

By: Whitmire

S.B. No. 881

A BILL TO BE ENTITLED

AN ACT

relating to the liability of a criminal defendant and the defendant's sureties on a personal bond or bail bond.

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

SECTION 1. Article 22.13(a), Code of Criminal Procedure, is amended to read as follows:

(a) The following causes, and no other, will exonerate the defendant and his sureties, if any, from liability upon the forfeiture taken:

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

2. The death of the principal before the entry of the final judgement [~~the forfeiture was taken~~].

3. The sickness of the principal or some uncontrollable circumstance which prevented his appearance at court, and it must, in every such case, be shown that his failure to

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

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

11 5. The incarceration of the principal in any
12 jurisdiction in the United States:

13 (A) in the case of a misdemeanor, at the time of
14 or not later than the 180th day after the date of the principal's
15 failure to appear in court; or

16 (B) in the case of a felony, at the time of or not
17 later than the 270th day after the date of the principal's failure
18 to appear in court.

19 6. The voluntary or involuntary deportation or removal
20 of the principal from any jurisdiction of the United States by or as
21 directed by a federal agency.

22 SECTION 2. The change in law made by this Act applies only
23 to a personal bond or bail bond executed on or after the effective
24 date of this Act. A personal bond or bail bond executed before the
25 effective date of this Act is covered by the law in effect when the
26 personal bond or bail bond was executed, and the former law is
27 continued in effect for that purpose.

1 SECTION 3. 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.