

BILL ANALYSIS

C.S.H.B. 90
By: McClendon
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

This bill arises out of an incident that occurred in New Jersey in 2000. It is intended to prevent what happened in New Jersey from ever happening in Texas. Michael Pangle was arrested in Salem, New Jersey in July 2000 for driving while intoxicated. He had over a .26 blood alcohol level when he was arrested. For some reason, the police allowed Mr. Pangle to be released from the state police station to his friend, Kenneth Powell, shortly after the arrest. Mr. Powell then took Mr. Pangle back to his vehicle still intoxicated and Mr. Pangle drove his own vehicle away. Less than an hour later, Mr. Pangle crossed a center line and drove head-on into another vehicle, killing the driver of the other car, Navy Ensign John R. Elliott, and himself.

Mr. Pangle had a .26 blood alcohol level when he died. The New Jersey Police responded by charging the friend, Mr. Powell, with vehicular homicide for letting Mr. Pangle get back in his car. The case received national attention and ended in a mistrial. Oddly, no one seemed to ask the question why such an extremely intoxicated person was ever released from police custody, where he and the public were safe?

C.S.H.B. 90 would prevent this kind of incident from ever happening in Texas by prohibiting a person from being released on bail for an intoxication-related offense until the law enforcement agency holding the person determines that the person is no longer intoxicated. That determination can be made by the same means that were used to determine that the person was intoxicated in the first place.

An average person will “burn off” about .04% blood alcohol level an hour. At that rate, most people are very sober by the time they are processed and bail is arranged. But, for people who are very heavily intoxicated at the time of their arrest, this bill will ensure that they are given sufficient time to “sober up” before they are released back on to the streets.

RULEMAKING AUTHORITY

It is the committee’s opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 90 amends the Code of Criminal Procedure, to require that, before a person can be released on bail for an offense under Chapter 49, Penal Code, (Intoxication and Alcoholic Beverage Offenses), the law enforcement agency holding the person must determine that the person is no longer intoxicated.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original by conforming to Texas Legislative Council style and format.