

BILL ANALYSIS

Senate Research Center

S.B. 2191
By: Whitmire
Criminal Justice
3/16/2019
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Typically, an individual who is charged with a crime and remains in jail awaiting their trial is housed in the county jail in the county where their case is pending. However, under certain circumstances, such as jail overcrowding, counties may choose to contract with jail facilities outside the county to house inmates. Currently, an individual could even find themselves detained outside of the state in these circumstances. Such was the case in 2018 when it was discovered that over 400 Harris County inmates were being detained out of state in a private, for-profit facility in Louisiana—over five hours away from Houston.

Jail outsourcing is a significant issue not only because it separates individuals from their families and support systems, but also because it prevents them from having direct access to their constitutionally-afforded legal representation. By requiring individuals to be held pretrial in jail facilities in Texas, detainees will have easier access to resources that will assist them in preparing for their day in court. In addition, jail facilities outside of Texas are exempt from the necessary oversight and standards of the Texas Commission on Jail Standards.

This legislation amends sections in the Code of Criminal Procedure that pertain to confining pretrial defendants in jail who are awaiting trial. These changes serve to limit the scope of jails in which pretrial defendants denied release or who cannot make bond may be detained so that these individuals are held exclusively within Texas' jail facilities.

As proposed, S.B. 2191 amends current law relating to the confinement of a defendant pending trial.

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 Chapter 17, Code of Criminal Procedure, by adding Article 17.154, as follows:

Art. 17.154. CONFINEMENT OF DEFENDANT DENIED BAIL. Requires a judge or magistrate, if the judge or magistrate denies a defendant's release on bail pending trial, to order that the defendant be confined in a jail that is located in this state.

SECTION 2. Amends Article 17.27, Code of Criminal Procedure, as follows:

Art. 17.27. New heading: WHEN BAIL IS NOT PROVIDED. Requires the magistrate, if, after the allowance of a reasonable period, the accused is unable to provide the required bail bond, to order that the accused be confined in a jail that is located in this state, rather than requiring the magistrate, if after the allowance of a reasonable time, the security be not given, to make an order committing the accused to jail to be kept safely until legally discharged and to issue a commitment accordingly.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2019.