

BILL ANALYSIS

Senate Research Center
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S.B. 1120
By: Armbrister
Criminal Justice
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DIGEST AND PURPOSE

Under current Texas law, the complete forfeiture of a criminal bail bond is prohibited until a final judgment has been entered in a forfeiture case and, further, a final judgement is prevented from being entered for nine months in a misdemeanor case and 18 months in a felony case. The interference by these provisions with the judiciary's ability to enter final judgment in accordance with the Rules of Civil Procedure has been ruled unconstitutional. As proposed, S.B. 1120 allows for the remittance of a forfeited bond, minus certain costs, if the defendant is apprehended within 12 months after the defendant failed to appear in court.

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 Article 17.19(a), Code of Criminal Procedure, to delete existing text pertaining to the notice to the principal's attorney.

SECTION 2. Amends Article 22.13, Code of Criminal Procedure, to provide that certain specific causes, and no other, will exonerate the defendant and his sureties, if any, from liability upon the forfeiture taken, including the following cause:

- The incarceration of the principal in any jurisdiction at the time of or not later than 12 months after the principal's failure to appear in court. Authorizes a surety, for the purpose of this subdivision, to request confirmation of the principal's incarceration by submitting a written request for confirmation to the law enforcement agency of the county in which the prosecution is pending. Requires a law enforcement agency in this state that receives a request for confirmation to notify the court in which the prosecution is pending and the surety whether or not the principal is or has been incarcerated in another jurisdiction and the date of the incarceration. Provides that for the purposes of this subdivision, a defendant and the defendant's sureties, if any, are liable for costs of court, any reasonable and necessary costs to the county for the return of the principal, and interest accrued on the bond amount from the date of forfeiture until the date of the principal's incarceration in the same manner and at the same rate as provided for the accrual of prejudgement interest in civil cases.

SECTION 3. Amends Article 22.16, Code of Criminal Procedure, to require the court, after forfeiture of a bond and before entry of final judgment, rather than the expiration of the time limits set by Subsection (c) of this article, to remit, on written motion, to the surety the amount of the bond, after deducting the costs of court and any reasonable and necessary costs to the county for the return of the principal, and the interest accrued on the bond amount as provided by Subsection (c), rather than Subsection (e), of this article if certain specific conditions are met. Deletes existing text pertaining to the incarceration of the principal. Authorizes the court, for other good cause shown before the entry of a

final judgment against the bond, in its discretion, to remit to the surety all or part of the amount of the bond after deducting certain specific costs. Deletes existing text pertaining to confirmation of the incarceration of the principal and time limits for a final judgment. Reletters existing Subsection (e) as Subsection (c). Makes conforming changes.

SECTION 4. Amends Article 44.04(a), Code of Criminal Procedure, to delete existing text pertaining to the discharge of a bond.

SECTION 5. Effective date: September 1, 2001.
Makes application of this Act prospective.