

## **BILL ANALYSIS**

C.S.H.B. 4546  
By: Raymond  
Licensing & Administrative Procedures  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Current law allows an attorney to secure the release from jail of an individual that the attorney represents in the case for which the attorney is posting a bond. The law allows an attorney to secure the release of an individual without having to be licensed in the same manner as a bail bondsman. The only requirements are that the attorney be in good standing with the State Bar of Texas, file a notice of appearance, and possess the financial resources to post the bond. Many times, the individual for whom the surety bond is posted has neither consulted with nor met the attorney who is posting the surety bond for the individual's release.

Amending the law to require the principal to sign an affidavit indicating that the principal has met with the attorney who is posting the surety bond for the principal's release from jail and that the principal understands that the attorney will be the attorney of record to represent the principal in court as the case goes forward is good public policy and protects the general public from an individual who is attempting to secure the release of an individual from jail but who does not intend to represent the individual for the fee collected. Requiring the affidavit to be signed by the principal ensures that the principal understands that the principal is retaining an attorney to aid in the principal's defense and not merely securing the principal's release from jail.

C.S.H.B. 4546 includes among the conditions required for a person not licensed as a bail bond surety to execute a bail bond for another person a requirement that the person present an affidavit that is signed by the principal, is attached to the bond, and states that the principal has signed a contract retaining the person as counsel for the criminal case for which the bond was executed. The bill establishes the conditions under which a person not licensed as a bail bond surety may execute a bail bond or act as a surety for another person in a case involving a Class C misdemeanor.

### **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. 4546 amends the Occupations Code to include among the conditions required for a person not licensed as a bail bond surety to execute a bail bond for another person in any county in Texas a requirement that the person, if the bond is executed, present an affidavit that is signed by the principal, is attached to the bond, and states that the principal has signed a contract retaining the person as counsel for the criminal case for which the bond was executed. The bill authorizes an unlicensed person to execute a bail bond or act as a surety for another person in a case involving a Class C misdemeanor if the person is licensed to practice law in Texas and, at the time the bond is executed or the person acts as a surety, files a notice of appearance as counsel of record in the criminal case for which the bond was executed or surety provided or submits proof that the person has previously filed with the court in which the criminal case is pending the notice of appearance as counsel of record.

**EFFECTIVE DATE**

September 1, 2009.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 4546 removes provisions in the original requiring, as further conditions under which a person not licensed as a bail bond surety may execute a bail bond or act as a surety for another person in any county in Texas, that the person submit a sworn financial statement to the sheriff, possess the financial resources to execute the bail bond or act as a surety, and comply with the security requirements for the licensing of a bail bond surety.

C.S.H.B. 4546 removes a provision in the original requiring an unlicensed person acting as a surety to present an affidavit stating that the principal has signed a contract retaining the unlicensed person as counsel for the criminal case for which surety was provided and adds a provision not in the original requiring such an affidavit to be attached to the bond.

C.S.H.B. 4546 adds provisions not in the original establishing the conditions under which a person not licensed as a bail bond surety may execute a bail bond or act as a surety for another person in a case involving a Class C misdemeanor.