

BILL ANALYSIS

Senate Research Center
84R3835 JRR-F

H.B. 904
By: Smith et al. (Huffman)
Criminal Justice
5/5/2015
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, the Texas Department of Criminal Justice (TDCJ) has no obligation to accept an inmate who appeals his conviction unless his sentence exceeds 10 years. As a result, inmates who are ineligible for bond pending appeal because they have been (a) convicted of certain aggravated offenses (e.g., aggravated robbery, aggravated sexual assault, indecency with a child) or (b) sentenced to exactly 10 years and who have appealed their sentence are ineligible for appeal bond per statute.

Parties have expressed concern that such a person may serve time in a county jail while the case is on appeal and that county jails may be burdened as a result.

As of February 28, 2013, 36 of the 89 people in the Harris County jail awaiting disposition of their appeals were ineligible for an appeal bond under state law. Of these 36 convicted offenders who are ineligible for release on bond, 11 have been awaiting disposition of their appeals for over one year. Two of these have been in jail over 900 days. This group took up close to 10,000 bed days at a cost to the county of nearly \$500,000. These numbers obviously fluctuate, but they are not insubstantial. A similar analysis in May 2012 showed that 52 of the 142 inmates in jail awaiting disposition of their appeals were ineligible for an appeal bond. The cost to the county was more than 18,300 bed days and over \$790,000.

H.B. 904 updates Article 42.09 (Commencement of Sentence; Status During Appeal; Pen Packet), Code of Criminal Procedure, by striking the "more than 10 years" requirement and requires TDCJ to transfer prisoners on appeal who are currently ineligible for bail bond.

H.B. 904 amends current law relating to the transfer of certain inmates to the Texas Department of Criminal Justice following pronouncement of the inmate's sentence.

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 3, Article 42.09, Code of Criminal Procedure, as follows:

Sec. 3. Requires the defendant, if a defendant convicted of a felony is sentenced to death or to life in the Texas Department of Criminal Justice (TDCJ) or is ineligible for release on bail pending appeal under Article 44.04(b) (prohibiting the defendant from being released on bail pending the appeal from any felony conviction where the punishment equals or exceeds 10 years confinement or where the defendant has been convicted of a certain offense, but requiring the defendant to immediately be placed in custody and the bail to be discharged) and gives notice of appeal, to be transferred to TDCJ on a commitment pending a mandate from the court of appeals or the Court of Criminal Appeals.

Deletes existing text requiring a defendant, if the defendant is convicted of a felony and sentenced to death, life, or a term of more than ten years in TDCJ and he gives notice of

appeal, to be transferred to TDCJ on a commitment pending a mandate from the court of appeals or the Court of Criminal Appeals. Makes nonsubstantive changes.

SECTION 2. Effective date: September 1, 2015.