at the courtroom, rather than courthouse, door, and if the defendant does not appear within a reasonable time after the call is made certain action will be taken to recover the defendant and the amount of money owed, unless among other things the defendant can show good cause as to why the forfeiture should be exonerated, or why the bond should be remitted.

SECTION 2. Amends Article 22.03, Code of Criminal Procedure, to require a citation to issue forthwith notifying the sureties of a defendant that the bond has been forfeited and requiring them to appear not later than the first anniversary of the date the citation is served. Makes conforming changes.

SECTION 3. Amends Article 22.04, Code of Criminal Procedure, to delete text requiring a citation to be sufficient in civil cases. Makes conforming changes.

SECTION 4. Amends Article 22.05, Code of Criminal Procedure, to require sureties to be entitled to notice as required in civil actions, except that the citation shall require the party served to file a sworn answer not later than the first anniversary of the date the citation is served. Makes a conforming change.

SECTION 5. Amends Article 22.10, Code of Criminal Procedure, to delete text regarding the option of placing a case involving a forfeiture that has been declared upon a bond upon the civil docket. Makes a conforming and a nonsubstantive change.

SECTION 6. Amends Article 22.11, Code of Criminal Procedure, to authorize the sureties, if any, to file a sworn answer, rather than in writing, including why the forfeiture should be exonerated, or why the bond should be remitted. Authorizes the answer to be filed not later than the first anniversary of the date the citation is served, rather than within the time limited for answering in other civil actions.

SECTION 7. Amends Section 22.125, Code of Criminal Procedure, to authorize the court to proceed with a trial required by Article 22.14, Code of Criminal Procedure, if an answer is timely filed. Requires the court to enter a judgment by default under Article 22.15 of this code if an answer is not timely filed.

SECTION 8. Amends Section 22.14, Code of Criminal Procedure, to require the judgment to be made final against the defendant and his sureties for the amount in which they are bound, if no sufficient cause

is shown why the defendant did not appear, why the forfeiture should be exonerated, or why the bond should be remitted. Requires the court to enter a judgment exonerating the defendant and his sureties from liability on the forfeiture, if sufficient cause is shown why the defendant did not appear or the forfeiture should be exonerated. Requires the court, if sufficient cause is shown why the bond should be remitted, to enter a judgment for an amount determined in accordance with Article 22.16.

SECTION 9. Amends Articles 22.16(a), (c), and (d), Code of Criminal Procedure, to require the court to stay the judgment of forfeiture, before the expiration of the period during which an appeal may be filed, upon receipt of a sworn written motion filed with the court by the surety asserting certain allegations. Requires the court to determine whether the allegations asserted in the motion are true. Requires the court, upon a true determination, to remit to the surety the amount of the bond after deducting certain costs. Requires the court to lift the stay of judgment, upon finding that the allegations are not true, and authorizes the assessment of a penalty not to exceed the greater of \$500 or 20 percent of the judgment. Requires, rather than authorizes, the court to remit to the surety the amount of the bond after deducting certain costs, if an event described by Subsection (a) occurs after the court enters a final judgment of forfeiture, except that the court may upon request by the state, also impose a penalty if the court determines it to be appropriate. Prohibits the penalty from exceeding 10 percent of the bond, in absence of extraordinary circumstances stated on the court's written order. Sets forth considerations for determining need for a penalty and the amount of the penalty. Deletes text regarding time limits set by Subsection (c) of this article, certain conditions regarding remittance to a surety, authorizing a judgment to be entered against a bond providing certain conditions. Makes conforming changes.

SECTION 10. Amends Article 23.13, Code of Criminal Procedure, to authorize a *capias* to be executed by a peace officer or a private investigator or security officer licensed under the Private Investigators and Private Security Agencies Act. Makes a conforming change.

SECTION 11. Makes application of this Act prospective.

SECTION 12. Effective date: September 1, 1999.

SECTION 13. Emergency clause.