

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 403  
By: Armbrister  
Criminal Justice  
4/26/1999  
Committee Report (Substituted)

### **DIGEST**

Currently, there are no uniform policies to address certain conditions relating to bail bonds and bail bond forfeiture. C.S.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, C.S.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 17.08, Code of Criminal Procedure, to require bail bonds to contain certain requisites including that the sureties in no event shall be bound after such a time as the defendant receives an order of deferred adjudication or is acquitted, sentenced, placed on community supervision, or dismissed from the charge. Deletes text regarding sufficiency of the bond.

SECTION 2. Amends Section 2, Article 17.11, Code of Criminal Procedure, to require a surety to be deemed in default from the time execution may be issued on a final judgment in a bond forfeiture proceeding under the Texas Rules of Civil Procedure unless the final judgment is superseded by the posting of a supersedeas bond. Deletes text regarding a final judgment.

SECTION 3. Amends Article 22.05, Code of Criminal Procedure, as follows:

Art. 22.05. New heading: CITATION. Requires the surety to designate in writing with the clerk of the court the name and address of the person authorized by that surety to accept service of citation on bonds executed in that county. Sets forth provisions regarding delivery of a citation and conditions regarding a citation that is undeliverable or refused. Deletes text regarding notice by a citation.

SECTION 4. Amends Article 22.10, Code of Criminal Procedure, to establish conditions regarding exceptions provided by this chapter in a court proceeding.

SECTION 5. Amends Article 22.11, Code of Criminal Procedure, to delete text regarding a limited time for answering.

SECTION 6. Amends Section 22.125, Code of Criminal Procedure, to authorize the court to approve any proposed settlement of the liability on the forfeiture agreed to by the state and the defendant or the defendant's sureties, if any.

SECTION 7. Amends Article 22.15, Code of Criminal Procedure, to require the court to enter judgment final by default when the principal fails to answer within the time period provided by Article 22.11, rather than within the time limited for answering in other civil actions.

SECTION 8. Amends Chapter 22, Code of Criminal Procedure, by adding Article 22.18, as follows:

Art. 22.18. LIMITATION. Requires an action by the state to forfeit a bail bond to be brought no later than the fourth anniversary of the date the principal failed to appear in court.

SECTION 9. Amends Article 23.05, Code of Criminal Procedure, to authorize a capias to be executed by certain individuals.

SECTION 10. Amends Subchapter C, Article 4413 (29bb), V.T.C.S., by adding Section 43A, as follows:

Sec. 43A. EXECUTION OF ARREST WARRANT ON BEHALF OF SURETY ON BAIL BOND; OFFENSE. Sets forth prohibitions for a private investigator executing an arrest warrant on behalf of a surety on a bail bond. Authorizes a private investigator to display identification that indicates that the person is acting on behalf of a surety on bail bond. Requires a private investigator executing a capias on behalf of a surety on a bail bond to immediately take the person arrested to certain entities under certain conditions. Provides that a person commits a state jail felony if the person violates this section.

SECTION 11. Makes application of SECTIONS 1 through 7 of this Act prospective.

SECTION 12. Emergency clause.

Effective date: 90 days upon adjournment.

## **SUMMARY OF COMMITTEE CHANGES**

### SECTION 1.

Amends Article 17.08, Code of Criminal Procedure, to require a bail bond to contain certain requisites. Deletes proposed SECTIONS 1, 2, and 3.

### SECTION 2.

Amends Article 17.11, Code of Criminal Procedure, to require a surety to be deemed in default from the time execution may be issued on final judgment in a bond forfeiture proceeding, unless final judgment is superseded by the posting of supersedeas bonds. Deletes text regarding trial court judgment.

### SECTION 3.

Amends Article 22.05, Code of Criminal Procedure, to add a new heading. Sets forth requirements regarding the service of a citation. Redesignated from proposed SECTION 4. Deletes proposed text regarding citation as in civil actions.

### SECTION 4.

Amends Article 22.10, Code of Criminal Procedure, to require the court clerk to docket the case upon the scire facias or upon the civil docket. Makes nonsubstantive changes. Redesignated from proposed SECTION 5.

### SECTION 5.

Amends Article 22.11, Code of Criminal Procedure, to delete text regarding a limited answering time. Redesignated from proposed SECTION 6. Deletes proposed text regarding the filing of a sworn answer.

### SECTION 6.

Amends Article 22.125, Code of Criminal Procedure, to authorize the court to approve any proposed settlement of liability agreed to by all involved parties. Redesignated from proposed SECTION 7. Deletes proposed text regarding a timely filed answer.

SECTION 7.

Amends Article 22.15, Code of Criminal Procedure, to establish conditions regarding the entering of a final judgment. Deletes text regarding a limited answering time.

SECTION 8.

Amends Chapter 22, Code of Criminal Procedure, by adding Article 22.18, regarding limitation of the state on the time allowed to take action. Deletes proposed SECTIONS 8, 9, and 10.

SECTION 9.

Amends Article 23.05, Code of Criminal Procedure, to authorize the execution of a capias by certain individuals.

SECTION 10.

Amends Subchapter C, Article 4413 (29bb), V.T.C.S., by adding SECTION 43A, regarding the execution of arrest warrants on behalf of a surety on bail bond, and an offense.

SECTION 11.

Makes application of SECTIONS 1 through 7, rather than through SECTION 9, of this Act prospective.

SECTION 12.

Emergency clause.  
Effective date: 90 days upon adjournment.

Redesignates emergency clause from SECTION 13. Deletes proposed SECTION 12 regarding the effective date.