

## **BILL ANALYSIS**

H.B. 875  
By: Howard, Charlie  
State Affairs  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Some law enforcement departments in Texas verify citizenship status but others do not. This creates a problem for Texans because first-time and repeat offenders who are not in the United States legally are being released to continue their criminal activity. If legal status is verified when a defendant is arrested, federal immigration laws can be enforced. H.B. 875 addresses the issue of identification of certain defendants as foreign nationals.

### **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**

H.B. 875 amends the Code of Criminal Procedure to require the sheriff or any other officer in charge of a correctional facility in which a defendant is confined awaiting trial for a felony or an intoxication offense to immediately, on receiving the defendant, make a reasonable effort to determine the defendant's citizenship status. The bill requires the sheriff or officer, if the sheriff or officer has reason to believe the defendant is a foreign national, to make a reasonable effort to verify that the defendant has been lawfully admitted to the United States and, if lawfully admitted, that the defendant's lawful status has not expired. The bill requires the sheriff or other officer, if the sheriff or officer cannot verify the defendant's immigration status from documents in the defendant's possession, to contact, not later than 48 hours after the defendant is received at the correctional facility, the Law Enforcement Support Center of the United States Department of Homeland Security, or other office or agency designated for that purpose by the Department of Homeland Security, to verify the defendant's immigration status. The bill requires the sheriff or other officer to notify the judge or magistrate authorized to grant or deny the defendant's release on bail under provisions of the Code of Criminal Procedure relating to bail and the Department of Homeland Security if the sheriff or officer determines that the defendant was not lawfully admitted to the United States or, although lawfully admitted, the defendant's lawful status has expired. The bill requires the Commission on Jail Standards to prepare and issue guidelines and procedures to ensure compliance with these provisions.

H.B. 875 establishes a rebuttable presumption at any proceeding before the judge or magistrate concerning the defendant's release on bail that the defendant presents a risk of flight from prosecution if a sheriff or other officer notifies a judge or magistrate that a defendant was not lawfully admitted to the United States or that, although lawfully admitted, the defendant's lawful status has expired.

H.B. 875 provides for the meaning of "intoxication offense" by reference to the Penal Code.

### **EFFECTIVE DATE**

September 1, 2011.

