

By: Hartnett

H.B. No. 1466

A BILL TO BE ENTITLED

AN ACT

relating to the adjustment of bail bonds in certain criminal cases.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 17.09, Code of Criminal Procedure, is amended by amending Section 3 and adding Sections 4 and 5 to read as follows:

Sec. 3. Provided that whenever, during the course of the action, the judge or magistrate in whose court such action is pending finds that the bond is defective, excessive or insufficient in amount, or that the sureties, if any, are not acceptable, or for any other good and sufficient cause, such judge or magistrate may, either in term-time or in vacation, set a new bond in any amount that the judge or magistrate considers proper [~~order the accused to be rearrested,~~] and order [~~require~~] the accused to give the new [~~another~~] bond within a reasonable period [~~in such amount as the judge or magistrate may deem proper~~]. The former bond given by the defendant remains in effect until the defendant gives the new bond or until the defendant is arrested for failure to give the bond or for other good and sufficient cause, whichever is earlier.

Sec. 4. A judge or magistrate that sets a new bond under Section 3 shall give written notice to the defendant whose bond is at issue. The notice must contain:

(1) the reason that the bond already given by the defendant is no longer acceptable;

1 (2) the amount of the former bond and, if different,
2 the amount of the new bond;

3 (3) instructions for how the defendant may give the
4 new bond; and

5 (4) the reasonable period within which the new bond
6 must be given.

7 Sec. 5. The judge or magistrate may order the arrest of a
8 defendant for failure to comply with the notice of bond adjustment
9 given under Section 4 or for other good and sufficient cause. The
10 [When such bond is so given and approved, the] defendant shall be
11 released from custody immediately after the defendant gives the new
12 bond set under Section 3.

13 SECTION 2. Chapter 17, Code of Criminal Procedure, is
14 amended by adding Article 17.091 to read as follows:

15 Art. 17.091. MOTION TO VACATE BOND. (a) A motion to vacate
16 a bail bond under Article 17.09 may be made by:

17 (1) an attorney representing the state in a criminal
18 case; or

19 (2) any surety to a bond on which a defendant has been
20 released from custody.

21 (b) Except as provided by Subsection (c), all court costs
22 associated with a motion made under Subsection (a) shall be paid by
23 the movant.

24 (c) Any surety to the original bond on which a defendant is
25 released from custody remains liable for costs associated with the
26 arrest of, or the attempted arrest of, the defendant before a new
27 bond is given.

1 SECTION 3. Article 17.10, Code of Criminal Procedure, is
2 amended to read as follows:

3 Art. 17.10. DISQUALIFIED SURETIES. (a) A minor cannot be
4 surety on a bail bond, but the accused party may sign as principal.

5 (b) A surety who files a motion to vacate a bond with respect
6 to a defendant under Section 17.091 may not be a surety on a new bond
7 for that same defendant.

8 SECTION 4. (a) This Act takes effect September 1, 2003.

9 (b) The change in law made by this Act applies only to a bail
10 bond executed on or after the effective date of this Act. A bail
11 bond executed before the effective date of this Act is covered by
12 the law in effect when the bail bond was executed, and the former
13 law is continued in effect for that purpose.