

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 669  
By: Whitmire  
Criminal Justice  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current law states that if a defendant is not present at the time their name is called in court their judgment is made final and the bond is forfeited. Current law also allows for a good cause to be heard as to why the defendant is not there. S.B. 669 expands the amount of time for the good cause to be reported to the court by extending the time past the call of the defendant's name to 72 hours.

S.B. 669 is meant to provide clarity to the purpose of bail. Bail is meant to secure a defendant's appearance for a hearing or a trial. It is not meant to be a revenue generator for the county. Current law provides incentive for a surety to return the defendant within a certain period of time. Currently a surety may apply for a special bill of review. At this time a portion of a forfeited bond may be remitted to the surety. There is reason to pay the agreed amount and any cost to the county; however, clarity is needed on any interest the money has drawn. S.B. 669 clearly states the purpose of a bond and allows for the return of any monies not spent to the surety once the debt has been paid.

As proposed, S.B. 669 amends current law relating to the manner in which a bail bond or personal bond is forfeited and circumstances under which a final judgment of forfeiture may be reformed.

### **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 22.02, Code of Criminal Procedure, as follows:

Art. 22.02. MANNER OF TAKING A FORFEITURE. Provides that bail bonds and personal bonds are forfeited in a certain manner. Prohibits a judgment from being entered under this article unless 72 hours have elapsed since the defendant's name was called. Makes nonsubstantive changes.

SECTION 2. Amends Article 22.17, Code of Criminal Procedure, as follows:

Art. 2.17. SPECIAL BILL OF REVIEW. (a) Authorizes a special bill of review to include a request, on equitable grounds, that the final judgment be reformed and that all or part of the bond amount be remitted to the surety, after deducting the costs of court and any reasonable costs to the county for the return of the principal to that jurisdiction, rather than after deducting the costs of the court any reasonable costs to the county for the return of the principal and the interest accrued on the bond amount from the date of forfeiture.

(b) Requires the court to consider, in determining whether to grant a request for a reformation of the final judgment and a remittance under this article, that the purpose of a bail bond is to secure the presence of the principal for the disposition of criminal charges

and that a bail bond is not a punishment, a substitute for a fine, or a method for generating revenue for a governmental entity.

(c) Authorizes the court, in determining the amount of a remittance granted under this article, to consider any of the following:

- (1) the state's cost or inconvenience in regaining custody of the principal;
- (2) the impact of the delay caused by the principal's failure to appear;
- (3) the degree to which the principal intended to breach the conditions of bond;
- (4) the public interest in ensuring the principal's appearance;
- (5) any prejudice suffered by the state;
- (6) any evidence introduced in a proceeding under this article that was not introduced during the trial held under Article 22.14 and that would have exonerated the defendant and the defendant's surety from liability under Article 22.13;
- (7) the participation of the surety in the rearrest of the principal; or
- (8) any other relevant factor

Deletes existing text providing that for the purposes of this article, interest accrues on the bond amount from the date of forfeiture to the date of final judgment in the same manner and at the same rate as provided for the accrual of prejudgment interest in civil cases, and final judgment to the date of the order for remittitur at the same rate as provided for the accrual of postjudgment interest in civil cases.

SECTION 3. Makes application of the change in law made by this Act to Article 22.02, Code of Criminal Procedure, prospective.

SECTION 4. Effective date: upon passage or September 1, 2013.