

BILL ANALYSIS

Senate Research Center
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S.B. 877
By: Hinojosa
Criminal Justice
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently in Texas, when a bail bond is written to obtain the release of a defendant from custody, the surety may end its liability on the bond if the principal is rearrested for another offense, as set out in Article 17.16 (Discharge of Liability; Surrender or Incarceration of Principal Before Forfeiture), Code of Criminal Procedure.

However, this article is not uniformly followed across the state. Some sheriff's offices refuse to follow it because of the lack of a mechanism to place a hold or to timely get a warrant for the principal before he or she is released from other jurisdictions.

The purpose of S.B. 877 is to address these concerns by certain sheriff's offices and to ensure that Article 17.16, Code of Criminal Procedure, is being applied and followed uniformly across the state.

As proposed, S.B. 877 amends current law relating to a 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, Code of Criminal Procedure, as follows:

Art. 17.16. New heading: DISCHARGE OF LIABILITY; SURRENDER OR INCARCERATION OF PRINCIPAL BEFORE FORFEITURE; VERIFICATION OF INCARCERATION. (a) Makes nonsubstantive changes.

(b) Requires the sheriff of the county where the prosecution is pending, on receipt of an affidavit described by Subsection (a)(2) (relating to an affidavit delivered by the surety to the sheriff of the county where the prosecution is pending stating that the accused is incarcerated in federal custody, in the custody of any state, or in any county of this state), to verify whether the accused is incarcerated as stated in the affidavit. Requires the sheriff, if the sheriff verifies the statement in the affidavit, to:

(1) place a detainer against the accused with the appropriate officials in the jurisdiction in which the accused is incarcerated; and

(2) notify the court or magistrate before which the prosecution is pending of the sheriff's verification of the incarceration of the accused.

(c) Requires the court or magistrate before which the prosecution is pending, on receipt of the sheriff's notification under Subsection (b)(2), to direct the clerk of the court to issue a *capias* for the arrest of the accused unless:

(1) a warrant has been issued for the accused's arrest and remains outstanding; or

(2) the issuance of a capias would otherwise be unnecessary for the purpose of taking the accused into custody.

(d) Redesignates existing Subsection (b) as Subsection (d). Makes no further changes.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2011.