

BILL ANALYSIS

Senate Research Center
87R8433 ADM-D

H.B. 2448
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Jurisprudence
5/18/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

While bail bondsmen are authorized to relieve their obligations by surrendering the accused into the custody of the county sheriff or by delivering to the sheriff a sworn affidavit stating that the accused is in county, state, or federal custody, it has been noted that this process does not hold if the accused is in federal custody to determine whether the accused is lawfully present in the United States. Additionally, concerns have been raised regarding the undue hurdles in securing bond faced by incarcerated individuals accused of unlawful presence in the United States, forcing these individuals to remain in county jails at great expense to Texas counties.

H.B. 2448 seeks to address these special cases wherein a surety cannot be relieved of liability until federal authorities determine whether the accused is lawfully present in the United States by repealing the prohibition against a surety's liability on a bail bond being relieved if the accused is in federal custody to determine whether the accused is lawfully present in the United States.

H.B. 2448 amends current law relating to the verification of the incarceration of an accused person in a criminal case for the purpose of discharging a surety's liability on a bail bond.

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 17.16(a), Code of Criminal Procedure, to delete existing text providing that Subsection (a) is subject to Subsection (a-1) (relating to prohibiting the surety from being relieved of the surety's undertaking if the accused is in federal custody to determine if the accused is lawfully present in the United States).

SECTION 2. Repealer: Article 17.16(a-1), Code of Criminal Procedure.

SECTION 3. Makes application of Article 17.16, Code of Criminal Procedure, as amended by this Act, prospective.

SECTION 4. Effective date: September 1, 2021.