

BILL ANALYSIS

Senate Research Center
77R622 GWK-D

H.B. 261
By: Ritter (Bernsen)
Criminal Justice
4/20/2001
Engrossed

DIGEST AND PURPOSE

Under current Texas law, certain measures passed during the 76th Legislature prohibit the release of a defendant on bail pending appeal from a felony conviction if the punishment is ten years or more in prison conflict with an article of the Code of Criminal Procedure that provides that a defendant, after receiving a sentence of ten years or less, can be transferred to prison awaiting appeal only if the defendant consents. This conflict allows defendants sentenced to exactly ten years in prison to refuse transfer to the institutional division of the Texas Department of Criminal Justice (department). H.B. 261 amends provisions of the Code of Criminal Procedure to remedy this conflict and requires a defendant, under certain conditions, to be transferred to the institutional division of the department while awaiting appeal.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 4, Article 42.09, Code of Criminal Procedure, to require a defendant, if the defendant is convicted of a felony, is eligible for release on bail pending appeal under Article 44.04(b), and gives notice of appeal, to be transferred to the institutional division of the Texas Department of Criminal Justice on a commitment pending a mandate from the court of appeals or the Court of Criminal Appeals upon request in open court or upon written request to the sentencing court.

SECTION 2. Effective date: upon passage or September 1, 2001.