

By: Dunnam

H.B. No. 3115

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the liability of a criminal defendant and the
3 defendant's sureties on a personal bond or bail bond and to certain
4 procedures in connection with bond forfeiture.

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

6 SECTION 1. Article 22.13, Code of Criminal Procedure, is
7 amended to read as follows:

8 Art. 22.13. CAUSES WHICH WILL EXONERATE. The following
9 causes, and no other, will exonerate the defendant and his
10 sureties, if any, from liability upon the forfeiture taken:

11 1. That the bond is, for any cause, not a valid and
12 binding undertaking in law. If it be valid and binding as to the
13 principal, and one or more of his sureties, if any, they shall not
14 be exonerated from liability because of its being invalid and not
15 binding as to another surety or sureties, if any. If it be invalid
16 and not binding as to the principal, each of the sureties, if any,
17 shall be exonerated from liability. If it be valid and binding as
18 to the principal, but not so as to the sureties, if any, the
19 principal shall not be exonerated, but the sureties, if any, shall
20 be.

21 2. The death of the principal before the forfeiture
22 was taken.

23 3. The sickness of the principal or some
24 uncontrollable circumstance which prevented his appearance at

1 court, and it must, in every such case, be shown that his failure to
2 appear arose from no fault on his part. The causes mentioned in
3 this subdivision shall not be deemed sufficient to exonerate the
4 principal and his sureties, if any, unless such principal appear
5 before final judgment on the bond to answer the accusation against
6 him, or show sufficient cause for not so appearing.

7 4. Failure to present an indictment or information at
8 the first term of the court which may be held after the principal
9 has been admitted to bail, in case where the party was bound over
10 before indictment or information, and the prosecution has not been
11 continued by order of the court.

12 5. The incarceration of the principal in any
13 jurisdiction.

14 6. The exclusion of the principal from entry into the
15 United States by an agency or department of the federal government.

16 7. The failure of the state to enter an arrest warrant
17 or capias issued for the principal into a statewide or multistate
18 arrest warrant data bank before the 31st day after the date on which
19 the principal failed to appear in court.

20 SECTION 2. Article 22.16, Code of Criminal Procedure, is
21 amended to read as follows:

22 Art. 22.16. REMITTITUR AFTER FORFEITURE. (a) After
23 forfeiture of a bond and before entry of a final judgment [~~the~~
24 ~~expiration of the time limits set by Subsection (c) of this~~
25 ~~article~~], the court shall, on written motion, remit to the surety
26 the amount of the bond, after deducting the costs of court and [7]
27 any reasonable and necessary costs to the county for the return of

1 the principal, and the interest accrued on the bond amount as
2 provided by Subsection (c) [~~(e) of this article~~] if[+:

3 [~~(1) the principal is incarcerated in the county in~~
4 ~~which the prosecution is pending,~~

5 [~~(2) the principal is incarcerated in another~~
6 ~~jurisdiction and the incarceration is verified as provided by~~
7 ~~Subsection (b) of this article,~~

8 [~~(3)] the principal is released on new bail in the case~~

9 or[+
10 [~~(4) the principal is deceased, or~~

11 [~~(5)] the case for which bond was given is dismissed.~~

12 (b) For other good cause shown [~~the purposes of Subsection~~
13 ~~(a)(2) of this article, a surety may request confirmation of the~~
14 ~~incarceration of his principal by written request to the law~~
15 ~~enforcement agency of the county where prosecution is pending. A~~
16 ~~law enforcement agency in this state that receives a request for~~
17 ~~verification shall notify the court in which prosecution is pending~~
18 ~~and the surety whether or not the principal is or has been~~
19 ~~incarcerated in another jurisdiction and the date of the~~
20 ~~incarceration.~~

21 [~~(c) A final judgment may be entered against a bond not~~
22 ~~earlier than:~~

23 [~~(1) nine months after the date the forfeiture was~~
24 ~~entered, if the offense for which the bond was given is a~~
25 ~~misdemeanor, or~~

26 [~~(2) 18 months after the date the forfeiture was~~
27 ~~entered, if the offense for which the bond was given is a felony.~~

1 ~~[(d) After the expiration of the time limits set by~~
2 ~~Subsection (c) of this article]~~ and before the entry of a final
3 judgment against the bond, the court in its discretion may remit to
4 the surety all or part of the amount of the bond after deducting the
5 costs of court and [7] any reasonable and necessary costs to the
6 county for the return of the principal, and the interest accrued on
7 the bond amount as provided by Subsection (c) ~~[(e) of this article]~~.

8 (c) ~~[(e)]~~ For the purposes of this article, interest
9 accrues on the bond amount from the date of forfeiture in the same
10 manner and at the same rate as provided for the accrual of
11 prejudgment interest in civil cases.

12 SECTION 3. Article 44.04(a), Code of Criminal Procedure, is
13 amended to read as follows:

14 (a) Pending the determination of any motion for new trial or
15 the appeal from any misdemeanor conviction, the defendant is
16 entitled to be released on reasonable bail~~[, and if a defendant~~
17 ~~charged with a misdemeanor is on bail, is convicted, and appeals~~
18 ~~that conviction, his bond is not discharged until his conviction is~~
19 ~~final or in the case of an appeal to a court where a trial de novo is~~
20 ~~held, he files an appeal bond as required by this code for appeal~~
21 ~~from the conviction]~~.

22 SECTION 4. The change in law made by this Act applies only
23 to a bail bond executed on or after the effective date of this Act.
24 A bail bond executed before the effective date of this Act is
25 covered by the law in effect when the bail bond was executed, and
26 the former law is continued in effect for that purpose.

27 SECTION 5. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2003.