

By: Fletcher

H.B. No. 3381

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the circumstances under which a final judgment of bond
3 forfeiture may be reformed under a special bill of review.

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

5 SECTION 1. Article 22.17, Code of Criminal Procedure, is
6 amended to read as follows:

7 Art. 22.17. SPECIAL BILL OF REVIEW. (a) Not later than two
8 years after the date a final judgment is entered in a bond
9 forfeiture proceeding, the surety on the bond may file with the
10 court a special bill of review. A special bill of review may
11 include a request, on equitable grounds, that the final judgment be
12 reformed and that all or part of the bond amount be remitted to the
13 surety, after deducting the costs of court and~~[,]~~ any reasonable
14 costs to the county for the return of the principal to that
15 jurisdiction~~[, and the interest accrued on the bond amount from the~~
16 ~~date of forfeiture]~~. The court in its discretion may grant or deny
17 the bill in whole or in part.

18 (b) In determining whether to grant a request for a
19 reformation of the final judgment and a remittance under this
20 article, the court shall consider that the purpose of a bail bond is
21 to secure the presence of the principal for the disposition of
22 criminal charges and that a bail bond is not:

23 (1) a punishment;

24 (2) a substitute for a fine; or

1 (3) a method for generating revenue for a governmental
2 entity.

3 (c) In determining the amount of a remittance granted under
4 this article, the court may consider any of the following:

5 (1) the state's cost or inconvenience in regaining
6 custody of the principal;

7 (2) the impact of the delay caused by the principal's
8 failure to appear;

9 (3) the degree to which the principal intended to
10 breach the conditions of bond;

11 (4) the public interest in ensuring the principal's
12 appearance;

13 (5) any prejudice suffered by the state;

14 (6) any evidence introduced in a proceeding under this
15 article that was not introduced during the trial held under Article
16 22.14 and that would have exonerated the defendant and the
17 defendant's surety from liability under Article 22.13;

18 (7) the participation of the surety in the rearrest of
19 the principal; or

20 (8) any other relevant factor [~~For the purposes of~~
21 ~~this article, interest accrues on the bond amount from the date of:~~

22 ~~[(1) forfeiture to the date of final judgment in the~~
23 ~~same manner and at the same rate as provided for the accrual of~~
24 ~~prejudgment interest in civil cases, and~~

25 ~~[(2) final judgment to the date of the order for~~
26 ~~remittitur at the same rate as provided for the accrual of~~
27 ~~postjudgment interest in civil cases].~~

1 SECTION 2. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2011.