

BILL ANALYSIS

Senate Research Center
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S.B. 881
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently in Texas, someone who is in jail has a constitutionally protected right to bail except in certain circumstances which involve mainly capital crimes (Articles I and II, Texas Constitution). Therefore, illegal aliens are entitled to bail under the Texas Constitution. However, once bail is posted, the alien is released and may never leave the jail because of a hold placed by the United States Department of Homeland Security because the individual is in the country illegally.

Pretrial offices and private industry attempt to determine citizenship when they are contracted to post a bond. However, in this situation, a bond may be unknowingly posted for a defendant against whom an immigration hold has been placed, and the defendant may never be released from jail. This bill seeks to address this situation.

As proposed, S.B. 881 amends current law relating to the liability of a criminal defendant and the defendant's sureties on a personal bond or bail bond.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 22.13(a), Code of Criminal Procedure, as follows:

- (a) Includes among the causes which will exonerate the defendant and his sureties, if any, from liability upon the forfeiture taken, the death of the principal before the entry of the final judgment, rather than before the forfeiture was taken; and the voluntary or involuntary deportation or removal of the principal from any jurisdiction of the United States by or as directed by a federal agency.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2011.